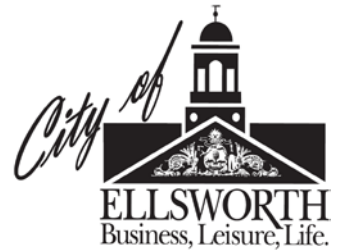


CHAPTER 59
City of Ellsworth, Maine

**Consumer Fireworks
and
Commercial Outdoor Public Fireworks/Pyrotechnics Display
Ordinance**

A true copy –

Attest: Heidi-Noel Grindle
City Clerk



Adopted April 16, 2012
Amended December 15, 2014
Amended June 15, 2015
Amended August 7, 2015

This ordinance shall be known as "Consumer Fireworks and Commercial Outdoor Public Display of Fireworks/Pyrotechnics Ordinance City of Ellsworth, Maine".

Section 1 AUTHORITY

1.1 This ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII-A of the Maine Constitution and MRSA Title 30-A § 3001, and MRSA Title 8, Chapter 9-A: Fireworks

Section 2 APPLICABILITY

2.1 This ordinance shall apply to any person involved in consumer fireworks retail sales, consumer fireworks use, or a commercial outdoor public fireworks/pyrotechnics display within the City of Ellsworth.

Section 3 PURPOSE

3.1 To regulate the sale and use of consumer fireworks, receive notification of commercial outdoor public fireworks/pyrotechnics display activities, within the City of Ellsworth and to provide the necessary information concerning the sale of consumer fireworks and commercial outdoor public fireworks/pyrotechnics display activities within the City.

Section 4 DEFINITIONS

4.1 Consumer Fireworks:

Consumer fireworks shall be as defined in MRSA Title 8, Chapter 9-A. Consumer fireworks does not include the following products as defined by the State Fire Marshal's Office by rule:

A. 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.

B. 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.

C. Sky Rockets and Bottle Rockets:

A 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.

D. Sky Lanterns:

Sky lanterns are the type of balloon that requires fire underneath, used to heat the air within the balloon, to propel it into the air.

4.2 Display Fireworks:

Display fireworks means large fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation. This term includes, but is not limited to, salutes containing more than 2 grains (130 mg) of explosive materials, aerial shells containing more than 40 grams of pyrotechnic compositions, and other display pieces which exceed the limits of explosive materials for classification as consumer fireworks. This term also includes fused set pieces containing components which together exceed 50 mg of salute powder.

4.3 Fireworks:

A. Fireworks means:

1. Combustible or explosive composition or substance;
2. Combination of explosive compositions or substances;
3. 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;
4. Fireworks containing any explosive or flammable compound; or
5. Tablets or other device containing any explosive substance or flammable compound

B. The term, fireworks, does not include consumer fireworks, 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 cannot 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. (The common or usual name of the product is Fireworks UN0335 or Fireworks 1.3 G.)

4.4 Person:

Person means any individual, combination of individuals, group, association, municipality, amusement park, or other legal or commercial entity.

4.5 Private Display:

Private display means an entertainment feature where the general public is not admitted or invited to view the display or discharge of fireworks, consumer fireworks, or special effects.

4.6 Public Display:

Public display, for the purpose of this ordinance, means an entertainment feature where the general public is admitted or invited, and permitted to view, the display or discharge of fireworks, consumer fireworks, or special effects.

4.7 Pyrotechnic Articles:

Pyrotechnic articles means pyrotechnic devices for professional use similar to consumer fireworks in chemical composition and construction but not intended for consumer use, including articles meeting the weight limits for consumer fireworks but not labeled as such and classified by U.S. Department of Transportation regulations in 49 CFR 172.101 as UN0431 or UN0432.

4.8 Pyrotechnics:

Pyrotechnics means the science of using materials capable of undergoing self-contained and self-sustained exothermic chemical reactions for the production of heat, light, gas, smoke and/or sound. Pyrotechnics include not only the manufacture of fireworks but items such as safety matches, oxygen candles, explosive bolts and fasteners, components of the automotive airbag and gas pressure blasting in mining, quarrying and demolition.

