

04/17/2012

ORDINANCE NO. _____

AN ORDINANCE TO AMEND SECTION 58-58 OF ARTICLE III OF CHAPTER 58, FIRE PREVENTION AND PROTECTION, OF THE CODE OF ORDINANCES OF THE CITY OF ROCHESTER HILLS, OAKLAND COUNTY, MICHIGAN, TO MODIFY FIREWORKS REGULATIONS, REPEAL CONFLICTING ORDINANCES AND PRESCRIBE A PENALTY FOR VIOLATIONS.

THE CITY OF ROCHESTER HILLS ORDAINS:

Section 1. Section 58-58 of Chapter 58 of the Code of Ordinances of the City of Rochester Hills shall be amended as follows:

Sec. 58-58. Amendments.

(a) *Sections deleted.* The following sections of the fire code adopted in section 58-57 shall be deleted: appendices A, E, F and G.

(b) *Amendments.* The fire code shall be amended with the following modifications and additions:

Section 101.1, General, shall be modified to read as follows:

Title. These regulations as set forth herein shall be known as The Fire Prevention Code of the City of Rochester Hills and is herein referred to as such or as “this code.”

Section 108.1, Board of Appeals, shall be modified to read as follows:

Appeals. Appeals may be taken to the Rochester Hills Construction Board of Appeals by any person aggrieved by any decision or interpretation made by the code official pursuant to this code. The construction board of appeals is hereby constituted and granted authority to act as the Fire Prevention Code Board of Appeals with full power to interpret and decide appeals as provided herein.

Section 109.4, Restitution, shall be added to read as follows:

109.4.1 General. When the fire department is called to respond to any emergency or incident resulting from a violation of any federal, state or local regulation governing fire safety, or through gross negligence, the responsible person shall reimburse the fire department for all costs incurred as a result of responding to the emergency or incident.

Section 112, General, is added to read as follows:

112.1 Review Fees. When, at the discretion of the code official, plans and specifications are to be reviewed by an outside consultant, the person submitting the plans and specifications shall be responsible for payment of such consulting fees or charges, plus a ten-percent administrative charge. The code official shall select the consultant. Consulting fees plus administrative charge shall be submitted in full with the plans and specifications prior to review.

Section 503, Fire Apparatus Access Roads, shall be modified to read as follows:

503.3 Posting. All fire lanes shall be conspicuously posted on both sides of the fire lane with fire lane signs, which shall conform to the Michigan Manual of Uniform Traffic Control Devices as prescribed by the code official. Signs shall be erected no further than 100 feet apart in all areas designated as fire lanes.

503.7 Enforcement and Penalties. Enforcement of this section, being section 503, may be by the city fire chief, deputy fire chiefs, fire marshal, fire inspectors, firefighters working under the direction of the fire marshal, and the Oakland County Sheriffs Department.

503.7.1 Said enforcement officers shall have the authority to issue appearance citations, as provided by MCL 764.9a – 764.9g, and notices of parking violations, as provided in article IV of chapter 98 of the City of Rochester Hills Code of Ordinances, for violations of this section.

503.7.2 Procedure and Fines. The procedure and fines for parking violations shall be as provided in article IV of chapter 98 of the City of Rochester Hills Code of Ordinances.

503.7.3 Authority to Remove Obstructions. If any vehicle, trailer, or other object is located within a fire lane during a fire emergency or alarm or any other time when use of the fire lane is necessary, any Oakland County Sheriffs Deputy or member of the city fire department may move or cause the vehicle to be moved, by any means reasonably available, without liability for any damages sustained to said vehicle, etc.

Section 505.3, Streets Names, is added to read as follows:

505.3.1 General. Names for any new public or private street or drive shall neither duplicate nor be so similar in spelling or phonetics to the name of an existing street or drive so as to create the possibility of confusion.

505.3.2 Review. All new street names, or requests to change existing street names, shall be reviewed by the code official and other appropriate city departments.

Section 912.7, Fire Department Connections, is added to read as follows:

In any building or structure required to be equipped with a fire department connection, a fire hydrant shall be located within 100 feet of the connection which shall be located within 50 feet of a minimum 20-foot wide paved driveway or street.

Section 307, Open Burning, shall be deleted and replaced with the following:

307.6.1 Definitions.

307.6.1.1 Open Burning. Any fire in an outdoor location where fuel being burned is not contained in an outdoor fireplace, barbecue grill or barbecue pit.

