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CHAPTER 1

THOMASTON

GOVERNMENT &

ORGANIZATION

TOWN OF THOMASTON
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CHAPTER 1

GOVERNMENT & ORGANIZATION

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CHAPTER 1

GOVERNMENT & ORGANIZATION

100.1 - Construction and effect of Ordinance

100.1.1 - The invalidity of any by-law adopted by the town, or of any section or part thereof, shall not invalidate any other section or provisions of the by-law.

100.1.2 - All by-laws heretofore adopted by the town which are inconsistent with the provisions of the by-laws hereby adopted, are hereby repealed.

100.1.3 - In any case where there shall be a violation of any ordinance for which no penalty is provided, the person violating the same shall be subject to a fine of not less than one dollar nor more than one hundred dollars for each offense.

100.2 - Definitions

100.2.1 - The term "Motor Vehicle" as used in this and all other by-laws shall be defined in Chapter 29, Section 1, Revised Statutes of Maine 1930. The term "vehicle" as used in this and all other by-laws shall include a cart, truck, automobile, motor vehicle, hack, coach, or carriage of any kind, sled or sleigh.

100.2.2 - Whenever the word "street" or "streets" is mentioned in these by-laws, it shall be understood as including highways, courts, alleys, lanes, parks, public squares and public ways and places; and unless the contrary is expressed or such construction would be inconsistent with the manifest intent.

ARTICLE I

Section 101 – Recall of Elected Municipal Officers

101.1 - Establishment

Under MRSA Title 30-A Section 2602 (6) amended October 13, 1993 a town may enact an ordinance for the recall and removal of elected municipal officials with the exception of school board members as noted in MRSA 30-A Section 2602.

101.2 - Applicability

Any elected selectman or assessor of the Town of Thomaston may be recalled and removed from office as herein provided for.

101.3 - Petitions for Recall

101.3.1 - The petition for recall must contain only signatures of the registered voters of the Town of Thomaston, equal to ten percent (10%) of the number of votes cast in the last Gubernatorial election but in all cases no less than ten.

101.3.2 - The petition shall be addressed to those members of the Board of Selectmen having no interest in the subject matter of the petition.

101.3.3 - The petition shall state the name and office of the person whose removal is being sought, and a general statement of the reasons such removal is desired.

101.3.4 - If recall of more than one official is being sought there shall be a separate petition for each official whose removal is being sought.

101.3.5 - Each page of the petition shall provide a space for the voter's signature, address and printed name.

101.3.6 - All petition pages thereof shall be filed as one document.

101.4 - Clerk's Certification

Within ten (10) days of receipt of the petition, the Town Clerk shall certify the signatures contained on the petition and shall determine if the petition meets all of the qualifications as set forth in section 101.3 of this ordinance. Should the petition be found insufficient, the petition will be filed in the clerk's office and the voter who filed the petition will be notified.

101.5 - Calling the Recall Election

101.5.1 - If the petition is certified by the Town Clerk to be sufficient, he or she will submit the same with his or her certification to the Board of Selectmen at their next regular meeting and shall notify the official or officials whose removal is being sought of such action.

101.5.2 - The selectmen upon receipt of the certified petition shall within ten (10) days time of receipt order an election by secret ballot to be held not less than 30 nor more than 60 days thereafter, provided that a regular municipal election will not be held within 90 days of receipt of the certified petition, in this case the selectmen may at their discretion provide for the holding of the recall election on the date of the regular municipal election.

101.5.3 - In the event that the Town Selectmen fails or refuses to order an election as herein provided, the Town Clerk shall call the election to be held not less than 30 days nor more than 60 days following the selectmen's failure or refusal to order the required election.

101.6 - Ballots for Recall Election

Unless the official or officials whose removal is being sought, have resigned with ten (10) days of receipt of the petition by the Board of Selectmen, the ballots shall be printed and shall read "SHALL _____ BE RECALLED?" with the name of the official whose recall is being sought inserted in the blank space.

101.7 - Result of Election

In the event of an affirmative vote for removal, such vote shall take effect as of the recording of the vote tabulation into the records.

101.8 - Vacancies to be Filled

Any vacancy resulting from removal from office under this ordinance shall be filled in accordance with the provisions contained in the Maine State Statutes.

ADOPTED: MARCH 26, 1994 AT THOMASTON ANNUAL MEETING

ARTICLE II

Section 102 – Police

102.1 - Police Department

102.1.1 – Establishment. There shall be a police department, the head of which shall be the Police Chief who shall be appointed by the Town Manager with the approval of the Selectmen on the first day of April annually or as soon thereafter as may be, who shall hold his office at the pleasure of the appointing authority. He shall give a bond in the amount of five hundred (\$500.00) dollars running to the Town of Thomaston for the faithful performance of duty.

102.1.2 - Number of Policemen.

1. The number of regular and special policemen, including special fire police and constables shall be determined by the Selectmen. They shall be appointed annually or from time to time as need be by the Town Manager with the approval of the Selectmen. Special Policemen shall serve only when specifically required by the Chief of Police or the Town Manager and shall function only under their direction. When called to service special policemen shall be compensated for services rendered as the Town Manager and Selectmen may determine.
2. During the absence or disability of the Police Chief, the Town Manager shall appoint one of the regular Policemen as acting Police Chief to have and exercise all power and authority, and perform all duties pertaining to the office of Police Chief.

102.1.3 - Duties of the Police Chief. The Police Chief shall be the Commanding Officer of the Police Department. He shall:

1. Be responsible for the enforcement of law and maintenance of order.
2. Direct the police work of the Town.
3. Arrange for the attendance of one or more fire Police Officers at every fire, to preserve order and, to prevent the destruction of property.
4. Cause the Streets, Wharves and Lanes of the Town to be inspected regularly, and cause to be removed all nuisances, obstructions or impediments therein, causing offenders to be prosecuted when necessary to abate such nuisance.
5. Be responsible for the maintenance and care of all property used by the Police Department.
6. Give an annual report on or before the first day of March to the Town Manager and Selectmen, reporting the number of arrests, a statement of the condition of the Police Service and recommendations as he may see fit.

102.1.4 - Constables. Regular Police Officers shall be appointed as Constables as shall also the Tax Collector.

102.2 - Public Assembly

102.2.1 - Every person obtaining a permit under this chapter shall keep good order in and about his theatre, hall, exhibition, show, or other place of public amusement, and at his own expense shall keep a sufficient force of qualified persons for that purpose.

102.2.2 - No person shall conduct a dance, exhibition or show to which admission shall be paid without first obtaining a permit from the Town Manager.

102.2.3 - No person or persons shall hold or address any public meeting or assemblage of people in any public street or place without a permit to do so granted by the Selectmen or designated representative.

102.3 - Offenses Against the Public Peace

102.3.1 - Loitering

1. Three or more persons shall not stand together or near each other in any street in the town, in such manner as to obstruct a free passage therein for passersby.
2. Any person who stands or loiters in the entrance to any public building or about or within such building, after having been directed by the Police Chief or any constable to pass on, shall be punished by a fine not exceeding twenty dollars.
3. No person shall stand in front of any store or shop window in such a way as to be detrimental to the business of such store or shop. It shall be the duty of the Police Chief or any constable to order all persons offending against the provisions of this section to move on, and if the persons so ordered or requested to not forthwith obey, they shall be liable to a penalty of five dollars for each offense.
4. No person shall loiter or lurk in any of the streets or public places, or adjacent to either, for malicious or unlawful purposes, and no person shall loiter unnecessarily in or about any private dwelling or of any going to or from the same. Whoever violates any of the provisions of this section shall be punished by a fine of not less than twenty dollars.

102.3.2 - Disorderly Conduct

1. No person shall be guilty of any indecent or disorderly conduct in any street or public place in the town. No person shall by any noise, gesture, or other means, wantonly frighten any horse or horses in any public street, and no person shall behave in a rude or disorderly manner or use any profane, indecent, or insulting language, or repeat or sing any lewd or obscene words of songs in any public street or place, or remain upon any sidewalk or any doorstep, portico, or other projection of any house facing onto any public street, to the annoyance or disturbance of any person or persons.
2. No person shall, in any street, lane, or public place, willfully or mischievously make any loud or unusual noise, either by voice or other means, or sing loud, improper or boisterous songs, or in any manner conduct himself rudely, noisily, or in any way calculated to disturb the quiet and good order of the town, on a penalty of not more than twenty dollars.

102.3.3 - Unnecessary Noise

1. No person shall sound an automobile horn, bell or other sound device on a vehicle anywhere in the Town at any time, except when necessary for safe driving.
2. No person shall so load or unload a vehicle with iron or other material that may strike together without properly deadening it so that it will cause no unnecessary noise.

Subsection 102.3.3 Adopted: March 25, 1946.

102.3.4 - Alarm Ordinance

1. "Malfunctioning" or "Overly-sensitive" burglary or fire alarms shall be prohibited.
2. Two such alarms incurred by one party, business, or property owner shall be answered without charge by the Town within any one thirty day period.
3. If such alarms exceed two in number within thirty days, the party, business, or property owner shall be subject to the following costs:

- a. In the case of burglary alarms \$25.00 for every such occurrence.
- b. In the case of fire alarms, the actual cost incurred by the department in answering the call, but not to exceed \$50.00.
4. A thirty day grace period following the initial installation of such alarm system shall be allowed.

Subsection 102.3.4 Adopted: March 29, 1982.

102.4 - Offenses Against Public Safety

102.4.1 - Protection of Persons Using Ways

1. Cellar Doors

No occupant or owner of any premises shall suffer his cellar door or passage or entrance from the sidewalk into any cellar or basement, adjoining the public street or adjoining premises long continued to be used for public travel to be kept open when not in immediate use, not in any case after sunset, except a good and sufficient light be kept at the entrance of such door, passage or entrance.

2. Water, snow or ice

No person shall suffer his building to shed water, snow or ice upon any street or sidewalk in the town, to the injury or inconvenience of travelers.

3. Dangerous materials

No person shall leave any box, bottle or package of any kind containing poison or other dangerous matter or thing, in any public street, or in any doorway, or public place whatever, in such manner that such box, bottle or package of dangerous matter or thing may be picked up or fall into the hands of children or cause injury to any person using the street.

4. Goods or things hanging over sidewalks

No person shall hang, or cause to be hung, any goods or other thing over any sidewalk; nor suffer his cellar door or passage from the sidewalk into any cellar to be kept open when not in immediate use, nor in any case after sunset, except a good and sufficient light be constantly kept at the entrance to such door or passage, nor suffer any spout to leak water on the sidewalk over the head of any pedestrian.

5. Raising up into buildings

No person shall raise into or lower from the second or higher story of a building from and over any portion of a public street or over a place long continued to be used for public travel, any merchandise or other articles, except in accordance with a written permit from the selectmen or from some person by them duly authorized to do the same.

6. Barbed wire fences

No fence of barbed wire or of which barbed wire is a part shall be constructed or maintained upon, or along, the line of any street or public way in such manner that any person passing along said street or way can come in contact with said barbed wire. Any person violating this ordinance shall, on conviction, pay a fine of not more than twenty dollars for each offense.

7. Passage on sidewalks

No person shall pass with wheelbarrow, hand sled, hand cart, horse, automobile, motor vehicle, cart wagon, or any other vehicle except baby carriages, or hand carts and hand sleds drawn by hand along or across any sidewalk prepared for travelers on foot, or

suffer them to stand thereon so as to incommode any traveler thereon; or along or across any curb or turf edge placed on outside thereof to protect same, nor cause the same to be done, except at such points of places where good and sufficient crossings are provided. Any person who shall violate any of the provisions of this section shall be liable to a fine not exceeding twenty-five dollars for each offense.

102.4.2 - Crosswalk Ordinance.

1. Definition: "Crosswalk" is defined as:

- a. That part of a roadway at an intersection and included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs, or in the absence of curbs from the edges of the traversable roadway.
- b. Any portion of a roadway at an intersection or else where distinctly indicated for pedestrian crossing by lines or other marking on the road surface.

2. Crosswalks: The Police Chief with the approval of the Manager and Selectmen is hereby authorized to designate and maintain by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections, where in his opinion there is particular danger to pedestrians crossing the roadway, and at such other places he may deem necessary.

3. Pedestrians Right of Way in Crosswalk:

- a. When Traffic-control signals are not in place and not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping, if need be to so yield, to a pedestrian crossing the roadway within any crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger but no pedestrian shall suddenly leave the curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.
- b. Whenever a vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

4. Pedestrians to Use Right Half of Crosswalk:

Pedestrians shall move, whenever practicable, upon the right half of the crosswalk.

5. Crossing At Other Than Crosswalks:

Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

6. Crosswalk Restrictions:

No pedestrian shall cross Main Street at any place in the business district except within a marked crosswalk. No pedestrian shall cross a roadway at any place, other than Main Street business district, except by a route at right angles to the curb, i.e. by the shortest route to the opposite curb.

7. Drivers to Exercise Due Care:

Notwithstanding the foregoing provisions of this ordinance, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper caution on any confused or incapacitated person upon a roadway.

8. General Penalty:

Unless another penalty is expressly provided by State Law, any person convicted of a violation of any provision of this Ordinance shall be subject to a fine of not more than Twenty (\$20) Dollars.

Subsection 102.4.2 Adopted: December 13, 1965.

102.4.3 - Missiles and Fireworks

No person shall play at the game of bat and ball, nor strike any ball with a bat, nor throw any stones, bricks, clubs, snow-balls or other missiles in, into, over, along or across any public street or enclosure of any public building, nor fire any squibs, crackers, serpents or other fireworks, made of gunpowder in whole or in part, or of any other explosive ingredients, nor discharge any firearms loaded with powder or other dangerous compositions, nor discharge any gun, air-rifle, or so called B.B. gun nor any other weapon discharged by compressed air, save and except in self-defense, in execution of the laws, or for the destruction of some dangerous animal, in, upon, or across any of the streets, lanes, public square, wharves or on board any vessel lying at any wharf within the town.

102.4.4 - Excessive Speed

No person shall ride or drive any animal or animals, loose or attached to a carriage of any description, or any automobile or motor vehicle, or cause them to be driven through any part of the town, at an unusual and dangerous rate, on penalty of not less than three, nor more than fifty dollars.

102.4.5 - Control of Dogs

1. Roaming-At-Large Prohibited

No owner or keeper of any dog shall permit any dog to roam at large.

2. Dogs shall be under restraint while on any public way or place.

Dogs while on any public way or place shall be under restraint, within the meaning of this ordinance if it is controlled by

- a. a leash not be more than eight (8) feet long, or
- b. at "heel", beside a competent person and obedient to that person's commands, or
- c. on or within a vehicle being driven or parked on the streets, or
- d. being within the property limits of its owner or keeper.

Nothing in this ordinance shall be held to require the leashing of any dog while on the property of its owner or keeper.

3. Penalties

Any owner or keeper found violating paragraphs 1 or 2 of this subsection shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$10.00 nor more than \$50.00 for each such offense.

Subsection 102.4.5 Adopted: March 31, 1969.

102.4.6 - Control of Annoyance of Barking or Howling Dogs

1. No person shall harbor or keep any dog which causes annoyance, to any person or neighborhood, or disturbs the quiet enjoyment of said neighborhood, by unreasonable or incessant barking, howling or making other sounds common to its' species.
2. The penalty for violations of this section shall be a fine of not less than \$10.00 nor more than \$100.00.

Subsection 102.4.6 Adopted: May 9, 1977.

102.5 - Offenses Against Public Health

102.5.1 - Dead Animals

No person shall convey through any street, way, public square or public place the dead body of any horse or animal, or any fish offal, swill, or any other offal, unless such animals be covered in such manner as to completely conceal the same from view, or said fish offal, swill, or other offal is conveyed in a closed conveyance which shall not be left standing in any street, way, public square or public place; and no person shall convey the dead body of any ox, cow, swine, or other large animal except it be dressed for food unless it be covered as aforesaid.

102.5.2 - Animals

No person having the care of sheep, swine, horses, cows, or other animals, shall permit or suffer the same to go at large on any highway, street, lane, alley, common, square, or other public place within the town, under penalty of not exceeding ten dollars for each offense.

Subsection 102.5.2 Adopted: March 27, 1944.

102.5.3 – Smoke Nuisance

No person shall create or produce smoke of a density which causes substantial injury to the property of another or produces material annoyance or inconvenience to the occupants of adjacent or neighboring dwelling, or which defiles carpets, curtains, linens, or other household furnishings in adjacent or neighboring dwellings under penalty of the sum of ten (\$10) dollars for each offense.

102.6 - Offenses Against Property

102.6.1 – Vehicles will not block streets

No motor vehicle, truck, wagon, or any other vehicle shall be placed across any street while discharging loads, or for any other purpose, and any person violating any of the provisions of this section shall be subject to a fine of not more than ten (\$10) dollars.

102.6.2 – Debris on streets

No person shall deposit, or cause to be deposited, in or upon any of the streets of the town any leaves, dirt, manure, soot, ashes, hair, shreds, shavings, oyster or lobster shells, dead animals, staves, bricks, mason's or bricklayer's rubbish, or any animal or vegetable substance, or any rubbish or nuisance whatever. Any person violating any of the provisions of this section shall be subject to a penalty of not more than ten (\$10) dollars.

102.6.3 – Boundary monuments

No person shall remove or conceal any monument set as a street boundary in the town under a penalty of twenty five (\$25) dollars.

102.6.4 – Litter from vehicles

No person shall operate a vehicle upon any street in such a manner that material, rubbish, refuse, junk or litter of any kind, dross, sifts, leaks, drops, or otherwise therefrom escapes or drops upon the surface of such highway, street or alley.

Subsection 102.6.4 Adopted: March 25, 1946.

102.6.5 – Defacement of public vegetation

No person shall cut down, dig up, climb, peel, cut, deface, or injure any ornamental or shade tree, shrub or vine growing in any public streets or grounds of the town, without a written permit from the board of Selectmen.

102.6.6 – Posting of signs

No person shall post any placard, handbill, advertisement, sign, poster, notice of any kind upon any building, tree, tree-guard, fence, or any post or structure without the written consent

of the owner, agent, or occupant of the same, or in the case of public property, without the written permit from the selectmen or from some person by them duly authorized to grant the same.

102.6.7 – Defacement of fixtures

No person shall willfully injure, mar, deface, or destroy any fence, signboard, awning, lamppost, lantern, or light.

102.6.8 – Public lighting

No person shall light or extinguish any light or lamp in any public street or place, except by virtue of a contract with the town or permission from the selectmen.

102.6.9 – Water infrastructure

No person shall willfully injure or deface any standpipe or hydrant and no person shall draw off or cause to be removed any water from any standpipe or hydrant, except in case of fire, unless authorized by order of the selectmen or fire chief; except that this provision shall not apply to officers or employees of the water Company.

102.6.10 – Blocking of sidewalks

No person shall place any box, bale of goods, or other article on any sidewalk, so as to encumber the same, nor suffer the same to remain thereon during the night; provided a reasonable time shall be allowed for receiving and delivering goods, or merchandise, or other articles, into or from any store, shop, house, or other place.

102.6.11 – Sweepings

No person shall sweep the dirt and dust from stores or other places onto the sidewalks or streets of the town.

102.7 - Business and Occupations

102.7.1 – Peddling or hawking

No person shall engage in the business of hawking or peddling of goods, wares and merchandise at retail within the town limits, nor shall any person engage in the business of that of an itinerant vendor without first applying for a permit with the Town Manager.

1. The words "Itinerant Vendor" shall be construed to mean and include all non-resident persons who engage in a temporary or transient business in the town by promoting or selling any goods, wares, or merchandise from a car, wagon, or other conveyance.
2. This ordinance shall not apply to persons selling farm, dairy, or orchard products of their own production, or to persons selling newspapers or religious literature, or to persons selling Christmas Trees, wreaths, greens, cards, or seals; or to school age children selling magazines or other goods under public school sponsorship and all cooked food sales.
3. All fees, if any, for the above shall be outlined in 32 M.R.S.A. Sec. 4602.

102.7.2 – Trades and businesses

No person shall in any part of a public street carry on any trade or business unless the same is especially allowed by law or some by-law of the town, without a written permit to do so from the Selectmen or from some person duly authorized by them to grant the same.

102.7.3 – Auctions

No person shall offer for sale or sell any goods, merchandise, or other things at public auction in any part of any public street, or from any building to any person on such street, without a written permit from the selectmen; nor shall any person while on foot carry, or display in any public street any showcard, placard or sign, without a permit as aforesaid.

102.8 - Offenses Involving Morals

102.8.1 – Obscene language

No person shall in any public place or street accost any person with obscene or profane language.

102.8.2 – Obscene writing or drawing

No person shall make any indecent figure or write any indecent or obscene words upon any fence, sidewalk, building, or other public place within the city nor deface any building not his own, by cutting, breaking, daubing with paint, or in any manner deface or injure the same.

