

INDIAN LAKE BOROUGH

ORDINANCE NO. 149AN ORDINANCE ESTABLISHING RULES OF
CONDUCT AND RELATED REGULATIONS
FOR THE USE OF THE JAMES W.
McINTYRE HIKING AND BIKING TRAIL
IN SOMERSET COUNTY, PENNSYLVANIA.

Section 1. **Purpose.** The purpose of this Ordinance is to provide rules and regulations for the use of and conduct on the James W. McIntyre Hiking and Biking Trail (hereinafter "Trail") in Somerset County, Pennsylvania.

Section 2. **Applicability.** This Ordinance shall apply on all parts of the Trail including the Trail and supporting areas under the jurisdiction of the Indian Lake Borough Council, unless expressly exempted. For the issuance of permits, temporary designations, authorizations, granting of approvals and other actions, the approving governing agency shall be the Indian Lake Borough Council, or its designee, as established by the Borough Council.

Section 3. **Construction.** In the interpretation of this and all other rules and regulations of the Trail, the provisions shall be construed as follows:

- (1) Any term in the singular shall include the plural.
- (2) Any term in the masculine shall include the feminine and the neuter.
- (3) Any requirement or prohibition of any act shall respectively extend to and include the causing and procuring, directly or indirectly, of such act.
- (4) No provision hereof shall make unlawful any act necessarily performed by any officer or employee of Indian Lake Borough Council, or its designees in line of duty or work as such, or by any person or agent in the proper and necessary execution of the terms of any agreement with the Borough.
- (5) Any act otherwise prohibited by law or Ordinance shall be lawful if performed, under, by virtue of, and strictly within the provisions of a permit so to do, and to the extent authorized thereby.

Section 4. Definitions.

(1) The term "approving government agency" means the Indian Lake Borough Council, or its designee.

(2) The term "permit" means any written license issued by or under the authority of the approving government agency permitting a special event or activity on the Trail or supporting areas.

(3) The term "person" means any natural person, corporation, company, association, firm or partnership.

(4) The terms "motor vehicle" or "motorized vehicle" mean any vehicle propelled by a means other than muscular power, except those types of motorized vehicles utilized as a means of transporting the physically handicapped, such as motorized wheel chairs or scooters operated by the physically handicapped.

(5) The term "rules of conduct" means it shall be **unlawful** for any person on the Trail or its supporting areas to:

(a) possess alcoholic beverages, except in special instances where lands are leased for the development and operation of public services and accommodations;

(b) hunt, pursue, molest, or intentionally disturb wildlife, except that hunting and trapping shall be permitted during the established Pennsylvania Game Commission seasons. Groundhog hunting is expressly prohibited;

(c) shoot any game or wildlife while on the Trail or roadway or to shoot across the Trail or roadway unless the line of fire is high enough above the elevation of the Trail or roadway to preclude any danger to users of the Trail or roadway;

(d) take into, carry through or put on the Trail or supporting areas any rubbish, refuse, garbage or other materials. Such refuse and garbage shall be deposited in receptacles so provided. Where receptacles are not provided, all such rubbish or waste shall be carried away from the Trail area and supporting areas by the person responsible for its presence and properly disposed of elsewhere;

(e) mark, deface, disfigure, injure, tamper with, displace or remove any tables, benches, public utilities, signs, notices, placards, whether temporary or permanent, monument, stakes, posts, boundary markers, or engage in any action that may cause damage to any natural or physical object within or along the Trail;

(f) kindle, build, maintain or use a fire, an open fire or fire maintained by charcoal use;

(g) soliciting for any purpose or posting of any signs. The distribution, sales, servicing or rental of any supplies, equipment, material, or commodity is expressly restricted to authorized concessionaires;

(h) the operation of any motor vehicle shall only be permitted on roads and parking areas open to the public traffic unless otherwise designated by the Indian Lake Borough Council. The operation of nonlicensed motor vehicles shall not be permitted on roads, trails and supporting areas unless otherwise designated. Excessive noise, nuisance, reckless or negligent operation shall be prohibited;

(i) dig or remove any soil, rock, sand, stones, trees, shrubs, or plants or any wood or materials or make any excavation by tool, equipment, blasting or any means or agency within the Trail or supporting areas;

(j) construct or erect any building or structure of whatever kind upon or across the Trail or supporting areas, except on special written permission issued hereunder;

(k) damage, cut, carve, mark, transplant or remove any plant or injure the bark or in any way disturb the natural beauty or usefulness of the area;

(l) attach any rope or cable or other contrivance to any tree, fence, railing, bridge, bench or other structure;

(m) throw, discharge or otherwise place or cause to be placed in the waters on or adjacent to said Trail or any tributary stream, any substance matter or thing, liquid or solid, which will or may result in the pollution of said waters;

