

# Town of Thomaston Consumer Fireworks & Sky Lantern Ordinance

## Section 1 Purpose:

The purpose of the Consumer Fireworks Ordinance is to protect the public health, safety, and welfare of the Town of Thomaston by prohibiting the use of Consumer Fireworks that pose a risk of starting uncontrolled fires, injuring persons and disturbing the peace and quiet enjoyment of residential property owners.

## Section 2 Title and Authority:

This ordinance shall be known as the Town of Thomaston Consumer Fireworks Ordinance. It is adopted pursuant to the enabling provisions of the Maine Constitution and the provisions of 30-A M.R.S.A. 3001 et seq. and 8 M.R.S.A. 221-A.

## Section 3 Definitions:

Consumer Fireworks is defined in 8 M.R.S.A. 221-A as follows:

*“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.”*

*D. Sky Lanterns: An airborne lantern typically made of paper with a wood frame containing a candle, fuel cell composed of waxy flammable material or other open flame which serves as a source to heat the air inside of the lantern to cause it to lift into the air including "sky candles", "air paper lanterns", and other similar devices designed to be levitated by open flame and released into the air uncontrolled.*

27 Code of Federal Regulations section 555.11 defines Consumer Fireworks as follows:

**Consumer fireworks.** *Any small firework device designed to produce visible effects by combustion and which must comply with the construction, chemical composition, and labeling regulations of the U.S. Consumer Product Safety Commission, as set forth in title 16, Code of Federal Regulations, parts 1500 and 1507. Some small devices designed to produce audible effects are included, such as whistling devices, ground devices containing 50 mg or less of explosive materials, and aerial devices containing 130 mg or less of explosive materials. Consumer fireworks are classified as fireworks UN0336, and UN0337 by the U.S. Department of Transportation at 49 CFR 172.101. This term does not include fused set pieces containing components which together exceed 50 mg of salute powder. (See 27 Code of Federal Regulations section 555.11*

### **Section 3 Use and Sale prohibited:**

No person may use or sell or possess with the intent to sell or offer for sale Consumer Fireworks or Sky Lanterns within the Town of Thomaston.

### **Section 4 Fireworks display:**

This Ordinance does not apply to a person issued a fireworks display permit from the Maine Commissioner of Public Safety or his or her designee under the provisions of 8 M.R.S.A. §§ 221-237, and particularly Section 227-A. A fireworks display shall comply with all federal, state, and local laws, ordinances, and regulations.

## **Section 5: Penalty:**

### **Penalty for Sale or Use Violation.**

Any person who violates this ordinance shall commit a civil violation punishable by a penalty of two hundred and fifty dollars (\$250.00) plus attorney's fees and costs for the first offense, and a penalty of one thousand dollars (\$1,000.00) plus attorney's fees and costs for subsequent offenses. Each such violation shall constitute a separate violation.

## **Section 6: Enforcement:**

Violations of this Consumer Fireworks Ordinance shall be enforced by the Thomaston Police Department and /or any Maine based Law Enforcement Agency with the authority to issue a summons.

## **Section 7: Injunction:**

In addition to any other remedies available at law or equity, the Town of Thomaston, 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 8: Seizure and Disposal of Consumer Fireworks:**

The Town may seize consumer fireworks that the Town has probable cause to believe are used or sold in violation of this Ordinance and shall forfeit seized consumer fireworks to the State for disposal.