


How are fireworks in neighboring communities being handled?


| Town/City | Contact | Title | Action Taken | Complaints/Emergency Calls/Summonses |
|----------------|----------------------------|--------------------------|---|---|
| Cumberland | Chief Small | Fire Chief | New Ordinance; Use restricted to July 3rd from 9am to 10pm; July 4th from 9am to 12:30am the following day; July 5th from 9am to 10pm; Dec. 31st from 9am to 12:30am the following day; Jan. 1st from 9am to 10pm | No injuries reported; PD responded to less than 10 noise complaints. Believes restricted dates of use "is a big reason for the limited calls for service." |
| Falmouth | Chief Rice & Denise Gibson | Fire Chief & Office Asst | The Town of Falmouth has banned the use of fireworks altogether | |
| Gorham | Chief Lefebvre | Fire Chief | New Ordinance, Issues Fireworks Permits; Use restricted to July 3rd from noon to 10pm; July 4th from noon to 11pm; Dec. 31st from noon to 12:30am the following day; Jan. 1st from noon to 10pm; and every Saturday from noon to 10pm | <i>no response</i> |
| Gray | Chief Morrison | Fire Chief | No additional ordinance in response to the State Law; attempts at ordinance failed; Council took a "wait & see" approach | Not a fire/public safety issue in Gray - more of a noise/nuisance issue; resident petition in progress; Cumberland County Sheriff's office responded to 28 service calls (0 summonses) |
| Raymond | Chief Tupper | Fire Chief | No additional ordinance in response to the State Law; Council took a "wait & see" approach | Fire Dept. received a couple of complaints of noise and fireworks debris washing up on beach; one misfire incident caused small fire; Cumberland County Sheriff's office responded to 18 service calls (0 summonses) |
| Scarborough | Chief Thurlow | Fire Chief | Enacted local ordinance; Limits use of fireworks to 5 days/yr around July 4th and January 1st; Also has commercial fireworks ordinance and modified their noise ordinance to address fireworks. | 196 complaints logged due to mis-use, use during unauthorized times, use in illegal locations, use by underaged individuals, etc. (0 summonses) |
| South Portland | Dpty. Chief Miles Haskell | Deputy Fire Chief | Banned sales and use altogether within city limits with amendment to their Fire Prevention Ordinance | Det. Barker says they've received approximately 54 "report of shots" calls from Jan-Aug 2011 (No summonses) vs. 242 "report of shots" calls from Jan-Aug 2012 (4 summonses) [note that gunshots and fireworks are categorized together & multiple complaints from same person possible] |

| | | | | |
|-----------|---------------|--------------|--|---|
| Standish | Chief Libby | Fire Chief | State Law; no additional restrictions imposed by town; Council currently working with its ordinance committee to "tighten up rules"; no draft yet available | "several noise complaints" and only one injury transport. |
| Westbrook | Rick Gouzie | Code Officer | Mr. Gouzie indicated that no ordinance was enacted but fireworks were restricted to the commercial gateway zone; Fire Chief Pardue indicated that no further restrictions were implemented; Need to clarify - No ordinance amendments evident; | 137 calls for service received between 6/22-7/9/12; mostly nuisance related rather than emergency |
| Windham | Randi Lemieux | Police Dept | State Law; not additional restrictions | 162 calls for service; 144 classified "fireworks", 16 as "shots fired" and 1 as a "disturbance; (3 summonses - "Violations on Use-Time Restrictions) Note: calls from 1/1/12-12/31/12 |


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Consumer Fireworks in Maine

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Fireworks Law & Regulations

Fireworks Are Legal in The State of Maine with some exceptions as described below.

Under Chapter 416 "An Act to Legalize the Sale, Possession and Use of Fireworks" fireworks have been broken into three categories as follows:

1. **Consumer Fireworks**
2. **Fireworks**
3. **Display or Commercial Grade Fireworks**

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 United States Consumer Product Safety Commission standards, in accordance with 15 United States Code, Chapter 47. **"Consumer fireworks" does not include the following products which are illegal to sell, use or possess in Maine :**

- 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.

Exceptions: Under Chapter 416, the legislative body of a municipality may adopt an ordinance to prohibit or restrict the sale or use of consumer fireworks within the municipality. Municipalities that prohibit or restrict the sale or use of consumer fireworks shall provide to the Office of the State Fire Marshal a copy of the relevant restriction or prohibition within 60 days of adoption. A municipality may require that a person obtain a municipal permit for selling consumer fireworks within the municipality. A municipality that chooses to issue municipal permits under this subsection shall notify the Office of the State Fire Marshal at least 60 days prior to the initiation of its permitting program for the sale of consumer fireworks.

For more information on Consumer Fireworks in Maine including licensing to sell consumer fireworks in Maine go to: [Consumer Fireworks in Maine](#) or call Richard E. Taylor at 626-3873.

Fireworks means any combustible or explosive composition or substance; any combination of such compositions or substances; or any other article which was prepared for the purpose of producing a visible or audible effect by combustion, explosion,

deflagration or detonation, including blank cartridges or toy cannons in which explosives are used, they type of balloon which requires fire underneath to propel it, firecrackers, torpedoes, skyrockets, roman candles, bombs, rockets, wheels, colored fires, fountains, mines, serpents, or other fireworks of like construction; any fireworks containing any explosive substance or flammable compound; or any other device containing any explosive substance or flammable compound. The term "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.

Display or Commercial Grade Fireworks are fireworks that only trained and licensed pyrotechnicians may handle and use within a regulatory structure set forth in Title 8, Chapter 9-A.

ENFORCEMENT

It is the duty of the Investigations division of the State Fire Marshal's Office to enforce the following legislation.

Title 8, Section 222. A person may not possess or have under that person's control fireworks, unless they have a permit.

Title 8, Section 223. No person may sell or possess fireworks.

Title 8, 223-A. A person may not sell consumer fireworks without a license. See [Consumer Fireworks In Maine](#)

Title 8, Section 224. No person may store fireworks, except as permitted by the Department of Public Safety, State Fire Marshal's Office.

Title 8, Section 225. No person may transport fireworks, except as permitted by the Department of Public Safety, State Fire Marshal's Office.

Title 8, Section 226. No person may engage in the business of a fireworks display without first obtaining a permit from the Department of Public Safety, State Fire Marshal's Office.

Title 8, Section 227 Any person, municipality or association, desiring to discharge fireworks, must apply to the Department of Public Safety, State Fire Marshal's Office for a permit to discharge at least ten days in advance of the display.

Criminal Penalties

For possession with the intent to sell or offer for sale fireworks or display or commercial grade fireworks is a:

- Class B crime, if value exceeds \$5,000.
- Class C crime, if value exceeds \$1,000.
- Class D crime, if a person violates Title 8, Section 227 for failing to obtain a permit.
- Class D crime, if value is \$1,000 or less.

For simple possession of fireworks or display or commercial grade fireworks without the intent to sell or offer for sale it is a:

- Class E crime, if value possessed exceeds \$100.00
- Class E crime, if conducting the display in violation of the permit.
- Civil Violation for possession of fireworks where value does not exceed \$100.

For criminal penalties pertaining to the misuse, possession, or sale of consumer fireworks see [Consumer Fireworks In Maine](#)

Please remember: "Be Careful with Fireworks!"


If you have any questions, please contact the State Fire Marshal's Office at (207) 626-3873.

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Federal & State Fireworks Regulations

To help prevent injuries from fireworks-related incidents, the U.S. Consumer Product Safety Commission (CPSC) enforces federal laws that prohibit the sale of the most dangerous types of fireworks to consumers.

Fireworks Banned Under Federal Law

- M-80s
- Cherry Bombs
- Any Firecrackers containing more than 50 milligrams (about 1/16th of the weight of a typical aspirin tablet) of powder
- Large, re-loadable shells
- Aerial Bombs
- Mail Order Kits for Building Fireworks

As part of its fireworks enforcement program, the U.S. Consumer Product Safety Commission prevents large numbers of hazardous fireworks from reaching store shelves. Working with the U.S. Customs Service since 1988, CPSC has seized or detained over 400 million hazardous fireworks at docks across the country.

In March of 1997, a new CPSC standard that bans large, unstable, multiple tube fireworks took effect. This standard is designed to eliminate the deadly tip-over hazard that has killed two innocent bystanders, including a 3 year old boy, at family celebrations.

Before using fireworks, make sure they are permitted in your state or local area. Many state and local governments prohibit or limit consumer fireworks such as shells and mortars, multiple tube devices, roman candles, rockets, sparklers, firecrackers, and novelty items like snakes and airplanes.

States That Allow Some or All Types of Consumer Fireworks, Approved By Enforcing Authority, or as Specified in Law

- Alabama
- Alaska
- Arkansas
- California
- Colorado
- District of Columbia
- Florida
- Hawaii
- Idaho
- Indiana
- Kansas

- Kentucky
- Louisiana
- Maine
- Michigan
- Mississippi
- Missouri
- Montana
- Nebraska
- New Hampshire
- New Mexico
- North Carolina
- North Dakota
- Oklahoma
- Oregon
- South Carolina
- South Dakota
- Tennessee
- Texas
- Utah
- Virginia
- Washington
- West Virginia
- Wisconsin
- Wyoming

State Having No Fireworks Laws Except at County Level

- Nevada (CPSC regulations still apply)

States That Allow Only Sparklers and/or Other Novelties

- Illinois
- Iowa
- Maryland
- Ohio
- Pennsylvania

States That Ban All Consumer Fireworks



(Including those allowed by CPSC regulations)

- Arizona
- Connecticut
- Delaware
- Georgia
- Massachusetts
- Minnesota
- New Jersey
- New York
- Rhode Island

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- Vermont

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Cumberland.Maine

Cumberland Consumer Fireworks Ordinance

CUMBERLAND FIREWORKS ORDINANCE

1. Use and sale of consumer fireworks prohibited except as specified below.

(a) A person may not use or sell consumer fireworks, as defined in 8 M.R.S.A. §221-A, in the Town or in or from any watercraft within waters of the Town, except that the use of consumer fireworks shall be permitted pursuant to the state statute effective on January 1, 2012 on the following days and during the following times:

July 3rd beginning at 9:00 a.m. and ending at 10:00 p.m.

July 4th beginning at 9:00 a.m. and ending at 12:30 a.m. on July 5th

July 5th beginning at 9:00 a.m. and ending at 10:00 p.m.; and

December 31st beginning at 9:00 a.m. and ending on January 1st at 12:30 a.m.

January 1st beginning at 9:00 a.m. and ending at 10:00 p.m.

(b) Pursuant to 8 M.R.S.A. §227-B, nothing in this section shall be construed to limit or regulate fireworks displays, as defined in 8 M.R.S.A. §221-A, or the issuance of permits for fireworks displays by the Maine Commissioner of Public Safety or a designee.

2. Penalties.

(a) It is a civil violation for any person to use or sell consumer fireworks within the Town of Cumberland in violation of this ordinance, and any person found to have violated the ordinance shall be punished by a fine of two hundred dollars (\$200.00).

Adopted: December 12, 2011

Posted in: [Highlights](#), [News](#)



Falmouth, Maine, Code of Ordinances: Quick Reference Updated 06/11/2012



Chapter 3 - ANIMALS

Sec. 3-1. - 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:

At large means off the premises of the owner and not under the control of any person whose personal presence and attention would reasonably control the conduct of the dog. Premises includes residences, including land and buildings, and motor vehicles belonging to the owner or keeper of the dog.

Dangerous dog means a dog that bites an individual not trespassing on the dog owner's or keeper's premises at the time of the bite or a dog that causes a reasonable and prudent person who is not on the dog owner's or keeper's premises and is acting in a reasonable and non-aggressive manner to fear imminent bodily harm by assaulting or threatening to assault that individual or that individual's domestic animal. "Dangerous dog" does not include a dog certified by the state and used for law enforcement use.

Keeper means a person in possession or control of a dog.

Licensed dog means a dog whose owner or keeper has presented to town officials evidence that the dog has been vaccinated against rabies and has paid the annual registration fee for the dog.

Nuisance dog means a dog which by loud, frequent and continual barking, howling, or other loud or unusual noises, unnecessarily annoys or disturbs any person at any time.

Owner means any person, firm, association or corporation owning, keeping or harboring a dog.

(Ord. of 9-22-2003)

Sec. 3-2. - Licenses.

Each owner or keeper of a dog at the age of 6 months or over shall, on or before January 1, annually, or at such time as such dog becomes 6 months old, obtain a license from the town clerk's office in accordance with 7 M.R.S.A. Chapter 721.

(Ord. of 9-22-2003)

Sec. 3-3. - Dangerous dogs.

If a dog is determined by the town to be a dangerous dog, the town, including, without limitation, the animal control officer, shall order the owner or keeper of the dog to muzzle, restrain or confine the dog to the owner's or keeper's premises, or have the dog confined at the owner's or keeper's expense pursuant to section 3-5, and the town shall otherwise comply with 7 M.R.S.A. §3952.

(Ord. of 9-22-2003)

Sec. 3-4. - Nuisance dogs.

No owner or keeper of any dog kept within the town shall allow such dog to become a nuisance dog under the definitions of this chapter. Upon written complaint signed and sworn to by the person disturbed, any duly qualified law enforcement officials including, without limitation, the animal control officer, may investigate and may give written notice to the owner or keeper of such dog that such annoyance or disturbance must cease. If such annoyance or disturbance continues after a warning has been issued, the owner or keeper shall be guilty of a civil violation punishable by a fine of fifty dollars (\$50.00) for the first offense; and fifty dollars (\$50.00) for each subsequent offense. All fines so assessed and attorney's fees shall be recovered for use by the town.

No person shall be prosecuted under this chapter unless that person has had written warning from a duly qualified police officer or animal control officer in the town of Falmouth. The warning shall be made part of the complaint and shall include, but not be limited to, the date and time the warning was issued.

(Ord. of 9-22-2003)

Sec. 3-5. - Impoundment.

(a)

The town may take unlicensed dogs, whether or not at large, and dogs found running at large, whether or not licensed, with or without complaint and place the dog in a shelter designated by the town as the town animal shelter and there confined in a humane manner for a period of not more than thirty (30) days.

(b)

Where the ownership of any such dog is known or can be reasonably ascertained by the town, it shall, if possible, notify the owner within three (3) days of such impoundment, but failure to give such notice shall in no way impose any liability upon the town for the destruction or transfer of any dog so impounded and not reclaimed within said period of thirty (30) days of notice of impoundment.

