

**ORDINANCE NUMBER 13-04
OF THE CITY OF FRANKLIN, INDIANA**

**An Ordinance Repealing and Replacing Ordinance 05-24
Amending the Sale and Use of Fireworks**

WHEREAS, the Common Council of the City of Franklin, Indiana, finds that the use of small explosive devices commonly referred to as “fireworks” should be prohibited within the City’s corporate limits, unless authorized as provided herein:

WHEREAS, Ordinance 05-24 of the City of Franklin, Indiana previously regulated the use of such fireworks and the City of Franklin is desirous of amending the Ordinance so as to comply with regulations set forth in I.C. § 22-11-14 *et seq.*;

NOW, THEREFORE, THE COMMON COUNCIL OF THE CITY OF FRANKLIN, INDIANA, ORDAINS AND ENACTS THE FOLLOWING:

- 1) **Incorporation of Statutory Codes.** The City of Franklin does hereby incorporate by reference, I.C. § 22-11-14 *et. seq.* as if fully set forth herein and retail sellers of fireworks shall be required to comply with all retail sales permit requirements of I.C. § 22-11-14-7 and all requirements of the State Fire Marshall, including but not limited to the age limitations of the sale of fireworks. In accordance with those limitations, the following sales to minors are prohibited:
 - a. A person shall not sell at retail, offer for sale at retail, or deliver the following items to a person less than 18 years of age:
 1. Dipped stick or wire sparklers. However total 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 worms
 9. Smoke devices
 10. Trick noisemakers, which include:
 - a. Party poppers
 - b. Booby traps
 - c. Snappers
 - d. Trick matches
 - e. Cigarette loads
 - f. Auto burglar alarms.

2) **Use of Prohibitive Fireworks.** The use of “fireworks” as defined by I.C. § 22-11-14 *et seq.*, and devices substantially similar to such devices are prohibited by this Ordinance, unless a permit for such use is first obtained from the State Fire Marshall and there is compliance with all provisions set forth in this Ordinance and specifically including the provisions set forth in paragraph 4. However, the use of the following consumer fireworks, novelties, and trick noise makers are permitted under the supervision of persons over the age of 18 and between the hours of 10:00 A.M. to 10:00 P.M. on days that are not considered holidays as set forth in paragraph 2 below:

- a. Dipped stick or wire sparklers. However total 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.
- b. Cylindrical fountains.
- c. Cone fountains.
- d. Illuminating torches.
- e. Wheels
- f. Ground spinners.
- g. Flitter Sparklers
- h. Snakes or glow worms
- i. Smoke devices
- j. Trick noisemakers, which include:
 - i. Party poppers
 - ii. Booby traps
 - iii. Snappers
 - iv. Trick matches
 - v. Cigarette loads
 - vi. Auto burglar alarms.

3) **Permitted Hours.** Notwithstanding any other provision of this Ordinance, the use of consumer fireworks as defined by I.C. § 22-11-14-1 is permitted under the supervision of an adult 18 years of age or over during the following holidays:

- a. Between the hours of 5:00 P.M. and two (2) hours after sunset on June 29th, June 30th, July 1st, July 2nd, July 3rd, July 5th, July 6th, July 7th, July 8th and July 9th; and
- b. Between the hours of 10:00 A.M. and 12:00 midnight on July 4th; and
- c. Between the hours of 10:00 A.M. on December 31st and 1:00 A.M. on January 1st.

4) **Required Insurance.** In the event a permit is obtained from the State Fire Marshall for the use of devices otherwise prohibited by this Ordinance, the permittee or other user must first obtain and provide a copy of a certificate of insurance naming the City of Franklin, Indiana as an additional insured for the payment of all damages which may be caused either to a person or persons in an amount of One Million Dollars (\$1,000,000.00) for damages caused to a person or persons, and One Million Dollars (\$1,000,000.00) for damage to property. The following information must also be provided by the permittee:

