

ORDINANCE NO. 2018- 10

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF LEBANON,
BOONE COUNTY, INDIANA CONCERNING THE USE OF FIREWORKS
WITHIN THE CITY OF LEBANON CORPORATE LIMITS

WHEREAS, the City of Lebanon, Indiana (“City” or “Lebanon”) is a duly formed municipal corporation within the State of Indiana, governed by its duly elected Mayor and Common Council (“Council”); and

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

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

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

WHEREAS, the Council wishes to amend and replace Section 130.03 of the City Municipal Code.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Lebanon, Boone County, Indiana, meeting in regular session, that § 130.03 of the City Municipal Code be amended to read as follows:

Section 1. **§ 130.03 Fireworks** shall read as follows:

Section 130.031

Consumer Fireworks. Legal consumer fireworks, as defined by Indiana Code § 22-11-14-1, may be used, ignited or discharged within Lebanon only during the following dates and times:

- a. Between the hours of 12:00 a.m. and 1:00 a.m. on January 1;
- b. Between the hours of 10:00 a.m. and 11:59 pm on the eve of the first day of the Chinese New Year, the date varies annually between January 21st and February 20th;
- c. Between the hours of 12:00 a.m. and 1:00 a.m. the first day of the Chinese New Year, date varies annually between January 21st and February 20th;
- d. Between the hours of 5:00 p.m. and 11:00 p.m. on President’s Day, which is celebrated the third Monday in February;

- e. Between the hours of 10:00 a.m. and 11:00 p.m. on any day in which the official Indianapolis 500 race is held, typically, the Sunday before Memorial Day;
- f. Between the hours of 5:00 p.m. and 11:00 p.m. on Memorial Day;
- g. Between the hours of 5:00 p.m. and 11:00 p.m. or 2 hours after sunset, in the event sunset is later than 9 p.m. on dates June 20-July 3 and July 5-9;
- h. Between the hours of 10:00 a.m. and 12:00 midnight on July 4;
- i. Between the hours of 5:00 p.m. and 11:00 p.m. on the two days immediately prior to Labor Day.
- j. Between the hours of 5:00 p.m. and 11:00 p.m. on Labor Day, which is celebrated the first Monday in September.
- k. Between the hours of 5:00 p.m. and 11:00 p.m. on the third day of Diwali, the date varies annually between the end of October and early November;
- l. Between the hours of 5:00 p.m. and 11:00 p.m. on December 24 and 25.
- m. Between the hours of 10:00 a.m. and 11:59 p.m. on December 31
- n. On any other day designated by the Board of Public Works and Safety for public fireworks display, between the hours of 2:00 p.m. on such day and 11:59 p.m. on such a day.

Section 130.032.

Location and Debris:

Consumer fireworks may be used, ignited, or discharged during the permitted times set forth above 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 Lebanon Fire Chief. 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 Lebanon Fire Chief. Users shall be responsible for cleaning and the proper disposal of all debris resulting from the discharge of consumer fireworks. 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 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. Notwithstanding the foregoing, nothing in this Ordinance 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 Ordinance shall not relieve any such user of any applicable civil liability, including but not limited to a cause of action for trespass or nuisance.

Section 130.033.

Special Permits:

Applications for a permit for relief from the regulations contained in this Ordinance must be made in writing to the Mayor of Lebanon and subsequently reviewed and either approved or denied by the Board of Public Works and Safety. Any permit granted by the Board of Public Works and Safety must be in writing and shall contain all conditions upon which said permit shall be effective. In granting any such permit, the Board of Public Works and Safety, may prescribe any reasonable conditions or requirements they deem necessary to minimize adverse effects upon the community or the surrounding neighborhood.

Section 130.034.

Violation Penalty:

Any person and/or property owner who violates the provisions of this Ordinance shall be guilty of an infraction, punishable by fines as follows:

- a. First offense: up to \$75;
- b. Second offense: up to \$100;
- c. Third offense: up to \$150;
- d. Fourth offense: up to \$200;
- e. Fifth offense: up to \$250;
- f. Sixth and subsequent offenses: up to \$300.

Each day or continued violation (even if on the same day) constitutes a separate and additional offense.

Section 130.035.

Severability:

The provisions of the Ordinance are severable, and the invalidity of any phrase, clause, or part of this Ordinance shall not affect the validity or effectiveness of the remainder of this Ordinance.

Section 130.038.

Superseding Clause:

This Ordinance shall be interpreted and enforced consistent with the Act, as may be amended. Should the Act or similar law applicable to Lebanon be amended to require more or less restrictive terms for the use of consumer fireworks, then such amendment(s) shall be considered incorporated into this Ordinance and this Ordinance shall be interpreted to be consistent with required terms as set forth in the Act or similar law. All

ordinances or parts of ordinances inconsistent or in conflict with the terms of this Ordinance are superseded to the extent of such inconsistency or conflict.

Section 2. **Effective Date**

This Ordinance shall be in full force and effect in accordance with Indiana Law, upon passage, its publication in accordance with law and upon the passage of any applicable waiting period, all as provided by the laws of the State of Indiana. All ordinances or parts thereof in conflict herewith are hereby ordered, amended or repealed. In the event any portion of this Ordinance is later deemed invalid all remaining portions shall remain in place. All acts taken pursuant to the adoption of this Ordinance are hereby ratified.

ALL OF WHICH IS ADOPTED this 23 day of July, 2018 by the Lebanon Common Council of the City of Lebanon, Indiana.

Voting For

Voting Against

Abstain

Keith Campbell
Keith Campbell

Keith Campbell

Keith Campbell

John Copeland
John Copeland

John Copeland

John Copeland

Dan Fleming
Dan Fleming

Dan Fleming

Dan Fleming

Mike Kincaid
Mike Kincaid

Mike Kincaid

Mike Kincaid

ABSENT

Corey Kutz

Corey Kutz

Corey Kutz

Dick Robertson

Dick Robertson
Dick Robertson

Dick Robertson

Brent Wheat
Brent Wheat

Brent Wheat

Brent Wheat

ATTEST:

Tonya Thayer
Tonya Thayer, Clerk-Treasurer

I hereby certify that ORDINANCE 2018-10 was delivered to the Mayor of Lebanon on the 23 day of July, 2018, at 7:47 p.m.

Tonya Thayer
Tonya Thayer, Clerk-Treasurer

I hereby APPROVE ORDINANCE 2018-
this 23 day of July, 2018,
at 7:46 p.m.

[Signature]
Matthew T. Gentry, Mayor

I hereby VETO ORDINANCE 2018-
this day of , 2018,
at : m.

Matthew T. Gentry, Mayor

ATTEST:

Tonya Thayer
Tonya Thayer, Clerk-Treasurer

This document prepared by:
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