(c)

Any owner or keeper may regain possession of a dog impounded pursuant to this section upon payment of the impoundment and boarding fees set forth herein. Any dog impounded under the provisions of this section and not reclaimed by the owner within said thirty (30) days shall be considered abandoned by the owner and shall become the property of the town animal shelter and may, after consultation with the Humane Society and/or the Animal Refuge League, be given to the Humane Society and/or Animal Refuge League or any person deemed to be responsible and a suitable owner, or as a last resort be humanely destroyed.

(Ord. of 9-22-2003)

Sec. 3-6. - Fees and boarding charges.

Prior to the release of an impounded dog, the owner shall pay the following to the town clerk:

(1)

An impoundment fee of forty dollars (\$40.00) for each dog except upon the second impoundment of the same dog, the fee shall be eighty dollars (\$80.00) and upon the third and all subsequent impoundments of the same dog, the fee shall be one hundred fifty dollars (\$150.00).

(2)

An animal shelter boarding fee, and related reasonable expenses.

It shall be the duty of the town to keep or cause to be kept a detailed and complete record of the impoundment and disposition of all dogs coming into his/her custody.

Chapter 10- USE OF FIREARMS

Sec. 10-1. - Use of firearms.

This section is enacted pursuant to 30-A M.R.S.A. § 3001 and the home rule authority of the town in order to provide for the safety of residents of the town; to eliminate a threat to the peaceable enjoyment and use of property; and to maintain an appropriate educational environment on public school property.

(a)

Trespass with a firearm. A person in possession of a firearm who is not a duly authorized law enforcement officer engaged in the proper exercise of his

duties, shall not enter upon private property for any purpose without the permission of the property owner.

(b)

Discharge of firearms. The discharge of firearms, including without limitation handguns, rifles, shotguns and gas-operated weapons, for any purpose in the town is hereby prohibited with the following exceptions:

(1)

The discharge of shotguns in connection with lawful hunting is allowed, where prior permission of the property owner has been obtained, in the following areas of the town:

a.

The area within fifty (50) feet inland from the high-water mark along the Presumpscot River estuary from Interstate 295 on the northerly shore of the estuary to a point where the easterly sideline of Greenway Drive extended northerly would intersect the high-water mark;

b.

The shoreline of Casco Bay from the Martin Point Bridge to the Town of Cumberland, except the area designated as part of the Back Cove Sanctuary as described in 12 M.R.S.A. § 7651; and

c.

The entire area lying westerly of Middle Road except the following school and residential zones:

(i)

The area bounded by Middle Road, Falmouth Road, Allen Avenue Extension and that portion of the Presumpscot River that runs between Allen Avenue Extension and the Middle Road, which area also includes the Plummer-Motz School and the Lunt School;

(ii)

The area surrounding the Falmouth Middle/High School and bounded by Woodville Road, Falmouth Road, the East Branch of the Piscataqua River (except the area fifty (50) feet from the easterly shore thereof) and Field Road, provided, however, that this prohibition shall not apply within such area if, before October 1, each year, the police chief reports to the town council that (i) a line five hundred (500) feet from

the school property line is posted with signs including the language "No Hunting" and at intervals not less than one hundred (100) feet and (ii) hunting is allowed only with the written permission of the landowner, which permission must be kept in the possession of the hunter. The erection of signs as provided herein shall be at the option of the landowner and at the expense of the town. Such signs must be maintained throughout the hunting season.

(2)

For those areas in which the discharge of firearms is permitted, when the discharge of a firearm is within five hundred (500) feet of any dwelling, the permission of an adult residing at the dwelling unit must be obtained prior to any discharge.

(3)

The discharge of .22 caliber pistols at night in conformity with state regulation for the purpose of hunting raccoons is allowed in those areas designated for the discharge of shotguns under paragraph (1).

(4)

Target practicing is allowed, but only in those areas of the town designated for discharge of shotguns under paragraph (1) and only within the confines of areas for which a permit as a range has been obtained from the chief of police and only with such types and calibers of firearms and under such conditions as shall be specifically enumerated by the chief of police in such permit. Such permit shall be valid for any period of time as shall be designated thereon by the chief of police but in no event shall any such permit be valid without renewal for more than one (1) year. The chief of police shall refuse to issue a permit only when he finds that the issuance of such permit will pose a danger or possibility of danger to life or property.

(5)

The discharge of firearms is allowed on their own property by those property owners and their permittees described in, and for all purposes listed in, 12 M.R.S.A. §§ 7501, 7502, and 7504, and all other Maine statutes regulating hunting.

(c)

The permission required by subsections (a) and (b) of this section may be evidenced either by a writing from the owner or dwelling resident as the case may be, kept on the person of the permittee or, implicitly, if the owner does not post signs at approximately eye level at reasonable intervals around the

perimeter of the property indicating that trespassing is prohibited, except that written permission must be obtained to discharge a firearm with five hundred (500) feet of any dwelling.

(d)

Possession of firearms on school property. The possession of firearms on school property is prohibited except in connection with supervised educational programs.

(e)

No hunting at Falmouth Community Park. Hunting within Falmouth Community Park, with either firearms or bow and arrow, is prohibited within three hundred (300) feet of any playing field, parking area or established walking paths.

(f)

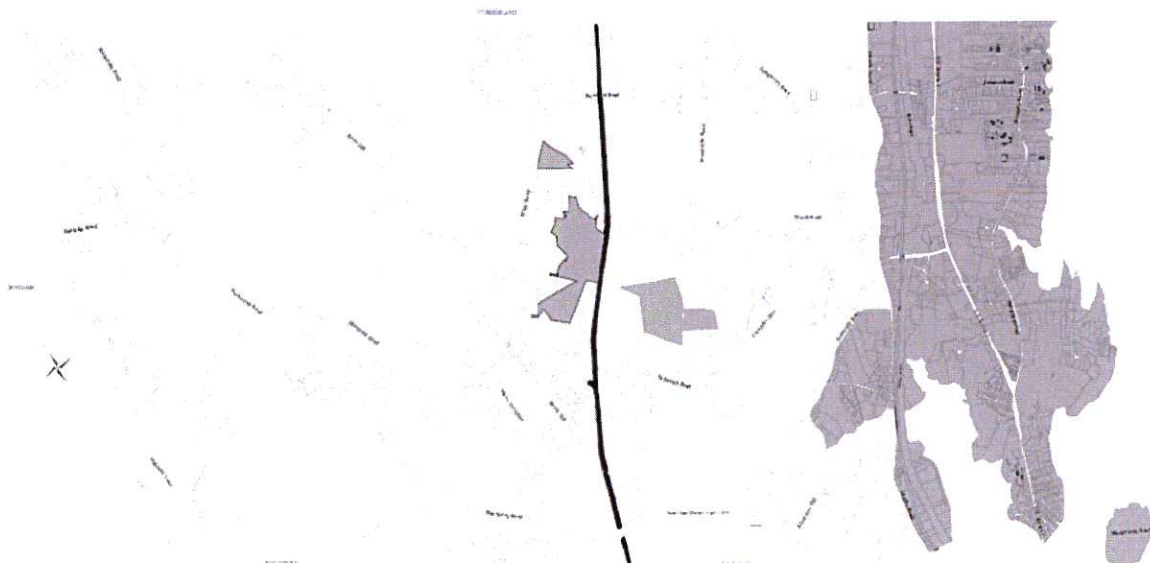
Protection of life and property. Nothing in this section shall be construed to prohibit the use of firearms when justified for the protection of human life or property or by duly authorized police officers in the proper exercise of their duties.

(g)

Enforcement and penalty.

(1) Police officers of the town shall have the authority and power to enforce this section.

(2) Any person violating this section shall be subject to the maximum fine allowable under the Town Charter for the Town of Falmouth and/or confiscation of the firearm used in such violation.



NO DISCHARGE OF FIREARMS IN SHADED AREAS
Falmouth, Maine



Sec. 10-4. - Use and sale of consumer fireworks prohibited.

(a)

A person may not use, sell or offer for sale consumer fireworks, as defined in 8 M.R.S.A. §221-A, in the town.

(b)

In addition to applicable penalties provided by 8 M.R.S.A. §223-A, violation of the provisions of this section is a civil violation punishable in accordance with section 1-14. The Town Police Department may confiscate and dispose of any consumer fireworks that are in violation of this section.

(c)

Pursuant to 8 M.R.S.A. §227-B, nothing in this section shall be construed to limit or regulate fireworks displays, as defined in 8 M.R.S.A. §221-A, or the issuance of permits for fireworks displays by the Maine Commissioner of Public Safety or a designee.

Chapter 12 – NOISE/LITTERING

Sec. 12-1. - Loud, offensive noises prohibited.

No person shall make, continue or cause to be made or continued any loud, boisterous, unnecessary or unusual noises which shall either annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of others. The sounding of any horn or signalling device except as a danger warning; the playing of any radio, musical instrument, phonograph or any other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of neighboring inhabitants and passersby; the use of any loudspeaker or amplifier for the purpose of commercial advertising or attraction of the public to a specific building, location or business; yelling, shouting, hooting, whistling, or singing shall be considered to be loud, disturbing, and unnecessary noises and a violation of this section but such enumeration shall not be deemed exclusive.

(Code 1966, Ch. 303, § 1)

Cross reference— Animals, Ch. 3; buildings and building regulations, Ch. 4; mobile homes and mobile home parks, Ch. 11; traffic and motor vehicles, Ch. 17.

Sec. 12-2. - Littering prohibited.

(a)

No person shall throw or deposit, or cause to be thrown or deposited in any street, sidewalk, court, square, lane, alley or public place, any sawdust, soot, ashes, cinders, garbage, paper, shavings, hair, shreds, manure, oysters, clam or lobster shells, waste or dirty water or any animal, vegetable or offensive matter whatsoever. No person shall throw or cast any dead animal or any foul or offensive matter in any dock or within the tidelands, nor shall land any foul or offensive animal or vegetable substance within the town. No person shall cast any waste or garbage in the waters of Casco Bay, Falmouth portion of Highland Lake, Presumpscot River, all branches of the Piscataquis River, Mill Creek and other Falmouth waters. No person shall throw, cast or place any living animal with intent to drown the same in any dock or any area listed above. It shall be the duty of the town manager or his designated official to cause the enforcement of the provisions of this section and to prosecute any and all persons violating any provisions.

(b)

All dirt, sawdust, soot, ashes, cinders, garbage, paper, shavings, hair shreds, manure, oysters, clam or lobster shells or any animal or vegetable substances or foul or offensive material or filth of any kind in any house, building, cellar, yard or other place which the health officer shall deem necessary for the health of the town to be removed shall be carried away therefrom by and at the expense of the owner or occupant of such house or other place where the same shall be found, and removed to such place as directed within twenty-four (24) hours after notice in writing to that effect given by the chief of police or health officer.

(c)

Whenever any person shall have been duly notified to remove any of the above substances or to perform any other act or thing which it may be his duty to perform for the preservation of the health of the town and the time limit for the performance of such duty shall have elapsed without a compliance of such notice, the chief of police or health officer shall forthwith cause such substance to be removed at the expense of the person so notified. The chief of police or health officer shall cause all persons who shall violate or disobey any provision of this section to be prosecuted and punished.

(d)

If in the opinion of the health officer, it shall be for the health or comfort of the inhabitants of the town that any particular substance should be removed forthwith and without delay, it shall be his duty to cause the same to be removed accordingly. If the substance existed in violation of this section or of any of the laws, regulations or ordinances relating to the health of the town, then the expense of removing the same shall be paid by the owner or occupant of the house or other place where the

same was found. If payment shall be refused on demand by the chief of police, a suit shall be filed in the name of the town.



Town of Gorham

Consumer Fireworks Ordinance

**Adopted August 7, 2012
Effective September 6, 2012**

SECTION 1: Purpose

1.1 This Ordinance regulates the use of consumer fireworks to ensure the safety of the residents and property owners of the Town of Gorham and of the general public.

SECTION 2: Title and Authority

2.1 This Ordinance shall be known as the "Town of Gorham 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 8 M.R.S.A. § 223-A.

SECTION 3: Definitions

3.1 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:

3.2 Consumer Fireworks – "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 United States Consumer Product Safety Commission standards, in accordance with 15 United States Code, Chapter 47. "Consumer fireworks" does not include the following products which are illegal to sell, use, or possess in Gorham or the State of Maine:

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 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.

3.3 Display or Commercial Grade Fireworks – Fireworks that only trained and licensed pyro-technicians may handle and are regulated by the State of Maine and Federal Law.

SECTION 4: Permit Required

4.1 No person shall use, display, fire, or cause to be exploded, consumer fireworks within the Town of Gorham without a permit. This Section shall not apply to a person in possession of a fireworks display permit by the State of Maine pursuant to Title 8, MRSA Section 227-A.

4.2 No permit shall be issued on any day with a Fire Danger Class of 3, 4, or 5.

4.3 A person may use consumer fireworks only on that persons property or on the property of a person who has consented, in writing, to the use of consumer fireworks on that property.

SECTION 5: Use of Consumer Fireworks Restricted

5.1 No person shall use, display, fire, or cause to be exploded, consumer fireworks within 150 feet of any buildings or structures.

5.2 A person shall not use, display, fire, or cause to be exploded consumer fireworks within the Town of Gorham or in or from any watercraft within waters of the Town except on the following days and during the following times:

- A) July 3rd, beginning at 12pm (noon) and ending at 10pm;
- B) July 4th, beginning at 12pm (noon) and ending at 11 p.m.;
- C) December 31st, beginning at 12pm (noon) and ending at 12:30 a.m. the following day; and
- D) January 1st, beginning at 12pm (noon) and ending at 10:00 p.m.
- E) Every Saturday beginning at 12pm (noon) and ending at 10pm.

SECTION 6: Violation and Enforcement

6.1 PENALTY FOR VIOLATION: Any person who violates the provisions of this Ordinance shall commit a civil violation punishable by a penalty of not less than two hundred dollars (**\$200.00**) and not more than five hundred dollars (\$500.00) plus attorney's fees and costs to be recovered by the Town of Gorham for its use. Each incident shall constitute a separate violation.

6.2 ENFORCEMENT: This Ordinance shall be enforced by the Town of Gorham Police Department.

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

6.4 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 7: Exceptions

7.1 This Ordinance does not apply to a person or group of persons issued a fireworks permit by the Town of Gorham pursuant to the State of Maine in accordance with 8 M.R.S.A. §§ 227-A to 237.

