

CHAPTER 92: FIRE PREVENTION

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GENERAL PROVISIONS

§ 92.01 BURNING OF WASTE.

(A) It shall be unlawful to cause any contaminant, being any solid, semi-solid, liquid or gaseous matter or any odor, radioactive material, pollutant, as defined in the Federal Water Pollution Control Act, Hazardous Waste as defined in the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.), any combination thereof, from whatever source, that is injurious to human health, plant or animal life or property in any of the following acts or by any act which, although not specifically set out herein, may be injurious to human health, plant or animal life or property or interferes unreasonably with the enjoyment of life and property.

(B) The following shall be unlawful acts within the town:

(1) To burn for the purpose of cleaning or stripping or preparing for sale any junk, refuse or scrap metal.

(2) To set fire to any waste material, paper, trash or other materials which will cause contaminants to be expelled into the atmosphere.

(3) To burn waste, trash or rubbish in any location which is not at least 25 feet from any structure or building.

(4) To burn waste, trash or rubbish on any public paved surface.

(5) To authorize or permit any other person or entity to maintain any burning or fire on land of the authorizing person in violation of this section.

(C) The Town Marshall, his agents or employees, shall have full power and authority to enter upon

any street, alley, lot or ground for the purpose of determining if any acts are being performed which would constitute a violation of this section.

(Ord. 90-2, passed 3-12-90)

§ 92.02 OPEN BURNING.

(A) Open burning is defined as the burning of any materials wherein air containments resulting from combustion are emitted directly into the air, without passing through a stack or chimney from an enclosed chamber.

(B) No person shall start, kindle, cause, allow, or maintain any form of open burning of any materials on private or public property, except as specifically authorized by this section. No person shall allow the accumulation or existence of combustible material that constitutes or contributes to open burning.

(C) Exemptions: The following types of burning are allowed:

(1) The burning of charcoal, clean untreated wood and other cooking fuels customarily used in an outdoor grill, traditional food cooking devices, or campfires.

(2) Fires used for recreational or ceremonial purposes such as school rally fires or the celebration of scout activities. Recreational or ceremonial shall meet the following conditions:

(a) Only clean untreated wood or charcoal shall be used. Paper or petroleum products can be used for ignition purposes only.

(b) The fire shall not be ignited more than two hours before the recreational activity is to take place and shall be extinguished upon the conclusion of the activity.

(c) The pile to be burned shall be less than 1,000 cubic feet (for example: 10 feet x 10 feet x 10 feet).

(d) The local fire department shall be notified 24 hours in advance if the pile to be burned is more than 125 cubic feet (for example: 5 feet x 5 feet x 5 feet).

(e) The fire shall not be for disposal purposes.

(f) The fire shall not be within 500 feet of a pipeline or fuel storage area.

(3) Variances. Other types of fires may be approved as follows:

(a) Any other type of fire whereby a citizen of Whiteland has obtained a variance from the provisions of this section by petitioning the Town Council may be allowed. However, the Town Council cannot grant a variance for burning that would otherwise violate the provisions of the 326 Indiana Administrative Code 4-1 et seq. and as amended and I.C. 13-17-9.

(b) The following types of fires may be allowed of approved by the Indiana Department of Environmental Management:

1. Fire fighter training;
2. Fire extinguisher training;

(4) The following conditions apply to all exemptions and variances:

(a) Burning shall be done during safe weather conditions. Burning shall not occur, during high winds, temperature inversions, air stagnation, or when a pollution alert or ozone action day has been declared;

(b) Fires must be attended at all times until completely extinguished;

(c) Fires must be extinguished if they create a fire hazard, nuisance, pollution problem, or threat to public health;

(d) Fire fighting equipment adequate for the size of the fire shall be on-site and nearby during times of burning;

(e) Burning shall not be for disposal purposes; and

(f) All burning shall comply with other federal, state and local laws, rules and ordinances.

(Ord. 04-6, passed 11-9-04)

FIRE PROTECTION DISTRICT

§ 92.10 ESTABLISHMENT.

(A) Pursuant to IC 36-8-11-4(b), the town consents to be included, upon its establishment, as a part of the Whiteland Fire Protection District.

(B) The Town Council joins in the petition to establish the district.

(Ord. 91-2, passed 4-8-91)

FIREWORKS

§ 92.20 DEFINITIONS.

For the purposes of this subchapter, 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; and
- (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.

(1) **CONSUMER FIREWORKS** include:

- (a) Aerial devices, which include sky rockets, missile-type rockets, helicopter or aerial spinners, roman candles, mines, and shells;
 - (b) Ground audible devices, which include firecrackers, salutes, and chasers; and
 - (c) Firework devices containing combinations of the effects described in divisions (1)(a) - (b).
- (2) 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**.

(Ord. 2014-12, passed 2-9-15)

§ 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.

(Ord. 2014-12, passed 2-9-15)

§ 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 division (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 12:00 a.m. 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 § 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 § 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:

(a) **FREQUENT.** The use of consumer fireworks on the same property during three or more different hours of the day in any 24-hour period.

(b) **HABITUAL.** The use of consumer fireworks on the same property on more than three calendar days in any seven-day period.

(c) **SAME PROPERTY.** 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 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.

(Ord. 2014-12, passed 2-9-15)

§ 92.99 PENALTY.

(A) Any person, firm, corporation or entity violating any provision of § 92.01 shall be fined a sum not to exceed \$100; each day's violation shall be deemed a separate offense.

(B) Persons violating the provisions of § 92.02 shall be subject to the penalty imposed for a Class C infraction, as set forth in I.C. 34-28-5-4(C). Accordingly, § 92.02 shall be enforced by the provisions of I.C. 34-28-5.

(Ord. 90-2, passed 3-12-90; Am. Ord. 04-6, passed 11-9-04)