Section 5 PROHIBITED and RESTRICTED USES

5.1 Consumer fireworks shall not be used when the fire danger class, as designated by the Maine Forest Service, is a class 4 or 5 fire danger day.

5.2 The following are prohibited within the City of Ellsworth.

- A.** The use of pyrotechnic articles and consumer fireworks are prohibited within any structure in the City of Ellsworth.
- B.** The sale and use of missile-type rockets, as defined by MRSA Title 8, Chapter 9-A, and the State Fire Marshal's Office.
- C.** The sale and use of helicopters and aerial spinners, as defined by MRSA Title 8, Chapter 9-A and the State Fire Marshal's Office.
- D.** The sale and use of sky rockets and bottle rockets, as defined by MRSA Title 8, Chapter 9-A and the State Fire Marshal's Office.
- E.** The sale and use of sky lanterns as defined in MRSA Title 8, Chapter 9-A and the State Fire Marshal's Office.
- F.** The use of Consumer Fireworks is prohibited on property owned by the City of Ellsworth.
- G.** The use of consumer fireworks is prohibited as shown on the official City of Ellsworth Prohibited Fireworks Area and on the Enlarged Prohibited Fireworks Area Inset Maps, and hereby adopted by reference and made part of this Ordinance. These official maps shall be certified by the attested signature of the City Clerk and shall be located in the City Clerk's Office.

5.3 Except for the sale of consumer fireworks as defined in MRSA Title 8, Chapter 9-A, a person may not sell, possess with the intent to sell, or offer for sale fireworks within the City of Ellsworth.

5.4 Consumer fireworks may be used on Fridays from 6:00pm to 10:00pm and Saturdays from 6:00pm to 10:00pm.

5.5 Consumer fireworks may be used on the following dates between the hours of 9:00am and 12:30am the following day:

A. July 4th

B. December 31st

C. Consumer fireworks may be used from 6:00pm to 10:00pm from the Sunday immediately before July 4th and December 31st to the Thursday immediately following July 4th and December 31st.

5.6 A person may use consumer fireworks only on that person's property, or on the property owned by a person who has consented with written permission, to the use of consumer fireworks on that property.

5.7 Any public display shall conform to the requirements of MRSA Title 8, Chapter 9-A.

A. Notification shall be made to the Ellsworth Police Department of the intent to conduct any public or private display in proximity to fifty (50) or more persons.

B. Notification shall be made to the Ellsworth Public Safety Dispatch at (207) 667-2133.

C. Notification shall be made no less than two (2) days prior to the display.

D. All safety requirements listed on the product shall be followed.

Section 6 SALE OF CONSUMER FIREWORKS

6.1 No person shall operate any establishment or sell from any establishment consumer fireworks within the City of Ellsworth without obtaining a license in accordance with City of Ellsworth Chapter 14, Licenses and Permits Ordinance. The license shall be valid for a period of one year from the date of issuance by the City of Ellsworth. A public hearing is required prior to action on the initial license or renewal.

6.2 No person shall operate any establishment or sell from any establishment consumer fireworks within the City of Ellsworth without obtaining a state license.

6.3 Before an initial license application for the sale of consumer fireworks is submitted to the City of Ellsworth, the applicant shall submit sufficient information and documentation to show compliance with MRSA Title 8, Chapter 9-A, §223-A and Chapter 36 Office of the State Fire Marshal's Rules.

