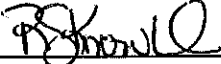


Use and Sale of Fireworks Town of Deer Isle, Maine

Enacted: June 16, 2016

Certified by  06-16-2016
Rebecca Knowlton, Municipal Clerk

Use and Sale of Fireworks- Town of Deer Isle, Maine

The Town of Deer Isle, Maine adopts this Ordinance regulating the sale and use of Fireworks and Consumer Fireworks as follows:

Article I. Preamble

Whereas, an act to legalize the sale, possession and use of fireworks was passed by the 125th Maine Legislature and signed on July 1, 2011; and

Whereas, the act authorized more stringent local Ordinance in the regulation of fireworks; and

Whereas, the Town of Deer Isle recognizes the potential for fire, injury and property damage in regard to the sale and use of fireworks; and

Whereas, the potential sale and use of fireworks in the Town of Deer Isle raises legitimate and substantial questions and concerns about the impacts of such sale and use, including but not limited to, the compatibility with existing land uses, potential for serious fire risks, and potential adverse health and safety risks upon members of the community resulting from the sale and use of consumer fireworks and potential burdens upon the First Responders of the Town of Deer Isle.

Now, therefore, based upon foregoing findings, be it hereby ordained that the Town of Deer Isle does enact the following Ordinance prohibiting the sale and regulating the use of consumer fireworks in the Town of Deer Isle.

Article II. Purpose and Authority

A. Purpose

This Ordinance governs and prohibits the sale and regulates the use of consumer fireworks in the Town of Deer Isle. It is intended to protect residents from injury, fire and to allow them peaceful enjoyment of their property. It is further intended to reduce the burden on the Town resources such as Fire, EMS and Police.

B. Title and Authority

This ordinance shall be known as the "Town of Deer Isle Fireworks Ordinance". It is adopted pursuant to the enabling provisions of the Maine Constitution, the provisions of 30-MRSA sec. 3001, and public Law 2011, Ch. 416, sec. 5, codified at 8 MRSA sec 223-A.

Article III. Definitions

A. Consumer Fireworks- "Consumer Fireworks" has the same meaning as that term is used in 27 Code of Federal Regulations, Section 555.11 or subsequent provision, but includes only products that are tested and certified by a third party testing laboratory as conforming with Consumer Product Safety Commission standards, in accordance with United States Code, Chapter 47. "Consumer Fireworks" does not include the following products which are illegal to sell, and use or possess in Maine:

1. Missile type rockets, as defined by the State Fire Marshall by rule;
2. Helicopters and aerial spinners, as defined by the State Fire Marshall by rule; and
3. Sky rockets and bottle rocks. For purposes of the definitions: "sky rockets and bottle rockets" mean cylindrical tubes containing not more than 20 grams of chemical composition, as defined by the State Fire Marshall 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.

B. Fireworks- "Fireworks" has the same meaning as that term is used in 8 MRSA Sec. 221-A (4) as may be amended from time to time

Article IV. Sale of Fireworks and Consumer Fireworks Prohibited

No person or entity shall sell, or offer for sale fireworks or consumer fireworks within the Town of Deer Isle.

Article V. Use of Fireworks and Consumer Fireworks Prohibited

The use of fireworks and consumer fireworks is prohibited in the Town of Deer Isle with the exception of New Year's Eve, New Year's Day, Memorial Day, July 3, 4 and 5, and Labor Day and on any special Town occasion which has been authorized and approved by the Selectman of the Town of Deer Isle. A person may use consumer firework on that person's property or on the property of a person who has consented to the use of consumer fireworks on that property.

Article VI. Exceptions

This Ordinance does not apply to a person or company issued a Fireworks Display permit by the Selectman of the Town of Deer Isle and/or the State of Maine pursuant to 8 MRSA Sec. 227-A as may be amended from time to time. Such individuals or companies will be required to submit proof of license to perform public displays and liability insurance for such.

Article VII. Violation Penalties and Enforcement

A. Penalties

1. Any person who uses fireworks or consumer fireworks in violation of this Ordinance shall be subject to a fine of not less than \$350 and not more than \$500 plus costs. For the purposes of this subsection, each instance of use of fireworks or consumer fireworks shall constitute a separate violation.

2. In addition to any State penalties for the unlicensed sale of fireworks and/or consumer fireworks, any person who offers for sale fireworks or consumer fireworks in the Town of Deer Isle shall be subject to punishment by a fine of not less than \$500 plus costs. For the purpose of this subsection each instance of sale of fireworks or consumer fireworks shall constitutes a separate violation.

B. Enforcement

This Ordinance will be subject to enforcement by the Hancock County Sheriff's Department, the Maine State Police, Maine State Game Wardens, Marine Patrol, State Fire Marshall, Forest Ranger and any Public Safety Officer.

C. Injunction

In addition to any other remedies available at law or equity, The Town of Deer Isle may apply to any Court of competent jurisdiction to enjoin any planned, anticipated or threatened violation of this Ordinance, and may seek penalties, specified in 30-A MRSA Sec. 4452, including, but not limited to injunctions, penalties, attorney's fees and costs. For the purpose of this subsection, each day a violation constitutes a separate violation.

D. Seizure and Disposal

The Town of Deer Isle may seize fireworks or consumer fireworks that the Town has probable cause to believe are used or sold in violation of this Ordinance and State law and shall forfeit seized fireworks to the State for disposal.

Article VIII. Rental Property Notification

All Town of Deer Isle residents and visitors are subject to the provisions of the Deer Isle Fireworks Ordinance. Owners and landlords of rental properties are required to insure that their tenants are made fully aware of this Ordinance by including full information in rental agreements and/or by prominently posting the Deer Isle Fireworks Ordinance on the premises of the rental property location. Failure to comply will be deemed a violation of the Ordinance.

Article IX. Effective Date

This Ordinance shall be effective upon adoption by a Special Town Meeting and shall remain in effect indefinitely until otherwise repealed or modified in accordance with Maine Law.

Article X. 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.