

NOTICE OF PUBLIC HEARING  
MUNICIPAL OFFICERS OF THE TOWN OF  
OLD ORCHARD BEACH

The Municipal Officers of the Town of Old Orchard Beach, Maine hereby give Public Notice that there will be a Public Hearing held at the Town Hall, Council Chambers, on February 21<sup>st</sup>, 2012, at 7:00 p.m. to consider the following:

Be it hereby ordained, by the Town Council of the Town of Old Orchard Beach, Maine, in Town Council assembled, that Article IX, Sale and Use of Consumer Fireworks Prohibited, Section 38-290 through 38-296 is hereby added to the Town of Old Orchard Beach Code of Ordinances:

**Sec. 38-290. PURPOSE AND AUTHORITY.**

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

**B. Title and authority.** This Ordinance shall be known as the "Town of Old Orchard Beach Consumer Fireworks Ordinance." It is adopted pursuant to the enabling provisions of the Maine Constitution, the provisions of 30-A M.R.S. § 3001, the provisions of P.L. 2011, ch. 416, § 5 (effective Jan. 1, 2012), *codified at* 8 M.R.S. § 223-A, and Section 410.1 of the Old Orchard Beach Town Charter.

**Sec. 38-291. DEFINITIONS.**

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**Consumer Fireworks** – "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.

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

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

**Sec. 38-293. EXCEPTIONS**

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

**Sec. 38-294. VIOLATION PENALTIES AND ENFORCEMENT.**

**A. Penalty for Violation.** For each violation of a provision of this Ordinance or other failure to comply with any of the requirements thereof, the person shall be subject to a fine of not less than \$100 and not more than \$2,500, plus attorney's fees and costs.

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

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

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

**Sec. 38-295. EFFECTIVE DATE.**

This Ordinance takes effect immediately upon adoption.

**Sec. 38-296. SEVERABILITY.**

Should any section, subsection or portion of this Ordinance be declared by any court of competent jurisdiction to be invalid for any reason, such a decision shall not be deemed to invalidate any other section, subsection or portion of this Ordinance.

Per Order of the Municipal Officers this 7<sup>th</sup> day of February, 2012.

A True Copy

Attest:

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Kim M. McLaughlin, Town Clerk