

**ORDINANCE NO. 05-865**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR AMENDING SECTION 6.02.010 AND ADDING CHAPTER 6.14 TO TITLE 6 OF THE MONTCLAIR MUNICIPAL CODE RELATED TO THE REGULATION OF FIREWORKS**

**THE CITY COUNCIL OF THE CITY OF MONTCLAIR DOES ORDAIN AS FOLLOWS:**

**Section I.** Section 6.02.010 of the Montclair Municipal Code is hereby amended to include the following definition:

**Fireworks** shall mean any device containing chemical elements and chemical compounds capable of burning independently of the oxygen of the atmosphere and producing audible, visual, mechanical, or thermal effects which are useful as pyrotechnic devices or for entertainment.

The term "fireworks" includes, but is not limited to, devices designated by the manufacturer as fireworks, firecrackers, torpedoes, skyrockets, roman candles, rockets, Daygo bombs, sparklers, party poppers, paper caps, chasers, fountains, smoke sparks, aerial bombs, and fireworks kits, including those described as "safe and sane fireworks."

**Section II.** Chapter 6.14 is hereby added to Title 6 of the Montclair Municipal Code, as follows:

**6.14.010 Intent.**

The provisions of this chapter are intended to regulate the use of all fireworks to provide for the safety of the community and the prevention of fires.

**6.14.020 Prohibition of Fireworks.**

The storage, use, possession, and sale of all fireworks, including those fireworks described as safe and sane by the California State Fire Marshal, shall be prohibited throughout the City except when a permit is issued, in advance, by the Fire Chief or his or her designee for the exceptions below.

Exceptions:

(a) Storage and handling of fireworks is allowed as set forth in Section 7802 of the California Fire Code.

(b) The use of fireworks for display is allowed as set forth in Section 7802 of the California Fire Code.

**6.14.030 Penalties.**

In addition to any other penalty provided by law, including, but not limited to, those penalties set forth in Chapter 1.12 of this Code, any person failing to comply with the requirements of this chapter shall be subject to an administrative citation and fine in an amount to be determined by City Council resolution.

**6.14.040 Disposition of Fines.**

All administrative fines collected by the City as penalties for violating this chapter shall be placed in the General Fund to cover the cost of enforcing this Ordinance.

All the funds distributed to the City as provided in the preceding paragraph of this section shall not supplant any funds that would, in the absence of this chapter, be made available to support the law enforcement and prosecutorial efforts of the City.

**6.14.050 Nonexclusive Remedy.**

This chapter is not the exclusive regulation or penalty for storage, use, possession, and sale of fireworks. It supplements, and is in addition to, the other regulatory codes, statutes, and ordinances heretofore or hereafter enacted by the City, the state, or any other legal entity or agency having jurisdiction.

**Section III. Severability.**

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional.

**Section IV. Effective Date.**

This Ordinance shall be in full force and effect thirty (30) days after passage.

**Section V. Posting.**

The City Clerk shall certify to the passage of this Ordinance and cause the same to be posted pursuant to Government Code Section 36933.

**APPROVED AND ADOPTED** this 16th day of May, 2005.

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Mayor Pro Tem

**ATTEST:**

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City Clerk

I, Donna M. Jackson, City Clerk of the City of Montclair, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 05-865 of said City, which was introduced at a regular meeting of the City Council held on the 2nd day of May, 2005, and finally passed not less than five (5) days thereafter on the 16th day of May, 2005, by the following vote, to-wit:

- AYES: Ruh, Raft, Dutrey
- NOES: None
- ABSTAIN: None
- ABSENT: Paulitz, Eaton

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Donna M. Jackson  
City Clerk