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**ORDINANCE PROHIBITING THE SALE AND USE OF
CONSUMER FIREWORKS**

Sec. 38-290. PURPOSE AND AUTHORITY.

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

B. Title and authority. This Ordinance shall be known as the "Town of Old Orchard Beach Consumer Fireworks Ordinance." It is adopted pursuant to the enabling provisions of the Maine Constitution, the provisions of 30-A M.R.S. § 3001, the provisions of 8 M.R.S. § 223-A, and Section 410.1 of the Old Orchard Beach Town Charter.

Sec. 38-291. 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" has the same meaning as in 8 M.R.S.

§ 221-A(1-A), as may be amended from time to time.

Sec. 38-292. USE AND SALE OF CONSUMER FIREWORKS PROHIBITED.

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

Sec. 38-293. EXCEPTIONS.

This Ordinance does not apply to a person issued a fireworks display permit by the Town of Old Orchard Beach and/or the State of Maine pursuant to 8 M.R.S. § 227-A.

Sec. 38-294. VIOLATION PENALTIES AND ENFORCEMENT.

A. Penalty for Violation. Any person who violates any provision of this Ordinance or otherwise fails to comply with any of the requirements hereof shall commit a civil violation punishable by a penalty of one hundred dollars (\$100.00) for the first offense, and five hundred dollars (\$500.00) for the second and subsequent offenses, to be recovered by the Town for its use. If the municipality is the prevailing party, the municipality must be awarded reasonable attorney fees, expert witness fees and costs, unless the Court finds that special circumstances make the award of these fees and costs unjust.

B. Enforcement. This Ordinance shall be enforced by the Town of Old Orchard Beach Police Department.

C. Injunction. In addition to any other remedies available at law or equity, the Town of Old Orchard Beach, 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. 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.

Sec. 38-295. EFFECTIVE DATE.

This Ordinance takes effect immediately upon adoption.

Sec. 38-296. 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.

ADOPTED: MARCH 6, 2012