102.8.3 – Exposure of body

No person shall expose his naked body for the purpose of bathing or swimming in any of the streams or lakes or within view of any house or residence within the limits of the town.

102.8.4 – Peeping

No person shall mischievously peep through a window or look into any house or room of any house not his own.

102.9 - Offenses Involving Children

102.9.1 - Minors, Regulation of. [Note: Conflicts with 102.9.2]

No child under age 16 shall be or remain upon any street or other public place in the Town of Thomaston, Maine, *after 9 o'clock P.M. Standard Time* unless a reasonable necessity or good reason exists therefor, nor shall any parent, guardian or other person having legal custody of any minor under age 16 so allow or permit.

1. *Any child under age 16* not accompanied by an adult found on a public street or other public place *after said 9 o'clock* and with no apparent necessity or good reason therefor, shall be accosted by any police officer to ascertain whether there is any necessity or good reason therefor.
2. If in the judgment of the police officer, no necessity or good reason exists, he shall take the name and address of said child and his parents or guardian, and if deemed necessary, order said minor to leave the public place or public street, and shall cause notice of violation of this section be given to said parent or guardian.
3. Any such parent, guardian or custodian of said minor who shall violate the provisions of this section after having received from the police officer the notice provided for herein as to a previous violation of the provisions of this section shall be liable to *a penalty not exceeding five dollars for each offense after the first offense*, to be recovered to the use of the Town on complaint or by other appropriate action before the Rockland Municipal Court. Any person liable to a fine hereunder may if he so elects pay five dollars to the Police Chief in lieu of being summoned to the appearing in court; in such event the Police Chief shall furnish a receipt for such payment to the violator and a copy of each receipt promptly to the Town Treasurer.

102.9.2 – Curfew [Note: Conflicts with 102.9.1]

1. **Short title.** This section shall be known and may be cited as the Curfew Ordinance.
2. **Purposes and findings.** This is an updating of the Town of Thomaston Ordinance prescribing, in accordance with prevailing community standards, regulations for the conduct of minors on streets at night, effectively enforced, taught in the homes, internalized and adhered to for generations, all for the good of minors, for the furtherance of family responsibility, and for the public good, safety and welfare.

- a. Thomaston Board of Selectmen finds that the curfew meets a very real local need, has been over the years a significant factor in minimizing juvenile delinquency and should be updated and amplified in the light of the Town of Thomaston's local situation and facts including the following:
 - b. This community sense of the proper time for cessation of outdoor activities by minors on the streets is reflected in the curfew hours declared by this ordinance which takes into consideration also the danger hours for nocturnal crime and for accumulations of minors with potential risks incident to immaturity.
 - c. Commercial recreational facilities for juveniles are almost nonexistent and there is little or nothing for minors to do outdoors, but roam the streets, after the curfew hours which this ordinance declares.
 - d. Parental responsibility for the whereabouts of children is the norm, legal sanctions to enforce such responsibility have had a demonstrated effectiveness over the years, as parental control increases likelihood of juvenile delinquency decreases and there is a continuing need for the nocturnal curfew for minors which has achieved and will continue to achieve under local conditions the purposes hereinbefore stated.
- 3. Definitions.** For the purposes of the Curfew Ordinance the following terms, phrases, words and their derivations shall have the meaning given herein.
- When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular and words in the singular number include the plural. The word "shall" is always mandatory and not merely directory.
- a. *Town* is the Town of Thomaston, Knox County, Maine
 - b. *Minor* is any person under the age of 18, or, in equivalent phrasing often employed, any person 17 or less years of age.
 - c. *Parent* is any person having legal custody of a minor
 - i. as a natural or adoptive parent,
 - ii. as a legal guardian,
 - iii. as a person who stands in loco parentis or
 - iv. as a person to whom legal custody has been given by order of court.
 - d. *Remain* means to stay behind, to tarry and to stay unnecessarily upon the streets, including the congregating of groups (or of interacting minors) totaling four or more persons in which any minor involved would not be using the streets for ordinary or serious purposes such as mere passage or going home. To implement that thought with additional precision and precaution, numerous exceptions are expressly defined in section 5 so that this is not a mere prohibitory or presence type curfew ordinance. More and more exceptions become available with increasing years and advancing maturity as appropriate in the interest of reasonable regulation which is intended by use of the meaningful phrase "be or remain" found constitutional in *Baker v. Borough of Steelton*, 17 Dauph. 17 (1912), a decision properly classified in *Thistlewood v. Trial Magistrate for Ocean City* 236 Md. 548, 204 A. 2d 688, 691 (1964) as relating to a curfew ordinance of the "remaining" type.
 - e. *Street* is a way or place, of whatsoever nature, open to the use of the public as a matter of right for purposes of vehicular travel or in the case of a sidewalk thereof for pedestrian travel. The term street includes the legal right of way, including but not limited to the cartway or traffic lanes, the curb, the sidewalks whether paved or

unpaved, and any grass plots or other grounds found within the legal right of way of a street. The term street applies irrespective of what it be called or formally named, whether alley, avenue, court, road or otherwise.

- f. *Time of night* referred to herein is based upon the prevailing standard of time, whether Eastern Standard Time or Eastern Daylight Time, generally observed at that hour by the public in the Town, prima facie the time then observed in the Thomaston Town Hall and police station.
 - g. *Year of age* continues from one birthday, such as the seventeenth to (but not including the day of) the next, such as the eighteenth birthday, making it clear that 17 or less years of age is herein treated as equivalent to the phrase "under 18 years of age." the latter phrase in practice, unfortunately, having confused a number of persons into the mistaken thought that 18 year olds might be involved. Similarly, for example, 11 or less years of age means "under 12 years of age."
- 4. Curfew for minors.** *It shall be unlawful for any person 17, or less years of age (under 18) to be or remain in or upon the streets within the Town of Thomaston at night during the period ending at 6 A. M. and beginning*
- a. at 10 P.M. for minors 11 or less years of age,*
 - b. at 10:30 P.M. for minors 12 or 13 years of age, and*
 - c. at 11 P.M. for minors 14 or more years of age.*
- 5. Exceptions.** In the following exceptional cases a minor on a Town street during the nocturnal hours for which Subsection 4, above, is intended to provide the maximum limits of regulation (and a clear general guide for minors, their parents and their fellow citizens) shall not, however be considered in violation of the Curfew Ordinance.
- a. When accompanied by a parent of such minor.
 - b. When accompanied by an adult authorized by a parent of such minor to take said parent's place in accompanying said minor for a designated period of time and purpose within a specific area.
 - c. When exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly. Such minor shall evidence the bona fides of such exercise by first delivering, to communications center personnel, at the Town Hall, where and by whom high priority messages to the Town Manager are regularly received, a written communication, signed by such minor and countersigned if practicable by a parent of such minor with their home address and telephone number, addressed to the Town Manager, specifying when, where and in what manner said minor will be on the streets at night (during hours when the Curfew Ordinance is otherwise applicable to said minor) in the exercise of a First Amendment right specified in such communication.
 - d. In case of reasonable necessity but only after such minor's parent has communicated to the Town Police Station personnel the facts establishing such reasonable necessity relating to specified streets at a designated time for a described purpose including points of origin and destination. A copy of such communication, or of the police record thereof, duly certified by the Chief of Police to be correct, with an appropriate notation of the time it was received and of the names and address of such parent and minor, shall be admissible evidence.

- e. When the minor is on the sidewalk of the place where such minor resides, or on the sidewalk of either next door neighbor not communicating an objection to the police officer.
- f. When returning home, by a direct route from (and within 30 minutes of the termination of) a school activity, or an activity of a religious or other voluntary association, of which prior notice, indicating the place and probable time of termination, has been given in writing to, and duly filed for immediate reference by, the Chief of Police or the officer assigned by him on duty at the police station, thus encouraging (here as in other exceptional situations) conduct on the part of minors involved in such activities and striking a fair balance for any somewhat conflicting interests.
- g. When authorized by special permit from the Town Manager, carried on the person of the minor thus authorized, as follows: When necessary nighttime activities of a minor, may be inadequately provided for by other provisions of this ordinance, then recourse may be had to the Town Manager, either for a regulation as provided in subsection (h) or for a special permit as the circumstances warrant. Upon the Town Manager's finding of necessity for the use of the streets to the extent warranted by a written application (as judicially approved in *People v. Walton*, 70 Cal. App.2d Supp. 862,161, P. 2d 498, 502, 503, 1945), signed by a minor and by a parent of such minor if feasible stating (a) the name, age and address of such minor, (b) the name, address and telephone number of a parent thereof, (c) the height, weight, sex, color of eyes and hair and other physical characteristics of such minor, (d) the necessity which requires such minor to remain upon the streets during the curfew hours otherwise applicable, and (e) the street or route and the beginning and ending of the period of time involved by date and hour, the Town Manager may grant a permit in writing for the use by such minor of such streets at such hours as may be necessary. In an emergency this may be handled by telephone, or other effective communication, with a corresponding record being made contemporaneously, either to the Town Manager or if unavailable to the police officer authorized by the Town Manager to act on his behalf in an emergency, at the police station.
- h. When authorized by regulation issued by the Town Manager in other similar cases of reasonable necessity, similarly handled but adapted to normal or necessary nighttime activities of more minors than can readily be dealt with on an individual special permit basis. Normally such regulation by the Town Manager on permitting use of the streets should be issued sufficiently in advance to permit appropriate publicity through news media and through other agencies such as the school, and shall define the activity, the scope of the use of the streets permitted, the period of time involved but to extend more than 30 minutes beyond the time for termination of such activity, and the reason for finding that such regulation is reasonably necessary and is consistent with the public interest and the purposes of this Curfew Ordinance.
- i. When the minor carries a certified card of employment, renewable each calendar month when the current facts so warrant, dated or re-issued not more than 45 days previously, signed by the Chief of Police and briefly identifying the minor, the address of his home and of his place of employment, and his hours of employment.
- j. When the minor is, with parental consent, in a motor vehicle. This contemplates normal travel. From excess of caution, this clearly exempts bona fide interstate

movement through Thomaston, particularly on normal routes such as Route #1, Beechwood, Wadsworth, Knox, High streets and Old County Road. This also exempts interstate travel beginning or ending in Rockland.

- k. Each of the foregoing exceptions, and their several limitations such as provisions for notification, are severable, as hereinafter provided but here reemphasized; and additional, also severable, exceptions, broadening with the progress toward maturity of minors enrolled respectively in elementary, junior high and high schools, will be considered by the board as warranted by future experience illuminated by the views of student government associations, school personnel, citizens, associations, and neighborhood spokesmen, parents, officers in authority concerned positively with minors as well as with juvenile delinquency.
- 6. Parental responsibility.** It shall be unlawful for a parent having legal custody of a minor knowingly to permit or by inefficient control to allow, such minor to be or remain upon town street under circumstances not constituting an exception to, or otherwise beyond the scope of the Curfew Ordinance. The term "knowingly" includes knowledge which a parent should reasonably be expected to have concerning the whereabouts of a minor in that parent's legal custody. It is intended to continue to keep neglectful or careless parents up to a reasonable community standard of parental responsibility through an objective test. It shall, a fortiori, be no defense that a parent was completely indifferent to the activities or conduct or whereabouts of such minor.
- 7. Police procedures.** A policeman of the Town, upon finding or having attention called to any minor on the streets in prima facie violation of the Curfew Ordinance, normally shall take the minor to the Town Police office where a parent shall immediately be notified to come for such minor, whereupon they shall be interrogated. This is intended to permit ascertainment, under constitutional safeguards, of relevant facts, and to centralize responsibility in the officer there and then on duty for accurate, effective, fair impartial and uniform enforcement, and recording, thus making available experienced supervisory personnel, the best of facilities and access to information and records. In the absence of convincing evidence such as a birth certificate, a policeman on the street shall in the first instance use his best judgment in determining age.
- a. Police procedures shall constantly be refined in the light of experience and may provide, inter alia, that the policemen may deliver to a parent thereof a minor under appropriate circumstances, for example a minor of tender age near home whose identity and address may readily be ascertained or are known.
 - b. In any event such policeman shall within 24 hours file a written report with the Chief of Police, or shall participate to the extent of the information for which he is responsible in the preparation by himself and the officer involved in such case, and in the filing, of such report within 24 hours.
 - c. When a parent, immediately called, has come to take charge of the minor and the appropriate information has been recorded, the minor shall be released to the custody of such parent. If the parent cannot be located, or fails to take charge of the minor, then the minor shall be released to the juvenile authorities, except to the extent that in accordance with police regulations, approved in advance by juvenile authorities, the minor may temporarily be entrusted to a relative, neighbor or other person who will on behalf of a parent assume the responsibility of caring for the minor pending the availability or arrival of a parent.

- d. In the case of a first violation by a minor the Chief of Police shall by certified mail, send to a parent written notice of said violation with a warning that any subsequent violation will result in full enforcement of the Curfew Ordinance, including enforcement of parental responsibility and of applicable penalties.
8. **Penalties.** Prevailing community standards, and the real internalization thereof or interpersonal sanctions therefore that in practice count for much, as to when minors should be off the streets, reflected in this Curfew Ordinance, are hereby undergirded with the following legal sanctions.
 - a. If, after the warning notice pursuant to section 7 of a first violation by a minor, a parent violates section 6 (in connection with a second violation by said minor), this shall be treated as a first offense by the parent. For such first parental offense a parent *shall be fined \$25.00 and for each subsequent offense by a parent the fine shall be increased by an additional \$25.00, e.g. \$50.00 for the second, \$75.00 for the third offense.* The Sixth District Court, upon finding a parent guilty, shall sentence the parent to pay such fine and the costs of prosecution, and upon refusal to pay such fine and costs to be imprisoned in the jail of Knox County for a period not exceeding ten days.
 - b. Any minor who shall violate any of the provisions of the Curfew Ordinance more than three times shall be reported by the Town Manager to a society or organization whose purpose it is to take charge of incorrigibles and delinquents and proceedings shall then be taken, before the juvenile court for the treatment, supervision and rehabilitation of such minor.
 - c. A like procedure, before the juvenile authorities, shall be followed in any case where the imposing of a fine or fines upon a parent shall not be effective, or where for any other reason the provisions of the Curfew Ordinance cannot be made effective by the imposing of penalties under this Subsection 8.
9. **Construction.** Severability is intended throughout and within the provisions of the Curfew Ordinance. If any provision, including inter alia any exception, part, phrase or term, or the application thereof to any person or circumstance is held invalid, the application to other persons or circumstances shall not be affected thereby and the validity of the Curfew Ordinance in any and all other respects shall not be affected thereby. From excess of caution, the Town Manager is authorized to give advisory opinions, in writing or immediately reduced to writing, which shall be binding, and shall be adhered to by the police, until the ordinance is amended in such respect, interpreting terms, phrases, parts or any provisions. Normally such advisory opinions shall be in response to good faith, signed letters addressed to him at Watts Block questioning as (a) ambiguous, (b) as having a potentially chilling effect on constitutional rights specifically invoked, or (c) as otherwise invalid, in all three categories with respect to proposed conduct definitely described. This administrative remedy must be exhausted prior to presenting to any court a question in any of said three categories. The Town Board of Selectmen does not intend a result that is absurd, impossible of execution or unreasonable. It is intended that the Curfew Ordinance be held inapplicable in such cases, if any where its application should be unconstitutional. A constitutional construction is intended and shall be given. The Town Board of Selectmen does not intend to violate the Constitution of the State of Maine or the Constitution of the United States of America.

- 10. Continuing evaluation.** The Town Board of Selectmen will continue its evaluation and updating of the Curfew Ordinance.
- a. Accordingly, there shall be compiled and informally reported to the Town Board of Selectmen through effective channels (such as the normal monthly distribution by the Town Manager and Town Clerk, to each Selectman, the Town Manager and the Town Clerk) all exceptional cases hereunder of reasonable necessity, the notices of school and other activities, the Town Manager's special permits and the Town Manager's regulations hereinbefore authorized, and the Town Manager's advisory opinions, for consideration by the appropriate committee and by the Town Board of Selectmen in further updating and continuing evaluation of the Curfew Ordinance.
 - b. For the same reasons, as well as for the implementation beyond these legal aspects of the basic purposes hereof, the Town Manager and relevant committees of the Town Board of Selectmen through their respective chairmen in coordinated efforts shall work with existing, and may organize, voluntary groups, and shall stimulate volunteer leadership, in programs of research and of action dealing constructively on neighborhood and local bases, with juvenile delinquency, and the prevention, control or containment thereof, in all its ramifications and with practicable steps toward the good life, and a better life, for minors 17 or less years of age, and with the working of the Curfew Ordinance, community-wise and in individual cases, as one much needed legal tool toward that end as well as for continuing present protection of minors, and of other persons, and of property and other interests, important to the welfare of the people of the Town of Thomaston.

Subsection 102.10.9.2 Adopted: March 31, 1981.

ORIGINAL ORDINANCES REVISED: APRIL 21, 1958; JUNE 9, 1970; MARCH 29, 1976

ARTICLE III

Section 103 - Fire Department

103.1 – Name

The organization shall be known as the *Thomaston Fire Department*.

103.2 - Organization

103.2.1 - The Department shall consist of a chief to be appointed by the Town Manager with the approval of the selectmen for an indefinite term, said appointment to be rescinded only for a cause; a Deputy Chief and an Assistant Chief to be appointed by the Town Manager with the approval of the Selectmen, on the first day of April annually or as soon thereafter as may be, to serve at the pleasure of the appointing authority and a company of not less than twenty-four (24) or more than thirty (30) men, not including juniors, these men to be assigned by the Chief to man the various pieces of equipment.

103.2.2 - The Chief and his assistants shall within a reasonable time after their appointment meet and organize themselves into a Board of Engineers and shall be empowered to make such rules and regulations for their government as they may deem expedient. They shall have control of the engine house and all apparatus, and shall make such rules for the government, discipline and good order of the department and for the extinguishment of fires as they may deem expedient, the same being subject to the approval of the Board of Selectmen.

103.2.3 - The Chief shall have the sole and absolute control and command of all personnel and shall direct all proper measures for the extinguishment of fire, protection of property and preservation of order and the observance of all fire laws, ordinances and regulations. In the absence of the Chief the senior officer present shall have all the authority of the Chief and shall perform all the duties required of the Chief.

103.2.4 - It shall be the duty of the Board of Engineers to appoint four captains and four lieutenants, consideration being given to qualification and other prerequisites, and appointees to serve at the pleasure of the Board. A captain and lieutenant shall be assigned to each major piece of equipment. They shall have general supervision of the men assigned to their particular piece of equipment, shall be responsible for serviceability and cleanliness of same-at all times.

103.2.5 - It shall be the duty of all members of the department upon an alarm for fire to immediately report for duty at their assignment and to so remain and carry out the orders of their superior officer and no man shall leave that assignment until orders to that effect have been given. Upon their return to the station all equipment shall be properly cleaned and cared for and put in readiness for subsequent calls, to the satisfaction of the senior officer present and no roll call shall be held until so ordered by said senior officer.

ADOPTED: APRIL 21, 1958

AMENDED: MARCH 25, 1974

ARTICLE IV

Section 104 - Personnel Committee

104.1 - Establishment

A Personnel Committee as originally established by town meeting vote on June 14, 2000 is hereby re-established pursuant to 30-A, M.R.S. §3001.

Committee members shall be appointed by the Select Board and sworn in by the clerk or other persons authorized to administer oaths. The Committee shall consist of five (5) members plus a maximum of two (2) members as described in 104.1.3 below. The composition of the Personnel Committee shall be as follows:

- 104.1.1** - One member of the Select Board, plus one Alternate Select Person, both chosen by majority vote of the Board. The Select Persons will serve a one-year term but may, upon a majority vote of the Board, serve any number of consecutive or non-consecutive terms.
- 104.1.2** - Four members of the general public plus one first Alternate and one second Alternate, who are residents of the Town of Thomaston chosen by majority vote of the Select Board. These members and alternates will serve staggered terms of three (3) years.
- 104.1.3** - A maximum of two persons with knowledge pertinent to the position to be filled, appointed by the Town Manager as needed. These non-voting members will serve during the period necessary to complete the hiring process.

104.2 – Organization and Rules

- 104.2.1** – The Committee shall select a Chairperson, Vice Chairperson, and a Secretary from among its members, chosen by majority vote of the committee members.
- 104.2.2** – All officers shall serve one (1) year with eligibility for re-election. It is recommended to select new officers at least every three (3) years.
- 104.2.3** – When a member is unable to act because of conflict of interest, physical incapacity, absence or any other reason satisfactory to the committee, the first Alternate shall fill that seat; in the event the first Alternate is unable to fill that seat, the second Alternate shall fill that members seat. The Select Board Alternate may only take the seat of the Select Board Member.
 - a. An alternate member shall attend all meetings of the committee and participate in its proceedings, but may vote only when he or she is sitting in for an absent member.
 - b. Additionally, in the event of an alternate filling the seat of a member at any time during the hiring process, that alternate shall hold that seat for the entire hiring process and therefore be a voting member. If the first alternate is unable to complete the entire hiring process, the second alternate may fill the seat for the completion of the process if said alternate has been present throughout the process to that point. Therefore, all alternates are strongly encouraged to attend all meetings related to the said interview process.
- 104.2.4** – Any question of whether a member shall be disqualified from voting on a particular matter shall be decided by a majority vote of the members except the member who'd being challenged.
- 104.2.5** – The Town Manager shall call a meeting as job openings dictate.
- 104.2.6** – No meeting of the committee shall be held without a quorum consisting of three (3) members or alternate members.

