

CHAPTER 209
FIREWORKS ORDINANCE
TOWN OF GRAY MAIN

Adopted June 14, 2018

Amended January 22, 2019, Effective March 1, 2019

Amended January 19, 2021, Effective February 18, 2021

SECTION 209.1 – PURPOSE

This Ordinance regulates the use of professional fireworks and consumer fireworks to ensure the safety of the residents and property owners of the Town of Gray and the general public.

SECTION 209.2 – TITLE AND AUTHORITY

This Ordinance shall be known as the "Town of Gray Fireworks Ordinance." It is adopted pursuant to the enabling provisions of the Maine Constitution, the provisions of 30-A M.R.S.A. Section 3001, and the provisions of 8 M.R.S.A. Section 223-A, and the Town Charter for the Town of Gray.

SECTION 209.3 – DEFINITIONS

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

A. 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 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:

1. Missile-type rockets, as defined by the Office of the State Fire Marshall by rule;
2. Helicopters and aerial spinners, as defined by the Office of the State Fire Marshall by rule; and
3. 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 Office of the State Fire Marshall 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 and/or sound at or near the height of flight.

B. 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 cannot 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, or sparklers that do not contain magnesium chlorates or perchlorates.

C. Fireworks Display: An entertainment feature where the public or a private group is admitted or permitted to view the display of fireworks or consumer fireworks or special effects.

D. Fireworks: The same meaning as that term defined under State Law, 8 M.R.S.A., Section 221-A (4), as may be amended from time to time.

E. Person: Any individual, partnership, limited liability company, corporation, governmental entity, association, or public or private organization of any character.

F. Town: The Town of Gray, Maine.

SECTION 209.4 – USE OF CONSUMER FIREWORKS RESTRICTED

A person shall not use, display, fire, or cause to be exploded (collectively "Setting Off") consumer fireworks within the Town of Gray or in or from any watercraft within waters of the Town except upon the following conditions:

A. No fireworks shall be set off on any day with a Fire Danger Class of 3 (high), 4 (very high, or 5 (extreme), as determined by the Maine Forest Service. Any person(s) setting off fireworks shall be responsible for verifying the Fire Danger Class on any day that consumer fireworks are set off.

B. No person shall set off, use, display, throw, drop or cause to set off any consumer fireworks or fireworks within any public way or within 50 feet of a public way.

C. Consumer Fireworks may only be set off during the following days/times:

Summer:

1. July 3rd: 12:00 P.M. until 10:00 P.M.
2. July 4th: 12:00 P.M. until 11:00 P.M.
3. From 6:00 P.M. to 10:00 P.M. for the following days:
 - a. Saturday preceding July 4th
 - b. Saturday following July 4th
 - c. Saturday preceding Labor Day weekend
 - d. Labor Day weekend Saturday

New Year's:

4. 9:00 AM on December 31st until 12:30 A.M. on January 1st
5. January 1st from 12:00 P.M. until 10:00 P.M.

Other:

6. Lunar New Year (Chinese New Year), as denoted on any officially published calendar: 12:00 midnight until 1:00 A.M.

D. No person shall set off, use, display, throw, drop or cause to set off any consumer fireworks or fireworks within 75 feet of any building or structure.

SECTION 209.5 – PROFESSIONAL FIREWORKS STANDARDS

Pursuant to 8 M.R.S.A. Section 227-B, this section establishes standards for the use, display, or setting off fireworks, as defined in 8 M.R.S.A., Section 221-A(4), that require a permit from the Maine Commissioner of Public Safety or designee.

A. No fireworks shall be set off on any day with a Fire Danger Class of 3 (high), 4 (very high), or 5 (extreme), as designated by the Maine Forest Service. The person or entity setting off

fireworks shall be responsible for verifying the Fire Danger Class on any day that fireworks are set off.

B. Any person that is required to obtain a fireworks display permit from the Maine Commissioner of Public Safety under 8 M.R.S.A, Sections 221-237 and 227-A shall also be required to obtain a permit from the Gray Department of Public Safety. The applicant shall submit the following information to the Gray Fire Chief at least 14 days in advance of the scheduled event:

1. Location of the event including a plan showing the area where the display is to occur.
2. Responsible party including contact information both prior to and during the event.
3. Commencement time and ending time.
4. Description and listing, including approximate quantity, of the fireworks to be displayed.
5. Detailed description of safety and security measures to be taken.

C. The professional fireworks display shall not occur unless the Gray Department of Public Safety has duly issued the Town permit.

D. No permit for professional fireworks display shall be issued between May 10th and June 20th on any property or location within 2000 feet of a body of water in excess of 10 acres.

E. The party or entity setting off the fireworks display shall be responsible for ensuring that all fireworks stored on the site before the display are sufficiently secured and protected including having appropriately trained personnel staying on site.

SECTION 209.6 – ADMINISTRATION AND ENFORCEMENT

A. Copy to State Fire Marshall: Per Title 8 M.R.S.A. Section 223, the Town Clerk shall file a copy of this Ordinance, any amendments thereto, with the State Fire Marshall within 30 days of adoption or amendment.

B. Any State or County Law Enforcement official may enforce the provisions of this Ordinance specifically including duly-authorized representatives from Cumberland County Sheriff, Maine State Police, Maine Department of Inland Fisheries & Wildlife, and Maine Department of Public Safety (State Fire Marshal's Office).

SECTION 209.7 – SEIZURE AND DISPOSAL

The Town or any person authorized to enforce this Ordinance may seize fireworks that it has probable cause to believe are to be used in violation of this Ordinance. All fireworks lawfully seized under this Ordinance shall be forfeited to the State per 8 M.R.S.A. Section 237 (2).

SECTION 209.8 – VIOLATION(S) AND PENALTIES

A. Use of fireworks in violation of this Ordinance shall be subject to a fine of not less than \$100 nor more than \$250 plus attorney costs for the first offence, or a fine not less than \$250 nor more than \$750 plus attorney costs for each subsequent offence within any previous two (2) year period.

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

SECTION 209.9. – APPEALS

Appeals with respect to this Ordinance including fines shall be taken within 30 days to the Gray Town Council who shall be the final authority.

SECTION 209.10 – SAVINGS CLAUSE

In the event that any provision of this Ordinance is found by a court of competent jurisdiction to be invalid, this finding shall not affect the remainder of this Ordinance.

SECTION 209.11 – EFFECTIVE DATE

This Ordinance shall be effective on June 14, 2018.