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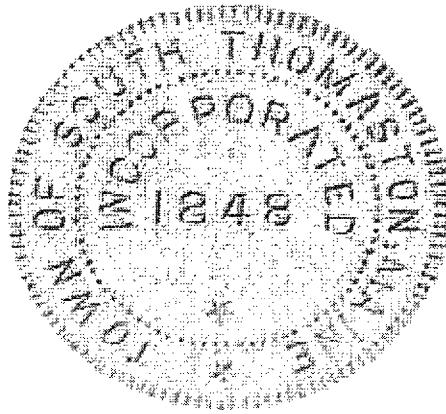
Town of South Thomaston Maine Ordinances

South Thomaston, Me.

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TOWN OF SOUTH THOMASTON, MAINE



CEMETERY ORDINANCE RULES & REGULATIONS

Enacted March 29th, 2011

**TOWN OF SOUTH THOMASTON, MAINE
CEMETERY ORDINANCE
RULES & REGULATIONS**

SECTION 1.

For the mutual protection of lot owners and all cemeteries as a whole, the following rules and regulations are hereby established for all Town of South Thomaston Cemeteries. All lot owners and persons visiting the cemeteries will be expected to abide by such rules and regulations as herein enacted and as hereafter amended, which are intended to assist in maintaining these cemeteries as peaceful and beautiful areas as well as reverent symbols of respect for the dead.

SECTION 2.

Hereinafter the Town of South Thomaston shall be referred to as the Town. The Board of Selectmen shall act as the Cemetery Board and hereinafter be referred to as the Board and may appoint a cemetery committee as needed.

SECTION 3. PURCHASE OF LOTS

Any lot purchase shall be made at the Town Office through the Town Treasurer. Upon full payment of the purchase price of a lot, the Town will issue a Cemetery Lot Conveyance under its seal, and the deed will be recorded in the records of the Town as evidence of ownership of the lot.

(a) All lots are to be sold to Town residents and former Town residents. A resident is defined as a person who has a fixed habitation within the Town of South Thomaston.

(b) Upon approval of the South Thomaston Selectmen, interest in said lots may be sold back to the Town for the original purchase price. Lots may not be sold or transferred to a third party.

(c) All interments in lots shall be restricted to members of the immediate family. Lot owners must request permission of the Board, in writing, to bury persons who are not immediate members of the family.

(d) No mound shall be placed upon any grave above the level of the lot.

SECTION 4. LOT REQUIREMENTS

No lot will be sold without Perpetual Care.

(a) The full purchase price includes Perpetual Care. The fees are as follows:

	LOT PRICE	PERPETUAL CARE	TOTAL COST
Double Grave	\$100.00	\$300.00	\$400.00
Four Graves	\$200.00	\$600.00	\$800.00

(b) No single lots will be sold.

(c) "After the first year, the Perpetual Care Fee will be increased on April 1st, by an amount (rounded up to the nearest dollar) equal to the New England Consumer Price Index (CPI) for the previous twelve months, as of February of each year."

**TOWN OF SOUTH THOMASTON, MAINE
CEMETERY ORDINANCE
RULES & REGULATIONS**

(c) All lots are to be surfaced with grass.

SECTION 5. USE OF FEES

(a) The lot fees are to be used by the Town in maintaining the cemetery properties.

(b) The Perpetual Care Fees are to be invested by the Town and only used in caring for lots.

(c) The Town or its employees assume no liability for damage, actual or mental anguish in the performance of normal operations or loss by vandalism or other acts beyond reasonable control.

SECTION 6. INTERMENT

(a) The interment of two bodies in one single grave will not be allowed, except in the case of parent and infant, or twin children, or two children buried at the same time, or two cremated remains.

(b) Interments are to be handled only by funeral directors licensed by the State of Maine.

(c) No lot shall be used for any other purpose than for the burial of the human dead.

SECTION 7. MONUMENTS

(a) Foundation charges for monuments and marker emplacements are to be handled through any reputable monument dealer.

(b) All flush markers shall be set so the top is flush with the ground.

(c) A full foundation is required for the placement of headstones.

(d) The Perpetual Care of lots does not include the repair, maintenance, or replacement of any marker or headstone except as such work is done in normal care.

SECTION 8. TREES, SHRUBS & FLOWERS

(a) The planting of trees or shrubs by lot owners is prohibited.

(b) Any planting of flowers is to be contained in a container.

(c) The Town employees shall have the right to remove all flowers when they become unsightly, faded, or wilted.

**TOWN OF SOUTH THOMASTON, MAINE
CEMETERY ORDINANCE
RULES & REGULATIONS**

(d) Ornamentation is not encouraged. Ornamentation that prevents convenient maintenance is prohibited and may be removed by Town employees.

SECTION 9. GENERAL RULES AND REGULATIONS

(a) The cemeteries will be open from sunrise to sunset.

(b) No persons shall walk upon or across lots or lawns unless it is necessary to gain access to a particular lot.

(c) The Town disclaims responsibility for property damage or any injury sustained by any person violating these rules.

(d) Persons visiting the cemeteries are prohibited from picking any flowers, or from writing upon, defacing, or damaging any memorial, fence or other structure within the grounds of the cemeteries.

(e) Motorcars and vehicles must be kept under control at all times.

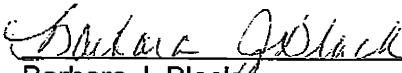
(f) Animals, bicycles, motorcycles, motorbikes, snowmobiles and all terrain vehicles are prohibited within the cemeteries.

(g) No person shall discard any article in the cemeteries.

(h) The bringing of firearms into the cemeteries, except by military escort, is prohibited. The discharge of, or carrying of, any offensive weapon, such as bow and arrow, air rifles, slingshots, or the hurling of rocks or pellets, is strictly prohibited.

(i) The Board reserves the right to propose additional rules and regulations, or to amend, alter or repeal any rule or regulation, or any portion thereof, by voter approval at a Town Meeting.

Attest: A true copy:



Barbara J. Black
Town Clerk of South Thomaston



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selectmen@town.south-thomaston.me.us

Selectmen:
Jan Gaudio
Walter Reitz
Cheryl Waterman

EMERGENCY MANAGEMENT ORDINANCE

1. **Short Title:** This Ordinance shall be known and may be cited and referred to as the "*Emergency Management Ordinance of the Town of South Thomaston*". Authorized under Title 30-A MRSA §2101 and 3001.
2. **Definition:** Emergency Management Agency (EMA) Director shall mean the appointed town official responsible for performing the four phases of Emergency Management (preparedness, response, recovery and mitigation) and for liaison with the Knox County Emergency Management Agency.
3. **Establishment:** The position of Emergency Management Agency Director for the town of South Thomaston is hereby created. The Select Board may appoint additional staff members, Assistants or Deputies, as needed.
4. **Appointment, Term and Removal:** The Select Board shall appoint the EMA Director pursuant to Title 37-B MRSA § 782. This appointment shall be made within 30 days after the date of the Annual Town Meeting for a term of 1 year. The Select Board may remove the EMA Director for cause.
5. **Oath of the Emergency Management Director:** Once the EMA Director has been appointed, the EMA Director shall take an oath of office as described in Title 30-A MRSA § 2526.
6. **Duties of the Emergency Management Agency Director:** The EMA Director shall:
 - A. Direct the planning, organizing and execution of local Emergency Management and Homeland Security activities, conferring as necessary with the County and State Emergency Management agencies and with neighboring Emergency Management Directors to assure that its activities are an integral and coordinated part of the overall County, State and National programs.
 - B. Develop and maintain an Emergency Operation Plan (EOP) to include hazard mitigation, emergency response, recovery plans and mutual aid agreements with neighboring communities.

- C. Keep the Select Board fully informed on all Emergency Management matters, act as their representative in dealing with other governmental and private organizations concerned with Emergency Management and maintain regular communication/ coordination with other town public safety department Supervisors.
- D. Coordinate with Library Director (Shelter Manager) to establish a cold weather warming shelter at the public library or other designated shelter location. Work closely with the Fire Chief to ensure the EMA generator remains fully operational and ready.
- E. Direct a public information and education program to keep all Town residents informed about Disaster Preparedness activities.
- F. In coordination with other Department Supervisors organize regular disaster exercises to test local emergency response capabilities.
- G. When necessary, establish, maintain and manage an Emergency Operations Center (EOC).
- H. Complete and submit municipal disaster reports to County EMA.
- I. Direct a training program to prepare the Emergency Management Agency for emergency operations. Attend Emergency Management training courses, workshops and County facilitated Local EMA Director meetings while providing the County EMA with reports and /or local information.
- J. Complete and report Initial Damage Assessments (form 7's) to Knox County EMA.
- K. When necessary, serve as liaison between the town and county/state/federal officials during disaster response and recovery.
- L. Complete and submit applications for grants (EMPG) which may become available and beneficial for improving emergency management and response capability for the Town.
- M. Advise the Select Board of Emergency Management requirements and prepare the annual budget for EMA.
- N. Serve as NIMS coordinator for the Town.

7. Membership of the Emergency Operations Center (EOC): When directed by any member of the Select Board or by the EMA Director, the EOC will be established and manned. The EOC may be co-located with the Knox County EOC when operations dictate. At the discretion of the Select Board or EMA Director, the following town officials may be included on the EOC staff:

- A. Select Board members
- B. Emergency Management Director and/or deputies, assistants
- C. Town Clerk and Treasurer
- D. Code Enforcement Officer
- E. Town Constable
- F. Fire Chief or Deputy

- G. Fire Warden
- H. EMS Supervisor and /or designated appointees
- I. Road Commissioner
- J. Animal Control Officer
- K. Shelter Manager

8. **Adoption of the National Incident Management System:** The Town of South Thomaston hereby establishes the National Incident Management System (NIMS) as the municipal standard for all hazards incident management. This system provides a consistent approach for Federal, State, and municipal governments to work together more effectively and efficiently to prevent, prepare for, respond to and recover from domestic incidents, regardless of cause, size or complexity. NIMS will utilize standardized terminology, standardized organizational structures, interoperable communications, consolidated action plans, unified command structures, uniform personnel qualification standards, uniform standards for planning, training, and exercising, comprehensive resource management, and designated incident facilities during emergencies or disasters. The NIMS Incident Command System (ICS) will be utilized by all South Thomaston emergency and disaster responders for all hazards incident management.

9. **Disasters and States of Emergency:** The local EMA Director is empowered to make any reasonable request for assistance from mutual aid partner jurisdictions pursuant to established Mutual Aid Agreements. The EMA Director may recommend to the Select Board or Town Administrator that a State of Emergency be declared for the town when appropriate. The Select Board or Town Administrator, when acting under the recommendation of the EMA Director, may make such a declaration and/or order evacuations necessary to protect lives and property. The EMA Director shall coordinate requests for assistance from other regional, county, state or federal agencies through the County EMA Director during emergencies or disasters.

10. **Compensation:** The EMA Director shall be compensated for duties rendered by an annual stipend as appropriated at town meeting.

11. **Training:** The EMA Director shall attend trainings provided by the Knox County Emergency Management Agency (KXEMA), Maine Emergency Management Agency (MEMA), or FEMA relating to the duties required by this ordinance. The EMA Director is expected to pursue and receive qualification as a State of Maine Basic Emergency Manager.

12. **Expenditure of funds/resources:** Under a locally declared State of Emergency, the EMA Director is authorized to commit town resources, including funding, to the extent necessary to prevent the loss of life, stabilize incidents or minimize loss or damage to public or private property. Whenever possible, these actions will be taken at the direction of the Select Board unless obtaining that authority would unnecessarily delay emergency actions.

South Thomaston Select Board:

Jan Gaudio, Chair

Cheryl Waterman

Walter Reitz

Attest: A true copy of an ordinance entitled "Emergency Management Ordinance," as certified to me by the municipal officers of South Thomaston on the 21st day of March, 2017.

Terri-Lynn Baines, Town Clerk

TOWN OF SOUTH THOMASTON, MAINE



FIRE DEPARTMENT ORDINANCE

Enacted 26 March 2003

Amended 28 March 2006

Amended 27 March 2007

Town of South Thomaston, Maine
Fire Department Ordinance

ARTICLE 1: TITLE, PURPOSE, AUTHORITY AND DEFINITIONS

SECTION 101. TITLE

This ordinance shall be known as the Town of South Thomaston Fire Department Ordinance.

SECTION 102. PURPOSE

The purposes of this ordinance are to establish in the manner provided by law a municipal fire department, to define the powers and duties of the chief of the department, to provide the maximum legal protection available to the department officers and municipal firefighters, and to protect the health, safety, and welfare of the residents of South Thomaston.

SECTION 103. AUTHORITY

This ordinance is enacted pursuant to 30-A M.R.S.A. §§ 2001 et seq., and 3151 et seq.

SECTION 104. DEFINITIONS

104.1 MUNICIPAL FIRE DEPARTMENT

“Municipal fire department” means the organized firefighting unit established pursuant to this ordinance.

104.2 MUNICIPAL FIREFIGHTER

“Municipal firefighter” means an active member, whether full-time, part-time or on-call, of a municipal fire department who aids in the extinguishment of fires or an individual who receives compensation from the municipality for aiding in the extinguishment of fires and is at least 18 years of age.

104.3 JUNIOR FIREFIGHTERS

“Junior firefighter” means an active member, the age of sixteen or seventeen who operate within the department, according to the limits for junior firefighters pursuant to Title 26 M.R.S.A. Section 772. Junior firefighters are under the direct supervision of the Incident Commander, the Fire Chief, or his/her designee.

ARTICLE II. MUNICIPAL FIRE DEPARTMENT

SECTION 201. ESTABLISHMENT

There shall be a Municipal Fire Department, which is hereby established by this ordinance.

Town of South Thomaston, Maine
Fire Department Ordinance

SECTION 202. DUTIES

The Municipal Fire Department shall provide firefighting protection within the Town of South Thomaston and elsewhere as provided by mutual aid or other contractual agreement duly adopted.

SECTION 203. FIRE CHIEF

203.1 APPOINTMENT

The head of the Municipal Fire Department shall be the Fire Chief, who shall be appointed by the Selectmen.

203.2 QUALIFICATION OF OFFICE, TERM, AND COMPENSATION

- (a) The Fire Chief shall be a resident of the Town of South Thomaston.
- (b) Selection for appointment of the Fire Chief shall be made based on fire service and administrative qualifications and experience.
- (c) The Fire Chief shall be selected from within the fire department.
- (d) The Fire Chief shall be appointed for a term of not more than five years at a time, but otherwise of a length not less than one year.
- (e) The compensation of the fire chief shall be established by the municipal officers within the limit of appropriations available thereof.

203.3 POWERS AND DUTIES OF FIRE CHIEF

- (a) The Fire Chief shall have the power and duties established by 30-A M.R.S.A., & 3153, and as it may be amended from time to time.
- (b) The Fire Chief shall perform such duties required by his office by ordinance or other laws and shall perform such duties not in conflict therewith as may be assigned by the Board of Selectmen.
- (c) The Fire Chief shall be immediately responsible to the Board of Selectmen for the effective administration of the department.
- (d) The Fire Chief shall keep informed as to the latest practices in the field and shall inaugurate, with the approval of the Board of Selectmen, such new practices as appear to be of benefit to the service and to the public.
- (e) The Fire Chief shall submit annual reports of the activities of the department and additional reports when requested by the Board of Selectmen.
- (f) The Fire Chief shall establish and maintain a system of records and reports in sufficient detail to furnish all information necessary for proper control of the departmental activities and to form a basis for the reports required by the Board of Selectmen.

Town of South Thomaston, Maine
Fire Department Ordinance

(g) The Fire Chief shall have the power to delegate to members of the department such duties and responsibilities as deems advisable, together with the proportionate authority for their fulfillment, but in no case may over-all responsibly or accountably be delegated.

(h) The Fire Chief shall have power to exercise the authority of the Board of Selectmen to appoint/hire and remove, subject to the personnel regulations and the Board's diligent review, all subordinated deputies, officers, municipal firefighters, and junior fire fighters in the fire department.

(i) The Fire Chief shall be responsible for the proper custody and maintenance of all town property and equipment used in or by the fire department.

(j) The Fire Chief shall serve for the appointed term at the pleasure of the Board of Selectmen.

203.4 POWERS AND DUTIES OF MUNICIPAL FIREFIGHTERS

Municipal firefighters shall have the powers and duties set forth in 30-A M.R.S.A. & 3151 et seq. and set forth in fire department rules and regulations.

203.5 PRIVILEGES AND IMMUNITIES

Members of the Municipal Fire Department shall enjoy the privileges and immunities provided by The Maine Tort Claims Act when acting in their capacity as firefighters.

SECTION 204. EFFECTIVE DATE AND REPEAL OF FORMER ORDINANCE

This ordinance shall be effective immediately upon passage. Any parts, and only those parts, of any existing ordinance or regulation that are inconsistent with this ordinance are repealed.

This ordinance was enacted on March 26, 2003, and amended March 28, 2006, & March 27, 2007.

Town of South Thomaston, Maine
Fire Department Ordinance

Town of South Thomaston, Maine Fire Department Ordinance
History of Amendments

March 28, 2006 the following amendments were adopted:

Section 203.3 (b) Powers and Duties of the Fire Chief read: *The Fire Chief shall employ all municipal firefighters, appoint a deputy and other officers in the municipal fire department, and remove them for cause after notice and hearing.*

Amended to read: *The Fire Chief shall perform such duties required by his office by ordinance or other laws and shall perform such duties not in conflict therewith as may be assigned by the Board of Selectmen.*

Section 203.3 (c) read: *The Fire Chief shall submit a yearly report on the activities of the department and shall discharge such other duties as may be required by the Selectmen.*

Amended to read: *The Fire Chief shall be immediately responsible to the Board of Selectmen for the effective administration of the department.*

Amended Section 203.3 by adding: (d) *The Fire Chief shall keep informed as to the latest practices in the field and shall inaugurate, with the approval of the Board of Selectmen, such new practices as appear to be of benefit to the service and to the public.* (e) *The Fire Chief shall submit annual reports of the activities of the department and additional reports when requested by the Board of Selectmen.* (f) *The Fire Chief shall establish and maintain a system of records and reports in sufficient detail to furnish all information necessary for proper control of departmental activities and to form a basis for the reports required by the Board of Selectmen.* (g) *The Fire Chief shall have the power to delegate to members of the department such duties and responsibilities as deems advisable, together with the proportionate authority for their fulfillment, but in no case may over-all responsibly or accountably be delegated.* (h) *The Fire Chief shall have power to exercise the authority of the Board of Selectmen to appoint and remove, subject to the personnel regulations and the Board's diligent review, all subordinated deputies and officers in the fire department:* (i) *The Fire Chief shall be responsible for the proper custody and maintenance of all town property and equipment used in or by the fire department.* (j) *The Fire Chief shall serve for the appointed term at the pleasure of the Board of Selectmen.*

March 27, 2007 the following amendments were adopted:

Amended Section 104. Definitions by adding: 104.3 *Junior Firefighters: "Junior firefighter" means an active member, the age of sixteen or seventeen who operate within the department, according to the limits for junior firefighters pursuant to Title 26 M.R.S.A. Section 772. Junior firefighters are under the direct supervision of the Incident Commander, the Fire Chief, or his/her designee.*

Section 203.3 Powers and Duties of the Chief, 3. (h) read: *The Fire Chief shall have power to exercise the authority of the Board of Selectmen to appoint and remove, subject to the personnel regulations and the Board's diligent review, all subordinated deputies and officers in the fire department.*

Amended to read: *The Fire Chief shall have power to exercise the authority of the Board of Selectmen to appoint/hire and remove, subject to the personnel regulations and the Board's diligent review, all subordinated deputies, officers, municipal firefighters, and junior fire fighters in the fire department.*



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Selectmen:
Jan Gaudio
Walter Reitz
Cheryl Waterman

Consumer Fireworks Ordinance

Section 1 Purpose and Authority

- A. **Purpose:** This Ordinance governs the use of consumer fireworks to ensure the safety and provide for the tranquility of the residents and property owners of the Town of South Thomaston and of the general public.
- B. **Title and Authority:** This Ordinance shall be known as the "Town of South Thomaston Consumer Fireworks Ordinance" and will be referred to herein as "this Ordinance." This Ordinance is adopted pursuant to the enabling provisions of Maine Constitution, the provisions of Title 30-A M.R.S.A. § 3001, and Title 8 M.R.S.A. § 223-A.

Section 2 Definitions

- A. The following words, terms, and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
 - 1. **Consumer Fireworks:** "Consumer Fireworks" has the same meaning as in 27 Code of Federal Regulations, Section 555.11 or subsequent provisions, but includes only products that are tested and certified by a third-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: Missile-type rockets, as defined by the State Fire Marshal by rule; helicopters and aerial spinners, as defined by the State Fire Marshal by rule; and sky rockets and bottle rockets. For the purposes of definition, "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 height of flight.[Kristin C1]

Section 3 Use

- A. This Ordinance allows the use of consumer fireworks within the Town of South Thomaston subject to the following requirements. A person may:

1. not use consumer fireworks when the fire danger, as designated by the Maine Forest Service, is a class 5 fire-danger day.
 2. only use consumer fireworks on that person's property or the property of a person who has consented to the use of consumer fireworks on that property.
 3. use consumer fireworks only during the period from 2:00 PM to ninety minutes after sunset, with the exception of July 4 and the weekends immediately before and after July 4, during which consumer fireworks may be used between 2:00 PM and 11:00 PM; and December 31 on which consumer fireworks may be used during the period from 2:00 PM to 12:30 AM of the following day.
- B. Nothing in this Ordinance shall be construed to prevent lease or rental agreements, subdivision covenants, condominium bylaws, and similar private agreements from prohibiting or further restricting the possession or use of consumer fireworks on property subject to such private agreements.

Section 4 Exceptions

- A. This Ordinance does not apply to a person issued a fireworks display permit by the State of Maine pursuant to 8 M.R.S.A. § 227-A.
- B. This Ordinance does not apply to a person utilizing pyrotechnic devices in pest-dispersal operations in the agricultural production of blueberries.

Section 5 Violation, Penalties and Enforcement

- A. **Penalty for Violation:** For each violation of a provision of this Ordinance or other failure to comply with any of the requirements thereof, the person may be subject to a fine of not less than \$100 and not more than \$2,500, plus any attorney's fees and costs.
- B. **Enforcement.** This Ordinance is subject to enforcement by the Knox County Sheriff's Department in addition to any other remedies available at law or equity. The Knox County Sheriff's Department may seize consumer fireworks that it has probable cause to believe are being used in violation of this Ordinance and shall forfeit seized consumer fireworks to the State for disposal.
- C. The Town of South Thomaston, acting through its Municipal Officers, may apply to any court of competent jurisdiction to enjoin any planned, anticipated, or threatened violation of this Ordinance.

Section 6 Effective Date

- A. This Ordinance takes effect immediately upon adoption by the South Thomaston Town Meeting.

Section 7 Severability

- A. Should any section, subsection, or portion of this Ordinance be declared by any court of competent jurisdiction to be invalid for any reason, such a decision shall not be deemed to invalidate any other section, subsection, or portion of this Ordinance.

Town of South Thomaston Selectboard

Jan Gaudio, Chair

Cheryl Waterman

Walter Reitz

Attest: A true copy of an ordinance entitled, "Consumer Fireworks Ordinance," as certified to me by the municipal officers of South Thomaston on the 21st day of March, 2017.

Terri-Lynn Baines, Town Clerk

FLOODPLAIN MANAGEMENT ORDINANCE
FOR THE
TOWN OF SOUTH THOMASTON, MAINE

ENACTED: March 29, 2016
Date

EFFECTIVE: July 6, 2016
Date

CERTIFIED BY: Tern-Lynn Baines
Signature

CERTIFIED BY: Tern-Lynn Baines
Print Name

Town Administrator
Title

Amended March 27, 2018



FLOODPLAIN MANAGEMENT ORDINANCE

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ARTICLE I—PURPOSE AND ESTABLISHMENT

Certain areas of the Town of South Thomaston, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town of South Thomaston, Maine has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance.

It is the intent of the Town of South Thomaston, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

The Town of South Thomaston has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352, 4401-4407, and Title 38 MRSA, Section 440.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of South Thomaston having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of South Thomaston, Maine.

The areas of special flood hazard, Zones A, AE, AH, and VE for the Town of South Thomaston, Knox County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study — Knox County, Maine," dated July 6, 2016 with accompanying "Flood Insurance Rate Map" dated July 6, 2016 with panels: 333D, 335D, 337D, 341D, 342D, 344D, 353D, 361D, 363D, 364D, 557D, 576D, and 577D, derived from the county wide digital Flood Insurance Rate Map entitled "Digital Flood Insurance Rate Map, Knox County, Maine," are hereby adopted by reference and declared to be a part of this Ordinance.

ARTICLE II - PERMIT REQUIRED

Before any construction or other development (as defined in Article XIV), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article I, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer or Planning Board except as provided in Article VII. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of South Thomaston, Maine.

ARTICLE III - APPLICATION FOR PERMIT

The application for a Flood Hazard Development Permit shall be submitted to the Code Enforcement Officer and shall include:

- A. The name, address and phone number of the applicant, owner, and contractor;
- B. An address and a map indicating the location of the construction site;

- C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
 - D. A statement of the intended use of the structure and/or development;
 - E. A statement of the cost of the development including all materials and labor;
 - F. A statement as to the type of sewage system proposed;
 - G. Specification of dimensions of the proposed structure and/or development;
- [Items H-K.3. apply only to new construction and substantial improvements.]
- H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD), or to a locally established datum in Zone A only, of the:
 - 1. base flood at the proposed site of all new or substantially improved structures, which is determined:
 - a. in Zones AE, AH, and VE from data contained in the "Flood Insurance Study - Knox County, Maine," as described in Article I; or,
 - b. in Zone A:
 - (1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265), including information obtained pursuant to Article VI.K. and IX.D.;
 - (2) from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,
 - (3) to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.
 - 2. highest and lowest grades at the site adjacent to the walls of the proposed building;
 - 3. lowest floor, including basement; and whether or not such structures contain a basement; and,
 - 4. level, in the case of non-residential structures only, to which the structure will be floodproofed;

- I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;
- J. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate
- K. The following certifications as required in Article VI by a registered professional engineer or architect:
 - 1. a Floodproofing Certificate (FEMA Form 81-65, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4.; Article VI.G.; and other applicable standards in Article VI;
 - 2. a V-Zone Certificate to verify that the construction in coastal high hazard areas, Zone VE, will meet the criteria of Article VI.P.; and other applicable standards in Article VI;
 - 3. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.L.2.a.;
 - 4. a certified statement that bridges will meet the standards of Article VI.M.;
 - 5. a certified statement that containment walls will meet the standards of Article VI.N.;
- L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
- M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE

A non-refundable application fee of \$50.00 shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Code Enforcement Officer, Planning Board and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Code Enforcement Officer or Planning Board shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have been, or will be met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications:
 - 1. the base flood and floodway data contained in the "Flood Insurance Study - Knox County, Maine," as described in Article I.;
 - 2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Code Enforcement Officer or Planning Board shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Article III.H.1.b.; Article VI.K.; and Article IX.D., in order to administer Article VI of this Ordinance; and,
 - 3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.Lb., the community shall submit that data to the Maine Floodplain Management Program.
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;
- D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;
- E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
- F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits, based on the type of development.
 - 1. A two-part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with a Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction, "as built", for verifying compliance with the elevation requirements of Article VI, paragraphs F, G, H, or P. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,

2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Article VI.G.1.a., b., and c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
3. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

For development that requires review and approval as a Conditional Use, as provided for in this Ordinance, the Flood Hazard Development Permit Application shall be acted upon by the Planning Board as required in Article VII.

- G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article X of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Articles III, VI, and VIII of this Ordinance.

ARTICLE VI - DEVELOPMENT STANDARDS

All developments in areas of special flood hazard shall meet the following applicable standards:

A. All Development - All development shall:

1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. use construction materials that are resistant to flood damage;
3. use construction methods and practices that will minimize flood damage; and
4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located to prevent water from entering or accumulating within the components during flooding conditions.

B. Water Supply - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

- C. Sanitary Sewage Systems** - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
- D. On Site Waste Disposal Systems** — On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
- E. Watercourse Carrying Capacity** - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.
- F. Residential** - New construction or substantial improvement of any residential structure located within:
1. Zones AE and AH shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
 2. Zone AH shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.
 3. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.I.b.; Article V.B.; or Article IX.D.
 4. Zone VE shall meet the requirements of Article VI.P.
- G. Non Residential** - New construction or substantial improvement of any non-residential structure located within:
1. Zones AE and AH shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
 - a. be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
 - c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.

2. Zone AH shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.
3. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B.; or Article IX.D., or
 - a. together with attendant utility and sanitary facilities meet the floodproofing standards of Article VI.G.1.
4. Zone VE shall meet the requirements of Article VI.P.

H. Manufactured Homes - New or substantially improved manufactured homes located within:

1. Zones AE and AH shall:
 - a. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;
 - b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
 - c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
 - (1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
 - (2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
 - (3) all components of the anchoring system described in Article VI.H.1 .c.(1) & (2) shall be capable of carrying a force of 4800 pounds.
2. Zone AH shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.
3. Zone A shall:
 - a. be elevated on a permanent foundation, as described in Article VI.H.1.b., such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article IX.D.; and

b. meet the anchoring requirements of Article VI.H.1.c.

4. Zone VE shall meet the requirements of Article VI.P.

I. Recreational Vehicles - Recreational Vehicles located within:

1. Zones A, AE, and AH shall either:

- a. be on the site for fewer than 180 consecutive days,
- b. be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,
- c. be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Article VI.H.1.

2. Zone VE shall meet the requirements of either Article VI.I.1.a. and b., or Article VI.P.

J. Accessory Structures - Accessory Structures, as defined in Article XIV, located within Zones A, AH, and AE, shall be exempt from the elevation criteria required in Article VI.F. & G. above, if all other requirements of Article VI and all the following requirements are met. Accessory Structures shall:

1. have unfinished interiors and not be used for human habitation;
2. have hydraulic openings, as specified in Article VI.L.2., in at least two different walls of the accessory structure;
3. be located outside the floodway;
4. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,
5. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.

K. Floodways -

1. In Zone AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's Flood Insurance Rate Map unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments

will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

2. In Zones AE and A riverine areas, for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Article VI.K.3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:
 - a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
 - b. is consistent with the technical criteria contained in FEMA's guidelines and standards for flood risk analysis and mapping.
 3. In Zones AE and A riverine areas, for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.
- L. Enclosed Areas Below the Lowest Floor** - New construction or substantial improvement of any structure in Zones A, AH, and AE that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or crawl spaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:
1. Enclosed areas are not "basements" as defined in Article XIV;
 2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
 - a. be engineered and certified by a registered professional engineer or architect; or,
 - b. meet or exceed the following minimum criteria:
 - (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
 - (2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
 - (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any

external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;

3. The enclosed area shall not be used for human habitation; and,
4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.

M. Bridges - New construction or substantial improvement of any bridge in Zones A, AH, AE, and VE shall be designed such that:

1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and
2. a registered professional engineer shall certify that:
 - a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Article VI.K.; and
 - b. the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

N. Containment Walls - New construction or substantial improvement of any containment wall located within:

1. Zones A, AH, AE, and VE shall:
 - a. have the containment wall elevated to at least one foot above the base flood elevation;
 - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
 - c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K.
2. Zone AH shall have adequate drainage paths around containment walls on slopes, to guide floodwater away from the proposed walls.

0. Wharves, Piers and Docks - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones A, AH, AE, and VE, in and over water and seaward of the mean high tide if the following requirements are met:

1. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and
2. for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

P. Coastal Floodplains -

1. All new construction located within Zones AE and VE shall be located landward of the reach of mean high tide except as provided in Article VI.P.6.
2. New construction or substantial improvement of any structure located within Zone VE shall:
 - a. be elevated on posts or columns such that:
 - (1) the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to one foot above the base flood elevation;
 - (2) the pile or column foundation and the elevated portion of the structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components; and,
 - (3) water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state and local building standards.
 - b. have the space below the lowest floor:
 - (1) free of obstructions; or,
 - (2) constructed with open wood lattice-work, or insect screening intended to collapse under wind and water without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting piles or columns; or,
 - (3) Constructed with non-supporting breakaway walls that have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot. *(The National Flood Insurance Program assesses a higher premium for breakaway walls that enclose 300 square feet or greater. The larger the square footage of the enclosure, the higher the cost of insurance. Developers are advised to inquire into flood insurance premiums rates before commencing construction.)*
 - c. require a registered professional engineer or architect to:
 - (1) develop or review the structural design, specifications, and plans for the construction, which must meet or exceed the technical criteria contained in the *Coastal Construction Manual*, (FEMA-55); and,
 - (2) certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the criteria of Article VI.P.2.

3. The use of fill for structural support in Zone VE is prohibited.
4. Human alteration of sand dunes within Zone VE is prohibited unless it can be demonstrated that such alterations will not increase potential flood damage.
5. The area below the lowest floor shall be used solely for parking vehicles, building access, and storage.
6. Conditional Use - Lobster sheds and fishing sheds may be located seaward of mean high tide and shall be exempt from the elevation requirement in Article VI.G. only if permitted as a Conditional Use following review and approval by the Planning Board, as provided in Article VII, and if all the following requirements and those of Article VI.A., VI.K., and VI.L. are met:
 - a. The conditional use shall be limited to low value structures such as metal or wood sheds 200 square feet or less and shall not exceed more than one story.
 - b. The structure shall be securely anchored to the wharf or pier to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.
 - c. The structure will not adversely increase wave or debris impact forces affecting nearby buildings.
 - d. The structure shall have unfinished interiors and shall not be used for human habitation.
 - e. Any mechanical, utility equipment and fuel storage tanks must be anchored and either elevated or floodproofed to one foot above the base flood elevation.
 - f. All electrical outlets shall be ground fault interrupt type. The electrical service disconnect shall be located on shore above the base flood elevation and when possible outside the Special Flood Hazard Area.

ARTICLE VII - CONDITIONAL USE REVIEW

The Planning Board shall hear and decide upon applications for conditional uses provided for in this Ordinance. The Planning Board shall hear and approve, approve with conditions, or disapprove all applications for conditional uses. An applicant informed by the Code Enforcement Officer that a Conditional Use Permit is required shall file an application for the permit with the Planning Board.

A. Review Procedure for a Conditional Use Flood Hazard Development Permit

1. The Flood Hazard Development Permit Application with additional information attached addressing how each of the conditional use criteria specified in the Ordinance will be satisfied, may serve as the permit application for the Conditional Use Permit.
2. Before deciding any application, the Planning Board shall hold a public hearing on the application within forty days of their receipt of the application.

3. If the Planning Board finds that the application satisfies all relevant requirements of the ordinance, the Planning Board must approve the application or approve with conditions within 45 days of the date of the public hearing.
4. A Conditional Use Permit issued under the provisions of this Ordinance shall expire if the work or change involved is not commenced within 180 days of the issuance of the permit by the Planning Board.
5. The applicant shall be notified by the Planning Board in writing over the signature of the Chairman of the Planning Board that flood insurance is not available for structures located entirely over water or seaward of mean high tide.

B. Expansion of Conditional Uses

1. No existing building or use of premises may be expanded or enlarged without a permit issued under this section if that building or use was established or constructed under a previously issued Conditional Use Permit or if it is a building or use which would require a Conditional Use Permit if being newly-established or constructed under this Ordinance.

ARTICLE VIII - CERTIFICATE OF COMPLIANCE

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a Certificate of Compliance is issued by the Code Enforcement Officer subject to the following provisions:

- A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer
 1. an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Article VI, paragraphs F, G, I-1, or P and,
 2. for structures in Zone VE, certification by a registered professional engineer or architect that the design and methods of construction used are in compliance with Article VI.P.2.
- B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.
- C. Within 10 working days, the Code Enforcement Officer shall:
 1. review the required certificate(s) and the applicant's written notification; and,
 2. upon determination that the development conforms to the provisions of this ordinance, shall issue a Certificate of Compliance.

ARTICLE IX - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law, local ordinances or regulations, and all projects on 5 or more disturbed acres, or in the case of manufactured home parks divided into two or more lots, assure that:

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided in order to reduce exposure to flood hazards.
- D. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.
- E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area, are to be constructed in accordance with Article VI of this ordinance. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

ARTICLE X - APPEALS AND VARIANCES

The Board of Appeals of the Town of South Thomaston may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration or enforcement of the provisions of this Ordinance.

The Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law and the following criteria:

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall be granted only upon:
 - 1. a showing of good and sufficient cause; and,
 - 2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or

create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,

3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,
4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
 - a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
 - b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
 - c. that the granting of a variance will not alter the essential character of the locality; and,
 - d. that the hardship is not the result of action taken by the applicant or a prior owner.

C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as is deemed necessary.

D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:

1. other criteria of Article X and Article VI.K. are met; and,
2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:

1. the development meets the criteria of Article X, paragraphs A. through D. above; and,
2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

F. Any applicant who meets the criteria of Article X, paragraphs A. through E. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:

1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;

2. such construction below the base flood level increases risks to life and property; and,
3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

G. Appeal Procedure for Administrative and Variance Appeals

1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.
2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.
4. The person filing the appeal shall have the burden of proof.
5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing, and shall issue a written decision on all appeals.
6. The Board of Appeals shall submit to the Code Enforcement Officer or Planning Board a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.
7. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

ARTICLE XI - ENFORCEMENT AND PENALTIES

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.
- B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.
- C. In addition to other actions, the Code Enforcement Officer may, upon identifying a violation, submit a declaration to the Administrator of the Federal Insurance Administration requesting a flood insurance denial. The valid declaration shall consist of;

1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;
3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;
4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

ARTICLE XII - VALIDITY AND SEVERABILITY

If any section or provision of this Ordinance is declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

ARTICLE XIII - CONFLICT WITH OTHER ORDINANCES

This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall control.

ARTICLE XIV - DEFINITIONS

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have at common law, and to give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.

Accessory Structure - a small detached structure that is incidental and subordinate to the principal structure.

Adjacent Grade - the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Area of Shallow Flooding - a designated All zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard - land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Article I of this Ordinance.

Base Flood — a flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

Basement - area of a building that includes a floor that is subgrade (below ground level) on all sides.

Breakaway Wall - a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Building - see **Structure**.

Certificate of Compliance - a document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this Ordinance.

Code Enforcement Officer — a person certified under Title 30-A MRSA, Section 4451 (including exceptions in Section 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws.

Conditional Use - a use that, because of its potential impact on surrounding areas and structures, is permitted only upon review and approval by the Planning Board pursuant to Article VII.

Containment Wall — wall used to convey or direct storm water or sanitary water from the initial source to (he final destination.

Development — a manmade change to improved or unimproved real estate. This includes, but is not limited to, buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of materials.

Digital Flood Insurance Rate Map (FIRM) — see **Flood Insurance Rate Map**

Elevated Building - a non-basement building that is:

- a. built, in the case of a building in Zones A, AE, or AH, so that the top of the elevated floor, or in the case of a building in Zone VE, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and
- b. adequately anchored to not impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones A, AE, or AH, **Elevated Building** also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article VI.L. In the case of Zone VE, **Elevated Building** also

includes a building otherwise meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of Article VI.P.2.b.(3).

Elevation Certificate - an official form (FEMA Form 81-31, as amended) that:

- a. is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,
- b. is required for purchasing flood insurance.

Flood or Flooding

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - 1. The overflow of inland or tidal waters.
 - 2. The unusual and rapid accumulation or runoff of surface waters from any source.
- b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.1. of this definition.

Flood Elevation Study - an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood Insurance Rate Map (FIRM) - an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study - see **Flood Elevation Study**.

Floodplain or Floodprone Area - land area susceptible to being inundated by water from any source (see flooding).

Floodplain Management - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain Management Regulations - zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing - any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

Floodway - see **Regulatory Floodway**.

Floodway Encroachment Lines - the lines marking the limits of floodways on federal, state, and local floodplain maps.

Freeboard - a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, which could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

Functionally Dependent Use - a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Historic Structure - means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 1. By an approved state program as determined by the Secretary of the Interior, or
 2. Directly by the Secretary of the Interior in states without approved programs

Locally Established Datum - for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

Lowest Floor - the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to

render the structure in violation of the applicable non-elevation design requirements described in Article VI.L. of this Ordinance.

Manufactured Home - a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured Home Park or Subdivision - a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean Sea Level — when related to the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

Minor Development - means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

National Geodetic Vertical Datum (NGVD) - the national vertical datum, a standard established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD is based upon mean sea level in 1929 and also has been called "1929 Mean Sea Level (MSL)".

New Construction - structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

North American Vertical Datum (NAVD)- means the national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon vertical datum used by other North American countries such as Canada and Mexico and was established to replace NGVD because of constant movement of the earth's crust, glacial rebound, and subsidence and the increasing use of satellite technology.

100-year flood - see **Base Flood**.

Recreational Vehicle - a vehicle that is:

- a. built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection, not including slideouts;
- c. designed to be self-propelled or permanently towable by a motor vehicle; and
- d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Floodway —

- a. the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and
- b. when not designated on the community's Flood Insurance Rate Map, it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

Riverine - relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special Flood Hazard Area - see **Area of Special Flood Hazard**.

Start of Construction - the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

Structure - means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

Substantial Damage - means, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- b. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the Board of Appeals.

Variance - means a grant of relief by a community from the terms of a floodplain management regulation.

Violation - means the failure of a structure or development to comply with a community's floodplain management regulations.

ARTICLE XV - ABROGATION

This ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

60.3 (e) Rev. 01/16 Prepared by DACF/JP

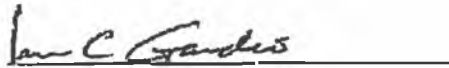
This certifies to the municipal clerk of South Thomaston that the within ordinance is a true copy of an ordinance entitled Floodplain Management Ordinance to be acted upon by the voters at a town meeting to be held on March 29, 2016. Municipal Officers of South Thomaston.

_Tan-6a dio, chair

Dorothy Meri)tether



Jan
Gaudio



Cheryl
Waterman

GEORGES RIVER REGIONAL
SHELLFISH
MANAGEMENT ORDINANCE

Adopted 1996
Amended March 11, 2002
Amended February 10, 2005
Amended January 26, 2006
Amended January 11, 2007
Amended September 13, 2007
Amended January 15, 2009
Amended February 10, 2011
Amended February 14, 2013

Georges River Regional Shellfish Management Ordinance

Section 1. TITLE This Ordinance shall be known, and may be cited as, "The Georges River Regional Shellfish Management Ordinance." The jurisdiction of the Ordinance shall include the participating towns of the Georges River Regional Interlocal Clam Management Agreement of 2002, namely, St. George, South Thomaston, Thomaston, Warren and Cushing, Maine, and will be referred to herein as "this Ordinance." The Ordinance will be voted on by the voters of each participating town, and will apply only to those towns that elect to adopt it.

Section 2. DEFINITIONS

- A. **Administrative Municipality:** The town that administers this Ordinance and the directives of the Joint Board of Selectmen. The Administrative Municipality shall be a three (3) year rotation of the member municipalities, starting July 1, 2011 with South Thomaston, then Cushing, then Thomaston, then St. George, and then Warren. The Joint Board will have the authority to deviate from this rotation with just cause.
- B. **Annual License Allocation Procedure Plan:** A plan written by the Shellfish Management Committee and submitted to the Joint Board of Selectmen for approval. This plan will outline in detail how licenses are to be allocated on an annual basis and will establish priority status for the allocation of licenses as referred to in Section 11 (B).
- C. **Annual Shellfish Management Plan:** A detailed clam resource management plan written on an annual basis by the Shellfish Management Committee and submitted to, and approved by, the Joint Board of Selectmen for submission to, and approval by, the Maine Department of Marine Resources. Said plan will define actions to be taken regarding the number of licenses to be issued, re-seeding activities, conservation closures, limits on allowable harvest and harvesting days and times, and other measures taken to ensure a sustainable harvest of the resource.
- D. **Conservation time:** Those measures and activities approved by the Shellfish Management Committee for the purposes of resource enhancement and the support of the Georges River Regional Shellfish Management Program. Said activities shall be outlined in the Annual Shellfish Management Plan.
- E. **Georges River Regional Shellfish Management Committee:** A committee comprised of representatives of the participating towns with responsibilities described in Section 8 of this Ordinance.
- F. **Joint Board of Selectmen:** A Board consisting of one municipal officer from each of the participating towns. Refer to Part 3 of the Georges River Regional Interlocal Clam Management Agreement and Section 9 of this Ordinance for further information.
- G. **Lot:** The total number of soft-shell clams in any bulk, whether in a box, barrel or any other container.
- H. **Municipalities:** The towns of St. George, South Thomaston, Thomaston, Warren and Cushing, referred to herein as the participating towns.
- I. **Nonresident:** Anyone not qualified as a resident under this ordinance.

- J. Possess:** To dig, take, harvest, ship, transport, hold, buy and sell retail and wholesale soft shell clam shell stock.
- K. Regional:** All the inter-tidal zones of the participating towns, including, but not limited to, the St. George River, Medicos River and Weskeag River watersheds.
- L. Resident:** A person who has proof of being physically domiciled at a fixed, permanent and principal home in at least one or more of the participating towns continuously for at least two (2) years prior to application for a clam license. Proof of residency may include any of the following requested by the Joint Board:

- Copy of deed/record of most recent mortgage payment;
- Copy of lease, legal affidavit from landlord affirming tenancy, and record of most recent rental payment;
- Utility bill within the past 60 days (gas, oil, electric, telephone, cable/satellite TV) ;
- W-2 Wage and Tax Form Statement and/or W-9 Independent Contractor SSN/Business Tax ID number;
- Excise tax receipts dated within the past 60 days;
- Valid driver's license, Maine photo ID, vehicle registration, passport, or state shellfish displaying physical address; and/or
- Other verifiable documentation deemed appropriate by the Joint Board of Selectmen.

Once a Resident Commercial/Resident Student license is obtained, the license holder may keep the license as long as he fulfills all other license requirements and maintains his permanent residence in one of the five towns participating in this Regional Shellfish Ordinance. Should the license holder become a resident of a town other than the five listed in the ordinance and moves there, he is required to surrender his resident license to the Administrative Town as soon as the move is made.

M. Shellfish: Clams and inter-tidal shellfish resources shall mean soft-shell clams (*mya arenaria*), shellstock, and clams commonly referred to as razor clams. This definition also includes all species of quahogs (other than mahogany quahogs) and oysters.

Section 3. AUTHORITY This ordinance has been prepared in accordance with the provisions of Title 12 MRSA Section 6671, et seq, as revised, and Section 6681, as revised.

Section 4. PURPOSE The purpose of this ordinance is to establish a regional management program for the participating towns of the Georges River Regional Interlocal Clam Management Agreement, which will ensure sustainable harvest practices and optimum utilization of soft-shell clam resources within the limits of these municipalities. These goals will be achieved by means which include, but are not necessarily limited to:

- A. Establishing licensing procedures and limiting the number of shellfish harvesters;
- B. Restricting the time and area where digging is permitted;
- C. Limiting the minimum size of soft-shell clams taken;
- D. Limiting the amount of soft-shell clams taken; and
- E. Providing effective enforcement of the ordinance.

Section 5. REPEAL Any ordinance regulating the harvesting or management of shellfish on these municipalities and/or any provisions of any municipal ordinance which is inconsistent with this ordinance is hereby repealed as of the effective date of this Ordinance pursuant to Section 7 herein.

Section 6. VALIDITY AND SEVERABILITY If any section, subsection, sentence or part of this Ordinance is for any reason held to be invalid or unconstitutional, such decisions shall not affect the validity of the remaining portions of this Ordinance.

Section 7. EFFECTIVE DATE This Ordinance, upon approval of the Commissioner of Marine Resources, shall become effective after its adoption by the participating towns, provided a certified copy is filed with the Commissioner within twenty (20) days of its adoption.

Section 8. THE SHELLFISH MANAGEMENT COMMITTEE The Regional Shellfish Management Program for the participating towns will be administered jointly by the Joint Board of Selectmen and the Georges River Shellfish Management Committee. The Committee shall consist of three members of each participating town, at least two of whom shall be commercial diggers licensed under this Ordinance if they are available and willing to serve, and shall be appointed by the municipal officers of the participating towns in accordance with the procedures outlined in Section 8 (A) for terms of three (3) years.

A. Selection of Shellfish Management Committee Members: Selectmen of each of the participating towns shall appoint Shellfish Management Committee members according to their own policies and procedures.

B. Shellfish Management Committee's Responsibilities shall include:

- i. Submitting to the Joint Board of Selectmen by the 1st day of the last month of the fiscal year proposals for the expenditure of funds for the purpose of shellfish management.
- ii. Keeping this Ordinance under review and making recommendations for its amendments.
- iii. Recommending management actions to the Joint Board of Selectmen in conjunction with the Area Biologist of the Department of Marine Resources. Such actions may include, but are not limited to, re-seeding of defined clam flats, establishing conservation closures, shoreline cleanup, and limiting and/or expanding harvesting activities.
- iv. Recommending to the Joint Board of Selectmen enforcement actions for the protection of the resource.
- v. Submitting an annual report to the participating towns and the Department of Marine Resources covering the aforementioned topics and other Committee activities.
- vi. Assist in identifying possible sources of pollution harmful to the inter-tidal habitat and the clam resource.

- vii. By February 1st of each year submit an **Annual Shellfish Management Plan** to the Joint Board of Selectmen for their approval and the approval of the Department of Marine Resources. The plan will outline in detail the number of licenses to be issued annually, license fees, the amount of clams allowed to be harvested per tide, restrictions on the times and days harvesting will be allowed, and other relevant resource management tools. The plan will be submitted to the Commissioner of Marine Resources for approval prior to May 1st of each year.
 - viii. By March 1st of each year submit an **Annual License Allocation Procedure Plan** for approval by the Joint Board of Selectmen. This plan will outline in detail how licenses are to be allocated on an annual basis and shall be consistent with 12 M.R.S.A Section 6671 (3-A)(C). After receiving approval for license allocations from the Commissioner of Marine Resources, and prior to May 10th, the Shellfish Management Committee shall notify the Town Clerk, in writing, the number of shellfish licenses to be issued.
- C. Attendance: Shellfish Management Committee members shall make every effort to regularly attend Committee meetings.

Section 9. JOINT BOARD OF SELECTMEN Each of the participating towns shall appoint one municipal officer as a member of a Joint Board to act as the town's representative for all issues concerning this agreement. The person so appointed shall serve at the pleasure of the body that made the appointment.

- A. **Meetings:** The Chairman of the Joint Board shall be elected at the first meeting of each calendar year by the members of the Joint Board. A quorum shall consist of at least three members of the Board. Notice of all meetings of the Joint Board shall be given to each member of the Board and the Chairman of the Shellfish Management Committee, shall be published in accordance with each town's policies, and shall be open to the public. Minutes shall be recorded and made available for public review.
- B. **Powers:** The Joint Board is authorized to approve the number of shellfish licenses to be issued, approve license fees, open and close the flats, set times when digging is allowed, set permitted quantities that may be harvested, and to take such actions as authorized by each of the participating town's Board of Selectmen, and subject to the Department of Marine Resources approval as noted in Section 14, based upon the recommendations of the Shellfish Management Committee. These actions will be described in an Annual Shellfish Management Plan submitted by the Shellfish Management Committee. Unanimous recommendations of the Shellfish Management Committee regarding the management of the clam resource (i.e., those issues related to the sustainable harvest of the resource and not related to personnel, fiscal expenditures or legal matters) shall be approved by the Joint Board unless a unanimous vote of the Joint Board decides otherwise.

Section 10. AMENDMENTS

A. Initiation: A proposal for an amendment to this Ordinance may be initiated by the following:

- i. A written petition submitted with the number of voters equal to at least ten percent of the voters in the last gubernatorial election;
- ii. A recommendation of the Shellfish Management Committee; or
- iii. A recommendation of the Joint Board of Selectmen.

B. Procedure:

- i. Any proposal for an amendment shall be made to the Joint Board of Selectmen, in writing, stating the specific changes requested. All such proposals shall be transmitted to the Shellfish Management Committee for their review and recommendation.
- ii. Within thirty (30) days of receiving a properly initiated amendment, the Joint Board of Selectmen shall hold a public hearing on the proposal. Notice of the hearing shall be posted and advertised in a newspaper of general circulation within the participating towns at least seven (7) days prior to the hearing. The notice shall contain the time, date and place of the hearing and sufficient detail about the proposed changes as to give adequate notice of their content. If the proposed changes are extensive, a brief summary of the changes, together with an indication that a full text is available at the Town Clerk's office shall be adequate notice.

C. Adoption: Any amendment to this Ordinance shall be adopted by a majority vote of the town meetings. All participating towns must agree to the amendments proposed in order for a proposed change to take effect. Amendments to this Ordinance do not take effect until approved by the Commissioner of the Dept. of Marine Resources.

D. Period of Ordinance: This Ordinance shall remain in effect for a period of three (3) years from the date of the written approval of the Commissioner of the Department of Marine Resources, but will remain in effect until a new Ordinance has been adopted or rejected by participating towns in accordance to State law.

Section 11. LICENSING A Georges River Regional Shellfish License is required to harvest soft-shell clams in the jurisdiction of this Ordinance. It is unlawful for any person to dig or take clams from the shores and flats of the participating towns for the purpose of selling the clams without having a current commercial license issued by a participating town as provided by this Ordinance. Additionally, a commercial digger must have a valid State of Maine Commercial Shellfish License issued by the Department of Marine Resources prior to harvesting clams for commercial purposes. It shall be unlawful for any individual whose state license or right to harvest has been suspended by the state to harvest or possess shellfish. Also, if such individual currently holds a municipal license such license shall be suspended for the same period of time. Restrictions on

licenses regarding the harvest of soft-shell clams shall be outlined in the Annual Shellfish Management Plan proposed by the Shellfish Management Committee.

A. Classification of Licenses Licenses shall be issued according to the following classifications.

Fees and additional restrictions will be established in the Annual Shellfish Management Plan.

i. Commercial

- a. **Resident Commercial Shellfish License:** This license is available only to residents of the participating towns.
- b. **Nonresident Commercial Shellfish License:** This license is available only to nonresidents of the participating towns.
- c. **Resident Student Commercial Shellfish License:** This license is available to resident students enrolled in an accredited school Kindergarten through 12th grade at the time of application. The student must remain enrolled, or had graduated, for the period of the license. A resident student license will be half the cost of, and require only half of the conservation time necessary for, a regular commercial resident license.
- d. **Nonresident Student Commercial Shellfish License:** This license is available to nonresident students enrolled in an accredited school Kindergarten through 12th grade at the time of application. The student must remain enrolled, or had graduated, for the period of the license. A nonresident student license will be half the cost of, and require only half of the conservation time necessary for, a regular commercial nonresident license.

ii. Recreational

- a. **Annual Resident Recreational Shellfish License:** This license is available upon request to residents and property taxpayers of participating towns who do not hold a valid Maine State Commercial Shellfish License. One license issued per person, per year.
- b. **Annual Nonresident Recreational Shellfish License:** This license is available to nonresidents who do not hold a valid Maine State Commercial Shellfish License. This license will be issued on a 10:1 ratio. (Ten resident licenses to one non resident.) One license issued per person, per year.
- c. **Daily Recreational Shellfish License.** This license is available on a daily basis upon request to residents or nonresidents who do not hold a valid Maine State Commercial Shellfish License. One license issued per person, per day.

B. Application Procedure Any person may apply to the Town Clerk for the licenses required by this Ordinance on forms provided by the Administrative Town. Notice of available commercial

licenses shall be published in a newspaper, or newspapers, in general circulation in the participating towns not less than ten (10) days prior to the period of issuance and shall be posted in the municipal offices of the participating towns until said period expires. Applications for commercial licenses must be received at the town office of the Administrative Municipality as required by the Allocation Plan.

- i. **Contents of the application:** The application must be in the form of an affidavit and must contain the applicant's name, current address, birth date, height, weight, signature and any additional information the participating towns may require.
 - ii. **Misrepresentation:** Any person who intentionally provides false information on a license application will cause the application to be removed from consideration. If a license is issued as a result of the false information, the license shall become invalid and void.
 - iii. **Address change:** A person applying for or holding a commercial shellfish license under this ordinance shall notify the town clerk of the Administrative Town within ten (10) days of address change, whether or not the address change is also a change of residence.
- C. License Allocation Procedures** License sales procedures shall be determined by the Shellfish Management Committee, approved by the Joint Board of Selectmen, and submitted to the Department of Marine Resources for their approval at least thirty (30) days prior to the licenses going on sale. Notice of the number of licenses to be issued, the procedure for application, drawing priorities and related issues shall be defined by an Annual License Allocation Plan and published in a newspaper at least ten (10) days prior to the licenses going on sale.
- i. The Town Clerk of the Administrative Town shall issue licenses to those residents and nonresidents who have met the requirement of obtaining a commercial license. The Town Clerk shall issue licenses to residents allocated from June 1st to September 1st. A lottery for the nonresident licenses will be held several days after resident licenses have sold. If there are any licenses left after September 1st, they shall be made available to residents and nonresidents in the form of a lottery.
 - ii. Conservation time must be completed prior to the issuance of a municipal commercial shellfish license in accordance with the Annual License Allocation Plan and Conservation Regulations.
 - iii. Applicants who have held a commercial license for a longer period of time will have a greater opportunity of obtaining a license compared to those who have held a commercial license for a lesser period of time. In addition, those who have accomplished the required conservation time for a given year will have a greater opportunity of obtaining a license compared to those who have not completed their time. Details explaining how licenses will be issued will be described in the Annual License Allocation Procedure Plan.

- D. **Transfer of Licenses:** Licenses are not transferable.
- E. **Limitation of Licenses:** The number of commercial licenses will be limited and issued according to the Annual Shellfish Management Plan.
- F. **Open License Sales:** The number of recreational licenses will not be limited. For annual recreational licenses, the Town Clerk of the Administrative Town shall issue one license to a resident and one to a non-resident; thereafter, one non-resident license will be issued for every ten additional licenses issued by the participating towns. Daily recreational licenses shall be issued to residents or non-residents without restriction. Participating towns will forward resident license sales information to the Administrative Town within three (3) working days.
- G. **License Expiration Date:** Each Annual Recreational Shellfish License issued under the authority of this ordinance shall expire one (1) year from the date of issue. Daily Recreational Shellfish Licenses are good only for the date of issue. All Commercial Shellfish Licenses expire May 31st of each year.

Section 12. USE OF FEES AND FINES, FUNDING Fees for shellfish licenses will be set forth in the Annual Shellfish Management plan and will accompany the application for the respective license. The municipal town clerk shall pay all fees and fines collected from violators to the Administrative Municipality. Fees and fines received shall be used for costs incurred in the enforcement and management of this ordinance.

- A. **Non-lapse Provision:** Monies in the Clam Management Account shall not lapse at the end of the year but shall be carried over to the next year in that account.
- B. **Funding:** The Clam Management Program will be self-supporting as much as possible. Funds for operating the Program may be generated by license fees, fines, and financial support from the participating towns.

Section 13. RECIPROCAL HARVESTING PRIVILEGES Resident commercial, non-resident commercial and recreational license holders may harvest shellfish within any municipality governed by this ordinance.

Section 14. OPENING AND CLOSING FLATS The Joint Board of Selectmen, based on recommendations made by the Shellfish Management Committee and conditioned on the approval of the Commissioner of Marine Resources, may open and/or close areas for shellfish harvesting. The decision of the Joint Board shall be in the form of a request letter to the Department of Marine Resources.

Section 15. MINIMUM LEGAL SIZE OF SOFT-SHELL CLAMS

- A. It is unlawful for any person to possess soft-shell clams within a participating town which are less than two (2) inches in the longest diameter, except as provided by subsection B of this section.

- B. Any person may possess soft-shell clams less than two (2) inches if those clams less than two (2) inches are ten percent (10%) or less of a lot. The tolerance shall be determined by numerical count of not less than one peck nor more than four pecks taken at random and by a count of the entire lot.

Section 16. DEPURATION DIGGING While depuration digging is controlled by the State, it is the intent of this Ordinance that if and when depuration digging occurs within any of the participating towns it shall be done with an equal number of residents and nonresidents whenever possible. A surcharge will be levied for each bushel of clams dug under a depuration certificate in accordance with state law. Any monies received from depuration harvesting within the jurisdiction of this Ordinance shall be paid directly to the Administrative Municipality as described in the Georges River Interlocal Clam Management Agreement for use in the Clam Management Account.

Section 17. VIOLATIONS, SUSPENSION OF LICENSES, AND FINES Any person who violates this Ordinance or the policies adopted in the Annual Shellfish Management Plan shall be punished as provided by 12 M.R.S.A. Section 6671 and/or Section 6681.

A licensee whose shellfish license has been suspended pursuant to this Ordinance may request return of their license only after the suspension period has expired. A suspended license is not to be returned until the fine is paid in accordance to the court's decree.

The suspension of a commercial license shall begin following conviction. Any violation of this Ordinance and/or the Management Plan may result in a license suspension. All suspensions of licenses shall be authorized by the Joint Board.

Any licensee whose license has been suspended pursuant to this Ordinance shall be entitled to a hearing before the Joint Board of Selectmen upon the filing of a written request for a hearing with the Town Clerk of the Administrative Town within thirty (30) days of the effective date of the suspension.

Classifications of, and penalties for, violations are categorized as follows:

- A. **Stopping for inspection:** A person shall produce their license on demand of any Certified Municipal Shellfish Conservation Warden in uniform and having "probable cause" to take such action. It is unlawful for the operator of a motor vehicle, boat, vessel, or conveyance or any kind, or any person:
- i. To deliberately fail or refuse to stop immediately upon request or signal of any Certified Municipal Shellfish Conservation Warden.

- ii. After the person has stopped, to fail to remain stopped until the said Warden has reached his immediate vicinity and makes known to the operator the reason for his request or signal.
- iii. To fail or refuse to stand by immediately for inspection on request of said Warden.
- iv. To throw or dump into any coastal waters or flats after having been requested or signaled to stop by a Certified Municipal Shellfish Conservation Warden any shellfish, or any pail, bag, hod or container before said Warden has inspected the same.
- v. To attempt to elude, disobey, or assault any Certified Municipal Shellfish Conservation Warden.

Penalties: The first violation of Section 17 (A) of this Ordinance shall result in a one (1) month suspension of the license and a three hundred dollar (\$300) fine. The second and subsequent violations of Section 17 (A) of this Ordinance shall result in a twelve (12) month suspension of the license and a one thousand dollar (\$1,000.00) fine.

- B. Management Plan:** It is unlawful for any person to violate the Annual Shellfish Management Plan.

Penalties: The first violation of the Annual Shellfish Management Plan shall result in a fine of not less than three hundred dollars (\$300.00) and not more than fifteen hundred dollars (\$1,500.00). The second and subsequent violations of the Annual Shellfish Management Plan shall result in a fine of not less than five hundred dollars (\$500.00) and not more than fifteen hundred dollars (\$1,500.00).

- C. Harvesting Clams in a Closed Area:** It is unlawful for any person to harvest clams in a closed area.

Penalties: Any person found guilty of harvesting clams in a closed area shall be subject to a fine of not less than three hundred dollars (\$300.00) and not more than fifteen hundred dollars (\$1,500.00). The second and subsequent violations of harvesting clams in a closed area shall result in a fine of not less than five hundred dollars (\$500.00) and not more than fifteen hundred dollars (\$1,500.00). The second violation of this section of this Ordinance shall result in a thirty (30) day license suspension and the third and subsequent violations shall result in a one hundred and twenty (120) day suspension of the person's license.

- D. Minimum Legal Size of Soft-Shell Clams:** It is unlawful for any person to violate Section 15 of this Ordinance:

Penalties: The first violation of Section 15 of this Ordinance shall result in a fine of not less than three hundred dollars (\$300.00) and not more than fifteen hundred dollars (\$1,500.00). The second and subsequent violations of Section 15 of this Ordinance shall result in a fine of not less than five hundred dollars (\$500.00) and

not more than fifteen hundred dollars (\$1,500.00). If a person exceeds a fifty percent (50%) threshold of undersized clams as described in Section 15 (B) at any time, their license shall be suspended for twelve (12) months and they shall receive a one thousand dollar (\$1,000.00) fine

- E. **Per Tide Harvest Limit:** It is unlawful for any person to violate the harvesting limits placed on licenses as described in the Annual Shellfish Management Plan.

Penalties: The first violation of Section 17 (E) of this Ordinance shall result in a fine of not less than three hundred dollars (\$300.00) and not more than fifteen hundred dollars (\$1,500.00). The second and subsequent violations of Section 17 (E) of this Ordinance shall result in a fine of not less than five hundred dollars (\$500.00) and not more than fifteen hundred dollars (\$1,500.00). If a license holder exceeds the per harvest limit as described in the Annual Shellfish Management Plan by one bushel or more at any time, they shall receive a one thousand dollar (\$1,000.00) fine for the first offense upon conviction. If a person exceeds the per harvest limit as described in the Annual Shellfish Management Plan by one bushel or more after their first offense, their license shall be suspended for twelve (12) months and they shall receive a one thousand dollar (\$1,000.00) fine upon conviction.

- F. **Aiding and Abetting:** It is unlawful to deliberately aid and abet another to violate the laws of this Ordinance.

Penalties: If a person holding a commercial license uses it to aid and abet the illegal harvest of clams their license shall be suspended for three (3) months and they shall receive a one thousand dollar (\$1,000) fine upon conviction. Any second and subsequent convictions under this section of the Ordinance shall result in a twelve (12) months suspension and a one thousand dollar (\$1,000) fine. If a person holding a recreational license uses it to harvest clams commercially, their license shall be suspended for twelve (12) months and they shall receive a one thousand dollar (\$1,000) fine upon conviction.

- G. **Harvesting On Conservation Closure Day:** It is unlawful for any person to harvest clams during their conservation closure day.

Penalties: If a person is found harvesting clams on their closure day their license shall be suspended for thirty (30) days and they shall receive a fine of not less than three hundred dollar (\$300) for their first offense upon conviction. The second and subsequent violations of this section of this ordinance shall result in their license being suspended for sixty (60) days and they shall receive a fine of not less than five hundred dollars (\$500) and no more than one thousand five hundred dollars (\$1,500) upon conviction.

H. Harvesting Without a License: It is unlawful to harvest clams without a license.

Penalties: Any person convicted of harvesting clams without any shellfish licenses shall be ineligible to apply for any municipal shellfish license for a period of three (3) years from the date of conviction.

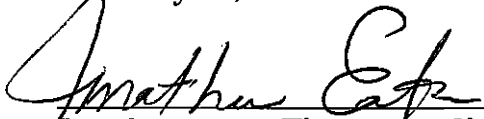
I. Littering: A person may not throw, drop, deposit, discard, dump or otherwise dispose of litter in any manner or amount. Any person doing so shall be in violation of the municipal ordinance.

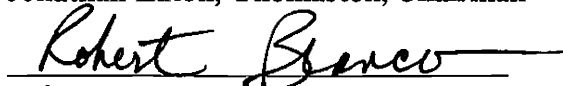
J. Trespass: A person may not access or cross private property or lands without permission. A person having been warned by property owner, their agent, shellfish warden, or any other law enforcement officer shall be in violation of the municipal ordinance.

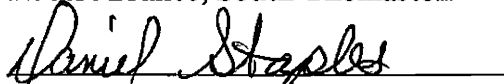
K. Tagging: The holder of a commercial shellfishing license shall identify shellstock the license holder has taken by means of a harvesters tag. This tag shall be in accordance with the department of Marine Resources rules.


Section 18. ENFORCEMENT This Ordinance shall be enforced by the Certified Municipal Shellfish Conservation Warden, or by any Municipal Shellfish Conservation Warden appointed by the Joint Board of Selectmen, who within one year of appointment must be certified by the Commissioner of Marine Resources.

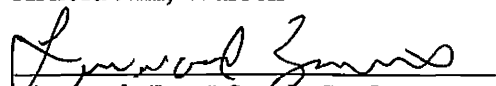
February 14, 2013


Jonathan Eaton, Thomaston, Chairman


Robert Branco, South Thomaston

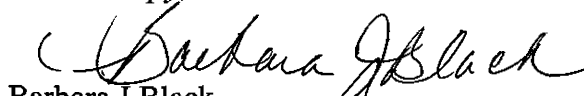

Daniel Staples, Cushing


Arnold Hill, Warren

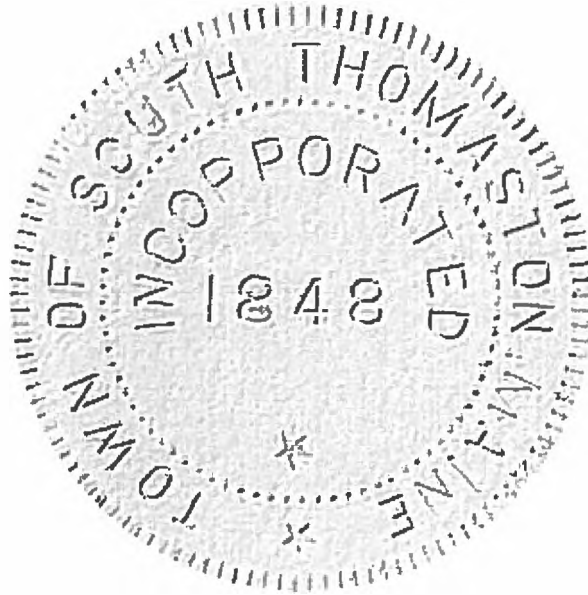

Linwood "Pete" Smith, St. George

Georges River Regional Joint Board

A True Copy; Attest


Barbara J Black
Town Clerk
Town of South Thomaston

TOWN OF SOUTH THOMASTON, MAINE



LAND USE ORDINANCE

Adopted 21 March 1989

Amended 29 March 2005

Amended 27 March 2012

Amended 27 March 2018

**Town of South Thomaston, Maine
Land Use Ordinance**

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HISTORY OF AMENDMENTS

November 10, 1993 – The following amendments were adopted this date.

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Amended Section V, Sub-Section B., Table of Land Uses (Allowing Manufactured and Mobile Homes in the Village 2 District and deleted Community Living and Elderly Congregate Housing Uses from table).

Amended Section VI, Sub-Section C. Community Living Use, Elderly Congregate Housing. (This sub-section was deleted).

Amended Section VII Definitions (Amended Community Living Arrangement Definition).

March 29th, 2005 - The following amendment was adopted this date.

Section V: C. pg. 11 (last paragraph) now reads: *Corner clearance for purposes of traffic safety shall apply to all intersections of public and or private roads and all intersections of driveways with public or private roads. No building or structure other than a mailbox may be located nor may any vegetation other than deciduous shade trees be maintained above the height of three feet above street level within forty feet of the intersection of the center lines of intersecting streets or driveways.*

This section amended to read: *Corner clearance, for purposes of traffic safety, shall apply to all intersections of public roads with private roads or driveways. No structure other than a mailbox may be located, nor may any vegetation, other than deciduous shade trees, be maintained above the height of three feet above street level within forty feet of the center of the intersection.*

March 27th, 2012 – the following amendments/additions/changes was adopted this date;

1. By adding the following categories and corresponding tables of land use restrictions, special exceptions and prohibitions to subsection B. of Section V. of said Ordinance:

"Outpatient Addiction Treatment Clinics"

"Medical Facilities Other Than Professional Office Use":

(Island)	NO
(V-1)	NO
(V-2)	NO
(R-1)	SE
(R-2)	NO

**2. Further, by deleting the period, after the last sentence in Section IV., Subsection B., Paragraph (1), after the words "this Ordinance" and adding the following:
; including, but not limited to:**

(a) name, address and contact information, including a phone number of the applicant and all other persons having a legal interest in the property, and, when applicable, individual(s) hired by the applicant to manage or control such property;

(b) the location of the premises for which a permit is sought by identification of town tax map number and street address;

(c) the dimensions and acreage of the property;

(d) the identification of any other approvals required by the Town of South Thomaston, by any state or federal agency or department, if any;

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- (e) a copy of a site plan, drawn to a scale of 50 feet or less to the inch, which identifies the boundary lines of the property for which a permit is sought;
- (f) the location of all existing and proposed buildings and structures;
- (g) when applicable (see *Special Exceptions/Conditional Use*), the location of all existing and proposed parking areas and walkways and any other site improvements;
- (h) the location and characteristics of all existing and proposed vegetation and or fencing to be maintained for screening, when required (see *Special Exceptions/Conditional Use*);
- (i) when applicable (see *Special Exceptions/Conditional Use*), a site location map at a scale of not greater on 1" to 100' showing all adjoining residential uses and any schools, churches, cemeteries, family day care homes, small day care facilities, day care centers and public parks and play grounds; the location and characteristics of all vehicular entrances and exits serving the property;
- (j) a nonrefundable application fee in accordance with the Town's fee schedule and an original and eight (8) copies of the permit application, and all supporting documentation.

