

**Consumer Fireworks Ordinance
Town of Mount Desert
An Ordinance to Prohibit the Sale and Use of Consumer Fireworks**

Enacted May 8, 2012

ARTICLE I Purpose.

This Ordinance governs and prohibits the sale and use of "consumer fireworks" to ensure the safety of the residents and property owners of the Town of Mount Desert and of the general public.

ARTICLE II Title and Authority

This Ordinance shall be known as the "Town of Mount Desert Consumer Fireworks Ordinance".

ARTICLE III Definitions

The following words, terms and phrases, when used in this Ordinance shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

"Consumer fireworks" The term "consumer fireworks" has the same meaning as in 8 M.R.S. § 221-A(1-A), as amended.

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

"Possession" means the intentional or knowing possession of what the possessor knows or believes to be fireworks.

"Sale" or "sell" means any transfer or delivery of fireworks to a person for consideration.

"Town" means the Town of Mount Desert.

ARTICLE IV Sale of Consumer Fireworks Prohibited

No person or group of persons shall sell, possess with the intent to sell or offer for sale consumer fireworks within the Town of Mount Desert.

ARTICLE V Use of Consumer Fireworks Prohibited

No person or group of persons shall use, possess with intent to use, display, fire or cause to be exploded consumer fireworks within the Town of Mount Desert.

ARTICLE VI Violation and Enforcement

- A. **PENALTY FOR VIOLATION:** Any person who violates the provisions of this Ordinance shall commit a civil violation punishable by a penalty of not less than One Hundred Dollars (\$100.00) and not more than Two Thousand Five Hundred Dollars (\$2,500) for each offense.

Each day such violation occurs or continues to occur shall constitute a separate violation. In addition, pursuant to the Maine Revised Statutes, Title 30-A, Part 2, Subpart 6-A, Chapter 187, Subchapter 5 (30-A M.R.S. § 4452), the Town may recover all costs of enforcement of this ordinance, including reasonable attorneys fees.

- B. **ENFORCEMENT:** This Ordinance shall be enforced by the Town of Mount Desert Police Department, or by any other duly appointed agents of the Town.
- C. **INJUNCTION:** In addition to any other remedies available at law or equity, the commission of acts prohibited by this Ordinance shall constitute a nuisance and the Town of Mount Desert, acting through its Town Manager, may apply to any court of competent jurisdiction to enjoin any planned, anticipated or threatened violation of this Ordinance and to prohibit further and continued violation thereof.
- D. **SEIZURE & DISPOSAL OF CONSUMER FIREWORKS:** The Town may seize consumer fireworks that the Town has probable cause to believe are used or sold in violation of this Ordinance and shall forfeit seized consumer fireworks to the State for disposal.
- E. **EXCEPTIONS.** This section does not apply to a person issued a fireworks display permit by the Town of Mount Desert and/or by the State of Maine pursuant to 8 M.R.S. § 227-A to 237.

ARTICLE VII Severability

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

ARTICLE VIII **Miscellaneous Provisions**

- A) This ordinance is adopted pursuant to the enabling provisions of the Maine Constitution, Maine Revised Statutes, Title 30-A, Part 2, Subpart 4, Chapter 141 (30-A M.R.S. § 3001, *et seq.*), and Title 8, Chapter 9-A, § 223-A(2) (8 M.R.S. § 223-A(2)).
- B) The effective date of this Ordinance is: May 8, 2012.
- C) This Ordinance shall expire and be of no force or effect on May 4, 2027.