



## STATE OF NEW HAMPSHIRE DEPARTMENT OF SAFETY

John J. Barthelmes, Commissioner

### ***Division of Fire Safety***

#### **Office of the State Fire Marshal**

J. William Degnan, State Fire Marshal

Office: 110 Smokey Bear Blvd., Concord, NH

Mailing Address: 33 Hazen Drive, Concord, NH 03305

PHONE 603-223-4289, FAX 603-223-4294 or 603-223-4295

TDD Access: Relay NH 1-800-735-2964 ARSON HOTLINE 1-800-400-3526



January 2015

Dear Fire Chief's, Police Chief's and community leaders:

Each year, the Office of State Fire Marshal receives numerous calls with questions or complaints from citizens, public safety and community officials about the sale, possession and the use of Permissible Consumer Fireworks within the state. These inquiries range from concerns about property damage (fire or debris), the use of Permissible Fireworks, the use of Permissible Fireworks during various hours of the day, unpleasant noise, interrupted sleep, and frightened domesticated animals. Although RSA 160-C does not regulate the use of Permissible Consumer Fireworks by consumers, or the noise they may make, the statute does allow communities to adopt local ordinances or regulations relative to the sale, possession and use of Permissible Consumer Fireworks.

So, what does RSA 160-C require?

- 1) Anyone purchasing, possessing or using Permissible Consumer Fireworks must be 21 years of age or older.
- 2) Anyone using Permissible Consumer Fireworks must use them on property that they own or have written permission from the land owner.
- 3) Permissible Consumer Fireworks can only be used in a community that has not restricted the sale, possession or use by a legally adopted ordinance or regulation.

The statute does not reference noise, hours of use or distance between property lines or buildings when used by a consumer. In this package, we hope to provide you with some basic information that may assist you with deciding to create, updating or just discussing the use of Permissible Consumer Fireworks in your community.

#### National Statistics - Fire

On average far more fires are reported on Independence Day than on any other day of the year. Of those fires, fireworks account for two out of every five of those fires. In 2011, fireworks caused an estimated 17,800 reported fires, including 1,200 total structure fires, 400 vehicle fires, and 16,300 outside and other fires. These fires alone resulted in an estimated eight reported civilian deaths, 40 civilian injuries and \$32 million in direct property damage.

*(Statistics obtained from the National Fire Protection Association - NFPA)*

Page 2

January 2015

Letter to Community Leaders

### National Statistics - Injury

In 2013, the United States Consumer Product Safety Commission reported that there were eight deaths and an estimated 11,400 consumers who sustained injuries related to fireworks. This is an increase from 8,700 injuries in 2012. Sixty-five percent, or 7,400 of the injuries in 2013 occurred in the 30 days surrounding the 4<sup>th</sup> of July. Reported injuries were frequently the result of the user handling lit fireworks or igniting fireworks while holding the device. CPSC also reported that consumers also reported injuries related to devices that malfunctioned or devices that did not work as expected, including injuries due to errant flight paths, devices that tipped over, and blowouts. In this year's report, CPSC indicated that consumers sometimes felt comfortable allowing children to handle firework devices perceived to be less powerful, such as sparklers, bottle rockets, firecrackers, etc. and is a practice we do not support or encourage. In 2013, sparklers and rockets accounted for more than 40 percent of all estimated injuries.

*(Statistics obtained from the U.S. Consumer Product Safety Commission)*

New Hampshire experiences a number of injuries each year, and due to the lack of mandatory burn injury or firework incident reporting, we cannot provide an accurate statistic on the number of injuries that occur each year. The incidents that have been reported resulted in significant injury and some have even been life altering. Information obtained from the NH Department of Health and Human Services show that there are at least 20 or more consumer fireworks related injuries that are treated in local Emergency Departments, but this statistic does not include all health care treatment facilities, doctor's offices, or community EMS providers.

The following link describes a recent fireworks related incident as told by some of the parties involved. To date, this has been the worst consumer fireworks related incident in New Hampshire.

