

ORDINANCE NO. 2007- 566

ORDINANCE REGULATING THE USE, DISCHARGE, OR IGNITION OF CONSUMER FIREWORKS IN THE UNINCORPORATED AREAS OF ELKHART COUNTY, INDIANA

WHEREAS, Indiana Code Section 22-11-14-10.5 authorizes a county government within Indiana to adopt an ordinance concerning the use of consumer fireworks within the unincorporated areas of such county;

WHEREAS, the Board of Commissioners of the County of Elkhart, Indiana is both the executive and legislative body of Elkhart County Government, and is the entity authorized by Indiana Code Section 22-11-14-10.5 to adopt such an ordinance relative to the unincorporated areas of Elkhart County, Indiana;

NOW, THEREFORE, BE IT ADOPTED, ORDERED, AND ORDAINED by the Board of Commissioners of the County of Elkhart, Indiana that:

Section 1. Use, Discharge or Ignition Prohibited.

- 1.01 The use, discharge or ignition of consumer fireworks by any person or other entity is prohibited in the unincorporated areas of the County of Elkhart, Indiana except during the following periods (all local time):
 - A. Between the hours of 5:00 p.m. and two (2) 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;
 - B. Between the hours of 10:00 a.m. and 12:00 midnight on July 4; and
 - C. Between the hours of 10:00 a.m. on December 31 and 1:00 a.m. on January 1.
- 1.02 For purposes of this Ordinance, "Consumer Firework" shall have the same definition of "Consumer Firework" as set forth in I.C. Code Section 22-11-14-1, as currently in effect, or as from time to time hereafter adopted or amended. For purposes of clarity in reading and implementing this Ordinance, the definition of "Consumer Firework" under I.C. 22-11-14-1, as currently in force and effect, is herewith set forth in 1.03 below, though changes or amendments to such definition as set forth within Indiana Code Section 22-11-14-1 shall supersede the definition herein reproduced.
- 1.03 Consumer Firework means a small firework that is designated primarily to produce visible 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 designed 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 or expelling charges consisting of a mixture of charcoal, sulfur, and potassium nitrate are not considered as designed to produce an audible effect.

A. Consumer Fireworks include:

1. Aerial devices, which include sky rockets, missile type rockets, helicopter or aerial spinners, roman candles, mines, and shells;
2. Ground audible devices, which include firecrackers, salutes, and chasers; and
3. Firework devices containing combinations of the effects described in clauses (1) and (2).

B. Consumer Fireworks do not include:

1. Dipped sticks or wire sparklers. However, totally pyrotechnic composition may not exceed one hundred (100) grams per item. Devices containing chlorate or perchlorate salts may not exceed five (5) grams in total composition per item;
2. Cylindrical fountains;
3. Cone fountains;
4. Illuminating torches;
5. Wheels;
6. Ground spinners;
7. Flitter sparklers;
8. Snakes or glow works;
9. Smoke devices; and
10. Trick noisemakers, which include party poppers, booby traps, snappers, trick matches, cigarette loads, and auto burglar alarms.

1.04 The use, discharge or ignition of all other "Fireworks," as "Firework(s)" is defined with Indiana Code Section 22-11-14-1, is governed by applicable Indiana law, to include Indiana Code Section 22-11-14-1 et seq., and not by this Ordinance.

Section 2. Permits.

Notwithstanding Section 1, the use, discharge or ignition of Consumer Fireworks may be permitted with the written approval of the Board of Commissioners of the County of Elkhart, Indiana on real estate owned by a governmental entity situated within the unincorporated areas of Elkhart County, Indiana. The approval shall specify the real estate upon which the use, discharge or ignition will be permitted and the date(s) and time(s) on which the use, discharge or ignition will be permitted which may not exceed seventy-two (72) hours.

Section 3. Enforcement/Penalty.

This Ordinance shall be enforced consistent with the standards of applicable Indiana law and the Elkhart County Code, as the Elkhart County Code may be amended from time to time hereafter. Any person or other entity violating the provisions of this Ordinance may be fined up to Five Hundred Dollars (\$500) for each such violation, and be responsible for all applicable court costs.

Section 4. Other Ordinances.


All ordinances and parts of ordinances inconsistent or in conflict with the terms of this Ordinance are repealed to the extent of the inconsistency or conflict.

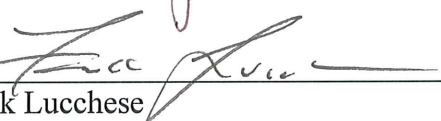
Section 5. Effective Date.

This Ordinance is passed, enacted, and adopted by the Board of Commissioners of the County of Elkhart, Indiana this 3rd day of December, 2007.

BOARD OF COMMISSIONERS OF THE
COUNTY OF ELKHART, INDIANA

By 
Terry Rodino, President

By 
Mike Yoder

By 
Frank Lucchese

ATTEST:


David L. Hess
Elkhart County Auditor