TOWN OF HOLDEN
CONSUMER FIREWORKS SALES 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 Sales 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 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 require an annual permit for the sale of consumer fireworks within the Town of Holden under the requirements of State and Federal statutes and regulations for such sales.

Section 3. APPLICABILITY.

301. This Ordinance shall apply to any person involved in the sale of consumer fireworks within the Town of Holden. For the purposes of this Ordinance, the term "person" shall mean any individual, combination of individuals, association, municipality, amusement park, or other legal or commercial entity.

Section 4. PERMIT REQUIRED.

401. No person may sell consumer fireworks within the Town of Holden without a permit from the Town Council. The permit shall be for a period of one year from the date of issuance by the Town Council. A separate permit is required for each location at which an applicant seeks to sell consumer fireworks. The application fee for the initial permit shall be $500.00.

Section 5. CONFLICT WITH OTHER RULES, REGULATIONS OR LAWS.

501. 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 6. SEVERABILITY.

601. 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 7. SALE OF CONSUMER FIREWORKS.

701. Only consumer fireworks as defined in 8 M.R.S. § 221-A(1-A), as may be amended from time to time, may be sold in the Town of Holden.

Section 8. PERMIT REQUIREMENTS.

801. Any person applying for a permit must meet all requirements in Title 8, Maine Revised Statutes (M.R.S.), Chapter 9A

802. Persons applying to sell consumer fireworks in the Town of Holden must submit the following information to the Town Office for consideration and approval by the Holden Town Council prior to issuance of permit by the Town to authorize the sale of consumer fireworks:

802.1 Present a copy of the application submitted to the State of Maine for a license to sell consumer fireworks.

802.2 Proof of age. Applicant must be 21 years of age or older. Two forms of identification with birth date or one picture identification and birth certificate are required.

802.3 A copy of a federal permit to sell fireworks under 18 United States Code, Section 843.

802.4 Signed consent form (provided by Town of Holden) allowing the Police Department to perform a full background check.

802.5 Evidence that the applicant, and the premises from which consumer fireworks are to be sold, comply with the requirements of 8 M.R.S. § 223-A(4), as may be amended from time to time.

802.6 A form(s) signed by the Town of Holden Building Inspector, Fire Chief, and Police Chief that the facility proposed for the sale of consumer fireworks meets all Federal, State, and Municipal fire safety codes and standards, building codes, zoning ordinances, and any other applicable ordinances of the Town of Holden, and that said officials approve the application. The form will also indicate this facility is dedicated to and only approved for the sole storage and sale of consumer fireworks.

Section 9. APPROVAL PROCESS.

901. Upon receipt of all documentation required under Section 7 of this Ordinance, the Town of Holden will schedule a Public Hearing as part of the process. The hearing will be

advertised for three consecutive days in a newspaper of general circulation in the Town of Holden, and shall be posted in at least three public places as determined by the Town Clerk, at least ten (10) days prior to the hearing. Applicant is required to pay the cost of advertisement in advance.

902. The application will be presented to the Town Council at the scheduled monthly meeting following the public hearing for approval, approval with conditions, or disapproval. If approved, the applicant will then submit all documentation required by the State of Maine Public Safety Department with payment of fees to the State. The applicant shall not commence the sale of consumer fireworks unless all Federal and State approvals are also obtained.

Section 10. ANNUAL PERMIT REQUIRED.

1001. The Town of Holden requires an annual renewal of the permit to sell consumer fireworks, separate from any State requirements.

1002. Permittee shall submit an annual renewal application form provided by the Town Office with a renewal fee of $250.00 due no later than 30 days prior to the expiration of the existing permit.

1003. Permit request will be presented to the Town Council for renewal approval with recommendations from the Town Building Inspector, Fire Chief and Police Chief. Town Council may or may not renew based on recommendations from the above listed officials.

Section 11. CONFORMANCE WITH ALL APPLICABLE LAWS.

1101. Any person who receives a permit from the Town of Holden shall comply with all applicable Federal, State, or Town of Holden laws, ordinances, or regulations. A violation of the foregoing requirement, or of the permit issued by the Town, shall be grounds to revoke or suspend the permit by the Town Council, after notice and hearing.

Section 12. PENALTIES.

1201. Any person who violates the provisions of this Ordinance, or the permit issued by the Town Council, commits a civil violation for which a fine of not less than $200 and not more than $400 may be imposed for each day of violation. All fines 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.

Section 13. EFFECTIVE DATE.

1301. This Ordinance shall become effective on the date of adoption by the Town Council.

Enacted: October 17, 2011

Robert Harvey, Chairman

Paul Amoroso, Vice Chairman

Joel Swanton, Councilor

Ralph McLeod, Councilor

John Bryant, Councilor