<https://www.youtube.com/watch?v=puU8WtkpGxw>

In an effort to assist local communities, we have included examples of ordinances that we have prepared based on questions or inquiries we have received. Please feel free to use, modify, or change our examples to fit the needs of your community. As required by statute, our office maintains a current list of communities and their Permissible Consumer Fireworks restrictions. This list is required to be posted in every licensed permissible fireworks retailer in the state.

<http://www.nh.gov/safety/divisions/firesafety/special-operations/fireworks/documents/CommunityPermissibleRestrictedList08-26-14.pdf>

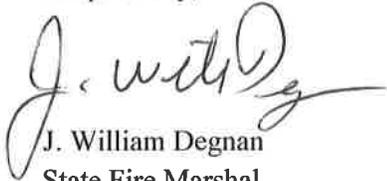
Page 3

January 2015

Letter to Community Leaders

It is our hope, by working together, this information can help reduce the number of injuries and property damage associated with the use of consumer fireworks in New Hampshire. Should you need additional information, or if we can be of any assistance to your agency or community, please feel free to contact us at (603) 223-4289.

Respectfully,



J. William Degnan  
State Fire Marshal

**STATUTORY AUTHORITY TO ADOPT LOCAL ORDINANCES**

**160-C:6 Local Option.** – Any municipality in the state, by action of its local legislative body or local governing body, may vote to allow or to prohibit, within that municipality, the issuance of permits or licenses to sell permissible fireworks or the display or possession of permissible fireworks. If the municipality has voted to prohibit the issuance of permits or licenses or the display or possession of permissible fireworks prior to the effective date of this section, such decision shall remain in effect unless subsequent action is taken under this section.

**160-C:14 Transportation.** – It shall not be unlawful for a person who has legally purchased permissible fireworks to transport them from the point of purchase to a municipality that has not prohibited the possession of permissible fireworks pursuant to RSA 160-C:6.

**FIREWORKS PROHIBITION ORDINANCE MODEL**

Sale, Possession and Discharge of Fireworks:

It shall be a violation of this ordinance for any person to store or possess, to offer for sale, expose for sale, sell at retail, or use or explode any fireworks, except as provided in rules and regulations issued by the Fire Chief for the granting of permits for supervised public displays of Display Fireworks by the jurisdiction, civic organizations, or any other group. All public displays of Display Fireworks shall be arranged, located, discharged or fired in a manner that, in the opinion of the Fire Chief, will not be a hazard to property or endanger any person, and shall follow all rules set forth by the State of New Hampshire for Display Fireworks.

Any person who violates this ordinance, in addition to any penalties prescribed in NH RSA 160-B and RSA 160-C, shall be subject to a fine of \$500.00 for each offense, and confiscation of any fireworks still in the persons possession. Any sworn law enforcement officer of the town, county or state, as well as the fire chief and his / her designee shall be empowered to enforce this ordinance. All fines shall be paid to the Town of \_\_\_\_\_ and deposited into \_\_\_\_\_ account.

**STATUTORY AUTHORITY TO ADOPT LOCAL ORDINANCES**

**160-C:6 Local Option.** – Any municipality in the state, by action of its local legislative body or local governing body, may vote to allow or to prohibit, within that municipality, the issuance of permits or licenses to sell permissible fireworks or the display or possession of permissible fireworks. If the municipality has voted to prohibit the issuance of permits or licenses or the display or possession of permissible fireworks prior to the effective date of this section, such decision shall remain in effect unless subsequent action is taken under this section.

**FIREWORKS NOISE ORDINANCE MODEL**

Permissible (consumer) Fireworks shall not be used or discharged between the hours of 10:00 PM and 10:00 AM of each day.

Any person who violates this ordinance, in addition to any penalties prescribed in NH RSA 160-B and RSA 160-C, shall be subject to a fine of \$500.00 for each offense, and confiscation of any fireworks still in the persons possession. Any sworn law enforcement officer of the town, county or state, as well as the fire chief and his / her designee shall be empowered to enforce this ordinance. All fines shall be paid to the Town of \_\_\_\_\_ and deposited into \_\_\_\_\_ account.

