

## **ORDINANCE 09-07**

### **AN ORDINANCE BY THE COMMON COUNCIL OF THE CITY OF WESTFIELD CONCERNING AMENDMENTS TO CHAPTER 48 OF THE MUNICIPAL CODE OF ORDINANCES**

**WHEREAS**, the City Council is the governing body of the City of Westfield, Indiana, in Hamilton County, in the State of Indiana; and

**WHEREAS**, Indiana Code IC 22-11-14 allows municipalities to limit the sale and time of use, of fireworks; and

**WHEREAS**, the City Council wishes to accommodate firework sales and use within the City of Westfield; and

**WHEREAS**, the City Council of the City of Westfield, Indiana so desires to establish and enforce regulations for Fireworks Sales and Use in a manner that preserves public welfare within the City of Westfield,

**NOW THEREFORE BE IT ORDAINED** by the Common Council of the City of Westfield, Hamilton County, Indiana, that the following Fireworks Sales and Use ordinance is enacted as a part of the Code of Ordinance of the City of Westfield:

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## Chapter 48 – Consumer Firework Sales and Use

### Sec. 48.1 Definitions

Class 1 Building(s) – as defined in ~~IC~~ Ind. Code § 22-12-1-4

Consumer Firework(s) – means 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 CFR 1507. The term also includes some small devices designed to produce an audible effect, such as whistling devices, ground devices containing fifty 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. 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 1 and 2; and 4) do not include items referenced in Ind. Code § 22-11-14-8 a. any composition or device that consists of a small paper wrapped or cardboard tube containing not more than fifty (50) milligrams of pyrotechnic composition and that produces, upon ignition, noise accompanied by a flash of light.

Consumer Firework Sales – a retail operation engaged in selling fireworks.

Consumer Fireworks Sales License – a permit to sell fireworks.

Operator – a person or company engaged in the business of fireworks sales.

Portable Storage Units – temporary container for the keeping of goods.

Section 8 (a) Firework – See IC 22-11-14-8 (a).

Store – the sales or storage location of product where a point of sale exists.

Table – an article of furniture consisting of a flat, slab-like top supported on one or more attached legs.

Temporary Structures – any non-permanent building or tent.

### Sec. 48.2 Applicability

The Consumer Fireworks Sales License:

(a) Shall apply to those persons or entities engaged in the sale of consumer fireworks as defined in Section 48.1 Definitions; and

(b) Shall not apply to those persons or entities engaged in the sale of Section 8(a) (Ind. Code § 22-11-14-8 (a)) fireworks and not consumer fireworks.

Sec. 48.3 Sales Registration

It shall be unlawful for any person or entity to engage in the business of Consumer Firework Sales within the City of Westfield without first applying for and legally obtaining a Consumer Firework Sales License.

Sec. 48.~~3~~4 Sales Registration Requirements and Conditions

(a) Consumer Firework Sales Licenses shall only be issued for locations within recognized business districts (as established by the Westfield-Washington Township Zoning Ordinance), within the corporate limits of the City of Westfield.

(b) Sales shall be conducted within Class 1 buildings, as defined in Ind. Code § 22-12-1-4, protected by an active automatic sprinkler system, smoke detection, and fire alarm.

(1) Sales are prohibited in temporary structures or tents.

(c) A ten (10) pound A-B-C-D fire extinguisher shall be placed every seventy-five (75) feet around the interior perimeter of the store.

(1) All employees shall be trained on how to use the extinguishers located on-site.

~~(e)~~(d) No cloth, plastic or other similar product shall be used as curtains or temporary walls to separate product from storage.

~~(f)~~(e) Consumer Fireworks for the purpose of sales display must be placed on tables only.

(1) The use of saw horses and plywood as a table is prohibited.

(2) Tables shall be in good repair and able to support stock without wobble or collapse.

~~(g)~~(f) The use of extension cords for any reason within the store is prohibited.

~~(h)~~(g) Aisle widths must be a minimum of forty-eight (48) inches.

~~(i)~~(h) All fireworks shall be stored inside the store.

(1) The use of temporary or portable storage units is prohibited.

~~(h)~~(i) No smoking shall be permitted within the store or within twenty (20) feet of an entrance.

(1) No-smoking signs shall be posted inside the store and on the exterior at each entrance to the store.

~~(i)~~(j) Signs regarding the time of use for fireworks shall be visible at the point of sale.

(1) Such signs shall state that the use of fireworks is limited to:

- i. Between the hours of 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, July 9;
- ii. Between the hours of 10:00 a.m. and 12:00 a.m. (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.

(2) The times set forth above are those enforced by the Westfield Police Department.

~~(j)~~(k) Use and sale of lighters, matches or other flame producing devices is prohibited at all sales and storage locations.

