

**Town of Wayne
Consumer Fireworks Ordinance**

ARTICLE I Purpose.

The purpose of this Ordinance is to prohibit the sale and use of consumer fireworks to ensure the safety of the residents and property owners of the Town of Wayne and of the general public.

ARTICLE II Title and Authority.

This Ordinance shall be known as the "Town of Wayne Consumer Fireworks Ordinance." This Ordinance is adopted pursuant to and consistent with the Municipal Home Rule Powers as provided for in Article VIII, Part 2, Section 1 of the Constitution of the State of Maine and 30-A M.R.S. § 3001, and the provisions of P.L. 2011, ch. 416, § 5 (effective Jan. 1, 2012), *codified at* 8 M.R.S. § 223-A.

ARTICLE III Definitions.

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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 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:

- (1) Missile-type rockets, as defined by the State Fire Marshal by rule;
- (2) Helicopters and aerial spinners, as defined by the State Fire Marshal by rule; and
- (3) Sky rockets and bottle rockets. For purposes of this definition, "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.

ARTICLE IV Sale of Consumer Fireworks Prohibited.

No person or group of persons shall sell, or offer for sale, consumer fireworks within the Town of Wayne.

ARTICLE V Use of Consumer Fireworks Prohibited.

No person or group of persons shall use, display, fire or cause to be exploded consumer fireworks within the Town of Wayne.

ARTICLE VI Violation and Enforcement.

- A. PENALTY FOR VIOLATION:** Any person who violates the provisions of this Ordinance shall commit a civil violation punishable by a penalty of not less than One Hundred Dollars (\$100.00) and not more than Two Thousand Five Hundred Dollars (\$2,500.00) for each offense, plus attorneys fees and costs, to be recovered by the Town of Wayne for its use. Each day such violation occurs or continues to occur shall constitute a separate violation.

- B. ENFORCEMENT:** This Ordinance shall be enforced by any duly appointed agent of the Town.

- C. INJUNCTION:** In addition to any other remedies available at law or equity, the Town of Wayne, acting through its Town Manager, may apply to any court of competent jurisdiction to enjoin any planned, anticipated, or threatened violation of the Ordinance and to prohibit further and continued violation thereof.

- D. SEIZURE & DISPOSAL OF CONSUMER FIREWORKS:** The Town may seize consumer fireworks that the Town has probable cause to believe are used or sold in violation of this Ordinance and shall forfeit seized consumer fireworks to the State for disposal.

- E. EXCEPTIONS.** This section does not apply to a person issued a fireworks display permit by the Town of Wayne and/or by the State of Maine pursuant to 8 M.R.S. §§ 227-A to 237.

ARTICLE VII Severability.

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Ordinance.

ARTICLE VIII Effective Date.

This Ordinance shall take effect and be in force from the time of its adoption by the voters of the Town of Wayne at Town Meeting.