

ORDINANCE # 15, 2008

AN ORDINANCE REGULATING THE USE OF FIREWORKS WITHIN THE CITY OF VALPARAISO

Whereas, the City of Valparaiso is concerned with the health, safety and general welfare of its citizens;

Whereas, the use of *Fireworks*, although an activity enjoyed by some of the City's residents, can result in injury as well as create a public nuisance;

Whereas, the storage, sale and use of *Fireworks*, if not done properly can result in substantial harm to the health, safety and general welfare of our citizens.

Whereas, the City, by adoption of this Ordinance, desires to balance the interests of its citizens, who wish to legally store, sell and use *Fireworks*, with the health, safety and general welfare needs of its many citizens, who are concerned with their storage, sale and use.

NOW THEREFORE, be it resolved by the Common Council of the City of Valparaiso, Porter County, Indiana as follows:

Article 1: **Definitions**

The terms *Consumer Firework*, *Special Fireworks*, and *Fireworks* shall have the same meaning as provided in IC 22-11-14-1, as amended.

The term *Banned Fireworks*: shall include all items listed in IC 22-11-14-8(a), as amended, or any other type of Firework prohibits by federal, state or local law.

Article 2: **Discharge Prohibited; Exception**

a) Except as provided below, it is unlawful for any person to ignite, shoot off, release, discharge, use or cause to be discharged, any *Fireworks* and/or *Banned Fireworks* within the limits of the City of Valparaiso, or to allow another to ignite, shoot off, release, discharge, use or cause to be discharged, any *Fireworks* and/or *Banned Fireworks* on property owned or leased by them within the limits of the City of Valparaiso. Notwithstanding the preceding prohibition, use of *Consumer Firework* and/or *Special Fireworks* shall be allowed as follows:

- i) Public displays where a permit is granted pursuant to Indiana Code 22-11-14-2 or 22-11-14-3.5 and such display occurs on the days and times provided in subpart (ii);
- ii) Consistent with Indiana Code 22-11-14-10.5(c)(3), as amended, *Consumer Fireworks* on the following dates and times:
 - 1) Between 5 p.m. and 2 hours after sunset from June 29 to July 3;
 - 2) 10 a.m. to midnight on July 4;
 - 3) Between 5 p.m. and 2 hours after sunset from July 5 to 9; and
 - 4) 10 a.m. on December 31 to 1 a.m. on January 1.

Should Indiana Code 22-11-14-10.5(c)(3) be amended to either expand or limit the number of days and/or hours that a municipality cannot limit the use of *Consumer Fireworks*, such change shall be incorporated by reference without need to amend this Ordinance.

- iii) *Consumer Firework* and/or *Special Fireworks* on other dates and times as may be permitted by the City of Valparaiso – Board of Works by special request.

Article 3: Nuisance; Unsafe Use; Public/Private Property

a) Use or discharge of *Consumer Fireworks*, *Special Fireworks* or *Banned Fireworks* can cause serious annoyance to citizens by loud, frequent or habitual noise, and is declared to be a public nuisance. Except as noted in Article 2, it is unlawful for any person to conduct such activities.

b) The use of *Consumer Fireworks*, *Special Fireworks* or *Banned Fireworks* in an unsafe manner or in a way that results in the littering of public and/or private property is also considered a public nuisance.

c) Except by specific permission granted under Article 2(iii), it shall be illegal to use *Consumer Fireworks*, *Special Fireworks* or *Banned Fireworks* on public property or to use *Consumer Fireworks*, *Special Fireworks* or *Banned Fireworks* in such a manner that it is reasonably likely that remnants of the *Consumer Fireworks*, *Special Fireworks* or *Banned Fireworks* will land on, litter or otherwise end up on: i) public property, or ii) private property, unless the private property owner has consented and such act does not violate any other provision of this Ordinance.

Article 4: Parental Responsibility

a) It shall be unlawful for anyone under the age of 18 (“minor”) to ignite, shoot off, release, discharge, use or cause to be discharged any *Consumer Fireworks*, *Special Fireworks* or *Banned Fireworks* within the limits of the City of Valparaiso without the direct supervision of the minor’s parent, guardian or other adult person having the care, custody and control of the minor.

Article 5: Liability for fire and other damage

a) Any person shall be liable for damage to person or property caused by the use of *Consumer Fireworks*, *Special Fireworks* or *Banned Fireworks*, and shall also be liable for costs of fire service by a responding fire department or other emergency services necessitated by the use or discharge of Fireworks.

Article 6: Local Permit to sell fireworks

a) Absent compliance with the provisions of Article 6, it shall be unlawful to sell or otherwise distribute any *Fireworks* and/or *Banned Fireworks* within the City of Valparaiso unless the following conditions are met:

i) Retailer complies with all requirements of IC 22-11-14-4.5, 7 and 11, including the obtaining of a valid Certificate of Compliance.

ii) Retailer obtains a valid Permit from the City of Valparaiso. Such Permits shall be valid for one year. The City of Valparaiso shall prepare application forms and establish the process fee for obtaining the Permit. A fee of **\$50.00** shall be collected to reimburse the City for its administrative costs. As part of the application, the Retailer/property owner shall consent to inspection by the Valparaiso Police and/or Fire Department to insure the general health, safety and welfare of the public.

Article 7: Penalties

a) Except as provided in subpart (b), any person convicted of violating any provision under this Ordinance shall be subject to a fine in an amount up to **\$25** for the first occurrence, **\$50** for the second occurrence and **\$100** for the third occurrence.

b) Any person convicted of violating the provisions of **Article 6** by not having a valid Permit shall be punished by a fine in an amount of **\$1,000** per occurrence with each day of non-compliance being deemed a separate offense.

c) An action to abate such nuisance or otherwise seek compliance with this Ordinance may be brought as provided under Indiana law. All legal costs, including attorneys' fees shall be added to any judgment award obtained by the City of Valparaiso.

Article 8: Severability

It is not the intent or purpose of this Ordinance to conflict with or otherwise contravene the lawful sale or possession of fireworks in the State of Indiana. Any provision that does such shall be deemed void; however, such shall not affect the remainder of the Ordinance.

PASSED by the Common Council of the City of Valparaiso, Indiana, by a ____ vote of all members present and voting, this _____ day of _____, 2008.

Jon Costas, Mayor

ATTEST:

Sharon E. Swihart, Clerk-Treasurer

Presented by me to the Mayor of the City of Valparaiso, Indiana, this _____ day of _____, 2008 at the hour of _____ o'clock P.M.

Sharon E. Swihart, Clerk-Treasurer

This Ordinance approved and signed by me this _____ day of _____ 2008 at the hour of _____ o'clock P. M.

Jon Costas