

**TOWN OF HAMPDEN, MAINE
CONSUMER FIREWORKS ORDINANCE**

ADOPTED: Hampden Town Council, June 3, 2013
Effective Date: July 3, 2013

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ARTICLE 1:
PURPOSE

1.1 Purpose. This Ordinance regulates the use of consumer fireworks to ensure the public health, safety and welfare of the residents and property owners of the Town of Hampden and of the general public.

ARTICLE 2:
TITLE AND AUTHORITY

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

ARTICLE 3:
DEFINITIONS

3.1 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 – "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.

Display – means an entertainment feature where the public or a private group is admitted or permitted to view the display or discharge of fireworks or special effects. "Display" includes a "special effects display" as defined in 8 M.R.S. §221-A(10).

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 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;
- 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.

Red Flag Warning – A term designated by the NOAA’s National Weather Service (www.weather.gov) and used by fire-weather forecasters to call attention to limited weather conditions of particular importance that may result in extreme burning conditions. The warning is issued when it is an ongoing event or the fire weather forecaster has a high degree of confidence that the Red Flag criteria will occur within 24 hours of issuance. Red Flag criteria occurs whenever a geographical area has been in a dry spell for a week or two, or for a shorter period, if before spring green-up or after fall color, and the National Fire Danger Rating System (NFDRS) is high to extreme and the following forecast weather parameters are forecasted to be met: 1) a sustained wind average 15 miles per hour or greater, 2) a relative humidity less than or equal to 25 percent and 3) a temperature of greater than 75 degrees F. In some states, dry lightning and unstable air are criteria. A Fire Weather Watch may be issued prior to the Red Flag Warning.

ARTICLE 4:
USE OF CONSUMER FIREWORKS RESTRICTED

4.1 Limits on Hours and Dates. A person shall not use, display, fire, or cause to be exploded consumer fireworks within the Town of Hampden or in or from any watercraft within waters of the Town except during the following times:

between the hours of 9:00 a.m. and 10:00 p.m., except that on the following dates they may be used between the hours of 9:00 a.m. and 12:30 a.m. the following days:

- a) July 4th;
- b) December 31st; and
- c) The weekends immediately before and after July 4th and December 31st.

4.2 Limits on Locations. A person may use, display, fire, or cause to be exploded consumer fireworks only on that person's property or on the property of a person who has consented to the use of consumer fireworks on that property.

4.3 Cessation After Multiple Complaints. Upon complaints from multiple households to Hampden's Public Safety Department, the Public Safety Director or designee shall have the authority to require that the person(s) complained about immediately cease the use, display, firing, or explosion of consumer fireworks for a 12 hour period from the time of notification to cease if the official determines that any such activity disturbs the quiet, comfort or repose of any reasonable person located within or upon any residential premises.

4.4 Cessation After Single Complaint. Upon complaint from a single household to Hampden's Public Safety Department, the Public Safety Director or designee shall have the authority to require that the person(s) complained about cease the use, display, firing, or explosion of consumer fireworks if in the judgment of the official the complainant has special aggravating circumstances such as a sick family member or the presence of animals in the area and the propensity of such animals to suffer adverse health effects from exposure to the noise accompanying fireworks, or, as a result of fear resulting from exposure to such noise, may endanger others. The length of the cessation required will be at the discretion of the Public Safety Director or designee. In instances where the required cessation extends beyond the 12 hour period from the time of notification to cease, the person(s) complained about will be provided with the cessation order in writing.

4.5 Red Flag Warning. A person may not use, display, fire or cause to be exploded consumer fireworks on days that are designated by the Maine Forest Service and or NOAA as Red Flag Warning days. It is the sole responsibility of persons using consumer fireworks to ascertain the fire danger rating for the day that the consumer fireworks are used.

4.6 Collateral Debris on Neighboring Properties and Right of Ways. A person may not use, display, fire or cause to be exploded consumer fireworks in a manner that does not contain all falling debris from the fireworks to the user's property.

4.7 Visible Intoxication or Impairment. A person may not use, display, fire or cause to be exploded consumer fireworks while intoxicated or impaired due to use of alcohol or drugs.

ARTICLE 5: VIOLATION AND ENFORCEMENT

5.1 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 five hundred dollars (\$500.00) plus attorney's fees and costs to be recovered by the Town of Hampden for its use. Each day such violation occurs or continues to occur shall constitute a separate violation.

5.2 Enforcement. This Ordinance shall be enforced by the Town of Hampden Police Department.

5.3 Injunction. In addition to any other remedies available at law or equity, the Town of Hampden, acting through its Town Manager, may authorize an attorney apply to any court of competent jurisdiction to enjoin any planned, anticipated or threatened violation of this Ordinance.

5.4 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.

ARTICLE 6:
EXCEPTIONS

6.1 Exceptions. This Ordinance does not apply to any person(s) who has obtained a permit under 8 M. R. S. §227-A to conduct a display of fireworks.

ARTICLE 7:
SEVERABILITY

7.1 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.