

TOWN OF CHERRYFIELD, MAINE

CONSUMER FIREWORKS ORDINANCE

Article 1: PURPOSE

The purpose of this ordinance is to limit the use of consumer fireworks within the Town of Cherryfield to ensure the safety of residents and property owners of the Town of Cherryfield and of the general public.

Article 2: TITLE AND AUTHORITY

This ordinance shall be known as the “Town of Cherryfield Consumer Fireworks Ordinance.” It is adopted pursuant to the enabling provision of in Article VIII-A 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.

Article 3: DEFINITIONS

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; and
2. Helicopters and aerial spinners, as defined by the State Fire Marshal by rule; and
3. Skyrockets and bottle rockets. For purposes of this definition, "skyrockets 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 – 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 a “special effects display” as defined in 8 M.R.S. §221-A (10).

Fireworks – means any:

1. Combustible or explosive composition or substance.
2. Combination of explosive compositions or substances.

3. Other article that was prepared for the purpose of producing 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 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.

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.

Article 4: RESTRICTION ON USE OF CONSUMER FIREWORKS

- A. No person shall use, possess with the intent to use, display, fire or cause to be exploded consumer fireworks within the Town of Cherryfield except in compliance with all Federal, State, and local laws, ordinances, rules and regulations.
- B. The use of Consumer Fireworks requires a permit from the Town of Cherryfield. A resident property owner shall submit an application for a permit between 9:00 a.m. and 2:00 p.m. not more than 48 hours prior to the proposed day of discharge of the Consumer Fireworks. The permit will be issued, if approved, by 3:00 p.m. on the day of discharge.
- C. Resident property owners are limited to 5 permits per calendar year.
- D. A person shall not use, display, fire, or cause to be exploded consumer fireworks within the Town of Cherryfield or in or from any watercraft within waters of the Town except between the hours of 12:00 p.m. and 10:00 p.m., except that on July 4th, December 31st, and the weekends immediately before and after those days consumer fireworks may be used between the hours of 12:00pm and 12:30am.

GENERAL RESTRICTIONS

- A. The use of Consumer Fireworks in the Town of Cherryfield is further restricted as follows:
 1. The Town assumes no liability for injuries that result from the use of Consumer Fireworks from damage done by the use of Consumer Fireworks.
 2. A person shall use Consumer Fireworks only on that person’s property or the property of a person who has consented by written permission to the use of Consumer Fireworks on that property. The use of Consumer Fireworks on public or town owned property is prohibited unless it is a town sanctioned event and the fire department is on site.

3. Fireworks may only be used on Fire Class 1 or 2 days, as determined by the Department of Conservation, Maine Forest Service or at the discretion of the Fire Warden. A burn permit must be issued by the State of Maine.
4. A person shall not use Consumer Fireworks where noise from the fireworks would disturb livestock within one (1) mile of a property where livestock is present without the consent of that property's owner. As used in this paragraph, "livestock" has the same meaning as in 7 M.R.S. § 81(8).
5. Livestock owners with concerns of fireworks discharge, shall contact the Town Administrator to put their property in a database of livestock owners, no later than May 1st of each year.
6. Consumer fireworks shall not be used within 100 feet of any combustible structure or within 50 feet of overhead power lines.
7. It shall be unlawful for any person using Consumer Fireworks to be under the influence of alcohol or otherwise be impaired while using Consumer Fireworks.
8. Means to extinguish any spot fires resulting from the use of Consumer Fireworks must be available, including, but not limited to, fire extinguishers, hand tools, and charged hoses. Access to 9-1-1 must also be available during the use of Consumer Fireworks.
9. The permit holder shall be responsible for cleaning up the debris caused by the use of consumer fireworks within 24 hours of discharge.

Article 5: VIOLATION AND ENFORCEMENT

- A. Enforcement. This ordinance shall be enforced by the Washington County Sheriff's Department or any law enforcement agency with which the Town of Cherryfield has a mutual aid agreement.
- B. Penalty for use violation. Any person who violates the provisions of Section 4 shall commit a civil violation punishable by a penalty of not less than two hundred dollars (\$200) to not more than five hundred dollars (\$500.00) plus attorney fees and costs. Each day such violation occurs or continues to occur shall constitute a separate violation.
- C. Cessation After Single Complaint. Upon complaint from a single household to the Cherryfield Police or Fire Department, that departments designee shall have the authority to require that the person(s) complained about cease the use, display, firing, or explosion of consumer fireworks if in the judgment of the official the complainant has special aggravating circumstances such as a sick family member or the presence of animals in the area and the propensity of such animals to suffer adverse health effects from exposure to the noise accompanying fireworks, or, as a result of fear resulting from exposure to such noise, may endanger others. The length of the cessation required will be at the discretion of the Select Board and/or the Washington County Sheriff's Department or any law enforcement agency with which the Town of Cherryfield has a mutual aid agreement. In instances where the

required cessation extends beyond the 12-hour period from the time of notification to cease, the person(s) complained about will be provided with the cessation order in writing.

- D. Cessation After Multiple Complaints. Upon complaints from multiple households to the Washington County Sheriff's Department or any law enforcement agency with which the Town of Cherryfield has a mutual aid agreement, that department's designee shall have the authority to require that the person(s) complained about immediately cease the use, display, firing, or explosion of consumer fireworks for a 12-hour period from the time of notification to cease if the official determines that any such activity disturbs the quiet, comfort or repose of any reasonable person located within or upon any residential premises.
- E. Collateral Debris on Neighboring Properties and Right of Ways. No person may use, display, fire, or cause to be exploded consumer fireworks in a manner that does not contain all falling debris from the fireworks to the user's property unless the person on whose property it may land has given consent for the debris to land.
- F. Visible Intoxication or Impairment. A person may not use, display, fire, or cause to be exploded consumer fireworks while intoxicated or impaired due to use of alcohol or drugs.
- G. Injunctive relief. In addition to any other remedies available at law or in equity, the Town of Cherryfield, acting through its Select Board, may apply to any court of competent jurisdiction to enjoin any planned, anticipated, or threatened violation of this ordinance.
- H. Seizure and disposal. The Town or any law enforcement officer may seize Consumer Fireworks that the Town or law enforcement has probable cause to believe are used in violation of this ordinance, subject to the limitations set forth in 8 M.R.S. § 223-A(9).

Article 6: EXCEPTIONS

This ordinance does not apply to a person issued a fireworks display permit from the Maine Commissioner of Public Safety or his or her designee under the provisions of 8 M.R.S. §§ 221-237. A fireworks display shall comply with all Federal, State and local laws, ordinances, and regulations.

Article 7: SEVERABILITY

In the event that any section, subsection, or portion of this ordinance shall be declared by any court of competent jurisdiction to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection, or portion of this ordinance.

Article 8: EFFECTIVE DATE

This ordinance shall take effect and be in force immediately upon adoption by the Town of Cherryfield. The Town Clerk is ordered to provide to the Office of the State Fire Marshal a copy of this ordinance within sixty (60) days of adoption.