307.6.1.2 Recreational Fire. Burning of materials where the fuel being burned is not contained in an outdoor fire place, barbecue grill, or barbecue pit; for pleasure, religious, ceremonial, cooking or similar purposes.

307.6.2 Allowable Open Burning. Open burning is prohibited, except as allowed in this section.

307.6.2.1 Leaves. The burning of leaves is prohibited in the City.

307.6.2.2 Recreational Fires. A recreation fire may be allowed, on detached residential properties, at any time during the year between the hours of 8:00 a.m. and midnight.

307.6.2.2.1 Size and Duration. A recreational fire shall not exceed 3 feet in diameter, or 3 feet in height and shall burn no longer than 3 hours.

307.6.2.2.2 Fuel. Fuel for a recreational fire shall consist only of dry seasoned firewood and be ignited with a small quantity of paper.

307.6.2.3 Preparation of Mortar. Open burning shall be allowed on all properties for warming of sand and/or water for the preparation of mortar when such burning is fueled by propane or wood.

307.6.2.4 Special Burn Permits. A burn permit may be issued by the code official for special situations where open burning is determined by the code official to be necessary in order to alleviate a hazard to the health, safety and welfare of the residents or the environment.

307.6.3 Permits.

307.6.3.1 Permit Required. An annual permit is required for any open burning.

307.6.3.2 Application for Permit. A permit for open burning shall be obtained from the fire department administrative office during normal business hours, before the fire is set, and shall be in such form and contain such information as required by the code official.

307.6.3.3 Permit Issuance. A permit for open burning shall be requested by and issued to the owner of the land upon which the burning is to take place. The fee for an annual burning permit shall be as prescribed in section 54-31A.

307.6.3.4 Permit Limitations. The code official may refuse to allow burning if the code official determines atmospheric conditions are not conducive to burning. Permits may be conditioned on obtaining authorization from the code official prior to actually starting the fire.

307.6.4 Location. Open burning is prohibited within any public road right-of-way, pedestrian-bicycle pathway, within 50 feet of any structure or within 25 feet of any property line.

307.6.5 Attendance. Any open burning shall be constantly attended until the fire is extinguished. Fire extinguishment equipment shall be present and available for immediate use.

307.6.6 Outdoor Fire Places. A permit is not required for outdoor fireplaces; however, these devices are only permitted to be fueled by dry seasoned firewood, charcoal or commercial fire logs.

307.6.7 *Complaints.* Any person burning without a permit or not in accordance with permit guidelines may be ordered to extinguish the fire. If the person is unable to extinguish the fire it will be extinguished by the fire department.

307.6.8 *Violations.* Any violation of these open burning regulations shall be a municipal civil infraction. The fines for violations shall be \$100 for first offense, \$250 for second offense, and \$500 for any subsequent offenses. The fire department may void the permit and prevent the issuance of any further permits.

Section 401. False Alarms. Shall be modified to read as follows:

401.3.1.1 *General.* It shall be unlawful for any person to report any information concerning a fire or other emergency condition when such person knows no fire or other emergency has occurred, or that the information is false.

401.3.2.1 *Activation of the Fire Alarm System.* A person shall not activate a fire alarm system in any building or place within the City of Rochester Hills unless a valid fire emergency exists within the building or place. A fire alarm system is any system which, upon activation, warns the occupants of the building or place that a fire emergency exists.

Section 2204.2.6. Self-Service Stations. Shall be added to read as follows:

The owner or lessee of a self-service gasoline station shall conspicuously post at all times at the approved emergency controls the current state or local fire code regulations governing self-service stations, as prescribed by the code official. All persons in charge of the premises shall be familiar with all provisions of the regulations.

Section 3301.1.3 Fireworks, shall be modified to read as follows:

~~3301.1.3.1 *Scope.* The manufacture of fireworks is prohibited within the city limits. The sale, possession, transportation and use of fireworks in the city shall be prohibited, except as allowed in Public Act No. 358 of 1968 (MCL 750.243a et seq.), as amended, which is incorporated herein by reference. The retail sale of fireworks shall comply with the additional requirement of this article.~~

~~*Section 3308.11. Retail Display and Sale.* shall be deleted and replaced to read as follows:~~

~~3308.11.1 *Permit Required.* A permit shall be obtained from the code official for the retail sale of fireworks. A nonrefundable permit fee in the amount provided in section 54-38A shall be payable at the time of application.~~