3. Further, by deleting Paragraph 2. "Additional Conditions" in Section IV., Subsection G. of said Ordinance, and inserting the following:

2. Additional Conditions. The Planning Board may, in order to carry out the purposes of the Special Exception procedure, require additional conditions, specifications, criteria, and standards necessary to protect the public interest and to fit such uses harmoniously and compatibly into their neighborhoods and locations. Such conditions may include, but are not limited to:

- (a) increased setbacks and yards;
- (b) specified water supplies or sewage disposal facilities, as well as the impact of the use on the quality and quantity of groundwater available to abutting properties, is comparable to that for surrounding uses, and the capacity of sewerage and water supply systems is adequate to accommodate the proposed use and, where applicable, the capacity of the storm drainage system is adequate to accommodate the proposed use;
- (c) type of vegetation, landscaping, planting screens, installation and maintenance of effective opaque fencing and to provide visual screening at least six feet in height to be located along side and rear property lines that abut properties in residential use;
- (d) periods and methods of operation, including types of services provided, clientele and populations to be served, staffing requirements, security provisions, hours of operation, anticipated parking demand and peak hour traffic; lighting; signs, markings and advertisement; the generation of noise, dust, odor, vibration, glare, smoke, litter and other nuisances in comparison to that generated by surrounding uses; that the proposed onsite use shall not be a character as to have significant adverse impact upon the value or quiet possession of surrounding properties.

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(e) routing of traffic, to include vehicular and pedestrian access and circulation to, from, into and within the site that will be safe and no public way will be overburdened or made hazardous as a result of the new use of and or development of the property; that vehicular access to the site will be on roads which have adequate capacity to accommodate the additional traffic generated by the development as certified by a licensed traffic engineer; and that topography of the site shall permit the construction of all driveways, entrances or proposed streets to meet the standards set forth in the South Thomaston Land Use Ordinance or applicable State of Maine standards;

(f) professional and safe operation consistent with the proposed use, including: provision of documentation and receipt of all approvals and licenses required by any and all government agencies of competent jurisdiction; that adequate facilities are present to assure the safety of pedestrians passing by or through the site; that municipal or other facilities serving the proposed use will not be overburdened or made hazardous; and the ability of the fire department to provide necessary protection services to the site and development is adequate;

(g) the size and character of proposed use is reasonably comparable to the size of surrounding uses; and unusual physical characteristics of the site, including size of the lot, shape of the lot, topography, and soils, do not aggravate or cause adverse impacts upon surrounding properties;

(h) maintenance and inspection of sewage disposal facilities;

(i) and other performance guarantees as specified in the application review process.

Such conditions imposed, and the reasons therefore, shall be written as part of those permits issued by the Planning Board which may involve additional conditions.

4. Further, after category G., of Section VI., "General Performance Standards" of said Ordinance, add the following category:

H. Location Criteria and Public Safety Standards for Outpatient Addiction Treatment Clinics

Applicants for a permit pursuant to Section IV, Subsection G., and this subsection, must demonstrate to the satisfaction of the Planning Board that all the standards contained in this Ordinance, and set forth as additional conditions, are met. No clinic may be located within 1,000 feet of any church, cemetery, school, family day care home, day care center, or public park or playground. A minimum of two meetings per calendar year shall be conducted at the clinic with the applicant, the Code Enforcement Officer, the Sheriff of Knox County and the Chief of the Maine State Police and or their designee, in order to establish and maintain professional cooperation.

5. Further, by adding the following Definitions to Section VII. of said Ordinance:

Cemetery means a graveyard; burial ground. Place or area set apart for interment of the dead. Term includes not only lots for depositing the bodies of the dead, but also avenues, walks, and grounds for shrubbery and ornamental purposes.

Family Day Care Home: means child care for three to 12 children under 13 years of age (not related by blood or marriage to, or legal wards of, the operator or foster children living in the private family residence; i.e., dwelling unit, serving as the day care home) who are unattended by parents or guardians for any part of the day. A family day care

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home shall be operated by a person who is domiciled and a resident within the private family residence, and who is the holder of all necessary licenses and permits from the State of Maine and/or the Town of South Thomaston.

Outpatient Addiction Treatment Clinic: means a program or facility operated for the purpose of and specializing in the care, treatment and/or rehabilitation of persons suffering with addictions, including, but not limited to gambling addiction, alcohol or controlled substance addictions. This includes, but is not limited to, substance abuse treatment programs licensed by the State of Maine Department of Behavioral and Developmental Services Office of Substance Abuse. An outpatient addiction treatment clinic does not include an inpatient or residential addiction treatment program, or a program consisting solely of support group activities without treatment by licensed health practitioners, such as Alcoholics Anonymous, Narcotics Anonymous, and similar programs.

Public Park or Playground means an area of land or ground, whether enclosed or not, set aside for pleasure, historical markers and monuments, child-play and/ or recreation of the public.

March 27, 2018 – The following amendments were adopted this date.

Section III NONCONFORMANCE

Expansion of Use or Structure

Section F now reads:

A nonconforming use, including a nonconforming outdoor use of land, shall not be extended or expanded in area or function beyond the boundaries of land in the same ownership on the date of adoption or amendment of this Ordinance. Any addition to a non-conforming building or structure shall not exceed the height of the existing building or structure and shall otherwise comply with the provisions of this Ordinance.

Amended to read:

F. A nonconforming use, including a nonconforming outdoor use of land, shall not be extended or expanded in area or function beyond the boundaries of land in the same ownership on the date of adoption or amendment of this Ordinance. Any addition to a non-conforming building or structure shall comply with the provisions of this Ordinance and if applicable the Shore Land Zoning Ordinance. Any addition to a nonconforming building or structure shall not exceed the height of the existing building or structure and shall otherwise comply with the provisions of this Ordinance.

Section IV ADMINISTRATION

Now reads:

A. Building Permits

No building or other structure in excess of 100 square feet of ground coverage shall be erected, moved, added to, or structurally altered without a Building Permit Issued by the Code Enforcement Officer. No on site construction activity shall occur prior to issuance of a

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Building Permit. No change or resumption of any use requiring a Building Permit shall occur prior to issuance of a Building Permit. No Building Permit shall be issued except in conformity with the provisions of this Ordinance. No Building Permit shall be required for clearing to allow surveys and soil tests, and excavating for soil tests. A fee schedule for building and use permits shall be established by the Selectmen.

Amended to read:

A. Applications and Permits Issued

No building or other structure in excess of 100 square feet of ground coverage shall be erected, moved, added to, or structurally altered without a Building Permit Issued by the Code Enforcement Officer. No on-site construction activity shall occur prior to issuance of a Building Permit. No change or resumption of any use requiring a Building Permit shall occur prior to issuance of a Building Permit. No Building Permit shall be issued except in conformity with the provisions of this Ordinance. No Building Permit shall be required for clearing to allow surveys and soil tests, and excavating for soil tests.

A fee schedule for building and use permits shall be established by the Selectmen.

1. Applications. All applications for Building Permits shall be in writing on forms provided by the Code Enforcement Officer. All applications for Building Permits shall include the location and dimensions of the proposed building or alteration and, as applicable, the proposed sewage disposal system as certified by a registered civil engineer or a plumbing inspector appointed by the Town. The application shall include any information as lawfully may be required by the Code Enforcement Officer to determine conformance with this Ordinance; including, but not limited to:

(1)(e)

Now Reads:

a copy of a site plan, drawn to a scale of 50 feet or less to the inch, which identifies the boundary lines of the property for which a permit is sought;

Amended to read:

a copy of a site plan, drawn to a scale of 50 feet or less to the inch approved by the Code Enforcement Officer, which identifies the boundary lines of the property for which a permit is sought;

(1)(f)

Now Reads:

the location of all existing and proposed buildings and structures;

Amended to read:

the location of all existing and proposed buildings and, structures and uses;

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(1)(i)

Now Reads:

when applicable (see *Special Exceptions/Conditional Use*), a site location map at a scale of not greater on 1" to 100' showing all adjoining residential uses and any schools, churches, cemeteries, family day care homes, small day care facilities, day care centers and public parks and play grounds; the location and characteristics of all vehicular entrances and exits serving the property;

Amended to read:

when applicable (see *Special Exceptions/Conditional Use*), a site location map at a scale of not greater on 1" to 100' approved by the Code Enforcement Officer showing all adjoining residential uses and any schools, churches, cemeteries, family day care homes, small day care facilities, day care centers and public parks and play grounds; the location and characteristics of all vehicular entrances and exits serving the property;

(1)(i)

Now Reads:

a nonrefundable application fee in accordance with the Town's fee schedule and an original and eight (8) copies of the permit application, and all supporting documentation.

Amended to read:

a nonrefundable application fee in accordance with the Town's fee schedule and an **original and**, if required for Planning Board review, eight (8) copies of the permit application, and all supporting documentation.

A, (4)

Now Reads:

Permits issued by the Planning Board. The Planning Board shall approve or deny those applications on which it is empowered to act as stated in this Ordinance. The Planning Board shall, after the submission of a complete application including all information requested, grant a permit if it makes a positive finding based on the information presented to it that, except as specifically exempted in this Ordinance, the proposed use meets conditions a. through i. of the Shoreland Zoning Ordinance, Part II, Section 2, C., 6 and is in conformance with the provisions of Section VI, General Performance Standards, of this Ordinance

**Town of South Thomaston, Maine
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Amended to read:

Permits issued by the Planning Board. The Planning Board shall approve or deny those applications on which it is empowered to act as stated in this Ordinance. The Planning Board shall, after the submission of a complete application including all information requested, grant a permit if it makes a positive finding based on the information presented to it that, except as specifically exempted in this Ordinance, the proposed use meets all conditions of the Shoreland Zoning Ordinance, and is in conformance with the provisions of this Ordinance.

A, (5)

Now Reads:

Procedure for Administering Permits. Within 30 days of the date of receiving a written application, the Planning Board shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, what specific additional material is needed to make a complete application. All permits shall be either approved or denied in writing within 30 days of receiving a completed application including all information requested. Permits shall not be denied if the proposed use is found to be in conformance with the provisions of this Ordinance. Permits may be subject to reasonable conditions to ensure conformity with the purposes and provisions of this Ordinance. If a permit is denied, the reasons for the denial shall be stated in writing. An appeal to the Board of Appeals from an approval or denial of a permit shall be made within 30 days of the approval or denial.

Amended to read:

5. Procedure for Administering Permits. Within 30 days of the date of receiving a written application, the Code Enforcement Officer shall notify the applicant in writing

6. Either that the application is a complete application, or, if the application is incomplete, what specific additional material is needed to make a complete application. All permits shall be either approved or denied in writing within 30 days of receiving a completed application including all information requested. Permits shall not be denied if the proposed use is found to be in conformance with the provisions of this Ordinance. Permits may be issued subject to reasonable conditions to ensure conformity with the purposes and provisions of this Ordinance. If a permit is denied, the reasons for the denial shall be stated in writing. An appeal to the Board of Appeals from an approval or denial of a permit shall be made within 30 days of the approval or denial.

A, (7)

Now Reads:

Expiration. The permit shall be valid for a period of one year from the date of issuance and shall expire if the proposed activity is not started. To start construction is to place forms for a foundation, or to begin erection or assembly

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of an addition, building or structure on the site. An extension of time to start or complete construction shall be granted upon application to and approval by the Board of Appeals for reasonable cause.

Amended to read:

Expiration. The permit shall be valid for a period of one year from the date of issuance and shall expire if the proposed activity is not started. To start construction is to place forms for a foundation, or to begin erection or assembly of an addition, building or structure on the site. An extension of time to start or complete construction shall be granted upon application to and approval by the permit issuing authority for reasonable cause.

C.

Now Reads:

Code Enforcement Officer.

The Code Enforcement Officer shall report to the Planning Board at all Planning Board meetings, to report all applications and permits issued and an notifications of violations issued. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any of the provisions of this Ordinance are being violated, he/she shall notify, in writing, the person responsible for such violations, indicating the nature of the violations and specifying the action necessary to correct it. He/she shall order discontinuance of illegal use of land, buildings, structures, additions, or work being done, or shall take any other actions authorized by this Ordinance to insure compliance with or to prevent violation of its provisions. A copy of such notices shall be maintained by the Code Enforcement Officer as a permanent record.

B. Code Enforcement Officer.

The Code Enforcement Officer shall report to the Planning Board at all Planning Board meetings, all applications and permits issued and any notifications of violations issued. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any of the provisions of this Ordinance are being violated, he/she shall notify, in writing, the person responsible for such violations, indicating the nature of the violations and specifying the action necessary to correct it. He/she shall order discontinuance of illegal use of land, buildings, structures, additions, or work being done, or shall take any other actions authorized by this Ordinance to insure compliance with or to prevent violation of its provisions. A copy of such notices shall be maintained by the Code Enforcement Officer as a permanent record.

D. Legal Actions and Violations is amended to C. Legal Actions and Violations

E. Penalties is amended to D. Penalties

F. Appeals is amended to E. Appeals

**Town of South Thomaston, Maine
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G Special Exceptions now reads:

G Special Exceptions (Conditional Uses)

A building, structure or lot of land may be employed for a Special Exception (Conditional Use) if the Special Exception is specifically allowed in the district in which the use is proposed; if the building, structure or lot of land meets all required conditions for a Special Exemption; and if a Special Exception Permit is approved by the Planning Board.

Amended to read:

F. Special Exceptions (Conditional Uses)

A building, structure or lot of land may be employed for a Special Exception (Conditional Use) if the Special Exception is specifically allowed in the district in which the use is proposed; if the building, structure or lot of land meets all required conditions and if a Special Exception Permit is approved by the Planning Board.

G (1)(c)Special Exceptions now reads:

Submit such other information as will enable the Board of Appeals to determine that the standards for approval of a Special Exception Permit have been met.

Amended to read:

F. (1)(c) Special Exceptions (Conditional Uses)

Amended to read:

F. (1)(c) Special Exceptions (Conditional Uses)

Submit such other information as will enable the Planning Board to determine that the standards for approval of a Special Exception Permit have been met.

G (2)(i)Special Exceptions now reads:

and other performance guarantees as specified in the application review process.

Amended to read:

and other required performance guarantees as specified in the application review process.

H. Variances is amended to G. Variances

B. Table of Land Uses now reads:

Key

YES = Use Allowed, No Permit Required
BP = Use Allowed, Building-Permit Required (issued by

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Code Enforcement Officer)
SE = Use Allowed by Special Exception (granted by the
Planning Board)
NO = Use Prohibited

Note: All land uses not allowed by this Ordinance are prohibited.

District Use	Island	V-1	V - 2	R - 1	R - 2
Single Family Dwelling	BP	BP	BP	BP	BP
Two Family Dwelling	BP	BP	BP	BP	BP
Multi-family Dwelling	NO	NO	NO	SE	SE
Manufactured Home *	BP	BP	BP	BP	BP
Mobile Home *	BP	BP	BP	BP	BP
Home Occupation	YES	YES	YES	YES	YES
Tradesman's Shop	YES	YES	YES	YES	YES
Additions (in excess of 100 square feet ground coverage)	BP	BP	BP	BP	BP
Accessory Use or Structure	BP	BP	BP	BP	BP
Bed and Breakfast, Tourist Home	SE	SE	SE	SE	SE
Agricultural Land Management	YES	YES	YES	YES	YES
Forest Management	YES	YES	YES	YES	YES
Campground	NO	NO	NO	SE	SE
Church	BP	BP	BP	BP	BP
Cemetery	YES	YES	YES	YES	YES
Commercial	NO	SE	SE	SE	SE
Day Care Center	SE	SE	SE	SE	SE
Industrial Uses	NO	NO	NO	SE	NO
Inn, Lodge, Motel	NO	SE	SE	SE	SE
Institutional Uses	SE	SE	SE	SE	SE
Junkyard	NO	NO	NO	SE	NO
Marine-Oriented Use	SE	SE	SE	SE	SE
Municipal Use	BP	BP	BP	BP	BP
Neighborhood Store	SE	SE	SE	SE	SE
Professional Office	SE	SE	SE	SE	SE
Public Utility	SE	SE	SE	SE	SE
Recreation (non-commercial)	SE	SE	SE	SE	SE
Restaurant	SE	SE	SE	SE	SE
School, Public or Private	SE	SE	SE	SE	SE
Outpatient Addiction Treatment Clinics	NO	NO	NO	SE	NO
Medical Facilities Other Than					
Professional Office Use	NO	NO	NO	SE	NO

* Amended on November 10, 1993

** Amended on March 27, 2012

Amended to read:

Key

YES = Use Allowed, No Permit Required
BP = Use Allowed, Permit Required (issued by Code
Enforcement Officer)

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SE = Use Allowed by Special Exception (granted by the
Planning Board)
NO = Use Prohibited

Note: All land uses not allowed by this Ordinance are prohibited.

District Use	Island	V-1	V - 2	R - 1	R - 2
Single Family Dwelling	BP	BP	BP	BP	BP
Two Family Dwelling	BP	BP	BP	BP	BP
Multi-family Dwelling	NO	NO	NO	SE	SE
Manufactured Home *	BP	BP	BP	BP	BP
Mobile Home *	BP	BP	BP	BP	BP
Home Occupation	BP	BP	BP	BP	BP
Additions (in excess of 100 square feet ground coverage)	BP	BP	BP	BP	BP
Accessory Use or Structure	BP	BP	BP	BP	BP
Bed and Breakfast, Tourist Home	SE	SE	SE	SE	SE
Agricultural Land Management	YES	YES	YES	YES	YES
Forest Management	YES	YES	YES	YES	YES
Campground	NO	NO	NO	SE	SE
Church	BP	BP	BP	BP	BP
Cemetery	YES	YES	YES	YES	YES
Commercial	SE	SE	SE	SE	SE
Day Care Center	SE	SE	SE	SE	SE
Industrial Uses	NO	NO	NO	SE	NO
Inn, Lodge, Motel	NO	SE	SE	SE	SE
Institutional Uses	SE	SE	SE	SE	SE
Junkyard	NO	NO	NO	SE	NO
Marine-Oriented Use	SE	SE	SE	SE	SE
Municipal Use	BP	BP	BP	BP	BP
Professional Office	SE	SE	SE	SE	SE
Public Utility	SE	SE	SE	SE	SE
Recreation (non-commercial)	SE	SE	SE	SE	SE
Restaurant	SE	SE	SE	SE	SE
School, Public or Private	SE	SE	SE	SE	SE
Outpatient Addiction Treatment Clinics	NO	NO	NO	SE	NO
Medical Facilities Other Than Professional Office Use	NO	NO	NO	SE	NO

* Amended on November 10, 1993

** Amended on March 27, 2012

***Amended on March 27, 2018

C. Table of Dimensions reads now:

District	Island	V-1	V - 2	R - 1	R - 2
Dimension					
Minimum Lot Area Per Dwelling Unit	1 ACRE	1 ACRE	1 ACRE	1 ACRE	1 ACRE

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Industrial Uses	3 ACRES				
Campgrounds	3 ACRES		3 ACRES		
All Other Non-Residential Uses	1 ACRE	1 ACRE	1 ACRE	1 ACRE	1 ACRE
Maximum Building Height (Feet)					
Residential	34	34	34	34	34
Non Residential	50	50	50	50	50
Corner Clearance (Feet)	40	40	40	40	40

Building Height is the vertical measurement from a point on the ground at the mean finished grade adjoining the foundation as calculated by averaging the highest and lowest points around the building or structure, to the highest point of the building or structure, excluding incidental protrusions such as chimneys, ventilators, antennas and flagpoles.

Corner Clearance for purposes of traffic safety, shall apply to all intersections of public roads with private roads or driveways. No structure other than a mailbox may be located, nor may any vegetation, other than deciduous shade trees, be maintained above the height of three feet above street level within forty feet of the center of the intersection.

Amended to Read:

District Dimension	Island	V-1	V - 2	R - 1	R - 2
Minimum Lot Area Per Dwelling Unit	1 ACRE	1 ACRE	1 ACRE	1 ACRE	1 ACRE

Note: The CEO may issue a permit for a second dwelling unit (such as a "mother-in-law" area) if existing constraints in Maine State Statutes and the Town's Shoreland Zone Ordinance can be met; such as 30,000 square feet (.60 acre)/dwelling unit in the Shoreland Zone, 20,000 square feet (.46 acres)/dwelling unit outside the of the Shoreland Zone, minimum, water frontage/dwelling unit requirements in accordance with State Law and a successful septic-system review by the town's LPI (This exception to the above District Dimension requirements does not otherwise change lot size requirements.)

Industrial Uses	3 ACRES				
Campgrounds	3 ACRES		3 ACRES		
All Other Non-Residential Uses	1 ACRE	1 ACRE	1 ACRE	1 ACRE	1 ACRE
Maximum Building Height (Feet)					
Residential	34	34	34	34	34

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Commercial/Industrial/Agricultural	50	50	50	50	50
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Building Height is the vertical measurement from a point on the ground at the mean finished grade adjoining the foundation as calculated by averaging the highest and lowest points around the building or structure, to the highest point of the building or structure, excluding incidental protrusions such as chimneys, ventilators, antennas and flagpoles.

Corner Clearance (Feet)	40	40	40	40	40
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Corner Clearance for purposes of traffic safety, shall apply to all intersections of public roads with private roads or driveways. No structure other than a mailbox may be located, nor may any vegetation, other than deciduous shade trees, be maintained above the height of three feet above street level within forty feet of the center of the intersection.

Section VI GENERAL PERFORMANCE STANDARDS

C: Community Living Use, Elderly Congregate Housing – deleted.

D. Lighting amended to C. Lighting

E. Industrial Uses amended to E. Industrial Uses

F. Off-Street Parking and Loading Standards amended to E. Off-Street Parking and Loading Standards.

G. Off Street Parking and Loading Standards – Deleted

H. Location Criteria and Public Safety Standards for Outpatient Addiction Treatment Clinics amended to F. Location Criteria and Public Safety Standards for Outpatient Addiction Treatment Clinics

Section VII DEFINITIONS

Accessory Use or Structure now reads:

A non residential use or structure of a nature customarily incidental or subordinate to that of the primary use or the principal structure to which the premises are devoted, i.e., garages, woodsheds, fish house, or other non residential uses.

Amended to read:

A use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or common wall is considered a part of the principal structure.

Building now reads:

Any structure in excess of 100 square feet of ground coverage having a roof or partial roof supported by columns or walls used for the shelter or enclosure of persons, animal, goods or property of any kind. A building shall include a multi-family dwelling.

Amended to read:

Any structure having a roof or partial roof supported by columns or walls used for the shelter or enclosure of persons, animal, goods or property of any kind. A building shall include a multi-family dwelling.

Commercial now reads:

A Retail or Wholesale establishment, other than a restaurant, in excess of 2,000 square feet of ground coverage or 3,000 square feet of total floor area.

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Amended to read:

Commercial Use: The use of lands, buildings or structures, other than a "home occupation", defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

Home Occupation now reads:

An occupation or profession which is customarily carried on in a dwelling unit or structure(s) accessory thereto, which is incidental to residential use, and employs two or fewer full-time equivalent non-family employees.

Amended to read:

An occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and 2) which employ no more than two (2) persons other than family members residing in the home.

Industrial now reads:

Activities including the assembly, fabrication, finishing, packaging, processing or storage of goods or the extraction, processing or storage of minerals.

Amended to read:

The assembling, fabrication, finishing, manufacturing, packaging or processing of goods or the extraction of minerals.

Neighborhood Store was deleted.

Professional Office now reads:

Any structure which houses the business office of a person or persons who supply a service to the public.

Amended to read:

Any building which houses the business office of a person or persons who supply a service to the public.

Tradesman's Shop deleted.

**Town of South Thomaston, Maine
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Section I TITLE

This ordinance shall be known as and may be cited as the "Land Use Ordinance of the Town of South Thomaston, Maine".

Section II PURPOSE AND ESTABLISHMENT OF DISTRICTS

A. Purpose

This Ordinance is designed for all the purposes of zoning embraced in the Maine Revised Statutes. It is designed to encourage use of land throughout the municipality in an appropriate manner as expressed in the Comprehensive Plan.

B. Establishment of Districts

For the purposes of this Ordinance, the Town of South Thomaston is hereby divided into the following districts:

Island District	Spruce Head Island
Village – 1 District	Spruce Head Village
Village – 2 District	Keag Village
Rural - 1 District	
Rural - 2 District	

C. Land Use Maps

The above districts are shown on maps filed in the office of the Town Clerk. These maps are hereby made a part of this Ordinance.

D. District Boundaries

1. Uncertainty of Boundaries - Where uncertainty exists with respect to the boundaries of the districts shown on the Land Use Map, the following rules shall apply:

- a) Boundaries indicated as following the center lines of streets or roads shall be construed to follow such center lines;
- b) Boundaries indicated as following lot lines shall be construed to follow such lot lines;
- c) Boundaries indicated as following municipal limits shall be construed to follow such limits;
- d) Boundaries indicated as following shorelines shall be construed to follow the normal high water line, and shall be construed to move with such high water line in the event of natural change to the shoreline. Boundaries indicated as following the center lines of streams, rivers, canals, or other water bodies shall be construed to follow such center lines;
- e) Boundaries indicated as being parallel to or extensions of features Indicated in paragraphs a) through d) above shall be so construed. Distances not indicated on the Land Use Map shall be determined from the scale of the map. Any conflict between the map and a metes and bounds description shall be resolved in favor of the description by metes and bounds.

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- f) Where physical or cultural features existing on the ground are different from those shown on the Land Use Map, or where items in paragraphs a) through e) above are not clear, the Board of Appeals shall interpret the district boundaries.

2. Division of Lots by District Boundaries - Where a district boundary line divides a lot, the provisions applicable to the less restricted portion of the lot may be extended into the more restricted portion of the lot by not more than fifty feet.

E. Conflict with Other Ordinances

Wherever the requirements of this Ordinance differ from the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive or that imposing the higher standard shall govern.

F. Separability

In the event that any section, subsection, or any portion of this Ordinance shall be declared by any competent court to be invalid for any reason, such a decision shall not affect the validity of any other section or other portion of this Ordinance.

G. Effective Date, Amendments

This Ordinance shall be effective on the day following enactment or amendment by a majority vote at the Town Meeting. No amendment to this Ordinance shall be adopted until the Selectmen have held a public hearing at least ten days before it is submitted to the Town for consideration. Such amendments shall be considered following petition, recommendation of the Planning Board, or motion of the Selectmen. Petitioners are encouraged to work with and request assistance from the Planning Board so that proposed changes and amendments can be of greatest benefit to the citizens of South Thomaston. Petitioners shall be responsible for paying for all required advertisements and notifications.

Section III NONCONFORMANCE

Any lawful use of land, buildings, or structures, existing on the effective date of this Ordinance or amendments thereto, and not in conformance with the provisions of this Ordinance, shall be considered to be a nonconforming use. Such a "nonconforming use" may be maintained, improved and repaired, and may be conveyed to new owners without loss of its lawful, but nonconforming status, under the following provisions:

A. Separate Lots

In any district, single lots of record on the date of adoption or amendment of this Ordinance may be built upon or conveyed even though they do not conform to the minimum standards of this Ordinance. Such lots shall not be of contiguous frontage with other lots in the same ownership. No division of any lot may be made which leaves the lots area below the minimum requirements of this Ordinance, which worsens an existing nonconformance, or creates a new nonconforming lot.

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B. Contiguous Lots

If two or more contiguous lots, all or part of which do not meet the minimum requirements of this Ordinance, are in the same ownership of record on the date of adoption or amendment of this Ordinance, and if a structure exists on each lot, or if each lot was legally created and recorded before the adoption or amendment of this Ordinance, the nonconforming lots may be conveyed separately or together.

C. Vacant Contiguous Lots

If two or more vacant, contiguous lots, all or part of which do not meet the minimum requirements of this Ordinance, are in the same ownership of record on the date of adoption or amendment of this Ordinance, and if these lots do not individually meet the requirements of this Ordinance, the lots shall be combined to the extent necessary to meet the requirements, except: 1) where the contiguous lots front onto different streets; 2) where the lots abut only at a point; or 3) the lots were legally created and recorded in an approved subdivision plan.

D. Abandonment

If any nonconforming use is abandoned for any reason for a period of eighteen months or more, any subsequent use shall conform to the requirements of this Ordinance.

E. Change In Use

A nonconforming use may not be changed to another nonconforming use. Whenever a nonconforming use is changed to a permitted use or a use permitted by special exception, the use shall not later revert to nonconforming status, except by further amendment of this Ordinance.

F. Expansion of Use or Structure

A nonconforming use, including a nonconforming outdoor use of land, shall not be extended or expanded in area or function beyond the boundaries of land in the same ownership on the date of adoption or amendment of this Ordinance. Any addition to a non-conforming building or structure shall comply with the provisions of this Ordinance and if applicable the Shore Land Zoning Ordinance.

Section IV ADMINISTRATION

A. Applications and Permits Issued

No building or other structure in excess of 100 square feet of ground coverage shall be erected, moved, added to, or structurally altered without a Building Permit Issued by the Code Enforcement Officer. No on-site construction activity shall occur prior to issuance of a Building Permit. No change or resumption of any use requiring a Building Permit shall occur prior to issuance of a Building Permit. No Building Permit shall be issued except in conformity with the provisions of this Ordinance. No Building Permit shall be required for clearing to allow surveys and soil tests, and excavating for soil tests.

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A fee schedule for building and use permits shall be established by the Selectmen.

1. Applications. All applications for Permits shall be in writing on forms provided by the Code Enforcement Officer. All applications for Building Permits shall include the location and dimensions of the proposed building or alteration and, as applicable, the proposed sewage disposal system as certified by a registered civil engineer or a plumbing inspector appointed by the Town. The application shall include any information lawfully required by the Code Enforcement Officer to determine conformance with this Ordinance; including, but not limited to:

(a) name, address and contact information, including a phone number of the applicant and all other persons having a legal interest in the property, and, when applicable, individual(s) hired by the applicant to manage or control such property;

(b) the location of the premises for which a permit is sought by identification of town tax map number and street address;

(c) the dimensions and acreage of the property;

(d) the identification of any other approvals required by the Town of South Thomaston, by any state or federal agency or department, if any;

(e) a copy of a site plan, drawn to a scale of approved by the Code Enforcement Officer, which identifies the boundary lines of the property for which a permit is sought;

(f) the location of all existing and proposed buildings, structures and uses;

(g) when applicable (see *Special Exceptions/Conditional Use*), the location of all existing and proposed parking areas and walkways and any other site improvements;

(h) the location and characteristics of all existing and proposed vegetation and or fencing to be maintained for screening, when required
(see *Special Exceptions/Conditional Use*);

(i) when applicable (see *Special Exceptions/Conditional Use*), a site location map at a scale approved by the Code Enforcement Officer showing all adjoining residential uses and any schools, churches, cemeteries, family day care homes, small day care facilities, day care centers and public parks and play grounds; the location and characteristics of all vehicular entrances and exits serving the property;

(j) a nonrefundable application fee in accordance with the Town's fee schedule and an original and, if required for Planning Board review, eight (8) copies of the permit application, and all supporting documentation.

2. Soils. Plumbing Permit. In all districts, no Building Permit for any building or structure which requires any form of plumbing, shall be issued until the applicant, or his

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agent, has secured a satisfactory soil analysis test and/or a Plumbing Permit in accordance with the State Plumbing Code.

3. Permits issued by the Code Enforcement Officer. The Code Enforcement Officer shall approve or deny those applications on which he/she is empowered to act within 5 working days. Approval shall be granted only if the proposed use is in conformance with the provisions of this Ordinance.

4. Permits issued by the Planning Board. The Planning Board shall approve or deny those applications on which it is empowered to act as stated in this Ordinance. The Planning Board shall, after the submission of a complete application including all information requested, grant a permit if it makes a positive finding based on the information presented to it that, except as specifically exempted in this Ordinance, the proposed use meets all conditions of the Shoreland Zoning Ordinance, and is in conformance with the provisions of this Ordinance.

5. Procedure for Administering Permits. Within 30 days of the date of receiving a written application, the Code Enforcement Officer shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, what specific additional material is needed to make a complete application. All permits shall be either approved or denied in writing within 30 days of receiving a completed application including all information requested. Permits shall not be denied if the proposed use is found to be in conformance with the provisions of this Ordinance. Permits may be issued subject to reasonable conditions to ensure conformity with the purposes and provisions of this Ordinance. If a permit is denied, the reasons for the denial shall be stated in writing. An appeal to the Board of Appeals from an approval or denial of a permit shall be made within 30 days of the approval or denial.

6. Expiration. The permit shall be valid for a period of one year from the date of issuance and shall expire if the proposed activity is not started. To start construction is to place forms for a foundation, or to begin erection or assembly of an addition, building or structure on the site. An extension of time to start construction shall be granted upon application to and approval by the permit issuing authority for reasonable cause.

B. Code Enforcement Officer.

The Code Enforcement Officer shall report to the Planning Board at all Planning Board meetings, all applications and permits issued and any notifications of violations issued. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any of the provisions of this Ordinance are being violated, he/she shall notify, in writing, the person responsible for such violations, indicating the nature of the violations and specifying the action necessary to correct it. He/she shall order discontinuance of illegal use of land, buildings, structures, additions, or work being done, or shall take any other actions authorized by this Ordinance to insure compliance with or to prevent violation of its provisions. A copy of such notices shall be maintained by the Code Enforcement Officer as a permanent record.

C. Legal Actions and Violations.

When any violation of any provision of this Ordinance shall be found to exist, the Selectmen upon their own Initiative or upon notice from the Code Enforcement Officer or

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Planning Board, are hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable including seeking injunctions of violations and impositions of penalties, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town of South Thomaston.

D. Penalties.

The penalties for violations of this Ordinance shall be as follows:

1. The minimum penalty for starting construction or undertaking land use activity without the required permit shall be \$100.00 and the maximum penalty shall be \$2500.00.
2. The minimum penalty for any other specific violation shall be \$100.00 and the maximum penalty shall be \$2500.00.
3. In addition, violators may be ordered to correct or abate the violation.

In all other respects, assessment of penalties under this Ordinance shall be in accordance with Title 38 MRSA, Section 429 and Title 30 MRSA, Section 4966. Each day a violation continues may be counted as a separate offense. Assessment of penalties shall commence on the date of issuance of a Notice of Violation signed by the Code Enforcement Officer and/or Selectmen to the person in violation of this Ordinance. Return of the receipt indicating that the notice was undeliverable as addressed or otherwise not delivered to the person shall not in any respect invalidate enforcement of this Ordinance or any penalties for violation thereof. In addition to the penalties provided herein, the Town may bring action in Superior Court to enjoin violation of this Ordinance and for such other relief as the law may provide.

E. Appeals

If the Code Enforcement Officer or Planning Board disapproves an application, or grants approval with conditions that are objectionable to the applicant or any abutting landowner or any aggrieved party, or when it is claimed that the provisions of the Ordinance do not apply, or that the true intent and meaning of the Ordinance has been misconstrued or wrongfully interpreted, the applicant, an abutting landowner, or aggrieved party may appeal the decision of the Code Enforcement Officer or Planning Board in writing to the Board of Appeals within 30 days of the decision.

The Board of Appeals shall hold a public hearing within 30 days of the appeal. Within 45 days after the hearing, or within such time as may be mutually agreed to, the board of Appeals shall issue a decision.

The Board of Appeals may amend the Code Enforcement Officer's or Planning Board's decision only upon the finding that there has been an error in administrative procedures, or an error in interpretation of the ordinance, or that the information provided to the Code Enforcement Officer or Planning Board was erroneous or incomplete. The case shall continue as follows:

1. If the Board of Appeals finds errors in administrative procedure, the case shall be referred back to the Officer or Board for rectification.
2. If the Board of Appeals finds errors of interpretation, the Board of Appeals may modify the interpretation or reverse the order of the Code Enforcement Officer or

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Planning Board but may not alter the conditions attached by the Planning Board. The case shall be referred back to the Code Enforcement Officer or Planning Board for rectification and changes in conditions shall be made by the Planning Board in accordance with the Board of Appeals' interpretation.

3. If the Board of Appeals finds errors or omissions in information leading to the decision of the Code Enforcement Officer or Planning Board, the case shall be referred back to the Officer or Board for rectification.

An appeal may be taken within 30 days after any decision is rendered by the Board of Appeals by any party, including the Planning Board, to Superior Court, in accordance with State law.