Additionally, an applicant must show:

A. Minimum distances, compliant with MRSA Title 8, Chapter 9-A, §223-A(4), from the proposed permit location to the following:

1. Public ways

2. Buildings

3. Other consumer fireworks retail sales buildings
4. Motor vehicle fuel storage and dispensing facilities
5. Propane storage and dispensing facilities
6. Flammable and combustible liquid aboveground tank storage and dispensing facilities
7. Flammable gas and flammable liquefied gas, bulk aboveground storage and dispensing facilities
8. Vehicle access and parking areas

B. Floor plan and layout of storage and displays of the consumer fireworks product to indicate compliance with state and local laws and regulations which shows:

1. Location and type of portable fire extinguishers
2. All means of egress
3. Construction details

6.4 The applicant must have a valid City of Ellsworth consumer fireworks retail sales license and a valid federal license to sell consumer fireworks prior to submission of an application for a state license to the State Fire Marshal's Office.

6.5 Upon receipt of the state license, the applicant shall submit a copy of the current valid state license to the Fire Chief or his designee.

6.6 Only consumer fireworks may be sold in the City of Ellsworth.

6.7 The consumer fireworks retail sales facility shall make available, to anyone purchasing consumer fireworks, a current list of towns prohibiting or restricting the use of consumer fireworks in Maine and shall post the same information at the point of sale.

Section 7 COMMERCIAL OUTDOOR PUBLIC FIREWORKS/PYROTECHNICS DISPLAY PERMIT

7.1 Permit required.

A commercial outdoor public fireworks/pyrotechnics display permit from the State fire Marshal's Office is required to conduct a commercial outdoor public fireworks/pyrotechnic display within the City of Ellsworth.

- A.** A separate permit is required for each location at which an applicant seeks to conduct a commercial outdoor public fireworks display event.

- B. A copy of the application for a State Fire Marshal's Office permit, for the commercial outdoors public display fireworks/pyrotechnic display event shall be submitted to the Fire Chief or his designee no less than 10 days prior to the event date.

Section 8 CONFLICTS WITH OTHER RULES, REGULATIONS OR LAWS

8.1 Whenever the requirements of this ordinance are in conflict with the requirements of any other lawfully adopted federal, state, or local ordinance, the requirements of the most restrictive or higher standard shall govern, unless, the provisions of the local ordinance is preempted by federal or state laws or regulations.

Section 9 SEVERABILITY

9.1 In the event that any section, subsection, or any provision 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, sub-section, or other portion of this ordinance. To that end, the provisions of this ordinance are hereby declared severable.