**STATUTORY AUTHORITY TO ADOPT LOCAL ORDINANCES**

**160-C:6 Local Option.** – Any municipality in the state, by action of its local legislative body or local governing body, may vote to allow or to prohibit, within that municipality, the issuance of permits or licenses to sell permissible fireworks or the display or possession of permissible fireworks. If the municipality has voted to prohibit the issuance of permits or licenses or the display or possession of permissible fireworks prior to the effective date of this section, such decision shall remain in effect unless subsequent action is taken under this section.

**FIREWORKS RESTRICTED USE ORDINANCE MODEL**

Permissible (consumer) Fireworks shall only be permitted to be used, possessed and discharged during the following time frames:

Four (4) days prior to the 4<sup>th</sup> of July from 10:00 AM to 10:00 PM  
Four (4) days following the 4<sup>th</sup> of July from 10:00 AM to 10:00 PM  
New Year's Eve from 10:00 AM to 1:00 AM the following day.

Any person who violates this ordinance, in addition to any penalties prescribed in NH RSA 160-B and RSA 160-C, shall be subject to a fine of \$500.00 for each offense, and confiscation of any fireworks still in the persons possession. Any sworn law enforcement officer of the town, county or state, as well as the fire chief and his / her designee shall be empowered to enforce this ordinance. All fines shall be paid to the Town of \_\_\_\_\_ and deposited into \_\_\_\_\_ account.

## STATUTORY AUTHORITY TO ADOPT LOCAL ORDINANCES

**160-C:6 Local Option.** – Any municipality in the state, by action of its local legislative body or local governing body, may vote to allow or to prohibit, within that municipality, the issuance of permits or licenses to sell permissible fireworks or the display or possession of permissible fireworks. If the municipality has voted to prohibit the issuance of permits or licenses or the display or possession of permissible fireworks prior to the effective date of this section, such decision shall remain in effect unless subsequent action is taken under this section.

### FIREWORKS NOISE ORDINANCE MODEL

Permissible (consumer) Fireworks shall not be used or discharged between the hours of 10:00 PM and 10:00 AM of each day.

Any person who violates this ordinance, in addition to any penalties prescribed in NH RSA 160-B and RSA 160-C, shall be subject to a fine of \$500.00 for each offense, and confiscation of any fireworks still in the persons possession. Any sworn law enforcement officer of the town, county or state, as well as the fire chief and his / her designee shall be empowered to enforce this ordinance. All fines shall be paid to the Town of \_\_\_\_\_ and deposited into \_\_\_\_\_ account.

**NH RSA 160-C:6 Local Option.** – Any municipality in the state, by action of its local legislative body or local governing body, may vote to allow or to prohibit, within that municipality, the issuance of permits or licenses to sell permissible fireworks or the display or possession of permissible fireworks. If the municipality has voted to prohibit the issuance of permits or licenses or the display or possession of permissible fireworks prior to the effective date of this section, such decision shall remain in effect unless subsequent action is taken under this section.

**Source.** 1999, 348:14, eff. Jan. 21, 2000

## **MODEL PERMISSIBLE FIREWORKS ORDINANCE**

### **Use, Discharge and Possession of NH Permissible (Consumer) Fireworks**

Any person wishing to discharge NH Permissible (Consumer) Fireworks shall obtain a written fireworks permit from the Fire Chief or his authorized designee. A permit shall be obtained before any discharge of permissible fireworks is to occur.

#### **Procedure to obtain a permit:**

1. The applicant shall appear in person before the Fire Chief, or his authorized designee.
2. The applicant shall provide proof that he, or she is the landowner of where the fireworks discharge is to occur, or has the landowner's written permission.
3. The applicant shall provide a valid photo identification, which also identifies the applicants address and date of birth.
4. The applicant shall be at least 21 years of age or older. (NH RSA 160-C: 11)
5. Fireworks shall be purchased from licensed Permissible Fireworks retailers in New Hampshire only. (Copy of receipt required for permit)
6. The applicant shall only purchase the quantity of fireworks needed for the permitted display. Storage of Permissible fireworks is prohibited.
7. Fireworks shall not be ignited or possessed by minors (anyone under the age of 21).
8. Fireworks shall be ignited a minimum of 50 feet from any structure, overhead utilities, woodlands, property lines or boundaries.
9. The applicant is required to have a means of fire extinguishment readily accessible.
10. The permit shall be valid only for the date it is issued.
11. Anyone discharging or igniting fireworks shall not be under the influence of any drugs or alcohol.
12. Permissible Fireworks shall only be discharged or used between the hours of 10:00 AM and 10:00 PM.
13. Permits will only be issued on days when the Fire Danger day is Class One, Two, or Three as determined by the New Hampshire Division of Forest and Lands – Bureau of Forest Protection.

