TOWN OF HOLDEN
CONSUMER FIREWORKS USE ORDINANCE

The Town of Holden hereby ordains that the following Ordinance be enacted.

This Ordinance shall be known as and may be cited as the "Consumer Fireworks Use Ordinance of the Town of Holden, Maine," and will be referred to herein as the "Ordinance."

Section 1. AUTHORITY.

101. This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII-A of the Maine Constitution, Title 8, Section 223-A and Title 30-A, Section 3001, of the Maine Revised Statutes (M.R.S.).

Section 2. PURPOSE.

201. The purpose of this Ordinance is to regulate the use of consumer fireworks within specified time frames in order to allow a longer quiet time on weekdays for the benefit of those who work early shifts and or shift work without having to totally restrict the use of fireworks within the Town of Holden. It also sets criteria for use of consumer fireworks based on "Fire Danger" levels.

Section 3. APPLICABILITY.

301. This Ordinance shall apply to any person involved in the use of consumer fireworks within the Town of Holden. For the purposes of this Ordinance, the term "person" shall mean any individual, or combination of individuals engaged in the use of consumer fireworks and the term "consumer fireworks" shall be as defined in Title 8 M.R.S. Section 221-A, as may be amended from time to time.

Section 4. CONFLICT WITH OTHER RULES, REGULATIONS OR LAWS.

401. Whenever the requirements of this Ordinance are in conflict with the requirements of any other lawfully adopted Federal, State, or local ordinance the requirements of the most restrictive or higher standard shall govern, unless the provisions of the local ordinance are preempted by Federal or State law or regulations.

Section 5. SEVERABILITY.

501. In the event that any section, subsection, or any provision 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, sub-section, or other portion of this Ordinance. To that end, the provisions of this Ordinance are hereby declared to be severable.

Section 6. LEGAL TIMES TO DISCHARGE CONSUMER FIREWORKS

601. Pursuant to Title 8 M.R.S. Section 223-A(8)(A), consumer fireworks may be used between the hours of 9:00 a.m. and 10:00 p.m. Sunday through Saturday except on July 4th and December 31st and the weekends immediately before and after said dates, the hours are between 9:00 a.m. and 12:30 a.m. the following day.

602. Pursuant to Title 8 M.R.S. Section 223-A(2), the Town of Holden hereby further restricts the use of consumer fireworks and has establishes two different seasonal periods with two different time frames that allow the use of consumer fireworks. These are summer hours and winter hours

602.1 Summer Hours: Summer Hours start on the first full day of Daylight Savings Time and end on the last full day of Daylight Savings Time. The hours that consumer fireworks may be used are Sunday through Thursday 12:00 p.m. (noon) until 9:00 p.m. Friday and Saturday revert to the State of Maine hours of 9:00 a.m. until 10:00 p.m.

602.2 Winter Hours: Winter Hours start on the first full day that the time reverts back to Eastern Standard Time (EST) and ends on the last full day of Eastern Standard Time (EST). The hours that consumer fireworks may be used are Sunday through Thursday 12:00 p.m. (noon) until 8:00 p.m. Friday and Saturday revert back to the State of Maine hours of 9:00 a.m. until 10:00 p.m.

603. All other provisions and restrictions as provided by State law still apply.

Section 7. FIRE DANGER PERIODS.

701. There are times due to weather conditions that greatly increase the potential for consumer fireworks to start a fire. In an effort to decrease the danger to our community, the use of consumer fireworks is prohibited during the periods that the fire danger is high, Class 3 or above.

702. Each person wishing to use consumer fireworks shall be responsible for verifying the fire danger level with the Holden Fire Department, Town Office or do an Internet Search "Maine Forest Fire Danger" (Zone 4) prior to use.

Section 8. PENALTIES AND ENFORCEMENT.

801. Any person who violates the provisions of this Ordinance commits a civil violation. First offense shall as a minimum be a verbal warning, second offense as a minimum shall be a written warning, third offense and thereafter will result in a summons with a $200.00 civil penalty. All civil penalties shall inure to the benefit of the Town of Holden. In addition, if the Town is the prevailing party, the Town shall be awarded reasonable attorney fees, expert witness fees and cost, unless the Court finds that special circumstances make the award of fees and costs unjust.

802. All requirements contained in this Ordinance shall be enforced by the Holden Police Department.

Section 9. EFFECTIVE DATE.

901. This Ordinance shall become effective on the date of adoption by the Town Council.

Enacted: March 17, 2014

Robert Harvey, Chairman

David R. Black, Vice Chairman

Paul Amoroso, Councilor

Ralph McLeod, Councilor

Thomas Copeland, Councilor