

INDIANA FIRE PREVENTION AND BUILDING SAFETY COMMISSION

TO: Alan L. Whitted & Alex R. Whitted, City Attorneys for the City of Columbus, Indiana, on behalf of the City of Columbus, Indiana
FROM: Fire Prevention and Building Safety Commission (Commission) Staff
DATE: Thursday, April 1, 2021
RE: Commission Review of Ordinance No. 06, 2021 – Section 8.12.190 (Consumer Fireworks) of the City of Columbus, Indiana Municipal Code – Staff Review Memo

The information contained in this memo is advisory only. Commission staff does not have the authority to approve or deny ordinances or other regulations adopted by a political subdivision that qualify as fire safety or building laws. The decision to approve or deny ordinances or other regulations is left to the Commission.

GENERAL INFORMATION

Political Subdivision City of Columbus	Ordinance Number 06, 2021	Ordinance Type Fire Prevention (Fireworks)
Date of Adoption March 16, 2021	Date of Submission March 18, 2021	First Commission Meeting April 6, 2021
Fire Safety/Building Law Fire Safety	Follow Template? Yes (with slight deviation)	Recommendation Approval

PROVISIONS THAT DUPLICATE, CONFLICT, OR OVERLAP WITH STATEWIDE CODE

The following is a list of potential defects identified between this ordinance and the state's building and fire safety laws:

#	Ordinance Citation	State Citation	Explanation of Defect
	N/A	N/A	N/A

ADDITIONAL COMMENTS

After review, Commission staff did not identify any direct defects or conflicts with the Commission's rules (state building laws and/or state fire safety laws) that would serve as a basis for denial of Ordinance No. 06, 2021. However, Commission staff did determine that Section 2 of the ordinance does conflict with Indiana state statute, under IC 22-13-2-5(b)(2), as the ordinance states that it shall be in full force and effect from and after its passage by the Common Council of the City of Columbus and approval of the mayor, as opposed to upon approval by the Fire Prevention and Building Safety Commission. Commission staff advised the legal counsel of the City of Columbus of this conflict with state statute, at which time the legal counsel for the City of Columbus requested that the Commission proceed with its consideration of Ordinance No. 06, 2021, pursuant to the requirements of IC 22-12-2-5.5.

As Commission staff did not identify any direct defects or conflicts with Commissions rules (state building laws and/or state fire safety laws) that would serve as a basis for denial, in

accordance with IC 22-13-2-5.5(6), Commission staff still recommends **approval** Ordinance No. 06, 2021. Should the Commission move forward and take action to approve Ordinance No. 06, 2021 and issue an order of approval, pursuant to IC 22-13-2-5.5(5), the ordinance may still become effective and enforceable and will comply with IC 22-13-2-5(b)(2), provided the City of Columbus has not enforced the ordinance to date. Commission staff still recommends that the City of Columbus should revise this provision to comply with Indiana state statute, to prevent any confusion or issues in the future.