



## THE NEW FIREWORKS LAW & THE MUNICIPAL OPTION

Beginning Jan. 1, 2012, the sale, possession and use of consumer fireworks will be legal under Maine law (see Public Law 2011, c. 416). The new law authorizes municipalities, by ordinance, to prohibit or restrict the sale or use of consumer fireworks within the municipality, but before municipalities undertake to do so, we think they should understand what is (and is not) allowed under the statute.

The new law applies only to “consumer fireworks,” which are generally smaller and less powerful than commercial display fireworks. Specifically prohibited are missile-type rockets, helicopters and aerial spinners, and sky rockets and bottle rockets.

In order to sell consumer fireworks under the new law, a person must be at least 21 years of age and possess both a federal permit and an annual state license. The state license is subject to an initial fee of \$5,000 and a renewal fee of \$1,500 for each sales location. State licensees are also subject to strict storage and handling as well as liability insurance requirements. Licensees are prohibited from selling to anyone under 21 years of age or who appears under the influence of alcohol or drugs. Anyone convicted of a violation of state or federal law involving fireworks within the two years prior to application for a state license is ineligible.

The new law also restricts when and where consumer fireworks may be used. Hours are limited to 9 a.m. to 10 p.m. except on July 4 and December 31 and the weekends immediately before and after, when permitted hours are 9 a.m. to 12:30 a.m. the following day. The location is limited to the user’s own property or the property of a person who has consented to the use.

Violations of the new law are punishable as either criminal or civil offenses, depending on the violation. Any state or municipal law enforcement officer, code enforcement officer or fire safety official may petition the Superior Court or District Court to seize or remove, at the licensee’s expense, any fireworks sold, offered for sale, stored, possessed or used in violation of the new law. The

Commissioner of Public Safety also may immediately suspend any license for violation of the new law.

Despite all this, a municipality, as noted, has the option of further restricting or banning altogether the sale or use (but not the possession) of consumer fireworks within the municipality. This option may be exercised only by ordinance enacted by the legislative body. Municipalities that do so must provide a copy of the ordinance to the State Fire Marshal within 60 days after enactment. If the ordinance requires a municipal permit for selling consumer fireworks, the State Fire Marshal must be notified at least 60 days prior to the initiation of the permitting program. A municipality may require payment of a reasonable fee for a municipal permit but may not issue a permit unless it complies with the per-

mitting requirements under the statute.

Because there are so many potential variations depending on local policy priorities, no “model” ordinance is available at this time. We encourage interested municipalities to contact the State Fire Marshal for samples as they are filed with that office and to work with local legal counsel to develop an ordinance that adequately addresses local concerns. (*By R.P.F.*)

## RECALL REVISITED

Several years ago we wrote in this column that “neither the Maine Constitution nor State statutes establish any procedure for recalling [removing] an elected local official” (see “Recall of Officials,” *Maine Townsman*, “Legal Notes,” May 2007). We said then that any process for the recall of local officials must



## Municipal Calendar

**ON OR BEFORE SEPTEMBER 1** — Clerks of organized plantations shall make return to the Secretary of State, on blanks furnished by him for that purpose, of the names of the assessors and clerks of their plantation and that the same have been sworn. There is a penalty for failure to make such return (30-A MRSA §7005).

**SEPTEMBER 5** — (first Monday in September) — Labor Day — a legal holiday (4 MRSA §1051).

**ON OR BEFORE SEPTEMBER 15** — Monthly expenditure statement and claim for General Assistance reimbursement to be sent to Department of Human Services, General Assistance Unit, 11 State House Station, Augusta, ME 04333 [22 MRSA §4311].

**BETWEEN MAY 1 and OCTOBER 1** — Municipal officers may initiate process to close certain roads to winter maintenance [23 MRSA §2953]. For further information see MMA’s Municipal Roads Manual.

**BY OCTOBER 1** — Assessors should receive the municipality’s proposed current state valuation from the State Tax Assessor. [36 MRSA §208].

**ON OR BEFORE OCTOBER 15** — Monthly expenditure or quarterly statement and claim for General Assistance reimbursement to be sent to Department of Human Services, General Assistance

Unit, DHS #11, Augusta, ME 04333 [22 MRSA §4311].

**OCTOBER** — Registrars of voters shall accept registration prior to the November 1 Election according to the time schedule for their population group [21-A MRSA §122(6)].

— The Registrar shall publish his/her time and hourly schedules in a newspaper having general circulation in the municipality at least 7 days before it becomes effective. In municipalities of 2,500 or less population, this publication is discretionary rather than compulsory [21-A MRSA §125].

— The hourly schedule for voter registration established by 21-A MRSA §122 may be changed by the municipal officers according to the needs of the municipality [21-A MRSA §122(8)].

**ON OR BEFORE OCTOBER 31** — Every employer required to deduct and withhold tax for each calendar quarter shall file a withholding return and remit payment as prescribed by the State Tax Assessor (36 MRSA § 5253).

**BY NOVEMBER 1** — Any governmental subdivision holding tangible or intangible property presumed abandoned under 33 MRSA §1953 must make report to the Administrator of Abandoned Property of the State Treasury Department, pursuant to 33 MRSA §1958.