104.2.7 – The Secretary shall keep a record of meeting dates, members present, officers elected and job description to be filled.

104.3 – Powers and Duties

The Personnel Committee's duties shall be limited to regular full-time and regular part-time employees, as defined in the Town of Thomaston Personnel Policy Manual, and all Department Heads or Directors. The Personnel Committee may be involved in other hirings or promotions if the Select Board determines that special circumstances warrant such committee involvement. Vacancies or promotions shall be open generally to all qualified applicants. In so far as practical and consistent with the best interests of the Town of Thomaston, preference shall be given to qualified employees within the Department with the vacancy or to qualified residents of the Town of Thomaston.

The Personnel Committee shall:

104.3.1 - Develop such procedures, keep such records and make such reports as the Town Manager may require.

104.3.2 - Prepare pertinent application forms.

104.3.3 - Develop from job descriptions with the Town Manager and Department Heads, the education, training, experience and physical qualifications for each job classification.

NOTE: It is intended that this be done for each job classification once and then revised only when deemed necessary.

104.3.4 - Develop with the Town Manager and Department Heads, those of the following which the Personnel Committee deems necessary for each job classification.

1. Written Exam
2. Oral Exam
3. Performance Exam
4. Medical Exam
5. Physical Agility Exam
6. Psychological Exam

Determine the elements in each exam, and the weight attached to each. All exams may be competitive or non-competitive as the Personnel Committee may determine in each case.

NOTE: It is intended that this be done for each job classification once and then revised only when deemed necessary.

104.3.5 - Compile a "Register of Eligibles" as the result of evaluation.

104.3.6 - Certify all eligibles arranged in descending order as a result of evaluation.

104.4 - Process

Upon notification by the Town Manager, The Personnel Committee shall:

104.4.1 – Jointly review all applications to determine which candidates should be contacted for an interview. Department Heads and the Town Manager may participate as desired or requested by the committee.

104.4.2 – The Town Manager and/or Department Head shall administer exams required for the position and grade same. Results of all exams will be forwarded to the Personnel Committee.

104.4.3 – Interviews will be with a majority of Personnel Committee members including up to two (2) temporary members with knowledge pertinent to the position and the Town Manager and/or the Department Head.

- 104.4.4** – Interviews will consist of inquiry specific to the job to be filled. All questions will be consistent with Title 5, M.R.S. §4572.
- a. A set of questions will be determined by the Personnel Committee, Department heads, and Town Manager that are to be asked of all candidates.
 - b. As appropriate, a set of questions may be asked of individual candidates as determined by the Personnel Committee during the initial application review process.
 - c. Other questions deemed pertinent at the time of the interview may be asked by any member of the Personnel Committee, Town Manager, and/or Department Head.
- 104.4.5** – Second interviews may be conducted if the Personnel Committee determines that such interviews are needed.
- 104.4.6** - Based on the results of the interviews and exams, the Personnel Committee shall determine the best qualified candidates and recommend up to three to the Town Manager in descending order.
- 104.4.7** – If the Personnel Committee recommends three applicants, the Town Manager must select one of them.
- 104.4.8** - If there are not three applicants that the Committee decides to recommend, the Town Manager, at his/her sole discretion, may select one of the one or two that are recommended or require the Personnel Committee to start anew.
- 104.4.9** - After detailed review of all pertinent information by the Town Manager, the Town Manager will submit the Personnel Committee's list of certified applicants in descending order along with his/her choice to the Select Board for confirmation, in accordance with the Personnel Policy.
- 104.4.10** - In the event the Select Board fails to confirm the Town Manager's first choice, the Town Manager will submit one of the two remaining certified applicants for confirmation. If the second applicant fails to be confirmed, the Town Manager will notify the Personnel Committee to certify two (2) additional qualified candidates, from the "Register of Eligibles", to the Town Manager. New interviews may be conducted.
- 104.4.11** - Prior to hiring any applicant or presenting the successful applicant to the Board of Selectmen for confirmation, the Town Manager or his/her designee shall accomplish a background check to include national, state and local agency checks, personal and employment references.
- 104.4.12** - At the Personnel Committee's discretion, establish the eligibility of certified applicants to be hired in the event a vacancy may occur within one year.
- 104.4.13** - In the event of the need to hire a Town Manager, the preceding process will be used except the Chairman of the Board of Selectmen will act in the capacity described for the Town Manager.

104.5 - Severability

- 104.5.1** - It is the intention of the Citizens of Thomaston that each separate section of this ordinance shall be deemed independent of all other sections herein. It is the further intention of the Citizens of Thomaston that if any provisions of this ordinance be declared invalid, all other sections remain valid and effective.
- 104.5.2** - This ordinance may be amended by a majority vote of the Citizens of Thomaston.
- 104.5.3** - This ordinance will be in full force and effect upon majority vote of the Citizens of Thomaston.

104.5.4 - All existing policies of the Town of Thomaston insofar as they may be inconsistent with the provisions of this ordinance are hereby repealed.

ADOPTED: MARCH 26, 1994 AT THOMASTON ANNUAL MEETING

RE-ADOPTED: JUNE 14, 2000 AT THOMASTON ANNUAL MEETING

RE-ADOPTED: JUNE 12, 2019 AT THOMASTON ANNUAL MEETING

ARTICLE V

Section 105 - Budget Committee

105.1 - Establishment

Pursuant to 30-A MRSA §3001, a Budget Committee is hereby established for the Town of Thomaston on this day, March 26, 1994.

105.2 - Composition

The committee shall consist of nine (9) members.

105.3 – Appointment & Attendance

Committee members shall be appointed by the Board of Selectmen. Any member who misses two regularly scheduled meetings in a budget year will be automatically dismissed from the Budget Committee.

105.4 - Qualifications

Committee members shall be registered voters of the Town of Thomaston. No other official or employee of the town may be a member.

105.5 - Terms

Members shall serve for terms of three (3) years, except that they shall continue in office until their successors are appointed. (For transition purposes, the initial terms shall be staggered so that as nearly an equal number of terms shall expire annually).

105.6 - Vacancies

Vacancies shall occur upon the resignation, death or removal from the municipality of any member. A vacancy may also occur when a non-participating member is removed at the discretion of the Board of Selectmen, based on a recommendation made by the majority of the Budget Committee Members, showing just cause for such a request by the committee. The vacancy shall be filled by the Board of Selectmen. In any and all cases the vacancy shall be filled within 30 days of the occurrence.

105.7 - Officers

The committee shall annually elect a Chairman, Vice Chairman and a Secretary from among its members.

105.8 - Meetings

The Chairman shall call meetings as necessary or when so requested by a majority of members or the Board of Selectmen and/or the Town Manager.

105.9 - Quorum

A quorum necessary to conduct business shall consist of at least a majority of four (4) members.

105.10 - Procedure

The Chairman shall preside at all meetings unless unavoidably absent at which time the Vice Chair shall preside. The Secretary shall maintain a record of all proceedings including all correspondence of the committee. All meetings and records shall be subject to the Maine Freedom of Access Act, 1 MRSA §401-410, and a copy of all minutes and correspondence shall be kept on file in the Town Office. The committee may adopt rules of procedure not inconsistent with this ordinance.

105.11 - Powers & Duties

The Committee shall have the following powers and duties:

- 105.11.1** - To review and make recommendations on the annual operating budget as proposed by the Town Manager.
- 105.11.2** - To review and make recommendations on annual capital expenditures as proposed by the Town Manager;
- 105.11.3** - To review and make recommendations on supplemental appropriations and expenditures and other budgetary action whenever proposed by the Town Manager.
- 105.11.4** - To make such other recommendations on fiscal matters as it may from time to time deem advisable.

105.12 - Authority

The committee's authority shall be advisory only.

105.13 - Recommendations

Any recommendations on a matter requiring town meeting action shall be printed with the article in the warrant and on the ballot, if any, along with such other recommendations as may be included by the Board of Selectmen or required by law.

105.14 - Official Co-operation

The Board of Selectmen and or the Town Manager shall co-operate with and provide the committee with such information as may be reasonably necessary and available to enable it to carry out its functions under this ordinance.

105.15 - Severability

- 105.15.1** - It is the intention of the Citizens of Thomaston that each separate section of this ordinance shall be deemed independent of all other sections herein. It is the further intention of the Citizens of Thomaston that if any provisions of this ordinance be declared invalid, all other sections remain valid and effective.
- 105.15.2** - This ordinance may be amended by a majority vote of the Citizens of Thomaston.
- 105.15.3** - This ordinance will be in full force and effect upon majority vote of the Citizens of Thomaston.
- 105.15.4** - All existing policies of the Town of Thomaston insofar as they may be inconsistent with the provisions of this ordinance are hereby repealed.

ADOPTED: MARCH 26, 1994 AT THOMASTON ANNUAL MEETING
AMENDED: MARCH 25, 1995 AT THOMASTON ANNUAL MEETING
AMENDED: JUNE 12, 2019 AT THOMASTON ANNUAL MEETING

ARTICLE VI

Section 106 - Village Cemetery Ordinance

106.1 - Trustees

The Town of Thomaston Village Cemetery and all matters connected therewith shall be under the control of a board of ten (10) trustees, to be designated Trustees of the Thomaston Village Cemetery, consisting of four (4) members to be appointed by the Board of Selectmen, the remaining six (6) trustees to consist of the five (5) members of the Board of Selectmen and the Town Clerk. The Town Clerk shall serve as a Trustee and Secretary of the Board of Trustees. The Town Treasurer shall serve as the treasurer of the Board of Trustees. The chairman of the Board of Trustees shall be the chairman of the Board of Selectmen.

106.2 - Resignation from the Board of Trustees

A municipal office holder cannot resign as a trustee of the cemetery unless he/she also resigns from the municipal office held. The new trustee shall be the next holder of said municipal office. Should an appointed Trustee resign, a replacement shall be appointed by the Board of Selectmen. In all cases, Trustees shall serve until their successors have been chosen, all of whom shall serve without compensation.

106.3 - Authority

106.3.1 - Said Trustees shall have the authority to make all necessary by-laws and regulations for their own government and for the management of the cemetery. It shall be their duty to direct the planting, pruning, cultivation or removal of trees and shrubs through their agent, the sexton. They shall cause the removal of plantings by lot owners that in their opinion mar the beauty of the grounds. They shall maintain the avenues and pathways. The Trustees shall have the full authority to do and perform whatever may be necessary to carry into full effect the object of the cemetery. Should Funeral Directors, or their representatives open or cause a grave to be opened without the permission of the sexton, the Trustees shall have the authority to impose such penalties as they find appropriate.

106.3.2 - The Trustees shall appoint and/or remove at their pleasure, a sexton, and determine the duties and compensation for same.

106.3.3 - The Trustees shall make a detailed statement of their official acts and of the conditions and needs of the cemetery in the town's annual report.

106.4 - Duties of the Treasurer

106.4.1 - The Treasurer of the Town shall receive all monies paid to, or donated to the town cemetery. He/she shall keep a separate accounting thereof under the heading "TOWN CEMETERY FUND". The Treasurer shall disburse money only on the authority of a warrant drawn for that purpose by the municipal officers (In accordance with 30-A MRSA §13-1222). Any monies donated, willed or bequeathed to the town cemetery shall be invested by the Treasurer under the direction of the municipal officers. The interest income may be expended for the support of the cemetery and its care, according to the terms thereof.

106.4.2 - In the annual report, the town treasurer shall include a detailed statement of the receipts, disbursements and conditions of all "CEMETERY FUNDS".

106.5 - Lots for Residents

The town holding in its own right the title to the land comprising the cemetery, and having divided the same into lots, hereby grants unto each and all citizens the right to be interred therein. To all residents of the town who may hereafter need a lot, the Trustees shall grant the exclusive use of a vacant lot.

106.6 - Lots for Former Residents

Any person not presently a citizen, of the town, but who is a former citizen, may purchase a lot in time of need, and own same only after paying all monies owed for the purchase and perpetual care. The cost of lots is determined by the Trustees and is subject to change.

106.7 - Lot Purchase

Any resident of the town may purchase a lot in the village cemetery for future use after paying all monies owed for the purchase and perpetual care. The cost of lots is determined by the Trustees and is subject to change.

106.8 - Perpetual Care

Perpetual care must be paid on all lots granted or purchased in the Village Cemetery. The cost of perpetual care is determined by the Board of Trustees and is subject to change. The amounts received are to be credited to the proper cemetery accounts.

106.9 – Rights, Title, and Interest of Lot Owners

No internment should be made in the Town of Thomaston Village Cemetery until the Cemetery Sexton is furnished a permit such as may be required by the Laws of the State of Maine, together with an agreement signed by the owner of record of the burial lot or their legal representative that indemnifies and saves harmless the town from liability should the dead human body be buried in the wrong burial lot or should the owner of record or their legal representative have insufficient title to the burial lot.

The proprietor of a lot shall have the right of erecting a monument and stones with the said placement to be directed by the sexton. They shall have the right to cultivate shrubs following the standards set forth in the By-Laws and Regulations of the Thomaston Village Cemetery. Lot owners should check the By-Laws and Regulations for other restrictions.

106.10 - Maintenance of Other Cemeteries

The sexton shall maintain the following cemeteries as part of his/her duties:

106.10.1 - Butler Cemetery - Thomaston Street

106.10.2 - Morse's Corner Cemetery - West Meadow Road

106.10.3 - Elm Grove Cemetery - Erin Street

Please note the town is reimbursed for work done in the Elm Grove Cemetery.

106.11 - Trusts

106.10.1 - The Cemetery Trustees may accept, on behalf of the town, and convey to the municipal officers of the town for investment, any gift of money for care by a person who executes a standard form trust agreement, prepared by the town. The acceptance of this trust by the Cemetery Trustees is a mere formality to complete and memorialize individual transactions.

106.10.1 - Testamentary trusts (trusts by will, without previous execution of the standard form agreement) will require acceptance by the town voters.

106.10.1 - Trusts previously accepted by the town for care of family or privately owned burial grounds; the town is required by law (30-A MRSA §13-1222) to continue to perform the duties of the trust as prescribed.

106.12 - Private and/or Family Burial Plots

From the date of this ordinance, the town will not accept trusts for the care of privately owned or family burial grounds.

106.13 - Mandated Review

This ordinance shall be reviewed every five years with the next review due in 1998.

106.14 - Severability Clause

106.14.1 - It is the intention of the Trustees that each separate section of this ordinance shall be deemed independent of all other sections herein. It is the further intention of the Trustees that if any provisions of this ordinance be declared invalid, all other sections remain valid and effective.

106.14.2 - This ordinance may be amended by a majority vote at a town meeting when such an amendment is promulgated in accordance with statutory provisions.

106.14.3 - This ordinance shall be in full force and effect when enacted at a town meeting.

106.14.4 - All existing ordinances of the Town of Thomaston insofar as they may be inconsistent with the provisions of this ordinance are hereby repealed.

REVISED: MARCH 26, 1994 AT THOMASTON ANNUAL MEETING

AMENDED: JUNE 12, 2019 AT THOMASTON ANNUAL MEETING

ARTICLE VII

Section 107 - Public Library

107.1 - Preamble

The Thomaston Public Library was established on March 28, 1898 by an ordinance entitled "An Ordinance for the Establishing and Maintaining a Public Library", passed at an Annual Town Meeting on that date. The purpose of this ordinance is the revision and modification of the 1898 ordinance, in order to reflect contemporary considerations, including the adoption of a modified town manager form of government by the Town of Thomaston, consistent with the Home Rule Authority of the town.

107.2 - Authority

This ordinance is enacted pursuant to the Home Rule Authority granted to the Town in accordance with the provisions of Title 30-A MRS §3001.

107.3 - Establishment

There shall be a public library of the Town, known as the "Thomaston Public Library". The purpose of the public library shall be to provide the inhabitants of the Town of Thomaston, and the inhabitants of surrounding towns and communities - as those towns, communities and their inhabitants may contract with the Town of Thomaston from time to time - with public library services and facilities.

107.4 - Governing Body

The governing body of the Thomaston Public Library shall be the Board of Trustees.

107.5 - Appointment of the Board of Trustees

107.5.1 - The initial Board of Trustees, following the enactment of this ordinance, shall be appointed by a majority vote of the Board of Trustees of the Library which is in office as of the date of the Town Meeting at which this ordinance is enacted, subject to confirmation of the appointment of each member of that initial Board by the Board of Selectmen of the Town of Thomaston. The Board of Selectmen shall act on the confirmation of the initial Board of Trustees within thirty (30) days of enactment of this ordinance. The initial Board of Trustees, and all subsequent boards shall consist of nine (9) members with staggered terms as follows: Three (3) members shall serve a 3-year term, commencing with the date of enactment of this ordinance and expiring on the date of the Annual Town Meeting in the year that is 3 years from confirmation of this ordinance; three (3) members shall serve a 2-year term, commencing with the date of enactment of this ordinance and expiring on the Annual Town Meeting in the year 2 years afterwards; and three (3) members shall serve a 1-year term, commencing with the date of the enactment of this ordinance and expiring on the date of the Annual Town Meeting in 1 year from that time.

107.5.2 - Following the establishment of the initial Board of Trustees, vacancies in the Board of Trustees, by expiration of the term of office or otherwise, shall be filled by appointment by the Board of Trustees of a person to fill each such vacancy, as the vacancy occurs, subject to confirmation by the President of the Board of Trustees to the Board of Selectmen within ten (10)

days of the date of the appointment. The Board of Selectmen shall act on confirmation of the appointment within thirty (30) days of its receipt of that report.

107.5.3 - Each new appointee shall assume office, and that appointee's term of office shall commence, upon confirmation of that appointee by the Board of Selectmen.

107.6 - Officers of the Board of Trustees

107.6.1 - The Board of Trustees, at its first organizational meeting following the Annual Town Meeting, shall elect a President, a Vice President, and a Secretary from among the members of the Board. The foregoing officials shall be the officers of the Board of Trustees and shall serve in the capacity for a term of one (1) year, or until his/her successor shall be elected by a subsequent Board of Trustees.,

107.6.2 - In the event that a vacancy occurs in any of the foregoing offices, then the Board of Trustees shall elect a successor from among the existing members of the Board to fill the unexpired term of that officer. The Board of Trustees is further authorized to elect such other officers of the Board as the Board deems necessary for the management and maintenance of the Public Library, including the appointment of committees of the Board of Trustees to perform functions and duties of the Public Library on behalf of the Board of Trustees.

107.7 - Meeting of the Board of Trustees

Meetings of the Board of Trustees shall be held at such times as the board may, from time to time, determine. Special meetings of the Board of Trustees may be called by the President or, in the case of the disability or absence of the President, by the Vice President, upon notice to each Board member of each such special meeting, no less than three (3) days prior to each such special meeting.

107.8 - Powers, Authority and Duties of the Board of Trustees

The Board of Trustees shall have the power, authority and duty to manage and to control the Public Library, and all things connected with the Library, including the authority to:

107.8.1 - Oversee the hiring and supervision of all employees of the library.

107.8.2 - Accept gifts to the Library on behalf of the town.

107.8.3 - Purchase and arrange for the purchase of all books, materials and supplies for the Library.

107.8.4 - Appoint a head librarian, subject to confirmation by the Board of Selectmen.

107.8.5 - Remove the head librarian from office, for cause, after notice and a hearing, or without cause during probationary period set forth in the Personnel Policies of the Town.

107.8.6 - Direct the expenditure and investment of Library funds.

107.8.7 - Establish rules and regulations for the operation and management of the Library and Reading Room, and for the use of those facilities by the inhabitants of the Town and by inhabitants of other towns and communities; and

107.8.8- Engage in all functions and perform all duties required for the operations of the Library.

107.9 - Appointment of Head Librarian

107.9.1 - The day-to-day management of the Thomaston Public Library shall be conducted by a Head Librarian who shall be appointed by the Board of Trustees, subject to confirmation by the Board of Selectmen. The term of office of the Head Librarian shall be one (1) year, from April 1 to March 31 of each calendar year. Upon confirmation of the appointment by the Board of Selectmen, the Head Librarian shall be an employee of the Town during that term of office.

107.9.2 - Subject to the completion of a probationary period as set forth in the Personnel Policies of the Town of Thomaston, the Head Librarian may be removed, for cause, by the Board of Trustees, after notice and a hearing by the Board of Trustees in accordance with law. A vacancy in the position of Head Librarian shall be filled through appointment by the Board of Trustees, subject to confirmation by the Board of Selectmen.