F. Special Exceptions (Conditional Uses)

A building, structure or lot of land may be employed for a Special Exception (Conditional Use) if the Special Exception is specifically allowed in the district in which the use is proposed; if the building, structure or lot of land meets all required conditions and if a Special Exception Permit is approved by the Planning Board.

1. Application for Special Exception Permit. Application shall be made to the Code Enforcement Officer on forms provided for the purpose, accompanied by such fee as may be established by the Town. The applicant shall:

- a) Clearly specify the location of the proposed use, including street address, tax map and lot number, and a location map at a scale no smaller than the tax map;
- b) Describe the exact nature of the proposed use;
- c) Submit such other information as will enable the Planning Board to determine that the standards for approval of a Special Exception Permit have been met.

2. Additional Conditions. The Planning Board may, in order to carry out the purposes of the Special Exception procedure, require additional conditions, specifications, criteria, and standards necessary to protect the public interest and to fit such uses harmoniously and compatibly into their neighborhoods and locations. Such conditions may include, but are not limited to:

(a) increased setbacks;

(b) specified water supplies or sewage disposal facilities, as well as the impact of the use on the quality and quantity of groundwater available to abutting properties, is comparable to that for surrounding uses, and the capacity of sewerage and water supply systems is adequate to accommodate the proposed use and, where applicable, the capacity of the storm drainage system is adequate to accommodate the proposed use;

(c) type of vegetation, landscaping, planting screens, installation and maintenance of effective opaque fencing and to provide visual screening at least six feet in height to be located along side and rear property lines that abut properties in residential use;

(d) periods and methods of operation, including types of services provided, clientele and populations to be served, staffing requirements, security provisions,

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hours of operation, anticipated parking demand and peak hour traffic; lighting; signs, markings and advertisement; the generation of noise, dust, odor, vibration, glare, smoke, litter and other nuisances in comparison to that generated by surrounding uses; that the proposed onsite use shall not be of a character as to have significant adverse impact upon the value or quiet possession of surrounding properties.

(e) routing of traffic, to include vehicular and pedestrian access and circulation to, from, into and within the site that will be safe and no public way will be overburdened or made hazardous as a result of the new use of and or development of the property; that vehicular access to the site will be on roads which have adequate capacity to accommodate the additional traffic generated by the development as certified by a licensed traffic engineer; and that topography of the site shall permit the construction of all driveways, entrances or proposed streets to meet the standards set forth in the South Thomaston Land Use Ordinance or applicable State of Maine standards;

(f) professional and safe operation consistent with the proposed use, including: provision of documentation and receipt of all approvals and licenses required by any and all government agencies of competent jurisdiction; that adequate facilities are present to assure the safety of pedestrians passing by or through the site; that municipal or other facilities serving the proposed use will not be overburdened or made hazardous; and the ability of the fire department to provide necessary protection services to the site and development is adequate;

(g) the size and character of proposed use is reasonably comparable to the size of surrounding uses; and unusual physical characteristics of the site, including size of the lot, shape of the lot, topography, and soils, do not aggravate or cause adverse impacts upon surrounding properties;

(h) maintenance and inspection of sewage disposal facilities;

(i) and other required performance guarantees as specified in the application review process.

Such conditions imposed, and the reasons therefore, shall be written as part of those permits issued by the Planning Board which may involve additional conditions.

3. Procedure. The Planning Board shall follow the following procedure in considering Special Exception: A quorum of at least three members shall be present to consider a Special Exception. The secretary of the Board shall maintain a record of all meetings, including a transcript, if any, and exhibits or documents submitted regarding Special Exceptions, which shall be a public record. The Board may receive oral or documentary evidence regarding the requested Special Exception; each party having the right to submit rebuttal evidence, conduct cross-examination and to be represented by legal counsel. Notice of any decision shall be mailed to the applicant and the Code Enforcement Officer within seven days of the decision.

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4. Duration of Special Exception. Provided all conditions and standards of approval are met, a Special Exception Permit shall be a permanent grant of permission and shall "run with the land".

G. Variances

1. Application. Application for a variance from specifications in this Ordinance is to be made to the Board of Appeals, following the requirements for Special Exceptions.

2. Procedure. The Board of Appeals shall follow the procedures set forth in MRSA Title 30, §2411, "Board of Appeals".

3. Variances Limited. A variance may be granted only for dimensional requirements. A use not allowed in a district may not be granted by variance. Furthermore, the applicant must show that the strict application of the terms of this Ordinance would create an undue hardship on the applicant. The term "undue hardship" shall mean:

- a) That the land in question cannot yield a reasonable return unless a variance is granted;
- b) That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- c) That the granting of a variance will not alter the essential character of the locality;
- d) That the hardship is not the result of action taken by the applicant or a prior owner.

Before granting any variance, the Board of Appeals may refer the application to the Planning Board for an informational report concerning the effect of the request on the surrounding area and any other pertinent data in respect of the Comprehensive Plan of South Thomaston.

4. Duration of Variance. A Variance Permit shall be a permanent grant of permission and shall "run with the land".

Section V DISTRICTS

A. General

Land uses and activities involving minimal structural improvements or alteration of the land are allowed in all districts and shall not, unless specifically required by this Ordinance, require permits from the Code Enforcement Officer. These activities include, but are not limited to: hiking, hunting, snowmobiling, harvesting of wild crops, wildlife management and observation, fire prevention activities, surveying, mineral exploration, trail construction and maintenance, emergency operations, home maintenance and gardening. Such activities shall conform to applicable state and federal laws and regulations.

1. District Definitions

Island	-- Spruce Head Island
Village -1	-- Spruce Head and Spruce Head Village
Village -2	-- Keag Village
Rural -1	-- least restrictive

**Town of South Thomaston, Maine
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Rural -2 -- rural, agricultural, open space
Shoreland -- there is a separate Shoreland Zoning Ordinance. Any use within the Shoreland Districts shall, in addition to the standards of this Ordinance, conform to the standards of the Shoreland Zoning Ordinance.

2. Purposes of Districts

Island District

This district is to protect the critical fresh water resources and limited land area on Spruce Head Island.

Village - 1 District

This district is to establish and preserve a residential village area for Spruce Head Village.

Village - 2 District

This district is to establish residential/village areas and to protect the historic architecture of the Keag Village.

Rural - 1 District

This is the least restrictive district to allow for moderate income housing and a variety of land uses.

Rural - 2 District

This district is meant to preserve the rural/agricultural character, the sweeping beauty and coastal heritage of South Thomaston.

B. Table of Land Uses

Key

YES = Use Allowed, No Permit Required
BP = Use Allowed, Permit Required (issued by Code Enforcement Officer)
SE = Use Allowed by Special Exception (granted by the Planning Board)
NO = Use Prohibited

Note: All land uses not allowed by this Ordinance are prohibited.

District Use	Island	V-1	V - 2	R - 1	R - 2
Single Family Dwelling	BP	BP	BP	BP	BP
Two Family Dwelling	BP	BP	BP	BP	BP

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Multi-family Dwelling	NO	NO	NO	SE	SE
Manufactured Home *	BP	BP	BP	BP	BP
Mobile Home *	BP	BP	BP	BP	BP
Home Occupation	BP	BP	BP	BP	BP
Additions (in excess of 100 square feet ground coverage)	BP	BP	BP	BP	BP
Accessory Use or Structure	BP	BP	BP	BP	BP
Bed and Breakfast, Tourist Home	SE	SE	SE	SE	SE
Agricultural Land Management	YES	YES	YES	YES	YES
Forest Management	YES	YES	YES	YES	YES
Campground	NO	NO	NO	SE	SE
Church	BP	BP	BP	BP	BP
Cemetery	YES	YES	YES	YES	YES
Commercial	SE	SE	SE	SE	SE
Day Care Center	SE	SE	SE	SE	SE
Industrial Uses	NO	NO	NO	SE	NO
Inn, Lodge, Motel	NO	SE	SE	SE	SE
Institutional Uses	SE	SE	SE	SE	SE
Junkyard	NO	NO	NO	SE	NO
Marine-Oriented Use	SE	SE	SE	SE	SE
Municipal Use	BP	BP	BP	BP	BP
Professional Office	SE	SE	SE	SE	SE
Public Utility	SE	SE	SE	SE	SE
Recreation (non-commercial)	SE	SE	SE	SE	SE
Restaurant	SE	SE	SE	SE	SE
School, Public or Private	SE	SE	SE	SE	SE
Outpatient Addiction Treatment Clinics	NO	NO	NO	SE	NO
Medical Facilities Other Than Professional Office Use	NO	NO	NO	SE	NO

* Amended on November 10, 1993

** Amended on March 27, 2012

C. Table of Dimensions

District Dimension	Island	V-1	V - 2	R - 1	R - 2
Minimum Lot Area Per Dwelling Unit	1 ACRE	1 ACRE	1 ACRE	1 ACRE	1 ACRE

Note: The CEO may issue a permit for a second dwelling unit (such as a "mother-in-law" area) if existing constraints in Maine State Statutes and the town's Shoreland Zone Ordinance can be met; such as 30,000 square feet (.69 acres)/dwelling unit in the Shoreland Zone, 20,000 square feet (.46 acres)/dwelling unit outside of the Shoreland Zone, minimum water frontage/dwelling unit requirements in accordance with State Law and a successful septic-system review by the town's LPI. (This exception to the above District Dimension requirements does not otherwise change lot size requirements.)

Industrial Uses 3 ACRES

**Town of South Thomaston, Maine
Land Use Ordinance**

Campgrounds 3 ACRES 3 ACRES

All Other Non-Residential Uses 1 ACRE 1 ACRE 1 ACRE 1 ACRE 1 ACRE

**Maximum Building Height
(Feet)**

Residential 34 34 34 34 34

Commercial/Industrial/Agricultural 50 50 50 50 50

Building Height is the vertical measurement from a point on the ground at the mean finished grade adjoining the foundation as calculated by averaging the highest and lowest points around the building or structure, to the highest point of the building or structure, excluding incidental protrusions such as chimneys, ventilators, antennas and flagpoles.

Corner Clearance (Feet) 40 40 40 40 40

Corner Clearance for purposes of traffic safety, shall apply to all intersections of public roads with private roads or driveways. No structure other than a mailbox may be located, nor may any vegetation, other than deciduous shade trees, be maintained above the height of three feet above street level within forty feet of the center of the intersection.

Section VI GENERAL PERFORMANCE STANDARDS

A. Purpose

The standards contained in this Section are intended to allow various uses to be accommodated without detriment to neighboring uses and properties.

B. Campgrounds:

Campgrounds shall conform to the Land Use Standards of the Shoreland Zoning Ordinance.

C. Lighting:

All exterior lighting shall be shielded to prevent direct glare on adjoining residential property or public rights of way.

D. Industrial Uses:

All outdoor storage of materials, products or vehicles shall be screened from view from adjacent residential lots.

E. Off-Street Parking and Loading Standards:

**Town of South Thomaston, Maine
Land Use Ordinance**

1. Applicability. For all new construction, additions and changes of use, there shall be provided off-street parking and loading space adequate for their use, according to the following standards.

2. Standards. No off-street parking lot shall have more than two entrances on the same street. Parking lots with more than four spaces shall be arranged so that vehicles can be turned around within such area and are prevented from backing into the street.

Use	Number of Spaces Required
Any Land Use	Sufficient parking spaces, as determined by the Code Enforcement Officer or the Planning Board, to eliminate the necessity of on-street parking.
Any Use Requiring Loading Bays for Trucks, Trailers or Containers	Sufficient loading bays so arranged that no truck, trailer or container need be loaded or stored so as to obstruct a public way

F. Location Criteria and Public Safety Standards for Outpatient Addiction Treatment Clinics

Applicants for a permit pursuant to Section IV, Subsection G., and this subsection, must demonstrate to the satisfaction of the Planning Board that all the standards contained in this Ordinance, and set forth as additional conditions, are met. No clinic may be located within 1,000 feet of any church, cemetery, school, family day care home, day care center, or public park or playground. A minimum of two meetings per calendar year shall be conducted at the clinic with the applicant, the Code Enforcement Officer, the Sheriff of Knox County and the Chief of the Maine State Police and or their designee, in order to establish and maintain professional cooperation.

Section VII DEFINITIONS

All words not defined herein shall carry their customary and usual meanings. Words used in the present tense shall include the future. Words used in the singular shall include the plural, and vice versa.

Abutting Property: Any lot which is physically contiguous with the lot in question even if only at a point and any lot which is located directly across a public street or way from the lot in question.

Accessory Use or Structure: A use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or common wall is considered part of the principal structure

Agricultural Land Management: Those devices and procedures utilized in the cultivation of land to further crop, silvicultural and livestock production.

**Town of South Thomaston, Maine
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Bed and Breakfast, Tourist Home: An owner-occupied residential structure in which no more than six sleeping rooms are made available for a fee to overnight travelers and which may provide guests with a morning meal.

Building: Any structure having a roof or partial roof supported by columns or walls used for the shelter or enclosure of persons, animals, goods or property of any kind. A building shall include a multi-family dwelling.

Campground: An area devoted to overnight recreational or educational use, where the land area is divided into lots or sites for which a charge is made; either on a short or long term basis by sale, rent, lease or condominium type of financing.

Cemetery: means a graveyard; burial ground. Place or area set apart for interment of the dead. Term includes not only lots for depositing the bodies of the dead, but also avenues, walks, and grounds for shrubbery and ornamental purposes.

Church: Any place of worship, regardless of denomination.

Commercial Use: The use of lands, buildings or structures, other than a "home occupation", defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

Community Living Arrangement: A housing facility for 8 or fewer persons with disabilities that is approved, authorized, certified by the State. A community living arrangement may include a group home, foster home or immediate care facility. "Disability" has the same meaning as the term "handicap". A community living arrangement is deemed a single-family use of property for the purposes of zoning.

Comprehensive Plan: Any part of the overall plan or policy for the development of the town.

Day Care Center: A state-licensed facility for the daytime care or instruction of more than three pre-school or school aged children, exclusive of children who are residents of the home.

Developed Area: Any area on which a site improvement or change is made, including buildings, landscaping, parking area, roads and other areas not revegetated.

Driveway: A private vehicular entrance from a road or right-of-way.

Dwelling Unit: A room or group of rooms designed and equipped exclusively for use as living quarters for one family, including provisions for living, cooking and eating.

Elderly Congregate Housing: A type of multi-family dwelling, including multiple individual rooms or dwelling units to be occupied by elderly persons as a residential shared living environment. Such housing will normally include small individual apartments, shared community and dining facilities, housekeeping and personal services, and specialized services such as medical support services and physical therapy.

**Town of South Thomaston, Maine
Land Use Ordinance**

Family: One or more persons occupying a dwelling unit and living as a single housekeeping unit, as distinguished from a group occupying a boarding home, rooming house, or motel

Family Day Care Home: means child care for three to 12 children under 13 years of age (not related by blood or marriage to, or legal wards of, the operator or foster children living in the private family residence; i.e., dwelling unit, serving as the day care home) who are unattended by parents or guardians for any part of the day. A family day care home shall be operated by a person who is domiciled and a resident within the private family residence, and who is the holder of all necessary licenses and permits from the State of Maine and/or the Town of South Thomaston.

Forest Management: Timber cruising and other forest resource evaluation activities, management planning activities, insect and disease control, timber stand improvement, pruning, timber harvesting and other forest harvesting, regeneration of forest stands and other similar associated activities, but not the construction or creation of roads.

Home Occupation: An occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and 2) which employs no more than two (2) persons other than family members residing in the home.

Industrial: The assembling, fabrication, finishing, manufacturing, packaging, or processing of goods or the extraction of minerals.

Inn, Lodge, Motel: A building or group of buildings designed and equipped for use as temporary living quarters which may include provisions for living space, cooking, eating and bathing.

Institutional: A building used for some public, governmental, educational, charitable, medical or other similar purpose.

Junkyard: A yard, field or other area licensed as a place of storage for the following items, excluding items which are being stored out of doors for household use:

- a) Three or more unserviceable, discarded, worn-out or junked motor vehicles as defined by state law, not including temporary storage by an establishment engaged primarily in doing auto body repair work for the purpose of rendering a motor vehicle serviceable;
- b) Discarded, worn-out or junked plumbing, heating supplies, household appliances and furniture;
- c) Discarded, scrap and junked lumber or building materials; or
- d) Old or scrap metals, rope, rags, batteries, paper, rubber, or other solid waste.

Manufactured Home: A residential dwelling unit designed for transportation, after fabrication, in two or more units, by truck or trailer, on streets or highways, to the site where it is to be located on a slab or other foundation and which is, after joining of the units, placement on the foundation, and connection of utilities, complete and ready for occupancy.

**Town of South Thomaston, Maine
Land Use Ordinance**

Marine-Oriented Use: Any non-residential use requiring or substantially benefiting from location on, over or directly adjacent to tidal waters, including, but not limited to: marinas, boat and ship yards, marine related retail and service establishments, launching ramps and facilities, wharves, piers, dealers in sea foods, and aquacultural facilities.

Mobile Home: A detached residential dwelling unit designed for transportation, after fabrication, in one or more units, each on its own chassis, on streets or highways, to the site where it is to be located on a slab or other foundation and which is, after joining of the units, placement on the foundation, and connection of utilities, complete and ready for occupancy.

Multi-family Dwelling: A building containing three or more attached dwelling units.

Municipal Use: A use of land, structure or building owned or controlled by the Town of South Thomaston or any district, agency or commission thereof, which serves a public purpose.

Outpatient Addiction Treatment Clinic: means a program or facility operated for the purpose of and specializing in the care, treatment and/or rehabilitation of persons suffering with addictions, including, but not limited to gambling addiction, alcohol or controlled substance addictions. This includes, but is not limited to, substance abuse treatment programs licensed by the State of Maine Department of Behavioral and Developmental Services Office of Substance Abuse. An outpatient addiction treatment clinic does not include an inpatient or residential addiction treatment program, or a program consisting solely of support group activities without treatment by licensed health practitioners, such as Alcoholics Anonymous, Narcotics Anonymous, and similar programs.

Parking Space: An area not less than nine feet wide and eighteen feet long, not including the access thereto, accessible from streets, and usable for the storage or parking of passenger vehicles. A parking space to accommodate the handicapped shall be an area not less than twelve feet wide and eighteen feet long. A parking space may be on an open lot or within a building.

Professional Office: Any building which houses the business office of a person or persons who supply a service to the public.

Public Park or Playground: means an area of land or ground, whether enclosed or not, set aside for pleasure, historical markers and monuments, child-play and/ or recreation of the public.

Public Utility: Those essential, public services, such as, but not limited to, water, electricity, telephone, gas and transportation, whether publicly or privately owned, which are regulated by the Maine Public Utilities Commission, the Maine Department of Transportation, or the Federal Communications Commission. The provisions of this Ordinance shall apply to those buildings and structures located outside of public rights of way, but shall not apply to those facilities, either above or below ground, lying wholly within public rights of way.

**Town of South Thomaston, Maine
Land Use Ordinance**

Recreation: Non-commercially operated recreational facilities open to the general public including, but not limited to, playgrounds, parks, monuments, green strips, open space, mini parks, athletic fields, boat launching ramps, piers and docks, picnic grounds, swimming pools, and wildlife and nature preserves, along with any necessary accessory facilities, rest rooms, bath houses, and the maintenance of such lands and facilities, but not including campgrounds.

Restaurant: A place for the serving of prepared food and beverages to the public. Restaurant shall not include a "fast food" restaurant serving primarily pre-prepared foods served over the counter or at a drive-up window for consumption off the premises.

School, Public or Private: A place or institution for teaching and learning, which teaches courses of study.

Structure: Anything constructed or erected with a fixed location on or in the ground, or attached to something having a fixed location on or in the ground, excluding driveways, walkways, patios and other paved surfaces, and fences.



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Selectmen:
Jan Gaudio
Walter Reitz
Cheryl Waterman

MORATORIUM ORDINANCE ON RETAIL MARIJUANA ESTABLISHMENTS AND RETAIL MARIJUANA STORES AND RETAIL MARIJUANA SOCIAL CLUBS

WHEREAS, the “Marijuana Legalization Act,” has become law in Maine, codified in the Maine Revised Statutes in Title 7, chapter 417 (hereinafter, “Act”); and authorizes municipalities to regulate the number of retail marijuana stores and the location and operation of retail marijuana social clubs and retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, as those terms are defined in the Act, as well as providing the option to prohibit the operation of retail marijuana social clubs and retail marijuana establishments, including stores, cultivation facilities, manufacturing facilities and testing facilities, within their jurisdiction; and

WHEREAS, the Act will not limit the privileges or rights afforded by the Maine Medical Use of Marijuana Act (22 M.R.S.A. §§ 2421 – 2430-B) to qualifying patients, primary caregivers, or registered dispensaries, including cultivation facilities associated with any of those classifications; and

WHEREAS, the Act provided a 9 month period for State Regulators to adopt their rules, establishing an effective adoption deadline around 1 November 2017; and

WHEREAS, South Thomaston's current ordinances do not include any regulations related to retail marijuana stores, retail marijuana establishments or retail marijuana social clubs under the Act; and

WHEREAS, the unregulated location and operation of retail marijuana establishments, retail marijuana stores and retail marijuana social clubs within the Town of South Thomaston raises legitimate and substantial questions about the impact of such establishments, stores and social clubs on the Municipality, including questions about the compatibility of retail marijuana establishments, retail marijuana stores and retail marijuana social clubs with existing uses and development in residential, commercial and industrial zoning districts; the potential adverse health and safety effects of retail marijuana establishments, retail marijuana stores and retail marijuana social clubs on the community if not properly regulated; the possibility of illicit sale and use of marijuana and marijuana products to minors and misuse of marijuana and marijuana products by those who would abuse the uses authorized under the Act; and potential criminal activity associated with the cultivation, manufacturing, sale and use of marijuana and marijuana



products for non-medicinal purposes; and

WHEREAS, the possible effect of the location and operation of retail marijuana establishments, retail marijuana stores, or retail marijuana social clubs within the Town has potentially negative implications for the health, safety and welfare of the Town and its residents; and

WHEREAS, the Town of South Thomaston needs time to review the Act and the regulations promulgated thereunder, to review its own ordinances to determine the implications of future proposed retail marijuana establishments, retail marijuana stores and retail marijuana social clubs to develop reasonable ordinances governing the location and operations of such establishments, stores and social clubs to address the concerns cited above; and

WHEREAS, the Board of Selectmen and the Planning Board, with professional legal advice and assistance, shall study the Town's current ordinances to determine the land use and other regulatory implications of retail marijuana establishments, retail marijuana stores and retail marijuana social clubs and consider what locations, if any, and conditions of approval, if any, might be appropriate for such uses; and

WHEREAS, it is anticipated that such study, review, and development of recommended ordinance changes will take at least one hundred and eighty (180) days from the date the Town enacts this Moratorium Ordinance on retail marijuana establishments, retail marijuana stores and retail marijuana social Clubs;

NOW, THEREFORE, be it ordained by the legislative body of the Town of South Thomaston, that the following Moratorium Ordinance on retail marijuana establishments, retail marijuana stores and retail marijuana social clubs be, and hereby is, enacted, and, in furtherance thereof, the legislative body does hereby declare a moratorium on the location, operation or licensing of any retail marijuana social clubs and any retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, within the Town.

This Moratorium Ordinance shall take effect once enacted by the legislative body, but shall be applicable as of March 28, 2017 as expressly provided below. The moratorium shall remain in effect for one hundred eighty (180) days from the date of applicability unless repealed or modified by the legislative body, for the express purpose of drafting or amending the Town's current ordinances to protect the public from health and safety risks including, but not limited to, compatibility of retail marijuana establishments, retail marijuana stores and retail marijuana social clubs with existing and permitted uses in residential, commercial and industrial zoning districts; the correlation of retail marijuana establishments, retail marijuana stores and retail marijuana social clubs with medical marijuana cultivation facilities and dispensaries, all as defined in the Act; the potential adverse health and safety effects of retail marijuana establishments and retail marijuana stores and retail marijuana social clubs on the community if not properly regulated; the possibility of illicit sale and use of marijuana and marijuana products to minors and misuse of marijuana and marijuana products by those who would abuse the uses authorized under the new law; criminal activity associated with the cultivation, manufacturing,

sale and use of marijuana and marijuana products for non-medicinal purposes and the potential increased burden on the public safety agencies serving the Town in responding to the same; and the adequacy of the Town's infrastructure to accommodate the additional traffic and/or population that may result from the presence of retail marijuana establishments or retail marijuana stores or retail marijuana social clubs in the Town.

BE IT FURTHER ORDAINED, that this Ordinance shall apply to retail marijuana stores and retail marijuana social clubs and retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, as those terms are defined by the Act, codified at 7 M.R.S.A. §§ 2442 , that may be proposed to be located within the Municipality on or after the March 28 2017 applicability date of this Ordinance; and

BE IT FURTHER ORDAINED, that notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law to the contrary, this Ordinance shall govern any proposed retail marijuana establishments, retail marijuana stores or retail marijuana social clubs for which an application for a building permit, Certificate of Occupancy, site plan or any other required approval has not been submitted to and granted final approval by the Code Enforcement Officer, Planning Board or Board of Selectman prior to the applicability date of this Ordinance; and

BE IT FURTHER ORDAINED, that no person or organization shall develop or operate a retail marijuana establishment or retail marijuana store or retail marijuana social club within the Municipality on or after the effective date of this Ordinance without complying with whatever ordinance amendment or amendments the legislative body may enact as a result of this Moratorium Ordinance; and

BE IT FURTHER ORDAINED, that during the time this Moratorium Ordinance is in effect, no officer, official, employee, office, administrative board or agency of the Municipality shall accept, process, approve, deny, or in any other way act upon any application for a license, building permit or any other type of land use approval or permit and/or any other permits or licenses related to a retail marijuana establishment or retail marijuana stores or retail marijuana social club; and

BE IT FURTHER ORDAINED, that those provisions of the Town of South Thomaston's ordinances that are inconsistent or conflicting with the provisions of this Ordinance, are hereby repealed to the extent that they are applicable for the duration of the moratorium hereby ordained, and as it may be extended as permitted by law, but not otherwise; and

BE IT FURTHER ORDAINED, that if retail marijuana establishments or retail marijuana stores or retail marijuana social clubs are established in violation of this Ordinance, each day of any continuing violation shall constitute a separate violation of this Ordinance, and the Town shall be entitled to all rights available to it in law and equity, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney's fees and costs in prosecuting any such violations;

BE IT FURTHER ORDAINED, that pursuant to 30-A M.R.S.A. § 4356, the Board of Selectmen may extend this Ordinance for additional 180-day periods, after notice and hearing, if it finds that the necessity cited herein remains: **and**

BE IT FURTHER ORDAINED, that should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

South Thomaston Select Board

Jan Gaudio, Chair

Cheryl Waterman

Walter Reitz

Attest: A true copy of an ordinance entitled "Moratorium Ordinance on Retail Marijuana Establishments and Retail Marijuana Stores and Retail Marijuana Social Clubs," as certified to me by the municipal officers of South Thomaston on the 21st day of March, 2017.

Terri-lynn Baines, Town Clerk

**TOWN OF SOUTH THOMASTON
MUNICIPAL ROAD ACCEPTANCE ORDINANCE**

TITLE: This ordinance shall be known and may be cited as the "Municipal Road Acceptance Ordinance" of the Town of South Thomaston (hereinafter Town), Maine.

PURPOSE: The purpose of this Ordinance is to provide a uniform, consistent, and equitable process for determining if a private road shall be considered for dedication and acceptance as a municipal road by the Town.

PRELIMINARY THRESHOLD REQUIREMENTS: Prior to submitting an application for the dedication and acceptance of a road proposed to be accepted as a municipal road, the applicant must comply with the following standards.

Sixty-Seven Percent Rule: Sixty-Seven percent of the lots abutting and/or accessed by the private road proposed for acceptance as a municipal road must be developed, including the construction of the principal structure.

Road Design and Construction Standards: The private road proposed for acceptance as a municipal road shall be built to the Section VII; Road Design and Construction Standards of the Town's Subdivision Regulations and shall be paved in accordance with Section VII.

APPLICATION PROCESS AND REVIEW PROCEDURE: This section outlines the process, procedure, and timeline required by the Town to review and accept a private road as a municipal road. Documentation to be filed by December 1st at the Town Office by the applicant shall include the following information.

Warranty Deed: A warranty deed with metes and bounds description of land to be offered as a proposed municipal road.

Plot Plan: A plot plan of the proposed municipal road at a scale not more than (100) feet to one (1) inch including ownership of adjoining lots, drainage courses, drainage easements, and all angles, bearings, and radii.

Road Profile: A profile of the proposed municipal road at a scale of (40) feet to one (1) inch

Road Cross Section: A cross section of the proposed municipal road at a horizontal scale of (5) ft. to (1) inch and a vertical scale of (1) foot to (1) inch.

As Built Information: The as built location, size, and materials of water and sewer mains, storm drains, culverts, and underground and overhead utilities.

Warranty Agreement: The applicant shall provide a written warranty for a period of two years after the acceptance of the municipal road by the Town. The warranty shall state that the applicant will be financially responsible for the repair of any defects or conditions as determined by the Road Commissioner to be unsatisfactory to the Town and which arise out of the failure of the applicant or developer to construct the road to Section VII. Road and Design Construction Standards of the Town's Subdivision Regulations.

**TOWN OF SOUTH THOMASTON
MUNICIPAL ROAD ACCEPTANCE ORDINANCE**

Title Opinion: Statement from an attorney that they have examined the title of the proposed municipal road and confirm that the applicant has marketable title to the proposed roadway.

Inspections: : The Road Commissioner, Fire Chief and Code Enforcement Officer, as well as other Town Officials as directed by the Board of Selectmen, shall inspect the proposed municipal road for compliance with all Town and Regulations and shall report to the Board of Selectmen.

Review and Recommendation: The Board of Selectmen shall review the supporting documentation, employee reports and estimate the five (5) year fiscal impact of the proposed road and make a determination whether or not to include the matter on the warrant for the Annual Town Meeting. To be voted on at Town Meeting.

MISCELLANEOUS PROVISIONS

Performance Guarantee: Prior to a road being accepted as a municipal road the applicant shall provide the Town with a performance guarantee of \$2,500 per mile rounded up to the nearest quarter mile for a period of two years from the date of acceptance to repair defects or conditions in the road that are determined by the Road Commissioner to be unsatisfactory and arise out of the failure of the applicant to properly design and construct the road to the Section VII; Road and Design Construction Standards of the Town's Subdivision Regulations.

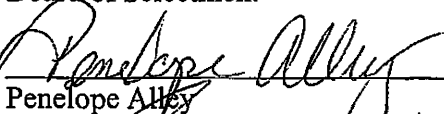
The performance guarantee shall be tendered in the form of a check payable to the Town, letter of credit, or performance bond. The performance guarantee shall be acceptable to the Town Treasurer.


The Board of Selectmen may waive the performance guarantee provided the road has been constructed and in place for a minimum of two years and there are no known defects at the time of the proposed acceptance as determined by the Road Commissioner.

Right of Petition: This ordinance shall not be construed as extinguishing a resident's right, under MRSA Title 30A, Section 2522, to file a petition seeking Town Meeting approval for dedication and acceptance of a private road as a town road.

Right of Board of Selectmen: If the Board deems it in the best interest of the Town, this ordinance shall not prevent the Board of Selectmen from seeking Town Meeting approval, including Special Town Meeting approval, for dedication and acceptance of any private road as a town road. The Selectmen may set fees and charges as they deem appropriate.

Board of Selectmen:


Penelope Alley

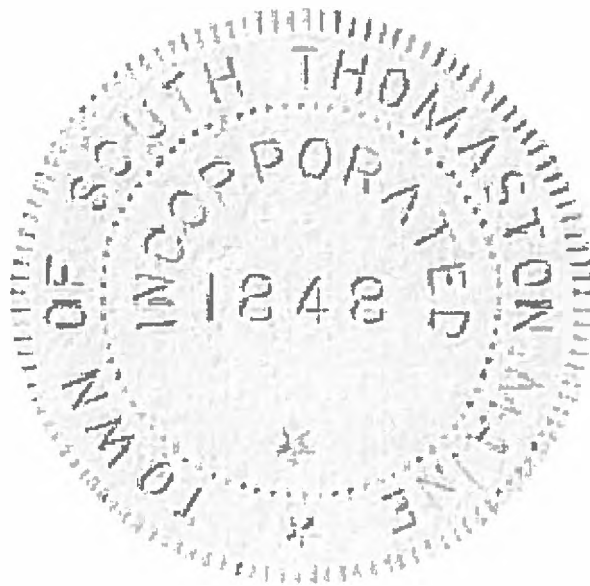

John Spear


Jeffrey Northgraves

This ordinance was enacted March 25th, 2008.


Barbara J. Black, Town Clerk

TOWN OF SOUTH THOMASTON MUNICIPAL SHORELAND ZONING ORDINANCE



Adopted 30 March 2010
Amended 27 March 2018

**SOUTH THOMASTON
SHORELAND ZONING ORDINANCE**

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Appendix A:
Maps

SOUTH THOMASTON SHORELAND ZONING ORDINANCE

- 1. Purposes.** The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.
- 2. Authority.** This Ordinance has been prepared in accordance with the provisions of Title 38 sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).
- 3. Applicability.** This Ordinance applies to all land areas within 250 feet, horizontal distance, of the
 - normal high-water line of any river,
 - upland edge of a coastal wetland, including all areas affected by tidal action, or
 - upland edge of a freshwater wetland and all land areas within 75 feet, horizontal distance, of the normal high-water line of streams..

This Ordinance also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending or located below the normal high-water line of a water body or within a wetland.

4. Effective Date

A. Effective Date of Ordinance and Ordinance Amendments. This Ordinance, which was adopted by the municipal legislative body on March 30th, 2010, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved.

Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of this Ordinance, or Ordinance Amendment, if the Ordinance, or Ordinance Amendment, is approved by the Commissioner.

- 5. Availability.** A certified copy of this Ordinance shall be filed with the Municipal Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.
- 6. Severability.** Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.

SOUTH THOMASTON SHORELAND ZONING ORDINANCE

- 7. Conflicts with Other Ordinances.** Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute administered by the municipality, the more restrictive provision shall control.
 - 8. Amendments.** This Ordinance may be amended by majority vote of the legislative body. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.
 - 9. Districts and Zoning Map**
 - A. Official Shoreland Zoning Map.** The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Shoreland Zoning Map(s) which is (are) made a part of this Ordinance: (see Appendix A.)
 - (1) Resource Protection
 - (2) Residential – Recreational
 - (4) General Development I
 - (5) General Development II
 - (6) Commercial Fisheries/Maritime Activities
 - (7) Stream Protection
 - B. Scale of Map.** The Official Shoreland Zoning Map shall be drawn at a scale of not less than: 1 inch = 2000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.
 - C. Certification of Official Shoreland Zoning Map.** The Official Shoreland Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office. In the event the municipality does not have a municipal office, the Municipal Clerk shall be the custodian of the map.
 - D. Changes to the Official Shoreland Zoning Map.** If amendments, in accordance with Section 8, are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning Map, such changes shall be made on the Official Shoreland Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.
 - 10. Interpretation of District Boundaries.** Unless otherwise set forth on the Official Shoreland Zoning Map, district boundary lines are property lines, the centerlines of streets, roads and rights of way, and the boundaries of the shoreland area as defined herein. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.
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SOUTH THOMASTON SHORELAND ZONING ORDINANCE

NOTE: The Maine Supreme Judicial Court has held that the Official Shoreland Zoning Map is the primary tool to which to refer in determining district boundaries under ordinances that are not more explicit in their district descriptions than the language of the Guidelines, and that where there is inconsistency between the Map and these general text descriptions of the shoreland districts as provided in the minimum guidelines, the Map prevails.

11. Land Use Requirements. Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created except in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted.

12. Non-conformance.

A. Purpose. It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance or amendments thereto shall be allowed to continue, subject to the requirements set forth in Section 12. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

B. General

- (1) **Transfer of Ownership.** Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.
- (2) **Repair and Maintenance.** This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations that do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

NOTE: See Section 17 for the definitions of non-conforming structures, non-conforming uses and non-conforming lots.

C. Non-conforming Structures

- (1) **Expansions.** All new principal and accessory structures, excluding functionally water-dependent uses, must meet the water body, tributary stream, or wetland setback requirements contained in Section 15(B)(1). A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs (a) and (b) below.

(a) Expansion of any portion of a structure within 25 feet of the normal high-water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream

SOUTH THOMASTON SHORELAND ZONING ORDINANCE

or wetland setback requirement. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream, or wetland setback requirement.

