

# Town of Waldoboro



## Consumer Firework Ordinance

### Section 1 Purpose and Authority

- A. Purpose: This Ordinance governs the use of consumer fireworks to ensure the safety of the residents and property owners of the Town of Waldoboro and of the general public.
- B. Title and Authority: This Ordinance shall be known as the “Town of Waldoboro Consumer Fireworks Ordinance” and will be referred to herein as ‘this Ordinance. This Ordinance is adopted pursuant to the enabling provisions of Maine Constitution, the provisions of 30-M.R.S. ss 3001, the provisions of P.L. 2011, Ch. 416, ss 5 (effective January 1, 2012), codified at 8 M.R.S. ss 223-A.

### Section 2 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 provisions, but includes only products that are tested and certified by a 3<sup>rd</sup>-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 the purposes of 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 height of flight.

### **Section 3 USE AND SALE OF CONSUMER FIREWORKS.**

- A. This Ordinance allows the purchase, selling, use, and possession of consumer fireworks within the Town of Waldoboro subject to the following requirements:
- a. Consumer fireworks may not be used when the fire danger class, as designated by the Maine Forest Service, is a class 4 or 5 fire danger day.
  - b. Users must obtain a permit from the town office or the Fire Department before discharging any consumer fireworks.
  - c. Consumer fireworks may only be discharged on property owned by user.
  - d. Consumer fireworks may not be used on or within 50 feet of public owned land.
  - e. The use or discharge of consumer fireworks are prohibited in "Downtown Business District", "Historic Village District" and the "Route One Commercial B District" as defined by the Town of Waldoboro Land Use Ordinance.
  - f. In accordance with the "Noise" section of the Land Use Ordinance, to minimize noise and distraction, consumer fireworks may only be used during the hours of 5:00 PM and 10:00PM, with exceptions on Memorial Day, the Fourth of July and New Years Eve, when consumer fireworks may used 5:00 PM through 12:30 AM the following day.

### **Section 4 EXCEPTIONS.**

- A. This Ordinance does not apply to a person issued a fireworks display permit by the State of Maine pursuant to 8 M.R.S. ss227-A.
- B. This Ordinance does not apply to a person utilizing pyrotechnic devices in pest dispersal operations in the agricultural production of blueberries.

### **Section 5 VIOLATION PENALTIES AND ENFORCEMENT.**

- A . Penalty for Violation: For each violation of a provision of this Ordinance or other failure to comply with any of the requirements thereof. The person shall be subject to a fine of not less than \$100 and not more than \$2,500, plus attorney's fees and costs.
- B Enforcement. This ordinance shall be enforced by the Town of Waldoboro Police Department.
- C. Injunction. In addition to any other remedies available at law or equity, the Town of Waldoboro, acting through its Board of Selectmen, may apply to any court of competent jurisdiction to enjoin any planned, anticipated or threatened violation of this Ordinance.

- D. Seizure & Control. The Town may seize consumer fireworks that the Town has probable cause to believe are used in violation of this Ordinance and shall forfeit seized consumer fireworks to the State of disposal.

**Section 6 EFFECTIVE DATE.**

This Ordinance takes effect immediately upon adoption.

**Section 7 SEVERABILITY.**

Should any section, subsection or portion of this Ordinance be declared by any court of competent jurisdiction to be invalid for any reason, such a decision shall not be deemed to invalidate any other section, subsection or portion of this Ordinance.

Approved June 12, 2012 by Town Meeting.

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Craig Cooley

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Steve Cartwright

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James Bodman

Attest to all:

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John A. Spear, Town Manager

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Theodore Wooster

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Carl Cunningham

Attest: A true copy as certified to me by the Municipal Officers of Waldoboro, Maine on July 24, 2012.

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Linda E. Perry, Town Clerk

Town Seal