7.2 The Town of Gorham is exempt from the provisions of this Ordinance.

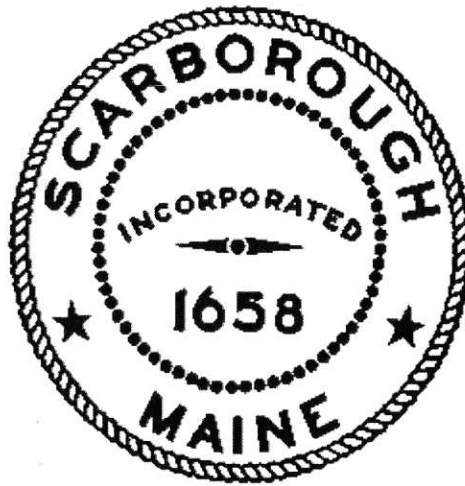
SECTION 8: Severability

8.1 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.

CHAPTER 608A

TOWN OF SCARBOROUGH

CONSUMER FIREWORKS ORDINANCE



ADOPTED MARCH 7, 2012

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CHAPTER 608a
TOWN OF SCARBOROUGH
CONSUMER FIREWORKS ORDINANCE

SECTION I: Purpose

This Ordinance regulates the use of consumer fireworks to ensure the safety of the residents and property owners of the Town of Scarborough and of the general public.

SECTION II: Title and Authority

This Ordinance shall be known as the "Town of Scarborough 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 8 M.R.S.A. § 223-A.

SECTION III: 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 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 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 IV: Use of Consumer Fireworks Restricted

A person shall not use, display, fire, or cause to be exploded consumer fireworks within the Town of Scarborough or in or from any watercraft within waters of the Town except on the following days and during the following times:

- a) July 4th, beginning at 9:00 a.m. and ending at 12:30 a.m. the following day;
- b) July 3rd and July 5th, beginning at 9:00 a.m. and ending at 12:30 a.m. the following day when July 3rd and July 5th fall on a weekend, and beginning at 9:00 a.m. and ending at 10:00 p.m. when July 3rd and July 5th fall on a weekday;
- c) December 31st, beginning at 9:00 a.m. and ending at 12:30 a.m. the following day; and

- d) January 1st, beginning at 9:00 a.m. and ending at 10:00 p.m.

SECTION V: Violation and Enforcement

- a) **PENALTY FOR VIOLATION:** Any person who violates the provisions of this Ordinance shall commit a civil violation punishable by a penalty of not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00) plus attorney's fees and costs to be recovered by the Town of Scarborough for its use. 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 Scarborough Police Department.
- c) **INJUNCTION:** In addition to any other remedies available at law or equity, the Town of Scarborough, 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 VI: Exceptions

This Ordinance does not apply to a person or group of persons issued a fireworks display permit by the Town of Scarborough pursuant to the Town of Scarborough Fireworks Display Ordinance, Chapter 608, and/or the State of Maine in accordance with 8 M.R.S.A. §§ 227-A to 237.

The regulation of the display of fireworks shall otherwise be as provided for in the Town of Scarborough Fireworks Display Ordinance, Chapter 608, and any other applicable state or federal law or regulation.

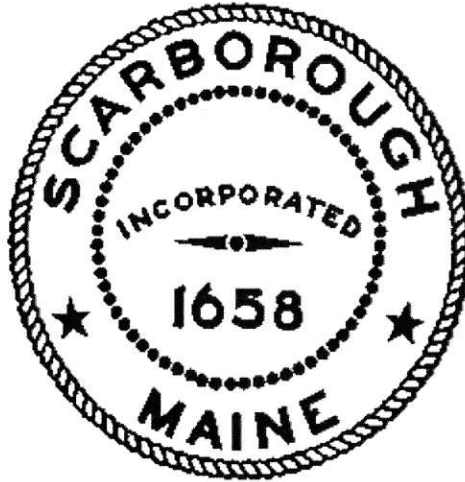
SECTION VII: Severability

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.

CHAPTER 608

TOWN OF SCARBOROUGH

FIREWORKS DISPLAY ORDINANCE



ADOPTED OCTOBER 5, 1988
AMENDED JUNE 15, 2005
AMENDED MARCH 7, 2012

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**CHAPTER 608
TOWN OF SCARBOROUGH
FIREWORKS DISPLAY ORDINANCE**

SECTION I Purpose & Title

This ordinance recognizes the need for regulation of the display of fireworks to assure the safety of the spectators, property owners, citizens, and visitors of the Town of Scarborough. This Ordinance shall be known as the "Town of Scarborough Fireworks Display Ordinance."
[amended 03/07/2012]

SECTION II Definitions

Display Fireworks - Any combustible or explosive composition or substance; any combination of such compositions or substances; or any other article which was prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, including any device containing any explosive substance or flammable compound. Display fireworks are classed as Explosives, 1.3G and described as Fireworks, UN0335 by the U. S. Department of Transportation. Display fireworks do not include consumer fireworks as defined in 8 M.R.S.A. §221-A. [amended 03/07/2012]

Proximate Audience – An audience closer to pyrotechnic devices than permitted by NFPA 1123, Code for Fireworks Displays.

Pyrotechnic Device – Any device containing pyrotechnic materials and capable of producing visual or audible effects by combustion, deflagration, or detonation.

SECTION III Regulations & Codes

Fireworks storage, transportation, and displays are regulated through laws, codes and standards including:

- a) State of Maine Laws for the Fire Service, 1997 edition, Title 8, section 222-227
- b) NFPA 1123 Code for Fireworks Displays
- c) NFPA 1126 Use of Pyrotechnics before a proximate audience
- d) Title 49 CFR, Federal Regulation for Transport
- e) Title 27 CFR, Part 181 Commerce in Explosives

All fireworks display operators shall be technicians licensed by the State of Maine Fire Marshal's Office.

SECTION IV Permit Required

No person shall possess, store, arrange, or detonate Display Fireworks within the Town of Scarborough after the effective date of this ordinance without holding a valid permit from the Scarborough Fire Department and a valid permit from the State of Maine Fire Marshal's office.

No person shall possess, store, arrange, or detonate pyrotechnic devices before a proximate audience within the Town of Scarborough after the effective date of this ordinance without holding a valid permit from the Scarborough Fire Department and a valid permit from the State of Maine Fire Marshal's office.

The Scarborough Fire Department may issue a seasonal permit for outdoor pyrotechnic displays before a proximate audience that are regularly scheduled, are detonated from an approved location, and are similar in size and effect.

SECTION V Application Procedure

Application for a fireworks display permit shall be made to the Scarborough Fire Department by the responsible party for the display at least ten (10) days prior to the event as outlined below:

- a) Prior to applying for a Scarborough Fire Department Fireworks Permit the applicant must have a valid State of Maine permit issued by the State Fire Marshal's office.
- b) A copy of the State Fire Marshal's permit application and written State Fire Marshal's permit shall accompany the local permit application form.
- c) Written permission from the local landowner of the property from where the fireworks will be detonated shall accompany the local permit application form.
- d) The proper fee as outlined in the current Town of Scarborough Schedule of License, Permit, and Application Fees shall be paid prior to the issuance of a local fireworks display permit.

SECTION VI Fire Protection Coverage

The Chief of the Scarborough Fire Department, or his designee, shall determine what, if any, fire department resources will be required to stand by during the event based on the size of the display, the current weather conditions, and other safety factors. The Fire Chief or his designee shall make the final decision as to the safety of the scene and weather conditions, and will either grant or deny permission for the display to proceed after evaluating the current conditions at the proposed time for the event.

SECTION VII Permit, Apparatus, & Manpower Fees

The Scarborough Fire Department shall collect a reasonable permit fee that is sufficient to offset the cost of administration and inspection of the site. The applicant shall also be responsible for reimbursing the Town of Scarborough for the required fire apparatus and manpower coverage to assure safety during the display as specified in Section VI and deemed appropriate by the Scarborough Fire Chief, or his designee. The permit amount and the rates for apparatus and manpower are published in the current Town of Scarborough Schedule of License, Permit, and Application Fees.

SECTION VIII Notifications

The applicant must submit a written notification plan that addresses how they intend to notify the neighbors and general public of the proposed event. This notification plan must be approved by the Police Chief, or his designee, prior to the issuance of a Fireworks Permit. Evidence that the notifications were made according to the approved plan must be presented before permission to proceed with the show will be given as outlined in Section VI.

SECTION IX Hours of Detonation

No person shall detonate or discharge or cause to be detonated or discharged or permit to be detonated or discharged on his property any fireworks within the Town of Scarborough after the hour of 10:30 P.M. daily, prevailing time.

SECTION X Violation and Enforcement

- a) **PENALTY FOR VIOLATION:** Any person who violates the provisions of this Ordinance shall commit a civil violation punishable by a penalty of not less than \$100.00 and not more than \$500.00 to be recovered on complaint to the use of the Town of Scarborough. Each day such violation occurs or continues to shall constitute a separate violation.
- b) **PENALTY FOR WILLFUL VIOLATION:** Any person who violates the provisions of this ordinance after having been informed by any officer or employee or agent of the Town of Scarborough that a planned or anticipated detonation or discharge of fireworks would violate this Ordinance shall be fined \$10,000.00.
- c) **ENFORCEMENT:** This Ordinance shall be enforced by the Town of Scarborough Police Department.
- d) **INJUNCTION:** In addition to any other remedies available at law or equity, the Town of Scarborough, acting through its Town Manager, may apply to any court of competent jurisdiction to enjoin any planned, anticipated or threatened violation of this Ordinance.

SECTION XI 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.

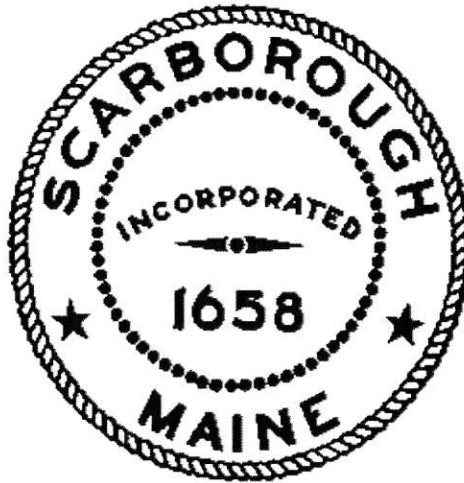
SECTION XII Consumer Fireworks.

The regulation of consumer fireworks is as enumerated in the Town of Scarborough Consumer Fireworks Ordinance, Chapter 608A, and any other applicable state or federal law or regulation.
[adopted 03/07/2012]

CHAPTER 614

TOWN OF SCARBOROUGH

NOISE ABATEMENT ORDINANCE



ADOPTED NOVEMBER 7, 2007
AMENDED March 7, 2012

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CHAPTER 614
TOWN OF SCARBOROUGH
NOISE ABATEMENT ORDINANCE

Section 1. Loud, offensive noises prohibited.

No person shall make, continue or cause to be made or continued any loud, boisterous, unnecessary or unusual noises which shall annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of others.

Section 2. Definitions.

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

Daytime hours means the hours between 7:00 a.m. and 9:00 p.m. Monday through Thursday; between 7:00 a.m. and 10 p.m. Friday through Saturday; and between 9:00 a.m. and 9:00 p.m. on Sunday.

Domestic power equipment means but is not limited to power saws, drills, grinders, lawn and garden tools and other domestic power equipment intended for use in residential areas by a homeowner.

Nighttime hours means the hours between 9:00 p.m. and 7:00 a.m. Sunday evening through Friday morning; between 10:00 p.m. and 7:00 a.m. Friday evening through Saturday morning; and between 10:00 p.m. and 9:00 a.m. Saturday evening through Sunday morning.

Property line means that line along the ground surface and its vertical extension which:

- (1) Separates real property owned or controlled by any person from contiguous real property owned or controlled by another person; or
- (2) Separates real property from the public right-of-way.

Section 3. Enforcement.

- (a) This ordinance may be enforced by any officer of the Scarborough Police Department.
- (b) No person shall interfere with, oppose or resist any authorized person charged with the enforcement of this ordinance while such person is engaged in the performance of his duty.
- (c) Violations of this ordinance shall be prosecuted in the same manner as other civil violations; provided, however, that for an initial violation of this ordinance, a written notice shall be given the alleged violator which specifies the time by which the condition

shall be corrected. No complaint or further action shall be taken on the initial violation if the cause of the violation has been removed or the condition abated or fully corrected within the time period specified in the written notice. If the cause of the violation is not removed or the condition abated or fully corrected within the time period specified in the written notice, or if the same person commits a subsequent violation of the same provision or provisions, of this ordinance specified in the written notice, then no further action is required prior to prosecution of the civil violation.

- (d) If the alleged violator cannot be located in order to serve the notice of intention to prosecute, the notice as required shall be deemed to be given upon mailing such notice by registered or certified mail to the alleged violator at his last known address or at the place where the violation occurred, in which event the specified time period for abating the violation or applying for a variance shall commence at the date of the day following the mailing of such notice.

Section 4. Penalties.

Any person who violates any section of this ordinance or fails to obey any lawful order of any officer charged with the enforcement of the provisions contained herein commits a civil violation and shall be fined not less than \$100 for each day such violation continues after the time for correction of the violation specified in the notice under Section 3(c) has expired. Every day of continued violation constitutes a separate violation, and the amount of the fine shall be doubled for each day the violation continues, up to a maximum of \$400.00 per day.

Section 5. Exclusions.

This ordinance shall not apply to noise emitted by or related to:

- (1) Any bell or chime from any building clock, school or church.
- (2) Any siren, whistle, or bell lawfully used by emergency vehicles or any other alarm systems used in an emergency situation; provided, however, that burglar alarms or car alarms not terminating within 30 minutes after being activated shall be unlawful.
- (3) Warning devices required by the Occupational Safety and Health Administration or other state or federal safety regulations.
- (4) Farming equipment or farming activity.
- (5) Noise from domestic power equipment, such as but not limited to power saws, sanders, grinders, lawn and garden tools or similar devices operated during daytime hours.
- (6) Timber harvesting (felling trees and removing logs from the woods).
- (7) Noise generated by any construction or demolition equipment which is operated during daytime hours. Emergency construction or repair work by public utilities shall also be exempted. The police department may allow construction during nighttime hours if it is

demonstrated that the extenuating circumstances disallow construction during the daytime hours.

- (8) Noise created by refuse and solid waste collection.
- (9) Municipal, public works or utility projects.
- (10) Using, displaying, firing, or exploding consumer fireworks within the Town of Scarborough in accordance with the Consumer Fireworks Ordinance, Chapter 608A and any other applicable law or regulation. [adopted 03/07/2012]

Section 6. Specific prohibitions.

