

**ORDINANCE PROHIBITING THE SALE AND USE OF FIREWORKS
AND CONSUMER FIREWORKS**
Town of Chelsea, Maine

The Town of Chelsea Maine adopts an Ordinance prohibiting the sale and use of fireworks and consumer fireworks as follows:

I. PREAMBLE

WHEREAS, an Act to Legalize the sale, possession, and use of fireworks was passed by the 125th Maine legislature and signed on 2011-07-01; and

WHEREAS, the Town of Chelsea recognizes the potential for fire, injury and property damage and the history of fire, injury and property damage in regards to the sale and use of fireworks; and

WHEREAS, the State of Maine has not finalized the rules and regulations for the “Consumer Fireworks Sale Licensing;” and

WHEREAS, the potential sale and use of consumer fireworks in the Town of Chelsea raises legitimate and substantial questions and concerns about the impacts on the Town of Chelsea, including, but not limited to, the compatibility with the existing land uses, potential adverse health and safety effects upon members of the Community resulting from the sale and use of consumer fireworks and potential burdens upon the Chelsea Fire Department; and

WHEREAS, the current ordinances pertaining to land use and the Town’s Comprehensive Plan, as well as the Town Licenses and Permits Ordinance, do not adequately address the concerns listed above; and

WHEREAS, the existing Comprehensive Plan, and ordinances pertaining to land use, or other applicable laws and regulations, if any, are not adequate to prevent potential public harm from the sale and use of fireworks and consumer fireworks in the Town of Chelsea; and

NOW, THEREFORE, based upon the foregoing findings, be it hereby ordained that the Town of Chelsea does enact the following Ordinance prohibiting the sale and use of fireworks and consumer fireworks in the Town of Chelsea:

II. PURPOSE AND AUTHORITY

A. Purpose. This Ordinance governs and prohibits the sale and use of fireworks and consumer fireworks to ensure the safety of the residents and property owners of the Town of Chelsea and of the general public.

B. Title and authority. This Ordinance shall be known as the "Town of Chelsea Consumer Fireworks Ordinance." It is adopted pursuant to the enabling provisions of the

Maine Constitution, the provisions of 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. A. § 223-A.

III. DEFINITIONS

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section:

A. Consumer Fireworks – "Consumer fireworks" has the same meaning as that term is used 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:

- i. Missile-type rockets, as defined by the State Fire Marshal by rule;
- ii. Helicopters and aerial spinners, as defined by the State Fire Marshal by rule; and
- iii. 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.

B. Fire Safety Official – "Fire Safety Official" has the same meaning as that term is used in 8 M.R.S.A. § 221-A, (3-A) and means a state or municipal official who has authority to enforce life and fire safety laws, statutes, ordinances, rules or regulations.

C. Fireworks – "Fireworks" has the same meaning as that term is used in 8 M.R.S.A. § 221-A, (4) as may be amended from time to time. "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 can not 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.

IV. USE AND SALE OF FIREWORKS AND CONSUMER FIREWORKS PROHIBITED

No person shall use, sell, or offer for sale fireworks or consumer fireworks within the Town of Chelsea.

V. EXCEPTIONS

This Ordinance does not apply to a person issued a fireworks display permit by the Town of Chelsea and/or the State of Maine pursuant to 8 M.R.S.A. §227-A, as may be amended from time to time.

VI. VIOLATION PENALTIES AND ENFORCEMENT

A. Penalties.

i. Any person who uses fireworks or consumer fireworks in the Town of Chelsea shall be subject to punishment by a fine of not less than two hundred dollars (\$200.00) and not more than four hundred dollars (\$400.00) plus costs for a first violation. For second and subsequent offenses, a fine of not less than three hundred dollars (\$300.00) and not more than six hundred dollars (\$600.00) plus costs per violation shall be imposed. For the purpose of this subsection, each instance of use of fireworks or consumer fireworks shall constitute a separate violation.

ii. Any person who offers for sale fireworks or consumer fireworks in the Town of Chelsea shall be subject to punishment by a fine of not less than five hundred dollars (\$500.00) plus costs. For second and subsequent offenses, a fine of not less than one thousand dollars (\$1000.00) plus costs per violation shall be imposed. For the purpose of this subsection, each instance of sale of fireworks or consumer fireworks shall constitute a separate violation.

B. Enforcement. This Ordinance will be subject to enforcement by the Fire Safety Official for the Town of Chelsea as defined in Section III (B) of this Ordinance, as designated by the Board of Selectmen. Unless otherwise designated by a majority of the Board of Selectmen for the Town of Chelsea, the “Fire Safety Official” for the Town of Chelsea shall be the municipal code enforcement officer.

C. Injunction. In addition to any other remedies available at law or equity, the Town of Chelsea may apply to any court of competent jurisdiction to enjoin any planned, anticipated or threatened violation of this Ordinance and may seek penalties specified in 30-A M.R.S.A. § 4452, including, but not limited to, injunctions, penalties, attorneys’ fees, and costs. For the purpose of this subsection, each day of a violation constitutes a separate violation.

D. Seizure & Disposal. The Town may seize fireworks or 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.

VII. EFFECTIVE DATE

This Ordinance takes effect immediately upon adoption by the citizens of Chelsea at town meeting and shall remain in effect indefinitely until otherwise repealed or modified in accordance with Maine law.

VIII. 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.