~~3308.11.2 *Permit Applications.* Applications for permits shall be made in writing at least 30 days in advance of the date of the intended retail sale of fireworks. The retail sale of fireworks shall be lawful under the terms and conditions approved with the permit and for that purpose only. A permit granted hereunder shall not be transferable, nor shall any such permit be extended beyond the dates set out therein.~~

~~3308.11.3 Required Affidavit. Included with the permit application shall be a written affidavit describing the items offered for sale and stating that their contents of pyrotechnic compound meet the requirements of this code.~~

~~3308.11.4 Retail Sales Time Limitations. All permits issued for retail fireworks sales shall limit sales to May 1 through July 31 of the year issued.~~

~~3308.11.5 Definitions. The term "fireworks" means a device made from explosive or flammable compositions used primarily for the purpose of producing a visible display or audible effect, or both, by combustion, deflagration, or detonation. Fireworks includes class B fireworks and class C fireworks, as defined in section 243 of Public Act No. 358 of 1968 (MCL 750.243a), as amended.~~

~~3308.11.6 Prior Inspection of Premises Required. The permit for retail sale shall not be issued until the code official or his designated representative has inspected and approved the premises and area where the fireworks are to be sold or kept. If there has been an inspection of the premises and area where the fireworks are to be sold or kept within three months of the permit request, no new inspection shall be required.~~

~~3308.11.7 Sale to Minors Prohibited. It shall be unlawful to sell fireworks to any person under the age of 18 years.~~

~~3308.11.8 Smoking Prohibited; Posting Required. It shall be unlawful to allow smoking on the premises where fireworks are sold, and no smoking signs shall be conspicuously posted on the premises.~~

~~3308.11.9 Enclosed Display Area Required. It shall be unlawful to expose for sale or display fireworks on the premises in any area other than an enclosed display case.~~

~~3308.11.10 Compliance With Code. Prior to the issuance of a permit for retail sale of fireworks, the premises must comply with all other provisions of this code.~~

~~Section 3308.12. General. Shall be added to read as follows:~~

~~It shall be a violation of this code for any person to offer for sale, expose for sale, sell at retail, possess, give, furnish, transport, use, explode or cause to explode any fireworks, except as provided in this code, the regulations of the state fire marshal, and the terms of any permit issued hereunder. Regarding public displays of fireworks, such displays shall comply with the rules and regulations issued by the code official for the granting of permits for supervised public displays of fireworks by the city, fair associations, amusement parks, and other associations. Every such display shall be under the control of a person competent to ensure compliance with the code and ensure proper safety precautions. The fireworks shall be arranged, located, discharged or fired in a manner that, in the opinion of the code official, will not be a hazard to property or endanger any person.~~

~~3308.12.1 Exceptions. Nothing in this article shall be construed to prohibit any resident, wholesaler, dealer or jobber:~~

~~(i) To sell at wholesale such fireworks as are not herein prohibited, or~~

- ~~(ii) The sale of any kind of fireworks provided the same are to be shipped directly out of state, or~~
- ~~(iii) The use of fireworks by railroads or other transportation agencies for signal purposes or illumination, or~~
- ~~(iv) The sale or use of blank cartridges for a show or theater, or for signal or ceremonial purposes in athletics or sports, or~~
- ~~(v) For use by military organizations,~~
- ~~(vi) The sale or use of smoke bombs or smoke devices to governmental agencies or licensed contractors for testing and training purposes only; provided, however, that the suppliers of such smoke bombs or devices comply with state law, that the request for such sale is made upon the letterhead of the governmental agency or licensed contractor, and that the supplier maintain records of such sales which shall be available to the fire marshal on request. Such wholesalers, dealers and jobbers shall store their supplies of fireworks in accordance with article 78 and Public Act No. 358 of 1968 (MCL 750.243a et seq.), as amended.~~

~~3308.12.2 Seizure of Fireworks. The code official shall seize, take, remove or cause to be removed, at the expense of the owner, all stocks of fireworks offered or exposed for display or sale, stored or held in violation of this article.~~

~~3301.1.3.1 Definitions. For purposes of this Section, the following definitions shall apply:~~