The following acts, among others, are declared to be loud, boisterous, unnecessary or unusual noises which shall annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of others in violation of this ordinance, but such enumeration shall not be deemed to be exclusive: [amended 03/07/2012]

- (1) Owning, possessing or harboring a barking dog or any animal or bird which, frequently and repeatedly or for continued duration, makes sounds which create a noise disturbance across a property line onto residential property. For the purpose of this ordinance, a barking dog shall mean a dog that barks, bays, cries, howls or makes any other noise continuously and/or incessantly for a period of ten minutes or barks intermittently for one-half hour or more to the disturbance of any person at any time of day or night, regardless of whether the dog is physically situated in or upon private property; provided, however, that a dog shall not be deemed a "barking dog" for purposes of this ordinance if, at the time the dog is barking or making any other noise, a person is trespassing or threatening to trespass upon private property in or upon which the dog is situated. Frequent and repeated sounds by any animal which are reasonable in response to the use of consumer fireworks shall not be considered a violation of this ordinance. [amended 03/07/2012]
- (2) The using or operating or the permitting to be played, used or operated of any radio, receiver, electronically amplified musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of music or sound which is audible outside of any structure during the nighttime hours or which broadcasts the sound in a loud and unreasonable manner during day-time hours which is audible a minimum of 200 feet from the source of the noise except as otherwise permitted, licensed or sponsored by the Town.
- (3) The use of any automobile, motorcycle or other vehicle, nonessential to safe and reasonable operation, in one or more of the following ways:
 - a. Revving of motor vehicle engines.
 - b. Squealing of tires.

- c. Accelerating or braking unnecessarily so as to cause a harsh, objectionable or unreasonable noise.
- d. Operating audio equipment clearly audible beyond the confines of a motor vehicle.

Section 7. Severability.

Should any section or provision of this ordinance be determined in a court of law to be unconstitutional, invalid or unenforceable, such determination shall not affect the validity of any other portion of the ordinance or of the remainder of the ordinance as a whole.

ARTICLE VIII. CONSUMER FIREWORKS

Sec. 8-115. Definitions.

As used in this Article, the following term shall have the meaning ascribed to it in this section:

Consumer Fireworks has the same meaning as the term set forth in 27 Code of Federal Regulations, Section 555.11, as may be amended from time to time, but includes only products that are tested and certified by a third 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.

(Ord. No. 5-11/12, 10/3/11 [Fiscal note: Less than \$1000])

Sec. 8-116. Prohibition.

No person shall use, possess with the intent to use, sell, possess with the intent to sell or offer for sale consumer fireworks in the City; provided, however, that this Article does not apply to a person issued a fireworks display permit by the City and/or State of Maine pursuant to 8 M.R.S.A. § 227-A, as may be amended from time to time.

(Ord. No. 5-11/12, 10/3/11 [Fiscal note: Less than \$1000])

Sec. 8-117. Penalties.

(a) Any person who uses consumer fireworks or possesses consumer fireworks with the intent to use them in the City shall be punished by a fine of not less than two hundred dollars (\$200.00) and not more than four hundred dollars (\$400.00) plus costs. 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) per violation plus costs shall be imposed.

(b) Any person who sells consumer fireworks or possesses consumer fireworks with the intent to sell them in the City shall be punished 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 (\$1,000.00) per violation plus costs shall be imposed.

(Ord. No. 5-11/12, 10/3/11 [Fiscal note: Less than \$1000])

Sec. 8-118. Seizure and Disposal.

The City may seize consumer fireworks that the City has probable cause to believe are used, possessed or sold in violation of this Article or in violation of State law and shall forfeit the seized consumer fireworks to the State of Maine for disposal.

(Ord. No. 5-11/12, 10/3/11 [Fiscal note: Less than \$1000])

A.

Fireworks Sales and Display

1.10.2012 Discussion Item.

LUOC's recommendation to pass regulation prohibiting use and/or sale of fireworks.

Town Planner Brooks More, Fire Chief Charlie Hammond & Police Chief Rick Lewsen spoke.

Public comment by:

Bob Wehmeyer

Wayne Berzinis

Bob Muir

Jim Hanscom

2.14.2012 Public Hearing A.

Discussion Item. Gary Plummer gave presentation.

Public comment by:

Sheila Corey – Against prohibition, but have restrictions

Liz Wisecup – In favor of ban

Gary Lytle – Allow on holidays only

Patrick Corey – Do not prohibit sale/use

6.26.2012 Public Participation.

Joseph Bushy, Falmouth Rd., complaint

7.10.2012 Public Participation

Chris Henderson, Main St., complaint

Grant Byras, Harvest Hill Rd., complaint

Michael Green, River Rd., complaint

Allison Sands, Ward Rd., complaint

Bob Bittenbender, Dutton Hill Rd., complaint

Jeff Lander, Dutton Hill Rd., complaint

Sharon Byras, Harvest Hill Rd., complaint

7.24.2012 Public Participation

Michael Green, River Rd., complaint

Priscilla Payne, River Rd., complaint



8.14.2012 Public Participation

Susan Hiltunen, Gray Rd., complaint

Martha Owen, Misty Dr., complaint

9.19.2012 Letter to Council and Manager

Ronald Collins, complaint

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|--|--|---|--|
|  Agencies Online Services Help | | Page Tools <input type="button" value="GO"/> | State Search: <input type="text"/> <input type="button" value="GO"/> |
|  <div> DEPARTMENT OF PUBLIC SAFETY Office of State Fire Marshal STATE OF MAINE </div> | | Site Map Search Fire Marshal's Office: <input type="text"/> <input type="button" value="Go"/> | |
| Home Contact Us Online Services Newsletter FMO Annual Reports Fire Safety Articles FAQ Resources for the Fire Services | | | |
| BUREAU INFORMATION | | on Home > Fire Marshal's Message | |
| Fire Marshal's Message | | <h2>Consumer Fireworks in Maine</h2> | |
| Investigations | | <p>The 125th Maine Legislature has enacted Public Law, Chapter 416 ""An Act to Legalize the Sale, Possession and Use of Fireworks.""</p> | |
| Inspections | | <p>The Fire Marshal's Office wants this to work for Maine. We'd like to see new businesses and jobs created as result of this law but most importantly however, we want to accomplish this as safely as possible. We do not want to see major increases in fireworks related fires or injuries and we are relying on those who sell consumer fireworks to make sure the purchasing public is aware of the inherent dangers and proper procedures for use. Users need to listen to licensed sales staff and exercise the caution they prescribe in the selection and use of these products.</p> | |
| Plans Review | | <ul style="list-style-type: none"> Hospital Injury Report Form Physician Practice Injury Report Form Application and Checklist and Prescribed Municipal Permit Adopted Rule, Chapter 36, Consumer Fireworks Sales License Maine's Consumer Fireworks Law National Fire Protection Association, Code 1124 2001 American Pyrotechnics Association Standard 87-1, 2001 edition U.S. Consumer Products Safety Commission Summary of Consumer Fireworks Regulations Consumer Products Safety Commission 2010 Fireworks Annual Report National Fire Protection Association 2012 Report on Fireworks Fires Municipal Restrictions and Prohibitions on Consumer Fireworks List of Consumer Fireworks that Illegal to sell, use, or possess in Maine National Council on Fireworks Safety (see video) | |
| Fire Sprinklers | | <h3>Application Materials to Sell Consumer Fireworks in Maine</h3> | |
| Maine Fire Incident Reporting System | | <p>If you are interested in obtaining a license to sell consumer fireworks in Maine please take a moment to consider some of the basic requirement listed below, contact our office, and download the application and application checklist below.</p> | |
| Maine Fire Protection Services Commission | | <ul style="list-style-type: none"> You must be 21 years of age to obtain a license to sell consumer fireworks in Maine. You must have a federal permit to sell consumer fireworks as described under Title 18, United States Code, Section 843 You may also need a local permit to sell in a given town. Check to see if the sale of consumer fireworks is allowed in the town whee you plan to operate your business. Some towns may not allow the sale of consumer fireworks nor their use. You may only sell consumer fireworks from a fixed, permanent, stand alone building dedicated solely to the sale of consumer fireworks. Be sure to check with the appropriae code officials from the community in which you are planning to sell fireworks. A permit may be required | |
| Fire Service Rules & Laws | | | |
| Research & Reports | | | |
| Personnel Directory | | | |
| Maine Reduced Ignition Propensity Cigarette Program | | | |
| Consumer Fireworks in Maine | | | |

and if it is, the Fire Marshal's Office will want a copy during the application process.

- It is *highly recommended that you consult with an architect prior to building a new consumer fireworks sales facility building or before you remodel another building into a consumer fireworks sales facility to ensure that you are in compliance with NFPA 1124, Code for the Manufacture, Transportation, Storage, Retail Sales of Fireworks and Pyrotechnic Articles*, 2006 edition, section 7.3.3., and NFPA 101, *Life Safety Code*, chapter 36 for new mercantile occupancies. Plans for any new mercantile occupancy (a fireworks sales facility) exceeding 3000 Sq. ft. must be reviewed by the Fire Marshal's Office. If you have questions about your facility we encourage you to call the number below. If you require a plans review we urge you to submit your architectural drawings well in advance of when you wish to be permitted. Our plans reviewers work on a first come first serve basis and it may take weeks before your plans can be reviewed.
- SPECIAL NOTICE: In accordance with Title 10, Part 14, Chapter 1103, *Maine Uniform Building and Energy Code*, the Technical Building Codes and Standards Board met and voted unanimously to resolve the sprinkler requirement conflict between the fire code and the building code by requiring all consumer fireworks retail sales facilities to be fully sprinkled regardless of the size or age of the facility. However, the MUBEC will not require all facilities licensed to sell fireworks in Maine to have an NFPA 13 sprinkler system. There are alternatives, for more information please contact our office.

These are just some of the requirements you need to consider before developing your business plan. For more information on licensing fees, building, storage and handling requirements in addition to prohibited acts, insurance, liability and other restrictions please take a moment to few the links to the documents below. The Fire Marshal's Office is currently considering proposed rules for the licensure of retail fireworks facilities in Maine. See [contact information](#) below for more information.

Be aware that all advertising for the sale of consumer fireworks, be it print, internet, TV or radio, must contain the following language in a conspicuous location and in a consistent font:

Check with your local fire department to see if consumer fireworks are allowed in your community.

[Application to Sell Consumer Fireworks](#)

[Application Checklist](#)

[Municipal Permit to Sell Consumer Fireworks](#)

Illegal Consumer Fireworks

Under Chapter 416, "An Act to Legalize the Sale, Use, and Possession of Fireworks" the following products are illegal to sell, use, or possess in Maine.

1. **Missile Type Rockets.** A device similar to a sky rocket in size, composition, and effect that uses fins rather than a stick for guidance and stability. Missiles shall not contain more than 20 grams of total chemical composition.
2. **Helicopters and Aerial Spinners.** A tube containing more than 20 grams of chemical composition, with a propeller blade attached. Upon ignition the rapidly spinning device rises into the air. A visible or audible effect may be produced at or near the height of flight.
3. **Sky Rockets and Bottle Rockets.** Cylindrical tube containing not more than 20 grams of chemical composition as prescribed under section 3.7 and Table 4.3-1 of the American Pyrotechnics Association Standard 87-1 with a wooden stick attached for guidance and stability. Rockets rise into the air upon ignition. A burst of color and/or sound may be produced at or near the height of flight.

[Federally Banned Explosives](#)

[Individuals or businesses seeking a Maine State License to operate a consumer fireworks retail sale operation should contact:](#)

Richard E. Taylor, Senior Research and Planning Analyst
Office of the State Fire Marshal
52 State House Station
Augusta, Maine 04333



(207) 626-3873
[e-mail: Richard.e.taylor@maine.gov](mailto:Richard.e.taylor@maine.gov)

(or)

Timothy D. Fuller, Inspector
[Office of the State Fire Marshal](#)
[52 State House Station](#)
[Augusta, Maine 04333](#)
(207) 626-3888
[e-mail: Timothy.D.Fuller@maine.gov](mailto:Timothy.D.Fuller@maine.gov)

[Fireworks Safety Tips](#)

[Maine.gov](#) | [Department of Public Safety](#) | [Fire Marshal's Office](#) | [Site Policies](#)

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PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Legalize the Sale, Possession and Use of Fireworks

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 8 MRSA §221-A, sub-§1-A is enacted to read:

1-A. Consumer fireworks. "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 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.

Sec. 2. 8 MRSA §221-A, sub-§3-A is enacted to read:

3-A. Fire safety official. "Fire safety official" means a state or municipal official who has authority to enforce life and fire safety laws, statutes, ordinances, rules or regulations.

Sec. 3. 8 MRSA §221-A, sub-§4, as amended by PL 2011, c. 202, §1, is further amended to read:

4. Fireworks. "Fireworks" means any:

- A. Combustible or explosive composition or substance;
- B. Combination of explosive compositions or substances;
- C. Other article that was prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, including blank cartridges or toy cannons in which explosives are used, the type of balloon that requires fire underneath to propel it, firecrackers, torpedoes, skyrockets, roman candles, bombs, rockets, wheels, colored fires, fountains, mines, serpents and other fireworks of like construction;
- D. Fireworks containing any explosive or flammable compound; or
- E. Tablets or other device containing any explosive substance or flammable compound.

The term "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.

Sec. 4. 8 MRSA §223, sub-§1, as amended by PL 2003, c. 452, Pt. C, §3 and affected by Pt. X, §2, is further amended to read:

1. Sale of fireworks prohibited. ~~A~~Except for the sale of consumer fireworks under section 223#A, a person may not sell, possess with the intent to sell or offer for sale fireworks.

Sec. 5. 8 MRSA §223-A is enacted to read:

§ 223-A. Sale of consumer fireworks

1. Sale of consumer fireworks. A person may not sell consumer fireworks unless that person is 21 years of age or older and possesses:

- A. A federal permit to sell fireworks under 18 United States Code, Section 843;
- B. A license under subsection 3; and
- C. A municipal permit if required under subsection 2.

