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:


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.


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.


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.


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.

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.

______________________________________________
Mayor Pro Tem

ATTEST:

______________________________________________
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

______________________________________________
Donna M. Jackson
City Clerk