

ORDINANCE NO. 3114

ORDINANCE OF THE CITY OF CHULA VISTA AMENDING
TITLE 9 OF THE CHULA VISTA MUNICIPAL CODE BY
ADDING CHAPTER 9.23, SECTIONS 9.23.010 THROUGH
9.23.060 TO PROHIBIT THE SALE AND/OR 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, these toy like designs may not be immediately recognized by children as dangerous cigarette lighters; and

WHEREAS, such novelty lighters resembling harmless toys are highly attractive to children and pose an unreasonable risk of injury or death in the possession of inquisitive children; and

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

WHEREAS, juvenile fire setting has been identified as the fastest growing fire threat in the United States; and

WHEREAS, in 2002 the National Fire Protection Association reported that children playing with fire started an estimated 13,900 structure fires that were reported to U.S. fire departments, causing an estimated 210 civilian deaths, 1,250 civilian injuries and \$339 million in direct property damage; and

WHEREAS, the Chula Vista Fire Department responded to a multi-family structure fire on October 3, 2007, which started as a result of children playing with a lighter causing \$40,000 in property damage; and

WHEREAS, more than half of the people killed by fires started by children playing were under five years of age; and

WHEREAS, many public and private agencies support the prohibition of the sale and distribution of novelty lighters, including the Burn Institute and several County Fire Chiefs' Associations, Cities, and the Greater San Diego Regional Chamber of Commerce; and

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

WHEREAS, the United States Fire Administration has added a new code to the National Fire Incident Reporting System, effective January 1, 2008, to address issues of concern to the fire service: novelty lighters will now be captured in the Fire Module under a new code for Equipment Involved in Ignition, code 877.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Chula Vista does hereby ordain as follows:

SECTION I: That the Chula Vista Municipal Code be amended to add Chapter 9.23, Sections 9.23.010 through 9.23.060 to read as follows:

Chapter 9.23

RETAIL SALE AND DISTRIBUTION OF NOVELTY LIGHTERS

Sections:

9.23.010	Purpose and intent.
9.23.020	Definition.
9.23.030	Prohibition.
9.23.040	Exceptions.
9.23.050	Enforcement.
9.23.060	Violations and penalties.

9.23.010 Purpose and intent.

The City Council 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 used novelty lighters to start 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, fires caused by children playing with novelty lighters continue to occur at an increasing rate.
- D. Juvenile fire setting has been identified as the fastest growing fire threat in the United States.
- E. The continued sale, offer for sale, gift, distribution, or display of novelty lighters represents a serious threat to public safety within the city of Chula Vista.
- F. The functions of novelty lighters can be achieved through the sale, gift, distribution, or display of other products that do not pose the danger to public health and safety that novelty lighters present.

9.23.020 Definition. For purposes of this Chapter, "novelty lighter" means a lighter that has audio or visual effects, or that depicts or resembles in physical form or function, through the use of logos, decals, art work, or other features, articles commonly recognized as appealing to or intended for use by children under eighteen 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 that 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. The term "novelty lighter" excludes: (1) any lighter manufactured prior to 1980; and (2) any lighter which lacks fuel or a device necessary to produce combustion or a flame.

9.23.030 Prohibition. It is unlawful for any person, business, corporation, or organization to sell, offer for sale, give, distribute, or display with intent to sell, give, or distribute any novelty lighter in the city of Chula Vista.

9.23.040 Exceptions. The prohibition of this Chapter is inapplicable to: (1) novelty lighters that are solely being actively transported through the city for sale, gift, or distribution outside of the city, with written documentation of such transportation; or (2) novelty lighters located in a distribution center closed to the public for purposes of retail sales or distribution outside the city of Chula Vista. The provisions of this Chapter shall not apply where prohibited or preempted by state or federal law.

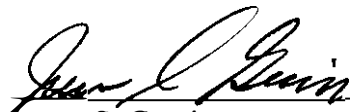
9.23.050 Enforcement. The provisions of this Chapter shall be enforced by the fire marshal and his or her designees, any police officer, any code enforcement officer, and any other city official authorized to enforce any provision of this Code.

9.23.060 Violation and penalties. Violations of this Chapter may be prosecuted as misdemeanors as provided by this Code. The City may also seek any administrative remedy and/or injunctive relief and civil penalties in the Superior Court as provided by this Code and California state law.

SECTION II: Effective Date. This Ordinance shall take effect and be in force thirty days after its final passage.

Presented by

Approved as to form by



James S. Geering
Interim Fire Chief



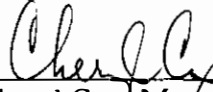
Ann Moore
City Attorney

PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 27th day of May 2008, by the following vote:

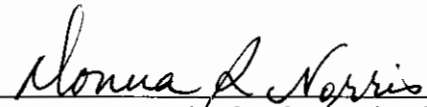
AYES: Councilmembers: Castaneda, McCann, Ramirez, Rindone, and Cox

NAYS: Councilmembers: None

ABSENT: Councilmembers: None


Cheryl Cox, Mayor

ATTEST:


Donna R. Norris, CMC, Interim City Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO)
CITY OF CHULA VISTA)

I, Donna R. Norris, Interim City Clerk of Chula Vista, California, do hereby certify that the foregoing Ordinance No. 3114 had its first reading at a regular meeting held on the 20th day of May 2008 and its second reading and adoption at a regular meeting of said City Council held on the 27th day of May 2008; and was duly published in summary form in accordance with the requirements of state law and the City Charter.

Executed this 27th day of May 2008.


Donna R. Norris, CMC, Interim City Clerk