- (b) Notwithstanding paragraph (a), above, if a legally existing nonconforming principal structure is entirely located less than 25 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable municipal land use standards are met and the expansion is not prohibited by Section 12(C)(1).

(i) The maximum total footprint for the principal structure may not be expanded to a size greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater.

- (c) All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as other applicable municipal land use standards are met and the expansion is not prohibited by Section 12(C)(1) or Section 12(C)(1)(a), above.

(i) For structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,000 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 20 feet or the height of the existing structure, whichever is greater.

- (ii) For structures located less than 100 feet from the normal high-water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater. Any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 12(C)(1)(b)(i) and Section 12(C)(1)(c)(i), above.

- (iii) In addition to the limitations in subparagraphs (i) and (ii), for structures that are legally nonconforming due to their location within the Resource Protection District when located at less than 250 feet from the normal high-water line of a water body or the upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure,³ whichever is greater, except that any portion of those structures located less than 75

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feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 12(C)(1)(b)(i) and Section 12(C)(1)(c)(i), above.

(d) An approved plan for expansion of a nonconforming structure must be recorded by the applicant with the registry of deeds, within 90 days of approval. The recorded plan must show the existing and proposed footprint of the nonconforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the shoreland zone boundary and evidence of approval by the municipal review authority.

(2) **Foundations.** Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 12(C)(3) Relocation, below.

(3) **Relocation.** When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation in accordance with Section 15(R). In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or its designee, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board or its designee shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

(a) Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the

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area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

- (b) Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

- (4) **Reconstruction or Replacement.** Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 12(C)(1) above, as determined by the non-conforming footprint of the reconstructed or replaced structure at its new location. If the total footprint of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 12(C)(3) above.

Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Code Enforcement Officer within one year of such damage, destruction, or removal.

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent the Planning Board or its designee shall consider, in addition to the criteria in Section 12(C)(3) above, the physical condition and type of foundation present, if any.

- (5) **Change of Use of a Non-conforming Structure.** The use of a non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the water body, tributary stream, or wetland, or on the subject or adjacent properties and resources than the existing use.

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

D. Non-conforming Uses

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- (1) **Expansions.** Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Section 12(C)(1) above.
- (2) **Resumption Prohibited.** A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.
- (3) **Change of Use.** An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, including water dependent uses in the CFMA district, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 12(C)(5) above.

E. Non-conforming Lots

- (1) **Non-conforming Lots:** A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the Board of Appeals.
- (2) **Contiguous Built Lots:** If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A. sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

If two or more principal uses or structures existed on a single lot of record on the effective date of this ordinance, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

- (3) **Contiguous Lots - Vacant or Partially Built:** If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.

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This provision shall not apply to 2 or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on March 1, 1995 and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

- (a) Each lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or
- (b) Any lots that do not meet the frontage and lot size requirements of Section 12(E)(3)(a) are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

13. Establishment of Districts

A. Resource Protection District. The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the shoreland zone, exclusive of the Stream Protection District, except that areas which are currently developed and areas which meet the criteria for the Limited Commercial, General Development I, or Commercial Fisheries/Maritime Activities Districts need not be included within the Resource Protection District.

- (1) Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadows, and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of December 31, 2008. For the purposes of this paragraph "wetlands associated with great ponds and rivers" shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. "Wetlands associated with great ponds or rivers" are considered to be part of that great pond or river.

NOTE: The Natural Resources Protection Act, 38 M.S.R.A. sections 480-A through 480-Z, requires the Department of Environmental Protection to designate areas of "significant wildlife habitat". Significant wildlife habitat includes:

Habitat for species appearing on the official state or federal lists of endangered or threatened species; high and moderate value deer wintering areas and travel corridors as defined by the Department of Inland Fisheries and Wildlife; high and moderate value waterfowl and wading bird habitats, including nesting and feeding areas as defined by the Department of Inland Fisheries and Wildlife; critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission; and shorebird nesting, feeding and staging areas and seabird nesting islands as defined by the Department of Inland Fisheries and Wildlife.

SOUTH THOMASTON SHORELAND ZONING ORDINANCE

- (2) Floodplains along rivers, defined by the 100 year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils. This district shall also include 100 year floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.
- (3) Areas of two or more contiguous acres with sustained slopes of 20% or greater.
- (4) Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water.

NOTE: These areas usually consist of forested wetlands abutting water bodies and non-forested wetlands.

- (5) Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement, and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.

NOTE: Municipalities may also include the following other areas which have been recommended for protection in the comprehensive plan of the municipality, such as:

- A. Other important wildlife habitat;
 - B. Natural sites of significant scenic or esthetic value;
 - C. Areas designated by federal, state or municipal governments as natural areas of significance to be protected from development; and
 - D. Other significant areas which should be included in this district to fulfill the purposes of this Ordinance, such as, but not limited to, existing public access areas and certain significant archaeological and historic sites deserving of long-term protection as determined by the municipality after consultation with the Maine Historic Preservation Commission.
-

B. Residential-Recreational District. The Residential-Recreational District includes those areas suitable for mixed, light commercial, residential, and recreational development. It includes areas other than those in the Resource Protection District, or Stream Protection District, and areas which are used less intensively than those in the General Development District, or the Commercial Fisheries/Maritime Activities District.

C. General Development I District. The General Development I District includes the following types of existing, intensively developed areas:

- (1) Areas of two or more contiguous acres devoted to commercial, industrial or intensive recreational activities, or a mix of such activities, including but not limited to the following:

SOUTH THOMASTON SHORELAND ZONING ORDINANCE

- (a) Areas devoted to manufacturing, fabricating or other industrial activities;
 - (b) Areas devoted to wholesaling, warehousing, retail trade and service activities, or other commercial activities; and
 - (c) Areas devoted to intensive recreational development and activities, such as, but not limited to amusement parks, race tracks and fairgrounds.
- (2) Areas otherwise discernible as having patterns of intensive commercial, industrial or recreational uses.

D. General Development II District. The General Development II District includes the same types of areas as those listed for the General Development I District. The General Development II District, however, shall be applied to newly established General Development Districts where the pattern of development at the time of adoption is undeveloped or not as intensively developed as that of the General Development I District.

Portions of the General Development District I or II may also include residential development. However, no area shall be designated as a General Development I or II District based solely on residential use.

E. Commercial Fisheries/Maritime Activities District. The Commercial Fisheries/Maritime Activities District includes areas where the existing predominant pattern of development is consistent with the allowed uses for this district as indicated in the Table of Land Uses, Section 14, and other areas which are suitable for functionally water-dependent uses, taking into consideration such factors as:

- (1) Shelter from prevailing winds and waves;
- (2) Slope of the land within 250 feet, horizontal distance, of the shoreline;
- (3) Depth of the water within 150 feet, horizontal distance, of the shoreline;
- (4) Available support facilities including utilities and transportation facilities; and
- (5) Compatibility with adjacent upland uses.

F. Stream Protection District. The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a river, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater or coastal wetland. Where a stream and its associated shoreland area are located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.

14. Table of Land Uses. All land use activities, as indicated in Table 1, Land Uses in the Shoreland Zone, shall conform with all of the applicable land use standards in Section 15. The district designation for a particular site shall be determined from the Official Shoreland Zoning Map.

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Key to Table 1:

Yes - Allowed (no permit required but the use must comply with all applicable land use standards.)

No - Prohibited

PB - Allowed with permit issued by the Planning Board.

CEO - Allowed with permit issued by the Code Enforcement Officer

LPI - Allowed with permit issued by the Local Plumbing Inspector

Abbreviations:

RP - Resource Protection **GD** General Development I and General Development II

RR - Residential -Recreational **CFMA -** Commercial Fisheries/Maritime Activities

SP - Stream Protection

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TABLE 1. LAND USES IN THE SHORELAND ZONE

LAND USES	DISTRICT					
	SP	RP	RR	GD	CFM	
1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	yes	yes	yes	-	yes	yes
2. Motorized vehicular traffic on existing roads and trails	yes	yes	yes	-	yes	yes
3. Forest management activities except for timber harvesting & land management roads	yes	yes	yes	-	yes	yes
4. Timber harvesting	yes	CEO	yes	-	yes	yes
5. Clearing or removal of vegetation for activities other than timber harvesting	CEO	CEO ¹	yes	-	yes	yes
6. Fire prevention activities	yes	yes	yes	-	yes	yes
7. Wildlife management practices	yes	yes	yes	-	yes	yes
8. Soil and water conservation practices	yes	yes	yes	-	yes	yes
9. Mineral exploration	no	yes ²	yes ²	-	yes ²	yes
10. Mineral extraction including sand and gravel extraction	no	PB ³	PB	P-	PB	PB
11. Surveying and resource analysis	yes	yes	yes	-	yes	yes
12. Emergency operations	yes	yes	yes	-	yes	yes
13. Agriculture	yes	PB	yes	-	yes	yes
14. Aquaculture	PB	PB	PB	-	yes	yes
15. Principal structures and uses						
A. One and two family residential, including driveways	CEO	CEO ⁹	CEO	-	CEO	no
B. Multi-unit residential	no	no	PB	-	PB	no
C. Commercial	no	no ¹⁰	PB		PB	PB
D. Industrial	no	no	no		PB	PB
E. Governmental and institutional	no	no	PB		PB	PB
F. Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB ⁴	PB	CEO		CEO	PB
16. Structures accessory to allowed uses	PB ⁴	PB	CEO		yes	yes
17. Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland						
a. Temporary	CEO ¹¹	CEO ¹¹	CEO ¹¹		CEO ¹¹	CE
b. Permanent	PB	PB	PB		PB	PB
18. Conversions of seasonal residences to year-round residences	LPI	LPI	LPI		LPI	no
19. Home occupations	PB	PB	CEO		yes	yes
20. Private sewage disposal systems for allowed uses	LPI	LPI	LPI		LPI	LPI
21. Essential services						
A. Roadside distribution lines (34.5kV and lower)	CEO ⁶	CEO ⁶	yes ¹²		yes ¹²	yes
B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	PB ⁶	PB ⁶	CEO		CEO	CE
C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	PB ⁶	PB ⁶	PB		PB	PB
D. Other essential services	PB ⁶	PB ⁶	PB		PB	PB
22. Service drops, as defined, to allowed uses	yes	yes	yes		yes	yes
23. Public and private recreational areas involving minimal structural development	PB	PB	CEO		CEO	CE
24. Individual, private campsites	CEO	CEO	CEO		CEO	CE
25. Campgrounds	no	no ⁷	PB		PB	no
26. Road construction	PB	no ⁸	PB		PB	PB
27. Land management roads	yes	PB	yes		yes	yes
28. Parking facilities	no	no ⁷	PB		PB	PB
29. Marinas	PB	no	PB		PB	PB
30. Filling and earth moving of <10 cubic yards	CEO	CEO	yes		yes	yes
31. Filling and earth moving of >10 cubic yards	PB	PB	CEO		CEO	CE
32. Signs	yes	yes	yes		yes	yes
33. Uses similar to allowed uses	CEO	CEO	CEO		CEO	CE
34. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO		CEO	CE
35. Uses similar to uses requiring a PB permit	PB	PB	PB		PB	PB

¹In RP not allowed within 75 feet horizontal distance, of the normal high-water line of great ponds, except to remove safety hazards.

²Requires permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.

³In RP not allowed in areas so designated because of wildlife value.

⁴Provided that a variance from the setback requirement is obtained from the Board of Appeals.

⁵Functionally water-dependent uses and uses accessory to such water dependent uses only (See note on previous page).

⁶See further restrictions in Section 15(K)(2).

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⁷Except when area is zoned for resource protection due to floodplain criteria in which case a permit is required from the PB.

⁸Except as provided in Section 15(G)(3).

⁹Single family residential structures may be allowed by special exception only according to the provisions of Section 16(E), Special Exceptions. Two-family residential structures are prohibited.

¹⁰Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.

¹¹Excluding bridges and other crossings not involving earthwork, in which case no permit is required.

¹²Permit not required but must file a written "notice of intent to construct" with CEO.

NOTE: A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to 38 M.R.S.A. section 480-C, if the activity occurs in, on, over or adjacent to any freshwater or coastal wetland, great pond, river, stream or brook and operates in such a manner that material or soil may be washed into them:

- A. Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;
- B. Draining or otherwise dewatering;
- C. Filling, including adding sand or other material to a sand dune; or
- D. Any construction or alteration of any permanent structure.

15. Land Use Standards. All land use activities within the shoreland zone shall conform with the following provisions, if applicable.

A. Minimum Lot Standards

	Minimum Lot Area (sq. ft.)	Minimum Shore Frontage (ft.)
(1)		
(a) Residential per dwelling unit		
(i) Within the Shoreland Zone Adjacent to Tidal Areas	30,000	150
(ii) Within the Shoreland Zone Adjacent to Non-Tidal Areas	40,000	200
(b) Governmental, Institutional, Commercial or Industrial per principal structure		
(i) Within the Shoreland Zone Adjacent to Tidal Areas, Exclusive of Those Areas Zoned for Commercial Fisheries and Maritime Activities	40,000	200
(ii) Within the Shoreland Zone Adjacent to Tidal Areas Zoned for Commercial Fisheries and Maritime Activities	NONE	NONE
(iii) Within the Shoreland Zone Adjacent to Non-tidal Areas	60,000	300
(c) Public and Private Recreational Facilities		
(i) Within the Shoreland Zone Adjacent to Tidal and Non-Tidal Areas	40,000	200

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- (2) Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.
- (3) Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.
- (4) The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.
- (5) If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.

B. Principal and Accessory Structures

- (1) All new principal and accessory structures shall be set back at least seventy-five (75) feet, horizontal distance, from the normal high-water line of water bodies, tributary streams, or the upland edge of a wetland, except that in the General Development I District the setback from the normal high-water line shall be at least twenty five (25) feet, horizontal distance, and in the Commercial Fisheries/Maritime Activities District there shall be no minimum setback. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.

In addition:

- (a) The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.
- (b) For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being "highly unstable" or "unstable" by the Maine Geological Survey pursuant to its "Classification of Coastal Bluffs" and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of a "highly unstable" or "unstable" bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the board of appeals.

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- (c) On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.

NOTE: All tidal land which is subject to tidal action during the maximum spring tide is coastal wetland.

NOTE: A tributary stream may be perennial or intermittent. Where a tributary stream is present within the shoreland zone, setback standards from that tributary stream are applicable.

- (2) Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, Limited Commercial, and Stream Protection Districts, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.
- (3) The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent floodplain soils. In those municipalities that participate in the National Flood Insurance Program and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.
- (4) With the exception of General Development Districts located adjacent to rivers that do not flow to great ponds, non-vegetated surfaces shall not exceed a total of twenty (20) percent of the portion of the lot located within the shoreland zone. This limitation does not apply to public boat launching facilities regardless of the district in which the facility is located.

In a General Development District located adjacent to rivers that do not flow to great ponds, non-vegetated surfaces shall not exceed a total of seventy (70) percent of the portion of the lot located within the shoreland zone.

For the purposes of calculating lot coverage, non-vegetated surfaces include, but are not limited to the following: structures, driveways, parking areas, and other areas from which vegetation has been removed. Naturally occurring ledge and rock outcroppings are not counted as nonvegetated surfaces when calculating lot coverage for lots of record on March 24, 1990 and in continuous existence since that date.

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- (5) Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:
- (a) The site has been previously altered and an effective vegetated buffer does not exist;
 - (b) The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;
 - (c) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
 - (d) The total height of the wall(s), in the aggregate, are no more than 24 inches;
 - (e) Retaining walls are located outside of the 100-year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.
 - (f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
 - (g) A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
 - (i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
 - (ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
 - (iii) Only native species may be used to establish the buffer area;
 - (iv) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
 - (v) A footpath not to exceed the standards in Section 15(P)(2)(a), may traverse the buffer;

NOTE: If the wall and associated soil disturbance occurs within 75 feet, horizontal distance, of a water body, tributary stream or coastal wetland, a permit pursuant to the Natural Resource Protection Act is required from the Department of Environmental Protection.

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(6) Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

C. Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland.

- (1) No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage as specified in Section 15(A), a second structure may be allowed and may remain as long as the lot is not further divided.
- (2) Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- (3) The location shall not interfere with existing developed or natural beach areas.
- (4) The facility shall be located so as to minimize adverse effects on fisheries.
- (5) The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six feet for non-commercial uses.
- (6) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.
- (7) New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.
- (8) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
- (9) Except in the General Development Districts and Commercial Fisheries/Maritime Activities District, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

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(10) Vegetation may be removed in excess of the standards in Section 15(O) of this Ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Planning Board. Construction equipment must access the shoreline by barge when feasible as determined by the Planning Board.

(a) When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than 12 feet in width. When the stabilization project is complete the construction equipment accessway must be restored.

(b) Revegetation must occur in accordance with Section 15(R).

[Note: The following provision will apply to only a few municipalities.]

(11). A deck over a river may be exempted from the shoreland setback requirements if it is part of a downtown revitalization project that is defined in a project plan approved by the legislative body of the municipality, and may include the revitalization of structures formerly used as mills that do not meet the structure setback requirements, if the deck meets the following requirements:

(a) The total deck area attached to the structure does not exceed 700 square feet;

(b) The deck is cantilevered over a segment of a river that is located within the boundaries of the downtown revitalization project;

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(c) The deck is attached to or accessory to an allowed commercial use in a structure that was constructed prior to 1971 and is located within the downtown revitalization project;

(d) The construction of the deck complies with all other applicable standards, except the shoreline setback requirements in section 15(B); and

The construction of the deck complies with all other state and federal laws.

NOTE: New permanent structures, and expansions thereof, projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. section 480-C. Permits may also be required from the Army Corps of Engineers if located in navigable waters.

D. Campgrounds. Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:

- (1) Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.
- (2) The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or the upland edge of a wetland.

E. Individual Private Campsites. Individual private campsites not associated with campgrounds are allowed provided the following conditions are met:

- (1) One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.
- (2) **When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.**
- (3) Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or the upland edge of a wetland.
- (4) Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.
- (5) The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.
- (6) A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.

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- (7) When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

F. Parking Areas

- (1) Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located, except that in the Commercial Fisheries/Maritime Activities District parking areas shall be set back at least twenty-five (25) feet, horizontal distance, from the shoreline. The setback requirement for parking areas serving public boat launching facilities in Districts other than the General Development I District and Commercial Fisheries/Maritime Activities District shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.
- (2) Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.
- (3) In determining the appropriate size of proposed parking facilities, the following shall apply:
 - (a) Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
 - (b) Internal travel aisles: Approximately twenty (20) feet wide.

G. Roads and Driveways. The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.

- (1) Roads and driveways shall be set back at least seventy-five (75) feet, horizontal distance from the normal high-water line of a water body, tributary stream, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

On slopes of greater than twenty (20) percent the road and/or driveway setback shall be increased by ten (10) feet, horizontal distance, for each five (5) percent increase in slope above twenty (20) percent.

Section 15 (G)(1) does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 15(G)(1) except for that portion of the road or driveway necessary for direct access to the structure.

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- (2) Existing public roads may be expanded within the legal road right of way regardless of their setback from a water body, tributary stream or wetland.
- (3) New permanent roads are not allowed within the shoreland zone along Significant River Segments except:
 - a. To provide access to structures or facilities within the zone; or
 - b. When the applicant demonstrates that no reasonable alternative route exists outside the shoreland zone. When roads must be located within the shoreland zone they shall be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.
- (4) New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
- (5) Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 15(S).
- (6) Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.
- (7) In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
- (8) Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:
 - (a) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road, or driveway at intervals no greater than indicated in the following table:

Grade (Percent)	Spacing (Feet)
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21 +	40

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- (b) Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.
 - (c) On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.
 - (d) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.
- (8) Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

H. Signs. The following provisions shall govern the use of signs in the Shoreland Zone:

- (1) Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. In the General Development and Commercial Fisheries/Maritime Activities Districts, however, such signs shall not exceed sixteen (16) square feet in area. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.
- (2) Name signs are allowed, provided such signs shall not exceed two (2) signs per premises, and shall not exceed twelve (12) square feet in the aggregate.
- (3)
- (4) Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
- (5) Signs relating to public safety shall be allowed without restriction.
- (6) No sign shall extend higher than twenty (20) feet above the ground.
- (7) Signs may be illuminated only by shielded, non-flashing lights.

I. Storm Water Runoff

- (1) All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of stormwaters.
- (2) Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

NOTE: The Stormwater Management Law (38 M.R.S.A. section 420-D) requires a full permit to be obtained from the DEP prior to construction of a project consisting of 20,000 square feet or more of impervious area or 5 acres or more of a developed area in an urban impaired

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stream watershed or most-at-risk lake watershed, or a project with 1 acre or more of developed area in any other stream, coastal or wetland watershed. A permit-by-rule is necessary for a project with one acre or more of disturbed area but less than 1 acre impervious area (20,000 square feet for most-at-risk lakes and urban impaired streams) and less than 5 acres of developed area. Furthermore, a Maine Construction General Permit is required if the construction will result in one acre or more of disturbed area.

J. Septic Waste Disposal

- (1) All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following: a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and b) a holding tank is not allowed for a first-time residential use in the shoreland zone.

NOTE: The Maine Subsurface Wastewater Disposal Rules require new systems, excluding fill extensions, to be constructed no less than one hundred (100) horizontal feet from the normal high-water line of a perennial water body. The minimum setback distance for a new subsurface disposal system may not be reduced by variance.

K. Essential Services

- (1) Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
- (2) The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection or Stream Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.
- (3) Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

- L. Mineral Exploration and Extraction.** Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than one hundred (100) square feet of ground surface. A permit from the Code Enforcement Officer shall be required for mineral exploration which exceeds the above limitation. All excavations, including test pits and holes, shall be immediately capped, filled or secured by other equally effective measures to restore disturbed areas and to protect the public health and safety.

Mineral extraction may be permitted under the following conditions:

- (1) A reclamation plan shall be filed with, and approved, by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 15 (L)(3) below.

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- (2) No part of any extraction operation, including drainage and runoff control features, shall be permitted within seventy-five (75) feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property.
- (3) Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:
 - (a) All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.

NOTE: The State of Maine Solid Waste Laws, 38 M.R.S.A., section 1301 and the solid waste management rules, Chapters 400-419 of the Department of Environmental Protection's regulations may contain other applicable provisions regarding disposal of such materials.

- (b) The final graded slope shall be two and one-half to one (2 1/2:1) slope or flatter.
 - (c) Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
- (4) In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

M. Agriculture

- (1) All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the former Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).
- (2) Manure shall not be stored or stockpiled within seventy-five (75) feet horizontal distance, of a water body, tributary stream, or wetland. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
- (3) Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.

NOTE: Assistance in preparing a Conservation Plan may be available through the local Soil and Water Conservation District office.

- (4) There shall be no new tilling of soil within seventy-five (75) feet, horizontal distance, from water bodies and coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of

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tributary streams and freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.

- (5) Newly established livestock grazing areas shall not be permitted within seventy-five (75) feet, horizontal distance, of water bodies and coastal wetlands, nor; within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan that has been filed with the Planning Board.

N. Timber Harvesting – Statewide Standards

- (1) Shoreline integrity and sedimentation. Persons conducting timber harvesting and related activities must take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands occurs, such conditions must be corrected.
- (2) Slash treatment. Timber harvesting and related activities shall be conducted such that slash or debris is not left below the normal high-water line of any water body or tributary stream, or the upland edge of a wetland. Section 15N(2) does not apply to minor, incidental amounts of slash that result from timber harvesting and related activities otherwise conducted in compliance with this section.
 - (a) Slash actively used to protect soil from disturbance by equipment or to stabilize exposed soil, may be left in place, provided that no part thereof extends more than 4 feet above the ground.
 - (b) Adjacent to rivers and wetlands:
 - (i) No accumulation of slash shall be left within 50 feet, horizontal distance, of the normal high-water line or upland edge of a wetland; and
 - (ii) Between 50 feet and 250 feet, horizontal distance, of the normal high-water line or upland edge of a wetland, all slash larger than 3 inches in diameter must be disposed of in such a manner that no part thereof extends more than 4 feet above the ground.
- (3) Timber harvesting and related activities must leave adequate tree cover and shall be conducted so that a well-distributed stand of trees is retained. This requirement may be satisfied by following one of the following three options:
 - (a) Option 1 (40% volume removal), as follows:
 - (i) Harvesting of no more than 40 percent of the total volume on each acre of trees 4.5 inches DBH or greater in any 10 year period is allowed. Volume may be considered to be equivalent to basal area;

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- (ii) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,
 - (iii) Within 75 feet, horizontal distance, of the normal high-water line of rivers and streams, and within 75 feet, horizontal distance, of the upland edge of a freshwater or coastal wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of total volume removal. Volume may be considered equivalent to basal area.
- (b) Option 2 (60 square foot basal area retention), as follows:
- (i) The residual stand must contain an average basal area of at least 60 square feet per acre of woody vegetation greater than or equal to 1.0 inch DBH, of which 40 square feet per acre must be greater than or equal to 4.5 inches DBH;
 - (ii) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,
 - (iii) Within 75 feet, horizontal distance, of the normal high-water line of water bodies and within 75 feet, horizontal distance, of the upland edge of wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of the average basal area. Volume may be considered equivalent to basal area.
- (c) Option 3 (Outcome based), which requires: An alternative method proposed in an application, signed by a Licensed Forester or certified wildlife professional, submitted by the landowner or designated agent to the State of Maine Department of Conservation's Bureau of Forestry (Bureau) for review and approval, which provides equal or better protection of the shoreland area than this rule.

Landowners must designate on the Forest Operations Notification form required by 12 M.R.S.A. chapter 805, subchapter 5 which option they choose to use. If landowners choose Option 1 or Option 2, compliance will be determined solely on the criteria for the option chosen. If landowners choose Option 3, timber harvesting and related activities may not begin until the Bureau has approved the alternative method.

The Bureau may verify that adequate tree cover and a well-distributed stand of trees is retained through a field procedure that uses sample plots that are located randomly or systematically to provide a fair representation of the harvest area.

- (4) Skid trails, yards, and equipment operation. This requirement applies to the construction, maintenance, and use of skid trails and yards in shoreland areas.

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- (a) Equipment used in timber harvesting and related activities shall not use river, stream or tributary stream channels as travel routes except when surface waters are frozen and snow covered, and the activity will not result in any ground disturbance.
- (b) Skid trails and yards must be designed and constructed to prevent sediment and concentrated water runoff from entering a water body, tributary stream, or wetland. Upon termination of their use, skid trails and yards must be stabilized.
- (c) Setbacks:
 - (i) Equipment must be operated to avoid the exposure of mineral soil within 25 feet, horizontal distance, of any water body, tributary stream, or wetland. On slopes of 10 percent or greater, the setback for equipment operation must be increased by 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent. Where slopes fall away from the resource, no increase in the 25-foot setback is required.
 - (ii) Where such setbacks are impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (5) Land Management Roads. Land management roads, including approaches to crossings of water bodies, tributary stream channels, and freshwater wetlands, ditches and other related structures, must be designed, constructed, and maintained to prevent sediment and concentrated water runoff from directly entering the water body, tributary stream or wetland. Surface water on or adjacent to water crossing approaches must be diverted through vegetative filter strips to avoid sedimentation of the watercourse or wetland. Because roadside ditches may not extend to the resource being crossed, vegetative filter strips must be established in accordance with the setback requirements in Section 15N(7) of this rule.
 - (a) Land management roads and associated ditches, excavation, and fill must be set back at least:
 - (i) 100 feet, horizontal distance, from the normal high-water line of a river or freshwater or coastal wetland;
 - (ii) 50 feet, horizontal distance, from the normal high-water line of streams; and
 - (iii) 25 feet, horizontal distance, from the normal high-water line of tributary streams
 - (b) The minimum 100 foot setback specified in Section 15N(5)(a)(i) above may be reduced to no less than 50 feet, horizontal distance, and the 50 foot setback specified in Section 15N(5)(a)(ii) above may be reduced to no less than 25 feet, horizontal distance, if, prior to construction, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body,

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tributary stream or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

- (c) On slopes of 10 percent or greater, the land management road setback must be increased by at least 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent.
- (d) New land management roads are not allowed in a Resource Protection District, unless, prior to construction, the landowner or the landowner's designated agent makes a clear demonstration to the Planning Board's satisfaction that no reasonable alternative route exists outside the shoreland zone, and that the new road must be set back as far as practicable from the normal high-water line and screened by existing vegetation.
- (e) Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with roads must be maintained on a regular basis to assure effective functioning. Drainage structures shall deliver a dispersed flow of water into an unscarified filter strip no less than the width indicated in the setback requirements in Section 15N(7). Where such a filter strip is impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream, or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (f) Road closeout and discontinuance. Maintenance of the water control installations required in Section 15N(5)(e) must continue until use of the road is discontinued and the road is put to bed by effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to avoid surface water flowing over or under the water bar, and extending a sufficient distance beyond the traveled way so that water does not reenter the road surface.
- (g) Upgrading existing roads. Extension or enlargement of presently existing roads must conform to the provisions of Section 15N. Any nonconforming existing road may continue to exist and to be maintained, as long as the nonconforming conditions are not made more nonconforming.
- (h) Exception. Extension or enlargement of presently existing roads need not conform to the setback requirements of Section 15N(5)(a) if, prior to extension or enlargement, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (i) Additional measures. In addition to the foregoing minimum requirements, persons undertaking construction and maintenance of roads and river, stream and tributary stream crossings must take reasonable measures to avoid sedimentation of surface waters.

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- (6) Crossings of waterbodies. Crossings of rivers, streams, and tributary streams must allow for fish passage at all times of the year, must not impound water, and must allow for the maintenance of normal flows.
- (a) Determination of flow. Provided they are properly applied and used for the circumstances for which they are designed, methods including but not limited to the following are acceptable as a means of calculating the 10 year and 25 year frequency water flows and thereby determining water crossing sizes as required in Section 15N: The United States Geological Survey (USGS) Methods; specifically: Hodgkins, G. 1999. Estimating the Magnitude of Peak Flows for Streams in Maine for Selected Recurrence Intervals. U.S. Geological Survey. Water Resources Investigations Report 99-4008. 45 pp.
 - (b) Upgrading existing water crossings. Extension or enlargement of presently existing water crossings must conform to the provisions of Section 15N. Any nonconforming existing water crossing may continue to exist and be maintained, as long as the nonconforming conditions are not made more nonconforming; however, any maintenance or repair work done below the normal high-water line must conform to the provisions of Section 15N.
 - (c) Other Agency Permits. Any timber harvesting and related activities involving the design, construction, and maintenance of crossings on waterbodies other than a river, stream or tributary stream may require a permit from the Land Use Regulation Commission, the Department of Environmental Protection, or the US Army Corps of Engineers.
 - (d) Any timber harvesting and related activities involving the design, construction, and maintenance of crossings of freshwater wetlands identified by the Department of Inland Fisheries and Wildlife as essential wildlife habitat require prior consultation with the Department of Inland Fisheries and Wildlife.
 - (e) Notice to Bureau of Forestry. Written notice of all water crossing construction maintenance, alteration and replacement activities in shoreland areas must be given to the Bureau prior to the commencement of such activities. Such notice must contain all information required by the Bureau, including:
 - (i) a map showing the location of all proposed permanent crossings;
 - (ii) the GPS location of all proposed permanent crossings;
 - (iii) for any temporary or permanent crossing that requires a permit from state or federal agencies, a copy of the approved permit or permits; and
 - (iv) a statement signed by the responsible party that all temporary and permanent crossings will be constructed, maintained, and closed out in accordance with the requirements of this Section.
 - (f) Water crossing standards. All crossings of rivers require a bridge or culvert sized according to the requirements of Section 15N(6)(g)) below. Streams and tributary streams may be crossed using temporary structures that are not bridges or culverts provided:
 - (i) concentrated water runoff does not enter the stream or tributary stream;
 - (ii) sedimentation of surface waters is reasonably avoided;
 - (iii) there is no substantial disturbance of the bank, or stream or tributary stream channel;
 - (iv) fish passage is not impeded; and,
 - (v) water flow is not unreasonably impeded.

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Subject to Section 15N(6)(f)(i-v) above, skid trail crossings of streams and tributary streams when channels of such streams and tributary streams are frozen and snow-covered or are composed of a hard surface which will not be eroded or otherwise damaged are not required to use permanent or temporary structures.

(g) **Bridge and Culvert Sizing.** For crossings of river, stream and tributary stream channels with a bridge or culvert, the following requirements apply:

(i) Bridges and culverts must be installed and maintained to provide an opening sufficient in size and structure to accommodate 10 year frequency water flows or with a cross-sectional area at least equal to 2 1/2 times the cross-sectional area of the river, stream, or tributary stream channel.

(ii) Temporary bridge and culvert sizes may be smaller than provided in Section 15N(6)(g)(i) if techniques are effectively employed such that in the event of culvert or bridge failure, the natural course of water flow is maintained and sedimentation of the water body or tributary stream is avoided. Such crossing structures must be at least as wide as the channel and placed above the normal high-water line. Techniques may include, but are not limited to, the effective use of any, a combination of, or all of the following:

1. use of temporary skidder bridges;
2. removing culverts prior to the onset of frozen ground conditions;
3. using water bars in conjunction with culverts;
4. using road dips in conjunction with culverts.

(iii) Culverts utilized in river, stream and tributary stream crossings must:

1. be installed at or below river, stream or tributary stream bed elevation;
2. be seated on firm ground;
3. have soil compacted at least halfway up the side of the culvert;
4. be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater; and
5. have a headwall at the inlet end which is adequately stabilized by riprap or other suitable means to reasonably avoid erosion of material around the culvert.

(iv) River, stream and tributary stream crossings allowed under Section 15N, but located in flood hazard areas (i.e. A zones) as identified on a community's Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM), must be designed and constructed under the stricter standards contained in that community's National Flood Insurance Program (NFIP). For example, a water crossing may be required to pass a 100-year flood event.

(v) **Exception.** Skid trail crossings of tributary streams within shoreland areas and wetlands adjacent to such streams may be undertaken in a manner not in conformity with the requirements of the foregoing subsections provided persons conducting such activities take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands occurs, such conditions must be corrected.

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- (h) Skid trail closeout. Upon completion of timber harvesting and related activities, or upon the expiration of a Forest Operations Notification, whichever is earlier, the following requirements apply:
- (i) Bridges and culverts installed for river, stream and tributary stream crossings by skid trails must either be removed and areas of exposed soil stabilized, or upgraded to comply with the closeout standards for land management roads in Section 15N(6)(i) below.
 - (ii) Water crossing structures that are not bridges or culverts must either be removed immediately following timber harvesting and related activities, or, if frozen into the river, stream or tributary stream bed or bank, as soon as practical after snowmelt.
 - (iii) River, stream and tributary stream channels, banks and approaches to crossings of water bodies and tributary streams must be immediately stabilized on completion of harvest, or if the ground is frozen and/or snow-covered, as soon as practical after snowmelt. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (i) Land management road closeout. Maintenance of the water control features must continue until use of the road is discontinued and the road is put to bed by taking the following actions:
- (i) Effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to reasonably avoid surface water flowing over or under the water bar, and extending sufficient distance beyond the traveled way so that water does not reenter the road surface.
 - (ii) Water crossing structures must be appropriately sized or dismantled and removed in a manner that reasonably avoids sedimentation of the water body or tributary stream.
 - (iii) Any bridge or water crossing culvert in roads to be discontinued shall satisfy one of the following requirements:
 - 1. it shall be designed to provide an opening sufficient in size and structure to accommodate 25 year frequency water flows;
 - 2. it shall be designed to provide an opening with a cross-sectional area at least 3 1/2 times the cross-sectional area of the river, stream or tributary stream channel; or
 - 3. it shall be dismantled and removed in a fashion to reasonably avoid sedimentation of the river, stream or tributary stream.
- If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(7) Slope Table

Filter strips, skid trail setbacks, and land management road setbacks must be maintained as specified in Section 15N, but in no case shall be less than shown in the following table.

Average slope of land between exposed mineral soil and the shoreline (percent)	Width of strip between exposed mineral soil and shoreline (feet along surface of the ground)
0	25
10	45

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20	65
30	85
40	105
50	125
60	145
70	165

O. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting

- (1) In any Resource Protection District the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.
- (2) Except in areas as described in Section O(1), above, within a strip of land extending seventy-five (75) feet, horizontal distance, from a other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:
 - (a) There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a single footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed for accessing the shoreline provided that a cleared line of sight to the water through the buffer strip is not created.
 - (b) Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of Section 15(O)(2)(b) a "well-distributed stand of trees" shall be defined as maintaining a rating score of 16 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.