2. Municipalities. The legislative body of a municipality may adopt an ordinance to prohibit or restrict the sale or use of consumer fireworks within the municipality. Municipalities that prohibit or restrict the sale or use of consumer fireworks shall provide to the Office of the State Fire Marshal a copy of the relevant restriction or prohibition within 60 days of adoption. A municipality may require that a person obtain a municipal permit for selling consumer fireworks within the municipality. A municipality that chooses to issue municipal permits under this subsection shall notify the Office of the State Fire Marshal at least 60 days prior to the initiation of its permitting program for the sale of consumer fireworks. A municipal permit may not be issued unless:

- A. The applicant is 21 years of age or older;
- B. The applicant applies for a permit under this subsection on a form prescribed by the commissioner;
- C. The applicant possesses the federal permit required under subsection 1, paragraph A;
- D. The applicant complies with the provisions of subsection 4; and
- E. The application is approved by the municipality's police chief, fire chief and code enforcement officer if those positions exist.

A municipality may require a reasonable fee for a permit issued under this subsection. A person holding a permit issued by a municipality under this subsection may not sell consumer fireworks unless the person satisfies all the requirements of subsection 1.

3. State license. The commissioner may issue a license to sell consumer fireworks to an applicant who:

- A. Is 21 years of age or older;
- B. Possesses the permits required under subsection 1, paragraphs A and C;
- C. Complies with the provisions of subsection 4; and
- D. Has not been convicted of an offense or violated a state, federal or municipal law, rule or regulation involving fireworks or explosives within the 2 years prior to the application.

The commissioner shall charge a fee of \$5,000 for the initial license issued to an applicant and \$1,500 for each annual license renewal. The term of a license is one year. A separate license is required for each location at which an applicant seeks to sell consumer fireworks. Fees collected under this subsection must be deposited in a nonlapsing account of the Office of the State Fire Marshal to be used for the purpose of enforcing this section.

4. Storage and handling. A person authorized to sell consumer fireworks under subsection 1 may store and sell the fireworks only in a permanent, fixed, stand-alone building dedicated solely to the storage and sale of consumer fireworks in accordance with this subsection.

- A. The building must be constructed, maintained and operated, and all consumer fireworks must be stored, in compliance with the requirements of National Fire Protection Association Standard 1124, as adopted by the Office of the State Fire Marshal, relevant building codes, zoning ordinances and other municipal ordinances.
- B. The building may not be less than 60 feet from another permanent building and may not be less than 300 feet from a structure at which gasoline, propane or other flammable material is sold or dispensed.
- C. Cigarettes, tobacco products or lighters or other flame-producing devices may not be permitted in the building.
- D. A person under 21 years of age may not be admitted to the building unless accompanied by a parent or guardian.
- E. Notwithstanding paragraph D, a person at least 18 years of age may handle and sell consumer fireworks if the person is under the direct supervision of a person 21 years of age or older.

5. Insurance. A person authorized to sell consumer fireworks under subsection 1 shall at all times maintain public liability and product liability insurance with minimum coverage limits of \$2,000,000 to cover the losses, damages or injuries that might ensue to persons or property as a result of the person selling consumer fireworks.

6. Advertising. A person may not advertise the sale of consumer fireworks in a way that is misleading about the conditions under which consumer fireworks may be purchased or used or about the requirements of this section. An advertisement for the sale of consumer fireworks must contain the words "Check with your local fire department to see if consumer fireworks are allowed in your community" in a conspicuous location and in a consistent font as approved by the commissioner.

7. Civil liability. A person who violates the provisions of this section is liable in a civil action for damages for bodily injury or property damage resulting from violation, and the defenses under Title 14, section 156 or a defense based on assumption of risk may not be used by the person.

8. Restrictions on use of consumer fireworks. The use of consumer fireworks is governed by this subsection.

A. Consumer fireworks may be used between the hours of 9:00 a.m. and 10:00 p.m., except that on the following dates they may be used between the hours of 9:00 a.m. and 12:30 a.m. the following day:

(1) July 4th;

(2) December 31st; and

(3) The weekends immediately before and after July 4th and December 31st.

B. A person may use consumer fireworks only on that person's property or on the property of a person who has consented to the use of consumer fireworks on that property.

A person who violates this subsection commits a civil violation for which a fine of not less than \$50 and not more than \$500, plus court costs, may be adjudged for any one offense.

9. Enforcement against licensees. The commissioner, a state law enforcement officer, a municipal law enforcement officer, a code enforcement officer or a fire safety official may petition the Superior Court or District Court to seize or remove at the expense of a licensee consumer fireworks sold, offered for sale, stored, possessed or used in violation of this section. The commissioner may immediately suspend a license granted under subsection 3 for a violation of this section. A person whose license is suspended under this subsection must receive a hearing within 10 days of the suspension under Title 5, chapter 375, subchapter 4. A person whose license is suspended under this subsection may not receive a license under subsection 3 for a period of at least one year from the date of suspension.

10. Disclosures to customers. A person authorized to sell consumer fireworks shall provide to the purchaser at the point of sale written guidelines describing the safe and proper use of consumer fireworks. The guidelines must also include the following statements in a conspicuous location: "MAINE LAW EXPRESSLY PROHIBITS PERSONS UNDER 21 YEARS OF AGE FROM PURCHASING, POSSESSING OR USING CONSUMER FIREWORKS" and "FURNISHING CONSUMER FIREWORKS TO PERSONS UNDER 21 YEARS OF AGE IS A CRIMINAL OFFENSE IN MAINE." Such guidelines must be published or approved by the commissioner prior to distribution.

11. Prohibited acts. This subsection governs prohibited acts.

A. A person may not sell consumer fireworks within the State unless that person holds a valid license or is an employee or agent of a person that holds a valid license.

B. A person licensed to sell consumer fireworks under this chapter may not sell consumer fireworks to a person under 21 years of age or who appears to be under the influence of alcohol or drugs.

C. Except as specifically allowed under subsection 4, paragraph E, a person may not knowingly:

(1) Procure, or in any way aid or assist in procuring, furnish, give, sell or deliver consumer fireworks for or to a person under 21 years of age; or

(2) Allow a person under 21 years of age under that person's control or in a place under that person's control to possess or use consumer fireworks.

D. A person under 21 years of age may not purchase, use or possess consumer fireworks within the State or present to a person licensed to sell consumer fireworks any evidence of age that is false, fraudulent or not actually the person's own for the purpose of purchasing consumer fireworks.

It is an affirmative defense to prosecution for a violation of paragraph B or C that the licensee sold consumer fireworks to a person under 21 years of age in reasonable reliance upon fraudulent proof of age presented by the purchaser.

12. Violations. The following penalties apply to violations of subsection 11.

A. A person who violates subsection 11, paragraph A, B or C commits a Class D crime. If the violation involves furnishing consumer fireworks to a minor, a fine of not less than \$500 must be imposed in addition to any term of imprisonment the court may impose. If a person violates subsection 11, paragraph A, B or C after having been convicted of violating the same paragraph one or more times within the previous 6#year period, a fine of not less than \$1,000 must be imposed in addition to any term of imprisonment the court may impose.

B. A person who violates subsection 11, paragraph D commits a civil violation for which a fine of not less than \$200 and not more than \$400 must be imposed. If the person has been previously convicted of violating subsection 11, paragraph D one or more times, a fine of not less than \$300 and not more than \$600 must be imposed.

Fines collected under this subsection must be deposited in a nonlapsing account of the Office of the State Fire Marshal to be used for the purpose of enforcing this section.

13. Annual report to the Legislature. Beginning in 2013, the Office of the State Fire Marshal shall submit to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters a written report regarding the sale and use of consumer fireworks in this State. The report must, at a minimum, include information on the issuance and oversight of licenses to sell consumer fireworks, reported consumer fireworks-related injuries, reported consumer fireworks-related fires or other property damage and municipal restrictions or prohibitions on the sale or use of consumer fireworks. The report must be submitted not later than March 1st each year.

Sec. 6. 8 MRSA §236, as enacted by PL 1999, c. 671, §12, is repealed and the following enacted in its place:

§ 236. Adoption of rules

1. Routine technical rules. The commissioner may adopt rules concerning the sale, use, storage, transportation and display of consumer fireworks, fireworks and special effect pyrotechnics and to carry out the purposes of this chapter. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2#A.

2. Major substantive rules. After December 31, 2013, the commissioner may adopt rules governing the reporting of consumer fireworks-related injuries by health care providers. Rules adopted pursuant to this subsection are major substantive rules pursuant to Title 5, chapter 375, subchapter 2#A.

Sec. 7. Method for reporting data regarding consumer fireworks-related injuries. The Office of the State Fire Marshal shall work with the statewide associations representing hospitals and physicians to develop a method for health care providers to collect and report voluntarily to the Office of the State Fire Marshal data regarding injuries related to consumer fireworks as defined in the Maine Revised Statutes, Title 8, section 221#A. This data may not include personally identifying information on persons treated, but may include information on the age of the person treated, the type and severity of the injury and, if known, the type of consumer firework involved in the injury.

Sec. 8. Appropriations and allocations. The following appropriations and allocations are made.

PUBLIC SAFETY, DEPARTMENT OF

Fire Marshal - Office of 0327

PUBLIC Law, Chapter 416, LD 83, 125th Maine State Legislature
An Act To Legalize the Sale, Possession and Use of Fireworks

Initiative: Provides appropriations and allocations for one Public Safety Inspector II position and one Office Associate II position and related costs to inspect entities licensed to sell consumer fireworks.

| | | |
|------------------------------------|----------------|----------------|
| GENERAL FUND | 2011-12 | 2012-13 |
| Personal Services | \$12,708 | \$93,361 |
| All Other | \$15,100 | \$22,700 |
| Capital Expenditures | \$25,000 | \$0 |
| GENERAL FUND TOTAL | \$52,808 | \$116,061 |
| | | |
| OTHER SPECIAL REVENUE FUNDS | 2011-12 | 2012-13 |
| POSITIONS - LEGISLATIVE COUNT | 2,000 | 2,000 |
| Personal Services | \$50,000 | \$40,000 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | \$50,000 | \$40,000 |

Sec. 9. Effective date. This Act takes effect January 1, 2012.

Effective 90 days following adjournment of the 125th
Legislature, First Regular Session, unless otherwise indicated.



MAINE STATE FIRE MARSHAL'S OFFICE

MUNICIPAL CONSUMER FIREWORKS ORDINANCE
LIST OF CONSUMER FIREWORKS RESTRICTIONS AND
PROHIBITIONS

| Community | RESTRICTIONS | PROHIBITED | Effective Date |
|----------------|--------------|--|------------------|
| South Portland | | Use, sell or possess with intent to use or sell consumer fireworks. | November 6, 2011 |
| North Yarmouth | | No person or group may sell, possess with the intent to sell or offer for sale consumer fireworks or fireworks. | October 18, 2011 |
| | | No person or group shall use, display, fire or cause to be exploded fireworks or any said items in enumerated in Section 38-101 "consumer fireworks." No person shall use, display, throw, drop or cause to be discharged or exploded, any consumer fireworks or fireworks at any time, within fifty feet of any public way. | |
| Freeport | | No person or group may sell, possess with intent to sell or offer for sale consumer fireworks or fireworks. No person or group of persons shall use, display, fire or cause to be exploded fireworks or any of said items enumerated in section 38-101 "Consumer Fireworks." No person shall use, display, throw, drop or cause to be discharged or exploded, any consumer fireworks or fireworks or fireworks at any time, within fifty feet of any public way. | October 4, 2011 |

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| Bangor | | No person shall use, possess with the intent to use in the City of Bangor, sell, possess with the intent to sell in the City of Bangor, or offer for sale consumer fireworks. Use and sale | October 24, 2011 November 9, 2011 |
| Hollis | | | |
| Frye Island | | Use unless sanctioned by the Town of Frye Island Board of Selectman. | November, 2011 |
| Cape Elizabeth | | Use, possession with intent to use, sale possession with intent to sell or offer for sale consumer fireworks. | December 14, 2011 |
| Holden | To sell must possess municipal permit. . | none | October 5, 2011 |
| Falmouth | | Use and sale. | November, 2011 |
| Yarmouth | | The use, sale, and possession with intent to use of all consumer fireworks is prohibited except for sparklers that do not contain certain elements specified in ordinance. | November 22, 2011 |
| Westbrook | Sale is allowed with municipal permit required. No restrictions on use. | | December 6, 2011 |
| Rockland | | Use and sale | December 14, 2011 |

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| Fairfield | Sale is allowed with municipal permit. Use not allowed in public areas. | December 14, 2011 |
| Ellsworth | Consumer fireworks shall not be used when the fire danger class is 4 or greater. See ordinance for other use restrictions. A permit from the city is required in order to sell consumer fireworks. | April 16, 2012 |
| Eliot | Use is prohibited. | December 16, 2011 |
| Wells | Use and sale | January 20, 2012 |
| Gardiner | 180 moratorium prohibiting the sale and use of consumer fireworks. | December 21, 2011 |
| Orono | No person shall sell, use or possess with intent to sell or use consumer fireworks. | January 11, 2012 |
| Portland | No person shall sell, use or possess with intent to sell or use consumer fireworks. | August 17, 2011 |
| Farmingdale | Fireworks may only be used between 5:00 PM and 10:00PM. Fireworks may not be used when the fire danger class, as designated | January 1, 2012 |

by the Maine Forest Service,
is a class 4 or 5 fire danger
day.