(n) cause or permit to run loose any animal; horseback riding is not permitted on said Trail, except in specifically designated areas adjacent to the improved surfaces as indicated by the posted signs; however, pets are permitted on the Trail and supporting areas provided they are on a leash not exceeding two (2) meters (6 feet) in length and attended at all times. The owner or person having custody of said domestic animal or pet shall be responsible for the removal of any animal solid waste;

(o) have in possession and/or discharge any type of weapon not permitted by the hunting regulations of the Pennsylvania Game Law;

(p) have in possession or set off any fireworks or other explosives of any nature;

(q) use on the Trail and in supporting areas of electric generators causing unreasonably or excessive noise and of any chain saws;

(r) unorganized or organized instruction, exhibition, competition, demonstration, or special camping events without the required written application and approval from the Indian Lake Borough Council;

(s) leaving of an unattended vehicle in the Trail support area for more than 48 hours without prior written consent of the Indian Lake Borough Council. Vehicles found in violation will be removed at the owner's expense.

Section 5. **Regulated Activities.**

(1) Any person on the Trail shall comply with the "Rules of Conduct".

(2) All day use areas are open to the public between sunrise and sunset throughout the year unless otherwise posted.

(3) In the event of hazardous conditions endangering life or property any Trail and supporting areas or facility may be closed to the public use at the discretion of the Indian Lake Borough Council.

(4) The laws, rules and regulations of the Pennsylvania Game Commission and the Pennsylvania Fish and Boat Commission shall apply to fishing, hunting and boating except if a modification of such law, rule and regulation is determined necessary by the Indian Lake Borough Council for the use and protection of resources under its jurisdiction. The Trail is enrolled in a cooperative agreement with the Pennsylvania Game Commission and will be patrolled by wildlife conservation officers. **Violation of the game and wildlife code can be reported by calling 1-888-PGC-8001 or (724) 238-9523 or (724) 238-9524.**

(5) It is recommended that anyone using the Trail for access to private property possess written landowner consent or required permits. Enforcement of trespassing laws is at the discretion of the landowner.

(6) The Trail is designated and open for use by hikers and cyclists. No motorized vehicles are permitted unless authorized by the Indian Lake Borough Council.

Section 6. **Permits.** Permits for special events in the Trail and supporting areas shall be obtained by application to and approval by the Indian Lake Borough Council, or its designee, in a procedure as set forth by the Indian Lake Borough Council.

Section 7. **Enforcement.**

(1) The Indian Lake Borough Council, Pennsylvania Game Commission, Pennsylvania Fish and Boat Commission, its wildlife conservation officers, the Pennsylvania State Police and any other law enforcement officer, shall, in connection with their duties imposed by law, diligently enforce the provisions of this Ordinance.

(2) Any authorized representatives of the Indian Lake Borough Council shall have the authority to order any person or persons acting in violation of this Ordinance to leave the Trail or its supporting areas.

Section 8. **Penalty.** Any person, firm or corporation violating any provisions of this Ordinance shall be fined not less than Five and 00/100 (\$5.00) Dollars nor more than One Thousand and 00/100 (\$1,000.00) Dollars for each offense and the separate offense shall be deemed committed on each day during which or on which a violation occurs or continues.

The penalty hereinabove provided for shall not be deemed exclusive and all actions are reserved by the Indian Lake Borough Council, including the right to commence an action in equity to enforce this Ordinance or to prohibit the conduct declared unlawful herein. The imposition of a fine or penalty for any violation of, or non-compliance with, this Ordinance, shall not excuse the violation or non-compliance, or permit it to continue, and every violation or non-compliance with this Ordinance is hereby declared to be a public nuisance and to be abatable as such. The bringing of a summary prosecution under this Ordinance does not prohibit the Indian Lake Borough Council from proceeding with other actions, including but not limited to an action in equity, to abate a nuisance, or to collect all costs and expenses incurred in the abatement of a nuisance.

Section 9. **Additional Provisions.** If any section or part of any section, sentence, clause or phrase of this Ordinance shall be construed to be unconstitutional or invalid by any court of competent jurisdiction, such ruling shall not affect the validity of any other section, sentence, clause or phrase hereof, all of which shall remain in full force and effect, and, for this purpose, the provisions of this Ordinance are hereby declared to be severable, and the intention of the Indian Lake Borough Council is hereby declared to be that this Ordinance would have been enacted without such constitutionally offensive section, sentence, clause or phrase.

Section 10. **Effective Date.** This Ordinance shall become effective at the earliest date following passage as permitted by law.

ORDAINED and ENACTED this 11th day of June, 2008.

BOROUGH COUNCIL OF INDIAN LAKE
BOROUGH, SOMERSET COUNTY,
PENNSYLVANIA

Attest:

[Signature]
Borough Secretary

(Seal)

[Signature]

President

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

APPROVED this 11th day of June, 2008

[Signature]
Mayor