

Order 36-11/12

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Public Hearing and Passage: 9/19/11 9-0

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**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 17 (OFFENSES, MISCELLANEOUS PROVISIONS)
ARTICLE III (OFFENSES AGAINST PUBLIC SAFETY)**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

*That Section 17-32 of the Portland City Code is hereby
enacted as follows:*

Sec. 17-32. 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 Portland.*

(c) *Exception.* This section does not apply to a person issued a fireworks display permit by the City of Portland 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 Portland 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 Portland 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 Portland.