



TOWN OF ST. JOHN, LAKE COUNTY, INDIANA

ORDINANCE NO. 1418

**AN ORDINANCE AMENDING THE TOWN CODE PERTAINING TO FIREWORKS REGULATIONS, AND REPEALING ALL ORDINANCES AND TOWN CODE SECTIONS, OR PARTS THEREOF, IN CONFLICT HEREWITH.**

**WHEREAS**, the Town Council of the Town of St. John, Lake County, Indiana, is aware that Indiana Code 36-1-3, *et. seq.*, authorizes the Town of St. John, as a municipality, to adopt Ordinances for the purpose of protecting the health, safety and welfare of its residents, and to preserve the peace, order and safety of the Town; and

**WHEREAS**, the Town Council of the Town of St. John, Lake County, Indiana, has been advised that Indiana House Bill No. 1099 was recently adopted, and that said new legislation amends Indiana Code 22-11-14, *et. seq.*; and

**WHEREAS**, the Town Council of the Town of St. John, Lake County, Indiana, has been informed and advised that the Indiana Code 22-11-14, *et. seq.* include but are not limited to the following amendments, namely: 1) removal of the requirement that a purchaser of consumer fireworks provide written assurances that fireworks purchased in Indiana will be shipped out of state within five (5) days of purchase; 2) renames common fireworks as consumer fireworks; 3) sets conditions for fire works sales and issuance of the permits to do so; and 4) establishes requirements for discharge of consumer fireworks at a location; and

**WHEREAS**, the Town Council of the Town of St. John, Lake County, Indiana, has determined that use of fireworks within the corporate boundaries of the Town of St. John requires supervision in order to protect and preserve the health, safety and welfare of citizens of the Town of St. John.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF ST. JOHN, LAKE COUNTY, INDIANA, AS FOLLOWS:**

**SECTION ONE:** That Chapter 8, Fire Prevention and Protection, Article II, Fireworks of the St. John Town Code, as amended from time to time be, and the same is hereby amended to read, provide and add as follows:

**“ARTICLE II. FIREWORKS”**

**Sec. 8-21. Definitions.**

a. **Consumer Fireworks** include small fireworks that are defined as small devices designed to produce an audible effect, such as whistling devices, ground devices



containing fifty (50) milligrams or less of explosive composition, and aerial devices containing one hundred thirty (130) milligrams or less of explosive composition. Propelling or expelling charges of a mixture of charcoal, sulfur, and potassium nitrate are not considered as designed to produce an audible effect. Aerial devices, may include sky rockets, missile type rockets, helicopter or aerial spinners, roman candles, mines and shells. Ground audible devices, which include firecrackers, salutes, and chasers. Devices containing combinations of the effects described as aerial devices and ground audible devices are also includable as "Consumer Fireworks".

b. **Section 8(a) Fireworks** include dipped sticks, wire sparklers, cylindrical fountains, cone fountains, illuminating torches, wheels, ground spinner, flitter sparklers, snakes or glow worms, smoke devices, trick noisemakers such as party poppers, booby traps, snappers and trick matches, cigarette loads and auto burglar alarms.

c. **Special Fireworks** means fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation, including firecrackers containing more than one hundred thirty (130) milligrams of explosive composition, aerial shells containing more than forty (40) grams of pyrotechnic composition and other exhibition display items that exceed the limits for classification as consumer fireworks. A person may not possess, transport, or deliver special fireworks, except as authorized under I.C. 22-11-14-2.

d. **Fireworks Exclusions:** The following items are excluded in the definition of fireworks: model rockets, toy pistol caps, emergency signal flares, matches, fixed ammunition for firearms, ammunition components intended for use in firearms, muzzle loading cannons, or small arms, shells, cartridges and primers for use in firearms, muzzle loading cannons, or small arms, indoor pyrotechnics special effects material, M-80's, cherry bombs, silver salutes, and any device banned by the federal government.