Diameter of Tree at 4-1/2 feet Above Ground Level (inches)	Points
2 - < 4 in.	1
4 - < 8 in.	2
8 - < 12 in.	4
12 in. or greater	8

NOTE: As an example, if a 25-foot x 50-foot plot contains four (4) trees between 2 and 4 inches in diameter, two trees between 4 and 8 inches in diameter, three trees between 8 and 12 inches in diameter, and two trees over 12 inches in diameter, the rating score is:

$$(4 \times 1) + (2 \times 2) + (3 \times 4) + (2 \times 8) = 36 \text{ points}$$

Thus, the 25-foot by 50-foot plot contains trees worth 36 points. Trees totaling 20 points (36 - 16 = 20) may be removed from the plot provided that no cleared openings are created.

The following shall govern in applying this point system:

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- (i) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- (ii) Each successive plot must be adjacent to, but not overlap a previous plot;
- (iii) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
- (iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by is Ordinance;
- (v) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of Section 15(O)(2)(b) "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten (10) year period.

- (c) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 15(O) paragraphs (2) and (2)(a) above.
- (d) Pruning of tree branches, on the bottom 1/3 of the tree is allowed.
- (e) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, dead or hazard trees results in the creation of cleared openings, these openings shall be replanted with native tree species in accordance with Section P, below, unless existing new tree growth is present.
- (f) In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities, including associated construction and related equipment operation, within or outside the shoreline buffer, must comply with the requirements of Section 15.O(2).

Section 15(O)(2) does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

- (3) At distances greater than one seventy-five (75) feet, horizontal distance, from the normal high-water line of any water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate,

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25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. This provision applies to the portion of a lot within the shoreland zone, including the buffer area, but shall not apply to the General Development or Commercial Fisheries/Maritime Activities Districts.

- (4) Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.
- (5) Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 15(O).

P. Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal.

(1) Hazard trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:

- (a) Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four (4) feet in height, and be no less than two (2) inches in diameter. Stumps may not be removed.**
- (b) Outside of the shoreline buffer, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.**
- (c) The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.**
- (d) The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.**
- (e) The Code Enforcement Officer may require more than a one-for-one replacement for hazard trees removed that exceed eight (8) inches in diameter measured at four and one half (4.5) feet above the ground level.**

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(2) Storm-damaged trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:

(a) Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:

(i) The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;

(ii) Stumps from the storm-damaged trees may not be removed;

(iii) Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and

(iv) If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every eighty (80) square feet of lost canopy.

(b) Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40% of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above the ground level in any ten (10) year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.

O. Exemptions to Clearing and Vegetation Removal Requirements

The following activities are exempt from the clearing and vegetation removal standards set forth in Section 15(P), provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:

(1) The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of Section 15(O) apply;

(2) The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of section 15(B) are not applicable;

(3) The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;

(4) The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of section 15M are complied with;

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- (5) The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in a general development district, or other equivalent zoning district approved by the Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S.A section 343-E, and that is located along a river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A section 465-A.**
- (6) The removal of non-native invasive vegetation species, provided the following minimum requirements are met:**
- (a) If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;**
 - (b) Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and**
 - (c) If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.**
- (7) The removal of vegetation associated with emergency response activities conducted by the Department, the U.S. Environmental Protection Agency, and their agents.**

R. Revegetation Requirements.

When revegetation is required in response to violations of the vegetation standards set forth in Section 15(P), to address the removal of non- native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements.

- (1) The property owner must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.**
- (2) Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed;**
- (3) If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.**
- (4) Revegetation activities must meet the following requirements for trees and saplings:**

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- (a) All trees and saplings removed must be replaced with native noninvasive species;**
- (b) Replacement vegetation must at a minimum consist of saplings;**
- (c) If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;**
- (d) No one species shall make up 50% or more of the number of trees and saplings planted;**
- (e) If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and**
- (f) A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) years period.**
- (5) Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:**

 - (a) All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;**
 - (b) Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;**
 - (c) If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;**
 - (d) No one species shall make up 50% or more of the number of planted woody vegetation plants; and**
 - (e) Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years**
- (6) Revegetation activities must meet the following requirements for ground vegetation and ground cover:**

 - (a) All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;**
 - (b) Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and**
 - (c) Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for minimum¹³ of five (5) years.**

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S. Erosion and Sedimentation Control

- (1) All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
 - (a) Mulching and revegetation of disturbed soil.
 - (b) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
 - (c) Permanent stabilization structures such as retaining walls or rip-rap.
- (2) In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
- (3) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
- (4) Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
 - (a) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
 - (b) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
 - (c) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
- (5) Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.

- T. Soils.** All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation

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of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

- U. Water Quality.** No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream or wetland.
- V. Archaeological Site.** Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

NOTE: Municipal officials should contact the Maine Historic Preservation Commission for the listing and location of Historic Places in their community.

16. Administration

A. Administering Bodies and Agents

- (1) Code Enforcement Officer. A Code Enforcement Officer shall be appointed or reappointed annually by July 1st.
- (2) Board of Appeals. A Board of Appeals shall be created in accordance with the provisions of 30-A M.R.S.A. section 2691.
- (3) Planning Board. A Planning Board shall be created in accordance with the provisions of State law.

B. Permits Required. After the effective date of this Ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed.

- (1) A permit is not required for the replacement of an existing road culvert as long as:
 - (a) The replacement culvert is not more than 25% longer than the culvert being replaced;
 - (b) The replacement culvert is not longer than 75 feet; and
 - (c) Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.
- (2) A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2

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approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.

- (3) Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

C. Permit Application

- (1) Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate official as indicated in Section 14.
- (2) All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.
- (3) All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.
- (4) If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.
- (5) When an excavation contractor will perform an activity that requires or results in more than one (1) cubic yard of soil disturbance, the person responsible for management of erosion and sedimentation control practices at the site must be certified in erosion control practices by the Maine Department of Environmental Protection. This person must be present at the site each day earthmoving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed. This is required until erosion and sedimentation control measures have been installed, which will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion. The name and certification number of the person who will oversee the activity causing or resulting in soil disturbance shall be included on the permit application. This requirement does not apply to a person or firm engaged in agriculture or timber harvesting if best management practices for erosion and sedimentation control are used; and municipal, state and federal employees engaged in projects associated with that employment.**

- D. Procedure for Administering Permits.** Within 35 days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in Section 14, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within 35 days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within 35 days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 35 days of the public hearing, if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

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The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance.

After the submission of a complete application to the Planning Board, the Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

- (1) Will maintain safe and healthful conditions;
- (2) Will not result in water pollution, erosion, or sedimentation to surface waters;
- (3) Will adequately provide for the disposal of all wastewater;
- (4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
- (5) Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
- (6) Will protect archaeological and historic resources as designated in the comprehensive plan;
- (7) Will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/Maritime Activities district;
- (8) Will avoid problems associated with floodplain development and use; and
- (9) Is in conformance with the provisions of Section 15, Land Use Standards.

If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance, or regulation or statute administered by the municipality.

E. Special Exceptions. In addition to the criteria specified in Section 16(D) above, excepting structure setback requirements, the Planning Board may approve a permit for a single family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

- (1) There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.
- (2) The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.
- (3) All proposed buildings, sewage disposal systems and other improvements are:
 - (a) Located on natural ground slopes of less than 20%; and
 - (b) Located outside the floodway of the 100-year flood-plain along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as

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delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year flood-plain elevation; and the development is otherwise in compliance with any applicable municipal flood-plain ordinance.

If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the 100-year flood-plain.

- (4) The total footprint, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.
 - (5) All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the flood-plain, and its proximity to moderate-value and high-value wetlands.
- F. Expiration of Permit.** Permits shall expire one year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.
- G. Installation of Public Utility Service.** A public utility, water district, sanitary district or any utility company of any kind may not install services to any new structure located in the shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance has been issued by the appropriate municipal officials or other written arrangements have been made between the municipal officials and the utility.

H. Appeals

- (1) Powers and Duties of the Board of Appeals. The Board of Appeals shall have the following powers:
 - (a) Administrative Appeals: To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board in the administration of this Ordinance; and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.
 - (b) Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance.

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(2) Variance Appeals. Variances may be granted only under the following conditions:

- (a) Variances may be granted only from dimensional requirements including, but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.
- (b) Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
- (c) The Board shall not grant a variance unless it finds that:
 - (i) The proposed structure or use would meet the provisions of Section 15 except for the specific provision which has created the non-conformity and from which relief is sought; and
 - (ii) The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean:
 - a. That the land in question cannot yield a reasonable return unless a variance is granted;
 - b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
 - c. That the granting of a variance will not alter the essential character of the locality; and
 - d. That the hardship is not the result of action taken by the applicant or a prior owner.
- (d) Notwithstanding Section 16(H)(2)(c)(ii) above, the Board of Appeals, or the codes enforcement officer if authorized in accordance with 30-A MRSA §4353-A, may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure. Any permit issued pursuant to this subsection is subject to Sections 16(H)(2)(f) and 16(H)(4)(b)(iv) below.)
- (e) The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.
- (f) A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action

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by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

(3) Administrative Appeals

When the Board of Appeals reviews a decision of the Code Enforcement Officer the Board of Appeals shall hold a "de novo" hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a "de novo" capacity the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.

When the Board of Appeals hears a decision of the Planning Board, it shall hold an appellate hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Planning Board proceedings are inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

(4) Appeal Procedure

(a) Making an Appeal

- (i) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters as described in Section 16(H)(1)(a) above. Such an appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.
- (ii) Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:
 - a. A concise written statement indicating what relief is requested and why the appeal or variance should be granted.
 - b. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
- (iii) Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
- (iv) The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.

(b) Decision by Board of Appeals

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- (i) A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.
 - (ii) The person filing the appeal shall have the burden of proof.
 - (iii) The Board shall decide all administrative appeals and variance appeals within thirty five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
 - (iv) The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.
- (5) Appeal to Superior Court. Except as provided by 30-A M.R.S.A. section 2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.
- (6) Reconsideration. In accordance with 30-A M.R.S.A. section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

Appeal of a reconsidered decision to Superior Court must be made within fifteen (15) days after the decision on reconsideration.

I. Enforcement

- (1) Nuisances. Any violation of this Ordinance shall be deemed to be a nuisance.
- (2) Code Enforcement Officer
 - (a) It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.

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- (b) The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.
 - (c) The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.
- (3) **Legal Actions.** When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.
- (4) **Fines.** Any person, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A, M.R.S.A. section 4452.

NOTE: Current penalties include fines of not less than \$100 nor more than \$2500 per violation for each day that the violation continues. However, in a resource protection district the maximum penalty is increased to \$5000 (38 M.R.S.A. section 4452).

17. Definitions.

Accessory structure or use - a use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated, shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

Aggrieved party - an owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

Agriculture - the production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and green-house products. Agriculture does not include forest management and timber harvesting activities.

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Aquaculture - the growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

Basal Area - the area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark.

Basement - any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level.

Boat Launching Facility - a facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

Bureau of Forestry – State of Maine Department of Agriculture, Conservation, and Forestry, Bureau of Forestry

Campground - any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters.

Canopy – the more or less continuous cover formed by tree crowns in a wooded area.

Coastal wetland - all tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

NOTE: All areas below the maximum spring tide level are coastal wetlands. These areas may consist of rocky ledges, sand and cobble beaches, mud flats, etc., in addition to salt marshes and salt meadows.

Commercial use - the use of lands, buildings, or structures, other than a "home occupation," defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

Cross-sectional area – the cross-sectional area of a stream or tributary stream channel is determined by multiplying the stream or tributary stream channel width by the average stream or tributary stream channel depth. The stream or tributary stream channel width is the straight line distance from the normal high-water line on one side of the channel to the normal high-water line on the opposite side of the channel. The average stream or tributary stream channel depth is the average of the vertical distances from a straight line between the normal high-water lines of the stream or tributary stream channel to the bottom of the channel.

DBH – the diameter of a standing tree measured 4.5 feet from ground level.

Development – a change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

Dimensional requirements - numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

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Disability - any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services.

Disruption of shoreline integrity - the alteration of the physical shape, properties, or condition of a shoreline at any location by timber harvesting and related activities. A shoreline where shoreline integrity has been disrupted is recognized by compacted, scarified and/or rutted soil, an abnormal channel or shoreline cross-section, and in the case of flowing waters, a profile and character altered from natural conditions.

Driveway - a vehicular access-way less than five hundred (500) feet in length serving two single-family dwellings or one two-family dwelling, or less.

Dwelling Unit - A room or group of rooms designed and equipped exclusively for use as living quarters for one family, including provisions for living, cooking and eating.

Emergency operations - operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property and livestock from the threat of destruction or injury.

Essential services - gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

Expansion of a structure - an increase in the **footprint** of a structure, including all extensions such as, but not limited to: attached decks, garages, porches and greenhouses.

Expansion of use - the addition of one or more months to a use's operating season; or the use of more **footprint of a structure** or ground area devoted to a particular use.

Family - one or more persons occupying a premises and living as a single housekeeping unit.

Floodway - the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one foot in height.

Floor area - the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls.

Footprint - the entire area of ground covered by the structure(s) on a lot, including but not limited to cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.

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Forest management activities - timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.

Forested wetland - a freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

Forest Stand - a contiguous group of trees sufficiently uniform in age class distribution, composition, and structure, and growing on a site of sufficiently uniform quality, to be a distinguishable unit.

Foundation - the supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frostwalls, or other base consisting of concrete, block, brick or similar material.

Freshwater wetland - freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

1. Of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of 10 acres; and
2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

Functionally water-dependent uses - those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and that can not be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, , finfish and shellfish processing, fish-related storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, shoreline structures necessary for erosion control purposes, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that can not reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters. Recreational boat storage buildings are not considered to be a functionally water-dependent use.

Ground cover – small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

Harvest Area - the area where timber harvesting and related activities, including the cutting of trees, skidding, yarding, and associated road construction take place. The area affected by a harvest encompasses the area within the outer boundaries of these activities, excepting unharvested areas greater than 10 acres within the area affected by a harvest.

Hazard tree - a tree with a structural defect, combination of defects, or disease resulting in a structural defect that under the normal range of environmental conditions at the site exhibits

SOUTH THOMASTON SHORELAND ZONING ORDINANCE

a high probability of failure and loss of a major structural component of the tree in a manner that will strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as, but not limited to: hurricanes; hurricane-force winds; tornados; microbursts; or significant ice storm events.

Hazard trees also include those trees that pose a serious and imminent risk to bank stability. A target is the area where personal injury or property damage could occur if the tree or a portion of the tree fails. Targets include roads, driveways, parking areas, structures, campsites, and any other developed area where people frequently gather and linger.

Height of a structure - the vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area.

Home occupation - an occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and 2) which employs no more than two (2) persons other than family members residing in the home.

Increase in nonconformity of a structure - any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

Individual private campsite - an area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to a gravel pad, parking area, fire place, or tent platform.

Industrial - The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

Institutional – a non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purposes.

Land Management Road - a route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads.

Licensed Forester - a forester licensed under 32 M.R.S.A. Chapter 76.

SOUTH THOMASTON SHORELAND ZONING ORDINANCE

Lot area - The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

Marina - a business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, bait and tackle shops and marine fuel service facilities.

Market value - the estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

Mineral exploration - hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

Mineral extraction - any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed, away from the extraction site.

Minimum lot width - the closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

Multi-unit residential - a residential structure containing three (3) or more residential dwelling units.

Native – indigenous to the local forests.

Non-conforming condition – non-conforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

Non-conforming lot - a single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.

Non-conforming structure - a structure which does not meet any one or more of the following dimensional requirements; setback, height, lot coverage or footprint, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-conforming use - use of buildings, structures, premises, land or parts thereof which is not allowed in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-native invasive species of vegetation - species of vegetation listed by the Maine Department of Agriculture, Conservation and Forestry as being invasive in Maine ecosystems and not native to Maine ecosystems.

Outlet stream - any perennial or intermittent stream, as shown on the most recent highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map, that flows from a freshwater wetland.

SOUTH THOMASTON SHORELAND ZONING ORDINANCE

Normal high-water line (non-tidal waters) - that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river during the period of normal high-water are considered part of the river.

NOTE: Adjacent to tidal waters, setbacks are measured from the upland edge of the "coastal wetland."

Person - an individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

Piers, docks, wharves, bridges and other structures and uses extending over or beyond the normal high-water line or within a wetland.

Temporary: Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

Permanent: Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

Principal structure - a structure other than one which is used for purposes wholly incidental or accessory to the use of another structure or use on the same premises.

Principal use - a use other than one which is wholly incidental or accessory to another use on the same lot.

Public facility - any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

Recent floodplain soils - the following soil series as described and identified by the National Cooperative Soil Survey:

Fryeburg	Hadley	Limerick
Lovewell	Medomak	Ondawa
Alluvial	Cornish	Charles
Podunk	Rumney	Saco
Suncook	Sunday	Winooski

Recreational facility - a place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

Recreational vehicle - a vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

SOUTH THOMASTON SHORELAND ZONING ORDINANCE

Replacement system - a system intended to replace: 1.) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or 2.) any existing overboard wastewater discharge.

Residential dwelling unit - a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

Residual basal area - the average of the basal area of trees remaining on a harvested site.

Riprap - rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

Residual Stand - a stand of trees remaining in the forest following timber harvesting and related activities

River - a free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of twenty five (25) square miles to its mouth.

NOTE: The portion of a river that is subject to tidal action is a coastal wetland.

Road - a route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a driveway as defined.

Salt marsh - Areas of coastal wetland (most often along coastal bays) that support salt tolerant species, and where at average high tide during the growing season, the soil is irregularly inundated by tidal waters. The predominant species is saltmarsh cordgrass (Spartina alterniflora). More open areas often support widgeon grass, eelgrass, and Sago pondweed.

Salt meadow - Areas of a coastal wetland that support salt tolerant plant species bordering the landward side of salt marshes or open coastal water, where the soil is saturated during the growing season but which is rarely inundated by tidal water. Indigenous plant species include salt meadow cordgrass (Spartina patens) and black rush; common threesquare occurs in fresher areas.

Sapling - a tree species that is less than two (2) inches in diameter at four and one half (4.5) feet above ground level.

Seedling - a young tree species that is less than four and one half (4.5) feet in height above ground level.

Storm-damaged tree - a tree that has been uprooted, blown down, is lying on the ground, or that remains standing and is damaged beyond the point of recovery as the result of a storm event.

Service drop - any utility line extension which does not cross or run beneath any portion of a water body provided that:

1. in the case of electric service

SOUTH THOMASTON SHORELAND ZONING ORDINANCE

- a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
 - b. the total length of the extension is less than one thousand (1,000) feet.
2. in the case of telephone service
 - a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
 - b. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

Setback - the nearest horizontal distance from the normal high-water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object or area.

Shore frontage - the length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

Shoreland zone - the land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any river; within 250 feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; within 250 feet of the upland edge of a freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream.

Shoreline – the normal high-water line, or upland edge of a freshwater or coastal wetland.

Skid Road or Skid Trail - a route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

Slash - the residue, e.g., treetops and branches, left on the ground after a timber harvest.

Stream - a free-flowing body of water from the confluence of two (2) perennial streams as depicted on the most recent, **highest resolution version of the national hydrography dataset available from the United States Geological Survey, to the point where the stream becomes a river or where the stream meets the shoreland zone of another water body or wetland. When a stream meets the shoreland zone of a water body or wetland and a channel forms downstream of the water body or wetland as an outlet, that channel is also a stream.**

Structure - anything **temporarily or permanently located, built, constructed or erected** for the support, shelter or enclosure of persons, animals, goods or property of any kind, or anything constructed or erected on or in the ground. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes. **Structure does not include fences; poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors; subsurface waste water disposal systems as defined in Title 30-A, section 4201, subsection 5; geothermal heat exchange wells as defined in Title 32, section 4700-E, subsection 3-C; or wells or water wells as defined in Title 32, section 4700-E, subsection 8.**

SOUTH THOMASTON SHORELAND ZONING ORDINANCE

Substantial start - completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

Subsurface sewage disposal system – any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. section 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system..

Sustained slope - a change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

Tidal waters – all waters affected by tidal action during the maximum spring tide.

Timber harvesting - the cutting and removal of timber for the primary purpose of selling or processing forest products. “Timber harvesting” does not include the cutting or removal of vegetation within the shoreland zone when associated with any other land use activities. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 15 (O), *Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting*.

Timber harvesting and related activities - timber harvesting, the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

Tree - a woody perennial plant with a well-defined trunk(s) at least two (2) inches in diameter at four and one half (4.5) feet above the ground, with a more or less definite crown, and reaching a height of at least ten (10) feet at maturity.

Tributary stream – means a channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. “Tributary stream” does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.

This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

NOTE: Water setback requirements apply to tributary streams within the shoreland zone.

Upland edge of a wetland - the boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the maximum spring tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) feet) tall or taller.

SOUTH THOMASTON SHORELAND ZONING ORDINANCE

Vegetation - all live trees, shrubs, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 feet above ground level.

Velocity zone - an area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

Volume of a structure - the volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

Water body - any river or stream.

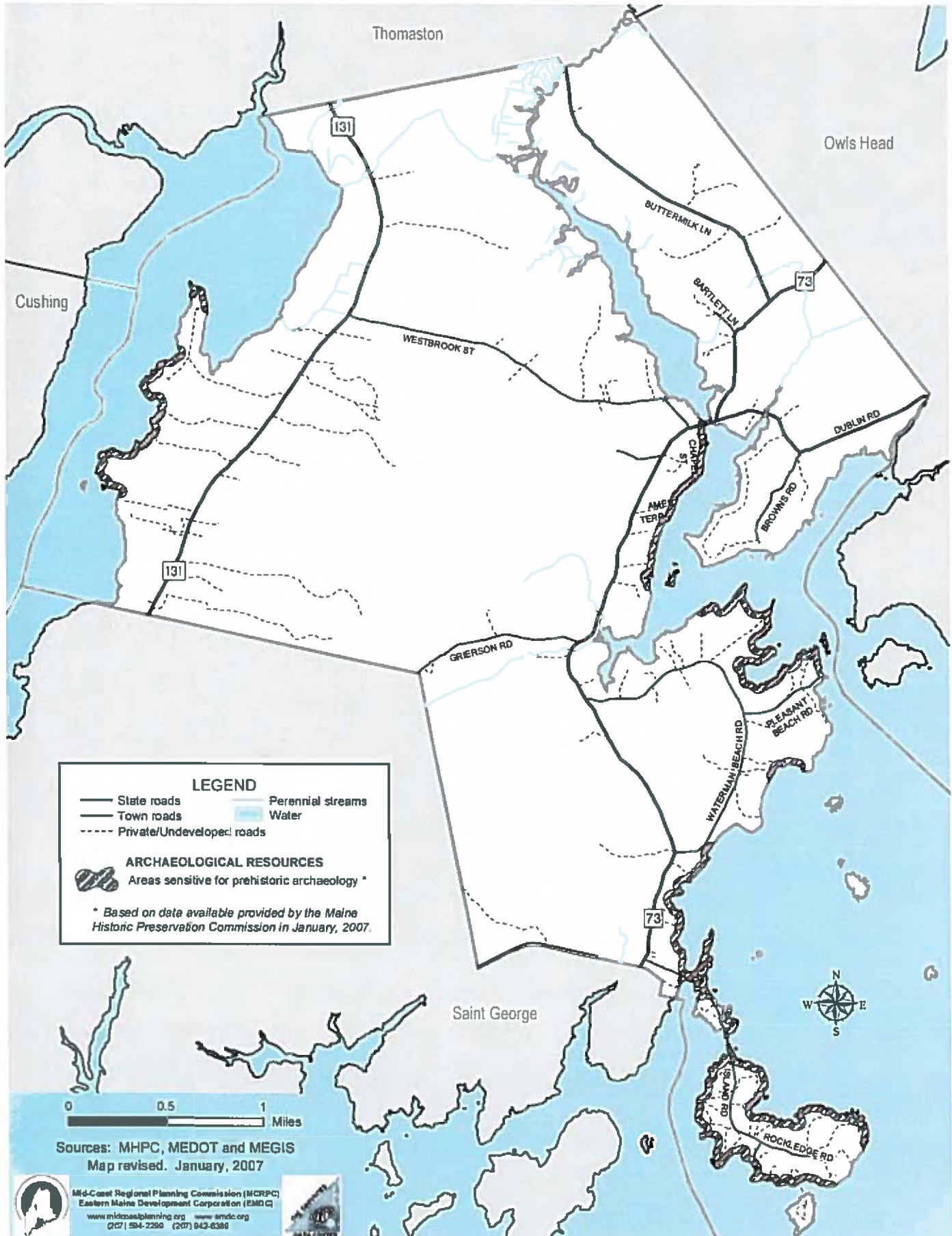
Water crossing - any project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland whether under, through, or over the water or wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

Wetland - a freshwater or coastal wetland.

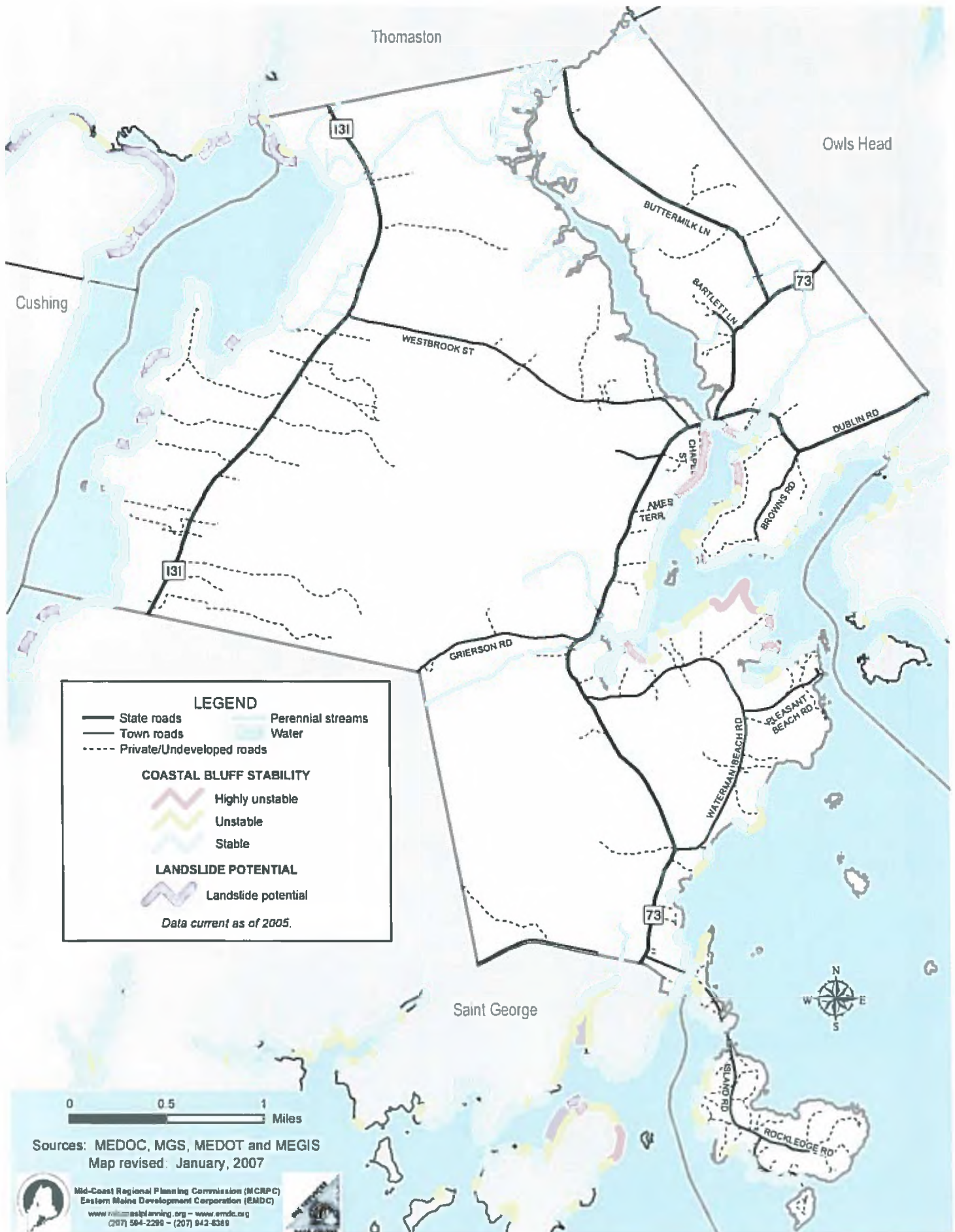
Windfirm - the ability of a forest stand to withstand strong winds and resist windthrow, wind rocking, and major breakage.

Woody Vegetation - live trees or woody, non-herbaceous shrubs.

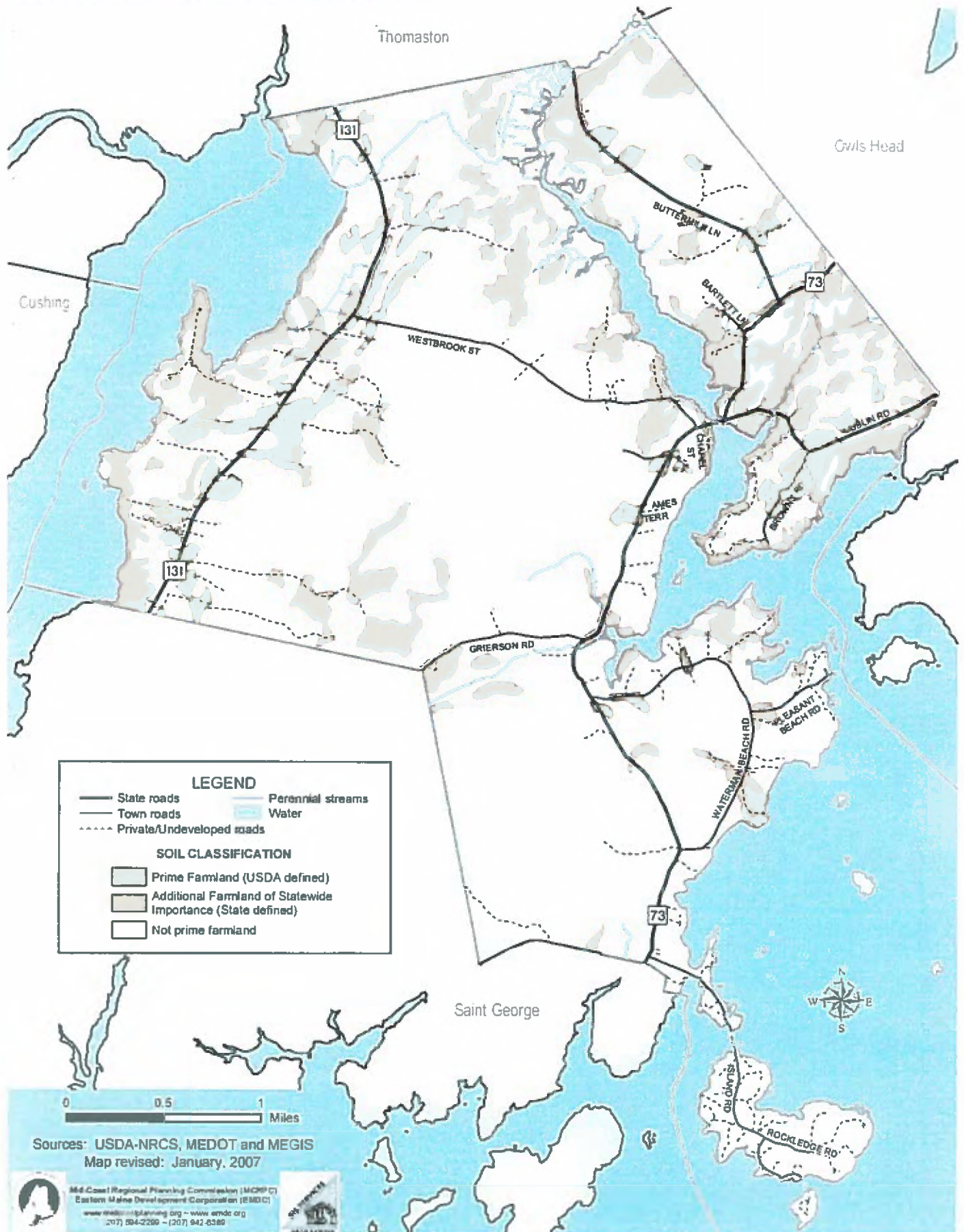
South Thomaston Archaeological Resources