107.9.3 - The Head Librarian shall be the chief administrative officer of the Thomaston Public Library, and shall be responsible to the Board of Trustees for the proper administration of all library affairs, in accordance with the instructions and direction of the Board of Trustees.

107.10 - Powers and Duties of Head Librarian

The powers and duties of the Head Librarian shall be as follows:

107.10.1 - To employ library employees to assist in the operations of the Library, subject to confirmation by the Board of Trustees.

107.10.2 - To remove employees of the Library from office in accordance with the procedures authorized by 107.11.

107.10.3 - To prepare, in conjunction with the Board of Trustees, a budget for the Thomaston Public Library and to submit that budget to the Town Manager.

107.10.4 - To prepare and submit, as of the end of each year, a complete report of the finances and administrative activities of the Library for the preceding year, to be included in the Annual Report of the Town.

107.10.5 - To attend meetings of the Board of Trustees, except when excused by that board.

107.10.6 - To act as a purchasing agent for the Library, subject to the supervision of the Board of Trustees and subject to the applicable rules and regulations of the Town.

107.10.7 - To provide for the maintenance of all Library equipment.

107.10.8 - To provide training for Library personnel; and

107.10.9 - To perform such other duties as may be delegated to the Head Librarian by the Board of Trustees, when such duties are not inconsistent with this ordinance.

107.11 - Assistants to Head Librarian

To assist the Head Librarian in carrying out the duties of that office, additional Library personnel may be appointed by the Head Librarian, subject to confirmation by the Board of Trustees. Library personnel shall be appointed for a term of one (1) year, unless removed from office for cause after notice and hearing, or by resignation or retirement, or without cause for any probationary employee.

107.12 - Library Budget

The Board of Trustees shall be responsible for the preparation of an annual budget, with the assistance of the Head Librarian and the Treasurer of the Board of Trustees, and for the submission of that budget to the Board of Selectmen. The Board of Trustees shall submit a statement of the annual Library budget to the Board of Selectmen no later than sixty (60) days prior to the date of each Annual Town Meeting. The Board of Selectmen shall consider each such budget and approve that budget. The annual budget for the Library shall show the investment of all funds, the expenditures anticipated for the operations of the Library for the budgetary year, and the town financial assistance, if any, for said year.

107.13 - Expenditures

The Board of Trustees shall consider and approve all expenditures for the library. All such expenditures shall also be approved by the Board of Selectmen. The Head Librarian and the Treasurer of the Board of Trustees shall be responsible monthly for the preparation of a request for expenditures, together with vouchers, for presentation to the Board of Trustees and to the Board of Selectmen in connection with each warrant for the authorization of expenditures for the Library. Each such statement shall be submitted to the Town Manager for presentation to the Board of Selectmen, a reasonable period of time in advance of a Selectmen's meeting, in order to permit the selectmen to review and to act upon each such request for expenditures.

107.14 - Donations and Library Funds

All funds that have been donated to the Town of Thomaston or to the Library Board of Trustees for the use of the Thomaston Public Library shall be held in the name of the Town as funds designated for the Town's Public Library. The Board of Trustees shall be responsible for the investment and management of all such Library funds of the Town, or funds resulting from donations to the Town for Library purposes. All funds for the Library, all income thereon, and all Library expenditures shall be separately identified as the Library Department of the Town.

107.15 - Applicability of Personnel Policies

Except as otherwise stated in this ordinance, all Library employees, including Head Librarian, shall be subject to the Personnel Policies of the Town of Thomaston.

107.16 - Enactment

This ordinance shall take full force and effect on the date of enactment of this ordinance at Town Meeting of the Town of Thomaston.

- 107.16.1** - Upon enactment of this ordinance, this ordinance shall supersede "An Ordinance for the Establishing and Maintaining a Public Library" which was enacted on March 28, 1898, and that 1898 ordinance is hereby repealed. All Library facilities, including equipment and Library supplies and materials, shall be transferred to the Thomaston Public Library, and the Board of Trustees thereof, as established by this ordinance.

ARTICLE VIII

Section 108 - Recreation Committee

108.1 - Establishment

Pursuant to Title 30-A, MRSA Section 3001, the Town of Thomaston hereby establishes a Recreation Committee which shall be appointed by a majority vote of the Board of Selectmen.

The composition of the Recreation Committee shall be as follows:

108.1.1 - Seven voting members of the general public who are residents of the Town of Thomaston.

108.1.2 - Two alternates who will have voting rights only upon the absence of a voting member.

108.1.3 - One senior citizen, non-voting capacity.

108.1.4 - One high school student, non-voting capacity.

108.1.5 - The Recreation Committee will elect a Chairman, Vice Chairman and Recording Secretary following the annual town meeting.

108.1.6 - Members of the Recreation Committee shall serve without compensation.

108.2 - Purpose

108.2.1 - The purpose of this ordinance is to establish a recreation Committee to set policy and act in an advisory capacity to the Recreation Director in an effort to bring to the citizens of Thomaston, recreational opportunities offered to various age groups.

108.2.2 - The Recreation Committee's responsibilities shall be limited to the proper and orderly functioning of any and all Recreation Committee activities supported by the Town of Thomaston. The Recreation Committee shall establish rules for a reasonable level of decorous conduct for all activities that will include coaches, participants and the public, The Director shall have the full support of the Recreation Committee in maintaining these rules.

108.2.3 - The Recreation Committee will assist the Director in determining the needs of the community and advising him/her on the reception of programs by the public.

108.3 - Terms

108.3.1 - Recreation Committee members shall serve for terms of three years; except that they shall continue in office until their successors are appointed.

108.4 - Vacancies

108.4.1 - Vacancies shall be filled within 45 days of resignation or the expiration of a term by appointment of the Board of Selectmen.

108.4.2 - A vacancy may also be considered to occur when any member fails to attend 70% of all regularly scheduled meetings annually. At which time, by two thirds majority vote, the Recreation Committee will declare the position vacant and, in writing, request the Board of Selectmen to fill same within 45 days. The attendance provision may be waived by a unanimous vote of the remaining members of the Recreation Committee.

108.4.3 - Members of the Recreation Committee may be removed from the Committee by a majority vote of the Board of Selectmen, for cause, after notice and hearing by the Board of Selectmen.

108.4.4 - Potential new members and members up for re-nomination shall submit a written request to the Town Clerk for consideration by the Board of Selectmen. Candidates must also appear before the board for appointment.

108.5 - Powers and Duties

- 108.5.1** - The Recreation Committee shall meet with the Recreation Director monthly at a specified place and time. Additional meetings may be called as deemed necessary.
- 108.5.2** - All meetings will be covered by an agenda approved by the Director that will be posted on the door of the Town Office, a minimum of 24 hours in advance of that meeting as provided by the Right-to-Know Law.
- 108.5.3** - The Chairman shall preside at all meetings unless unavoidably absent. At which time, the Vice Chairman shall preside. The secretary shall maintain a record of all proceedings including all correspondence of the Committee. All meetings and records shall be subject to the Right-to-Know Law, and a copy of all minutes shall be kept on file in the Town Office.
- 108.5.4** - The Recreation Committee's secretary shall submit minutes of all meetings to all other committee members, the Director, and the Town Clerk.
- 108.5.5** - Duty of the Recreation Committee is to take an active part in the direction of recreation for the Town of Thomaston.
- 108.5.6** - A quorum of the Recreation Committee necessary to conduct business shall consist of at least a majority of the sworn members but never less than four (4) members.
- 108.5.7** - All new programs recommended by the Recreation Director, Committee Member or the General Public, shall be reviewed and approved by a majority vote of the Recreation Committee, Said new programs shall then be approved by the Recreation Director and the Town Manager, within the budget constraints or the Town Meeting Approval for funding.
- 108.5.8** - The Recreation Director shall prepare the Annual Budget and submit it to the Town Manager for annual budget approval. The Recreation Committee shall review the Director's budget and make a recommendation, in writing, to the Budget Committee and Board of Selectmen during the annual process.
- 108.5.9** - The Recreation Committee shall periodically review the status of the approved budget with the Director.
- 108.5.10** - In the event of a vacancy in the position of Director, the position is to be filled under the Personnel Ordinance.
- 108.5.11** - The Director with the help of the Recreation Committee shall be responsible for all recreational assets, both managing and maintenance
- 108.5.12** - The Director with the help of the Recreation Committee has overall responsibility for development and implementation of all recreational programs.
- 108.5.13** - The Director with the help of the Recreation Committee may negotiate with MSAD #50 as necessary within the appropriation.
- 108.5.14** - The Director shall annually submit an annual report as well as current inventory to the Town Clerk.
- 108.5.15** - *Repealed 2005.*
- 108.5.16** - All activities undertaken by the Board of Selectmen and in the name of the Town shall be held separate and apart from any other recreation association or support group engaged in raising funds other than those voted by the Town Meeting.
- 108.5.17** - The Director may vote in the event of a tie vote on any and all issues before the Recreation Committee.
- 108.5.18** - The Recreation Committee may adopt rules of procedure consistent with this ordinance.

108.6 - Severability

108.6.1 - It is the intention of the Citizens of Thomaston that each separate section of this ordinance shall be deemed independent of all other sections herein. It is the further intention of the Citizens of Thomaston that if any of the provisions of this ordinance be declared invalid, all other sections shall remain valid and effective.

108.6.2 - This ordinance may be amended by a majority vote of the Citizens of Thomaston.

108.6.3 - This ordinance will be in full force and effect upon a majority vote of the Citizens of Thomaston.

108.6.4 - All existing policies of the Town of Thomaston insofar as they are inconsistent with the provisions of this ordinance are hereby repealed.

108.7 – Amendments [Note: As enacted; makes no sense.]

108.7.1 - Town vote;

108.7.2 - Selectmen may initiate, majority of Committee, or petition;

ADOPTED: JUNE 22, 1999 AT THOMASTON ANNUAL MEETING

AMENDED: JUNE 15, 2005 AT THOMASTON ANNUAL MEETING

ARTICLE IX

Section 109 – Thomaston Academy

109.1 – Reserved for future use.

ARTICLE X

Section 110 – Watts Block

110.1 – Reserved for future use.

ARTICLE XI

Section 111 – Thomaston Historical

111.1 – Reserved for future use.

ARTICLE XII

Section 112 - Conservation Commission Ordinance

112.1 - Establishment and Purpose

There is hereby established a Conservation Commission for the *Town of Thomaston* to consist of seven (7) members to be appointed by the town select board pursuant to the authority provided in Title 30A, Section 3261, M.R.S.A., as amended. It is the intent of the *Town of Thomaston* to establish a conservation Commission in order to maintain or enhance the conservation of natural or scenic resources, to protect natural streams or water supplies, to promote conservation of swamps, wetland, beaches or tidal marshes, to enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries, and to affect or enhance public recreation opportunities.

112.2 - Appointment and Term

112.2.1 - Each member of the Thomaston Conservation Commission (TCC) shall be appointed by the town select board for a three (3) year term, except that with respect to the initial appointments, two (2) members shall be appointed for a one (1) year term, two members shall be appointed for a two (2) year term and three (3) members shall be appointed for a three (3) year term.

112.2.2 - The TCC may recommend to the select board the appointment of associate members to assist the TCC, as required. Associate members shall be non-voting members. Their terms shall be for one year and may be renewed an unlimited number of times.

112.3 - Duties and Responsibilities

112.3.1 - The TCC shall manage any town owned property assigned to it by the select board or by vote of the town at any special or annual town meeting for conservation purposes as outlined in Section 112.1 of this Ordinance. The TCC may acquire land or any interest therein in the name of the municipality with the approval of the town by vote of any special or annual town meeting, and may accept gifts of land, money or easements for conservation purposes.

112.3.2 - The TCC may promote conservation by coordinating the activities of conservation bodies organized for similar purposes and may advertise, prepare, print and distribute books, maps, charts, plans and pamphlets which in its judgment it deems necessary. It may investigate areas, publicly owned within the municipality, including marsh lands, swamps and other wet lands, for the purpose of obtaining information pertinent to proper utilization, protection, development or use of such areas and may recommend to the municipal officers or any municipal body or board, or any body politic, or public agency of the State of Maine a program for the better utilization, protection, development or use of such areas which may include the acquisition of conservation easements. The TCC shall, prior to making recommendations pursuant to this section submit its recommendations to the Planning Board at least thirty (30) days in advance.

112.3.3 - The TCC shall carry out any other duties and responsibilities assigned to it by the select board.

112.4 - Meetings

112.4.1 - The TCC shall meet every month unless it agrees to meet more frequently. Except when otherwise provided by vote of the TCC, all meetings shall be conducted by Robert's Rules of Order. The TCC shall establish a regular meeting time and place in a public building. The TCC shall notify the Town Clerk of its regular meeting time and place and shall arrange to have an appropriate notice posted at the town office.

112.4.2 - The TCC shall keep records of its meetings and activities and shall make an annual report to the municipality to be published as part of the Annual Municipal Report.

112.5 - Voting and Quorum

The TCC's decision shall be made by vote of the majority of the members present and voting provided a quorum is present. A majority of the members appointed and serving on the TCC shall constitute a quorum.

112.6 - Expenditures

The TCC may submit a request for an annual budget to the select board in accordance with the procedures generally governing such requests from other not apply for grants or accept gifts on behalf of the town except with the approval of the Town Meeting or the select board pursuant to state law.

ADOPTED: JUNE 3, 1996 AT THOMASTON ANNUAL MEETING

ARTICLE XIII

Section 113 - Public Property & Roadside Waste & Refuse Ordinance

113.1 – General

Any rubbish and or garbage found on or off roadways, lanes, woods roads, cemeteries or any other public property, that contains the name or names and addresses of people, living or recently deceased, shall be prima facie evidence of littering and such person or persons as whose name or identities (initials, social security numbers, nick names, etc.), that are found in such litter, or in the case of persons deceased, their legal heirs or executors, shall be guilty of littering and shall pay current court cost plus any clean-up costs incurred by the Town of Thomaston under the authority of this ordinance.

ADOPTED: JUNE 22, 1999 AT THOMASTON ANNUAL MEETING

ARTICLE XIV

Section 114 - Thomaston Road Naming and Numbering Ordinance

114.1 - Purpose

The purpose of this ordinance is to enhance and rapid location of the properties by law enforcement, fire and emergency rescue personnel in the *Town of Thomaston*.

114.2 - Authority

This ordinance is adopted pursuant to and consistent with the Municipal Home Rule Powers as provided for in Article VIII, Part 2, Section 1 of the Constitution of the State of Maine and Title 30 M.R.S.A. Section 3001.

114.3 - Administration

This ordinance shall be administrated by the Thomaston Road Naming and Numbering Officer as appointed by the Board of Selectmen, or the designated assistant to the Road Naming and Numbering Officer, who shall be authorized to assign road names and numbers and all properties, both on existing and proposed roads, in accordance with the criteria in Section 114.4 and 114.5 of this ordinance. The addressing officer shall also be responsible for maintaining the following official records:

114.3.1 - An official map of Thomaston showing road names and numbers.

114.3.2 - An alphabetical list of all property owners by last name showing current numbered street addresses.

114.3.3 - An alphabetical list of all property owners in order of the assigned numbers.

114.4 - Naming System

All roads that serve two or more properties shall be named regardless of whether ownership is public or private. A "road" refers to any highway, road, street, avenue, lane, private way or similar paved, gravel or dirt through-fare. "Property" refers to any property on which a more or less permanent structure has been erected or could be placed. A road name assigned shall not constitute or imply acceptance of the road as a public way. The following shall govern the naming system

114.4.1 - No two roads shall be given the same name.

114.4.2 - No two roads shall have similar sounding names, unless the name is two words vs. one, i.e. Elm Street and Elm Street Court.

114.4.3 - Each road shall have the same name throughout its entire length with the exception of U.S. Route One

114.5 - Numbering System

Numbers shall be assigned every fifty (50) feet except where the population density requires a change, along both sides of the road, with even numbering appearing on the left side of the road and odd numbers appearing on the right side of the road. With the exception of Main Street, which shall be numbered from East to West.

114.5.1 - All number origins shall begin from the designated location, being the flag pole located on the Corner of Knox & Main Streets. For Dead end roads, numbering shall originate at intersection of the adjacent road and terminate at the dead end.

114.5.2 - The number assigned to each structure shall be that of the numbered interval falling closest to the front door. If the front door can not be seen from the main road, the number shall be that of the interval falling closest to the driveway of said structure.

114.5.3 - Every structure with more than one principle use or occupancy shall have a separate number for each occupancy.

114.6 - New Construction and Subdivision

All new construction and subdivisions shall be named as follows:

114.6.1 - Whenever any residence or other structure is constructed or developed, it shall be the duty of the new owner to obtain an assigned number from the Road Naming and Numbering Officer or his designated assistant at the time of issuance of the building permit.

114.6.2 - Any prospective subdivider shall show a proposed road name and lot numbering system on the pre-application submission to the Planning Board. Approval by the Planning Board, after consultation with the Road Naming and Numbering Officer or his designated assistant, shall constitute the assignment of road names and numbers to the lots in the subdivision. On the final plan showing proposed roads, the applicant shall mark on the plan, lines or dots, in the center of the streets every 50 feet to aid in the assignment numbers to structures subsequently constructed.

114.7 - Location of Roadside Mailboxes

It shall be the responsibility of the property owner to locate a roadside mailbox a minimum of three (3) feet in from the edge of the paved way or one and half (1-1/2) feet from the inside edge of any sidewalk. Location of any mailbox located between the outer edge of a sidewalk and the paved way is prohibited. The *Town of Thomaston* shall not be held responsible for any mailbox damaged during snow removal that fails to comply with this provision. (This section was added by vote of the Town Meeting and became effective on June 19, 2001)

114.8 - Effective Date

This ordinance shall become effective as of June 9, 1997. It shall be the duty of the Thomaston Road Naming and Numbering Officer or his designated assistant to notify by mail each property owner and the post office of a new address at least thirty (30) days before the effective date of its use. It shall be the duty of each property owner to comply with this ordinance.

ADOPTED: JUNE 9, 1997 AT THOMASTON ANNUAL MEETING

AMENDED: JUNE 19, 2001 AT THOMASTON ANNUAL MEETING

ARTICLE XV

Section 115 – Special Amusement Ordinance and Permits

115.1 - Applicability

This Ordinance shall be applicable to all proceedings, applications and petitions commenced after November 30, 1999, which is the date of this ordinance.

115.2 - Repeal

All ordinances or parts thereof, inconsistent with the terms and provisions of this Ordinance, are hereby replaced.

115.3 - Authority

This Ordinance is enacted pursuant to Title 28-A, M.R. S.A., Section 1054 and Title 30-A, M.R.S.A., Section 300L.

115.4 - Purpose

The purpose of this Ordinance is to control the issuance of special amusement permits as required by 28-A M.R.S.A., Section 1054, for music, dancing or entertainment of facilities licensed by the state to sell liquor. Entertainment shall include any amusement, performance, exhibition or diversion for patrons or customers of the licensed premises whether provided by professional or amateur entertainers, by patrons, or by full-time or part-time employees of the licensed premises whose incidental duties include activities with an entertainment value.

115.5 - 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.

115.6 - Penalty

Except as otherwise provided by state law, anyone found guilty of violating any provision of this ordinance shall be subject to a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000) to be recovered for the use of the Town of Thomaston and shall be subject to such other legal and equitable remedies as may be available to the Town, each day such violation continues, shall be deemed to be a new offense.

115.7 - Application

No licensee for the sale of liquor to be consumed on the applicant/applicants licensed premises shall permit on the licensed premises any music, except radio or other mechanical device, any dancing or entertainment of any sort unless the licensee shall have first obtained, from the Board of Selectpersons, a special amusement permit. Applications for all special amusement permits shall be made in writing to the Board of Selectpersons and shall state:

- 115.7.1 The name of the applicant;
- 115.7.2 The applicant/applicants resident address;
- 115.7.3 The name of the business to be conducted;
- 115.7.4 The applicant/applicants business address;
- 115.7.5 The nature of the applicant/applicants business;
- 115.7.6 The location to be used;
- 115.7.7 Whether the applicant has ever had a license to conduct the business therein described either denied or revoked and, if so, the applicant shall describe those circumstances; and
- 115.7.8 Whether the applicant, including all partners, corporate officers, managers or principal employees has ever been convicted of a felony or a Class A, B or C crime within the past five years and, if so, the applicant shall describe specifically those circumstances; and
- 115.7.9 Any additional information as may be required by the Board of Selectpersons prior to the issuance of the permit, including but not limited to a copy of the applicant's current liquor license.