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| Farmingdale (cont'd) | Three complaints on any user will result in that user not being allowed to use fireworks in Farmingdale. | | January 1, 2012 |
| | A person may use consumer fireworks on July 3 – 5 at specified times in addition to December 31 st and January 1 st at specified times. | A person may not sell consumer fireworks in Cumberland. | December 12, 2011 |
| Cumberland | | | |
| Owls Head | | No person or group shall use or sell consumer fireworks in Owls Head. | December 19, 2011 |
| Brunswick | | No sale or use of consumer fireworks. | January 1, 2012 |
| Bath | | The use, discharge, ignition, sale, or offer for sale, of consumer fireworks in the City of Bath is prohibited. | January 25, 2012 |
| Buxton | | The use and sale of consumer fireworks in Buxton is prohibited. | March 2, 2012 |
| Scarborough | Consumer fireworks may be sold but can only be used during the days of 7/3, 7/4, 7/5, 12/31 and 1/1 during times established in ordinance. | | March 7, 2012 |

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| Hallowell | Use restricted to certain areas of the municipality. Contact city officials for more information. Sale is permitted. | February 23, 2012 |
| Winthrop | No person shall sell, possess with intent to sell, or offer for sale consumer fireworks in Winthrop. No person shall use, possess with intent to use, display, fire or cause to be exploded consumer fireworks in Winthrop. | February 6, 2012 |
| Wayne | No person or group shall sell or use consumer fireworks in Wayne. | February 14, 2012 |
| North Berwick | Use restrictions: Must be 50 ft. from combustibles and can only use during Maine Forest Service Class conditions 1, 2, or 3. Sales facilities must comply with local zoning ordinances. | March 31, 2012 |
| Biddeford | No person shall use, possess with intent to use, sell, possess with intent to sell or offer for sale consumer fireworks in the City of Biddeford. | April 3, 2012 |
| Woodstock | Selling, or offering for sale, consumer fireworks are prohibited. | March 26, 2012 |
| Wiscasset | Sale of consumer fireworks is limited to certain areas of Wiscasset only. Use of consumer fireworks prohibited in Wiscasset. | January 1, 2012 |

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| Winslow | In order to sell consumer fireworks a person must obtain (purchase) a permit from the Town of Winslow and follow town rules pertaining to storage and sprinkler systems. | | March 12, 2012 |
| Caribou | In order to store or sell consumer fireworks a person must obtain a permit from the Caribou Fire Chief. Sales facilities may only be operated in areas designated in ordinance. In order to use consumer fireworks in Caribou a person must obtain a permit from the Fire Department. Use is restricted to areas designated in ordinance. | | March 12, 2012 |
| Boothbay Harbor | | Sale and Use of consumer fireworks are prohibited. | May 4, 2012 |
| Old Orchard Beach | | Sale and use are prohibited. | March 6, 2012 |
| York | | Sale and use are prohibited. | May 19, 2012 |
| Sanford | | Use prohibited. | NOT GIVEN |

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| Auburn | Use, sale, and possession with intent to sell are prohibited. | NOT GIVEN |
| Mount Desert | Use, sale, and possession with intent to sell are prohibited. | May 8, 2012 |
| Augusta | Use, sale and offering for sale consumer fireworks are prohibited. | November 17, 2011 |
| Lewiston | Use is restricted to certain areas, times, and there are also additional distance requirements for use within the City of Lewiston. See ordinance for details. | Sale of consumer fireworks is prohibited. April 5, 2012 |
| Kennebunkport | Use, sale, possession with intent to sell are prohibited. | NOT GIVEN |
| Damariscotta | Use is prohibited in the area between School Street (west side of the road) and the Damariscotta River from Castner Brook to Chase Point Road (north side of road). Sale is prohibited throughout the town. | June 13, 2012 |
| Boothbay Harbor | Use and sale are prohibited in town and on, in, or over its waters. | May 5, 2012 |
| Hermon | Sale, use, possession with intent use of consumer fireworks are prohibited. | December 15, 2011 |

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| Andover | Sale and use of consumer fireworks are prohibited. | March 17, 2012 |
| Harrison | Sale and use of consumer fireworks are prohibited. | June 19, 2012 |
| Saco | Sale, use, possession with intent to use or sell, offer for sale consumer fireworks are prohibited. | July 16, 2012 |
| Harpswell | Use is restricted to 7/3-4-5; 12/31 & 1/1 and at times specified in the ordinance. Sale or possession with intent to sell is prohibited. | March 10, 2012. |

Note: For a more complete explanation of municipal ordinances referenced above you can contact the town or this office at 626-3873. If your community has adopted an ordinance, you must submit a copy of the ordinance to the Office of the Fire Marshal within 60 days. 8 M.R.S.A. §223-A (2). Submit the ordinance to:

**Richard E. Taylor
Office of the State Fire Marshal
52 State House Station
Augusta, Maine 04333-0052**

Town of Windham

9:30pm

Planning Department
8 School Road
Windham, ME 04062

voice 207.894.5960

fax 207.892.1916

MEMO

DATE: November 10, 2011

TO: Windham Town Council *HBM*
FROM: Brooks More, Dir. of Planning on behalf of the Land Use Ordinance Committee
Cc: Tony Plante, Town Manager
Land Use Ordinance Committee
Charles Hammond, Fire Chief

RE: Regulation of Consumer Fireworks

At its meeting on October 26th, 2011, the Land Use Ordinance Committee made the following recommendation to the Windham Town Council regarding the regulation of consumer fireworks:

“Recommend adoption of regulations that prohibit the use and/or sale of consumer fireworks in the Town of Windham. The recommended regulations should use the model standards adopted by the City of Portland and subsequent municipalities in the State of Maine.”

Motion: S. Scott
2nd: J. Cummings
Vote: 4-0 in favor

CONSUMER FIREWORKS

Chapter 96

| | | |
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| 96-3 | Exception | 2 |
| 96-3 | Penalties | 2 |
| 96-5 | Seizure and Disposal..... | 2 |

96-1 Definitions

As used in this Article, the following terms shall have the meanings:

- A. *Consumer Fireworks* has the same meaning as the term set forth in 27 Code of Federal Regulations, Section 555.11, as may be amended from time to time, but includes only products that are tested and certified by a third 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:
1. Missile-type rockets, as defined by the State Fire Marshal by rule;
 2. Helicopters and aerial spinners, as defined by the State Fire Marshal by rule; and
 3. Sky rockets and bottle rockets. For purposes of this paragraph, "sky rockets and bottle rockets" mean 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.
 - a. Fireworks shall be as defined under Maine State law, 8 MRSA §221(a)(4) as may be amended from time to time.
- B. *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.

96-2 Prohibition

No person shall use, possess with the intent to use, sell, or offer for sale fireworks or consumer fireworks in the Town of Windham.

96-3 Exception

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

96-3 Penalties

- A. Any person who uses consumer fireworks or possesses consumer fireworks with the intent to use in the Town of Windham shall be punished by a fine of not less than two hundred dollars (\$200.00) and not more than four hundred dollars (\$400.00) plus costs. 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) per violation plus costs shall be imposed.
- B. Any person who sells consumer fireworks or possesses consumer fireworks with the intent to sell them in the Town of Windham shall be punished 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) per violation plus costs shall be imposed.

96-5 Seizure and Disposal

The Town of Windham may seize fireworks or consumer fireworks that the Town has probable cause to believe are used, possessed or sold in violation of this Article or in violation of State law and shall forfeit the seized consumer fireworks to the State of Maine for disposal.

prioritizing a list to bring back to the Council. They are also looking at roads.

2. Roads Policy Task Force.

Nothing new to report.

3. Public Easement Advisory Committee.

Nothing new to report.

VIII. PUBLIC HEARINGS.

To receive public comment on the adoption of a new ordinance, Consumer Fireworks, Chapter 96, regarding the regulation of the use and/or sale of consumer fireworks in the Town of Windham.

Sheila Corey - River Road:

I'm here to address the Council on the adoption of the Firework's Ordinance, and I would like to say I am against an outright ban on the sale and use of fireworks in Windham. I think appropriate restrictions can be put into place that regulate the use, and I have a couple of examples that have recently been adopted by other towns in Maine. Fireworks may only be used between 5:00 and 10:00 p.m. They may not be used when the fire danger class is a 4 or 5 as designated by the Maine Forest Service. Three complaints on any person will result in that person not being allowed to use fireworks and fireworks may only be used on certain dates such as July 3rd through July 5th, December 31st and January 1st as specified times.

In a previous Council discussion on the issue the point was brought up about minors coming into possession of fireworks. There is strong language in the bill that states "A person may not knowingly procure or in anyway aide or assist in procuring, furnish gifts or deliver consumer fireworks to a person under 21 years of age or allow a person under 21 years of age under that persons control or in a place under that persons control to possess or use consumer fireworks. A person under 21 years of age may not purchase, use or possess consumer fireworks within the state or present to a person licensed to sell consumer fireworks any evidence of age that is false, fraudulent or not actually the persons own, for the purpose of purchasing consumer fireworks. Any person who does violate those rules commits a Class D crime". I feel that the main reason for a ban is the fear that minors may come into the possession of fireworks, and I recommend, although I don't agree with, a ban on the sale on the use of alcohol, tobacco and firearms as well. Thank you.

Liz Wisecup:

I am kind of in the middle; I think I would rather see a ban than a use. If it was just a temporary use like that, it might be okay. She (Sheila Corey) did the research, I'm just coat tailing off what she said, because I haven't done anything on that. Banning it from people under 21 does not mean that is how it is going to be. We have laws that people are not supposed to speed; we have all kinds of laws that people break, and then they end up getting arrested or some kind of punishment for it, and it does not prevent younger people from getting involved in it. I think if you take 16, 17, 18, 19 and 20 year old kids; they will be getting involved in this stuff, and they are going to find a way to do it. If they cannot buy it in the town of Windham they will go and buy it someplace else. If they cannot shoot it off in the Town of Windham, it kind of keeps people safer. If I had to go one way, even if it is just for a couple of days, I would probably just go with a ban. The other thing is if people can shoot them off anytime they want to for certain hours; it drives the animals crazy, and also in areas where there is a lot of wildlife they can shoot them off anytime they want and it is disruptive. I do not think it is necessary to have them. If you can save an eye, an arm, a leg or a life, even one is worth not having them in Windham.

Gary Lytle - Adam Roberts Drive:

I grew up in Washington State, and we had fireworks. They were legal in Washington State, and I remember every 4th of July my father would get a sheet of plywood, his post to do his spinners and his garden hose for his fire extinguisher, and we would be ready if anything happened.

I believe that if fireworks are allowed in the Town of Windham that education is key for the safety of children and people in general. I did some statistic research on injuries, because I know there was a big concern about children's injuries, and of the roughly 62 million children in the United States we did some statistical ratio down and fireworks injuries with children under the age of 14 is roughly about 35,000. I also picked some other common kinds of injuries: sports injuries, play ground injuries, fire and scalding (not related to fireworks), poisoning and just toy related injuries and bicycles. The largest on this chart is sports related injuries, and then I removed that because you could not really see the actual firework injuries because they were so miniscule compared to the other injuries on the chart I made. This chart has the fireworks on it, and you can see it is fairly small compared to other injuries that kids sustain. If you want to outlaw things to prevent injuries, you could focus on bicycles or playgrounds; which are far more dangerous to kids as a percentage of population then fireworks are in general.

Also, I did not know if in the ordinance it would outlaw sparklers because behind bottle rockets, which are illegal as well as fire crackers, sparklers are the number 3 cause of injuries to kids. Roughly half of the number of injuries to kids are actually sparklers; which are currently allowed in the

State of Maine. I would ask that you consider either not having a ban or allowing fireworks on days such as the 4th of July and New Years for people to enjoy fireworks responsibly.

Patrick Corey - River Road:

I am here tonight to voice my opposition to the prohibition of consumer fireworks in the Town of Windham.

It seems to me that there has been quite a bit of media attention paid to municipalities prohibiting fireworks. In contrast there has been little attention paid to the vast majority of municipalities that have enacted ordinances that balance this newly acquired right while enhancing public safety, and municipalities that simply have chosen to do nothing at this point. When a standing committee and Fire Chief are given the directive to craft a consumer fireworks ordinance, it shouldn't surprise anyone that the outcome is a blanket prohibition.

I am amused that in the November 10, 2011 letter with regard to the regulation of consumer fireworks, it actually states that "the recommended regulations should use the model standards adopted by the City of Portland." I can think of a number of "model standards" recently adopted by the City of Portland that have no place in Windham. Why start now?

I've read LD 83, "An Act to Legalize the Sale, Possession and Use of Fireworks" voted into law by our legislators and signed by our governor, and truly feel that they did a bang up job. The Act should extinguish many of the fear-mongering concerns that I've heard voiced about this topic in these Council Chambers. It restricts the types of fireworks that can be sold and used, as well as the age of users. Twenty one for those that haven't read it. That means, minors are prohibited from using fireworks. The act also specifies severe penalties for any violation of the Act.

The Town has no legitimate data with regard to the permissible use of consumer fireworks in Windham because fireworks have been illegal for many years. That means documentation of past incidents cannot be meaningfully paired with consumer fireworks that have been used without incident.

In the interest of public safety, I would suggest that Windham starts with some common sense ordinances instead of an outright ban. This would give opportunity to actually compile concise data. When the fire danger is high, the Fire Department could post temporary prohibitions on signs in front of the fire station and on their Website. If fireworks fall into juvenile hands, their parents could incur additional municipal penalties, just like with firearms in this State. We could limit the days and times when fireworks can be used. The possibilities are numerous.

It is far easier to attempt to legislate stupidity away than to create an environment where accountability reigns. The same genius inclined to use consumer fireworks in a manner not intended or as prescribed by law, is also capable of passing on a double yellow line, dumping gasoline on a brush fire, driving a snowmobile on thin ice, or shooting a hunter in a blaze orange vest. Dangers that we all know exists.

An outright ban on fireworks is a step towards the creation of a nanny municipality and would exhibit distrust of your constituents. Adults prefer to be treated like, well, adults.

Use this opportunity to put reasonable restrictions in place by looking at Maine communities that have chosen an open-minded path to the use of consumer fireworks. A blanket prohibition is nothing more than an overly simplified approach put forth by a fearful Land Use Ordinance Committee and Fire Chief. Thank you for your time, good evening.

Public Hearing Closed at 7:50 p.m.

To receive public comment on amendments to the Town's Land Use Ordinance, Chapter 140, with regard to backlot standards.

There was no public comment.

To receive public comment to receive comments on amendments to the Town's Land Use Ordinance, Chapter 140 and Wireless Telecommunications Facility Siting Ordinance, Chapter 141, on the public notice requirements for projects undergoing Subdivision review, Site Plan review and Wireless Telecommunications Facility Siting ordinance review.

There was no public comment.

IX. Discussion Items.

7:30 p.m. Fireworks Sales and Display. The Council will continue its discussion of whether to regulate the use and/or sale of consumer fireworks. This follows a discussion at the meeting of January 10, 2012 and the public hearing scheduled at the meeting of February 14, 2012. Public Comment.

Presentation given by Gary Plummer.

8:00 p.m. Council Priorities. The Council will work on setting goals and priorities for the year. Public Comment. *Individual item times are approximate. Discussion on an item may begin before or after the indicated time. Items may also be taken out of order to fill gaps as the meeting proceeds.

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He is concerned with residents having dumpsters on their property in residential areas, and they are not only in his neighborhood, but throughout the community. He also reviewed the Land Use Ordinance but it seems to him, through his interpretation, that it has more of a commercial slant than a residential slant. He hopes the Council will take a look at that and inform him when they talk about it.

Joseph Bushy - Falmouth Road:

He said he was concerned with fireworks. He thinks the policy should be on the web-page and also list the time limits and guidelines for the fireworks. He has a person living with him who has autism and the noise disturbs her. He would appreciate a warning prior to the fireworks being set off so they can prepare her. He asked "if a fire was started from fire works, who would be responsible for covering the cost of it?"