## Enforcement:

1. The Fire Chief and, or his authorized designee, reserves the right to inspect the permitted location and fireworks to be discharged at any time during the period for which the permit is issued. Failure to allow such an inspection shall result in the immediate revocation of the permit.
2. Failure to comply with any provision of this ordinance shall result in:
  - a) First Offense: Written warning and, or revocation of permit.
  - b) Second Offense: \$250.00 fine and revocation of permit.
  - c) Third Offense: \$500.00 fine and revocation of permit. Persons violating this ordinance for a third time will be prohibited from obtaining any further Permissible Fireworks Permits.
3. All fines shall be paid to the Town of \_\_\_\_\_ and deposited into \_\_\_\_\_ account.
4. Any complaint received by the Town of \_\_\_\_\_ as the result of a issued permit shall be grounds for the revocation of the issued permit following an Investigation conducted by any enforcement authority.
5. The applicant shall be responsible for reimbursing the Town of \_\_\_\_\_ for all costs associated with the mitigation of any fire, or other emergency which is the result of the applicant's use of fireworks.
6. Any sworn law enforcement officer of the town, county or state, as well as the fire chief and his / her designee shall be empowered to enforce this ordinance.
7. Persons found in possession of, or discharging Non-Permissible Fireworks shall be subject to the penalties outlined in NH RSA 160 – B. This section shall not apply to those individuals that hold valid Certificates of Competency issued by the NH Department of Safety and hold a valid Display Fireworks Permit issued in accordance with RSA 160-B and Saf-C 5000, or any other ordinance. Nothing in this ordinance shall preclude any sworn police officer from enforcing any section of NH RSA 160 – B, or NH RSA 160 – C.

**Permit to Discharge NH Permissible Fireworks**

Applicant: \_\_\_\_\_ DOB: \_\_\_\_\_ Age: \_\_\_\_\_

Address of display: \_\_\_\_\_

Landowner's Name: \_\_\_\_\_

Date: \_\_\_\_\_ Time: 10:00 AM TO 10:00 PM

1. The applicant shall appear in person before the Fire Chief, or his authorized designee.
2. The applicant shall provide proof that he, or she is the landowner of where the fireworks discharge is to occur, or has the landowner's written permission.
3. The applicant shall provide a valid photo identification.
4. The applicant shall be at least 21 years of age or older. (NH RSA 160-C: 11)
5. Fireworks shall be purchased in from licensed Permissible Fireworks retailers in New Hampshire only. (Copy of Receipt for permit)
6. The applicant shall only purchase the quantity of fireworks needed for the permitted display. The storage of Permissible fireworks is prohibited.
7. Fireworks shall not be ignited by minors (anyone under the age of 21).
8. Fireworks shall be ignited a minimum of 50' from any structure or overhead utilities.
9. The applicant is required to have a means of fire extinguishment readily accessible.
10. The permit shall be valid only for the date it is issued.
11. Anyone discharging or igniting fireworks shall not be under the influence of any drugs or alcohol.
12. Permissible Fireworks shall only be discharged between the hours of 10:00 AM and 10:00 PM.
13. Permits will only be issued on days when the Fire Danger day is Class One (low) or Two (moderate) as determined by the New Hampshire Division of Forest and Lands – Bureau of Forest Protection.  
Failure to comply with any provision of this ordinance shall result in:
  - a) First Offense: Written warning and, or revocation of permit.
  - b) Second Offense: \$250.00 fine and revocation of permit.
  - c) Third Offense: \$500.00 fine and revocation of permit. Persons violating this ordinance for a third time will be prohibited from obtaining any further Permissible Fireworks Permits.