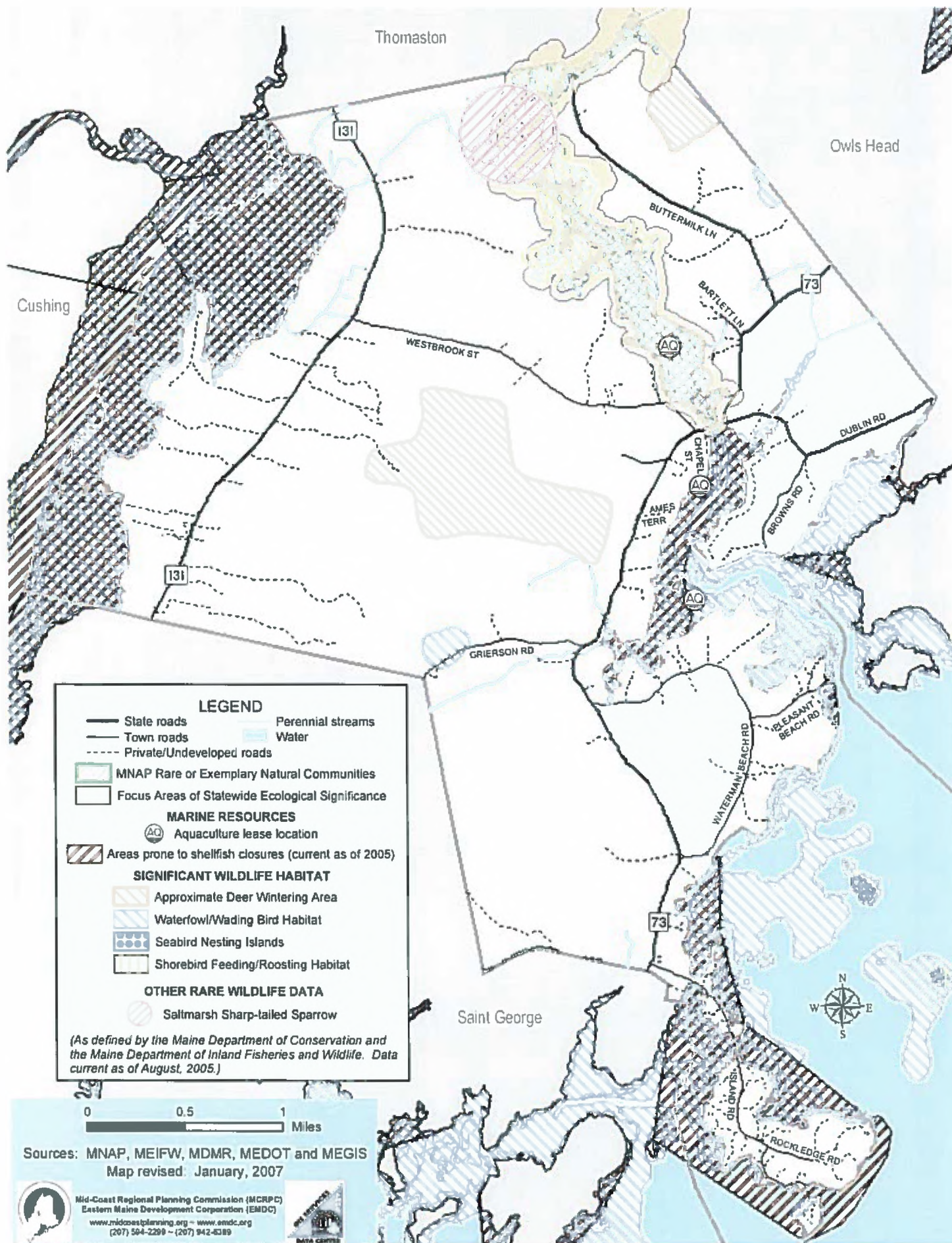
South Thomaston Coastal Bluff Stability

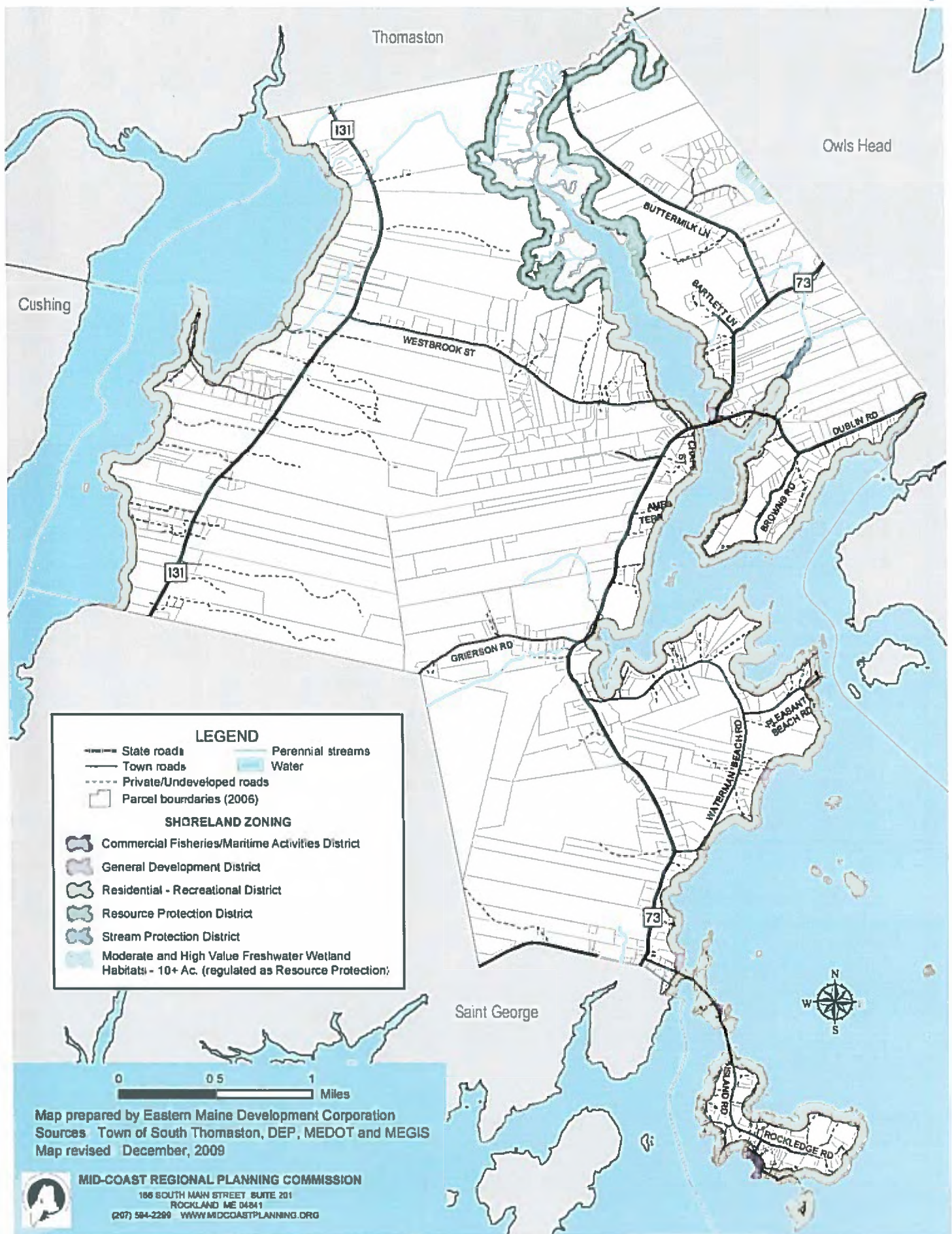


South Thomaston Farmland Soils

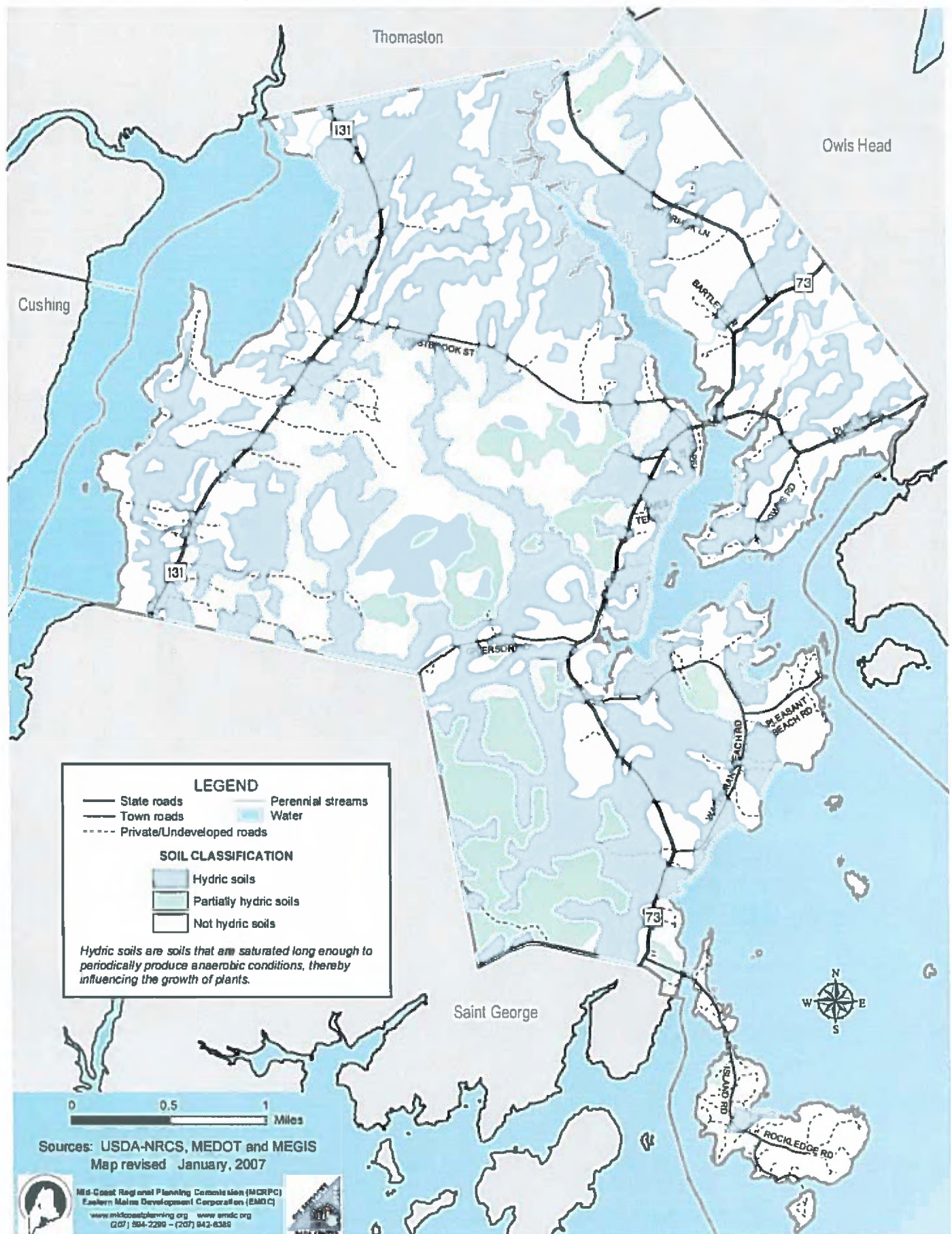


South Thomaston Habitats and Marine Resources





South Thomaston Hydric Soils



South Thomaston Land Cover

Land cover classifications are defined in the text of the Comprehensive Plan. Original source data based on fused 30-meter Landsat imagery circa 2001 and SPOT-5 imagery circa 2004. Land cover classification is based on a modified NLCD/CCAP 2001 classification (note that some classifications shown on this map have been combined for simplicity). Pixel size of land cover grid is 5 meters.

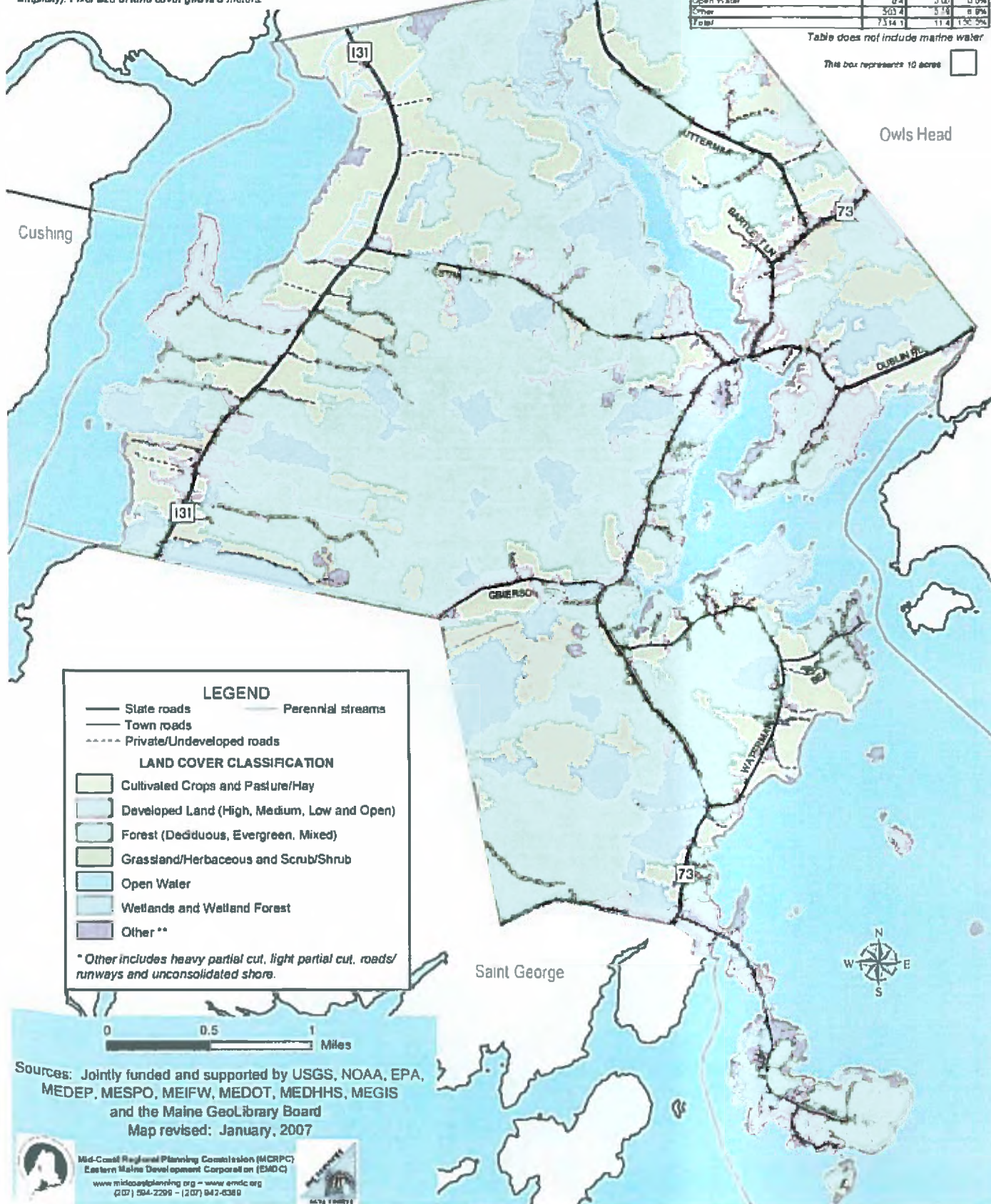
Thomaston

Land Cover	Acres	Sq. Miles	Percent
Developed Land	557.7	0.87	7.6%
Cultivated Crops and Pasture/Hay	1189.0	1.89	16.2%
Forest	5.62	49.2%	
Grassland/Herbaceous and Scrub/Shrub	255.3	0.75	6.2%
Wetlands and Wetland Forest	1012.0	1.58	13.8%
Open Water	0.4	3.0%	0.0%
Other	503.4	5.18	8.8%
Total	7314.1	11.4	100.0%

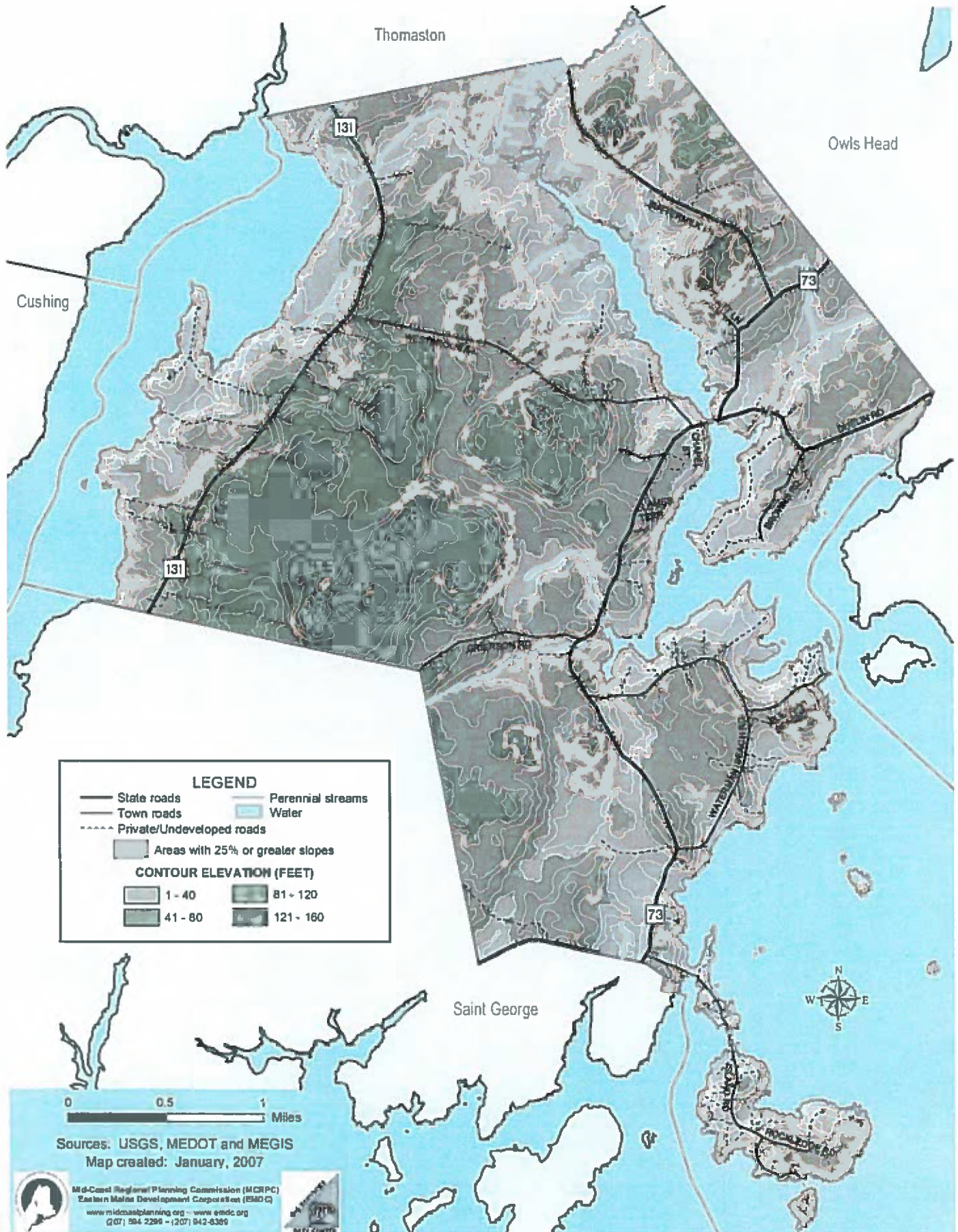
Table does not include marine water

This box represents 10 acres

Owls Head

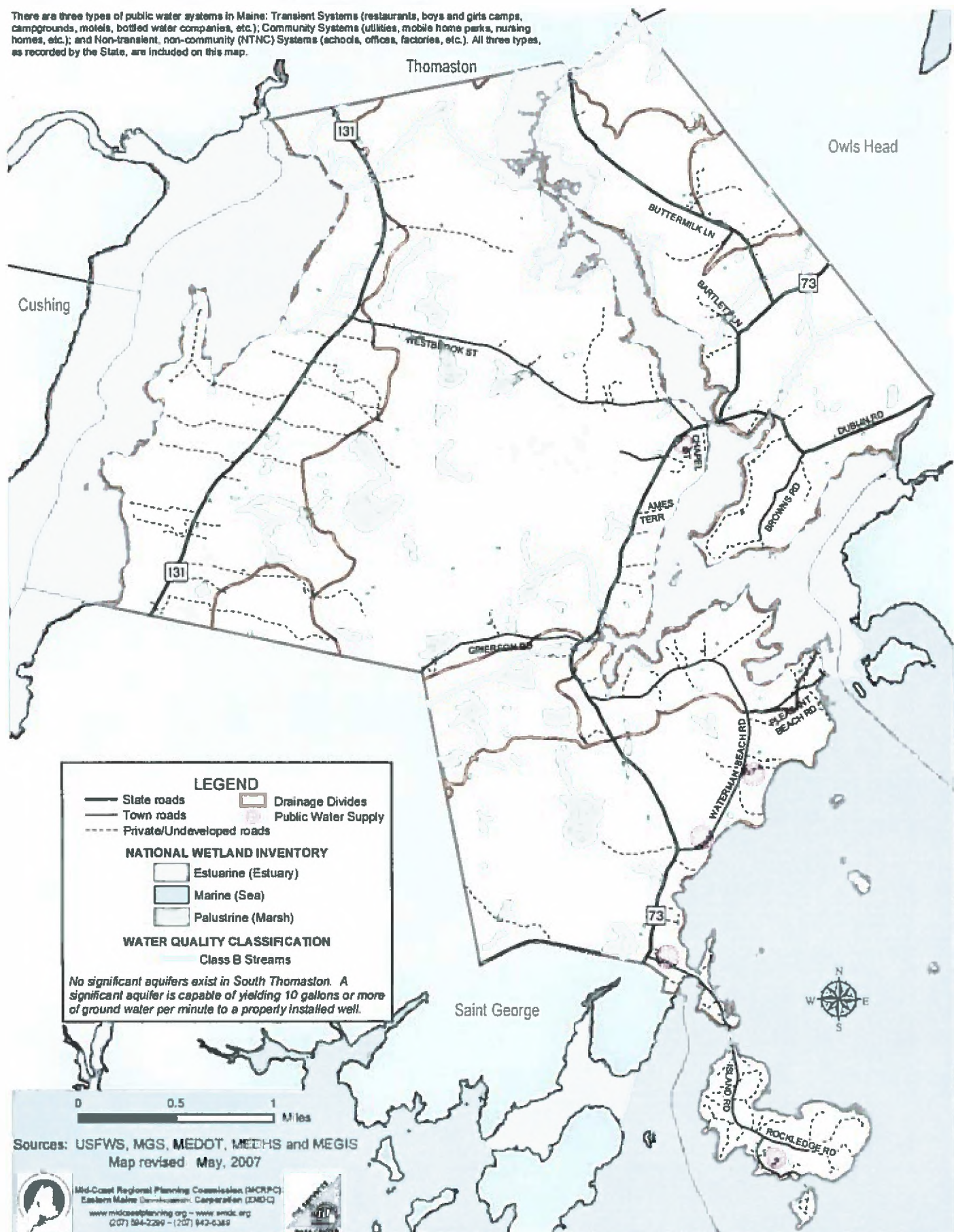


South Thomaston Topography



South Thomaston Water Resources

There are three types of public water systems in Maine: Transient Systems (restaurants, boys and girls camps, campgrounds, motels, bottled water companies, etc.); Community Systems (utilities, mobile home parks, nursing homes, etc.); and Non-transient, non-community (NTNC) Systems (schools, offices, factories, etc.). All three types, as recorded by the State, are included on this map.



The first part of the paper discusses the importance of the study of the history of the English language. It is argued that the study of the history of the English language is essential for a full understanding of the language and its development. The paper then goes on to discuss the various factors which have influenced the development of the English language, such as the influence of other languages, the influence of the social and cultural environment, and the influence of the individual. The paper concludes by stating that the study of the history of the English language is a fascinating and important field of study, and that it is essential for all students of the English language to have a good understanding of its history.

Town of South Thomaston Moderate & High Value Freshwater Wetlands



This map shows only moderate and high value rated freshwater wetlands. Wetlands are still required to be zoned, as they have been since 1989.

1871-1872

TOWN OF SOUTH THOMASTON, MAINE



SUBDIVISION REGULATIONS

Enacted by the Planning Board, 11 May 1989

Amended 29 March 2005

Amended 28 March 2006

Amended 25 March 2008

2008 EDITION

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Subdivision Regulations**

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**Town of South Thomaston, Maine
Subdivision Regulations**

HISTORY OF AMENDMENTS OR REVISIONS

November 16, 1989 - A proposal to Amend the South Thomaston Subdivision Regulations with regard to Application Fees.

Amended Section IV, Sub-Section B., Part 2. (Amended to current)

Amended Section V, Sub-Section A. Part 2. (Deleted).

Amended Section XIII, Sub-Section A. Definitions. (Deleted Fee Schedule definition).

The Amendments above were adopted December 7, 1989.

An amendment to the South Thomaston Subdivision Regulations to require a Hydrogeologic Assessment for certain subdivisions.

Amended Section VI. (Sub-Section J. Ground Water was added).

The Amendment above was adopted December 7, 1989.

Shall an ordinance entitled an "Ordinance to amend the Town of South Thomaston's Subdivision Regulations-Fire Protection" be enacted? Said ordinance to create "Section VI, K. FIRE PROTECTION" of the Town of South Thomaston Subdivision Regulations.

Amended Section VI. (Ordinance created Sub-Section K. FIRE PROTECTION of the Town of South Thomaston's Subdivision Regulations Section VI: General Performance Standards).

"Fire Protection Ordinance, Town of South Thomaston" enacted July 24, 1990 (repealed).

The Ordinance to Amend above was enacted February 24, 1997.

March 29th, 2005 – The following amendment was adopted this date.

Section IV. B. 2. This section amended to read: *All applications for preliminary plan approval shall be accompanied by an application fee of \$50.00 per lot or dwelling unit, payable by check to the Town. In addition the applicant shall pay a fee of \$75.00 per lot or dwelling unit to be deposited in a special account designated for that subdivision application, to be used by the Planning Board for hiring independent consulting services to review the application. If the balance in this special account shall be drawn down by 75%, the Board shall notify the applicant and require that an additional \$25.00 per lot or dwelling unit be deposited by the applicant. The Board shall continue to notify the applicant and require an additional \$25.00 per lot or dwelling unit be deposited as necessary whenever the balance of the account goes below 25% of the original deposit. Any balance in the account remaining after a final decision on the subdivision application by the Board shall be returned to the applicant. The Board shall furnish to the applicant a record of the nature and amount of any expenditure made from the account.*

March 28th, 2006 – The following amendment was adopted this date.

Amended Section IV: B. 4. page 6. by adding: *s. A proposed fire protection plan.*

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Section V: A. 4. page 6. amended to read: *The Planning Board shall notify the Road Commissioner, Fire Chief, and Ambulance Director of the proposed subdivision including the number of lots proposed, length of roadways, and proposed fire protection plan. The Planning Board shall request these officials provide the Planning Board with their written comment regarding the subdivision plan before the next monthly meeting. Failure to respond to the Planning Board's request shall be deemed as an approval.*

Repealed: Section VI: K. Fire Protection sections: 1, 2, 3, 4, 5, 6. being pages 14 through 17.

Amended to be replaced with the following: *Under Section VI: K. Fire Protection: 1. General Requirement: a. A fire protection plan must be presented with each proposed subdivision. The developer will submit a proposed fire protection plan as part of the Preliminary Plan submission requirements. 2. Consideration: a. Consideration for fire protection shall be given but not limited to the following. 1. Available fire suppression water supplies to include ponds, hydrants, streams, equipment, tanks, and sprinkler systems. 2. Available fire fighting equipment and personnel. 3. Mutual aid fire response agreements. 4. Proposed infrastructure of the subdivision and construction and configuration of proposed structures. 5. Size and number of lots. 6. Other methods of fire protection and/or fire suppression. 3. Approval: a. After consultation with the fire chief or designated representative, the developer and/or agent, and/or any consultant the Planning Board may request, the Planning Board will have final approval of the fire protection plan.*

The Amendments above was adopted March 28, 2006.

Amended by adding the following to Section I. G. as follows:

Solid Waste

If the additional solid waste from the proposed subdivision exceeds the capacity of the municipal solid waste facility, causes the municipal facility to no longer be in compliance with its license from the Department of Environmental Protection, or causes the municipality to exceed its contract with a non-municipal facility, the applicant shall make alternate arrangements for the disposal of solid waste. The alternate arrangements shall be at a disposal facility that is in compliance with its license. The Board may not require the alternate arrangement to exceed a period of five years. The applicant must obtain a written recommendation from the Board of the Owls Head, South Thomaston and Thomaston Solid Waste Corporation for subdivisions greater than five lots on a form on file with the Town

The Amendment above was adopted March 25, 2008.

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SECTION I: PURPOSES

The purposes of these regulations are to assure the comfort, convenience, safety, health and welfare of the people, of the Town of South Thomaston, to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving subdivisions within the Town of South Thomaston, Maine, the Planning Board shall consider the following criteria and before granting approval shall make written findings of fact that the provisions of these regulations have been met and that the proposed subdivision will meet the following criteria from Title 30-A, M.R.S.A. 4551.

- A. Will not result in undue water or air pollution. In making this determination, the Board shall at least consider the elevation of the land above sea level and its relation to the flood plains; the nature of soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; the availability of streams for the disposal of effluents and the applicable state and local health and waste resource regulations.
- B. Has sufficient water available for the reasonable foreseeable needs of the subdivision;
- C. Will not cause an unreasonable burden on an existing water supply, if one is to be utilized;
- D. Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;
- E. Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed;
- F. Will provide for adequate solid and sewage waste disposal;
- G. Will not cause an unreasonable burden on the ability of a municipality to dispose of solid waste and sewage if municipal services are to be utilized;

Solid Waste

If the additional solid waste from the proposed subdivision exceeds the capacity of the municipal solid waste facility, causes the municipal facility to no longer be in compliance with its license from the Department of Environmental Protection, or causes the municipality to exceed its contract with a non-municipal facility, the applicant shall make alternate arrangements for the disposal of solid waste. The alternate arrangements shall be at a disposal facility that is in compliance with its license. The Board may not require the alternate arrangement to exceed a period of five years. The applicant must obtain a written recommendation from the Board of the Owls Head, South Thomaston and Thomaston Solid Waste Corporation for subdivisions greater than five lots on a form on file with the Town before Planning Board can grant final approval.

- H. The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline; and
- I. The proposed subdivision complies with a duly adopted Subdivision Regulation or Ordinance, Comprehensive Plan, Development Plan or Land Use Plan, if any;

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- J. The subdivider has adequate financial and technical capacity to meet the above stated standards.
- K. Whenever situated, in whole or in part, within 250 feet of any pond, lake, river or tidal waters, will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water. Furthermore, when lots in a subdivision have frontage on an outstanding river segment, as defined in 30A M.R.S.A. 4551, the proposed subdivision plan shall require principal structures to have a combined lot shore frontage and setback from the normal high-water mark of five hundred (500) feet;
- L. The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water; and
- M. The subdivider will determine, based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area the subdivider will determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan shall include a condition of plat approval requiring that principal structures on lots in the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation.

SECTION II: AUTHORITY & ADMINISTRATION

A. AUTHORITY

These regulations are enacted under the authority granted to the Town by the statutes of the State of Maine, and in accordance with the provisions of Title 30A of Maine Revised Statutes Annotated, Section 4551.

B. ADMINISTRATION

The provisions of these regulations shall apply to all of the land proposed for subdivision within the boundaries of the Town of South Thomaston and shall be administered by the Town of South Thomaston Planning Board.

SECTION III: PREAPPLICATION PROCEDURE (STEP ONE)

A. PLANNING BOARD AGENDA

At each stage of the process of subdivision review, an applicant shall request to be placed on the Planning Board's agenda at least seven 7 calendar days prior to the regularly scheduled meeting at which he wishes to be heard. Submission requirements shall be accompanied by the appropriate documentation as prescribed by the Planning Board and any required fee.

B. PRE-APPLICATION MEETING

- 1. Prior to the formal submission of a subdivision application the applicant may appear informally to discuss the proposed subdivision at a regular meeting of the Planning Board.

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2. At this meeting the applicant shall submit:

The Pre-Application Sketch Plan: This sketch may be a free hand drawing based on the Town tax map. It shall show the layout of lots and their approximate size, proposed roads and any areas unsuitable for building or subsurface sewage. It is recommended that the sketch be superimposed on a copy of the Town tax map.

3. On Site Inspection: The Planning Board Chairman at the pre-application meeting may schedule an on-site inspection of the land to be subdivided. This inspection shall be jointly attended by the Planning Board members and the applicant.
4. Purpose of Pre-Application Meeting and Site Inspection: The purpose of both the pre-application meeting and site inspection is to give the Planning Board a clear understanding of what is proposed, what is possible and what is acceptable. The purpose is also to inform the applicant of the requirements of other regulations.
5. Applicants Rights not Vested: Submissions and attendance at the pre-application meeting shall create no binding commitments between the applicant and the Planning Board. It shall not be considered the initiation of the review process for purposes of bringing the plan under the protection of 1 M.R.S.A. 302.

SECTION IV: PRELIMINARY PLAN PROCEDURE (STEP TWO)

A. PROCEDURE

1. The applicant shall request to be placed on the Planning Board agenda (7) calendar days prior to the next regularly scheduled meeting at which the applicant wishes to be heard, by notification to the Town Clerk.
2. Upon receiving an application for preliminary plan approval, at a regularly scheduled Planning Board meeting, the Planning Board shall issue the applicant a dated receipt.
3. Within thirty (30) days from the receipt of an application the Planning Board shall notify the applicant in writing that the application is either complete or incomplete. If the application is incomplete the Planning Board shall notify the applicant, in writing, of the specific steps necessary to make a complete application.
4. On Site Inspection: The Planning Board Chairman shall schedule an on-site inspection of the land to be subdivided. This inspection shall be jointly attended by the Planning Board and the applicant.
5. A public hearing shall be held within thirty (30) days of a complete preliminary plan application. The Planning Board shall give notice of the date, time and place of such a hearing to be published twice in a local newspaper with the date of the first publication at least seven (7) days prior to the hearing. The Planning Board shall notify in writing all property owners within 500 feet of the proposed subdivision, specifying the location and a general description of the project, and the date of the public hearing.

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6. The Planning Board shall within thirty (30) days after a public hearing either approve, approve with conditions, or disapprove the preliminary plan. In issuing its decision the Planning Board shall state in writing the conditions of such approval, specifically:
 - a. The changes it will require in the final plan.
 - b. The character and extent of the required improvements for which waivers have been requested and which, in the opinion of the Planning Board, may be waived without jeopardy to the public health, safety and general welfare.
 - c. The amount of improvement or the amount of the performance guarantee that the Planning Board will require as a prerequisite of Final Plan approval.
7. Approval of a preliminary plan shall not constitute approval of a final plan. Rather, it shall be viewed as a guide in the preparation of the final plan.
8. Prior to the approval of a final plan the Planning Board may require additional changes in the final plan as the result of new information.

B. PRELIMINARY PLAN SUBMISSION REQUIREMENTS

The complete preliminary plan submission requirements shall consist of the following information:

1. The Subdivision Application: The applicant shall complete and sign five (5) copies of the subdivision application.
2. All applications for preliminary plan approval shall be accompanied by an application fee of \$50.00 per lot or dwelling unit, payable by check to the Town. In addition the applicant shall pay a fee of \$75.00 per lot or dwelling unit to be deposited in a special account designated for that subdivision application, to be used by the Planning Board for hiring independent consulting services to review the application. If the balance in this special account shall be drawn down by 75%, the Board shall notify the applicant and require that an additional \$25.00 per lot or dwelling unit be deposited by the applicant. The Board shall continue to notify the applicant and require an additional \$25.00 per lot or dwelling unit be deposited as necessary whenever the balance of the account goes below 25% of the original deposit. Any balance in the account remaining after a final decision on the subdivision application by the Board shall be returned to the applicant. The Board shall furnish to the applicant a record of the nature and amount of any expenditure made from the account.
3. Location Map: The Preliminary plan shall be accompanied by five (5) copies of a location map showing the relationship of the proposed subdivision to adjacent properties and the surrounding area. The location map shall show all the area within five hundred (500) feet of any property line of the proposed subdivision. The location map shall show:
 - a. Names of existing and proposed roads.
 - b. Boundaries of land use districts.

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- c. Names of all owners of property abutting or directly across a road from the proposed subdivision.
 - d. The outline of the proposed subdivision together with its probable access and an indication of the future street system.
4. **PRELIMINARY PLAT PLAN:** The Preliminary plan shall be submitted in five (5) copies which may be printed or reproduced on paper drawn to a scale of not more than one hundred (100) feet to the inch. Where practical the sheet size of the drawings shall be 24" X 36" inches. In addition seven (7) copies of the plan reduced to a size of 8 1/2" by 11" inches shall be submitted. The following information shall either be shown on the preliminary plan or accompany the application for preliminary approval.
- a. Proposed name of the subdivision, and the Tax Assessor's Map and Lot numbers.
 - b. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument to be set or found at each lot corner.
 - c. A copy of the deed from which the survey was based. A copy of all covenants or deed restrictions, easements, right-of-way, or other encumbrances currently affecting the property.
 - d. A copy of any covenants or deed restrictions proposed to cover all or part of the lots
 - e. Contour lines at the interval specified by the Planning Board, showing elevations in relation to Mean Sea Level.
 - f. The number of acres within the proposed subdivision, all land defined as not suitable for development, location of property lines, existing buildings, watercourses, vegetative cover type, and other essential existing physical features.
 - g. Indication of the type of sewage disposal to be used in the subdivision.
 - 1. When sewage disposal is to be accomplished by subsurface sewage disposal systems, test pit analyses, prepared by a Licensed Site Evaluator shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
 - h. Indication of the type of water supply system(s) to be used in the subdivision.
 - i. The date the Plan was prepared, magnetic north point, graphic map scale, names and addresses of the record owner, subdivider, and person who prepared the plan.
 - j. The names, addresses and telephone numbers of all property owners within five hundred (500) feet of the proposed subdivision.

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- k. The location of any land use District boundaries affecting the subdivision.
- l. The location and size of existing and proposed sewers, water mains, culverts and drainage ways on or adjacent to the property to be subdivided.
- m. The location, name and widths of existing and proposed roads, easements, parks and other open spaces on or adjacent to the subdivision.
- n. The proposed lot lines with approximate dimensions and lot areas.
- o. All parcels of land proposed to be dedicated to public use and a copy of the proposed deed of gift.
- p. The location of open space to be preserved within the subdivision and a copy of the proposed legal document to accomplish this end.
- q. A soil erosion and sedimentation control plan.
- r. If any portion of the subdivision is in a flood prone area, the boundaries of any flood hazard areas and the one hundred (100) year flood elevation shall be delineated.
- s. A proposed fire protection plan.

SECTION V: FINAL PLAN REVIEW PROCEDURES (STEP THREE)

A. PROCEDURE

- 1. Within nine (9) months after approval of a preliminary plan, the applicant shall submit the final plat and supporting documentation for Final Plan review. If the Final Plan is not submitted to the Planning Board within this period, the Planning Board may refuse, without prejudice, to act on the Final Plan and may require resubmission of the preliminary plan.
- 2. Prior to submittal of the Final Plan application, the following approvals shall be obtained, in writing, where appropriate.
 - a. Maine Department of Human Services, if the applicant proposes to provide a central water supply system.
 - b. Maine Department of Human Services, if a centralized or shared subsurface sewage disposal system(s) is to be utilized.
- 3. The applicant, or his duly authorized representative, shall attend a regularly scheduled meeting of the Planning Board to discuss the Final Plan.
- 4. The Planning Board shall notify the Road Commissioner, Fire Chief and Ambulance Director of the proposed subdivision including the number of lots proposed, length of roadways, and proposed fire protection plan. The Planning Board shall request these officials provide the Planning Board with their written comment regarding the subdivision plan before the next monthly meeting. Failure to respond to the Planning Board's request shall be deemed as an

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approval.