~~(k)~~(l) Use, discharge or demonstration of any fireworks at the sale location or on the property of the store is prohibited.

~~(l) Sales to those under the age of eighteen (18) are prohibited~~

~~(3) Signage communicating subsection (1) shall be posted at point of sale.~~

~~(b) All sales people shall be sixteen (16) years of age or older.~~

(m) Signage:

(3) Each Fireworks License shall entitle the holder to a maximum of one (1) on-site sign.

(4) Sign area shall be limited to one (1) square foot of sign per linear foot of tenant or retail space along the front facade.

(5) Sign shall be located on the front facade.

(6) Sign shall be firmly affixed to the exterior wall

(7) Sign shall not protrude out from or above the roofline.

(8) No florescent colors shall be used in such signs.

(9) Signs shall not possess movable parts, rotate or blink.

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~~(m)~~(n) Approved license from Community Development shall be posted at point of sale.

(o) Consumer Fireworks Sales shall be conducted in compliance with Indiana Law.

~~(n)~~(p) Store ~~must meet shall comply with~~ all State and Local Fire and Building Codes.

Sec. 48.4-5 Consumer Firework Sales License Application

(a) A license applicant shall submit an application form to the Community Development Department.

(1) An approved application shall be acquired prior to engaging in any sales activities.

(b) A license applicant shall provide the following information at the time of application:

(1) Applicant's Name

(2) Name of Local Operator

(3) Applicant's Corporate Address

(4) Applicant's Local Address for Sales

~~(5) Resume of Operator's Experience~~

~~(6) Proof age for each employee~~

~~(7)~~(5) Proof of employee Fire Extinguisher Training

~~(8) Proof of insurance covering the sale of fireworks~~

~~(9)~~(6) List of three (3) Emergency Contacts

(i.) List shall include for each contact: names, phone numbers, e-mail address, and mailing address

(10) Copy of approved State required permit or copy of application

(11) A license fee of \$1000 shall accompany each application for each site.

~~(e) In 2009, licenses may be applied for after May 1<sup>st</sup>.~~

Sec. 48.5-6 Consumer Fireworks Sales Violations, Penalties, and Exemptions

(a) No operator who has violated this Chapter may operate within the City for one (1) year from the time of violation.

(b) The Director of the Westfield Community Development Department, the Westfield Fire Chief, or their respective designees may suspend or revoke the license upon an administrative determination that the applicant and / or operator fails to comply with any Ordinance of the City of Westfield.

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~~(b)(c)~~ Written notice of violation(s) shall be sent via U.S. Mail, hand delivery or by email, and shall be deemed given three (3) business days after mailing for U.S. Mail, upon hand delivery (if hand delivered) or upon email confirmation from the recipient (if emailed).

- ~~(1)The applicant and / or operator fails to comply with any Ordinance of the City of Westfield, or~~
- ~~(2)The license holder is in violation of any license condition.~~

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~~(e)Failure to abate violations listed in subsection (b) within five (5) days of notice shall result in a one (1) year suspension of license.~~

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~~(e)Retailers selling under the wholesalers' state license are exempt from City licensure.~~

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#### Sec. 48.6 Fireworks Use

~~(a)Use of fireworks is limited to:~~

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- ~~(1)Between the hours of 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, July 9;~~
- ~~(2)Between the hours of 10:00 a.m. and 12:00 a.m. (midnight) on July 4; and~~
- ~~(3)Between the hours of 10:00 a.m. on December 31 and 1:00 a.m. on January 1.~~

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~~(b)All other Fireworks Use must be in accordance with state laws.~~

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ADOPTED AND PASSED THIS ~~23rd~~<sup>13<sup>th</sup></sup> DAY OF ~~MARCH~~<sup>APRIL</sup>, 2009, BY THE WESTFIELD CITY COUNCIL, HAMILTON COUNTY, INDIANA.

WESTFIELD CITY COUNCIL  
Hamilton County, Indiana

Voting For

Voting Against

Abstain

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John Dippel

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John Dippel

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John Dippel

Ordinance 09-07  
Code of Ordinance Amendment

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Steve Hoover

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Bob Horkay

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ATTEST:

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Clerk-Treasurer, Cindy Gossard

This ordinance prepared by:  
Jennifer Miller, Planner I  
Director Community Development  
City of Westfield

I hereby certify that ORDINANCE NUMBER 09-07 was delivered to the Mayor of Westfield on the \_\_\_\_\_ day of \_\_\_\_\_, 2009, at \_\_\_\_\_ m.

\_\_\_\_\_  
Cindy Gossard, Clerk-Treasurer

I hereby APPROVE ORDINANCE 09-07 I hereby VETO ORDINANCE 09-07

this \_\_\_\_ day of \_\_\_\_\_, 2009. this \_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
J. Andrew Cook, Mayor

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J. Andrew Cook, Mayor

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