ORDINANCE NO. 2008-_01_____

AN ORDINANCE PROHIBITING THE RETAIL SALE OR DISTRIBUTION OF NOVELTY LIGHTERS IN THE CITY OF ATKINS, ARKANSAS AND FOR OTHER PURPOSES

WHEREAS, novelty lighters have features which are attractive to children, including visual effects, flashing lights, musical sounds, or toy-like designs; and

WHEREAS, the Consumer Product Safety Commission has recalled thousands of novelty lighters since 1996 due to their danger to the public safety; and

WHEREAS, juvenile fire setting has been identified as the fastest growing fire threat in the United States with more than three hundred (300) people killed, thirty percent (30%) being children, and almost One Billion Dollars ($1,000,000,000.00) in property destroyed; and

WHEREAS, many public safety agencies support the prohibition of the sale and distribution of novelty lighters, including the Burn Institute, National Fire Protection Agency, National Volunteer Fire Council, Western Fire Chiefs Association, the National Association of State Fire Marshals; and

WHEREAS, the function of a novelty lighter can be achieved without posing a danger of public health and safety; and

WHEREAS, the Atkins City Council finds that the dangers posed by novelty lighters is a grave threat to the health, safety and welfare of the Citizens of Atkins, Arkansas.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Atkins, Arkansas:

Section 1. Retail Sale or Distribution of Novelty Lighters Prohibited; Inapplicability. The retail sale, offer of retail sale, gift or distribution of any novelty lighter within the territorial jurisdiction of Atkins, Arkansas, is prohibited. This prohibition is inapplicable to: (a) novelty lighters which are only being actively transported through Atkins, Arkansas; or (b) novelty lighters located in a warehouse or distribution center closed to the public for purposes of retail sales.

Section 2. Definition of "Novelty Lighter". "Novelty lighter" means a lighter that has entertaining audio or visual effect, or that depicts, through the use of logos, decals, art work, or by other means, or that resembles in physical form or function articles commonly recognized as appearing to or intended for use by children ten (10) years of age or younger, including but not limited to, lighters that depict or resembled cartoon characters, toys, guns, watches, instruments,

vehicles, toy animals, food or beverages or that play musical notes or have flashing lights or other entertaining features. A novelty lighter may operate on any fuel, including butane or liquid fuel.

Section 3. Exceptions. The term novelty lighter excludes: (a) any lighter manufactured prior to 1980; and (b) any lighter which lacks fuel and or a device necessary to produce combustion or a flame; or (c) any lighter which lacks a device necessary to produce combustion of a flame.

Section 4. Violation - Penalty. Any person violating any provision of this Ordinance is guilty of an infraction and upon conviction thereof, shall be subject to a fine or penalty of not less than Twenty-five Dollars ($25.00) nor more than Five Hundred Dollars ($500.00) plus court costs.

Section 5. Severability. The provisions of this Ordinance are severable and, upon any finding that any provision of this Ordinance is unenforceable, the remaining provisions shall be enforceable according to their terms.

Section 6. Emergency Clause. This Ordinance being necessary for the public peace, health and safety of the citizens of Atkins, Arkansas, an emergency is declared and this Ordinance shall become effective immediately upon its passage and approval.

DATED this 19th day of February, 2008.

THE CITY OF ATKINS

By: _____
JERRY DON BARRETT, Mayor

ATTEST:

_____
BRENDA GRAVES, City Clerk

(SEAL)