

Fireworks Ordinance



Town of York, Maine

Most Recently Amended: May 16, 2015

Prior Dates of Amendment:

Date of Original Enactment: May 19, 2012

ENACTMENT BY THE LEGISLATIVE BODY

Date of the vote to enact/amend this Ordinance: May 16, 2015.

Certified by the Town Clerk: May Anne Flynn-Wilson on June 19, 2015
(signature) (date)

Fireworks Ordinance

1. **Purpose.** The purpose of this Ordinance is to control the use and sale of consumer fireworks in order to protect public health, safety and welfare.
2. **Authority.** The Town has authority to enact an ordinance to prohibit or restrict the sale or use of consumer fireworks per Title 8 M.R.S. §223-A.
3. **Definitions.** Terms used in this Ordinance shall be those defined in Title 8 M.R.S. §221-A. In addition, the following shall apply.

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 the 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.

Use – The lighting or other setting off of consumer fireworks.

4. **Prohibition.** The use and/or sale of consumer fireworks shall be prohibited within the Town of York. (Note that use and sale of fireworks which are not included within the State definition of consumer fireworks, including but not limited to bottle rockets and sky rockets, are expressly prohibited or regulated by State law even though not addressed by this Ordinance. In short, just because you can buy something elsewhere does not mean you can use or sell it in York.)
5. **Administration and Enforcement.** The York Police Department shall administer and enforce this Ordinance.
6. **Penalties.** Penalties shall be as follows:
 - A. **Fine – Use of Consumer Fireworks.** Use of consumer fireworks in violation of this ordinance shall be subject to a civil penalty of \$100.00 for the first offense, \$150.00 for the second offense, and \$250.00 for the third and subsequent offenses within a 2 year period.

- B. **Fine – Sale of Consumer Fireworks.** Sale of consumer fireworks in violation of this ordinance shall be subject to a civil penalty of \$500.00 for the first offense plus attorney costs, \$1,000.00 for the second offense plus attorney costs, and \$1,500.00 plus attorney costs for the third and subsequent offenses with a 2 year period.
- C. **Seizure of Fireworks.** The Town may seize consumer fireworks that it has probable cause to believe are to be used or sold in violation of this Ordinance. All fireworks lawfully seized under this Ordinance shall be forfeited to the State per Title 8 M.R.S. §237(2).

7. **Waiver/Payment of Fines.** Any person charged with a violation of this section, shall be allowed to waive such violation and tender to the Town of York the fine amount if paid within 20 days of issuance of the summons. If the waiver fine is paid, no appearance before a District Court Judge or other judicial officer shall be required. If the offender pays the waiver fine, the matter will be closed in the York Police Records system and listed as a subsequent offense for future violations.

If the offender chooses not to pay the waiver fine, he/she shall appear in court on the specified date to answer for the ordinance violation. If the offender is found to have committed the offense in court, fines, applicable court fees, attorney's fees, and prosecution costs may apply.

8. **Appeals.** Appeals with respect to this Ordinance shall be taken to York County Superior Court within 30 days.

9. **Saving Clause.** In the event any provision of this Ordinance is found by a court of competent jurisdiction to be invalid, this finding shall not affect the remainder of this Ordinance.

10. **Effective Date.** This Ordinance shall take effect on the date of passage by the voters.

11. **Copy Provided to the State Fire Marshal.** Per Title 8 M.R.S. §223-A(2), the Town Clerk shall file a copy of this Ordinance, and any amendment thereto, with the State Fire Marshal within 60 days of the relevant public vote.

Ordinance Adopted: *May 19, 2012*