V. Councilors' Comments.

Councilor Welch:

He thanked all the Summerfest volunteers who work hard every year to bring the event to us; they do a great job.

On June 20th they lost one of their Corrections Officers at Windham; his name was Ben Worster, and he died in a swimming accident. He said his heart and prayers go out to his daughter, his family and his co-workers at the Windham Correctional Center.

He asked Tony to brief the Council and public about the Kimball report for Dispatch, and asked if anything new is happening, and if there were any new complaints from the police officers or the public that we may be still having.

He asked Tony for a briefing on where we stand with the bike park.

Councilor Noel:

In regards to the tax rate he said that this Council and previous Councils worked diligently to manage the municipal tax increases, if any, to the best of their ability. The municipal tax increase for this year will be .04 cents per thousand and last year it was zero. Unfortunately there is an increase, but not only does it come from the municipal side, the school department also is struggling and doing their best, and a larger portion has been allocated from the school department. He said there are multiple opportunities for public input during this process for both town and school, and he urges people to go and speak their mind. He said this year the active public participation was very little, if any.

There have been other comments relative to dumpsters but not in residential neighborhoods. Comments he has heard from residents have been about the dumping of the dumpsters early in the morning. He said it is an individuals right to do certain things on their property, but there is also a health or fire hazard potential

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that may be real that abutters have to cope with, and he said they will need to take a look at it.

In regards to fireworks - Windham follows state law.

Tony said the Council took up the issue of fireworks and decided not to enact any local regulations, and so we fall solely under state law and what their requirements are.

Councilor Hayman asked if we could get the state law for fireworks linked onto our website under the heading of "Fireworks"?

Councilor Noel noted that they, as a Council, did say that based on the performance and impact in our community, they may reconsider and do something a following year.

Councilor Hayman:

In regards to Brookhaven - he has received a few phone calls about the dumpster issue and neighborhood. He suggested they check and see if there are any covenants in that neighborhood; there may be a covenant that limits dumpsters. When the trash issue becomes a health and fire hazard it becomes an issue, but it is also a touchy subject of personal property rights. He said he would be willing to look into the ordinance issue of taking a look at the commercial dumpster ordinance and maybe sending something to the Land Use Ordinance Committee to take a look at dumpsters on the residential side, as well as to see if there is a way they can be forced to cover, lock not be overflowing and making it a violation.

Regarding fireworks - we said we would go by state law and we would probably revisit it in a year or so.

Summerfest was a good event; his wife ran the race and the parade was nice and his kids enjoyed it.

In regards to the BMX track; he brought that up last Wednesday morning with Tony and Matt. He believes Brian and Tony have reached out to a few folks to help with it.

VI. Town Manager's Report.

Tony Plante:

Tony said he has been talking with Brian Ross about the BMX Park. It was an effort spearheaded by volunteers and they got some initial donations of material and volunteer help, but overtime some help had to step back. Brian is working with some of the folks who had been involved, and they are trying to get it back on

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WINDHAM TOWN COUNCIL MINUTES

Windham Town Hall
Council Chambers
July 10, 2012 – 7:00 p.m.

I. Roll Call of Members.

Present: Kevin Call, Scott Hayman, David Nadeau, and Matthew Noel.

Absent: Thomas Gleason and Dennis Welch.

II. Pledge of Allegiance.

Chairman Hayman led the assembly in the Pledge of Allegiance.

III. Minutes of the June 26, 2012 meeting.

Councilor Nadeau:

Moved to approve the minutes, seconded by Councilor Call.

Vote 4-0

IV. Public Participation.

The public is invited to address the Council on any item of business not on the agenda for tonight's meeting.

NOTE TO CITIZENS: Citizens have the right and are encouraged to speak during public participation regarding items not on the agenda, or regarding an item when it comes up on the agenda.

Lynne Fracassi - Fort Hill Rd., Gorham:

She asked to be put on the Council agenda for the July 24th's meeting so to speak before the Ordinance Committee and propose an ordinance to ban the sale of puppies and kittens in the pet stores in Windham. She said she founded Maine Citizens Against Puppy Mills last year with the goal to stop all Maine stores from selling puppy mill puppies. A puppy mill is defined as a large scale breeding facility with barely adequate conditions for the dogs. There are approximately 10,000-15,000 large scale breeding facilities in the U.S. alone, producing close to 1.5 million puppies to sell to pet stores and over the internet. She stated that when they go before a town asking to enact an ordinance they bring with them Shelter Workers, Behaviorists, Veterinarians, and people who own pet stores who do not sell puppies.

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Chris Henderson - Main Street:

He stated that for the last 3-4 weeks he has heard nothing but fireworks, and now it is to the point that his 3 year old and 5 year old kids and his neighbors with children across the street are awake every night until 10:00 p.m. He said he does not have a problem with fireworks on the 4th of July or New Year's. He mentioned the Town of Scarborough are allowing them on the 4th of July and New Year's only.

Grant Byras - Harvest Hill Road.:

He stated he had no problem with fireworks on the 4th of July and New Year's. He said not only does it impact children but animals as well. He said he called the vet clinic in the town and their prescriptions for sedatives for animals doubled last week. He feels fireworks is something that brings a community together, and what he is finding in his neighborhood is it is dividing the community with those who want fireworks and those who do not want to hear it.

Michael Green - River Road:

He said he did not know what his legal rights are if his trees do catch on fire or his house because of the fireworks. He cannot get his little girl to sleep because they are going off all hours of the night. He said the Police and Fire Chiefs have said their hands are tied, and there is not much they can do. He would like them banned all together, and he said they look like toys; they do not look like something children are not supposed to be playing with. You cannot separate the responsible adults from the irresponsible adults, and he does not want his neighborhood, his house or family endangered because they have the irresponsible people living next to them.

Allison Sands - Ward Road:

She lives in an apartment building where she had to call the Police Friday night because the people who set off the fireworks hit a tree and 3 weeks prior to that they hit the transformer; which blew it up, and they spent 4 hours without electricity in that area. She suggested we set some kind of time limit to help people who have to get up for work. She would also like to have a rule of where they can light them off as the tree at her house caught on fire but she was able to contain it.

Carol Reynolds - Naples, Maine:

On behalf of the Maine Citizens Against Puppy Mills she asks the Council to listen to the proposal at the next meeting, and she handed out some reading material. Ms. Reynolds has been in the pet grooming industry for 23 years and owns and operates a small grooming business and pet supply store in Bridgton. She has never considered selling animals, and most independent shop owners and some of the large size superstores have taken a pledge not to sell dogs and cats, and have instead, want to support adoption efforts or refer to reputable breeders.

Bob Bittenbender - Dutton Hill Road:

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He said the fireworks last Saturday night lasted for 3 straight hours and he thinks the person lighting them off was about 3/4 of a mile away. His dog is terrified, and he asked what happens if one of these fireworks gets out of control? He asked if the Town of Windham has an insurance policy to cover what does not get covered by home owner insurance? Allowing fireworks in Maine was to gain revenue and he figured out that for every 10 million dollars of sales of fireworks the state gets \$500,000, and if you work on the population of 1.3 million that means for every person in Windham you get .38 cents back. He complimented the Windham Police and said they have been terrific.

Jeff Lander - Dutton Hill Road:

He spoke with the female Police Officer regarding that 3 hour display of fireworks and she mentioned he should go to a Council meeting. She told him that there are 2 weekends where they are allowed beyond 10:00 p.m., they are allowed to 12:00. He said they have been going off on other days after 10:00 p.m., and he has horses who are spooked, the dogs are barking, his wife cannot sleep and he would like to know what will be done about it?

Sharon Byras - Harvest Hill Road:

She understands that fireworks are legal, but she is upset because her dog goes crazy, and she and her husband have to wake up early in the morning, even at 9:00 p.m. it is bothersome. There are veterans who live in their neighborhood who have post traumatic stress disorder. The decibel level bothers her; it is 140 decibels for fireworks; hearing loss occurs at 95 decibels, and it is far above the threshold that is allowed. Her neighbors in front and behind her point them towards her house; she does not know what to do anymore.

V. Councilors' Comments.

Councilor Nadeau:

He stated he received a lot of phone calls as well as e-mails in regards to fireworks, and he feels they need to re-look at it.

Councilor Call:

He said he agreed with Councilor Nadeau and most of the people who spoke. He has not changed his view on fireworks; he was not in favor of the Ordinance to allow them. He does not think they should be banned for the whole year, but allow them on New Year's Eve and 4th of July and felt the weekends before and after might be acceptable.

Councilor Noel:

He apologized saying that if anyone had sent him e-mails he had not been able to check them, but he will. He stated fireworks had been discussed at length at workshops. Moving forward they will have to check on bringing up another ordinance on the same issue and check on whether it can be done.

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Councilor Nadeau:

Stated if it is the same thing it cannot be brought back, but what was in front of them was to restrict it totally, so if there is a change in the wording then they can look at it.

Councilor Noel:

He asked for the differences between the puppy mill puppies and kittens and the puppies and kittens to be sold at stores. If the private sector can sell puppies, what is the difference from a retail store doing that. He asked for more information.

Councilor Hayman:

He said in regards to the fireworks the Council did say they would revisit it at some point in time if it became an issue. It is unfortunate that there are irresponsible, disrespectful folks out there; they will spoil it for others. He is interested in seeing if the novelty of it wears off before they jump right into something; we just had the busiest weekend for fireworks. He asked what can the Police do if they are lit off after 10:00? Do they write tickets?

Tony Plante:

Since Windham has no local regulation for use of consumer fireworks it falls under state law, which says Consumer Fireworks may be used between the hours of 9:00 a.m. and 10:00 p.m. except on the 4th of July, December 31st and the weekends immediately before and after July 4th and December 31st where the hours are between 9:00 a.m. and 12:30 a.m. the following day.

Councilor Hayman:

He said he will be more than willing to listen to the presentation of the puppy mill ordinance; however he did not know if it would be on for the next meeting.

Councilor Nadeau:

He asked Tony where they stood with the radios for the Police Department since the budget has been approved.

Tony Plante:

Replied they had not done anything with it at this point.

Councilor Nadeau:

Also in their handout from the CCRCC update and Tony's response to it; he thinks they have to seriously look at where they stand.

Tony Plante:

He said he's been in contact with Peter and he expects an answer with regard to a more specific time table before they meet the first week of August.

Councilor Call:

He said on a personal and sad note that one of his long time friends and neighbor

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passed away at his home Monday morning. His name was Bud Finley, a 90 year old, long time resident; his thoughts go out to his family.

VI. Town Manager's Report.

Tony Plante:

He asked Chief Lewsen and Chief Hammond to give him a run down on incidents and calls for service that were fireworks related over the last week, and there were no reported fire or rescue incidents. The Chief reports getting a number of phone calls with inquiries and concerns about fireworks. The Police responded over the last week including both weekends with 48 calls. Some were informational and some they responded to, and was not aware of any summonses that were issued. He stated that while we will take whatever action we need to; it will be a challenge because of the policy in effect state wide. He said if there is \$10 million dollars in sales of fireworks; 5% is \$500,000 state wide, but as a community in revenue sharing, if we are talking about direct revenue to the town, we get 5% of the 5% which works out to 1.9cents per Windham resident, not .38 cents like Mr. Bittenbender stated.

In regards to the Cumberland County Regional Communications Center, and the last e-mail he sent Peter; he said the town needed to have some answers because they were going to have to get into evaluation of alternatives if they were not satisfied with the direction County was going. Process does takes time to play out, but there are communities who have some real concerns and significant public safety issues at stake. He will follow up again with Peter.

They received notice from MDOT that they will be holding their "Final Public Meeting" regarding highway reconstruction to River Road; the section from Route 202 to Route 302. The meeting will be Monday, July 30th from 6:00 to 8:00 p.m. in the Windham High School Auditorium.

He reported that Anderson Road was reclaimed last week, and it was the project where they were using cement injection to help further stabilize the base in an area of town with poor soils. There were people from the engineering community, and other paving contractors who wanted to see how this worked. So far as they know, it is the longest stretch that has been done around here, possibly in Maine. A longer stretch was done in New Hampshire 7 years ago and supposedly it is still like new.

He reported there were some minor washouts on some of our roads due to thunderstorms and heavy rains.

We have Charter Amendments, the same ones the Council considered last year for the ballot and then put off for consideration until this year. They are scheduled for a public hearing and vote on July 24th to be put on the November ballot.

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WINDHAM TOWN COUNCIL MINUTES

Windham Town Hall
Council Chambers
July 24, 2012 – 7:00 p.m.

I. Roll Call of Members.

Present: Thomas Gleason, Scott Hayman, David Nadeau, Matthew Noel, and Dennis Welch.

Absent: Kevin Call

II. Pledge of Allegiance.

Chairman Hayman led the assembly in the Pledge of Allegiance.

III. Minutes of the July 10, 2012 meeting.

Councilor Nadeau:

Moved to approve the minutes of July 10, 2012, seconded by Councilor Noel.

Vote 5-0

IV. Public Participation.

The public is invited to address the Council on any item of business not on the agenda for tonight's meeting.

NOTE TO CITIZENS: Citizens have the right and are encouraged to speak during public participation regarding items not on the agenda, or regarding an item when it comes up on the agenda.

Priscilla Payne - Quartz Circle:

She spoke on behalf of the Windham Land Trust, The Friends of the Presumpscot and Environment Maine to invite the Council and anyone else on Wednesday, August 1st at the Public Library from 6:00 to 8:00 p.m. The meeting will be on a controversial new plan to bring tar sands oil through Windham and the Lakes Region and into Casco Bay for export. She said that tar sands oil is the dirtiest form of oil on the planet. She urged everyone to attend. (See attached)

Michael Greene - River Rd.:

He spoke at the last meeting regarding fireworks, and he said they are continuing to be set off each night from around 8:30 to 10:00 pm, and some nights they sound like

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gun shots. He asked the Council to quickly consider something to restrict it, possibly to the 4th of July and New Year's Eve.

Priscilla Payne - River Rd.:

She agreed that the fireworks are a real problem; some are very loud, and it is every night and upsetting the neighbors; she said it is out of control.

Brian Tracy - Owner of Pawz & Clawz Petz:

He said they were protested against by an organization called Maine Citizen's Against Puppy Mills. He said their puppies are USD approved; they are inspected, licensed, and their kennels are inspected.

