

New Proposed Town Ordinance

**CONSUMER FIREWORKS
ORDINANCE**

For the Municipality of

WOODSTOCK, MAINE

March 26, 2012

ARTICLE I. PURPOSE: The purpose of this ordinance is to set forth the Town’s guidelines for the possession, use, and sale of fireworks and consumer fireworks within the Town limits based upon the State statute that takes effect on January 1, 2012 allowing the possession, use, and sale of fireworks within the State and providing municipalities the options to decide if they embrace all, part of, or none of the statute.

ARTICLE II. AUTHORITY AND ADMINISTRATION

2.1 Authority

- a. These criteria have been prepared in accordance with the provisions of Maine State Law, 8 MRSA 221 and 223.
- b. These criteria shall be known as and may be referred to as the “Consumer Fireworks Ordinance”.

2.2 Definitions

- a. As used in this ordinance, the term “consumer fireworks” shall have the same meaning as the term set forth in 27 Code of Federal Regulations, Section 555.11 and Maine State law, 8 MRSA 221(a)(4) as may be amended from time to time, but includes only products that are tested and certified by a third party testing laboratory as conforming with the United States Consumer Product Safety Commission standards, in accordance with 15 United States Code, Chapter 47. Consumer fireworks *does not* include the following products:
 - (1) Missile-type rockets, as defined by the State Fire Marshall by rule.
 - (2) Helicopters and aerial spinners, as defined by the State Fire Marshal by rule.
 - (3) Sky rockets and bottle rockets. For purposes of this paragraph, “sky rockets and bottle rockets” means cylindrical tubes containing 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.
- b. Fireworks means any:
 - (1) Combustible or explosive composition or substance.
 - (2) Combination of explosive compositions or substances.

- (3) Any other product that was prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, including blank cartridges or toy cannons in which explosives are used, the type of balloon that requires fire underneath to propel it, firecrackers, torpedoes, sky rockets, roman candles, bombs, rockets, wheels, colored fires, fountains, mines, serpents, and other fireworks of like construction.
 - (4) Fireworks containing any explosive or flammable compound.
 - (5) Tablets or other device containing any explosive substance or flammable compound.
- c. The term “fireworks” does not include consumer fireworks or toy pistols, toy canes, toy guns, or other devices in which paper caps or plastic caps containing 25/100 grains or less of explosive compound are used if they are constructed so that the hand cannot come in contact with the cap when in place for the explosion; toy pistol paper caps or plastic caps that contain less than 20/100 grains of explosive mixture; sparklers that do not contain magnesium chlorates or perchlorates; or signal, antique, or replica cannons of no projectile is fired.

ARTICLE III. PROHIBITION/LIMITATIONS

- 3.1 Possession Of Consumer Fireworks:** It is lawful for a person or persons to possess legal consumer fireworks within the Town limits for their personal use or by use of their family members.
- 3.2 Use Of Consumer Fireworks:** It is lawful for a person age 21 or older to use consumer fireworks on his or her private property or the private property of others providing he/she has written permission from the landowner.
- 3.3 Sale of Consumer Fireworks:** It is *UNLAWFUL* for any person or persons to sell or offer for sale consumer fireworks within the Town.

ARTICLE IV. HIGHLIGHTS FROM THE STATE STATUTES: The following highlights are extracted from the related State statutes in an effort to provide a better insight into the extent of the State law as it applies to the Town. It is not all-inclusive and it is the responsibility of each person who possesses, uses, or sells consumer fireworks to explore in greater detail.

- 4.1 State License:** Persons who sell fireworks are required to have a State license; however, sales are not allowed in the Town of Woodstock.

- 4.2 Age Limitation:** A person under 21 years of age may not purchase, use or possess consumer fireworks within the State.
- 4.3 Fireworks:** Except for the sale of consumer fireworks under section 8 MRSA 223#A, a person may not sell, possess, or use fireworks.
- 4.4 Hours of Use:** Consumer fireworks may be used between the hours of 9:00 a.m. and 10:00 p.m., except that on the following dates they may be used between the hours of 9:00 a.m. and 12:30 a.m. the following day:
- a. July 4th.
 - b. December 31st.
 - c. The weekends immediately before and after July 4th and December 31st.
- 4.5 Liability:** A person who violates the provisions of the State statutes is liable in a civil action for damages for bodily injury or property damage resulting from violation, and the defenses under Title 14, section 156 or a defense based on assumption of risk may not be used by the person.

ARTICLE V. ENFORCEMENT:

- 5.1 Enforcement Agencies:** This ordinance may be enforced by the Town Constable, Oxford County Sheriffs, State Police, and/or the Woodstock Fire Department.
- 5.2 Law Enforcement Actions:** Enforcement may result in the confiscation of all fireworks and related materials, issuance of a warning or ticket, and/or arrest.

ARTICLE VI. PENALTIES

- 6.1 Unlawful Sale, Possession, And Use:** A person or persons who sell consumer fireworks or possesses and/or uses them in an illegal and unlawful manner may be punished by a fine of not less than one hundred dollars(\$100.00) or more than four hundred (\$400.00) plus costs for the first offense. For second and subsequent offenses, fines may double.
- 6.2 Property Damage/Personal Injuries:** In the event that the use of consumer fireworks, lawfully or unlawfully, causes any property damage or personal injuries to another party or parties, the user shall be responsible for all repairs and medical bills. In the event that the user is a minor, the parent or guardian of the individual shall be responsible for all bills and expenses.

6.3 Emergency Response: In the event that emergency personnel (fire, police, or medical) are required to respond to a scene where a fire, property damage, personal injury, or other outcome occurs as a result of the use of consumer fireworks, lawfully or unlawfully, the user shall be responsible for all associated costs to include vehicle and equipment use, personnel costs, and any damage or loss of related equipment. In the event that the user is a minor, the parent or guardian of the individual shall be responsible for all bills and expenses.

6.4 Town Selectmen Authority: In the event that fines or fees are not assessed by law enforcement agencies, the Town Selectmen may enforce this ordinance and assess any fines or fees to the violator or violators.