

**WHITELAND TOWN COUNCIL  
ORDINANCE 2014-12  
AN ORDINANCE TO CREATE REGULATIONS OF FIREWORKS**

WHEREAS, Indiana Code 22-11-14-10.5 contains provisions for municipalities to regulate consumer fireworks; and

WHEREAS, the Town of Whiteland, Indiana, (the "Town") desires to regulate the usage of consumer fireworks within the Town,

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WHITELAND, INDIANA, AS FOLLOWS:

Section 1. Chapter 92, Fire Prevention, of the Whiteland Code of Ordinances shall be amended to insert the following sections:

**§ 92.20 DEFINITIONS.**

For the purposes of Sections 20-22 of this Chapter, the following words and phrases shall have the following meanings ascribed to them respectively.

**FIREWORKS.** Any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of "consumer fireworks", items referenced in I.C. 22-11-14-8(a), and "special fireworks." The following items are excluded from the definition of fireworks:

- (1) Model rockets.
- (2) Toy pistol caps.
- (3) Emergency signal flares.
- (4) Matches.
- (5) Fixed ammunition for firearms.
- (6) Ammunition components intended for use in firearms, muzzle loading cannons, or small arms.
- (7) Shells, cartridges, and primers for use in firearms, muzzle loading cannons, or small arms.
- (8) Indoor pyrotechnics special effects material.
- (9) M-80s, cherry bombs, silver salutes, and any device banned by the federal government.

**CONSUMER FIREWORK.** A small firework that is designed primarily to produce visible effects by combustion, and that is required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission under 16 C.F.R. 1507. The term also includes some small devices designed to produce an audible effect, such as whistling devices, ground devices containing 50 milligrams or less of explosive composition, and aerial devices containing 50 milligrams or less of explosive composition, and aerial devices containing 130 milligrams or less of explosive composition. Propelling or expelling charges consisting of a mixture of charcoal, sulfur, and potassium nitrate are not considered as designed to produce an audible effect.

- (a) Consumer fireworks include:
1. Aerial devices, which include sky rockets, missile-type rockets, helicopter or aerial spinners, roman candles, mines, and shells;
  2. Ground audible devices, which include firecrackers, salutes, and chasers; and
  3. Firework devices containing combinations of the effects described in divisions 1 and 2.
- (b) Consumer fireworks do not include items referenced in I.C. 22-11-14-8(a).

**SPECIAL FIREWORKS.** Fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation, including firecrackers containing more than 130 milligrams of explosive composition, aerial shells containing more than 40 grams of pyrotechnic composition, and other exhibition display items that exceed the limits for classification as "Consumer Fireworks".

**§ 92.21 FIREWORKS DISPLAY; CERTIFICATE OF INSURANCE.**

- (A) Supervised public fireworks displays are permitted, subject to the provisions of I.C. 22-11-14-2.
- (B) The Town Council shall require a certificate of insurance conditioned for the payment of all damages which may be caused either to a person or persons in an amount of not less than \$10,000 and to property in an amount of not less than \$10,000, by reason of the licensed display, and arising from any acts of the licensee, his agents, employees, or subcontractors. However, the Town Council may in its discretion require additional amounts of insurance coverage not to exceed \$100,000 for damages caused to a person or persons, or \$100,000 for damage to property.