- a. The Special Permit Application must be approved by the BOW 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.
- 5) **Violation of Ordinance Constitutes a Public Nuisance:** A violation of this Ordinance constitutes a public nuisance, and may be the subject of an enforcement action against same to enjoin future violations and abate continuing violations. Additionally, all other available legal remedies may be sought by the City to enforce this Ordinance.
- 6) **Penalties:** Any owner who violates any provision of this Ordinance shall be subject to the following monetary penalties, in addition reasonable attorney's fees incurred by the City in the prosecution of the violation:
 - a) For the first offense - a fine of Twenty Five Dollars (\$25.00).
 - b) For the second offense - a fine of Fifty Dollars (\$50.00).
 - c) For the subsequent offenses - a fine of One Hundred Dollars (\$ 100.00).
- 7) **Construction of Clause Headings:** The clause headings appearing in this ordinance have been provided for convenience and reference, and do not purport and will not be deemed to define, limit, or extend the scope or intent of the clauses to which the headings pertain.
- 8) **Repeal of Conflicting Ordinances.** The provisions of all other ordinances in conflict with the provisions of this ordinance are of no further force or effect, and are now repealed.
- 9) **Severability of Provisions.** If any part of this ordinance is held to be invalid, such part will be deemed severable and its invalidity will have no effect upon the remaining provisions of this ordinance.


10) **Duration and Effective Date.** The provisions set forth in this ordinance become and will remain in full force and effect (until their repeal by ordinance) on day of the passage and adoption of this ordinance by signature of the executive in the manner prescribed by Indiana Code §§6-4-6-15,16.


Introduced and Filed on the 15 day of April, 2013. A motion to consider same on the First Reading or day of introduction was [not offered] [sustained by a vote of _____ in Favor and _____ Opposed, pursuant to Indiana Code § 36-4-6-13].

DULY PASSED on this 6 day of May, 2013 by the common Council of the City of Franklin, Johnson County, Indiana, having been passed by a vote 7 in Favor and 0 Opposed.

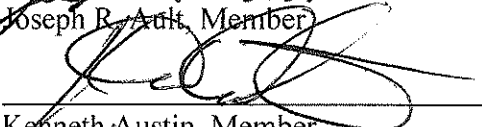
City of Franklin, Indiana, by its Common Council:

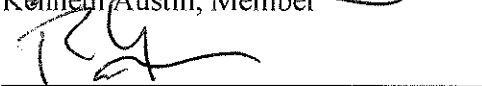
Voting Affirmative:

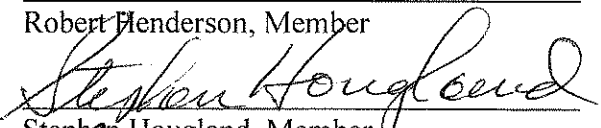

Steve Barnett, President


Joseph P. Abban, Vice President


Joseph R. Ault, Member


Kenneth Austin, Member


Robert Henderson, Member


Stephen Houghland, Member


Richard Wertz, Member

Voting Opposed:

Steve Barnett, President

Joseph P. Abban, Vice President

Joseph R. Ault, Member

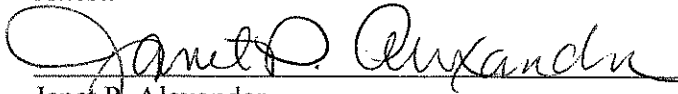
Kenneth Austin, Member

Robert Henderson, Member

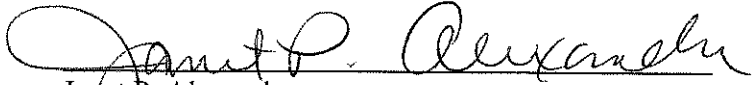
Stephen Houghland, Member

Richard Wertz, Member

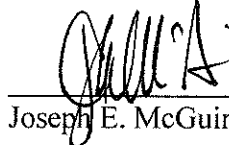
Attest:

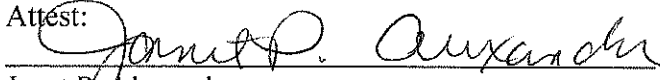

Janet P. Alexander,
City Clerk Treasurer

Presented by me to the Mayor of the City of Franklin for his approval or veto pursuant to Indiana § 36-4-6-15, 16 this 6th day of May, 20 13 at 7:00 o'clock P.M.


Janet P. Alexander
City Clerk Treasurer

This Ordinance having been passed by the legislative body and presented to me was Approved by me and duly adopted, pursuant to Indiana Code § 36-4-6-16a(1) Vetoed pursuant to Indiana code § 36-4-6-16(a)(2), this 6th day of May, 20 13 at 6:50 o'clock P.M.


Joseph E. McGuinness, Mayor

Attest:

Janet P. Alexander,
City Clerk Treasurer

Prepared by:

Lynnette Gray
Attorney No.: 11567-41
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