Ordinance No. 3911

(Amending or Repealing Ordinances)

CFN=122 – Police/Fire Departments
Passed – 2/17/09
Novelty Lighters – Prohibition On Retail Sales Within City Limits

Amending Title 13 and adding new Chapter 13.04 “Novelty Lighters”
ORDINANCE NO. 3911

AN ORDINANCE of the City Council of the City of Kent, Washington, amending Title 13 of the Kent City Code to add a new chapter 13.04, entitled “Novelty Lighters,” which prohibits the retail sale of novelty lighters within the city limits of Kent.

RECITALS

A. Youth fire setting has been identified as a fast growing fire threat in the United States. Matches and lighters are involved in two out of every three fires sets by youths. Adding to this trend are novelty lighters that have features attractive to children because they include visual effects, flashing lights, musical sounds, and toy-like designs. Exhibit A, which is attached and incorporated, provides an example of novelty lighters that have been offered for sale, and page three of Exhibit A depicts actual lighters purchased within the City of Kent.

B. The designs of novelty lighters are not critical to their function, and their use as lighters pose a public safety risk given their attractiveness to children. Since 1996, the U.S. Consumer Product Safety Commission has recalled hundreds of thousands of novelty lighters due to the danger posed to public safety.

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C. Many public safety agencies support the retail sale prohibition of novelty lighters including the National Fire Protection Association, the National Volunteer Fire Council, the Western Fire Chiefs Association, and the National Association of State Fire Marshals.

D. The Kent City Council has determined that it is in the best interests of the citizens and residents of Kent that novelty lighters be restricted from sale to the public within the city limits of Kent.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

ORDINANCE

SECTION 1. - Amendment. Title 13 of the Kent City Code is amended to adopt a new chapter 13.04, entitled "Novelty Lighters," as follows:

CHAPTER 13.04

NOVELTY LIGHTERS

Sec. 13.04.010. Findings. The City Council finds that the sale of novelty lighters within the City of Kent poses a public safety risk because, given their toy-like designs, they are attractive to children. Because youth fire setting has been identified as a fast growing fire threat in the United States, the City Council finds that it is a reasonable exercise of its police powers to prohibit the public sale of novelty lighters within the city limits.

Sec. 13.04.020. Definitions. As used in this chapter, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings.
A. Fire code official means the chief of the City’s fire department, or any person authorized by the fire chief or other designated authority charged with the administration and enforcement of the fire codes.

B. Manufacturer means any one of the following:
   1. An entity that produces, or causes the production of, novelty lighters for sale outside the city limits of Kent; or
   2. An importer or first purchaser of novelty lighters that intends to offer novelty lighters for resale outside the city limits of Kent.

C. Novelty lighter means a lighter that can produce a flame using any fuel, including butane or liquid fuel. Novelty lighters have features that are attractive to children, including but not limited to visual effects, flashing lights, musical sounds, and toy-like designs. Novelty lighter does not include lighters that are only printed or decorated with logos, decals, artwork, or heat shrinkable sleeves. The term considers the shape of the lighter to be the most important characteristic when determining whether a lighter is considered a novelty lighter. Novelty lighters include, but are not limited to, lighters that are shaped like:
   1. Cartoon characters;
   2. Toys;
   3. Musical instruments;
   4. Vehicles;
   5. The human body or parts of the human body;
   6. Food or beverages;
   7. Weaponry;
   8. Furniture;
   9. Sports equipment;
   10. Holiday symbols;
   11. Tools; or

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12. Other equipment or household products including, but not limited to fire extinguishers, cell phones, vases, boots, shoes, toasters, traffic lights, light bulbs, pens, pencils, magic markers, coffee cups, fishing poles, money, propane tanks, gas cans, match sticks, cigarettes, clothing items, cameras, picture frames, or flowers.

D. Retailer means a person who offers novelty lighters for sale to consumers within the City at retail through any means, but does not include a sale that is a wholesale transaction with a distributor or manufacturer, which does not involve the resale to consumers within the city limits.

E. Sell or sale means to transfer, or agree to transfer, title or possession for a monetary or nonmonetary consideration.

F. Wholesale dealer means an entity that distributes novelty lighters to a retailer or other person for resale to consumers.

Sec. 13.04.030. Retail sale of novelty lighters-Prohibited.

A. Within the city limits of Kent, a person may not:
   1. Offer novelty lighters for retail sale to consumers; or
   2. Give novelty lighters away to any person as a sample, prize, or gift for any promotional purpose.

B. The prohibition proscribed by this section shall not apply to:
   1. Manufacturers who produce novelty lighters within the City for sale to distributors or retail dealers for their subsequent resale outside the city limits of Kent; or
   2. Distributors or wholesale dealers located within the City who receive in and distribute novelty lighters to retailers for subsequent resale outside the city limits.
Sec. 13.04.040. Administration and enforcement.
A. This chapter shall be enforced pursuant to the code enforcement process set forth in Ch. 1.04 KCC, as now enacted or hereafter amended.

B. The obligation of complying with the requirements of this chapter shall fall upon any person defined under KCC 1.04.020(K) as a "person responsible for the violation."

C. It shall be the duty of the fire code official, or his or her designee, to enforce the provisions of this chapter in the manner generally described in this chapter and in Ch. 1.04 KCC. The fire code official may call upon the police or other appropriate City department(s) to assist in enforcement.

D. In case of conflict between the provisions of this chapter and Ch. 1.04 KCC, this chapter shall control.

Sec. 13.04.050. Violation—Penalty. A violation of any provision of this chapter constitutes a civil violation under Ch. 1.04 KCC for which a monetary penalty may be assessed and abatement may be required and/or otherwise enforced as provided therein, or a misdemeanor pursuant to Ch. 1.04 KCC.

Sec. 13.04.060. Grace period after enactment. On the effective date of this ordinance, March 19, 2009, retailers have a maximum of ninety (90) calendar days to eliminate their inventory of novelty lighters. In no instance may any retailer give away or sell a novelty lighter within the City of Kent after ninety (90) days from the effective date of this ordinance, or June 17, 2009.

SECTION 2. — Severability. If any one or more section, subsections, or sentences of this ordinance are held to be unconstitutional
or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force and effect.

**SECTION 3. - Effective Date.** This ordinance shall take effect and be in force thirty (30) days from and after its passage as provided by law.

SIGNATURE: [Signature]
SUZETTE COOKE, MAYOR

ATTEST:

BRENDA JACOBER, CITY CLERK

APPROVED AS TO FORM:

TOM BRUBAKER, CITY ATTORNEY

PASSED: 17 day of February, 2009.
APPROVED: 17 day of February, 2009.

I hereby certify that this is a true copy of Ordinance No. 3911 passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

SIGNATURE: [Signature]
BRENDA JACOBER, CITY CLERK

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Lighters or toys?
Can you tell the difference?
Could a child?

For more information about the dangers of novelty lighters, contact us at 253-856-4481

Used with permission from the Oregon office of the State Fire Marshal.
The pictures below look like toys but are actually lighters.