115.8. - General Requirements

- 115.8.1 No special amusement permit shall be issued for any thing or act or premises, if the premises and buildings to be used do not fully comply with all ordinances, codes, and regulations of the Town.
- 115.8.2 The application fee for a special amusement permit shall be as set by order of the Town of Thomaston Board of Selectpersons and on file in the Town Clerk's office and is nonrefundable and must be paid when application is made for the permit.
- 115.8.3 A licensed hotel, Class A restaurant, Class A tavern or restaurant malt liquor licensee as defined in the Maine Revised Statutes who has been issued a special amusement permit may charge admission in designated areas approved in the permit.
- 115.8.4 All music, dancing and or entertainment subject to regulation under this ordinance, on the premises, shall end no later than 12:45 A.M.
- 115.8.5 The maximum permissible sound pressure level produced by any music, dancing and/or entertainment on the premises shall not exceed 55 dB, measured four (4) feet above ground at the property boundary; this measure shall be made by a meter set on the A-weighted response scale, slow response, and the meter shall meet the American National Standards Institute (ANSI S 1.4-1961) "American Standard Specification for General Purpose Sound Level Meters"- as set out in performance standards the Town of Thomaston Ordinance.

115.9 - Conduct Constituting Offenses by Licensees

- 115.9.1 Tumultuous Conduct** - The Licensee shall not knowingly allow on any licensed premises any person or persons to disturb, tend to disturb, or aid in disturbing the peace of others of ordinary sensibilities or be disorderly by violent, tumultuous, offensive or obstreperous conduct; or to permit or gather a crowd, or audience, or patrons to witness any entertainment, amusement, or show as to create a dangerous condition because of fire or other risks in derogation of the public health, comfort, convenience, safety, or welfare.
- 115.9.2 Riots** - The Licensee shall not allow on any licensed premises any public entertainment or amusement or show of any kind which tends to or is calculated to cause or promote any riot or disturbance.
- 115.9.3 Unnecessary Noise** - The Licensee shall not allow on any licensed premises the making, creation, or maintenance of excessive, unusually loud noise which disturbs, annoys, injures or

prejudices, or endangers the comfort, repose, health, peace, or safety of individuals of ordinary sensibilities or the public in general, or the property rights of others, and which noises affect and are a detriment to public health, comfort, convenience, safety, welfare, or the prosperity of the residents of the municipality.

115.9.4 Nuisances - The Licensee shall not allow any licensed premises to be so conducted or operated as to amount to a nuisance in fact under any ordinances, or any sections of any ordinances or rules and regulations of the municipality, or under any statutes of the State of Maine. .

115.9.5 Prostitution and Public indecency - The Licensee shall not allow on any licensed premises or aid in or offer or agree to or allow near such licensed premises any prostitution, or prostitutes, or any public indecency under any or in derogation of any statutes of the State of Maine; or any meretricious display, or lewd act, or act of moral perversion, or knowingly receive, or offer or agree to receive any person on such licensed premises for the purpose of performing a lewd act, or an act of prostitution or moral perversion, or public indecency, or to knowingly permit any person to remain on such licensed premises for any such purpose, or to aid, abet, allow, permit, or participate in the commission of any such acts.

115.9.6 Gambling - The Licensee shall not allow on any licensed premises the use or occupancy thereof for gambling or games of chance as prohibited by the statutes of the State of Maine.

115.10 - Obscenity.

The Licensee, on any licensed premises, shall not:

115.10.1 Material. Knowingly disseminate, distribute or make available to the public any obscene material; or

115.10.2. Performance. Knowingly make available to the public any obscene performance; or

115.10.3 Commercial Activity. Knowingly engage in commerce and/or the commercial gain with materials depicting and describing explicit sexual conduct, nudity, or excretion utilizing displays, circulars, advertisements, or any other public sales efforts that promote such commerce primarily on the basis of their prurient appeal; or

115.10.4 Exposure. Provide service to patrons in such a manner as to expose to public view:

1. The Licensee's or any of his agent's or employee's genitals, pubic hair, buttocks, perineum, anal region or pubic hair region;
2. Any device, costume or covering which gives the appearance of or simulates the genitals, pubic hair, buttocks, perineum, anal region or pubic hair region; or
3. Any portion of the female breast at or below the aureole thereof; or

115.10.5 Promotion. Knowingly promotes the commission of any of the above listed acts of this section.

115.11 - Amendments: [Note: As enacted.]

115.12 - Classes and Fees

115.12.1 The fee for a special amusement permit shall entitle the applicant to one (1) of the following classes of permits:

1. **Class I.** Permit for live performances of music, provided nevertheless that the Class I permit shall limit the holder of same to three (3) live musicians or singers performing within the restaurant structure. No dancing or floor show entertainment shall be allowed on the premises holding a Class I permit.

2. **Class II.** All of the privileges allowed in a Class I permit plus dancing within the restaurant structure to recorded or live music with no limitation upon the number of live musicians or singers.

3. **Class III.** All of the privileges allowed in Class I and Class II permits plus a floor show type of entertainment within the restaurant structure.

115.12.2 The entertainment allowed under any class of permit provided for herein shall be conducted at a level which complies with the provisions of Section 115.8.5 of this ordinance. Permits issued hereunder shall specify the hours during which permitted entertainment may be provided.

115.12.3 An applicant may apply for any of the above three (3) classes of permit

115.13 - Hearing.

115.13.1 The Board of Selectpersons shall, prior to granting a special amusement permit and after reasonable notice to the town residents and the applicant, hold a public hearing within thirty (30) days of receipt of a completed application, at which hearing the testimony of the applicant and that of any interested members of the public shall be taken.

115.13.2 Prior to obtaining a permit, the applicant must show at the public hearing required in this section that:

1. The issuance of the requested permit will not be detrimental to the public health, safety, or welfare;
2. The proposed activity to be licensed will not create a traffic hazard;
3. The applicant has ample parking to accommodate the proposed activity;
4. The proposed activity will not, either by reason of its scope or noise, adversely affect surrounding or abutting property and that it will not unreasonably interfere with the use, enjoyment and value of surrounding and/or abutting property;
5. The applicant is in conformance with all provisions of the town zoning ordinance, all applicable health codes, and other applicable municipal, state and federal codes, ordinances, regulations and statutes;
6. In the case of a facility located in a residential zone, that the activities will not tend to change the residential character of the neighborhood.
7. Neither the applicant nor its officers, agents, or principle employees has been convicted of a felony or Class A, B, or C crime within the past five years.

115.13.3 In making the determination of whether the applicant has satisfied the criteria set forth in 115.13.2 above, the Board of Selectpersons shall consider, but shall not be bound by neighborhood opinion and sentiment.

115.14 - Term of Permit

A special amusement permit shall be valid only for the license year of the applicant's existing liquor license.

115.15. - Inspections

115.15.1 Whenever inspections of the premises used for or in connection with the operation of a licensed Business which has obtained a special amusement permit are approved for or required by ordinance or state law or are reasonably necessary to secure compliance with any town ordinance, code or regulation or stale law, it shall be the duty of the licensee, or the person in

charge of the premises to be inspected, to admit any officer, official, or employee of the town authorized to make the inspection at any reasonable time that admission is requested.

115.15.2 Whenever an analysis of any commodity or material is reasonably necessary to secure conformance with any ordinance provision or detect violations thereof, it shall be the duty of the licensee, or person in charge of such premises, to give any authorized officer, official or employee of the Town requesting the same, sufficient samples of such material or commodity for such analysis or investigation upon request

115.15.3 In addition to any penalty which may be provided, the Board of Selectpersons may revoke the special amusement permit of any licensee who refuses to permit any such officer, official or employee to make an inspection or who interferes with such officer, official or employee while in the performance of his duty, provided that no license or special amusement permit shall be revoked unless a written demand for the inspection is made upon the licensee or person in charge of the premises at the time it is sought to make the inspection.

115.16 - Suspension or Revocation

The Board of Selectpersons may, after a public hearing preceded by notice to interested parties, suspend or revoke any special amusement permit which has been issued under this ordinance on the grounds that the music, dancing, or entertainment permitted constitutes a detriment to the public health, safety or welfare or violates any town regulations, ordinances, or rules or determines that the application was false or misleading in a fashion material to the approval.

115.17 - Appeals

115.17.1 Any licensee requesting a special amusement permit from the Board of Selectpersons shall be notified in writing of their decision no later than thirty (30) days from the date his application was received. In the event that a licensee is denied a permit, the licensee shall be provided with the reasons for the denial in writing. The licensee may not reapply for a permit within thirty (30) days after an application for a permit has been denied.

115.17.2 Any licensee who has requested a permit and has been denied or whose permit has been revoked or suspended may, within thirty (30) days from the date

115.18 - Rules and Regulations for Special Use Permits

The Board of Selectpersons is hereby authorized, after public notice and hearing, to establish written rules and regulations governing the issuance, suspension and revocation of special amusement permits; the classes or permits; the music, dancing or entertainment permitted under each class; and other limitations on these activities required to protect the public health, safety and welfare. These rules and regulations may specifically determine the location and size of permitted premises, the facilities that may be required for the permitted activities on those premises and the hours during which the permitted activities are permitted. Such rules and regulations shall be additional to and consistent with all sections of this division.

ADOPTED: NOVEMBER 30, 1999

ARTICLE XVI

Section 116 – Radioactive & Hazardous Waste Disposal

116.1 - Prohibited

The disposal or storage of hazardous wastes of the type and in the quantity as designated under the U.S. Clean Water Act, Section 311, Public Law 92-500, and/or the disposal or storage of radioactive waste material as defined by 38 MRSA § 361-D 1.B., within the boundaries of the Town of Thomaston, Maine is prohibited.

116.2 - Exceptions

Any request for an exception to this prohibition shall be submitted in writing to the Selectmen and brought to the whole town of Thomaston acting as the body politic, to be voted on by all bona fide voters present at a Town Meeting.

116.3 - Violations

Any person to be found in violation of this Ordinance shall be subject to a fine of not more than one thousand dollars (\$1,000.00) and not less than two hundred fifty dollars (\$250.00) for each offence. Each day in which a violation occurs shall constitute a separate offence.

ADOPTED: MARCH 31, 1981

ARTICLE XVII

Section 117 – Town of Thomaston Consumer Fireworks & Sky Lantern Ordinance

117.1 Purpose:

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

117.2 Title and Authority:

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

117.3 Definitions:

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

“Consumer fireworks” has the same meaning as in 27 Code of Federal Regulations, section 555.77 or subsequent provision, but includes only products that are tested and certified by a 3rd-party testing laboratory as conforming with United States Consumer Product Safety Commission standards, in accordance with 15 United States Code, Chapter 47. *“Consumer fireworks”* does not include the following products:

1. *Missile-type rockets*, as defined by the State Fire Marshal by rule;
2. *Helicopters and aerial spinners*, as defined by the State Fire Marshal by rule; and
3. *Sky rockets and bottle rockets*. For purposes of this paragraph, *“sky rockets and bottle rockets”* means cylindrical tubes containing not more than 20 grams of chemical composition, as defined by the State Fire Marshal by rule, with a wooden stick attached for guidance and stability that rise into the air upon ignition and that may produce a burst of color or sound at or near the height of flight.
4. *Sky Lanterns*: An airborne lantern typically made of paper with a wood frame containing a candle, fuel cell composed of waxy flammable material or other open flame which serves as a source to heat the air inside of the lantern to cause it to lift into the air including *“sky candles”*, *“air paper lanterns”*, and other similar devices designed to be levitated by open flame and released into the air uncontrolled.

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

Consumer fireworks. Any small firework device designed to produce visible effects by combustion and which must comply with the construction, chemical composition, and labeling regulations of the US. Consumer Product Safety Commission, as set forth in title 1, Code of Federal Regulations, parts 1500 and 1507. Some small devices designed to produce audible effects are included, such as whistling devices, ground devices containing 50 mg or

less of explosive materials, and aerial devices containing 130 mg or less of explosive materials. Consumer fireworks are classified as fireworks UN0336, and UN0337 by the US. Department of Transportation at 49 CFR 172.101. This term does not include fused set pieces containing components which together exceed 50 mg of salute powder. (See 27 Code of Federal Regulations section 555.11)

117.4 Use and Sale prohibited:

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

EXCEPTION:

1. Any property owner or citizen of Thomaston who intends to use CONSUMER FIREWORKS shall be allowed to do so by adhering to the following requirements:
 - a. Obtain a permit for consumer fireworks display from the Board of Selectmen at least one month in advance.
 - b. Written proof of adequate insurance coverage.
 - c. Evidence of notification of abutters within ten days presented to the Board of Selectmen.
 - d. Employ a State of Maine licensed fireworks technician to shoot the display and who can confirm the location meets safety requirements.

117.5 Fireworks display:

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

117.6 Penalty:

Penalty for Sale or Use Violation.

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

117.7 Enforcement:

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

117.8 Injunction:

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

117.9 Seizure and Disposal of Consumer Fireworks:

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

ADOPTED: JUNE 10, 2014



CHAPTER 1

THOMASTON

GOVERNMENT &

ORGANIZATION

TOWN OF THOMASTON
P.O. BOX 299
THOMASTON, MAINE 04861
TEL. (207) 354-6107

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1. *Missile-type rockets*, as defined by the State Fire Marshal by rule;
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 - b. Written proof of adequate insurance coverage.
 - c. Evidence of notification of abutters within ten days presented to the Board of Selectmen.
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Penalty for Sale or Use Violation.

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

117.9 Seizure and Disposal of Consumer Fireworks:

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

ADOPTED: JUNE 10, 2014

CHAPTER 2 NFPA LIFE SAFETY CODE

ARTICLE I - ORDINANCE FOR THE ADOPTION OF NFPA 101 LIFE SAFETY CODE

Section 201 - Purpose

An Ordinance establishing rules and regulations to promote the safety to life from fires in buildings and structures in the Town of Thomaston.

201.1- Adoption of NFPA 101 Life Safety Code

That a certain document three copies of which are on file in the office of the Town Clerk of Thomaston being marked and designated as "The NFPA 101 LIFE SAFETY CODE, 2003 EDITION" as published by National Fire Protection Association, be and is hereby adopted as the Life Safety Code for fires of the Town of Thomaston in the State of Maine; for the control of fire hazards in buildings and structures as herein provided; and each and all of the regulations, provisions, conditions and terms of said NFPA 101 Life Safety Code, are hereby adopted and made part thereof as is fully set out in this Ordinance.

201.2 - Inconsistent Ordinance Repealed

That any and all Life Safety Code land ordinances or parts of ordinances that conflict here with are hereby repealed.

201.3 - Date of Effect

That the Town Clerk shall certify to the adoption of this ordinance and cause the same to be published as required by law; and this ordinance shall take full force and effect on the date of passage and final approval.

201.4 - Violations Provisions and Penalties

201A.1 - It shall be unlawful for any person to violate any provision of this code; to permit or maintain such violation; to refuse to obey any provision hereof, to fail or refuse to comply with any such provision; except by a variance granted by the Fire Chief of Thomaston.

201.4.2 - Proof of such unlawful act or failure to act shall be deemed "Prima Facie" evidence that such act is that of the owner. Prosecution or lack thereof by either the owner or the occupant shall not be deemed to relieve the other.

201.4.3 - The provisions shall apply equally to both public and private property. It shall apply to all existing and new structures and their occupancies including buildings, structures, equipment, etc., which constitutes a clear and present hazard to life.

201.4.4 - Any person who shall violate any provision of this code or shall fail to comply with any requirements thereof shall be guilty of a misdemeanor punishable by a fine of not less than \$100, nor more than \$2,500.

201.4.5 - Each day a violation continues may be counted as a separate offense. An offense will commence on the date of issuance of a notice of violation signed by the Fire Chief to the party in violation of this code. Return of the receipt indicating that the notice was undeliverable as addressed or otherwise not delivered to the person or party, shall not invalidate enforcement of this code or any other penalties provided herein. The town may bring action in superior court to enjoin violation of this code and for any other such relief as the law may provide.

201.5 - Enforcement

It shall be the duty of the Fire Chief or other person duly authorized by the Town of Thomaston to enforce the provisions of the NFPA 101 Life Safety Code.

Given under our hand this 14th day of March, 1994.

Peter Lammert, Chairman

Richard Hathaway, Vice-Chair

Lee-Ann Upham

Steve Mazzeo

William Wallace

EFFECTIVE DATE MARCH 26, 1994 AT ANNUAL TOWN MEETING
Amended June 22, 1999



Thomaston Green Design Guidelines

Town of Thomaston
R-3A Village Mixed Use District

November 2008

THOMASTON GREEN DESIGN GUIDELINES

INTRODUCTION

This document establishes design guidelines for development in the R-3A Village Mixed Use District. The guidelines anticipate a greater sense of continuity and identity by illustrating well-planned site design and high quality architectural design. They are not intended to dictate site design or building styles.

Site Design Goals

Development in the R-3A District should be a natural extension of the village area and have the following characteristics:

- human scale,
- compact and walkable,
- linked to the rest of the community through interconnected streets and sidewalks,
- compatible with neighboring development,
- contain a civic core, and
- integrate open space throughout.

Architectural Goals

- Architecture that offers a positive experience from three perspectives: by the motorist driving along the road corridor; by the pedestrian viewing the buildings up close; and in relation to surrounding buildings that tie into the community's identity.
- Good neighborhood buildings that thoughtfully consider scale, form, orientation, height, setback, massing, materials, and architectural features.
- Buildings that are designed to human scale that address the comfort, enjoyment, and safety of the users.
- Buildings that are permanent, positive additions to the town, constructed of high quality, long-lasting materials.
- Architecture that utilizes energy and resource conservation measures, whenever possible.

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Examples of Inappropriate Development



Photo by C. Bertocci

***View of St. George River and Thomaston Harbor
from Thomaston Green.***

THOMASTON GREEN DESIGN GUIDELINES

SECTION I – SITE DESIGN

OBJECTIVE

These Guidelines are intended as a tool to advise and shape the development of Thomaston Green. They are an additional tool to be used along with the standards in the Thomaston Land Use and Development Ordinance for the R-3A Village Mixed Use District. While the Guidelines are not intended to be standards, they should be consulted throughout the development process to ensure that the vision for the site as a whole, as well as its individual elements, is achieved; namely, development that is human scale, compact and walkable, linked to the rest of the community through interconnected streets and sidewalks, complements development in the abutting residential districts and federally designated historic district, and integrates open space throughout. Adherence to the Guidelines is encouraged to the maximum feasible extent.

SITE DESIGN

Structures. The R-3A District is intended to include a mix of residential, institutional and commercial uses within close proximity to one another, which may include combined use structures such as apartments above small shops and live-work units. Structures should meet the design guidelines set forth in Section II below, but should not be uniform.

Relationship of Structures to one another, Streets and Open Space. The purpose of the district is to encourage compact, mixed-use development by allowing a street setback and minimum lot size that is less than elsewhere in Thomaston, and balancing the denser structural development with public open space. The relationship of the buildings to one another and to the streets, sidewalks, and open space is critical to achieving this goal. Buildings should be placed on the site in a way that creates a variety of exterior open spaces linked to one another, and that retains access to views of the St. George River for the enjoyment of the

general public as well as tenants. Buildings should be oriented toward the perimeter and/or interior streets, sidewalks and public open space with private residential space and parking areas located in the rear of buildings. Linking of buildings through the use of common walls as well as the inclusion of different uses within the same structure is strongly encouraged.

Streets. The development may include a hierarchy of street types. Primary access to the site is from Wadsworth Street. This street must be two directional, tree-lined, with on-street parking and sidewalks on one or both sides. It should connect with an entrance from U.S. Route One in a manner that facilitates access to site development and neighboring residential areas, but does not encourage cut-through traffic. It is recommended that the entrance from U.S. Route One be two directional with sidewalks on one or both sides. It is strongly recommended that an interior street eventually be constructed to connect development at Thomaston Green with Ship Street in order to link existing and future development west of the site with the village area.

Sidewalks. Sidewalks are intended to be an integral part of the site, providing for safe, pleasant passage for residents and users of facilities. Collectively, they should create a greenbelt of trees and other plantings which link development to the public open spaces and perimeter trail. Sidewalks are required along Route One, along the street entering from Wadsworth Street, and along the entrance from Route One, on one or both sides. Sidewalks may vary in width, design, and material depending upon location, with more formal sidewalks appropriate along major streets with less formal sidewalks connecting to the perimeter trail. Sidewalks should be a minimum of 5 feet wide to allow two people to walk abreast. The use of esplanades is encouraged to slow traffic and provide a safe and inviting pedestrian environment. The use of sidewalk

THOMASTON GREEN DESIGN GUIDELINES

SECTION I – SITE DESIGN

materials other than, or in addition to, asphalt, such as crushed stone, concrete, or brick-patterned concrete or asphalt is strongly encouraged.

Parking. On-street parking should be maximized to reduce the need for large areas of parking. Off-street parking should be integrated into the design of the development so that it does not dominate the landscape. Parking lots must be buffered from public streets by landscaping appropriate to the village and pedestrian setting. It is strongly recommended that parking areas not interrupt the pedestrian/sidewalk connectivity of the site. Pedestrian passage through a parking lot should be made clear and safe through careful design, changes in color or texture, and landscaping that clearly delineates the sidewalk year-round. Consideration may be given to the use of permeable materials to minimize stormwater runoff.

