# TOWN OF BOWDOINHAM
# CONSUMER FIREWORKS ORDINANCE

## ARTICLE 1: Purpose, Title and Authority

**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 Bowdoinham, Maine and of the general public.

**1.2 Title and Authority.** This Ordinance shall be known as the "Town of Bowdoinham 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 of 8 M.R.S. § 223-A.

## ARTICLE2: Definitions

**2.1 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 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.

**Display.** "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.

**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 per chlorates or signal, antique or replica cannons if no projectile is fired.

**Red Flag Warning.** "Red Flag Warning" is a term designated by the NOAA's National Weather Service 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 of 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 of less than or equal to 25 percent and 3) a temperature of greater than 75 degrees Fahrenheit.

## ARTICLE 3: Use of Consumer Fireworks Restricted

**3.1 Use near Livestock.** A person may not use consumer fireworks or explosives, either loose or contained in a tube or other enclosure, within 1,000 feet of a property where livestock is present without the consent of that property's owner. For purposes of this paragraph, "livestock" has the same meaning as in Title 17, section 1011, subsection 18-A.

**3.2 Debris.** A person may not allow debris from the use of consumer fireworks to enter or land on the property of a person who has not given consent for the debris to enter or land on that property.

**3.3 Fire Danger Days & Red Flag Warning.** The use of consumer fireworks is only permissible on days when the fire danger day is Class 1, Class 2 or Class 3 as determined by the State of Maine Forest Service. The use of consumer fireworks is strictly prohibited on Class 4 and Class 5 fire danger days or at times when a red flag warning has been issued by the State of Maine Forest Service. 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.

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

## ARTICLE 4: Violations and Enforcement

**4.1 Violations.** In addition to any penalty provision set forth in state or federal law, failure to comply with any provision of this ordinance shall result in:

A. First offense: written warning.

B. Second offense: $300.00 fine, plus attorney's fees and costs to be recovered by the Town of Bowdoinham and prohibition on the use of consumer fireworks for a period of seven (7) calendar days.

C. Third offense: $600.00 fine, plus attorney's fees and costs to be recovered by the Town of Bowdoinham and prohibition of the use of consumer fireworks for a period of one hundred eighty (180) days.

**4.2 Fines.** All fines and fees shall be paid to the Town of Bowdoinham.

**4.3 Enforcement.** This ordinance shall be enforced by the Sagadahoc County Sheriff's Office.

**4.4 Other Expenses.** All fireworks users shall be financially responsible for any and all expenses incurred by the Town of Bowdoinham and all mutual aid response municipalities for costs associated with the mitigation of any fire or other emergency resulting from the misuse of consumer fireworks within the Town of Bowdoinham.

## ARTICLE 5: Exceptions

**5.1 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 or to municipally sponsored displays of fireworks.

## ARTICLE 6. Severability, Effective Date

**6.1. 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.

**6.2. Effective Date.** This ordinance shall be effective upon adoption by the voters at the Annual Town Meeting held on June 10, 2015.

**End of Ordinance**

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Given under our hands this 28th day of April, 2015.

Select Board
Town of Bowdoinham, Maine

Wendy Cunningham, Chair

M. Theresa Turgeon, Vice-Chair

Brian Hobart

Peter Lewis

Douglas Tourtelotte

"ATTEST", A true certified copy of the TOWN OF BOWDOINHAM CONSUMER FIREWORKS ORDINANCE.

Pamela C Ross, Town Clerk