

June 11th 2013 this ordinance titled "Town of Livermore Falls Consumer Fireworks Ordinance" was accepted
Annual Town election
TRUE COPY ATT
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CITY CLERK
TOWN OF LIVERMORE FALLS

Town of Livermore Falls

Consumer Fireworks Ordinance

Section 1: Purpose

- A. **Purpose.** This ordinance is established to control and restrict the use of consumer fireworks within the Town of Livermore Falls. By creating this ordinance the intent is to protect public from harm and property loss by use of consumer fireworks.
- B. **Title and Authority.** This ordinance shall be known as the "Town of Livermore Falls consumer Fireworks Ordinance". It is being 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 ordinance, shall have the meanings described to them in this section, except where the context clearly indicates a different meaning:

Consumer fireworks shall have 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.

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.

Village Area which is referenced from the Town of Livermore Falls Building Lots Standard Ordinance defined is "The village area shall include all of the area defined by the Jay town line on the north, the Androscoggin River on the west, the CMP right of way on the east and on the south by an east-west line from the river to the power lines and encompassing all properties abutting Gilbert Street, the south loop."

Section 3: Use of Consumer Fireworks Restricted

No person shall use, possess with the intent to use, display, and discharge or cause to be exploded consumer fireworks within the Town of Livermore Falls except in compliance with all Federal, State and Local laws, ordinances, rules and regulations. The use of fireworks outside of the "Village Area" shall be fully allowed with no local restrictions, but still in accordance with all Federal, State, and Local requirements. The official maps that represent the "Village Area" are on display and available for review upon request at the Town of Livermore Falls Town Office. Use of Consumer fireworks will be restricted within the "Village Area" due to the close proximity of buildings and general public in this area the Town of Livermore Falls believes extreme caution needs to be taken. The general restrictions for the "Village Area" area listed in Subsection A. of this Section.

A. General Restrictions for the "Village Area"

1. A person shall use consumer fireworks only on that person's property or on the property of a person who has consented written permission to the use of consumer fireworks on that property. The use of consumer fireworks on public or town owned property is prohibited.
2. 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. The predicted fire class day can be obtained by contacting the Livermore Falls Fire Department or the Maine Forest Service.
3. Consumer fireworks shall not be used within 50 feet of any building or within 25 feet of overhead power lines.
4. Spectators shall be no closer than 50 feet from the discharge point of consumer fireworks.
5. Any person using consumer fireworks must provide for the cleanup and removal of all debris.

6. It shall be unlawful for any person using consumer fireworks, to be under the influence of any impairing substance or be otherwise impaired while using consumer fireworks.
7. 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 Emergency Services by telephone also must be available during the use of consumer fireworks.
8. The Town of Livermore Falls assumes no liability for injuries that result from the use of consumer fireworks or from damages done by the use of consumer fireworks.

B. Hours of use.

Consumer fireworks may be used during the hours of 10 AM and 10 PM, except that on the following days they may be used between the hours of 10 AM and 12:30 AM the following days:

1. July 4th (Independence Day)
2. December 31st (New Year's Eve)
3. The Saturday and Sunday Immediately before and after July 4th and December 31st.

Section 4: Sales of Consumer Fireworks

The sales of consumer fireworks within the Town of Livermore Falls shall be allowed, but must be in full compliance with all Federal, State and Local laws, ordinances, rules and regulations. Retail sales of consumer fireworks will be allowed within the "village area" and any other area. In the State of Maine retail sales of consumer fireworks is permitted though the State of Maine Department of Public Safety Fire Marshall Office.

Section 5: Violations & Enforcement

- A. **Penalty for Use Violation.** Any person who violates the provisions of Section 3 (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 (\$1000.00) plus attorney fees and costs for the subsequent offenses within six years of use violation. Each violation occurs or continues to occur shall constitute a separate violation.
- B. **Enforcement.** This ordinance shall be enforced by the Town of Livermore Falls Police Department, ~~the County sheriff's Department, the Maine State Police, and any law enforcement agency with which the Town of Livermore Falls has a mutual Aide agreement with~~ ? Constable;

Amendment Article #12
Sp. Town Meeting 7.22.13.

- C. **Seizure & Disposal of Consumer Fireworks.** The Town may seize consumer fireworks that the Town has probable cause to believe they are used or sold in violation of this Ordinance and shall forfeit seized consumer fireworks to the State for disposal.

Section 6: Exceptions

This Ordinance does not apply to a person or entity issued a fireworks display permit from the Maine Department of Public Safety under the provision of 8 M.R.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 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 immediately after its adoption by the Town of Livermore Falls. 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