V. Councilors' Comments.

Councilor Noel:

Stated he appreciated the comments from Mr. Tracy, which was another side of the discussion he had been having through e-mail correspondence with Ms. Fracassi and Ms. Reynolds. They are advocating for an ordinance, and he thinks what the Council needs, at this time, would be an ordinance written up by those folks that they would like the Council to consider. He also thinks the Council should engage both sides of the conversation, and evaluate whether an ordinance is necessary, but if there is a group of people who would like an ordinance, then they should present an ordinance to the Council.

Councilor Nadeau:

He stated he had some phone calls regarding big item pick-ups, and why we don't have it any longer, and what would be the cost?

He said in light of the Colorado incident; he asked if the radios had been put out to bid, and if not, when do we plan on doing so?

Tony Plante:

He said he did not believe they had been put out to bid yet.

Councilor Welch:

He agreed with Councilor Noel; the group should present an ordinance to the Council.

In regards to fireworks; he knew the first year there would be a lot them going off. He said it is the first time in 65 years that people have had the freedom to use fireworks legally. They are expensive to do, and he thinks it will most likely slow down. He agrees it should be brought up, just not too soon; he would like to give it some time.

Councilor Gleason:

Feels there should be limitations such as twice a year, along with the day before and

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after in case of rain. He said last evening at the Planning Board meeting a near by house set them off for 2 hours.

Councilor Nadeau:

He lives on the lake and every night since the 4th of July somebody has been lighting off fireworks.

Councilor Hayman:

He told Mr. Greene that he hoped it was not the same neighbor lighting them off night after night. Disrespectful, irresponsible folks are going to force the Council's hand to enact something that will tie the hands of people who enjoy and use them responsibly. He agrees that they should wait and see if it does die down.

In regards to puppy mills, he would like to have both sides of the story, and if the group wants to propose an ordinance, they should come to the Council with an actual ordinance.

VI. Town Manager's Report.

Tony Plante:

He reported that MDOT will hold their final public forum on the reconstruction of River Road from Route 202 to Route 302 next Monday, July 30, 2012 from 6:00 to 8:00 p.m. in the Windham High School Performing Arts Center.

The Council will meet with the Dundee Park Advisory Committee Tuesday, August 28th at 6:00 p.m. at Dundee Park for a cookout and to hear from members of the committee in regards to how the season has been going, and they will reconvene back in the Chambers around 7:00 p.m. on August 28th.

He reported that the request for proposals that were sent out for property condition assessment on nine municipal facilities; brought in 8 proposals ranging from \$14,500 to \$99,655. They were all submitting their proposals under the same standards and they will be evaluating those. The purchasing guidelines state that if it is beyond what was allocated in the budget, the decision comes back to the Council, and if they evaluate the proposals and the one selected is within budget, then he will simply report the result back to the Council.

He said they have been advised by DEP that the U.S. Environmental Protection Agency will have some contractors working on doing additional investigative work at the former Keddy Mill site in So. Windham. They will be doing assessments of the area around the mill and even into the River as part of their further evaluation, so as to list it on a federal project list.

He stated they are continuing to work with MDOT on additional MPI funds for the Windham Center Road and expanding the scope to include paved shoulders. They

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WINDHAM TOWN COUNCIL MINUTES

Windham Town Hall
Council Chambers
August 14, 2012 – 7:00 p.m.

I. Roll Call of Members.

Present: Kevin Call, Scott Hayman, Thomas Gleason, David Nadeau, Matthew Noel, and Dennis Welch.

II. Pledge of Allegiance.

Chairman Hayman led the assembly in the Pledge of Allegiance.

III. Minutes of the July 24, 2012 meeting.

Councilor Gleason:

Moved the minutes of July 24, 2012, seconded by Councilor Nadeau.

Vote 5-0 (KC abstained)

IV. Public Participation.

The public is invited to address the Council on any item of business not on the agenda for tonight's meeting.

NOTE TO CITIZENS: Citizens have the right and are encouraged to speak during public participation regarding items not on the agenda, or regarding an item when it comes up on the agenda.

Susan Hiltunen - Gray Road:

She asked the Council when they were going to do something about a Fireworks Ordinance because she has been waking up at 10pm, midnight, and 3am and hearing fireworks going off in her neighborhood.

Bruce Elder - Antrim Drive:

He again is requesting the Council consider establishing Advisory Committees for some of the departments in town. It works by having members of the business community coming in and serve in an advisory capacity to a department, i.e. Public Works, that is in their area of experience such as mechanics who operate garages and who are business people. He thought his conversations last summer were met favorably but it just did not come about.

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At the last meeting Council approved the purchase of 3 dump trucks for \$455,747; he is from a construction business family, and he thinks that is a tremendous amount of money to spend all at once; that is why he feels it would be beneficial having people in the construction business sit down with folks in the department and maybe explore other alternatives.

Martha Owen - Misty Drive:

She agrees that there should be a fireworks ordinance, her dog gets upset, and she feels an ordinance would be helpful.

Martin Shuer - Colby Drive:

He welcomed Councilor Gleason back. He said he really appreciates how the Council has worked in the spirit of cooperation working towards the Windham Center Road project.

He thanked Tony for getting MDOT's information posted quickly on the town's website regarding the River Road Project.

He said the ability to broadcast from the High School's auditorium is an unmet need, and he has spoken to Tony and the Superintendent about this. It can most likely be overcome on a technical basis, as it has been accomplished in Raymond with the School Board's meeting being broadcast on Channel 7 and the windhamweb. A number of important community events and meetings have been missed.

He stated he thinks working towards having a high school student leader involved in the Town Council is a great idea.

V. Councilors' Comments.

Councilor Call:

Agrees with most who spoke, and feels they need to address the fireworks issue. He agrees with Bruce Elder that we probably need to look at an Advisory Committee.

Councilor Noel:

He also thought Mr. Elder's comments was a good idea, and perhaps get it on the agenda in the future.

In regards to the dump trucks, someone from the prevailing side could bring it back for reconsideration.

In regards to fireworks, there have been a lot of e-mails to the Council and he said there were lots of complaints. He stated Scarborough and So. Portland have different ordinances, and they are having the same problems Windham is having. Scarborough allows fireworks on certain days and times and they are banned in So. Portland, but they are having the same problems we are. He believes they could

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create an ordinance but enforcing it will be extremely difficult and expensive.

Councilor Nadeau:

He thinks the state put us behind the 8-ball allowing everybody to come up with ordinances.

He agrees with the Advisory Committee to some extent, and in regards to the amount spent on the 3 trucks; if you look back at the budget, the trucks that came due years ago and did not get replaced became accumulative because we did not stick with the capital program. Times were tough and still are, but something had to be done.

Councilor Gleason:

He agreed to look into an Advisory Committee, but he did not want to start micro managing departments in town; it would be dangerous.

Councilor Welch:

He said he would be interested in hearing more about the Advisory Committee.

Councilor Hayman:

In regards to the enforceability of a fireworks ordinance; it will be next to impossible and expensive. He still would like to wait and see if the novelty wears off. He will be willing to revisit it.

He feels Mr. Elder brings up good points with regards to an Advisory Committee, and in regards to the purchase of the trucks, he is kind of confused as to where the money is coming from and thinks a motion for reconsideration might be good to get some clarification.

He hopes they will work on being able to broadcast from the high school in the near future.

VI. Town Manager's Report.

Tony Plante:

He noted that the Finance Committee has been rescheduled to 8/27th at 6pm.

Council will be meeting with members of the Dundee Park Advisory Committee



Dear Town Manager Tony Plante

September 19, 2012

I am writing to ask that you consider the banning the use of fireworks in our town as outlined under the current state of maine law permitting fireworks year around.

We have expericed fire works nightly prior to July 4th thru Labor day. They have on many nights continued uninterrupted for 3 to 4 hours making it impossible to converse, read, watch tv or just relax and enjoy the evening hours. On many nights the noise carries on past midnight raising havoc trying to get the children to sleep.

It is my opion it is by far a minority of our neighbors that are shooting off the fireworks ,but a majority of our neighbors find it unpleasant and intrusive.

Other than being disrupted from the noise I am concerned about the fire hazard, we live in a wooded area and the first dry summer we have causes great concern for damage to our property.

I try to have an attitude of live and let live, but ,for the life of me I can not see the purpose for such a disrupting event continuing to carry on.

Please take this letter into consideration if and when the subject comes up at future town meetings.

Thank You,


Ronald Collins

824 Roosevelt Trail

Windham ,Maine 04062

Tony Plante

From: Scott Turcotte <thewheel@roadrunner.com>
Sent: Friday, November 16, 2012 2:50 PM
To: Tony Plante
Subject: Draft ordinance for fireworks, couple of thoughts

Hello Mr. Plante,

First let me say I like fireworks, but I agree there needs to be limits. What the state has set forth is a good start, but "bad neighbors" ruin it for all.

Might I suggest adding a couple of other holidays to the list.

Labor Day

Chinese New Year

Diwali (The Festival of Lights, it is in November) (in the interest of diversity)

Also a blanket ordinance, I do not think is a good fit. Sparklers and things that do not go boom.
(<http://www.fireworks.com/products/item/festival-lights-h-137/> watch the video, please).

Will there be exceptions for weddings? Sparklers and Chineses Lanterns

--

On his political affiliation : "I belong to the Straight Talking American Government. Party, or STAG Party for short." Pat Paulsen 7/6/27 - 4/24/97

Tony Plante

From: Richard Lewsen
Sent: Thursday, July 26, 2012 7:55 AM
To: Tony Plante
Subject: RE: Concerning Fireworks
Attachments: PIKE LTR 05272009.pdf

Tony:

Enclosed is a letter dated 2009. Randi has called Mr. Koris (voicemail) and followed up with a FAX requesting an updated letter to include Fireworks.

I scanned all our calls for service (between Jan 1 and July 24) with the key words fireworks and Pike.
I scanned using the key words fireworks and Blue Rock, found one for June 30th at 2200 Hrs anonymous caller. The responding officer could find no sign of fireworks.
I found two calls for service by Mr. Oberley --Both CFS were not related to Pike's sand Pit.

Rick

From: Tony Plante
Sent: Monday, July 23, 2012 9:53 AM
To: Richard Lewsen
Subject: FW: Concerning Fireworks

Chief,

Please see below. I'd appreciate your thoughts, insight, and observations about the Pike pit, what seems to be happening there, and what we have done/can do.

Thanks.

Tony Plante, Town Manager
Town of Windham
8 School Road
Windham, ME 04062

207-892-1907 x1121
207-892-1910 fax
207-233-0806 cell

NOTICE: Under Maine's Freedom of Access ("Right to Know") law, documents – including emails – in the possession of public officials about town business are considered public records. This means if anyone asks to see it, we are required to provide it. There are very few exceptions. We welcome citizen comments and want to hear from our constituents, but please keep in mind that what you write in an email is not private and will be made available to any interested party.

From: Matt Noel
Sent: Friday, July 20, 2012 3:40 PM
To: Anthony Oberley
Cc: Scott Hayman; Tony Plante
Subject: RE: Concerning Fireworks

Hello Mr. Oberley,

I appreciate your email, your time and your thoughts.

I hope you are correct as does the Leadership of the Windham Town Council. We hope that the few who are violating the new law will quickly realize that their actions may adversely effect their access and use of fireworks in Windham and possibly Maine.

I believe the Town Manager will find your insight to be helpful when discussing this subject with the Police Chief. I also think that your observations and suggestions of Pike Industries is well placed and a call to their local management may help us discourage the illegal use and trespassing. I know first hand that local and county police have parked on Cotton Drive in the past and entered the Pike pit in an effort to deter the illegal uses you describe in your email. Additional efforts as you describe may also be helpful.

Thanks you again for your time. I hope we can resolve this issue quickly without the need for additional regulation / ordinances.

Regards,

Matt Noel
West District Councilman

From: Anthony Oberley [aoberley@att.net]

Sent: Thursday, July 19, 2012 12:01 PM

To: Scott Hayman; Matt Noel; Kevin Call; Tom Gleason; Dennis Welch; David Nadeau

Subject: Concerning Fireworks

Hello,

After reading the articles in the local newspapers, I wanted to share a couple of thoughts concerning the fireworks. I think the lion's share of the problems are coming from one area. I live on Hawthorne Drive. There is a large gravel pit, owned by Pike Industries, that is located behind me and surrounded by several neighborhoods in North Windham. There are a lot of people that have gone in there with fireworks late at night (after midnight), to set them off. But beyond that, people often go in there with guns and shoot off their guns and do target practice. People also like to go in there with ATV's or motor dirt bikes and rip around. They'll even park their trailers on Cotton Drive, and unload their gear, and head on into the gravel pit.

It seems to me that if the Windham Town government could write to Pike Industries, and tell them that people are continually trespassing on their property and doing things like I mentioned above, they could take steps to correct it, perhaps cooperate with Windham police on the trespassers. Pike Industries itself actually runs a very quiet operation. Their trucks only go in the pit later on in the morning, and are pretty quiet anyway. But I'm not sure they are aware of the countless people trespassing in the gravel pit after hours and on weekends.

I would appreciate it if you could put my email into the Town Council minutes. Thank you.

Tony Oberley
62 Hawthorne Drive
Windham, ME. 04062
207-892-6282
207-233-8543 cell



PIKE INDUSTRIES, INC.

58 MAIN STREET • WESTBROOK, ME 04092 • (207) 854-2561 • FAX (207) 854-2539

AN EQUAL OPPORTUNITY EMPLOYER

May 27, 2009

Patrolman Raymond Williams
Windham Police Department
375 Gray Road
Windham, Maine 04062

Re: Windham Varney Mill Road Gravel Pit
Pike Industries, Inc.

Dear Mr. Williams,

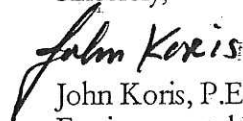
Appreciate you taking the time to meet with me today. We have received several telephone calls from concerned neighbors related to our gravel pit and related off-hour activities. Please find this correspondence as formal permission to assist us in further enforcing the trespass laws in our Windham gravel pit. We welcome any efforts you can provide in helping us prohibit all ATV, dirt bike traffic & fire arms target practice at this location.

Your thought of issuing formal warnings upon first offense, followed by a citation for repeat offenders sounds fine to me. We don't mind local neighbors walking their dogs, etc, but motorized activity is not welcome.

You have our permission to carry out your operations, as well as any internal "practical training exercises" you folks might require. Your cooperation in the past has always been positive and professional.

Thank you for all your efforts. Feel free to contact me anytime at (207)212-8558.

Sincerely,



John Koris, P.E.
Environmental Manager, Maine

Cc: Jonathan Olson, Region 2 Manager - Maine
Brian Donovan, Corporate EHS Manager



An Oldcastle Company