

**MORATORIUM ORDINANCE ON THE SALE, POSSESSION
AND USE OF CONSUMER FIREWORKS
City of Ellsworth, Maine**

The City of Ellsworth (Maine) adopts a Moratorium Ordinance on the sale, possession and use of consumer fireworks as follows:

WHEREAS, an Act to Legalize the sale, possession, and use of fireworks was passed by the 125th Maine legislature and signed on 2011-07-01; and

WHEREAS, the City of Ellsworth recognizes the potential for fire and injury and the history of fire and injury in regards to the sale, possession, and use of fireworks; and

WHEREAS, the State of Maine has not finalized the rules and regulations for the “Consumer Fireworks Sale Licensing;” and

WHEREAS, the potential sale and use of consumer fireworks in the City of Ellsworth raises legitimate and substantial questions and concerns about the impacts on the City of Ellsworth, including the compatibility with the existing residential and commercial zones; the potential adverse health and safety effects of the community, associated fires and injuries; and the increased burden on both the Ellsworth Police and Fire Departments; and

WHEREAS, the City of Ellsworth currently is in the process of re-writing its Land Use Ordinance, to develop consistency with the City of Ellsworth Comprehensive Plan; and

WHEREAS, the current Land Use Ordinance and Comprehensive Plan, as well as City Licenses and Permits Ordinance does not adequately address the concerns listed above; and

WHEREAS, the existing Comprehensive Plan, Land Use Ordinance, or other applicable laws and regulations, if any, are not adequate to prevent serious public harm by the development of the sale of consumer Fireworks in the City of Ellsworth; and

WHEREAS, the City of Ellsworth needs reasonable time to study the Land Use Ordinance and Comprehensive Plan to determine the implications of future proposed sale, possession, and use of Fireworks to develop reasonable regulations governing such activities; and

WHEREAS, it is anticipated that such a study, review, and development of recommendations will take at least one hundred eighty (180) days from the date the City of Ellsworth first enacts this Moratorium Ordinance on the sale, possession and use of consumer fireworks; and

NOW, THEREFORE, based upon the foregoing findings, be it hereby ordained that the City of Ellsworth does enact the following Moratorium Ordinance on the sale, possession and use of consumer fireworks:

1. **Authority:** This moratorium is adopted pursuant to 30-A M.R.S.A. § 4356 and the City's home rule authority, 30-A M.R.S.A. § 3001.
2. **Applicability and Purpose:** This moratorium shall apply to the sale of consumer fireworks within the City of Ellsworth, as well as the use and possession of consumer fireworks as defined in PL 416 An Act to legalize the Sale, Possession, and Use of Fireworks on or after January 1, 2012.
3. **Prohibition:** During the time this Moratorium is in effect, no officer, official, employee, office, board, or agency of the City of Ellsworth shall accept, process, approve, deny, or in any other way act upon any application for a building permit, certificate of occupancy, conditional use plan review and/or any other permits related to the establishment of retail or wholesale sales of fireworks, and no person or organization shall develop or sell consumer fireworks within the City of Ellsworth on or after January 1, 2012. Furthermore, no person or organization shall possess or use consumer fireworks within the City of Ellsworth on or after January 1, 2012.
4. **Enforcement, violation, and penalties:** If the sale, use, or possession of consumer fireworks takes place in violation of this moratorium, the City may enforce this moratorium and seek the penalties specified in 30-A M.R.S.A. § 4452, including, but not limited to, injunctions, penalties, attorneys' fees, and costs. Each day of a violation shall exist constitutes a separate violation.
5. **Effective date:** This moratorium shall take effect on January 1, 2012 and shall remain in effect for a period of one hundred eighty (180) days after said date, unless extended, repealed, or modified by the Ellsworth City Council.
6. **Action by the City Council and Planning Board:** During the effective period of this moratorium, the Planning Board and Council appointed staff, shall expeditiously act to review the implications of the sale, possession and use of consumer fireworks, among other things, the health, safety, welfare, law enforcement, fire protection, land use, property value, and environmental impacts on the City of Ellsworth and its citizens. The City will hold at least one public hearing and receive input from interested parties. The Planning Board and interested parties shall endeavor to submit recommendations for permanent action within one hundred seventy-nine (179) days of the effective date of this moratorium.
7. **Severability:** Should any section or provision of this Order be declared by any court to be invalid, such a decision shall not invalidate any other section or provision.