

ORDINANCE NO. 20-12-2

SYNOPSIS: *This Ordinance, if adopted, will vacate, and replace Ordinance 20-6-3 and will regulate the dates which consumer fireworks may be discharged within the Town.*

**AN ORDINANCE OF THE TOWN COUNCIL OF THE
TOWN OF OSSIAN, INDIANA**

WHEREAS, Council adopted Ordinance 20-6-3, but because that ordinance included errors, Council determines that Ordinance 20-6-3 should be vacated and replaced by the following; and

WHEREAS, pursuant to Ind. Code § 22-11-14-10.5 ("Act"), the Town may adopt an ordinance concerning the use of consumer fireworks within the corporate limits of the Town; and

WHEREAS, the Council finds that it is in the public interest of the Town to provide certain regulations as to the appropriate use of consumer fireworks in order to maintain an orderly and quiet environment within the Town; and

WHEREAS, after being duly advised in the issues regarding the use of consumer fireworks within the Town, now finds that the implementation of this Ordinance is in the best interests of the citizens of the Town.

NOW, THEREFORE, BE IT ORDAINED THAT, the Council, in meeting duly assembled, and upon receipt and consideration of information deemed by it to be sufficient, hereby vacates Ordinance 20-6-3 and amends Chapter 91 of the Town of Ossian, Indiana's Code of Ordinances with the insertion of the following:

"FIREWORKS

§ 91.60 INCORPORATION OF STATE LAW.

Any conflict between this sub-section and I.C. §22-11-14 shall not invalidate the remaining non-conflicting sections.

§ 91.61 CONSUMER FIREWORKS DEFINED.

For the purposes of the sub-section, the term "Consumer Fireworks" 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States Consumer Product Safety Commission under 16 CFR §1507, as it now exists and in hereafter amended, modified or superseded. 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 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 Firework includes:

- 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 (a) and (b) above.
- (B) Consumer Firework does not include the following:
- a. Dipped sticks or wire sparklers for which the total pyrotechnic composition may not exceed 100 grams per item; and, devices containing chlorate or perchlorate salts may not exceed five grams 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; and
 - j. Trick noisemakers that include party poppers, booby traps, snappers trick matches, cigarette loads and auto burglar alarms.

§ 91.62 USE OF CONSUMER FIREWORKS.

No person within the corporate boundaries of the Town shall use, ignite or discharge or permit to be used, ignited or discharged any type of Consumer Fireworks on any other day or time other than the following:

- (A) 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 between the hours of 5:00 p.m. and 10 p.m.;
- (B) July 4 between the hours of 10:00 a.m. and 12:00 midnight;
- (C) The first Monday in September (Labor Day observed) between the hours of 5:00 p.m. and 10 p.m.;
- (D) Between the hours of 10:00 a.m. on December 31 and 1:00 a.m. on January 1; and
- (E) Any other day, between the hours of 5:00 p.m. and two hours after sunset, designated by the Town Council for fireworks displays.

§ 91.63 LOCATION AND DEBRIS.

- (A) Consumer fireworks may be used, ignited, or discharged during the times listed in §91.62 only on the users' own property, with the permission of the property owner, or at special discharge locations designated by the State Fire Marshal or Ossian Volunteer Fire Department's Chief.
- (B) No person may use, ignite, or discharge fireworks on any public street or public property, including but not limited to parks, without the written permission of the State Fire Marshal or Ossian Volunteer Fire Department's Chief.
- (C) Users shall be responsible for cleaning and the proper disposal of all debris resulting from the discharge of consumer fireworks.
- (D) Notwithstanding the foregoing, nothing in this sub-section shall be interpreted to grant permission to any person to discharge, place, or land debris on property occupied or owned by another, and the twenty-four (24) hour removal period required by this sub-section shall not relieve any such user of any applicable civil

liability including, but not limited to, a cause of action for trespass or nuisance.

§91.64 SPECIAL PERMITS.

Applications for a permit for relief from the regulations contained in this sub-section must be made in writing to the Town Manager and subsequently reviewed and either approved or denied by the Town Council. Any permit granted by the Town Council must be in writing and shall contain all conditions upon which said permit shall be effective. In granting any such permit, the Town Council, may prescribe any reasonable conditions or requirements they deem necessary to minimize adverse effects upon the community or the surrounding neighborhood.

§ 91.65 VIOLATIONS.

- (A) It is a violation of this Ordinance if fireworks land upon property owned or occupied by another person from which permission was not obtained, or upon public streets or other Town property, and which fireworks and/or all related debris is not removed by the user within twenty-four (24) hours of such use or discharge.
- (B) Any person violating any of the provisions of sub-section shall be issued a Citation and assessed civil penalties in accordance with §91.41.
- (C) Each day or continued violation (even if on the same day) constitutes a separate and additional offense."

BE IT FINALLY ORDAINED THAT, this Ordinance shall be effective immediately upon its adoption and appropriate publication and all Ordinances or parts of Ordinances in conflict herewith are repealed.

ORDINANCE NO. 20-12-2

Ordinance 20-12-2 was introduced on _____, 2020 and is adopted this _____ day of _____ 2020, by a vote of ___ in favor and ___ opposed (must be at least 3 votes in favor).

OR

Upon Council's unanimous consent to consider Ordinance 20-12-2 for adoption on the same day of its introduction, Ordinance 20-12-2 was duly adopted this 28th day of December 2020, by a vote of 5 in favor and 0 opposed (must be at least 4 votes in favor).

TOWN OF OSSIAN, INDIANA by its TOWN COUNCIL

Voting in Favor:

Voting in Opposition:

_____	Josh Barkley (President)	_____
<u>Brad Pursley</u>	Brad Pursley	_____
<u>Jason House</u>	Jason House	_____
<u>Renee Sweeney</u>	Renee Sweeney	_____
<u>Jeffrey L. Kemper</u>	Jeff Kemper	_____

Attest:

Erika Allison as
(Erika Allison) Clerk-Treasurer