Section 10 PENALTIES

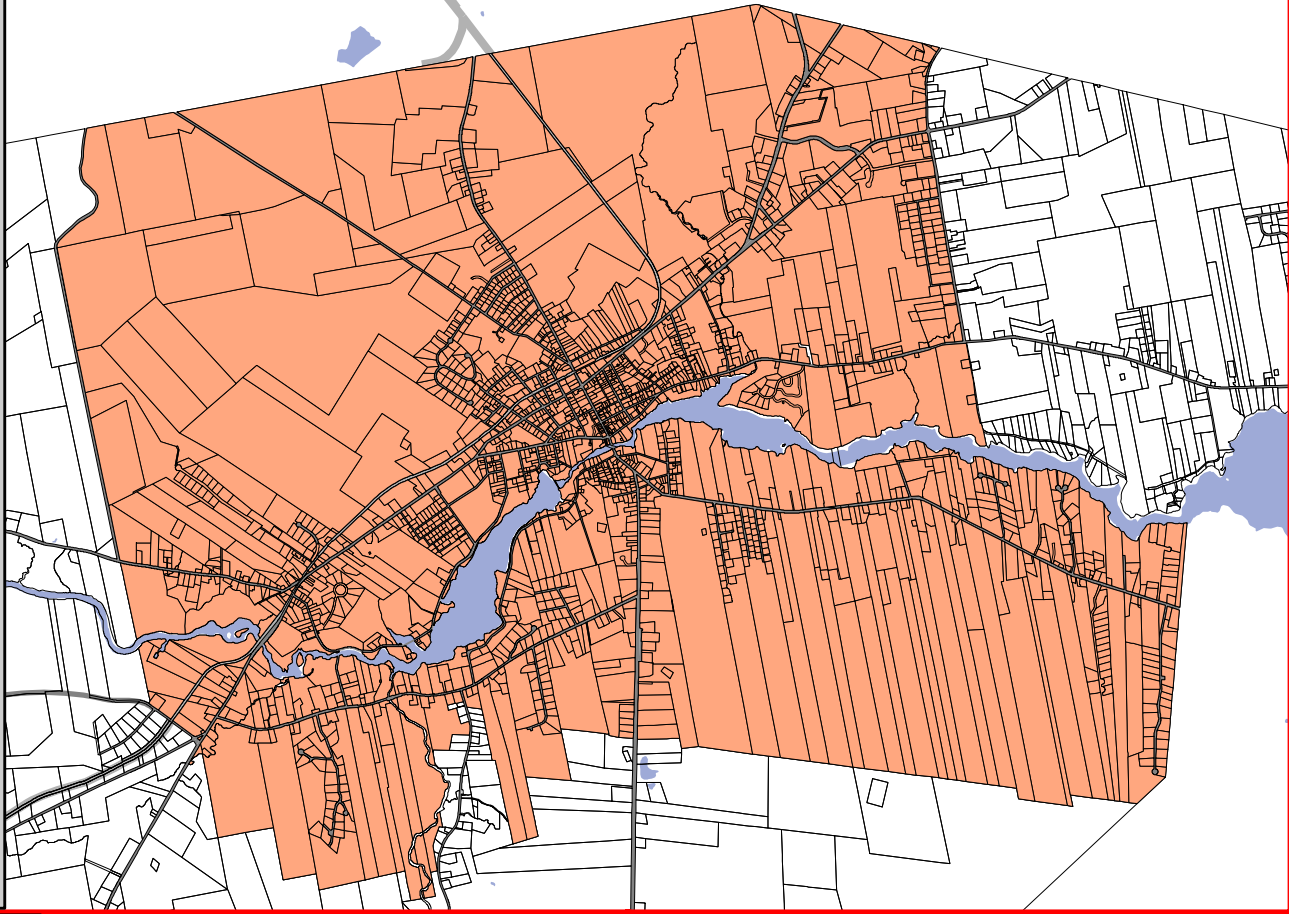
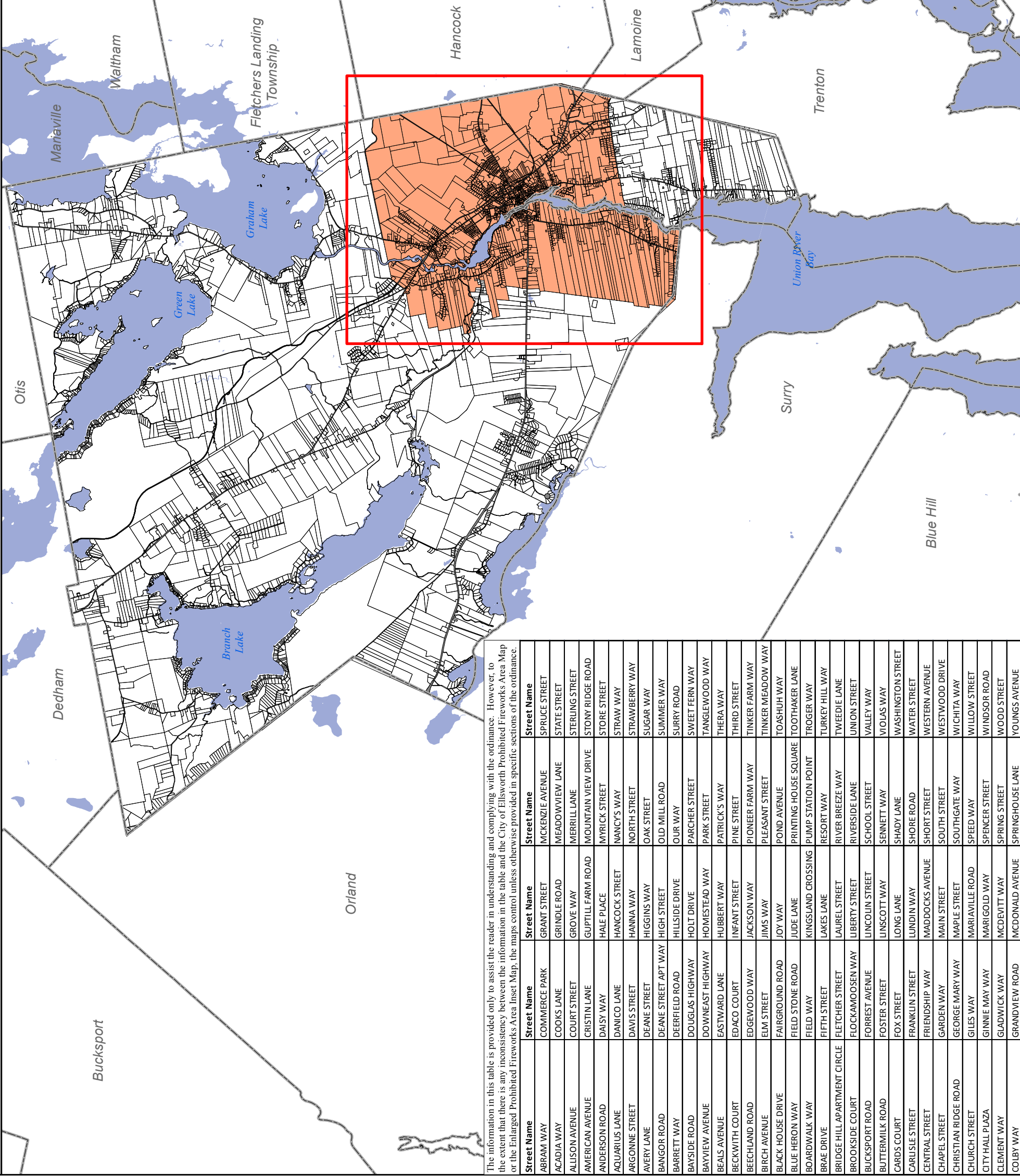
10.1 Any person who violates any provision of this ordinance or the license issued by the City of Ellsworth for consumer fireworks sales, commits a civil violation for which a fine of not less than two hundred fifty dollars (\$250.00) and not more than five hundred dollars (\$500.00) may be imposed for each day such offense continues and the City's reasonable fees and expenses, including attorneys fees. Each offense may constitute a separate offense for each day the violation occurs.

