Use and Sale of Fireworks-City of Eastport, Maine

The City of Eastport, 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 Ordinances in the regulation of fireworks; and

Whereas, the City of Eastport recognizes the potential for fire, injury and property damage, and further recognizes the history of fire, injury and property damage in regards to the sale and use of fireworks; and

Whereas, the potential sale and use of fireworks in the City of Eastport 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 member of the community resulting from the sale and use of consumer fireworks and potential burdens upon the First Responders of the City of Eastport.

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

Article II. Purpose and Authority

A. Purpose
This Ordinance governs and prohibits the sale and regulates the use of consumer Fireworks in the City of Eastport. 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 City resources such as Fire, EMS and Police.

B. Title and Authority
This Ordinance shall be known as the "City of Eastport Fireworks Ordinance. It is adopted pursuant to the enabling provisions of the Maine Constitution, the provisions of 30-A 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 United States Consumer Product Safety Commission standards, in accordance with 15 United States Code, Chapter 47. "Consumer Fireworks" does not include the following products which are illegal to sell, use or possess in Maine:

1. Missile type rockets, as defined by the State Fire Marshal by rule;
2. Helicopters and aerial spinners, as defined by the State Fire Marshal by rule; and
3. Sky rockets and bottle rockets. For purposes of the 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.

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

Fireworks means any combustible or explosive composition or substance; any combination of such substances; or any other article which 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 which requires fire underneath to propel it, firecrackers, torpedoes, skyrockets, roman candles, bombs, rockets, wheels, colored fires, fountains, mines, serpents or other fireworks of like construction; any fireworks 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 cannot come in contact with the cap when in place for the explosion, toy pistol paper 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.

Display or Commercial Grade Fireworks are fireworks that only trained and licensed pyrotechnicians may handle and use within regulatory structure set forth in 8 MRSA Sec 9-A.

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 City of Eastport.

Article V. Use of Fireworks and Consumer Fireworks Prohibited

The use of fireworks and consumer fireworks is prohibited in the City of Eastport, with the exception of July 3 and 4, the Friday and Saturday of the Pirate Festival, and New Year's Eve.

Article VI. Exceptions

This Ordinance does not apply to a person or company issued a Fireworks Display Permit by the City of Eastport 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 purpose 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 City of Eastport 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 constitute a separate violation.

B. Enforcement

This Ordinance will be subject to enforcement by the Chief of Police and any Certified Officer of the Eastport Police Department.

C. Injunction

In addition to any other remedies available at law or equity, the City of Eastport 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 of a violation constitutes a separate violation.

D. Seizure and Disposal

The City of Eastport may seize fireworks or consumer fireworks that the City 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. Effective Date

This Ordinance takes effect sixty days after adoption by the Eastport City Council at a City Council meeting following a Public Hearing and shall remain in effect indefinitely until otherwise repealed or modified in accordance with Maine law.

Article IX. 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.

Date Approved: 8 January 2014
Effective Date: 9 March 2014
ATTEST: Ella Kowal, City Clerk