

ORDINANCE NUMBER O- 19741 (NEW SERIES)

DATE OF FINAL PASSAGE APR 23 2008

AN ORDINANCE OF THE SAN DIEGO CITY COUNCIL AMENDING THE SAN DIEGO MUNICIPAL CODE BY AMENDING CHAPTER 5, ARTICLE 4, BY ADDING THERETO DIVISION 9, SECTIONS 54.0901, 54.0902, 54.0903, 54.0904, 54.0905, AND 54.0906 ALL RELATED TO PROHIBITING THE RETAIL SALE, RETAIL GIFT, OR RETAIL DISTRIBUTION OF NOVELTY LIGHTERS.

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

WHEREAS, as a result of this attraction of novelty lighters to children, children have inadvertently started fires causing injury, death and destruction of property; and

WHEREAS, despite the Consumer Product Safety Commission's recall of thousands of novelty lighters since 1996 due to their danger to public safety and despite the promulgation of lighter safety standards, fires caused by children playing with novelty lighters continue to occur and at an increased rate; and

WHEREAS, juvenile firesetting has been identified as the fastest growing fire threat in the United States with more than 300 people killed, 30 percent being children, and almost \$1 billion in property destroyed; and

WHEREAS, many public safety agencies support the prohibition of the sale and distribution of novelty lighters, including the San Diego Burn Institute, Burn Centers, the USFA and the San Diego County Fire Chiefs Association; and

WHEREAS, various local governments across the nation have adopted ordinances prohibiting the retail sale, retail gift, and retail distribution of novelty lighters in their jurisdictions; and

WHEREAS, the continued retail sale, retail gift, and retail distribution of novelty lighters represents a serious threat to public safety within the City of San Diego; and

WHEREAS, the functions of novelty lighters can be achieved by alternative means without posing the danger to public health and safety that novelty lighters present; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 5, Article 4 is hereby amended by adding Division 9, Sections 54.0901, 54.0902, 54.0903, 54.0904 54.0905, and 54.0906 to read as follows:

Article 4: Public Hazards and Public Nuisances

Division 9: Prohibition of Retail Sale, Retail Gift or Distribution of Novelty Lighters

§ 54.0901 Declaration of Purpose

The Council of the City of San Diego finds and declares that:

- (a) Novelty lighters have features which are attractive to children, including visual effects, flashing lights, musical sounds, or toy-like designs.
- (b) As a result of this attraction of novelty lighters to children, children have inadvertently started fires causing injury, death and destruction of property.

- (c) Despite the Consumer Product Safety Commission's recall of thousands of novelty lighters since 1996 due to their danger to public safety and despite the promulgation of lighter safety standards, fires caused by children playing with novelty lighters continue to occur and at an increased rate.
- (d) Juvenile firesetting has been identified as the fastest growing fire threat in the United States with more than 300 people killed, 30 percent being children, and almost \$1 billion in property destroyed.
- (e) Many public safety agencies support the prohibition of the sale and distribution of novelty lighters, including the San Diego Burn Institute, Burn Centers, the USFA and the San Diego County Fire Chiefs Association.
- (f) Various local governments across the nation have adopted ordinances prohibiting the retail sale, retail gift, and retail distribution of novelty lighters in their jurisdictions.
- (g) The continued retail sale, retail gift, and retail distribution of novelty lighters represents a serious threat to public safety within the City of San Diego.
- (h) The functions of novelty lighters can be achieved by alternative means without posing the danger to public health and safety that novelty lighters present.

§ 54.0902 Definition

For purposes of this Division, *Novelty lighter* means a lighter that has entertaining audio or visual effects, or that depicts (logos, decals, art work, etc.) or resembles in physical form or function articles commonly recognized as appealing to or intended for use by children under ten years of age. This includes, but is not limited to, lighters that depict or resemble cartoon characters, toys, guns, watches, musical instruments, vehicles, toy animals, food or beverages, that play musical notes, that have flashing lights, that offer other entertaining features, or have the physical appearance of other specific objects in form or function. A *novelty lighter* may operate on any fuel, including butane or liquid fuel.

§ 54.0903 Prohibition

The retail sale, offer of retail sale, retail gift, or distribution in connection with a retail sale of any *novelty lighter* within the territorial jurisdiction of the City of San Diego by any person is unlawful.

§ 54.0904 Exceptions

The term *novelty lighter* excludes:

- (a) any lighter manufactured prior to 1980; and
- (b) any lighter which is sold without fuel or a device necessary to produce combustion or a flame.

§ 54.0905 Enforcement Authority

The provisions of this chapter shall be enforced by the fire marshal, any police officer, any code compliance officer, and *enforcement official* or *Director* as

defined in Municipal Code section 11.0210, and any other City official authorized to enforce any provision of the Municipal Code.

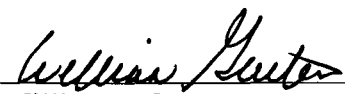
§ 54.0906 Enforcement Remedies

Violations of this Division may be prosecuted as misdemeanors subject to the fines and custody provided in Municipal Code section 12.0201. The City may also seek injunctive relief and civil penalties in the Superior Court pursuant to Municipal Code section 12.0202, and/or any administrative remedy provided in Chapter 1 of this Code.

Section 2. That a full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been available to the City Council and the public prior to the day of its passage.

Section 3. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

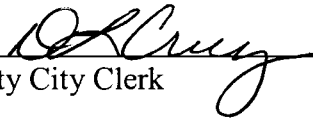
APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 
William J. Gersten
Deputy City Attorney

WJG:amt:pev
03/06/08
Or.Dept:Fire-Rescue
O-2008-58

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of ~~APR 15 2008~~

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 4-23-08
(date)


JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor