

2012.26

IN BOARD OF CITY COUNCIL..MARCH 20, 2012

BE IT ORDAINED, by the City Council of the City of Biddeford that the Code of Ordinances, **Chapter 40, Miscellaneous Provisions and Offenses**, be amended by adding a new **Article VI, Offenses Against Public Safety, Sec. 40-80, Sale and use of consumer fireworks prohibited:**

Sec. 40-80. Sale and use of consumer fireworks prohibited.

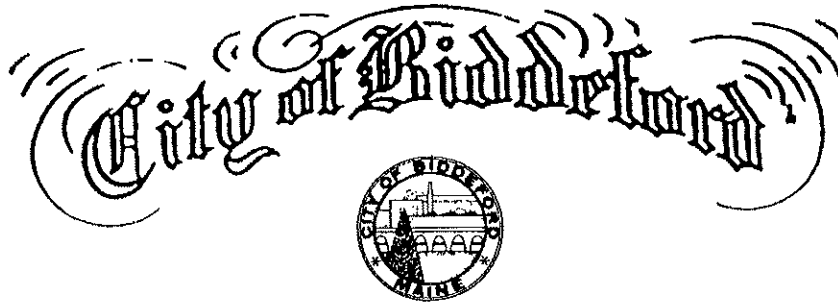
(a) Definitions. The following definitions shall apply in this section:

(1) Consumer fireworks shall have the same meaning as in 27 Code of Federal Regulations, Section 555.11 or subsequent provision, but includes only products that are tested and certified by a 3rd-party testing laboratory as conforming with United States Consumer Product Safety Commission standards, in accordance with 15 United States Code, Chapter 47. “Consumer fireworks” does not include the following products:

- a. Missile-type rockets, as defined by the State Fire Marshal by rule;
- b. Helicopters and aerial spinners, as defined by the State Fire Marshal by rule; and
- c. Sky rockets and bottle rockets. For purposes of this paragraph, “sky rockets and bottle rockets” means cylindrical tubes containing not more than 20 grams of chemical composition, as defined by the State Fire Marshal by rule. With a wooden stick attached for guidance and stability that rise into the air upon ignition and that may produce a burst of color or sound at or near the height of flight.

(2) Display means an entertainment feature where the public or a private group is admitted or permitted to view the display or discharge of fireworks or special effects.

(b) Prohibition. No person shall use, possess with the intent to use, sell, possess with the intent to sell or offer for sale consumer fireworks in the City of **BIDDEFORD.***



(c) Exception. This section does not apply to a person issued a fireworks display permit by the City of BIDDEFORD and/or the State of Maine pursuant to 8 M.R.S.A. §227-A.

(d) Penalties.

- (1) Any person who uses consumer fireworks or possesses consumer fireworks with the intent to use in the City of BIDDEFORD shall be punished by a fine of not less than two hundred dollars (\$200.00) and not more than four hundred dollars (\$400.00) plus costs. For second and subsequent offenses, a fine of not less than three hundred dollars (\$300.00) and not more than six hundred dollars (\$600.00) per violation plus costs shall be imposed.
- (2) Any person who sells consumer fireworks or possesses consumer fireworks with the intent to sell in the City of BIDDEFORD shall be punished by a fine of not less than five hundred dollars (\$500.00) plus costs. For second and subsequent offenses, a fine of not less than one thousand dollars (\$1,000.00) per violation plus costs shall be imposed.

(e) Seizure and disposal of fireworks. The City may seize consumer fireworks that the City has probable cause to believe are used, possessed or sold in violation of this section and shall forfeit seized consumer fireworks to the State for disposal.

*Editor's note: State law prohibits the sale and possession of all fireworks, with the exception of consumer fireworks, see 8 M.R.S.A. §223. By prohibiting the sale and use of consumer fireworks, the City is effectively prohibiting the use of all fireworks in the City of BIDDEFORD.

NOTE: The Policy Committee considered this item at their March 12, 2012 meeting and voted unanimously to send to the city council with a recommendation for adoption.

March 20, 2012

Motion by Councilor Laverriere, seconded by Councilor Mills to grant the first reading of the order.

Vote: 7/2; Councilors Swanton and Bourque opposed.

Councilors Cote, Bednarowski, Mills, Laverriere, Ready, Rhames and Angers in favor.

Motion carries.

City of Biddeford



April 3, 2012

Motion by Councilor Laverriere, seconded by Councilor Mills to grant the second reading of the order.

Motion by Councilor Swanton, seconded by Councilor Mills to move the question.
Vote: Unanimous.

Vote on second reading: 6/3; Councilors Swanton, Bourque and Anger opposed.
Councilors Cote, Bednarowski, Mills, Laverriere, Ready and Rhames in favor.
Motion carries.

Attest by: Carmen J. Morris
Carmen J. Morris, City Clerk