**Sec. 8-22. Use and discharge, generally.**

The new fireworks law includes the following general provisions that provide distinct limitations regarding the actual use of the fireworks:

a. **Age Requirement** Consumer Fireworks and Section 8(a) Fireworks shall not be purchased by persons under eighteen (18) years of age.

b. **Possession by Minors** Children shall only possess or use any kind of fireworks when an adult is present.

c. **Location of Use** Consumer fireworks shall exclusively be used on:

i. the user's property; or

ii. the property of someone who has consented to the use of fireworks on the property; or

iii. a location authorized as a special discharge location, that is defined as a place designated for the discharge of consumer fireworks under policies of the State Fire Marshall in effect until the Fire Prevention and Building Safety Commission adopts rules, as amended from time to time.

d. **Exemptions** This ordinance shall not be construed to prohibit the use of fireworks by railroads or other transportation agencies, the sale or use of blank cartridges for a show, ceremonial purpose, use by military organizations, the intrastate sale of fireworks not approved for sale in Indiana between interstate wholesalers, use of indoor pyrotechnics special effects material and the possession, sale or disposal of fireworks incidental to the public display of authorized Class B fireworks.

e. **Time of Use** Consumer fireworks and Section 8(a) fireworks may be used only between the hours of 9:00 A.M. and 11:00 P.M. on days other than holidays. A person may utilize said fireworks until midnight on the following holidays: Memorial Day, Independence Day ( 4<sup>th</sup> of July), Labor Day and New Year's Eve.

f. **Special Discharge Location** The Fire Prevention and Building Safety Commission shall adopt rules under IC 4-22-2 that specify the conditions under which the Town Fire Chief may grant a permit to a person to sponsor a special discharge location in the Town.

**Sec. 8-23. Manufacturer, wholesaler, importer or distributor.**

It shall be unlawful for a manufacturer, wholesaler, importer, or distributor to sell at wholesale, offer to sell at wholesale, or ship or cause to be shipped into the Town of St. John fireworks, novelties, or trick noisemakers unless they hold a valid certificate of compliance issued by the Indiana State Fire Marshall. This provision applies to nonresidents and residents of Indiana.

**Sec. 8-24. Identification of fireworks.**

All fireworks, novelties, and trick noisemakers shipped into the Town of St. John or manufactured and sold in the Town of St. John, must have distinctly and durably painted, stamped, printed or marked on the package, box, or container in which the items are enclosed the exact nature and quantity of the fireworks contained in the container.

**Sec. 8-25. Sales.**

Retailers may not sell Consumer Fireworks until the retailer has met all permit requirements and has obtained a Certificate of Compliance from the State Fire Marshal. A Certificate of Compliance issued to a retailer of Consumer Fireworks is not transferable except to a subsequent owner or operator of a business at the same location in accordance with the policies and guidelines of the State Fire Marshal.

**Sec. 8-26. Revocation of permits.**

Any person, firm or corporation who violates I.C. 22-11-14, *et. seq.* shall be subject to applicable penalties and/or revocation of their permit to sell fireworks. This provision shall apply to all retailers, manufacturers, wholesalers, importers, and distributors.

**Sec. 8-27. Penalty.**

a. If a person uses consumer fireworks at any place other than the three (3) locations listed in Sec. 8-22 (c) or the fireworks are utilized outside of the authorized time of use, they commit a **Class C Infraction** that may result in a fine of up to five hundred dollars (\$500) per infraction. If a person uses consumer fireworks illegally more than one (1) time in five (5) years, they commit a **Class C Misdemeanor**, an offense that is punishable by imprisonment of not more than sixty (60) days and a fine of not more than five hundred dollars (\$500), whether or not there has been a judgment that the person committed an infraction in taking the previous action.

b. If a person recklessly, knowingly, or intentionally uses consumer fireworks and damages someone else's property, the person commits a **Class A Misdemeanor**, an offense that is punishable by imprisonment for up to one (1) year and a fine not to exceed five thousand dollars (\$5000).