- ~~(a) “APA Standard 87-1” means 2001 APA Standard 87-1, standard for construction and approval for transportation of fireworks, novelties, and theatrical pyrotechnics, published by the American Pyrotechnics Association of Bethesda, Maryland.~~
- ~~(b) “Consumer fireworks” means fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission under 16 CFR parts 1500 and 1507, and that are listed in APA Standard 87-1, 3.1.2, 3.1.3, or 3.5. Consumer fireworks does not include low-impact fireworks.~~
- ~~(c) “Display fireworks” means large fireworks devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effects by combustion, deflagration, or detonation, as provided in 27 CFR 555.11, 49 CFR 172, and APA Standard 87-1, 4.1.~~
- ~~(d) “Firework” or “fireworks” means any composition or device, except for a starting pistol, a flare gun, or a flare, designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of consumer fireworks, low-impact fireworks, articles pyrotechnic, display fireworks, and special effects.~~

(e) “Low-impact fireworks” means ground and handheld sparkling devices as that phrase is defined under APA Standard 87-1, 3.1, 3.1.1.1 to 3.1.1.8, and 3.5.

3301.1.3.2 Manufacture of Fireworks. The manufacture of fireworks is prohibited within the City limits.

3301.1.3.3 Use of Consumer Fireworks.

(a) The ignition, discharge and use of consumer fireworks shall be prohibited, except on the day preceding, the day of, or the day after a national holiday, as defined in 5 USC 6103.

(b) A person shall not ignite, discharge or use consumer fireworks on public property, school property, church property, or the property of another person without that organization’s or person’s express permission to use those fireworks on those premises.

3301.1.3.4 Display Fireworks. Use of display fireworks shall comply with the rules and regulations issued by the code official for the granting of permits for supervised public displays of fireworks by the City, fair associations, amusement parks, and other organizations. Every such use of display fireworks shall be under the control of a person competent to ensure compliance with the code and ensure proper safety precautions. The display fireworks shall be arranged, located, discharged or fired in a manner that, in the opinion of the code official will not be a hazard to property or endanger any person.

3301.1.3.5 Exceptions. Nothing in this Section shall be construed to prohibit any of the following:

(a) A wholesaler, retailer, commercial manufacturer, or importer from selling, storing, using, transporting, or distributing consumer fireworks or low-impact fireworks.

(b) The use of fireworks by railroads or other transportation agencies or law enforcement agencies for signal purposes or illumination.

(c) The use of agricultural or wildlife fireworks.

(d) The sale or use of blank cartridges for any of the following:

(i) A show or play.

(ii) Signal or ceremonial purposes in athletics or sports.

(iii) Use by military organizations.

(iv) Use by law enforcement agencies.

(e) The possession, sale, or disposal of fireworks incidental to the public display of fireworks by wholesalers or other persons who possess a permit to possess, store, and sell explosives from the Bureau of Alcohol, Tobacco, Firearms, and Explosives of the United States Department of Justice.

(f) Interstate wholesalers from selling, storing, using, transporting, or distributing fireworks.

Section 3308.11.5 Seizure of Illegal Fireworks. If the code official or law enforcement agency determines a violation of this Section has occurred, the code official or law enforcement agency may seize the fireworks as evidence of the violation. Evidence seized under this subsection shall be stored pending disposition of any criminal or civil proceedings arising from a violation of this Section at the expense of the person, if the person is found responsible or liable for the violation.

Section 2. Severability. This ordinance and each article, section, subsection, paragraph, subparagraph, part, provision, sentence, word and portion thereof are hereby declared to be severable, and if they or any of them are declared to be invalid or unenforceable for any reason by a court of competent jurisdiction, it is hereby provided that the remainder of this ordinance shall not be affected thereby.

Section 3. Penalty. All violations of this ordinance shall be municipal civil infractions and upon a determination of responsibility therefore shall be punishable by a civil fine of not more than \$500, or as otherwise prescribed herein.

Section 4. Repeal, Effective Date, Adoption.

(1) Repeal. All regulatory provisions contained in other City ordinances, which are inconsistent with the provisions of this ordinance, are hereby repealed.

(2) Effective Date. This ordinance shall become effective on _____, following its publication in the *Rochester Post* on _____, 2012.

(3) Adoption. This ordinance was adopted by the City Council of the City of Rochester Hills at a meeting thereof held on _____, 2012.

Bryan K. Barnett, Mayor
City of Rochester Hills

CERTIFICATE

I HEREBY CERTIFY THAT THE FOREGOING ORDINANCE WAS ADOPTED BY THE CITY COUNCIL OF THE CITY OF ROCHESTER HILLS AT A MEETING THEREOF ON _____, 2012.

Jane Leslie, Clerk
City of Rochester Hills