Open Space. Public open space is integral to the design of Thomaston Green and is intended for the use of the entire community. The public green, perimeter trail, sidewalks and streets should be linked with one another to create a fabric of open space through which the public is invited to move, view and appreciate. The perimeter trail must have a connection to the central green, the street entering from Wadsworth Street, and the sidewalks along Route One.

Street and Sidewalk Lighting. Lighting should be the minimum amount necessary for safety. Fixtures should have a cut-off design and be the lowest practicable height for the intended use in order to minimize glare and preserve the night sky.

Landscaping and Street Furniture. Streets should be tree-lined and properties landscaped with a variety of plant species. Landscaping should be used to define spaces and create buffers as opposed to an emphasis on

foundation plantings. Informal sitting areas such as benches or low walls and shade structures should be placed at appropriate gathering places.

Utilities. Utilities such as electrical lines must be placed underground.

Signage. Signs must conform to the standards for the town's Village Commercial District. The use of backlighting is strongly discouraged.



Photo by P. McCrea

Example of traditional New England architecture, appropriate building setback from street and sidewalk, sidewalk separated from street by esplanade.



Photo by T. DeWan

Example of mixed residential-commercial development. Note relationship of structures to one another, sidewalks, lighting and landscaping.

THOMASTON GREEN DESIGN GUIDELINES

SECTION I – SITE DESIGN



Photo by P. McCrea

Example of traditional New England architecture: note building proportions, building setback and orientation with respect to sidewalks, streets and public open space.



Photo by P. McCrea

Example of a formal sidewalk adjacent to building, an informal sidewalk that may be appropriate for the perimeter trail or connections between buildings, and a parking lot at top of photo screened by vegetation.



Photo by T. DeWan

An office complex that utilizes traditional New England forms, offers a variety of exterior spaces, and relates well to surrounding residential areas by paying particular attention to design, scale, and details.



Photo by T. DeWan

Example of vegetative buffer screening parking lot. Vegetative buffers, islands, and esplanades must be large enough to support the species of trees and shrubs planted.



Photo by C. Bertocci

View of St. George River from Thomaston Green. Perimeter trail must retain access to views of the river for enjoyment of the public.

THOMASTON GREEN ARCHITECTURAL DESIGN GUIDELINES

SECTION II – A. GENERAL ARCHITECTURAL PRINCIPLES

OBJECTIVE

The purpose of these Guidelines is to encourage architecture within the R-3A District that draws its inspiration from traditional New England examples. Building design should reinforce a human-scaled environment through careful consideration of architectural forms, massing, detailing, use of materials and color.

DESIGN GUIDELINES

Design. Buildings should be designed to fit the individual characteristics of their particular site. The architecture should be influenced by traditional New England building forms and town-making patterns, the specific needs of the intended users, the nature of the intended use, land contours and other site-specific factors. Contemporary architectural styles are appropriate provided they meet these Guidelines. Franchise architecture which is designed to be identified with a specific commercial chain store or restaurant is not appropriate.

Human Scale. Buildings and site elements should be designed to human scale. The forms, massing and openings of buildings should be proportional to the size of a human figure. Many architectural elements can add scale to a building: integral planters, recessed openings, windows with divided panes, building mounted light fixtures, dormers, cupolas, projecting rooflines, covered walkways, and similar features.

Accessory Structures. Accessory structures should be connected to, or integrated into, the principal structure wherever possible. The design of freestanding non-habitable accessory structures, such as canopies, sheds, trash enclosures, and utility buildings should be coordinated with the principal building through repetition of architectural forms, materials,



Photo by P. McCrea



Photo by P. McCrea



Photo by P. McCrea

Three examples of traditional New England village architecture.

THOMASTON GREEN ARCHITECTURAL DESIGN GUIDELINES

SECTION II – A. GENERAL ARCHITECTURAL PRINCIPLES

colors, and detailing; however, freestanding accessory structures should be as unobtrusive as possible. The size and placement of accessory structures on the site should reflect their subordinate nature; they should not detract from the appearance or visual focus of the principal structure. Freestanding garages and freestanding ATMs are prohibited.

Energy and Resource-Conscious Design. It is strongly recommended that architecture and site planning promote energy efficiency and resource conservation. Consideration should be given to site orientation to take advantage of passive or active solar heating opportunities, use of maximum insulating materials, reduced lighting loads, and landscaping for windbreaks and shading.



Photo by P. McCrea

Example of traditional New England architecture: pitched roof, human scale with detailed windows and doorway. The accessory structure (garage) complements the principle structure in form, material and color; the garage is located to the rear of the house and does not detract from the visual focus on the front facade.



Photo by W. Martin

Contemporary municipal building that utilizes traditional New England architectural forms.



Photo by C. Bertocci

Example of contemporary residential apartments that utilize traditional New England architectural forms.



Photo by W. Martin

Contemporary structure with passive solar design.

THOMASTON GREEN ARCHITECTURAL DESIGN GUIDELINES

SECTION II – B. FACADE DESIGN

OBJECTIVE

All buildings should present an inviting, human scaled facade to the street, internal drives, parking areas, surrounding neighborhoods, and public open space. Wherever possible, entrances should be clearly visible from the street and reinforced through site and architectural features. Buildings should have distinguishing features that create character and relate to the context of New England.

DESIGN GUIDELINES

Facade Treatment. It is recommended that the facade containing the main entrance be treated as a front facade and be designed in a manner that is consistent with the Design Guidelines. Building entrances should be visible from the street and provide unobstructed areas for pedestrians. It is recommended that the front facade of commercial and institutional buildings contain a clearly defined, highly visible and welcoming customer entrance.

For retail structures, it is strongly recommended that the front facade have windows, entry areas, or other transparent features along 40% or more of its horizontal length. It is also recommended that side facades facing a public or private street have transparent features or other architectural elements that provide scale and visual interest in keeping with these Design Guidelines.

Offsets. It is recommended that all facades greater than 35 feet in length incorporate vertical elements such as wall plane projections or recesses to simulate smaller scale development. Strong shadow lines, changes in rooflines, pilasters and other architectural details, patterns in the surface material, and wall openings can be effectively used to add visual interest and scale to the facade. Projections used to break up the mass of the building should extend to the ground.



Photo by E. Bertocci

Example of front facade of commercial building: traditional New England architecture, human scale, transparent features, highly visible customer entrance, sign integrated into facade.



Photo by P. McCrea

Front facade of residential structure.

THOMASTON GREEN ARCHITECTURAL DESIGN GUIDELINES

SECTION II – B. FACADE DESIGN

Rear and Side Facades. Blank walls facing public roads, residential neighborhoods, or abutting properties are strongly discouraged. Where rear or side facades are visible from adjacent properties or streets, they should be designed to match or complement the architectural treatment of the primary façade to give it scale and visual interest.

Trim. It is strongly recommended that windows, door openings, ventilation openings, and other forms of exterior fenestration in frame construction be trimmed.

Shutters. If shutters are used, they should be sized to fit the openings and provided for all windows on a given wall.

Functional Elements. It is recommended that all vents, downspouts, flashing, electrical conduits, meters, HVAC equipment, service areas, loading docks, service connections, and other functional elements be treated as integral parts of the architecture, starting at the conceptual building design phase. When these elements need to be part of the façade (e.g., downspouts, vents) they should be incorporated into the architecture through detailing or matching colors. Meters, utility banks, HVAC equipment, and other exterior service elements should be contained in service closets, behind walls, or located out of view from the public. Building elevations presented for Planning Board review should show the location and treatment of all functional elements.

Vending machines. Outdoor vending machines are prohibited.



Photo by T. DeWan

Contemporary office building: use of recesses simulates smaller scale development, highly articulated windows add visual interest and scale to façade.



Photo by P. McCrea



Photo by P. McCrea

Two examples where façade treatments wrap around the corners to present a unified design from all visible faces.

THOMASTON GREEN ARCHITECTURAL DESIGN GUIDELINES

SECTION II – B. FACADE DESIGN

Photo by C. Bertocci



Photo by P. McCrea

Trim and detailing around windows and door create visual interest.



Front façade of commercial retail structure: traditional New England design, transparent features, highly visible customer entrance.

Photo by P. McCrea



Screening of utilities, bicycle racks, and other visual conflicts.



Photo by T. DeWan

The building's meters and service connections are located out of sight in a service cabinet.

THOMASTON GREEN ARCHITECTURAL DESIGN GUIDELINES

SECTION II – C. BUILDING MATERIALS

OBJECTIVE

Building materials should be treated as significant design elements that define the appearance of the structure and strengthen the sense of identity throughout Thomaston. The use of high quality materials that give the appearance of New England architecture and/or harmonize with it is strongly encouraged.

DESIGN GUIDELINES

Materials encouraged. Traditional building materials common to northern New England (e.g., brick, clapboard, shingles, stone, or other similar products) are strongly preferred as the primary siding material. Contemporary materials that have the same visual characteristics (e.g., cement plank clapboards or vinyl siding) are acceptable if they are of high quality and attention is paid to detailing (e.g. trim at openings). Painted MDO plywood is acceptable when used in combination with traditional materials to give it scale. Long-term maintenance needs should be considered in the selection of all building materials.

Materials prohibited. Highly reflective or processed materials (e.g. metal or plastic panels, brushed aluminum, bronzed glass, concrete block, T-111, untreated plywood, dryvit, etc.) or multicolored brick (incorporating occasional white bricks in a random pattern) must not be used as the primary or front facing façade. Log construction is prohibited.

Colors. Traditional colors commonly found in New England villages are appropriate for all components of the building. Façade colors should be low reflectance. The use of high intensity, high reflectance, chrome, metallic, or fluorescent colors or black is prohibited as the principal color.

Trim. Where trim is used, it should be a color that complements the building's principal

color. Neon tubing is not allowed as an exterior trim or accent material.

Detailing. Arbitrary changes in materials or embellishments that are not in keeping with the rest of the building are discouraged.



Photo by T. DeWan



Photo by T. DeWan



Photo by T. DeWan

Three buildings using traditional materials: granite, brick and wood.

THOMASTON GREEN ARCHITECTURAL DESIGN GUIDELINES

SECTION II – D. ROOFLINES

OBJECTIVE

Buildings throughout Thomaston, and older residential structures in particular, are often rambling in nature with additions and attached barns and other accessory structures. These buildings are characterized by multiple pitched and shed roofs intersecting at varying angles and heights creating visual diversity and protected spaces. Rooflines in the R-3A District should be designed to provide diversity in the form of the building and add visual interest to the streetscape. When used properly, rooflines can reduce the mass of large buildings, emphasize entrances, and provide shelter and shade for the pedestrian.

DESIGN GUIDELINES

Pitched Roofs. Roofs with a pitch steeper than 5 feet of rise for every twelve feet of run (5:12) are strongly encouraged to better accommodate area weather conditions and the potential use of solar collectors, and for aesthetic reasons. Projecting rooflines should be designed to create strong shade/shadow patterns.

Shapes to be Avoided. False mansard, A-frames, and other non-traditional roof forms as the primary roofline are strongly discouraged. Flat roofs are discouraged in most applications, but may be appropriate as the primary roofline on a 3 or 4 story building or as a secondary roofline on a smaller structure, such as the roof of a sun porch or covered walkway.

Parapets. Where parapets are used to break up a flat roofline, the height of the parapet should be at least five percent of the total length of the wall.

Preferred Materials for Pitched Roofs. Composite asphalt shingles and standing-seam non-glare materials are preferred for visible roofing. High gloss roofing materials are

strongly discouraged. Roofing materials should complement the color and texture of the building's façade. It is recommended that roof colors be muted earth tones or a color that is darker than the façade. Stripes and other distinctive patterns on the roof are strongly discouraged.



Photo by P. McCrea



Photo by P. McCrea

Examples of rooflines and adjoining shapes.

THOMASTON GREEN ARCHITECTURAL DESIGN GUIDELINES

SECTION II – D. ROOFLINES



Photo by P. McCrea

Multiple pitched roofs on this residential structure create visual interest and shelter entryway.



Photo by P. McCrea

Example of expansion and conversion of residential structure to commercial use. The combination of pitched and flat rooflines creates visual interest and provides a sheltered sitting and entryway for shoppers. Sign is mounted on façade.

Roof-Mounted Equipment. It is strongly recommended that mechanical and other equipment mounted on rooftops be screened from public view or grouped in a location where visibility is limited. Where used, screening for roof-mounted equipment should be designed as an integral part of the architecture to complement the building's mass and appearance. This provision shall not be construed to prohibit the use of solar panels.

Roof-Mounted Signs. Roof mounted signs are strongly discouraged. If they are used, they should be designed as an integral part of the architecture. This can be accomplished through the use of architectural detailing, trim, and mounting details. Roof mounted signs must not project above the building's roofline.



Photo by C. Bertocci

Contemporary structure, multiple pitched roofs create visual interest.

THOMASTON GREEN ARCHITECTURAL DESIGN GUIDELINES

SECTION II – E. DRIVE-THROUGHS

OBJECTIVE

The R-3A District is intended to be a pedestrian-oriented neighborhood. No more than one drive-through is allowed in the district. The drive-through, if any, should be subordinate to the design of the main building to maintain the pedestrian orientation of the structure.

Architectural design and circulation planning for a building with a drive-through requires careful consideration to integrate it into the village environment. A drive-through should be designed with façade and roofline elements that reduce its scale and architectural interest.

DESIGN GUIDELINES

Drive-Throughs. Where a drive-through window is allowed, it is recommended that it be incorporated into the design of the building through scale, color, detailing, massing, and other architectural treatments. Drive-through elements should not face the street, unless there is no alternative for safety or security.

Location. It is strongly recommended that the drive-through be located at the side or rear of the building and avoid facing public or private streets. When a drive-through is located at the side or rear, consideration should be taken to make the site as visible as possible to ensure the safety of the patrons.

Canopies. Drive-through canopies should be visually compatible with the main structure. This can be accomplished through consistency in roof pitch, architectural detailing, materials and color. Pitched roofs and fascia trim are preferred for canopies. Bands of bold color on the canopy and backlighting inside the canopy are prohibited.

Pedestrian Circulation. Access routes leading to or from a drive-through facility must be designed to minimize conflicts with pedestrian circulation. Where sidewalks must cross a driveway, motorists must be made aware of

pedestrians through signage, lighting, raised cross-walks, changes in paving or other devices.



Photo by P. McCrea



Photo by P. McCrea



Photo by P. McCrea

Example of commercial building with drive-through located at rear of building.

THOMASTON GREEN ARCHITECTURAL DESIGN GUIDELINES

SECTION III – SITE AND BUILDING PLANS

SITE AND BUILDING PLANS

In addition to meeting the requirements of the Thomaston Land Use and Development Ordinance, the following shall apply.

Licensed Architects. Any structure subject to site plan review must be designed by an architect licensed in the State of Maine.

Design Plans and Illustrations. All elevations of proposed buildings should be evaluated as part of the design review. Elevation drawings should include all landscape elements (trees, shrubs, lighting, street furnishings, etc.) that will be seen in conjunction with the façade. Site plans should also depict how the structure will relate to the street, parking areas, sidewalks, adjacent buildings, public open spaces, other site features, and pedestrian and vehicle movement.

THOMASTON GREEN ARCHITECTURAL DESIGN GUIDELINES

APPENDIX: EXAMPLES OF INAPPROPRIATE DESIGN

The following structures are largely reflective of commercial strip development and do not comply with many of the design guidelines in this document. (Photos by T. DeWan)



Facade is cluttered and lacks visual focus. Chaotic and patterned roofline is visually confusing.



Structure lacks unified design. Functional elements such as service connections and roof vents create visual clutter, signs detract from facade.



Flat roof, facade material of multicolored brick, and blank cinder block side walls are not appropriate.



Long, low structure with hipped roof has poor proportions; isolated peaked roof over entrance is not in keeping with overall design.



Facades of highly reflective material are not appropriate for the site.



Freestanding accessory structures such as this drive-through ATM often detract from the principal structure, consume space unnecessarily, and are not appropriate in the village setting.



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CHAPTER 4

THOMASTON HARBOR ORDINANCE

ARTICLE I - Adoption

Section 401 - General

401.1 - Purpose

Pursuant to the provisions of the Maine Revised Statutes Annotated (MRSA), Title 38, Sec. 2, the following Ordinance is hereby enacted. It is intended that these will provide the means by which use of Thomaston Harbor **and its tidal waters** may be maximized, and competing commercial, recreational and other appropriate uses balanced. The intent of this Ordinance is to insure that all legitimate interests will have the opportunity to utilize Thomaston's limited harbor **and tidal water** resources.

401.2 - Characteristics

Thomaston Harbor, which is defined in detail in Chapter 10, Definitions, is situated **upriver from** the bend in the St. George River when approaching the Town of Thomaston from seaward. The harbor is comprised of a narrow channel at low tide which measures 19.3 acres between the fixed beacon and the Wadsworth Street Bridge. At normal high water, the water surface measures 96.9 acres. During northerly winds the harbor is sheltered. During southerly to southwest winds, the harbor is sheltered from the Wadsworth Street Bridge to the vicinity of Brown's point. Southeast winds provide the only direction from which wind and waves create a problem for a majority of the harbor. During incoming tides, the average current is 2-3 knots. During outgoing tides, the current averages 3-4 knots. A current of 6 knots has been measured. Presently the harbor sees maximum activity in the spring from April through June when boats are launched, and in the fall during September and October when boats are hauled. Considerable year-round activity results from productive clam flats on the St. George River. **The Town public landing float can accommodate 7 foot draft vessels at mean low water. Lyman Morse Boatbuilding, located at either end of the harbor, has extensive facilities for their service customers. A small boat marina and outboard engine sales/service business, Jeff's Marine, is located at the western end of the harbor. While there is virtually no safe anchoring space in the harbor, a visitor mooring at the public landing is available.**

401.3 - Standards

401.3.1 - Speed of Vessels: It shall be unlawful for any person to operate any boat upon the St. George River, in the defined harbor in such a manner as to cause a wash, a wake or waves that disturb or damage any wharf, float or anchored or moored boat or vessel or at a speed that endangers any person or property. Vessels shall not exceed a speed of five miles an hour in this area.

401.3.2 Navigation: The channel is for the passage of boats and shall be clear of any and all obstructions, except as permitted below. No obstructions of any kind shall be placed in the clear passage zone. Any person placing or owning an obstruction as follows in the areas as defined in Chapter 10, Channel, and Chapter 10, Clear Passage Zone, will be liable for a fine not exceeding \$500 each day that any person shall be found in violation of any said provisions. Each day shall constitute a separate and distinct offense.

A.) No person shall set fishing equipment in the waters of the Town of Thomaston or permit his equipment to remain in a position in said waters where any portion of said equipment shall be within eight feet of the surface of the waters within the area described in Chapter 10, Channel.

B.) No mooring shall be set, established or maintained within, Thomaston Tidal Waters, as defined in Chapter 10, Definitions, without permission of the Harbor Master or his deputy who shall grant such permission with due regard for passage of vessels. No person shall anchor in said area except when in distress or under direction of the Harbor Master.

C.) No water skiing or swimming is permitted in the harbor.

D.) All personal water craft, (Jet Ski's), operated in the Thomaston Harbor and/or the St. George River in Thomaston, shall be limited to the East or Down River Side boundary of the Harbor Landing area.

401.3.3 - Anchorage

Vessels shall anchor in the harbor in such a way and in such places or areas as the Harbor Master shall direct. The Harbor Master may at any time order any vessel at anchor to change position when, in his opinion, said vessel is so anchored as to impede navigation or to endanger other vessels.

401.3.4 - Moorings

These regulations are promulgated to meet Title 38, MRSA Section 2 as amended.

A.) All mooring space shall be under the exclusive control of the Harbor Master who shall assign moorings, maintain a written record of basic information as each mooring including assigned location, identifying number, vessel description, size, owner, and other data deemed useful. He shall also maintain a chart of the relevant harbor, showing current mooring locations, assignments, and their numbers.

B.) Commercial moorings shall be located in space designated by the Harbor Master for said use. The Harbor Master may assign unused commercial mooring space to other vessels based upon standards set forth in this Ordinance. Such assignment will be subject to review by the Harbor Committee at its discretion and non-commercial users shall have no vested right to said mooring space.

C.) Mooring locations shall be assigned on the basis of one mooring location per vessel. Mooring space shall not be transferable.

D.) Moorings assigned to commercial entities shall be reassigned at such time as the Harbor Master makes finding that the justification for the original assignment is no longer present.

E.) No individual will be eligible for a second mooring or float until all other claims for a float or mooring have been satisfied.

F.) Any mooring or float assigned beyond the original assignment will be subject to annual review and will not be considered a vested interest of the assignee.