Signature: \_\_\_\_\_

Phone: \_\_\_\_\_

Fire Chief or designee signature: \_\_\_\_\_

## CHAPTER 160-C PERMISSIBLE FIREWORKS

### Section 160-C:1

**Definitions.** – In this chapter:

- I. "Commissioner" means the commissioner of the department of safety.
- II. "Consumer fireworks" means consumer fireworks as defined in 27 C.F.R. section 555.11 and formerly known as class C common fireworks.
- III. "Display fireworks" means display fireworks as defined in 27 C.F.R. section 555.11 and formerly known as class B special fireworks.
- IV. "Fireworks" means fireworks as defined in 27 C.F.R. section 555.11.
- V. "Permissible fireworks" means consumer fireworks, except for those items that are prohibited pursuant to RSA 160-B:16, 160-B:16-b, and 160-B:16-c.
- VI. "Retail" means the sale to any consumer or person not engaged in the business of making sales of fireworks.
- VII. "Sale" or "sell" means to sell, give, or transfer to another, with or without consideration.

*Source. 1999, 348:14, eff. Jan. 21, 2000. 2010, 115:1, eff. June 1, 2010. 2011, 160:1, 2, eff. June 14, 2011.*

### 160-C:2 Sale of Permissible Fireworks; Penalty.

I. No person shall sell fireworks other than a person who meets all of the following requirements:

(a) Has a federal permit to sell display fireworks issued in accordance with Title 18 of the United States Code.

(b) Has a state license to sell permissible fireworks issued pursuant to RSA 160-C:3.

(c) Has a local permit to sell permissible fireworks issued pursuant to RSA 160-C:3.

II. No person shall sell permissible fireworks:

(a) To any person less than 21 years of age, unless the person is between 18 and 21 years of age and is on active duty with the United States armed forces or has been called to active service as a member of the state guard; or

(b) To any person who appears to be under the influence of alcohol or drugs.

III. Any person who violates the provisions of this section shall be guilty of a misdemeanor.

*Source. 1999, 348:14, eff. Jan. 21, 2000. 2009, 234:1, eff. July 16, 2009.*

### **160-C:6 Local Option.**

Any municipality in the state, by action of its local legislative body or local governing body, may vote to allow or to prohibit, within that municipality, the issuance of permits or licenses to sell permissible fireworks or the display or possession of permissible fireworks. If the municipality has voted to prohibit the issuance of permits or licenses or the display or possession of permissible fireworks prior to the effective date of this section, such decision shall remain in effect unless subsequent action is taken under this section.

*Source. 1999, 348:14, eff. Jan. 21, 2000.*

### **160-C:7 Civil Liability.**

In addition to any other penalties imposed under this chapter, any person who violates the provisions of this chapter shall be liable, in any civil action, to any person for damages resulting from the illegal sale or use of permissible fireworks, and neither assumption of risk nor contributory negligence shall be a defense for such violator.

*Source. 1999, 348:14, eff. Jan. 21, 2000.*

### **160-C:11 Possession and Display of Permissible Fireworks; Penalty.**

I. Notwithstanding RSA 160-B:4, a person who is 21 years of age or older may possess permissible fireworks except in a municipality which has voted to prohibit possession pursuant to RSA 160-C:6. A person who is 21 years of age or older may display permissible fireworks on private property with the written consent of the owner or in the owner's presence, except in a municipality which has voted to prohibit display of permissible fireworks pursuant to RSA 160-C:6.

II. Any person who violates the provisions of this section shall be guilty of a violation if a natural person, or guilty of a class B misdemeanor if any other person.

*Source. 1999, 348:14, eff. Jan. 21, 2000*

### **160-C:14 Transportation.**

It shall not be unlawful for a person who has legally purchased permissible fireworks to transport them from the point of purchase to a municipality that has not prohibited the possession of permissible fireworks pursuant to RSA 160-C:6.

*Source. 1999, 348:14, eff. Jan. 21, 2000.*