c. If a person recklessly, knowingly or intentionally violates any of the following, he shall commit a **Class A Misdemeanor**, an offense that is punishable by imprisonment for up to one (1) year and a fine not to exceed five thousand dollars (\$5000):

- 1) A person may not possess, transport, or deliver Special Fireworks except as authorized under I.C. 22-11-14-2;
- 2) A retailer shall comply with structure and location requirements under I.C. 22-11-14-4.5 and hold a valid permit to sell fireworks from the State Fire Marshal;
- 3) A wholesaler, distributor, manufacturer or importer must sell products correctly marked in accordance with IC 22-11-14-5(c) and only sell fireworks with a valid certificate of compliance;
- 4) A person shall not sell at retail or delivers Section 8(a) fireworks to a person less than eighteen (18) years of age;
- 5) An individual who sells Consumer Fireworks must be at least eighteen (18) years of age;
- 6) An individual who sells Section 8(a) Fireworks must be at least sixteen (16) years of age;
- 7) An interstate wholesaler must keep appropriate records of each sale of Special Fireworks;
- 8) A person may not sell Consumer Fireworks at retail if a certificate of compliance from the State Fire Marshal has not been issued for the location.

d. If a person recklessly, knowingly, or intentionally uses consumer fireworks and causes serious injury to someone else, that person commits a **Class D Felony**, an offense that is punishable by imprisonment for from six (6) months to three (3) years, and a fine not to exceed ten thousand dollars (\$10,000).

e. If a person recklessly, knowingly, or intentionally uses consumer fireworks and causes someone else's death, the person commits a **Class C Felony**, an offense that is punishable by imprisonment from two (2) to eight (8) years and a fine not to exceed ten thousand dollars (\$10,000).

**Sec. 8-28 thru 8-40. Reserved.**

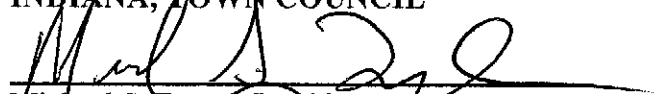
**SECTION TWO:** That all existing Town Code Sections and Ordinances, or parts thereof, in conflict with the provisions of this Ordinance, are hereby repealed and declared to be null, void, and of no legal effect.

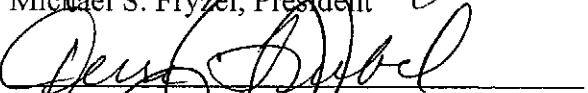
**SECTION THREE:** That if any section, clause, provision or portion of this Ordinance shall be held to be invalid or unconstitutional by any Court of competent jurisdiction, such decision shall not affect any other section, clause, provision or portion of this Ordinance.

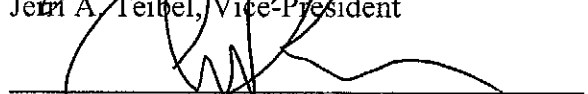
**SECTION FOUR:** That this Ordinance shall take effect, and be in full force and effect, from and after its passage by the Town Council of the Town of St. John, Lake County, Indiana, pursuant to law.


ALL OF WHICH IS PASSED AND ADOPTED by the Town Council of St. John,  
Indiana, Lake County, Indiana, this 15<sup>th</sup> day of June, 2006.

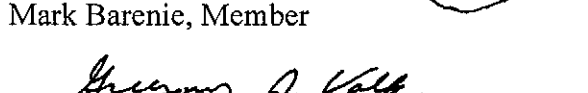
TOWN OF ST. JOHN, LAKE COUNTY,  
INDIANA, TOWN COUNCIL


  
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Michael S. Fryzel, President

  
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Jerri A. Teibel, Vice-President

  
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Mark Barenie, Member

  
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Gregory J. Volk, Member

ATTEST:  
  
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Sherry P. Sary, Clerk-Treasurer