G.) Within space available, future requests for a mooring location shall be treated on a first come basis and with no distinction made to residency in accordance with the following priority guidelines.

- i. Shore-front owners requesting an initial location adjacent to their property, where practicable.
- ii. Commercial vessel owners and marine operators.
- iii. Pleasure vessel owners.
- iv. Commercial vessel owners and marine operators requesting multiple
- v. locations.
- vi. All others.

H.) Applications for a boat mooring shall be submitted annually by March 1, to the Harbor Master, who shall review the application with regard to space available for the type of boat so indicated. Upon approval, it is the responsibility of the applicant to submit the approved application to the Town Office together with all fees due. The applicant shall then present the application and proof of payment to the Harbor Master who shall assign a registration number and location for such mooring and advise the applicant of these rules and regulations. Mooring permits are not transferable. The Harbor Master shall submit to the Town and maintain the list of all paid applications. The Harbor Master shall, when assigning mooring locations, be guided by water depth and the mooring plan which is part of this ordinance.

I.) Any person or legal entity assigned the use of a mooring space ~~by~~ is required to pay an annual mooring fee to the Town of Thomaston. The fees shall be established annually by the Harbor Committee. These fees are due and payable on or before April 1st of each year. Failure to remit these fees to the Town of Thomaston shall result in forfeiting the Harbor space assignment. Owners of moorings shall be liable for any and all fees due the Town of Thomaston resulting from usage of their mooring.

J.) All moorings shall be of sufficient size to hold the vessel for which they are used. Refer to Section 401.4 of this Ordinance. All moorings shall have been approved with the registration number assigned by the Harbor Master permanently affixed therein. Such numbers shall be at least three inches high and shall be clearly visible at all times. The Harbor Master may at any time examine any mooring or mooring line to determine compliance with this section. Except in case of emergency, he shall notify the owner of this intention to examine the mooring and request the presence of the owner during such examination. Moorings found to be inadequate with regards to the requirements of this section shall be corrected within 48 hours or removed. Any cost of examination or removal resulting therefrom shall be borne by the owner of the mooring. Vessels and/or mooring owners shall be liable for any damage caused by faulty, inadequate, or improperly placed moorings. Mooring and float tackle must be either pulled and inspected biannually or visually inspected biannually by an individual/qualified diver approved by the Harbor Committee.

K.) No person shall move or interfere with any mooring or vessel belonging to another person except by direction of the Harbor Master who will inform the owner.

L.) Courtesy moorings may be provided for the use of visiting vessels. Such vessels may use these moorings for a period of no longer than 48 hours, except under unusual circumstances with the express permission of the Harbor Master.

M.) Moorings that are unused by the vessel assigned to it, for more than five (5) months during the period April 1 to Oct.31, may be deemed vacated and the location reassigned by the Harbor Master. If a mooring location is re-assigned under this section the former assignee shall have no right to special consideration for assignment of another mooring.

N.) Vessels in violation of this ordinance may be moved by the Harbor Master, at the owner's expense.

O.) All decisions made by the Harbor Master under this section may be appealed to the Harbor Committee on forms approved by the Harbor Committee.

P.) Allowable types of moorings are Private, Commercial Service, Commercial Rental, **and combined commercial service/rental** described below:

- 1.) **PRIVATE MOORING:** A fixed and adequate means of securing a mooring licensee's watercraft to a specified location upon Thomaston's tidal waters. A private mooring is to be occupied by a specific watercraft and requires a mooring permit from the Harbor Master/Harbor Committee.
- 2.) **COMMERCIAL SERVICE MOORING:** A fixed and adequate means of temporarily securing watercraft to a specified location upon Thomaston's tidal waters that are service customers of marine facilities such as boatyards, marinas, etc. The marine facility operator must obtain permits from both the Harbor Master/Harbor Committee and from ACOE. Multiple such moorings shall be used to moor a float, or floats in a linearly-linked array, used for servicing watercraft.
- 3.) **COMMERCIAL RENTAL MOORINGS:** A fixed and adequate means of securing watercraft to a specified location upon Thomaston's tidal waters for which any type of fee is charged by the mooring licensee. The rental mooring operator must obtain permits from both the Harbor Master/Harbor Committee and from ACOE. Multiple such moorings shall be used to moor a float, or floats in a linearly-linked array, used for rental moorings
- 4.) **COMMERCIAL COMBINED SERVICE/RENTAL MOORING:** a fixed and adequate means of temporarily securing watercraft to a specified location upon Thomaston's tidal waters that are either service customers of Marine facilities such as boat yards, marinas, etc. or are charged a fee by the mooring licensee for using the secure mooring space. The commercial mooring operator must obtain permits from both the Harbor Master/Harbor Committee and from ACOE. Multiple such moorings shall be used to moor a float, or floats in a linearly-linked-linked array, used for Combined service/rental moorings.

Q.) Applications for a private vessel mooring permit must have a copy of proof of payment of the current year excise tax for the vessel which shall occupy the mooring. Maine residents must pay the excise tax in the municipality of the owner's residence. Vessel owner's non-resident in the state of Maine seeking a private mooring permit shall pay excise tax on their boat either in the state of their residence or in Thomaston. All vessels, whether documented or state registered, are liable for payment of excise tax in the State of Maine if proof of payment elsewhere is not provided.

401.3.5 - Floats

A.) It is recognized that "floats" in the harbor will allow for a greater density of boats in any given area, therefore, **seasonal "floats" (less than 7 months per year)** may be

moored in Thomaston Harbor on a space available basis as assigned by the Harbor master **and permitted by ACOE**. All year-round (more than 7 month) floats installed in Thomaston Harbor, must obtain permits **from the Harbor Master, ACOE and Maine DEP**.

B.) All boat owners who have not renewed their float or mooring assignment with the Harbor Master by March 1st of each year shall be considered as having abandoned their assignment.

C.) Additional mooring floats shall be permitted and allowed by the Harbor Committee as demand increases. The Harbor Committee shall give first refusal for assignment of float space to individuals whose moorings have been displaced by placement of a given float. Within space available, future requests for a moored float location shall be treated on a first come basis and with no distinction made to residency in accordance with the following priority guidelines:

- i. Shore-front owners requesting an initial location adjacent to their property, where practicable.
- ii. Commercial vessel owners and marine operators.
- iii. **Pleasure vessel owners.**
- iv. Commercial vessel owners and marine operators requesting multiple locations.
- v. All others.

D.) The floats shall be privately owned, built, and maintained. Floats shall be built to the standards listed in 401.4.2. Individuals who construct floats and are granted space shall have the right to use of the floats assigned space consistent with this ordinance. If these individuals change the size of their vessel they will go to a priority status and be re-assigned a space for their vessel when available. Float space other than those attached to a pier or wharf cannot be transferred in the event of ownership change, either of the vessel or the float.

E.) Two-point tackle is required for all mid-channel mooring floats, with the moorings size calculated based upon the length of the float plus 10' when referred to table 401.4.4. For example, a 15' float would require two 4000# granite sinkers.

F.) Uniform rental fees for moored floats shall be established annually January 1, by the Harbor Committee.

G.) Floats that are unused by the vessel assigned to it for more than five (5) months during the period April 1 to October 31, may be deemed vacated and be reassigned by the Harbor Committee. If a moored float is re-assigned under this section the former assignee shall have no right to special consideration for assignment of another mooring or float.

H.) All decisions made by the Harbor Master under this section may be appealed to the Harbor Committee on forms approved by the Harbor Committee.

401.3.6 - Buoys Other Than for Marking Vessel Moorings.

A. No buoy of this type shall be placed in channels leading to wharves, nor shall such buoys be placed less than three vessel lengths from a mooring buoy for that vessel. The Harbor Master is empowered, in the interest of public safety, to require the removal of non-conforming buoys.

401.3.7 - Public Wharves, Landings, and Launching Ramps.

A.) Obstructions: No person shall obstruct by any means whatsoever the free use of piers, docks and other common landing places. The town wharves shall be used only for loading and unloading. Vessels shall not remain moored to the wharf or float for a period longer than is reasonably necessary for this purpose, except by permission of the Harbor Master.

A two hour maximum tie-up on the outer face of the Town Landing float. Boats and trailers shall not remain on the ramp longer than reasonably required to launch or retrieve a boat. The Harbor Master shall remove or cause to be removed any unattended vessel obstructing free use of piers, docks or other common landing places after due effort has been made to notify the master or owner of said vessel of the above violation.

B.) The Harbor Master shall allow overnight dockage on town floats at a fee designated each year by the Harbor Committee. Any person mooring overnight on town docks with or without permission shall be charged dockage payable on demand, and/or levied a fine to not exceed \$500 per day for continuing violations.

C.) No person shall loiter, create a public nuisance or partake of alcoholic beverages on Town wharves, landings or ramps. Town wharves or piers may be closed at the discretion of the Harbor Committee and so posted.

D.) No skiffs, dinghies or tenders are allowed on top of Town owned floats:

- 1.) No boat more than 12 feet in length shall be tied to a town-owned float except for loading or unloading with 2 hours maximum. Tenders, skiffs, and dinghies must be maintained by owner and owner shall be liable for any damage occurring to

floats or other vessels due to negligence. All tenders, skiffs and dinghies shall be registered with the Harbor Master and identified by number.

- 2.) All tenders skiffs and dinghies (12 foot maximum) left overnight must be tied on the inner face of Town floats leaving the channel side of floats open for use. Single-point tie-up of these small vessels is required.

E.) Storage: Personal property such as lobster traps, automobiles, cradles, trailers, boats, vessels, floats, etc. shall not be stored on Town wharves or landings. Exceptions to the rule shall be considered on an individual basis when submitted in writing to the Harbor Committee. Personal property shall not remain for more than 2 hours on the designated loading zone.

F.) Construction: No additions, alterations, new construction or changes to existing structures at any wharf, pier or landing shall be made without prior permission of the Harbor Committee and Code Enforcement Officer and any required State and Federal permits. Permission for construction of any new wharves or piers within the Harbor limits must be obtained from the Harbor Committee and Code Enforcement Officer and any required State and Federal permits.

G.) Loading, Offloading: All loading and/or offloading of bait shall be in water tight containers. Open tops are allowable providing discretion is used in said handling. Violations shall be subject to Section 401.3.11 Penalty.

401.3.8 - Waste and Refuse

No person or vessel shall deposit, throw, sweep or cause to be deposited or swept into the waters of Thomaston, or into waters adjacent there-to, any gas or oil or bilge water containing same, ashes, dirt, stones, gravel mud, logs, planks or any other substance tending to obstruct the navigation of said harbor or waters there-of. No trash or refuse shall be placed on any town float or pier except in designated containers.

401.3.9 - Harbor Master

A.) The Harbor master shall enforce this ordinance and the rules and regulations pertaining to harbors and tidal waters under the jurisdiction of the Thomaston Harbor Committee as promulgated by the committee, and shall cooperate with other government agencies in enforcing their regulations.

B.) He shall, under the supervision of the committee, oversee the jurisdictional area of the Harbor, preserve and regulate navigation with said waters, assign mooring locations and require same to be kept in safe condition, direct the removal of vessels, if necessity or emergency requires, inquire into and prosecute all offenses occurring within his jurisdiction, and he shall keep such records as the committee may require and shall perform such other duties as the committee may prescribe.

C.) The Harbor Master shall be appointed for one year, his qualifications, salary and expenses to be recommended by the committee.

D.) The Harbor Master shall be empowered to make arrests for offenses under the provisions of the regulation as other officers are authorized to do so (MRSA Title 38, Subchapter 1).

401.3.10- Harbor Committee

A.) Terms: The committee shall consist of seven (7) members and an alternate serving staggered terms of three (3) years, appointed by the Board of Selectmen. The alternate shall participate in all discussions and vote when one or more members are absent. The committee shall elect annually a chairman and secretary from its membership. The secretary shall provide for the keeping of all minutes of the proceedings. All minutes shall be a public record.

B. The duties of the Harbor Committee shall be:

- i. To serve as the Appeals Board for decisions of the Harbor Master.
- ii. To promulgate harbor rules & regulations
- iii. To establish fees.
- iiii. To cooperate with other government agencies in enforcement of this ordinance in the absence of the Harbor Master

401.3.11 - Penalty

Whoever violates any of these rules or regulations or refuses or neglects to obey the lawful and reasonable orders of the Harbor Master, or resists him in the execution of his duties, shall be punished by a fine of not more than \$500.00 for each day of occurrence.

401.3.12 - Federal and State Regulations

Nothing herein shall be considered as conflicting with federal laws applicable to the coastal waters and tidal waters and tidal rivers and harbors of the state. In all cases the more stringent law shall prevail. Commercial service moorings, ~~and~~ rental moorings, **and combined service/rental moorings** shall require permitting from the Army Corps of Engineers (ACOE) after having received approval of the Thomaston Harbor Committee. The ACOE also regulates all temporary and permanent piers, docks, piles, floats, lobster cars, aquaculture operations, dolphins, pipelines and cables, as well as other similar work. The permitting process for these items should begin with the Thomaston Harbor Committee for approval and then the DEP/ACOE for any required permits leading to the issuance of a building permit from the Town of Thomaston Code Enforcement Officer. Assistance regarding which forms are required for the permitting agencies may be obtained at the CEO's office.

401.3.13 - Effective Date

These rules and regulations shall take effect when adopted and shall remain in effect until altered or repealed by a regular or special town meeting.

401.3.14 - Severability

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

401.4 - Standards

401.4.1 - Setbacks

All floats, moorings, slips, and piers and docks shall be situated in a fashion which will not allow any boat to be in the "Clear Passage Zone" or within ten (10) feet of any property line, below mean high water. An exception to the ten (10) foot setback requirement may be made where abutting property owners forge an alternative written agreement, said agreement ratified by the Harbor Committee and Planning Board.

401.4.2 - Floats

All new floats on Thomaston's tidal waters, including new floats intended to be used as riparian property-owner landings **and** new floats comprising a marina array, shall have the project dimensions approved by the Harbor Committee on a case-by case basis, together with the required Federal and State agency approvals. All floats shall be constructed in accordance with State of Maine Standards, Bureau of Parks and Recreation.

401.4.3 - Property Lines

Property lines extending below mean high water shall be determined by the average of perpendicular lines to a line connecting the end in-points of the shore lines at mean high water unless otherwise determined by registered property survey.

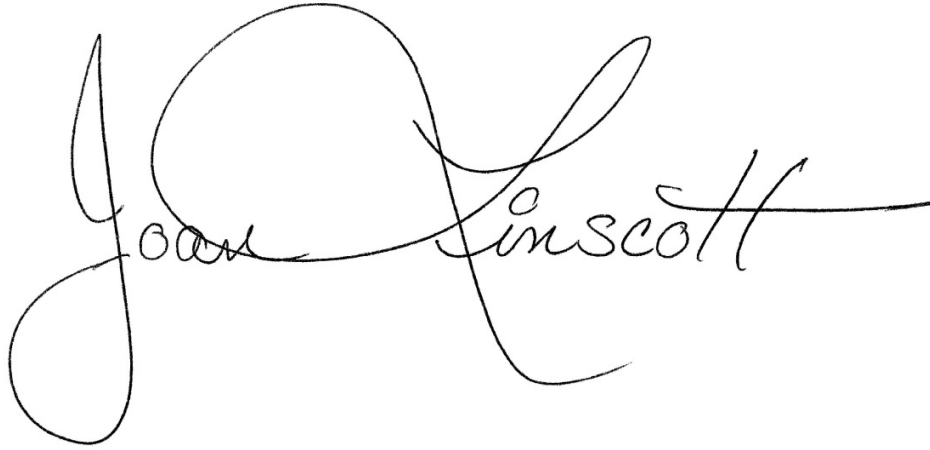
401.4.4 - Boat moorings shall comply with the following

Length Boat Max.	Chain Size	Mushroom Wt.	Granite Wt.	Pennant Length	Pennant Strength
15'	5/16	100#	2,000#	4'	400#
20'	3/8	150#	2,000#	8'	600#
25'	3/8	200#	4,000#	10'	800#
30'	1/2	300#	6,000#	10'	1,200#
35'	1/2	350#	6,000#	10'	1,400#
40'	5/8	400#	6,000#	10'	1,600#
45'	5/8	450#	6,000#	10'	1,800#
50'	5/8	500#	6,000#	10'	2,000#

Chain length required is a 3 to 1 scope of water depth at mean high water. Mushroom or granite anchors may be used.

I hereby certify:

This Ordinance as amended was adopted by the Town Meeting voters on June 10, 2015.

A handwritten signature in black ink. The signature is written in a cursive style. The first part of the signature is a large, stylized 'J' that loops around. The name 'Joan LinScott' is written in a fluid, cursive script. The 'L' in 'LinScott' is particularly large and loops back. The signature ends with a long, horizontal stroke.

Town Clerk
June 10, 2015

CHAPTER 5 - ODOR ORDINANCE

ARTICLE I - ODOR NUISANCE CONTROL AND ABATEMENT

Section 501 - Purpose

The purpose of this Ordinance is to assure the comfort, convenience, safety, health and welfare of the people of the Town of Thomaston, to protect the environment, to promote the development of an economically sound and stable community, and to provide for the prevention, control, and abatement of public odor nuisance.

The Town of Thomaston finds and concludes that because most odorous pollutants have a complex chemical composition and may elicit a broad spectrum of response by the receptors, special methods must be employed in their measurement and characterization. Although analytical data are more precise and may be useful in identifying a source, it is the human response or the sensory data that is most critical in determining the necessary degree of odor control. Analytical data may be used to specify permissible emission levels from a source, but sensory data must be employed to assess the impact in the surrounding community. The latter is the Town's primary concern.

Section 502 - Authority and Administration

502.1 - Authority

This ordinance is adopted pursuant to Title 30-A, ss2101 through 2109 (Home Rule); Title 30-A, ss3001-3010 (Ordinance Authority and Limitations); Title 17 Sections 2702, 2705 and 2706 (Nuisances) and common law.

502.2 - Administration and Enforcement

The Code Enforcement Officer of the Town of Thomaston shall administer and enforce this Ordinance.

Section 503 - Prohibited Activities

503.1 - Cause or allow the emission of odorous air emissions from any source such as to result in objectional odors at the lot line of the source; or,

503.2 - Cause the erection, continuance or use of any building or place for the exercise of a trade, employment or manufacture which, by noxious exhalations, offensive smells or other annoyance, become injurious and dangerous to the health, comfort or property of individuals, or of the public and creates a public nuisance as defined by 17 MRSA Section 2701; or

503.3 - Do any process, rendering, or operate or use any device, machine, equipment, or other contrivance for the rendering of animal or marine matter unless all gases, vapors and gas entrained effluents from these processes are controlled in such a manner as to effectively abate any objectionable odor by utilizing the best available control technology.

Section 504 - Objectionable Odor Determination

An odor will be deemed objectionable and is a public nuisance when any of the following occurs:

504.1 - Creates a public nuisance at common law: or,

504.2 - The erection, continuance or use of any building or place for the exercise of a trade, employment or manufacture which, by noxious exhalations or offensive smells become injurious and dangerous to the health, comfort or property of individuals, or to the public, or

504.3 - All the members of a panel consisting of the Code Enforcement Officer and three residents of the Town of Thomaston appointed by the Manager to assist the Code Enforcement Officer to investigate complaints and who are not directly affected or interested by the source determine following concurrent, personal observation, that the odor at the property line of the source based on Town Tax Maps or elsewhere in the town is objectionable taking into account its nature, concentration, location, and duration and are able to identify the source; or,

504.4 - On or adjacent residential, recreational, institutional, retail sales, hotel or educational premises when odor detectable after it is diluted with four volumes of odor-free air as measured by the use of dynamic-olfactometry provided for in Franz, J.J. and Prokop, W.H. "Odor Measurement by Dynamic Olfactometry", Journal of the Air Pollution Control Association, Vol. 30, No. 12: 1228-1297, December 1980 which is incorporated herein by reference.

504.5 - Samples for the source are taken and found to rate from a panel provided for in Section V (c) a response of over 2.0 in terms of butanol olfactometry scale steps as determined by the method developed by Sweeten et al (A Butanol Olfactometer for Field Measurement of Ambient Odors", Sweeten, J.M. McFarland, A.R., Sorel, J.E., Gauntt, R.O., and Reddell, D.L., Journal Air Pollution Control Association, Vol. 34: 208-213, 1984) which is incorporated herein by reference and which is an adaption of ASTM E 544-75 (re-approved 1981) which is incorporated herein by reference.

Section 505 - Observation and Measurement Procedure

505.1 - For the purpose of this ordinance, two odor observations and/or measurements shall be made within a period of one hour, these measurements being separated by at least fifteen (15) minutes.

505.2 - Odor observation and/or measurements shall be taken to arrive at a determination that an objectional odor exists shall be at or beyond the property line or at or near places where people live or work.

