

## TOWN OF CHEBEAGUE ISLAND

### CONSUMER FIREWORKS ORDINANCE

#### **Section 1. Purpose**

The purpose of this Ordinance is to prohibit the sale and restrict the use of consumer fireworks to ensure the safety of the residents and property owners of the Town of Chebeague Island and of the general public.

#### **Section 2. Authority**

This Ordinance is adopted pursuant to and consistent with the Municipal Home Rule Powers as provided for in Article VIII, Part 2, Section 1 of the Constitution of the State of Maine and Title 30-A M.R.S. § 3001, and the provisions of 8 M.R.S. § 223-A.

#### **Section 3. Definitions**

The following words, terms and phrases, when used in this Ordinance, shall have the same meanings ascribed to them as in 8 M.R.S. § 221-A, as may be amended from time to time, except where the context clearly indicates a different meaning:

**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 conforming 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 definition, "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.

*Note: The products listed above in subsections A, B, and C are illegal to sell, use or possess in Maine except by State licensed pyrotechnicians as part of a permitted fireworks display.*

**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 compound.

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 can not 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 4. Sale of Consumer Fireworks Prohibited**

No person shall sell or offer for sale consumer fireworks within the Town of Chebeague Island.\*

**Section 5. Consumer Fireworks Use Permit Required**

Under conditions specified here and below, a person must first obtain a written consumer fireworks use permit from the Town of Chebeague Island before using consumer fireworks. An application for a permit must be filed with the Town at least two (2) days before the proposed date of use and include, at a minimum, the name and address of the applicant, date of application, date of proposed use, hours and duration of use, location of use, written permission of landowner if location is not on land owned by applicant or the Town, and signature of applicant. If the proposed location is in the intertidal zone, written permission must be provided by upland landowner(s). No permit may be issued to an applicant who is less than 21 years of age.

The Town may issue a permit if it is found that the use meets the following requirements and will not create a fire danger, a danger to the persons at the location of the anticipated use, or a danger or nuisance to the general public.

- (a) The Town assumes no liability for injuries that result from the use of consumer fireworks regardless of the status of a permit.
- (b) A permit only may be issued for the following days and during the following times:
  - i. July 3<sup>rd</sup>, beginning at 9:00 a.m. and ending at 10:00 p.m.;
  - ii. July 4<sup>th</sup>, beginning at 9:00 a.m. and ending at 12:30 a.m. the following day;
  - iii. December 31<sup>st</sup>, beginning at 9:00 a.m. and ending at 12:30 a.m. the following day;
  - iv. January 1<sup>st</sup>, beginning at 9:00 a.m. and ending at 10:00 p.m.
  - v. Rain dates may be determined at the discretion of the Town Administrator.
- (c) A written permit may be issued to use consumer fireworks on the Island, with written permission of (as applicable):
  - i. The owner;
  - ii. In the case of intertidal zone sites, any upland landowners;
  - iii. In the case of Town-owned land or upland sites, the Town Administrator;
  - iv. The Fire Chief.
- (d) Applicants will be responsible for cleaning up any debris left by fireworks displays and restoring the area to its previous condition.

#### **Section 6. Acts Prohibited by State Law**

Pursuant to 8 M.R.S. § 223-A, as may be amended from time to time, a person may not knowingly procure, or in any way aid or assist in procuring, furnish, give, sell or deliver consumer fireworks for or to a person under 21 years of age; or allow a person under 21 years of age under that person's control or in a place under that person's control to possess or use consumer fireworks. A person under 21 years of age may not purchase, use or possess consumer fireworks within the State or present to a person licensed to sell consumer fireworks any evidence of age that is false, fraudulent or not actually the person's own for the purpose of purchasing consumer fireworks.

## **Section 7. Violation and Enforcement**

- (a) **Penalty for sale violation.** Any person who sells consumer fireworks in violation of the provisions of this Ordinance shall commit a civil violation punishable by a penalty of one thousand dollars (\$1,000.00) plus attorney's fees and costs, to be recovered by the Town of Chebeague Island for its use. Each day such violation occurs or continues to occur shall constitute a separate violation.
- (b) **Penalty for use violation.** Any person who uses consumer fireworks in violation of the provisions of this Ordinance shall commit a civil violation punishable by a penalty of two hundred dollars (\$200.00) plus attorney's fees and costs, to be recovered by the Town of Chebeague Island for its use. Each day such violation occurs or continues to occur shall constitute a separate violation.
- (c) **Injunction.** In addition to any other remedies available at law or equity, the Town of Chebeague Island, acting through its Town Administrator, may apply to any court of competent jurisdiction to enjoin any planned, anticipated or threatened violation of this Ordinance.
- (d) **Seizure & disposal of consumer fireworks.** The Town may seize consumer fireworks that the Town has probable cause to believe are used in violation of this Ordinance and shall forfeit seized consumer fireworks to the State for disposal.

## **Section 8. Exception**

This Ordinance does not apply to a person issued a fireworks display permit by the State of Maine pursuant to 8 M.R.S. § 227-A. Display has the same meaning as in 8 M.R.S. § 221-A(3).

## **Section 9. Severability**

In the event that any section, subsection or portion 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, subsection or portion of this Ordinance.

## **Section 10. Effective Date**

This Ordinance shall become immediately effective upon approval at Town Meeting.

*\*Note: State law prohibits the sale and possession of all fireworks, with the exception of consumer fireworks, which are small fireworks devices as defined under state law. See 8 M.R.S. §§ 221-A, 223. By prohibiting the sale of consumer fireworks, the Town is effectively prohibiting the sale of all fireworks in the Town of Chebeague Island.*

**Adopted at Town Meeting June 8, 2019**