

ORDINANCE 2014- ____
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) Consumer fireworks shall not be used, ignited, or discharged within the corporate limits of the Town except during the following times:
 - (1) Between the hours of 5:00 p.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;
 - (4) Between the hours of 5:00 p.m. and 10:00 p.m. on Memorial Day and the preceding Sunday;
 - (5) Between the hours of 5:00 p.m. and 10:00 p.m. on Labor Day and the preceding Sunday; and
 - (6) Days and times as specified by a permit issued pursuant to subsection (B) below.
- (B) A permit to use, ignite, or discharge consumer fireworks may be issued by the Town Marshal and the Whiteland Fire Chief, subject to the following requirements:
 - (1) Consumer fireworks shall not be permitted to be used, ignited, or discharged before 5:00 p.m. and after 10:00 p.m. on Sunday through Thursday or after 11:00 p.m. on Friday and Saturday.
 - (2) Use of consumer fireworks pursuant to a permit issued under this subsection (B) shall not be permitted on a particular premises more than five (5) days in a calendar year.
 - (3) The owner of the property shall be the permit applicant, or shall provide a notarized consent affidavit.
 - (4) There shall be no fee for the permit.
 - (5) A permit may be withheld if the use of consumer fireworks would constitute a fire hazard, cause a noise nuisance, or be a detriment to the public health, safety, and general welfare.
- (C) No other date or time is permitted for use of consumer fireworks unless a petition is approved by the Town Council. Council approval shall be subject to the laws of the State of Indiana, including, but not limited to, I.C. Chapter 22-11-14.
- (D) Nuisance. Except during those days and times specified in subsections (A)(1) through (A)(6) above, the use or discharge of any fireworks which causes serious annoyance or disturbance to a neighborhood or the residents therein by loud, frequent, or habitual noise is declared to be a nuisance. It is unlawful for any person to conduct such activities, and the town may seek injunctive relief in a court of law to prevent such activities in addition to seeking a monetary penalty as set forth herein below. Additionally, at the discretion of the Town Marshal, a permit applied for pursuant to subsection (B) above may be withheld for any location or applicant with three (3) or more nuisance calls in the previous 365 days.
- (E) Control of a minor. It shall be unlawful for the parent, guardian or other adult person having the care, custody and control of a minor under the age of 18 years to knowingly permit such minor to fire, shoot off, or discharge any fireworks within the limits of the town.
- (F) Imposition of monetary fine for violation. Any person violating any of the provisions of this section shall be subject to a fine in the amount of \$25 for the first citation, \$100 for the second citation, and \$250 for the third citation, payable at the Town Hall. Any subsequent violation shall subject the violator to a fine of up to \$2,500 per violation. In addition to any fine 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:

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

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PASSED AND ADOPTED by the Town Council of the Town of Whiteland, Indiana, this ____ day of _____, 2014.

Town of Whiteland, Indiana, Town Council

Robert Zehr, President

Kent Beeson, Vice President

Chris Hadley

Roger Ford

S. Ed Tichenor

ATTEST:

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