Section 11 EFFECTIVE DATE

11.1 This ordinance shall become effective on the date of amendment by the City Of Ellsworth.

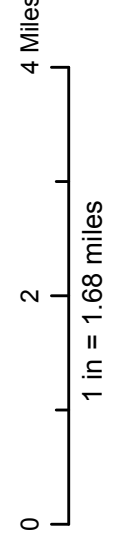
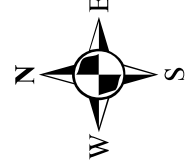
CITY OF ELLSWORTH PROHIBITED FIREWORKS AREA MAP

INSET MAP



LEGEND

- Prohibited Fireworks Area
- Parcel Boundary
- Municipal Boundary
- Roads
- Water



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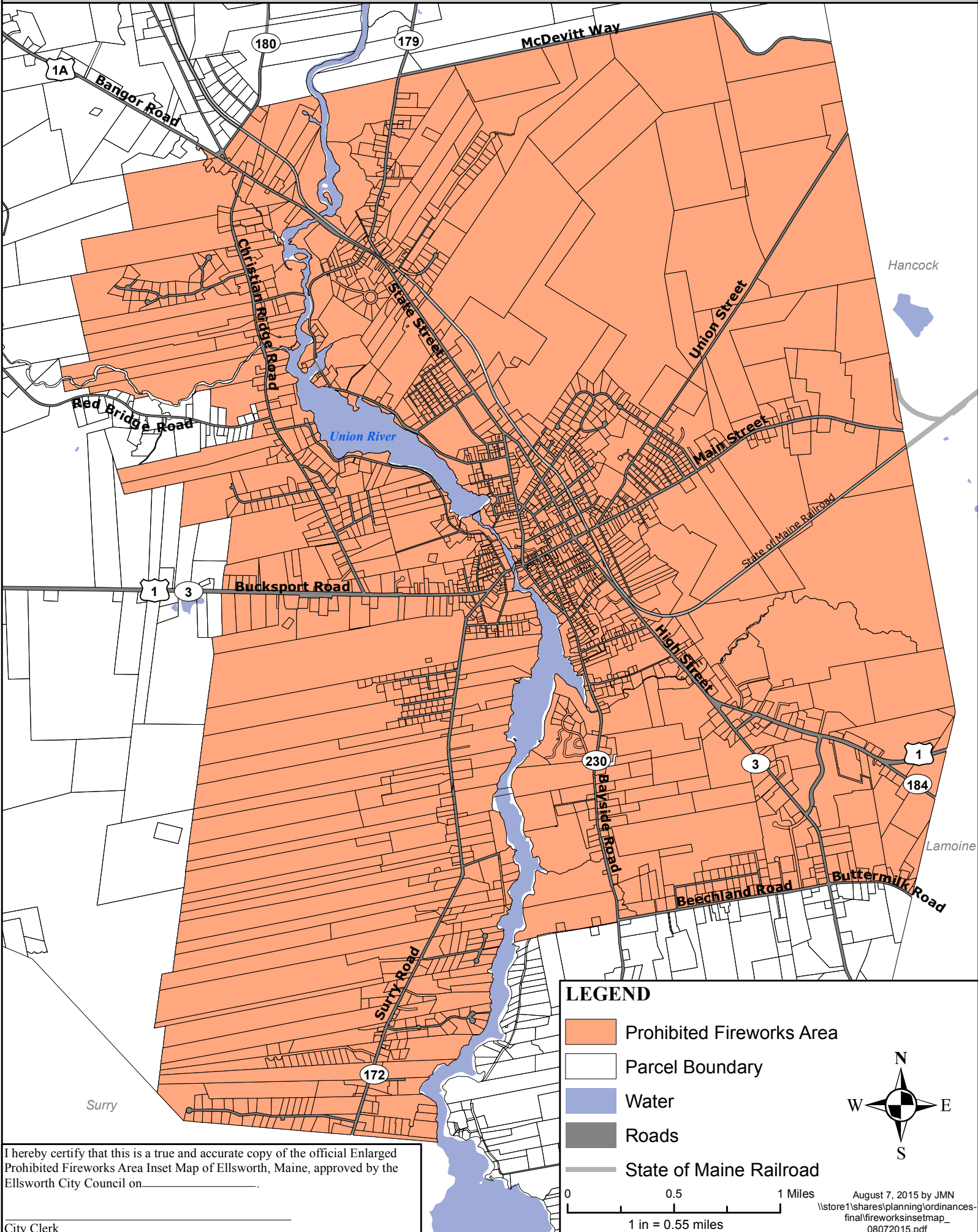
I hereby certify that this is a true and accurate copy of the official City of Ellsworth Prohibited Fireworks Area Map of Ellsworth, Maine, approved by the Ellsworth City Council on _____.

City Clerk

The information in this table is provided only to assist the reader in understanding and complying with the ordinance. However, to the extent that there is any inconsistency between the information in the table and the City of Ellsworth Prohibited Fireworks Area Map or the Enlarged Prohibited Fireworks Area Inset Map, the maps control unless otherwise provided in specific sections of the ordinance.

