

Proposed Town of Monmouth Consumer Fireworks Ordinance

Article I Purpose

The purpose of this Ordinance is to restrict the use of consumer fireworks in order to protect public health, safety, and welfare and to ensure the peaceful enjoyment of private and public property in the Town of Monmouth.

Article II Title and Authority

This Ordinance shall be known as the "Town of Monmouth Consumer Fireworks Ordinance." It is adopted pursuant to the enabling provisions of the Maine Constitution, the provisions of 30-A M.R.S.A. section 3001, and the provisions of P.L. 2011, ch.416, section 5 (effective Jan.1, 2012), *codified at* 8 M.R.S.A. section 223-A.

Article III Definitions

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:

- 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.

Article IV Use of Consumer Fireworks Restricted

No person shall use, ignite, fire, or cause to be exploded consumer fireworks within the Town of Monmouth except in compliance with all federal, state and local laws, ordinances, rules and regulations.

The use of consumer fireworks within the Town of Monmouth is further restricted as follows:

A. General Restrictions

1. The Town assumes no liability for injuries or destruction of property that results from the use of consumer fireworks.
2. A person shall use consumer fireworks only on that person's property or on the property of a person who has consented to such use. Consumer fireworks may not be used on, in or from any watercraft located within the waters of the Town.
3. The use of consumer fireworks on public property, including roadways, is prohibited.
4. Consumer fireworks shall not be used within fifty (50) feet of any combustible structure, overhead power lines, public right of way, or forest. In addition, consumer fireworks shall not be used within two hundred and fifty (250) feet of a licensed daycare, school, church, gas station, or any business which distributes liquid fuels, or a pasture with livestock present.
5. A person shall not use consumer fireworks on any day that the forest fire danger is a Class 4 or Class 5

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as specified by the Maine Forestry Service.

A. Days and Hours of Use

1. The use of consumer fireworks is restricted to only the following days of the year: July 3, July 4, July 5, December 31, January 1, Memorial Day, the two days prior to Memorial Day, Labor Day, and the two days prior to Labor Day.
2. Consumer fireworks may only be used between the hours of 5 pm and 10 pm.
3. The use of fireworks that have a negligible sound effect (not to exceed 45 decibels) such as sparklers, morning glories, and fountains to be used any day of the year, as long as they are used in accordance with the other provisions of the ordinance.

Article V Violation and Enforcement

1. **Penalty for Use Violation:** Any person who violates the provisions of this Ordinance shall commit a civil violation punishable by a penalty of not less than Two Hundred Dollars (\$200.00) and not more than One Thousand Five Hundred Dollars (\$1500.00) for each offense, plus attorney's fees and costs, to be recovered by the Town of Monmouth for its use. Each day a violation occurs or continues to occur shall constitute a separate violation.
2. **Enforcement:** This Ordinance shall be enforced by the Town of Monmouth Police Department.
3. **Injunction:** In addition to other remedies available at law or equity, the Town may apply to any court of competent jurisdiction to enjoin any planned, anticipated, or threatened violation of this Ordinance and to prohibit further and continued violation thereof.
4. **Seizure and 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.
5. **Exceptions:** Pursuant to 8 M.R.S.A. section 221-237, particularly section 227-A, nothing in this Ordinance shall be construed to limit or regulate commercial fireworks displays or the issuance of permits for fireworks displays by the Commissioner of Public Safety or a designee.

Article VI 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 portion of the Ordinance.

Article VII Effective Date

This ordinance shall take effect on Jan 1, 2013.