

ORDINANCE NO. 1472

AN ORDINANCE TO ADOPT INDIANA CODE 22-11-14-10.5
REGULATING THE USE OF CONSUMER FIREWORKS
WITHIN THE CITY LIMITS OF THE CITY OF NAPPANEE,
INDIANA

WHEREAS, Senate Enrolled Act 9 adds to the Indiana Code I.C. 22-11-14-10.5, which is designed to limit the use of consumer fireworks to thirteen (13) days of the year; and

WHEREAS, Indiana Code Section 22-11-14-10.5 gives municipalities the ability to regulate the use of consumer fireworks, subject to the thirteen (13) days specifically exempted; and

WHEREAS, the Common Council of the City of Nappanee, Indiana desires to adopt the regulations as set forth in I.C. 22-11-14-10.5, as amended from time to time.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Nappanee, Indiana that:

Section 1. Use, Discharge or Ignition Prohibited.

- 1.01 The use, discharge or ignition of consumer fireworks by any person or other entity is prohibited in the City of Nappanee, Indiana except during the following periods (all local time):
- A. Between the hours of 5:00 PM and two (2) hours after sunset on June 25, June 26, June 27, June 28, June 29, June 30, July 1, July 2, July 3, July 5, July 6, July 7, July 8, July 9, July 10, July 11, July 12 and July 13;
 - B. Between the hours of 10:00 AM and 12:00 midnight on July 4; and
 - C. Between the hours of 10:00 AM on December 31 and 1:00 AM on January 1;
 - D. Between the hours of 10:00 AM and 12:00 midnight on the Saturday, Sunday and Monday of Memorial Day Weekend;
 - E. Between the hours of 10:00 AM and 12:00 midnight on the Saturday, Sunday and Monday of Labor Day Weekend.
- 1.02 For purposes of this Ordinance, "Consumer Firework" shall have the same definition of "Consumer Firework" as set forth in I.C. Code Section 22-11-14-1, as currently in effect, or as from time to time hereafter adopted or amended. For purposes of clarity in reading and implementing this Ordinance, the definition of "Consumer Firework" under I.C. 22-11-14-1, as currently in force and effect, is herewith set forth in 1.03 below, though changes or amendments to such definition as set forth with Indiana Code Section 22-11-14-1 shall supersede the definition herein reproduced.
- 1.03 Consumer Firework means a small firework that is designated 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 CFR 1507. The term also includes some small device designed to produce an audible effect, such as whistling device, 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 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 clauses (1) and (2).
- B. Consumer Fireworks do not include:
1. Dipped sticks or wire sparklers. However, totally pyrotechnic composition may not exceed one hundred (100) grams per item. Devices containing chlorate or perchlorate salts may not exceed five (5) grams in total composition per item;
 2. Cylindrical fountains;
 3. Cone fountains;
 4. Illuminating torches;
 5. Wheels;
 6. Ground spinners;
 7. Flitter sparklers;
 8. Snakes or glow works;
 9. Smoke devices; and
 10. Trick noisemakers, which include party poppers, booby traps, snappers, trick matches, cigarette loads, and auto burglar alarms.

1.04 The use, discharge or ignition of all other "Fireworks", as "Firework(s)" is defined with Indiana Code Section 22-11-14-1, is governed by applicable Indiana law, to include Indiana Code Section 22-11-14-1 et seq., and not by this Ordinance.

Section 2. Permits.

Notwithstanding Section 1, the use, discharge or ignition of Consumer Fireworks may be permitted with the written approval of the Board of Public Works and Safety on real estate owned by the governmental entity. The approval shall specify the real estate upon which the use, discharge or ignition will be permitted and the date(s) and time(s) on which the use, discharge or ignition will be permitted which may not exceed seventy-two (72) hours.

Section 3. Enforcement/Penalty.

This Ordinance shall be enforced consistent with the standards of applicable Indiana law and the City of Nappanee Code, as the code may be amended from time to time hereafter. Any person or other entity violating the provisions of this Ordinance may be fined up to Five Hundred Dollars (\$500.00) for each such violations, and be responsible for all applicable court costs.

Section 4. Other Ordinances.

All ordinances and parts of ordinances inconsistent or in conflict with the terms of this Ordinance are repealed to the extent of the inconsistency or conflict.

Section 5. Effective Date.

This Ordinance shall be in full force and effect on the first day of the passage of this Ordinance.

PASSED AND ADOPTED BY THE COMMON COUNCIL OF THE CITY OF NAPPANEE, INDIANA ON THE 21st DAY OF October, 2013.

Kimberly A. Ingle, Clerk-Treasurer
 Kimberly A. Ingle, Clerk-Treasurer

PRESENTED TO ME AND APPROVED BY ME THIS 21st DAY OF October, 2013.

Larry L. Thompson
 Larry L. Thompson, Mayor