**§ 92.22 CONSUMER FIREWORKS.**

- (A) No person shall use, ignite, or discharge consumer fireworks on property within the corporate limits of the Town, and no person owning or having legal control over the use of a property within the corporate limits of the Town shall allow a person to use, ignite, or discharge consumer fireworks on such property, except during the times listed in subsection (B).
- (B) Consumer fireworks may be used, ignited, or discharged within the corporate limits of the Town only during the following times:
  - (1) Between the hours of 10:00 a.m. and two hours after sunset on June 29, June 30, July 1, July 2, July 3, July 5, July 6, July 7, July 8 and July 9;
  - (2) Between the hours of 10:00 a.m. and twelve midnight on July 4;
  - (3) Between the hours of 10:00 a.m. on December 31 and 1:00 a.m. on January 1; and
  - (4) Between the hours of 10:00 a.m. and 11:00 p.m. on any day not listed above.
- (C) With regard to the use of consumer fireworks generally permitted under Section 92.22(B)(4) between the hours of 10:00 a.m. and 11:00 p.m. during normal days of the year, the following additional regulations shall apply:
  - (1) The frequent or habitual use or discharge of any consumer fireworks between the hours of 10:00 a.m. and 11:00 p.m. during normal days of the year as generally permitted under Section 92.22(B)(4), is declared to be a nuisance, and it shall be unlawful for any person to conduct such activities constituting such a nuisance, or to allow such activities constituting such a nuisance to be conducted on property the person owns or legally controls within the corporate limits of the Town.
  - (2) The Town may seek injunctive relief to prevent such activities in addition to seeking a monetary penalty as set forth herein below.
  - (3) For purposes of this Section, the following definitions shall apply:
    - i. "Frequent" shall mean the use of consumer fireworks on the same property during three (3) or more different hours of the day in any 24-hour period.
    - ii. "Habitual" shall mean the use of consumer fireworks on the same property on more than three (3) calendar days in any 7-day period.
    - iii. "Same Property" shall mean and include all of the contiguous real property having the same owner.
- (D) No person shall use, ignite, or discharge consumer fireworks on:
  - (1) Property the person does not own or legally control, unless the person has been given permission to do so by the owner of the property or the person having legal control over the use of the property, or if the property is a designated special discharge location;
  - (2) Property owned by the Town, unless the person has been given permission to do so by the Town Council; and
  - (3) The pavement of public streets.
- (E) Enforcement.
  - (1) A written warning shall be issued to a person in the case of that person's first violation of any of the provisions of this Section.
  - (2) After the person's first offense resulting in a written warning, any person who violates any of the provisions of this Section shall be subject to a fine in the amount of \$25 for the

second violation, \$100 for the third violation, and \$250 for the fourth violation. Any subsequent violation shall subject the violator to a fine of up to \$500 per violation.

- (3) All fines shall be paid to the Clerk-Treasurer of the town at the Whiteland Town Hall within seven (7) days of the Town’s issuance of the citation, or other notice of violation, to the violator. In the event the applicable fine is not paid within the required time, the Town may enforce the provisions of this Section through court proceedings.
- (4) In addition to any fines and court costs, violators shall reimburse the Town for the cost of responding emergency services, if any.

Section 2. Section 93.20(A)(3)(g) of the Whiteland Code of Ordinances shall be amended to read as follows:

(g) Sounds associated with the use of legal fireworks or celebrations of legal holidays to the extent permitted under Section 92.22 of this Code.

Section 3. If any provision of this Ordinance or its application to any person or circumstance is adjudged invalid, unenforceable, or unconstitutional by a court of competent jurisdiction, then the remainder of this Ordinance or the application of such provision to other persons or circumstances shall not be affected by such adjudication, and this Ordinance shall be interpreted in such a way as to carry out, so far as may be valid and enforceable, the intent and purpose of the provision and this Ordinance.

Section 4. This Ordinance shall be in full force and effect upon passage and publication.

PASSED through first reading by the Town Council on the \_\_\_\_ day of \_\_\_\_\_, 201\_\_, by a vote of \_\_\_\_ in favor and \_\_\_\_ against.

PASSED through second reading by the Town Council on the \_\_\_\_ day of \_\_\_\_\_, 201\_\_, by a vote of \_\_\_\_ in favor and \_\_\_\_ against.

DULY PASSED AND ADOPTED on third and final reading this \_\_\_\_ day of \_\_\_\_\_, 201\_\_, by a vote of \_\_\_\_ in favor and \_\_\_\_ against.

TOWN OF WHITELAND, INDIANA, TOWN COUNCIL

YES

NO

\_\_\_\_\_  
Robert Zehr, President

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Robert Zehr, President

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Kent Beeson, Vice President

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Kent Beeson, Vice President

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Chris Hadley

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Chris Hadley

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Roger Ford

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Roger Ford

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S. Ed Tichenor

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S. Ed Tichenor

ATTEST:

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Michelle R. Richards, Clerk-Treasurer  
Town of Whiteland, Indiana