

FIREWORKS ORDINANCE

TOWN OF OWLS HEAD

Adopted - December 19, 2011

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Section 1. Title and Authority

This ordinance shall be known as the "Town of Owls Head Fireworks Ordinance." It is adopted pursuant to the enabling provisions of the Maine Constitution, the provisions of 30-A M.R.S.A. § 3001, and the provisions of 8 M.R.S.A. § 223-A.

Section 2. Definitions in Accordance with 8 MRSA 221-A, sub 1-A., (as of November, 2011).

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 confirming 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 paragraph, "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.

Fireworks. "Fireworks" means any:

- A. Combustible or explosive composition or substance;
- B. Combination of explosive compositions or substances;
- C. 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;
- D. Fireworks containing any explosive or flammable compound; or
- E. Tablets or other device containing any explosive substance or flammable compounds.

The term "fireworks" does not include consumer fireworks or 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.

Section 3. Sales Prohibited

No person or group of persons may sell consumer fireworks or fireworks.

Section 4. Use Prohibited

No person or group of persons shall use, display, fire or cause to be exploded fireworks or any of said items enumerated in Section 38-101 "Consumer Fireworks."

Section 5. Fireworks Display

A "fireworks display" is an entertainment feature where the public or a private group is admitted or permitted to view a showing or discharge of fireworks or special effects. A fireworks display requires a permit from the Maine Commissioner of Public Safety or his or her designee under the provisions of 8 M.R.S.A. §§ 221 - 237, and particularly section 227-A. The Owls Head Fire Chief, or his or her designee, shall inspect the proposed display site at the time of the inspection conducted by a representative of the Maine Public Safety Department under 8 M.R.S.A. § 227-A (2).

Section 6. Use Prohibited Within Fifty Feet of Public Way

No person shall use, display, throw, drop or cause to be discharged or exploded, any consumer fireworks or fireworks at any time, within fifty feet of any public way.

Section 7. Civil Penalties

Whoever violates any of the provisions of the foregoing Sections shall be subject to a civil penalty of not less than one hundred dollars (\$100) per day and not more than twenty-five hundred dollars (\$2,500) per day, plus attorney's fees and costs. In all other respects, assessment of penalties under this Ordinance shall be in accordance with 30-A M.R.S.A. § 4452.

Section 8. Prohibition of All Fireworks

State law prohibits the sale and possession of all fireworks, with the exception of consumer fireworks, see 8 M.R.S.A. §223. By prohibiting the sale and use of consumer fireworks, the Town, is effectively prohibiting the use and sale of all fireworks except permitted fireworks displays in the Town of Owls Head.