

TOWN OF MADAWASKA FIREWORKS ORDINANCE

TITLE AND AUTHORITY

This ordinance shall be known as the "Town of Madawaska Fireworks Ordinance." It is adopted pursuant to the enabling provisions of the Maine Constitution, the provisions of 30-A M.R.S.A. § 3001, and the provisions of 8 M.R.S.A. § 223-A

PURPOSE

The purpose of this Ordinance is to promote the safety and welfare of the citizens of Madawaska and to require an annual permit for the sale and use of consumer fireworks within the Town of Madawaska under the requirements of the Federal and State statutes and Town ordinance.

DEFINITIONS IN ACCORDANCE WITH 8 M.R.S.A. § 221-A, SUBSECTION 1-A

Consumer Fireworks. "Consumer Fireworks" has 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 third-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. A device similar to a sky rocket in size, composition, and effect that uses fins rather than a stick for guidance and stability. Missiles shall not contain more than 20 grams of total chemical composition.
- B. Helicopters and Aerial Spinners. A tube containing more than 20 grams of chemical composition, with a propeller blade attached. Upon ignition the rapidly spinning device rises into the air. A visible or audible effect may be produced at or near the height of the flight.
- 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.

Display. "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. "Display" includes special effects display.

Fireworks. "Fireworks" means any:

- A. Combustible or explosive composition or substance;
- B. Combination of explosive compositions or substances;
- C. Other article 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, skyrockets, roman candles, bombs, rockets, wheels, colored fire fountains, mines, serpents and other fireworks of like construction;
- D. Fireworks containing any explosive or flammable compound;
- E. Tablets or other device containing any explosive substance or flammable compounds.

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 if no projectile is fired.

SALES

- A. The sale of Consumer Fireworks is permitted in the Commercial District as depicted by the land-use map.
- B. The sale of Consumer Fireworks shall comply with all federal, state, and local laws, ordinances, rules and regulations.
- C. The sale of Consumer Fireworks requires a Special Exception land-use application and permit from the Madawaska Planning Board and an annual license from the Board of Selectmen. The application for the annual license shall be on a form provided by the Town and require the payment of an application fee in an amount set by the Selectmen that will offset the Town's processing and inspection costs. A public hearing shall be held for the first annual application and may be held for renewal applications. The Board of Selectmen shall issue a license if they find the applicant:

has not been convicted of a Class A, B or C crime

has not, through the use of Fireworks, Consumer Fireworks or in any other way, created a danger to the general public; and

has complied with all federal, state, and local laws, ordinances, rules, and regulations

USE PROHIBITED

- A. No person or group of persons shall use, display, fire or cause to be exploded Fireworks, except in a fully permitted fireworks display.
- B. No person shall use, display or cause to be exploded Consumer Fireworks, except in compliance with all federal, state and local laws, ordinances, rules and regulations. The use of Consumer Fireworks requires a permit from the Madawaska Fire Chief or his or her designee on a form to be provided by the Fire Department. Application for a permit should be submitted at least seven (7) days prior to the discharge or use of the Consumer Fireworks. A permit must be obtained prior to discharge or use of the Consumer Fireworks. This permit at minimum shall include the name and address of the applicant, date of application, date of discharge, hours of discharge, location of discharge, and written permission of landowner if location is not on land owned by applicant, plot plan showing area of discharge and signature of applicant. The Fire Chief or his/her designee shall issue a permit if it is found that the use will not create a fire danger, a danger to the persons at the location of the discharge, or a danger to the general public. A copy of the approved application shall be forwarded to the Madawaska Police Department and Code Enforcement Office. The Selectmen shall establish a fee for the Consumer Fireworks use permit.

FIREWORKS DISPLAY

A Fireworks display requires a permit from the Maine Commissioner of Public Safety or his or her designee under the provisions of 8 M.R.S.A. §§ 221 -237, and particularly section 227-A. The Fire Chief, or his or her designee, shall inspect the proposed display site at the time of the inspection conducted by a representative of the Maine Public Safety Department under 8 M.R.S.A. § 227-A (2). A Fireworks display shall comply with all federal, state and local laws, ordinances, rules and regulations.

CONDITIONS TO USE OR DISPLAY OF CONSUMER FIREWORKS

- A. The Town assumes no liability for injuries that result from the use or display of Fireworks or Consumer Fireworks regardless of the status of a permit.
- B. Consumer Fireworks cannot be used or displayed within 100 feet of any combustible structure or within 50 feet of overhead power lines.
- C. Permit issued for the use or display of Consumer Fireworks shall specifically identify and restrict the date, time, duration, location and direction (if restricted) of the fireworks discharge or display
- D. Any permit issued for the use or display of Consumer Fireworks may be denied or revoked by the Fire Chief or his/her designee where cause exists that environmental or any other condition should preclude such issuance.

E. It shall be unlawful for any person or firm to use or display Consumer Fireworks without providing for the cleanup and removal of all debris.

F. Means to extinguish any spot fires resulting from the use or display of Fireworks or Consumer Fireworks must be available. This includes fire extinguishers and garden hoses. Access to 9-1-1 must also be available during the use or display of Fireworks or Consumer Fireworks should an emergency arise.

G. A permit for Consumer Fireworks will not be issued if the forest fire danger is greater than a Class "3". A permit is issued for one day; alternative (rain) dates may be listed on the permit.

CIVIL PENALTIES

Whoever violates any of the provisions of the foregoing Sections shall be subject to a civil penalty of not less than one hundred dollars (\$100) per occurrence and not more than twenty-five hundred dollars (\$2,500) per occurrence, plus attorney's fees and costs.