

ORDINANCE NO. 188**AN ORDINANCE AMENDING THE TOWN OF TRAIL CREEK CODE
TO REGULATE THE USE OF FIREWORKS**

WHEREAS, Indiana Code §22-11-14 governs the use generally of fireworks in the State of Indiana; and,

WHEREAS, Indiana Code §22-11-14-10.5 authorizes local governments to regulate the day and hours when fireworks may be used, ignited or discharged and the locations where such fireworks may be used, ignited or discharged; and,

WHEREAS, the Town Council of the Town of Trail Creek deems it appropriate for the protection of the public health and safety to reasonably regulate fireworks within the Town.

NOW, THEREFORE, be it ordained by the Town Council of the Town of Trail Creek, Indiana that the Town Code of Trail Creek is amended by adding following sections:

FIREWORKS**§ _____ SCOPE**

This chapter shall regulate the use, ignition or discharge of fireworks within the Town of Trail Creek.

§ _____ DEFINITIONS

(A) **CONSUMER FIREWORK.** A small firework that is designated primarily to produce visible or audible 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 designated to produce an audible

effect, such as whistling devices, ground devices containing fifty (50) milligrams or less of explosive composition, and aerial devices containing one hundred thirty (130) milligrams or less of explosive composition. Propelling and expelling charges consisting of a mixture of charcoal sulfur, and potassium nitrate are not considered to be designed to produce an audible effect. Consumer Fireworks include:

- (1) aerial devices, which include, but are not limited to, sky rockets, missile type rockets, helicopter or aerial spinners, roman candles, mines and shells;
- (2) ground audible devices, which include, but are not limited to, firecrackers, salutes, and chasers; and,
- (3) firework devices containing combinations of the effects described in numbers 1 and 2.
- (4) Consumer Fireworks do not include the following fireworks as referenced in Indiana Code §22-11-14-8(a):
 - a) Dipped sticks or wire sparklers. However, the total pyrotechnic composition may not exceed One hundred (100) grams per item; and, devices containing chlorate or perchlorate salts may not exceed five (5) 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,
- j) Trick noisemakers that include party poppers, booby traps, snappers trick matches, cigarette loads and auto burglar alarms.

(B) **FIREWORK.** Any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation.

Fireworks consist of both common fireworks and special fireworks, including Consumer Fireworks. The following items are excluded from the definition of fireworks:

- (1) Model rockets.
- (2) Toy pistol caps.
- (3) Emergency signal flares.
- (4) Matches.
- (5) Fixed ammunition for firearms.
- (6) Ammunition components intended for use in firearms, muzzle loading cannon, or small arms.
- (7) Shells, cartridges, and primers for use in firearms, muzzle loading cannons, or small arms.

- (8) Indoor pyrotechnics special effects material.
- (9) M-80s, cherry bombs, silver salutes, and any device banned by the federal government.

§ _____ **CONSUMER FIREWORKS**

(A) No person within the Town of Trail Creek may 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:

- (1) June 29, June 30, July 1, July 2, July 3, July 5, July 6, July 7, July 8, or July 9, between the hours of 5:00 p.m. to two hours after sunset;
- (2) Day before Memorial Day, Memorial Day, July 4, day before Labor Day, and Labor Day between the hours of 10:00 a.m. and 12:00 midnight; and
- (3) Between the hours of 10:00 a.m. on December 31 and 1:00 a.m. on January 1.

(B) No person may use, ignite or discharge or permit to be used, ignited or discharged any Consumer Fireworks within the Town of Trail Creek in or on any:

- (1) park
- (2) playground
- (3) school property
- (4) Church property; or
- (5) parking lot without the express written consent of the owner.

(C) No person may use, ignite or discharge or permit to be used, ignited or discharged any Consumer Fireworks within the Town of Trail Creek upon any public street, alley or sidewalk, without the prior consent of the Trail Creek Town Council.

§ _____ FIREWORKS

No person within the Town of Trail Creek may use, ignite or discharge or permit to be used, ignited or discharged, any Fireworks other than Consumer Fireworks except in accordance with Indiana Code §22-11-14-2.

Section 3:

(a) 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.

(b) Parental Responsibility:

It shall be unlawful for the parent, guardian or other adult person having the care, supervision, custody and/or control of a minor under the age of 18 years to knowingly permit such minor to fire, shoot off, or discharge any fireworks within the limits of the Town of Beverly Shores.

Section 4: Liability for fire

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

§ _____ POSTING OF SIGN

(A) Any person, firm or organization selling, or in any fashion distributing, Consumer Fireworks within the Town of Trail Creek shall, during all hours of operation, post a conspicuous sign, at least 8-1/2 inches by 11 inches in size, printed in English, with characters of not less than 24 points in size, in substantial conformity with the following:

NOTICE

Municipal Code Sections _____ and _____ limit the use, ignition or discharge of Consumer Fireworks in the Town of Trail Creek to the following dates and times:

- (1) June 29, June 30, July 1, July 2, July 3, July 5, July 7, July 8, July 9, between the hours of 5:00 p.m. to two hours after sunset;**
- (2) Day before Memorial Day, Memorial Day, July 4, day before Labor Day, and Labor Day between the hours of 10:00 a.m. and 12:00 midnight; and**
- (3) Between the hours of 10:00 a.m. on December 31 and 1:00 a.m. on January 1.**

Fireworks may not be used, ignited or discharged upon any public street, alley or sidewalk, without the prior consent of the Town of Trail Creek Town Council, and may not be used, ignited or discharged in any park, playground, school property or church property without the express written consent of the owner.

Violation may result in a fine not to exceed \$500 for each separate offense.

(B) The Chief of the Fire Department or his representative or the Volunteer Fire Department may designate and distribute the form of sign required by subsection (A), above.

BE IT FURTHER ORDAINED That § _____ of the Town of Trail Creek Town Code is amended to read as follows:

PENALTIES


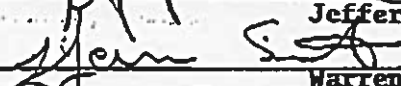


§ _____ **PENALTIES**

(A) Any violation of this ordinance shall result in a fine not to exceed \$1,500 per occurrence. Each day on which a violation occurs shall constitute a separate violation.

(B) The penalties provided by this Section shall be owing to the Town of Trail Creek in addition to any damages, costs or attorney fees which may be found owing to the Town of Trail Creek or any other person in any civil litigation related to any nuisance described in this Chapter.

PASSED AND ADOPTED by the Town Council of the Town of Trail Creek, LaPorte County, Indiana, by a majority vote on the 19th day of February, 2008, A.D.

TOWN OF COUNCIL OF THE TOWN OF TRAIL CREEK, INDIANA

AYES	NAYS
 _____ Jeffery Studtman	_____
 _____ Warren Schacht	_____
 _____ John Bayler	_____
 _____ Jamie Baldwin	_____
_____ Ronald Lombard	_____

ATTEST:



ANNE DOBBS- Clerk/Treasurer