

TOWN OF ST. JOHN, LAKE COUNTY, INDIANA

ORDINANCE NO.: 1451

AN ORDINANCE AMENDING FIREWORKS USAGE REGULATIONS FOR THE TOWN OF ST. JOHN, LAKE COUNTY, INDIANA, REPEALING ALL ORDINANCES AND TOWN CODE SECTIONS, OR PARTS THEREOF, IN CONFLICT HERewith, AND ALL MATTERS RELATED THERETO.

WHEREAS, the Town Council of the Town of St. John, Lake County, Indiana, is aware that the provisions of Indiana Code 36-1-3, *et seq.*, authorize and permit the Town of St. John, as a unit of local government, to adopt Ordinances for the purpose of protecting the health, safety and welfare of its residents and citizens, 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 (2006) and Indiana Senate Bill No. 9 (2007) were recently adopted, in the latest sessions of the Indiana General Assembly, and that this new legislation amends the provisions of 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 provisions of 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) renaming common fireworks as consumer fireworks; (3) setting conditions for fireworks sales and issuance of the permits to do so; (4) establishing requirements for discharge of consumer fireworks at a location; (5) providing that counties and municipalities may adopt ordinances to regulate the time and location for the use, ignition, or discharge of fireworks; and (6) providing that a fireworks usage regulations ordinance may not limit the use of fireworks on certain days during certain times of the year; 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 unique and special supervision in order to protect and preserve the health, safety and welfare of the residents and citizens of the Town; and

WHEREAS, the Town Council of the Town of St. John, Lake County, Indiana, has reviewed the applicable provisions of the current Town Code and Indiana Code § 22-11-14, *et seq.*, as amended from time to time, pertaining to the legal display and usage of fireworks; and

WHEREAS, the Town Council of the Town of St. John, Lake County, Indiana, having reviewed all matters relevant hereto, including applicable provisions of the Town Code and Indiana Code, now concurs that it is advisable, necessary, and in the best interests of the residents and citizens of the Town of St. John to establish fireworks usage regulations for the Town consistent with current and applicable law.

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

SECTION ONE: That Town Code **Article II**, entitled **FIREWORKS**, of **Chapter 8**, entitled **FIRE PREVENTION AND PROTECTION**, of the St. John Town Code, be, and the same is hereby replaced to read and provide as follows, namely:

“ARTICLE II. FIREWORKS USAGE REGULATIONS.

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. Special Permit.

a. The owner, occupant, or agent of an organization, business or group that uses any type of fireworks or pyrotechnic special effects materials used indoor or outdoor, shall apply for a Special Permit issued by the Town Council at least fourteen (14) calendar days prior to the use of the fireworks or pyrotechnical devices. This Permit shall be in addition to any other permits required by federal or state agencies. The Permit must be made available upon request of the Fire Chief or his designee.

b. The storage, use and handling of fireworks and pyrotechnics special effects shall be in accordance with Indiana Fire Code (675 Indiana Administrative Code 22), Article 76 and I.C. § 22-11-14 *et seq.*, and current edition of National Fire Protection Association standards for fireworks.

c. An Applicant shall pay a fee of One Hundred and 00/100 Dollars (\$100.00) when submitting the Special Permit Application.

d. The Special Permit Application must be approved and signed by the Town Council and contain the following information to be valid:

- i. Name, address and phone number of the individual person or company doing the production or display;
- ii. Name and qualifications of the individual person or operator doing the production or display;
- iii. Contact name, address and phone for whom the production or display is being performed;
- iv. A detailed location where the display shall take place;
- v. Date and time of the display;
- vi. Estimated number of fireworks or pyrotechnical devices to be used and length of show; and
- vii. A copy of a valid certificate of insurance conditioned for damages and/or injury to persons or property for said event in the amount of not less than \$1,000,000 shall be attached to and submitted with each application for and shall become part of the Special Permit.

e. The above fees or requirements may be waived by the Town Council for any public fireworks display sponsored by any state or local governmental agency.

Sec. 8-23. Use and discharge, generally.

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

- a. **Age Requirement** Consumer Fireworks and Section 8-21(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 by Special Permit 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** A person may utilize Consumer fireworks and Section 8-21(a) fireworks on the following specific days, and no other, without a Special Permit as follows:
 - i. between 5:00 p.m. and two (2) 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;
 - ii. between the hours of 10:00 a.m. and 12:00 midnight on July 4; and
 - iii. between the hours of 10:00 a.m. on December 31 and 1:00 a.m. on January 1.
- f. **Special Permit** A person seeking to discharge fireworks, except as permitted in subsection (e) above, must apply for and obtain a Special Permit as provided herein.

Sec. 8-24. 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. 8-25. 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. 8-26. 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 Marshall.

Sec. 8-27. Revocation of Special Permit.

Any person, firm or corporation who violates I.C. § 22-11-14, *et seq.* or the provisions herein, 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. 8-28. Penalty.

Any person who violates the provisions of this Ordinance and Town Code Section shall be punished by a fine of not less than \$100 and not more than \$250 for the first offense; \$500 for the second offense; \$1,000 for the third offense; \$2,500 for the fourth offense; and \$7,500 for the fifth and subsequent offenses during a twelve (12) month period of time. All fines shall be payable to the Clerk-Treasurer of the Town, or through the Lake Superior Court, and payable to the Town for deposit in the Town General Fund. Each incident that occurs shall constitute and be deemed a separate offense.

Secs. 8-29 -- 8-40. Reserved for Future Use.”


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.

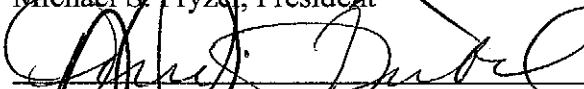
SECTION FOUR: That this Ordinance shall take effect, and be in full force and effect, from and after its passage by the Town Council of the Town of St. John, Lake County, Indiana, pursuant to applicable law.

ALL OF WHICH IS PASSED AND ADOPTED THIS 21 DAY OF JUNE, 2007, BY THE TOWN COUNCIL OF THE TOWN OF ST. JOHN, LAKE COUNTY, INDIANA.

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



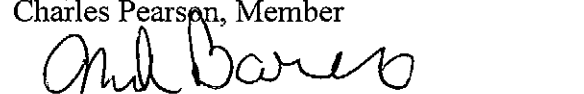
Michael S. Fryzel, President



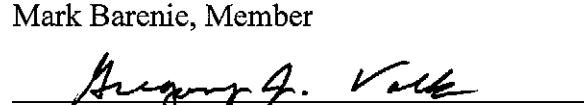
Jerri A. Teibel, Vice-President



Charles Pearson, Member

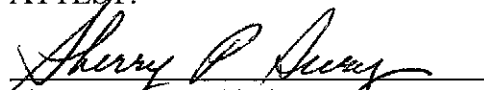


Mark Barenie, Member



Gregory J. Volk, Member

ATTEST:



Sherry P. Sury, Clerk-Treasurer