

# **TOWN OF JAY**

## **CONSUMER FIREWORKS ORDINANCE**

A TRUE COPY ATTEST CERTIFIED BY:

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Ronda L. Palmer, Town Clerk

## SECTION 1

- A. Purpose. This ordinance restricts the use of consumer fireworks to ensure the safety of the residents and property owners of the Town of Jay and of the general public.
- B. Title and Authority. This ordinance shall be known as the “Town of Jay Consumer Fireworks Ordinance”. It is adopted pursuant to the enabling provisions of the Maine Constitution, the provisions of 30-A M.R.S.A. § 3001, and the provisions of P.L. 2011 Chapter 416 § 5 (effective Jan. 1, 2012), codified at 8 M.R.S.A. § 223-A.

## SECTION 2. Definitions.

The following words, terms and phrases, when used in this chapter, 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 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.

### SECTION 3. Use of Consumer Fireworks Restricted

No person shall use, possess with the intent to use, display, fire or cause to be exploded consumer fireworks within the Town of Jay except in compliance with all Federal, State and Local laws, ordinances, rules and regulations. The use of Consumer Fireworks requires a permit from the Jay Fire Department. A permit shall be obtained between 9 A.M. and 6 P.M. on the day of discharge of the Consumer Fireworks. No permits will be issued after 6 P.M. This permit at minimum shall include the name and address of the applicant, date of application, date of discharge or use of the Consumer Fireworks, location of discharge, written permission of the landowner if the location is not on land owned by applicant, plan showing discharge and signature of applicant. The Fire Chief or designee shall issue a permit if it is found not to create a fire danger to the general public. When a person requests a permit they may be subject to an inspection of the site before issuance of that permit. The Jay Board of Selectmen shall establish a fee for Consumer Fireworks Use Permit with 50% of the fee deposited in an equipment reserve account for the fire department and the remaining 50% shall be a stipend to the issuer of the permit. Use of consumer fireworks within the Town of Jay is further restricted as follows:

#### A. General Restrictions.

1. The Town assumes no liability for injuries that result from the use of consumer fireworks or from damages done by 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 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.
3. A person shall not use consumer fireworks if the forest fire danger is a Class "4" or greater, as determined by the Department of Conservation, Maine Forest Service or at the discretion of the Fire Department Personnel issuing the permit...
4. Consumer fireworks shall not be used within 100 feet of any combustible structure or within 50 feet of overhead power lines.
5. Spectators shall be no closer than 50 feet from the discharge point of consumer fireworks.

6. Any person using consumer fireworks must provide for the cleanup and removal of all debris. The disposal of unfired or unused fireworks shall be done under the guidelines set by the State Fire Marshall's Office.
7. It shall be unlawful for any person using consumer fireworks, to be under the influence of alcohol or be otherwise 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 garden hoses. Access to 9-1-1 by landline or mobile telephone also must be available during the use of consumer fireworks should an emergency arise.

B. Hours of Use.

Consumer fireworks may be used during the hours of 9 A.M. and 10 PM, except that on the following days they may be used between the hours of 9 A.M. and 12:30 A.M. the following day:

1. July 4<sup>th</sup>
2. December 31<sup>st</sup>
3. The Saturday and Sunday immediately before and after July 4<sup>th</sup> and December 31<sup>st</sup>.

SECTION 4. Violation and Enforcement.

- A. Penalty for Use Violation. Any person who violates the provisions of Section 4 (Use of Consumer Fireworks Restricted) shall commit a civil violation punishable by a penalty of two hundred dollars (\$200.00) to four hundred (\$400.00) plus attorney fees and costs for the first offense, and a penalty of five hundred (\$500.00) to one thousand dollars (\$1,000.00) plus attorney fees and costs for subsequent offenses within six years of use violation. Each day such violation occurs or continues to occur shall constitute a separate violation.
- B. Enforcement. This ordinance shall be enforced by the Town of Jay Police Department, the Franklin County Sheriff's Department, the Maine State Police and any law enforcement agency with which the Town of Jay has a mutual aid agreement.

- C. Injunction. In addition to any other remedies available at law or equity, the Town of Jay, acting through its Town Manager, may apply to any court of competent jurisdiction to enjoin any planned, anticipated or threatened violation of this Ordinance.
  
- 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.

#### SECTION 5. Exceptions.

This section does not apply to a person issued a fireworks display permits from the Maine Commissioner of Public Safety or his or her designee under the provisions of 8 MR.S.A. ordinance § 221-237, and particularly Section 227-A. A fireworks display shall comply with all federal, state and local laws, ordinances, and regulations.

#### SECTION 6. Annual Review.

The Jay Board of Selectmen will review this Ordinance Annually to see if it needs any amendments or deletions proposed to the voters.

#### SECTION 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.

#### SECTION 8. Effective Date.

This Ordinance shall take effect and be in force 30 days after its adoption by the Town of Jay. Notwithstanding the provisions of 1 M.R.S.A. §302, this ordinance applies to any applications pending or approved on the date of its passage, whether or not such applications would constitute a “pending proceeding” under 1 M.R.S.A. §302.