

Chapter 18 - FIRES AND FIREWORKS ^[9]

⁽⁹⁾ **Editor's note**— Ord. No. 2007-2, § 1, adopted June 19, 2007, changed the title of chapter 18 from "Fires" to "Fires and Fireworks."

⁽⁹⁾ **Cross reference**— Public fire protection, § 38-40 et seq. (Back)

ARTICLE I. - FIRES ^[10]

⁽¹⁰⁾ **Editor's note**— Ord. No. 2007-2, § 1, adopted June 19, 2007, enacted "Article II. Consumer Fireworks"; hence, the former provisions of chapter 18 were designated as "Article I. Fires" at the discretion of the editor.

Sec. 18-1. - Fires to be contained.

(a) *Residential open burning.* No person shall conduct any residential open burning at any time in the Town.

(b) *Private residential.* Fires on private property shall only be permitted in enclosed containers (bottom and sides) such as grills, chimneys, fireplaces or permanently constructed cookout facilities that burn clean wood, charcoal, paper or clean petroleum products.

(c) *Beach fires.* Beach fires are permitted providing they are Twenty-five feet from the foredune grass, are in Thirty-six inch maximum diameter enclosed containers (bottom and sides) and burn clean wood, charcoal, paper or clean petroleum products. No fire shall be built on the sand.

(d) *Complaints.* Any fire that causes complaints to the Town Fire Commissioner or the Porter Town Fire Department becomes a nuisance fire and shall be extinguished by the Porter Town Fire Department.

(e) *Town parks.* The Town Fire Commissioner shall have the authority to restrict the use of Town Park areas by the public when brush, grass and forest fire hazards exist.

(f) *Violations.* Any person violating any provision in this section shall be subject to punishment as provided in section 1-10

State law reference— Open burning prohibited in Porter County, 326 IAC 4-1-4.1(c); types of fires allowed, 326 IAC 4-1-3(c)(1)(A).

Sec. 18-2. - Prohibited prescribed or open burning.

(a) *Purpose.* This section is intended to promote the public safety, health and welfare and to safeguard the safety, health, comfort, living conditions and welfare of the

residents of the Town and to protect their property against the risks imposed by prescribed or controlled burns.

(b) *Applicability.* This section is limited to residentially zoned areas of the Town shown as "Area 1" on the official map of the Town. This section shall not be applicable to any land within the Town limits owned or maintained by the United States Department of Interior, Indiana Dunes National Lakeshore Park nor to any industrial areas shown as "Area 2" on the official map of the Town.

(c) *Preemption.* This section is not preempted by state and federal permitting statutes or regulations as it is designed and intended to impose a stricter standard of "no prescribed burns," which is stricter than the standard imposed by the Indiana Department of Environmental Management.

(d) *Penalty.* Any violation of the terms and provisions of subsections (a)—(c) of this section shall constitute an infraction subjecting the person, entity or agent who committed the infraction to a fine of Two Hundred Fifty dollars (\$250.00) for the first offense and Five Hundred dollars (\$500.00) for the second offense and Seven Hundred Fifty dollars (\$750.00) for the third and any subsequent offense or violation of this section. Each and every day, or part thereof, that a violation continues in existence shall constitute a separate offense, and each occurrence whereby the above terms are violated shall constitute a separate infraction, and in addition may subject the person, entity or agent to criminal and civil prosecution.

(e) *Enforcement.* The Police Commissioner or Fire Commissioner or their respective designees are authorized to enforce the terms and provisions of this section.

(Ord. No. 2005-6, §§ 1—4, 2-4-2006)

ARTICLE II. - CONSUMER FIREWORKS

Sec. 18-3. - Definitions.

The terms "Consumer fireworks" and "Fireworks" apply to all class B consumer fireworks and shall have the meaning set forth in IC 22-11-14-1 as the same may be amended from time to time.

(Ord. No. 2007-2, § I, 6-19-2007)

Editor's note— Definitions and rules of construction, § 1-2

Sec. 18-4. - Use, ignition or discharge unlawful; exceptions.

The use, ignition or discharge of consumer fireworks, within the corporate limits of the Town shall be unlawful and in violation of this article at any time, with the exception of the following:

- (1) Within the hours of 5:00 p.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 in any year;
- (2) Between the hours of 10:00 a.m. and 12:00 midnight on July 4;
- (3) Between the hours of 10:00 a.m. on December 31 and 1:00 a.m. on January 1 in any given year.
- (4) Public fireworks displays where a permit is granted pursuant to IC 22-11-14-2 or 22-11-14-3.5.

(Ord. No. 2007-2, § I, 6-19-2007)

Editor's note— Ord. No. 2007-2, § I, adopted June 19, 2007, enacted provisions intended for use as subsections A.—D. To preserve the style of this Code, and at the discretion of the editor, said provisions have been redesignated as subsections (1)—(4).

Sec. 18-5. - Nuisance.

Use or discharge of fireworks, which causes serious annoyance or disturbance to a neighborhood or the residents therein by loud, frequent, or habitual noise, is declared to be a nuisance. It is unlawful for any person to conduct such activities.

(Ord. No. 2007-2, § I, 6-19-2007)

Sec. 18-6. - Parental responsibility.

It shall be unlawful for the parent, guardian or other adult person having the care, custody and control of a minor under the age of Eighteen years to knowingly permit such minor to fire, shoot off or discharge any fireworks within the corporate limits of the Town.

(Ord. No. 2007-2, § I, 6-19-2007)

Sec. 18-7. - Liability for fire.

Any person shall be liable for damage to person or property caused by the use or discharge of fireworks and shall also be liable for costs of fire services by a responding fire department as defined in IC 22-11-14-1 or other emergency services necessitated by the use or discharge of fireworks.

(Ord. No. 2007-2, § I, 6-19-2007)

Sec. 18-8. - Penalties.

(a) Any person convicted of violating the provisions of this section may be punished by a fine in an amount of up to One Hundred dollars (\$100.00) per occurrence.

(b) Any person convicted of violating the provisions of sections 18-5, 18-6, and 18-7 may be punished by a fine in an amount of up to Seven Hundred dollars (\$700.00). A civil action to abate such nuisance may be brought under provisions of IC 32-30-6 and 32-30-7.

(Ord. No. 2007-2, § I, 6-19-2007)