B. SUBMISSION REQUIREMENTS - FINAL PLAN

The final plan shall be submitted in two (2) reproducible, stable based transparent originals, and three (3) copies. One original will be recorded at the registry of deeds and one filed at the Town Office. The plans shall be drawn to a scale of not more than one hundred (100) feet to the inch. Where practical the sheet size of the drawings shall be 24" x 36" inches. Space shall be reserved on the drawing for conditions the Planning Board may impose and the endorsement of the Planning Board. In addition seven (7) copies of the Final Plan reduced to a size of 8 1/2" x 11" inches shall be submitted. The application for Final Plan approval shall include the following:

1. All of the information presented on the preliminary plan and location map and any amendments thereto as required by the Planning Board.
2. The name, registration number and seal of the land surveyor, architect, engineer, or planning consultant who prepared the plan.
3. Road names, pedestrian ways, lots, easements, open spaces and other areas to be reserved for or dedicated to public use and/or ownership.
4. Sufficient data acceptable to the Code Enforcement Officer to readily determine the location, bearing and length of every street line, lot line, easement, and boundary line and to reproduce such lines upon the ground. Where practical these should be tied to reference points previously established.
5. A copy of such covenants or deed restrictions, if any, as are intended to cover all or part of the tract.
6. The Planning Board may require construction drawings for roads, sanitary sewers, and storm drainage systems, designed and prepared by a professional engineer registered in the State of Maine.
7. Lots and blocks within the subdivision numbered in accordance with local practice.
8. Permanent monuments at all outside corners of the subdivision tract and referenced in the Final Plan.
9. Written offers of cession, in a form certified as satisfactory by the Town Attorney, of all land proposed to be dedicated to the Town.
10. A performance bond or guarantee in a form and amount meeting the requirements of Section IX to secure the completion of all improvements required by the Planning Board, and written evidence that the Board of Selectmen has approved the bond or guarantee.

C. FINAL PLAN APPROVAL AND FILING

1. No Final Plan shall be approved by the Planning Board as long as the applicant is

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in default on a previously approved plan.

2. Upon findings of fact and determination that all standards in 30-A M.R.S.A. 4551, and these regulations have been met, and upon voting to approve the subdivision, the Planning Board shall sign the Final Plan. The Planning Board shall specify congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed;
3. At the time the Planning Board grants Final Plan approval, it may permit the Plan to be divided into two or more sections subject to any conditions the Planning Board deems necessary in order to insure the orderly development of the Plan.
4. No changes, erasures, modifications, or revisions shall be made in any Final Plan after approval has been given by the Planning Board and endorsed in writing on the Plan, unless the revised Final Plan is first submitted and the Planning Board approves any modifications. The Planning Board shall make findings that the revised plan meets the standards of 30A M.R.S.A. 4551, and these regulations. In the event that a plan is recorded without complying with this requirement, it shall be considered null and void, and the Planning Board shall institute proceedings to have the Plan stricken from the records of the Registry of Deeds.
5. The approval by the Planning Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the Town of any road, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the Town, approval of the Plan shall not constitute an acceptance by the municipality of such areas. The Planning Board shall require the Plan to contain appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Municipal Officers covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.
6. Failure to commence substantial construction of the subdivision within two (2) years of the date of approval and signing of the Plan shall render the Plan null and void. Upon determining that a subdivision's approval has expired under this paragraph, the Planning Board shall have a notice placed in the Registry of Deeds to that effect. The developer may apply for a two—year extension to commence construction. The performance guarantee or conditional agreement shall also be extended by two years if an extension is granted.

D. REVISIONS TO APPROVED PLANS

1. An applicant for a revision to a previously approved plan shall, at least twenty-one (21) days in advance, ask to be placed on the Planning Board agenda. If the revision involves the creation of additional lots, the applicant shall follow the procedure for preliminary and final plan approval.
2. The applicant shall submit one (1) copy of the approved plan, as well as seven (7) copies of the proposed revision.
3. The Planning Board shall use the criteria in Section I in approving the revised plan.

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4. Appropriate fee.

SECTION VI: GENERAL PERFORMANCE STANDARDS

In reviewing applications for the subdivision of land, the Planning Board shall consider the following general requirements. In all instances the burden of proof shall be upon the person proposing the subdivision.

A. CONFORMANCE WITH COMPREHENSIVE PLAN

Any proposed subdivision shall be in conformity with the Comprehensive Plan of South Thomaston and with the provisions of all pertinent state laws and local ordinances and regulations.

B. PRESERVATION OF NATURAL AND HISTORIC FEATURES

1. The Planning Board shall require that the proposed subdivision include a landscape plan that will show the preservation of scenic, historic or environmentally desirable areas.
2. The road and lot layout shall be adapted to the topography.
3. Extensive grading and filling shall be avoided as far as possible. Except for surplus topsoil from roads, parking areas and building excavations, topsoil shall not be removed from the site.
4. Land in the subdivision to be reserved as open space or natural area shall be so labeled, with the notation, "Open space not to be developed," on the Final Plan.

C. LAND NOT SUITABLE FOR DEVELOPMENT

The Planning Board shall not approve for development such portions of any proposed subdivisions that:

1. Are located within the one hundred (100) year floodplain as identified by an authorized Federal or State agency, unless the applicant shows proof through the submission of material prepared by a registered land surveyor which show that the property in question lies at least two (2) feet above the one hundred (100) year floodplain.
2. Are located within a Resource Protection District.

D. LOTS:

1. All lots shall meet the minimum requirements of the Zoning Ordinance for the zoning district in which they are located. The lot configuration should be designed to maximize access to solar energy on building sites with suitable orientation.
2. Where a tract is subdivided into lots substantially larger than the minimum size required by the Land Use Ordinance, the Planning Board in its review may consider the potential effect of future resubdivision.

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3. If a lot on one side of a road, or other similar barrier fails to meet the minimum lot size required, it may not be combined with a lot on the other side of the barrier to meet the minimum lot size or for the purposes of subsurface waste disposal.
4. Odd-shaped lots in which narrow strips are joined to other parcels to meet minimum lot size requirements are prohibited. The ratio of lot length to width shall be no more than 4:1.
5. Any proposed subdivision shall be so designed that every lot has frontage upon a way, granting legal access, and so that no part of the tract is landlocked.
6. Minimum lot size shall be one acre.

E. EASEMENTS FOR NATURAL DRAINAGE WAYS

Easements for existing water courses or proposed drainage ways shall be provided through a right of way at least thirty (30) feet wide, conforming substantially with the lines of existing drainage.

F. UTILITIES

Utilities shall be installed in a timely manner during road construction to prevent reexcavation of the finished road.

G. MONUMENTS

1. Permanent monuments shall be set at all corners and angle points of subdivision boundaries.
2. All monuments shall be referenced on the final plan. They shall be secured according to the standards of the Maine Board of Land Surveyors.
3. All corners shall be marked with iron rod not less than five eighths (5/8) inch in diameter. Such rods shall be driven securely so that removal or vandalism is discouraged. Rods shall extend at least 24" above the ground in wooded rural area and be clearly painted or marked for ease of locating. In residential and village areas, rods may be driven flush with the finished grade. In ledge or stone, all rods will be set in borings.

H. REQUIRED IMPROVEMENTS

All required improvements, such as roads, sidewalks, storm water drainage systems, utilities, and where appropriate, centralized water supply and sanitary sewage systems, shall be installed at the expense of the developer.

I. CLUSTER DEVELOPMENT

1. The purpose of cluster development is to encourage innovative approaches to housing and environmentally sound design by a modification of space and dimensional requirements of lots. A good cluster design should result in:

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- a. A choice in the types of housing available;
- b. The preservation of open space and recreation areas;
- c. The conservative use of farm land, fields, and open space;
- d. A pattern of development that will work in harmony with the natural features of the land.
- e. Efficient use of the land and natural resources through a smaller network of utilities and roads.

2. Performance Standards

- a. Each lot and building in a cluster development must meet all the standards of this and other town ordinances except those standards dealing with lot density and set backs.
- b. Each building shall be an element in an overall plan in the cluster development.
- c. The use, of the land must conform to the uses permitted in the district in which the land is located.
- d. No cluster development shall be approved which exceeds the net residential density of the district in which it is proposed.
- e. Net residential density is defined as the residual land available for development after subtracting roadways and land not suitable for building because of wetlands, substandard drainage or other natural impediments.
- f. If the cluster development is individual lots for detached one or two dwelling units then:
 - 1. The Planning Board may reduce the lot size to 25% of district requirements per dwelling unit; where on-site subsurface waste disposal is used.
 - 2. The Planning Board may reduce lot size to 25% of district requirements per dwelling unit where common waste disposal systems are proposed and approved by D.H.S.
 - 3. The Planning Board may reduce setbacks to 50% of district requirements.
- g. The land proposed for cluster development shall have a minimum lot area of 3 acres.
 - 1. The land proposed for cluster development shall have a minimum lot

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area of 3 acres.

2. No structure shall be located within 25' of any property line.
 3. Attached dwelling units shall include no more than three dwelling units per structure.
 - h. The design process of cluster development should utilize the services of landscape architects, engineers and other trained specialists to create a development in harmony with the natural surroundings.
 - i. The infrastructure for the cluster development (roads, sidewalks, utilities, potable water and sewage) shall all be shown on the plat plan.
 - j. Common water supply and waste water systems shall be approved by the appropriate state agency.
3. Open Space
- a. The common open space shall be shown on subdivision plat plan by metes and bounds labeled "Not to be developed."
 - b. The common open space shall be accessible to residents of the development.
 - c. The common open spaces can be used agriculture, woodlands and outdoor recreational activities such as a ball field. Further uses of open spaces may be limited at the time of final subdivision approval to protect neighboring properties.
 - d. As a condition of final plan approval, the applicant shall form and incorporate a Homeowner's Association. The Homeowner's Association shall include:
 1. Covenants for mandatory membership to be included in the deed for each lot or unit.
 2. The Homeowner's Association shall have the responsibility for maintaining the common open space.
 3. The Homeowner's Association shall levy annual charges against all property owners to maintain the open space.

4. Site Considerations

In designing a cluster development, the developer must consider the following items and show them on the plat plan and supporting drawings.

- a. Orientation: The orientation of buildings shall consider natural features and solar access.
- b. Roads: All roads in the cluster development shall be designed for safety and the proper access for emergency equipment.

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- c. Drainage: A drainage system shall be designed for groundwater runoff. Particular concern shall be shown for effluent draining from the site.
- d. Sewage Disposal: Adequate provision shall be made for sewage disposal.
- e. Water Supply: Adequate provision shall be made for potable water supply.
- f. Landscaping: A landscape design shall be created to integrate the cluster development with the surrounding landscape.

J. GROUND WATER:

1. A hydrogeologic assessment of the impact of the proposed development on ground water quality shall be submitted prior to final approval of the subdivision. Such an assessment is required for developments proposing on-site subsurface wastewater disposal which meet any of the following criteria:
 - a. Any proposed lot is less than two (2) acres.
 - b. Combined or /"community" subsurface wastewater disposal systems are proposed servicing two (2) or more housing units.
 - c. A large "engineered" system is proposed to dispose of two thousand gallons per day or more of wastewater.
 - d. Any subsurface wastewater disposal system is proposed to be located within three hundred (300) feet of a proposed or existing downgradient well or existing boundary of the project.
 - e. The development area proposed is within 1/2 mile of a public water supply.
 - f. Any proposed lot is less than five (5) acres and either of the following geologic conditions apply:
 - i. Development is on soils that are three (3) feet or less to bedrock..
 - ii. The project is on low-permeability soil such as glacio-marine or glacio-lacustrine clay and silt.
2. The assessment shall be prepared by a Certified Geologist or registered Professional Engineer and shall include the following:
 - a. A map showing the basic soil types.
 - b. The depth to the water table at representative points throughout the development.
 - c. Drainage conditions throughout the development.
 - d. Data on the existing ground water quality either from test wells in the subdivision or from existing wells on neighboring properties.
 - e. An analysis and evaluation of the effect of the subdivision on ground water resources. The evaluation shall, at a minimum, include a projection of post

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development nitrate-nitrogen concentration at any wells within subdivision, at the subdivisions boundaries or at a distance of one thousand (1000) feet from potential contamination sources, whichever is the shorter distance. For subdivisions within one thousand (1000) feet of tidal waters the evaluation shall include an estimate of the shift that would occur in the salt-water/fresh-water interface of the water table and the potential for saltwater intrusion into the water supply.

- f. A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the subdivision and within two hundred (200) feet of the subdivisions boundaries.
- 3. The subdivision shall meet the following standards for preserving groundwater quality:
 - a. Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).
 - b. No subdivision shall increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Water Standards. No subdivision shall increase any contaminant concentration in the ground water to more than the Secondary Drinking water Standards.
 - c. If the ground water contains contaminants in excess of the primary standards, and the subdivision is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.
 - d. If ground water contains contaminants in excess of the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.
- 4. Subsurface wastewater disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells are recommended in the assessment, those standards shall be included as a note on the plan.

K. FIRE PROTECTION:

1. GENERAL REQUIREMENTS

- a. A fire protection plan must be presented with each proposed subdivision. The developer will submit a proposed fire protection plan as part of the Preliminary Plan submissions requirements.

2. CONSIDERATION

- a. Consideration for fire protection shall be given but not limited to the following.
 - 1. Available fire suppression water supplies to include ponds, hydrants, streams, equipment, tanks, and sprinklers systems.

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2. Available fire fighting equipment and personnel.
3. Mutual aid fire response agreements.
4. Proposed infrastructure of the subdivision and construction and configuration of proposed structures.
5. Size and number of lots.
6. Other methods of fire protection and/or fire suppression.

3. APPROVAL

- a. After consultation with the fire chief or designated representative, the developer and/or agent, and/or any consultant the Planning Board may request, the Planning board will have final approval of the fire protection plan.

SECTION VII: ROAD DESIGN & CONSTRUCTION STANDARDS

A. GENERAL REQUIREMENTS

1. The proposed subdivision shall provide for safe access to and from public and private roads. Safe access shall be assured by providing an adequate number and location of access points with respect to sight distances, intersections, schools and other traffic generators.
2. Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to lots.
3. The Planning Board shall not approve any subdivision plan unless proposed roads are designed in accordance with the specifications contained in these regulations. Approval of a Final Plan by the Planning Board, shall not be deemed to constitute or be evidence of acceptance by the Town of any road or easement.
4. Applicants shall submit to the Planning Board, as part of their Final Plan, detailed construction drawings showing the profile and typical cross-section of the proposed roads. The plans shall include the following information:
 - a. Date, scale, and magnetic or true north point.
 - b. Intersections of the proposed road with existing roads.
 - c. Roadway and right-of-way limits including edge of pavement and edge of shoulder.
 - d. Complete curve data and road profile shall be indicated for all roads.
 - e. Turning radii at all intersections.
 - f. Locations of all existing and proposed utilities.

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B. ROAD DESIGN STANDARDS

1. These design standards shall be met by all roads within subdivisions reviewed under these regulations, and shall control the roadway, shoulders, drainage systems, culverts, and other appurtenances.
2. Roads shall be designed to discourage through traffic through a subdivision.
3. The following design standards apply according to road classification:

DESCRIPTION	PUBLIC RIGHT-OF-WAY	PRIVATE RIGHT-OF-WAY
Minimum Right-of-Way Width	50'	50'
Minimum Pavement Width	18'	18'
Shoulder Width	3'	N/A
Minimum Grade	N/A	N/A
Maximum Grade	12%	12%
Minimum Centerline Radius	150'	150'
Roadway Crown	1/4" /ft.	1/4" /ft.
Minimum angle of road intersections	90 degrees	90 degrees
Maximum grade within 75 feet of intersection	2%	2%
Minimum r/o/w radii at intersections	10'	10'
Minimum width or shoulders (each Side)	3'	3'

4. The center line of the roadway shall be the center line of the right-of-way.
5. Dead End Roads: In addition to the design standards above, dead-end roads shall be constructed to provide a cul-de-sac turn-around with the following requirements for radii: Sixty five (65) foot property line radii and fifty (50) foot outer edge of travel way radii. The planning Board may require the reservation of a twenty foot easement in line with the dead end road to provide continuation of pedestrian traffic or utilities to the next road. The Planning Board may also require the reservation of a fifty (50) foot easement in line with the dead end road to provide continuation of the road where future subdivision or development is possible.
6. Grades, Intersections, and Sight Distances:
 - a. Grades of all roads shall conform in general to the terrain, so that cut and fill are minimized while maintaining the grade standards above.
 - b. All changes in grade shall be connected by vertical curves to provide for the minimum sight distances.

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- c. Within a subdivision, cross (four-cornered) road intersections shall be avoided insofar as possible. A minimum distance of two hundred (200) feet shall be maintained between centerlines of side roads.

C. ROAD CONSTRUCTION STANDARDS:

1. Minimum thickness of material after compaction:

MINIMUM REQUIREMENTS		
ROAD MATERIALS	PUBLIC RIGHT-OF-WAY	PRIVATE RIGHT-OF-WAY
Subbase course - Bank run gravel (Maximum stone size 4")	12"	12"
Base course - crushed gravel (Maximum stone size 2-1/2")	6"	6"

2. Preparation:

- a. Before any clearing has started on the right of way, the center line and side lines of the new road shall be staked or flagged at (50) foot intervals.
- b. Side slopes shall be no steeper than a slope of three (3) feet horizontal to one (1) foot vertical, and shall be graded, limed, fertilized, and seeded.

D. CLEANUP:

Following road construction, the subdivider/applicant shall conduct a thorough cleanup of stumps and debris from the entire road right-of-way. If on-site disposal of the stumps and debris is proposed, the site shall be indicated on the Plan, and be suitably covered with fill and topsoil, limed, fertilized, and seeded.

E. CERTIFICATION OF CONSTRUCTION:

Upon completion of road construction a written certification signed by CEO and road commissioner shall be submitted to the Planning Board certifying that the proposed way meets or exceeds the design and construction standards of these regulations.

SECTION VIII: DRAINAGE DESIGN & CONSTRUCTION STANDARDS

A. GENERAL PROVISIONS:

1. The public storm drainage system will not adversely affect neighboring properties, downstream water quality, or cause soil erosion. Whenever possible, on-site absorption of run-off waters shall be utilized to minimize discharges from the site.
2. Excessive surface water run-off shall be minimized and detained on-site if possible. If it is not possible to detain water on-site, downstream improvements

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to the channel may be required by the applicant to prevent flooding caused by the project. The natural state of watercourses, swales, floodways or rights-of-way shall be maintained as neatly as possible.

B. STORM WATER MANAGEMENT DESIGN STANDARDS:

1. Adequate provision shall be made for disposal of all storm water generated within the development, and any drained ground water through a management system of swales, culverts, underdrain, and water courses. The storm water management system shall be designed to conduct storm water flows to existing watercourses.
2. The minimum pipe size for any storm drainage pipe shall be twelve (12) inches. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two (2) feet. Pipe shall be bedded in a fine granular material, containing no stones larger than three (3) inches, or organic matter, reaching a minimum of six (6) inches below the bottom of the pipe extending to six (6) inches above the top of the pipe. Minimum culvert size is 15”.
3. Inlets and outlets shall be stabilized against soil erosion by stone riprap or other suitable materials to reduce storm water velocity.
4. The storm water management system shall be designed to accommodate upstream drainage, taking into account existing conditions and approved or planned developments not yet built and shall include a surplus design capacity factor of twenty-five (25) percent for potential increases in upstream runoff.
5. Downstream drainage requirements shall be studied to determine the effect of the proposed development. The storm drainage shall not overload existing or future planned storm drainage systems downstream from the development. The applicant shall be responsible for financing any improvements to existing drainage systems required to handle the increased storm flows.
6. Where soils require a subsurface drainage system, the drains shall be installed and maintained separately from the storm water drainage system.

SECTION IX: PERFORMANCE GUARANTEES REQUIRED

A. TYPES OF PERFORMANCE GUARANTEES:

A performance guarantee may be tendered in one of the following forms:

1. A certified check payable to the Town of South Thomaston;
2. A savings account passbook issued in the name of the Town of South Thomaston;
3. An irrevocable letter of credit from a financial institution acceptable to the Planning Board;
4. A faithful performance bond running to the Town of South Thomaston and issued by a surety company licensed to do business in the State of Maine.

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B. AMOUNT OF GUARANTEES:

The amount of the guarantee shall be one hundred twenty five (125) percent of the cost of furnishing; installing, connecting and completing in good working condition all of the road grading, storm drainage, utilities, and other similar improvements, as specified in the Final Plan. All guarantees shall be conditioned upon the completion of all such improvements within two (2) years from the date of the approval of the Final Plan, as recorded on the subdivision plat. If a performance guarantee as described in paragraph (A) above has been satisfactorily filed with the Town, building permits may be issued for construction within the subdivision prior to completion of required improvements but prior to occupancy of a building or dwelling unit, the improvements serving that building or dwelling unit shall be in place and serviceable. The performance guarantee may be reduced in proportion to the construction completed.

C. CONDITIONAL AGREEMENTS:

A conditional agreement, if acceptable to the Planning Board in lieu of a performance guarantee, shall be endorsed by the Planning Board on the Final Plan, and shall provide that no lot or parcel of land may be conveyed, and that no permit may be issued by the Code Enforcement Officer, for any building or other permanent structure within the subdivision until the completion of the road construction paving, storm drainage, utilities, and other similar improvements as specified in the Final Plan. The agreement shall be conditioned upon the completion of all such improvements within two (2) years from the date of the approval of the Final Plan, recorded on the subdivision plat.

D. INSPECTION OF REQUIRED IMPROVEMENTS:

1. Completion of required improvements shall be determined by the Planning Board to its satisfaction, which shall receive written and signed certifications by the Code Enforcement Officer or other qualified person that all improvements assured by the performance guarantee or conditional agreement have been constructed in accordance with the Final Plan and all applicable codes and regulations. Before construction of required improvements begins, the subdivider shall provide the Planning Board with adequate written notice and a proposed schedule of construction.
2. The Planning Board may require periodic construction reports from the developer and/or the developer's engineer. The CEO shall confirm the report. If the developer does not provide such a report, the Planning Board may hire a professional engineer at the developer's expense. The report shall be a monthly status report certifying what work has been done and that it has been done in conformance with the Final Plan.
3. Monitoring by the Town shall not in any way cause the Town to be liable for the improvement. All grades, materials, engineering, and construction techniques are the responsibility of the applicant.

E. RELEASE OF GUARANTEE:

The performance guarantee shall be released by the Planning Board upon the request of the applicant only after:

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Subdivision Regulations**

1. The Board receives the certifications of completion required in paragraph D (1) above.
2. The applicant has furnished the Town with an accurate record plan and profile (which may be the original reproducible drawing with corrections, provided the Town has been provided with a print of the unaltered originals approved by the Planning Board) of all roads including drainage lines, sanitary sewerage lines, water mains, and all other utilities as actually installed, with sufficient ties for proper identification.
3. The applicant has presented to the Planning Board a petition for the laying out and acceptance as a town way of the dedicated roads in the subdivision or portion thereof for which release of the performance guarantee is sought.

SECTION X: WAIVERS

A. WAIVER OF SUBMISSION REQUIREMENTS:

Where the Planning Board makes written findings of facts that there are special circumstances of a particular site proposed to be subdivided, it may waive portions of the submission requirements to permit a more practical development provided that the public health, safety and welfare are protected. The waivers should not have the effect of nullifying the intent and purpose of the comprehensive plan or any ordinance or regulation.

B. WAIVERS OF STANDARDS CONDITIONALLY GRANTED:

Where the Planning Board makes written findings of facts that there are special circumstances of a particular site proposed to be subdivided, it may waive portions of these regulations. The Planning Board shall require such conditions as will assure that the objectives of these regulations are met. When the Planning Board grants a waiver to the above standards it shall indicate such waiver on the Final Plan approval.

SECTION XI: APPEALS

Any aggrieved party having proper standing may appeal any decision of The Planning Board under these regulations to the Knox County Superior Court within 30 days.

SECTION XII: ENFORCEMENT

A. VIOLATIONS AND ENFORCEMENT:

1. No subdivision plan shall be recorded in the Registry of Deeds until a Final Plan has been approved and signed by the Planning Board in accordance with these regulations.
2. No person, corporation or other legal entity may sell or offer to sell any land in a subdivision which has not been approved by the Planning Board and recorded in the Registry of Deeds.
3. No public utility shall serve any lot in a subdivision for which a Final Plan has not been approved by the Planning Board.
4. No development of the infrastructure of a subdivision may begin until Final Plan

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approval by the Planning Board and recording in the Registry of Deeds. Development includes the grading and construction of roads, the grading of lots and construction of buildings.

5. No lot may be built upon before the road on which the lot fronts is completed in accordance with these regulations.
6. Violations of these regulations shall be punishable in accordance with the standards promulgated in 30 M.R.S.A. 4966.

B. AMENDMENTS AFTER APPROVAL:

No changes, erasures or modifications shall be made in a Final Plan after approval has been given by the Planning Board unless the plan is first resubmitted and the Planning Board approves any modifications. The applicant is not required to go through the complete review process of a new subdivision, unless, in the judgment of the Planning Board the amendment substantially alters the character of the original, subdivision, or unless, the change constitutes a resubdivision. If an amended Final Plan is recorded without complying with this requirement, it shall be null and void. The Planning Board may institute proceedings to have the plan stricken from the Registry of Deeds.

SECTION XIII: DEFINITIONS

A. CONSTRUCTION OF LANGUAGE:

In general all words and terms used in these regulations shall have their customary dictionary meanings. More specifically, certain words and terms shall be described below.

RELATIONSHIP TO OTHER TOWN ORDINANCES:

Where there is a conflict between the language contained in these subdivision regulations and any other Town ordinances the stricter language shall apply for purposes of these subdivision regulations.

DEFINITIONS:

Cluster Development:

A subdivision or development in which the lot sizes are reduced below those normally required in return for the provision of permanent open space owned in common by lot and/or unit owners, the Town or a land conservation organization. Clustering shall not be used to increase the overall net residential density of the development.

Complete Final Plan Application:

An application presented to the Planning Board that includes (1) required fee; (2) completed application form and associated drawings; (3) Planning Board notification stating that all submissions required for Final Plan approval have been received by the Planning Board.

Comprehensive Plan:

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Any part or element of the overall plan for development of the Town as defined in 30 M.R.S.A. subchapters VI as the same may be amended from time to time.

Construction Drawings:

Drawings showing the location, profile, grades, size and type of drains, sewers, water mains, underground power and telephone ducts, pavements, cross section of roads, miscellaneous structures, drainage and other easements, and similar items.

Continuous Lots:

Lots in the same ownership which adjoin at any line or point, except that lots on opposite sides of a public or private road shall be each considered a separate tract or parcel unless such road was established by the owner of land on both sides thereof.

Driveway:

A private vehicular entrance from a road or right-of-way. The driveway itself shall not constitute the means of legal access along which frontage may be measured.

Final Subdivision Plan:

The final drawings on which the subdivider's plan of subdivision is presented to the Planning Board for approval and which, if approved, shall be filed for recording with the municipal officers and the County Registry of Deeds.

Frontage:

The linear distance between the sidelines of a lot, measured along the line that borders upon whatever right-of-way serves as legal access to the lot. For the purposes of these regulations, the following ways shall constitute legal access to a lot along which frontage may be measured:

1. A way accepted by or established as belonging to the Town of South Thomaston, or the State of Maine, provided access is not specifically prohibited;
2. A way, whether dedicated to public ownership or not, as shown on an approved subdivision plan;

Mobile Home Parks:

All mobile home parks shall comply with 30-A M.R.S.A. 4553 pertaining to the Regulations of Manufactured Housing and to the rules for Mobile Home Parks promulgated by the Maine Manufactured Housing Board, and comply with all ordinances of South Thomaston.

Official Submittal Date:

Town of South Thomaston, Maine Subdivision Regulations

The time of submission of a pre-application plan, preliminary plan, or Final Plan shall be considered to be the date of written acknowledgement by the Planning Board of the receipt of a completed application. Upon receipt of an application, the Planning Board shall issue a dated receipt. Within thirty (30) days of this receipt, the Planning Board shall notify the applicant in writing, either that the application is a complete application, or if it is incomplete, shall specify the additional material needed to complete the application. The date of notification of a complete application shall constitute the official submittal date.

Planning Board:

The Planning Board of the Town of South Thomaston as created by 30 M.R.S.A. 4964.

Preliminary Subdivision Plan:

The preliminary drawing for a subdivision indicating the proposed layout of the subdivision and such other information as may be required by these regulations. Approval of a preliminary subdivision plan shall not constitute approval of the final subdivision plan.

Resubdivision:

The division of an existing subdivision or any change in the plan for an approved subdivision which affects the lot lines, including land transactions by the subdivider not indicated on the approved plan.

Road:

Public and private way such as town roads, public rights of way and private rights of way.

Road Classification:

Town Road: Strip of land held by the Town for the passage and use of the general public by motor vehicle and for which the Town has a maintenance responsibility.

Private Rights-of-Ways: A way that the general public has no right to pass over by foot or by vehicle, and for which the Town has no maintenance responsibility.

Subdivider:

Assessed owner or owners of land to be subdivided or person with documented title, right, or interest in the land to be subdivided.

Subdivider's Representative or Agent:

That person who has written authorization to act for the subdivider.

Subdivision:

Town of South Thomaston, Maine
Subdivision Regulations

As defined by 30-A M.R.S.A. 4551, as the same may be amended from time to time, namely:

A subdivision is the division of a tract or parcel of land into three (3) or more lots within any five (5) year period, which period begins after September 22, 1971, whether accomplished by sale, lease development, buildings or otherwise, provided that a division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption or a gift to a municipality, unless the intent of such that gift is to avoid the objectives of this section, or by transfer of any interest in land to the owner of land abutting thereon, shall not be considered to create a lot or lots for the purposes of this section.

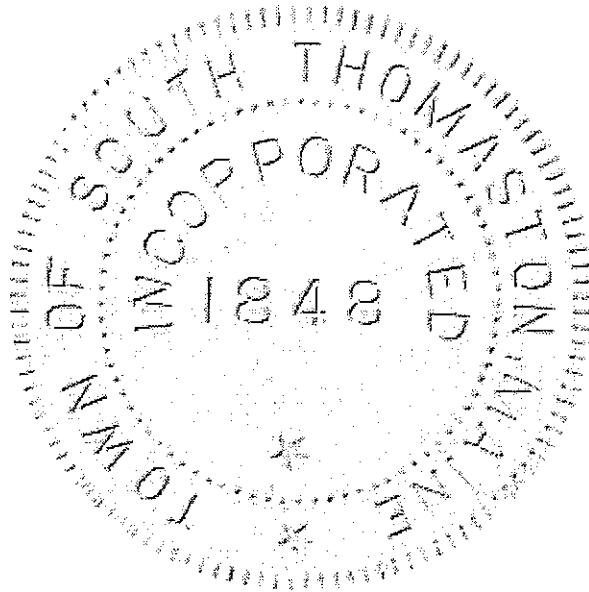
The term "subdivision" shall also include the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period. The area included in the expansion of an existing structure is deemed to be a new structure for the purposes of this paragraph.

Nothing in this section may be construed to prevent a municipality from enacting an ordinance under its home rule authority which expands the definition of subdivision to include the division of a structure for commercial or industrial use or which otherwise regulates land use activities.

In determining whether a tract or parcel of land is divided into three (3) or more lots, the first dividing of such tract or parcel, unless otherwise exempted herein, shall be considered to create the first two (2) lots, by whomever accomplished, unless otherwise exempted herein, shall be considered to create a 3rd lot, unless both such those dividings are accomplished by a subdivider who shall have retained one of such the lots for his own use as a single family residence or for open space land as defined in Title 36, section 1102 for a period of at least five (5) years prior to such that 2nd dividing.

A lot of at least 40 acres shall not be counted as a lot, except where the lot or parcel from which it was divided is located wholly or partly within any shoreland zone.

TOWN OF
SOUTH THOMASTON, MAINE



PUBLIC LANDING ORDINANCE

Adopted: March 31, 2015

Town of South Thomaston, Maine

Public Landing Ordinance

Section 1. Purposes.

- A. The purposes of this Ordinance are to protect the public health, safety and welfare of all users of the South Thomaston Public Landing, which is public property located in the area known as the 'Keag'; and to ensure that river channel lines to and from the South Thomaston Public Landing remain open and accessible.

Section 2. Authority and Applicability.

- A. This Ordinance is adopted pursuant to Title 30-A M.R.S.A. Section 3001.
- B. The Town of South Thomaston hereinafter shall be referred to as the Town.
- C. The South Thomaston Public Landing hereinafter shall be referred to as the Public Landing.
- D. The Public Landing is located on MAP 14 LOT 63 as shown on the tax map by Aerial Survey and Photo, dated April 1, 2014, and consists of a memorial area, parking lot, boat ramp, pier and float including the waterway approaches to the ramp, float and pier.
- E. The South Thomaston Code Enforcement Officer (CEO) shall be authorized to enforce this Ordinance
- F. The word "person" shall include an individual, business, corporation or organization.

Section 3. Liability.

- A. The public may use the Public Landing facilities at their own risk. The Town and its employees assume no liability for damage or theft of any personal property at the Public Landing, and the Town by this Ordinance does not limit or waive the protections of the Maine Tort Claims Act, Title 14 M.R.S.A. Chapter 741.

Section 4. Rules

- A. No person shall park any vehicle, including trailers, in any zone marked fire lane or any other area designated as a no parking area
- B. No person shall park any vehicle, including trailers, on the pier or boat ramp any longer than is necessary to promptly load or unload.
- C. No person shall park any vehicle, including trailers, overnight or in excess of 24 hours, without permission from the CEO.
- D. The CEO may, at the owner's expense, have any vehicle that is parked in violation of this ordinance removed from the Public Landing.
- E. No person shall moor, anchor, or tie boats so as to block or impede waterway approaches to the ramp, float or pier.
- F. Without permission of the CEO, no person shall moor, anchor, or tie boats within 50 feet of the Public Landing in excess of 24 hours except that skiffs, not exceeding 12 feet in length, may be tied to the float, provided they are tied in a manner that does not block or impede loading and unloading activities on the southwest side of the float.
- G. The Town may, at the owner's expense and at the recommendation of the Code Enforcement Officer, have any boat that is moored, anchored, or tied in violation of this ordinance, removed [K1] from the Public Landing or relocated to another part of the Public Landing.

- H. No person shall leave personal property at the Public Landing, including boats, equipment, bait, or gear, any longer than is necessary to promptly load or unload, without permission from the CEO.
- I. The CEO may, at the owner's expense, have any personal property that is left at the Public Landing in violation of this ordinance, removed from the Public Landing or relocated to another part of the Public Landing. [K2]
- J. No person shall set up any commercial, fundraising, or similar type operation at the Public Landing without written permission from the Selectboard.
- K. All persons shall obey all posted signage and any verbal or written orders of the Code Enforcement Officer related to use of the Public Landing.

Section 5. User Fees and Fines.

- A. This Ordinance shall be enforced according to the provisions set forth in 30-A M.R.S.A. § 4452. The Code Enforcement Officer shall have authority to initiate enforcement action in the event of a violation of this Ordinance, except where such authority rests by law with law enforcement officers[K3]. Any person who violates any part of this ordinance shall be liable to the Town for the following penalties:
 - (1) The minimum penalty for a specific violation shall be \$100 and the maximum penalty shall be \$2,500. Each day that the penalty exists may be considered a separate violation.
 - (2) The offender shall pay to the Town an amount equal to reasonable attorney's fees, court costs, expert witness fees, and other expenses incurred by the Town in the prosecution of any proceeding to enforce the provisions of this ordinance, including proceedings in equity to abate any nuisance or other condition in violation of this ordinance.
- B. Any person who is cited by the CEO for violating this ordinance twice in any one year period may, after notice and hearing, have his/her privileges to use the landing suspended by the Selectboard for up to one year.
- C. Any property removed from the Public Landing by the CEO in accordance with this Ordinance that is not claimed after 60 days, may be sold or disposed of by the Town. Proceeds from any such sale shall accrue to the Town.
- D. Any person or persons found causing damage to Town or private property at the Public Landing may be subject to criminal charges and penalties.

Section 6. Validity and Separability.

- A. If a court of competent jurisdiction declares any section or provision of this ordinance to be invalid, such decision shall not invalidate any other section or provision of this ordinance.

Section 7. Effective Date and Repeal.

- A. This Ordinance shall be effective on the day following enactment or amendment by a majority vote at the Town Meeting and shall repeal and supersede the Public Landing Ordinance that was enacted on March 26, 2013.

Section 8.

- A. Any person aggrieved by a decision of the CEO under the terms of this ordinance may appeal the said decision to the Selectboard. All appeals must be in writing and filed with the Town Clerk within 10 days of the issuance of the CEO decision.
[K4]