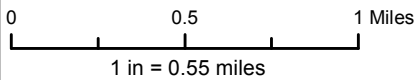
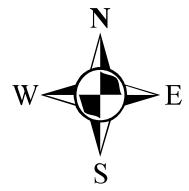
Street Name	Street Name	Street Name	Street Name
ABRAM WAY	GRANT STREET	MCKENZIE AVENUE	SPRUCE STREET
ACADIA WAY	GRINDLE ROAD	MEADOWVIEW LANE	STATE STREET
ALISON AVENUE	GROVE WAY	MERRILL LANE	STERLING STREET
AMERICAN AVENUE	COURT STREET	MOUNTAIN VIEW DRIVE	STONY RIDGE ROAD
ANDERSON ROAD	CRISTIN LANE	DAISY WAY	STORE STREET
AQUARIUS LANE	DANICO LANE	HANCOCK STREET	STRAW WAY
ARGONNE STREET	DAVIS STREET	HANNA WAY	STRAWBERRY WAY
AVERY LANE	DEANE STREET	HIGGINS WAY	SUGAR WAY
BANGOR ROAD	DEANE STREET APT WAY	HIGH STREET	SUMMER WAY
BARRETT WAY	DEERFIELD ROAD	HILLSIDE DRIVE	SURRY ROAD
BAYSIDE ROAD	DOUGLAS HIGHWAY	HOLT DRIVE	SWEET FERN WAY
BAYVIEW AVENUE	DOWNEAST HIGHWAY	HOMESTEAD WAY	TANGLEWOOD WAY
BEALS AVENUE	EASTWARD LANE	HUBBERT WAY	THERA WAY
BECKWITH COURT	EDACO COURT	INFANT STREET	THIRD STREET
BEECHLAND ROAD	EDGEWOOD WAY	JACKSON WAY	PIONEER FARM WAY
BIRCH AVENUE	ELM STREET	JIMS WAY	PLEASANT STREET
BLACK HOUSE DRIVE	FAIRGROUND ROAD	JOY WAY	POND AVENUE
BLUE HERON WAY	FIELD STONE ROAD	JUDE LANE	PRINTING HOUSE SQUARE
BOARDWALK WAY	FIELD WAY	KINGSLAND CROSSING	PUMP STATION POINT
BRAE DRIVE	FIFTH STREET	LAKES LANE	RESORT WAY
BRIDGE HILL APARTMENT CIRCLE	FLETCHER STREET	LAUREL STREET	RIVER BREEZE WAY
BROOKSIDE COURT	FLOCKAMOSEN WAY	LIBERTY STREET	RIVERSIDE LANE
BUCKSPORT ROAD	FORREST AVENUE	LINCOLN STREET	SCHOOL STREET
BUTTERMILK ROAD	FOSTER STREET	LINSCOTT WAY	SENNETT WAY
CARDS COURT	FOX STREET	LONG LANE	SHADY LANE
CARLISLE STREET	FRANKLIN STREET	LUNDIN WAY	SHORE ROAD
CENTRAL STREET	FRIENDSHIP WAY	MADDOCKS AVENUE	SHORT STREET
CHAPEL STREET	GARDEN WAY	MAIN STREET	SOUTH STREET
CHRISTIAN RIDGE ROAD	GEORGE MARY WAY	MAPLE STREET	SOUTHGATE WAY
CHURCH STREET	GILES WAY	MARIAVILLE ROAD	WILLOW STREET
CITY HALL PLAZA	GINNIE MAY WAY	MARIAGOLD WAY	WINDSOR ROAD
CLEMENT WAY	GLADWICK WAY	MCDONALD AVENUE	WOOD STREET
COLBY WAY	GRANDVIEW ROAD	MCDONALD AVENUE	YOUNGS AVENUE

ENLARGED PROHIBITED FIREWORKS AREA INSET MAP



LEGEND

- Prohibited Fireworks Area
- Parcel Boundary
- Water
- Roads
- State of Maine Railroad



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I hereby certify that this is a true and accurate copy of the official Enlarged Prohibited Fireworks Area Inset Map of Ellsworth, Maine, approved by the Ellsworth City Council on _____.

City Clerk _____