Section 506 - Abatement of Objectional Odors

The Code Enforcement Officer or any court may order the abatement of objectionable odors by ordering:

506.1 - Any person who operates or uses any device, machine, equipment causing objectionable odors or other contrivance for the rendering of animal matter to provide that all gases, vapors and gas entrained effluents from such facility are incinerated at a temperature of not less than 1200 degrees Fahrenheit for a period not less than 0.3 seconds, or processed by condensation or such manner which will provide the best available control technology, eliminating the offensive odors.

506.2 - Any person incinerating or processing gas, vapor, or gas entrained effluents causing objectionable odors to provide, properly install, and maintain in good working order and in operation, devices to monitor temperature, pressure, or other operating conditions, eliminating the objectionable odors.

506.3 - Effective new or existing odor control devices, systems, or measures be installed and operated such that no vent, exhaust pipe, blowoff pipe, or opening of any kind shall discharge into the ambient air any odorous matter, vapor, gases, or dust, or any combination thereof, which create objectional odors.

506.4 - Materials producing objectionable odors to be stored, transported, and handled in such a manner that:

506.4.1 - Odors produced from materials are confined, abated or treated using the best available control technology and that accumulation of such materials resulting from spillage or other escape is prevented, eliminating objectionable odors.

506.4.2 - Whenever dust, fumes, gases, mist, odorous matter, vapors, or any contamination thereof escapes from a building used for rendering animal or marine matter in such a manner and amount as to cause an objectional odor, the Code Enforcement Officer or court may require that the building or buildings in which rendering, handling, and storage are done be tightly closed and ventilated in such a manner that all airborne effluent materials leaving the building be treated by an effective means using the best available control technology to treat odorous matter before release to the ambient air, eliminating objectionable odors.

Section 507 - Trade Secrets and Proprietary Information

When determining compliance to any of the terms of this Ordinance, the town may take whatever acts are necessary to protect trade secrets and /or proprietary information to the extent permitted by the laws of the State of Maine.

Section 508 - Violations, Enforcement and Fines

508.1 - Violation and Enforcement.

The Code Enforcement Officer, upon finding that any provision of this Ordinance is being violated, is authorized to issue notices of violations, order to correct, schedules to correct, to enter into administrative consent decrees and agreements and to institute legal proceedings to enjoin and/or abate violations of this Ordinance in his capacity as the Code Enforcement Officer, in the name of the Town of Thomaston and on behalf of, and as representative of and as a party with individual residents of the Town of Thomaston, who are aggrieved by the violations and to recover fines and costs for the Town of Thomaston.

508.2 - Fines

A person who violates the provisions of this Ordinance or the condition(s) of an order of the Code Enforcement Officer, shall be guilty of a civil violation and on conviction shall be fined not less than \$1,000.00

nor more than \$2,500.00. Each day such violation continues shall constitute a separate violation. All fines shall be paid to the Town of Thomaston. Such persons shall also be liable for court costs and reasonable attorney fees incurred by the Town of Thomaston.

Section 509 - Validity, Severability and Conflict with Other Ordinances

509.1 - Validity and Severability

Should any section or provision of this Ordinance be declared by any court to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

509.2 - Conflict with other Ordinances

Whenever the requirements of this Ordinance are inconsistent with the requirements of any other ordinance, code or statute, the more restrictive requirements shall apply.

Section 510 - Appeals

An appeal from a decision or order of the Code Enforcement Officer shall be taken to Superior Court pursuant to Rule 80B, Maine Rules of Civil Procedure.

This Ordinance becomes effective immediately upon enactment by the voters.

CHAPTER 6 PARKING ORDINANCES

ARTICLE I - GENERAL

Section 601 - Unlawful Standing of Vehicle

At any time it shall be unlawful to permit any vehicle to stand in any of the following places, except when necessary to avoid conflict with other traffic or in compliance with the direction of a police officer or traffic control device.

601.1 - In any intersection.

601.2 - In a crosswalk, or at a curbing which has been painted yellow.

601.3 - Upon a bridge.

601.4 - Within thirty feet of a traffic signal, flashing beacon, stop sign or traffic control signal located at the side of a roadway.

601.5 - Within twenty feet of any intersection or crosswalk.

601.6 - At any place where the standing of a vehicle will reduce the usable width of the roadway for moving traffic to less than eighteen feet. On a roadway with a tarred surface shall be considered the usable width for the purpose of this, section.

601.7 - Within fifteen feet of a fire hydrant.

601.8 - At any place where the vehicle would, block the use of a driveway owned by someone other than the owner or operator of the vehicle.

601.9 - Within fifty feet of the nearest rail or a railroad grade crossing.

601.10 - Within twenty feet of the driveway entrance of any fire department station or ambulance station and on the side of the street opposite the entrance to any such fire department or ambulance stations within seventy five feet of such entrance when properly, sign posted.

601.11 - On any sidewalk.

601.12 - At any place where official signs prohibit parking.

601.13 - Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic.

601.14 - On the roadway side of any vehicle stopped or parked at the edge or curb of a street.

Section 602 - Parking as per Schedule I

When signs are erected giving notice thereof, no person shall park a vehicle at any time upon any of the streets or parts of streets designated and described in Schedule I, and any amendments thereto, attached to and made a part of this ordinance.

Section 603 - Parking as per Schedule II

When signs are erected giving notice thereof, no person shall park a vehicle upon any of the streets or parts of streets designated in Schedule II attached hereto and made a part of this ordinance for a longer period than so specified in said Schedule.

Section 604 - Left Side Parking to Curb

No vehicle shall be parked with the left side of such vehicle next to the curb or shoulder of a way, and it shall be unlawful to stand or park any vehicle in a street other than parallel with the curb and with the two right wheels of the vehicle within twelve inches of the regularly established curb line, except that upon those streets that have been marked for angle parking, vehicles shall be parked at the angle to the curb indicated by such marks.

Section 605 - Parking for Display

It shall be unlawful to park any vehicle upon any street for the purpose of displaying it for sale, or to park any vehicle upon any business street from which vehicle merchandise or goods are peddled.

Section 606 - Excess Time Limit for Parking

It shall be unlawful for the operator of a vehicle to stand a passenger vehicle for a period of time longer than is necessary for the loading or unloading of passengers, not to exceed three minutes, and for the operator to stand any freight carrying vehicle for a period of time longer than is necessary to load, unload and deliver materials, not to exceed thirty minutes in any place designated by the municipal officers as a loading zone and marked as such, or in any of the following designated places:

606.1 - At any place not to exceed seventy-five feet along the curb before the entrance to a public building between 8 a.m. and 6 p.m. except on Sunday and public holidays.

Section 607 - Emergency Parking

No person shall park any vehicle on any street for a period of time longer than thirty minutes between the hours of 1 a.m. and 6 a.m. of any day, except physicians or other persons on emergency calls.

Section 608 - Sunday and Holiday Parking

Except on Sundays or holidays, it shall be unlawful to park any vehicle for a longer consecutive period of time than that designated between the hours of 8 a.m. and 6 p.m. in any area designated as a limited parking area and so marked.

Section 609 - Evidence of Unlawful Parking

The fact that a vehicle is unlawfully parked shall be facie evidence of the unlawful parking of such vehicle by the person in whose name such vehicle is registered.

Section 610 - Winter Parking

No vehicle shall be parked within the maintained limits of any street or sidewalk between the hours of 12:00 midnight and 6 a.m. during the months of December, January, February and March, and no vehicle shall be parked at any other time on any public street or way so as to interfere with or hinder the removal of snow from said street or way by the town, plowing, loading or hauling. The Chief of Police may cause any vehicle parked on any street or way so as to interfere with or hinder the removal of snow by the town by plowing, loading or hauling to be removed from the street and placed in a suitable parking space off the street at the expense of the person to whom said vehicle is registered without the town being liable for any damage that may be caused by such removal.

610.1 - Winter Parking-Municipal Lots

No type of vehicle, trailer box or flatbed shall be allowed to park between midnight and 6:00 a.m., and not after 8:00 p.m. during winter storms, in the Municipal parking lots with the exception of the area marked and designated "Municipal Overnight Parking" from November 15 to April 1. The Police Department shall have the right to have any vehicle in violation towed at the owner's expense.

Section 611 - Stopping in Public Street

Unless in an emergency or to allow another vehicle or pedestrian to cross its way, no vehicle shall stop in any public street except close to the curb.

Section 612 - Obstruction of Street or Crossing

No vehicle shall stop in such a way as to obstruct any street or crossing for the purpose of taking on a passenger or for loading or unloading freight, for a period of more than ten minutes at any one time, or for any purpose except in case of an accident, or when directed to do so by a police officer.

Section 613 – Public Landing Parking

All parking of commercially licensed individuals of the marine industry carrying out said trade at the public landing shall be limited to the upper hillside parking only (and/or as posted). All residential uses being that area of the public landing parking apron as per posted signs.

Section 614 - Business District Parking

When signs are erected giving notice thereof between Green and Gilcrest Streets no person shall park a vehicle on Main Street for longer than 2 hours between the hours of 9:00 a.m. and 5:00 p.m. except on Sundays and public holidays.

Section 615 - Business District Parking - Busses

The driver of a bus shall not stand or park upon any street in any business district at any place other than at a bus stop, except that this provision shall not prevent the driver from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in loading or unloading passengers. No person shall stop, stand or park a vehicle other than a bus in a bus stop when any such stop has been officially designated and appropriately signed, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading and unloading passengers when such stopping does not interfere with any bus waiting to enter or about such zone.

Section 616 - Parking Stand Conformity

Where parking stands are marked, no person shall park a vehicle except in conformity therewith.

Section 617 - Business District Delivery Prohibited

From 7:00 a.m. to 6:00 p.m. on any day except Sundays and public holidays, trucks and delivery vehicles are prohibited from loading or unloading freight, goods and merchandise at all places, stores and buildings upon Main Street between Green and Gilcrest Streets where it is possible to perform such work at the rear of the building.

Section 618 - Parking Obstruction

No person shall stop, stand, park or leave his vehicle on any street in such manner or on such conditions so as to obstruct the free passage of other vehicles in either direction unless specifically permitted by a police officer, or so as to leave available less than ten (10) feet of the width of the roadway for free movement of vehicular traffic.

Section 619 - Penalty

Any person violating any of the provisions of this ordinance shall be subject to the general penalty imposed for violation of this ordinance; however, such person may elect, in lieu of such penalty, to pay the sum of \$5.00 for each violation of any one section of this ordinance. Such payment shall in no event be construed as an enforced imposition of a fine or penalty, but on the other hand shall be construed to be an amount which an offender may voluntarily contribute toward the cost and expense of furnishing to the public a less expensive alternative method of regulating and administering traffic law violations. Any violators making such payment shall be given a receipt for every such payment and a copy of such receipt shall be delivered forthwith to the Town Treasurer. If, however, such payment is not made at the Town Office within 48 hours after notice of such violation is served, by traffic ticket or otherwise, this alternative method is not available or applicable, and the penalty provided by this ordinance shall be imposed.

Section 620 - Removal of Vehicle

The police department, and all members thereof assigned to traffic duty are hereby authorized to remove and tow away, or have removed and towed away by commercial towing service, any car or other parked vehicle illegally parked in any place where such parked vehicle creates or constitutes a traffic hazard, blocks the use of a fire hydrant, or obstructs or may obstruct the movement of any emergency vehicle. Such removal or towing away of said vehicle shall be at the expense of the person in whose name the vehicle is registered and the town and the police department and all members thereof shall not be liable for any damage that may be caused by such removal.

Section 621 - Abandonment

621.1 - When a motor vehicle or other vehicle is abandoned on a way in the town 24 hours or more, its removal by a towing service may be authorized by order of the Chief of Police of the town.

621.2 - When an abandoned, unattended, wrecked, burned or partially dismantled motor vehicle is creating a traffic hazard because of its position in relation to the way or its physical appearance is causing the impeding of traffic, its immediate removal from the highway by a towing service may be authorized by order of the police department of the town.

Section 622 - Definitions

For purposes of this Chapter, the definitions enumerated in Title 29 of the Maine Revised Statutes, Section I, are incorporated herein and made a part hereof to the extent applicable.

Section 623 - Separability

Each section and each provision or requirement of any section of this Chapter shall be considered separable, and the invalidity of any portion of any ordinance shall not affect the validity or enforceability of any other portion.

Section 624 - Consistency

All ordinances heretofore adopted by the town which are inconsistent with the provisions of the ordinances hereby adopted, are hereby repealed.

Section 625 - Incorporated with Others

This Chapter is hereby incorporated in and made a part of Chapter III, Article I of the Original Ordinances with Amendments and Additions Town of Thomaston, Maine, November 15, 1963 and any person who violates any ordinance of this Chapter shall be subject to the general penalty provided therein.

SCHEDULE I

West side of Fish Street from Main Street (U.S. Route 1 to Pine Street);
East side of Fish Street from Main Street (U.S. Route 1 to utility Pole #234);
Both sides of Beechwood Street within 100 feet from intersection with Main Street;
North side of Hyler Street from Knox Street to Green Street;
North side of Water Street from Green Street in a Westerly direction a distance of 400 feet;
Both sides of Main Street that is adjacent to Grammar School property;
South side of Main Street from Pine Street in a Westerly direction a distance of 150 feet;
In front of launch ramp at Public Landing;
South side of Gleason Street from Roxbury Street in a Westerly direction a distance of 300 feet;
North side of Elliot Street from Knox Street in a Westerly direction a distance of 200 feet;
North side of Main Street from Pole #11/7 in an Easterly direction a distance of 325 feet.

SCHEDULE II

Limited Parking - 2 Hours

Both sides of Main Street between Green Street and Gilchrest Street, except that portion of Main Street adjacent to the property owned or leased by the United States Post Office whereat parking is limited to 15 minutes.
Westerly side of Knox Street from Main Street to Utility Pole #CMP 3.



CHAPTER 7 THOMASTON LAND USE *and* DEVELOPMENT ORDINANCE

Adopted 3/25/1995

Amended

3/23/1996 - 6/9/1997 - 6/10/1998 - 6/22/1999 - 6/14/2000 - 6/19/2001

6/17/2002 - 11/3/2004 - 6/15/2005 - 6/20/2006 - 6/19/2007 - 6/16/2009

6/9/2010 - 6/15/2011 - 6/13/2012 - 6/12/2013 - 6/11/2014 - 6/10/2015

6/15/2016 - 11/21/2016 - 6/14/2017 - 6/13/2018 - 11/6/2018 - 6/12/2018

Fee Schedule Amended 6/14/2017

Including Chapter 10, Definitions and Chapter 3, ICC Building Code

TOWN OF THOMASTON
P.O. BOX 299
THOMASTON, MAINE 04861

Attest:

A true copy as amended up to and including changes as enacted
by the Thomaston Town Meeting duly noticed and held on
June 12, 2019 in the Town of Thomaston, Maine
together with the fee schedule as amended by the Thomaston
Town Meeting on June 14, 2017 .

Town Clerk

Date: _____

CHAPTER 7

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CHAPTER 7

THOMASTON LAND USE and DEVELOPMENT ORDINANCE

ARTICLE I: ZONING REGULATIONS

Section 701 General

701.1 Purpose

This Ordinance is designed for all the purposes of zoning found in the Maine Revised Statutes and has been drafted as an integral part of a Comprehensive Planning process for the *Town of Thomaston*, Maine to promote the health, safety, and general welfare of its residents. Among other things, it is designed to encourage the most appropriate use of land throughout the Town, to promote traffic safety; to provide safety from fire and other elements; to provide adequate light and air; to prevent overcrowding of real estate; to promote a wholesome home environment; to prevent housing development in unsanitary areas; to provide an adequate street system; to encourage the formation of community units; to provide an allotment of land area in new developments sufficient for all the requirements of community life; to conserve natural resources; and to provide for adequate public services.

701.2 Title

This Ordinance shall be known and cited as the Land Use and Development Ordinance of the *Town of Thomaston*, Maine; Chapter 7, *Town of Thomaston* Ordinances and will be referred to herein as "this Ordinance."

701.3 Authority

This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution, the provisions of Title 30-A, MRS Section 3001 (Home Rule), the State's Comprehensive Planning and Land Use Regulation Act, Title 30-A, MRSA, Sections 4312 et. seq., and the Mandatory Shoreland Zoning Act, Title 38 MRS Sections 435 et. seq.

701.3.1 Applicability

This Ordinance applies to all land areas and all structures within the boundaries of the Town of Thomaston. 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 the 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 a stream.

701.3.2 Effective Date

This Ordinance is effective upon a vote of a regular or special Thomaston Town Meeting. A certified copy of the Ordinance, attested and signed by the Town Clerk, shall be forwarded to the Commissioner of the Department of Environmental Protection for approval. If the Commissioner fails to act on this Ordinance within forty-five (45) days of its receipt of same, it shall be deemed approved. Upon approval of this Ordinance by a vote of the Thomaston Town Meeting and approval of the Department of Environmental Protection, the Zoning Ordinance previously adopted on 6/30/93 is hereby repealed. This supersedes all previously adopted land use and development ordinances.

Any application for a permit within the Resource Protection or the Shoreland District submitted to the Town of Thomaston within the forty-five (45) day period shall be governed by the terms of this Ordinance if the Ordinance is approved by the Commissioner of the Department of Environmental Protection.

701.4 Conformity

701.4.1-No building or structure shall be erected, altered, enlarged, rebuilt, moved or used and no premises shall be used unless in conformity with the provisions of this Ordinance except those existing that by the provisions of this chapter become legally non-conforming.

701.4.2-The regulations specified by this Ordinance for each class of district shall be minimum requirements and shall apply uniformly to each class or kind of structure or land.

701.4.3-Land within the lines of a street on which a lot abuts shall not be considered as part of such lot for the purposes of meeting the area requirements of this Ordinance notwithstanding the fact that the fee to such land may be in the owner of such lot.

701.4.4-No part of a yard, or other space, or off-street parking or loading space about or in connection with any building and required for the purpose of complying with this Ordinance, shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building.

701.4.5-When a lot or parcel of land in the same ownership of record at the time of enactment or amendment of this Ordinance is transected by a District Boundary, the requirements of this Ordinance applicable to the larger part of such lot shall apply to the smaller part of such lot, but not more than fifty (50) linear feet in depth beyond said District Boundary. The fifty-foot (50') provision shall not be applied such that it would move the inland boundary of a Resource Protection District or the Shoreland District.

701.5 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 in Chapter 10.

701.6 Relationship to Other Town of Thomaston Ordinances

Zoning Ordinance provisions may cover or conflict with matters regulated by other codes and ordinances, local, State or Federal, and with deed restrictions or covenants, and since these codes, ordinances, etc., are subject to change; for the purpose of this ordinance the following rule will apply: whenever the requirements of this ordinance are at variance with the regulations of any other lawfully adopted ordinances, rules or restrictions administered by the municipality, or covenants, those that are more restrictive or impose the higher standards or requirements shall govern. Notwithstanding any other provisions of this ordinance, no premises shall be used or maintained in violation of any State or Federal pollution control or environmental protection law or regulation.

701.7 Severability

701.7.1-It is the intention of the Citizens of Thomaston that each separate section of this ordinance shall be deemed independent of all other sections herein. It is the further intention of the Citizens of Thomaston that, if any provisions of this ordinance be declared invalid, all other sections remain valid and effective.

701.7.2-This ordinance may be amended by a majority vote of the Citizens of Thomaston.

701.8 Availability

A certified copy of this Ordinance and District Map, attested to and signed by the Thomaston Town Clerk, is on file at the Thomaston municipal office and is accessible to any member of the public. Copies are available to any member of the public, at reasonable cost, at the expense of the person making the request.

Section 702 Establishment of Zoning Districts

To implement the provisions of this Chapter, the *Town of Thomaston* is hereby divided into the following classes of Zoning Districts:

702.1 Zoning Districts

Urban Residential District	R3
Village Mixed Use District	R3A
Transitional Residential District	TR3
Rural Residential District	R2
Rural Residential and Farming District	R1
Resource Protection District.....	RP
Highway Commercial District	HC
Village Commercial District.....	VC
Industrial District	IN
Shoreland Commercial District	SC

702.2 Zoning Maps

The location and boundaries of the above Zoning Districts are hereby established as shown on maps entitled "Zoning Map", dated 6/15/2016 and "Zoning Detail Maps", dated 6/15/2016, as amended, prepared by the Thomaston Planning Board and kept on file at the Thomaston Municipal Office, which maps with all explanatory matter thereon, shall be deemed to be, and are hereby made part of this Ordinance. When uncertainty exists with respect to Zoning District boundaries as shown upon the above maps, the following rules shall apply:

702.2.1 Map illustrative, Planning Board Final Authority

The depiction of the Zoning Districts on the Official Zoning Maps for the *Town of Thomaston* are merely illustrative of their general location. Except where the center lines of streets or railroad rights of way are used, the boundaries of the Resource Protection District and the Shoreland District shall be determined by measurement from the normal high-water line of the water body or from the upland edge of wetland vegetation, regardless of the location of the boundary line shown on the map. Where uncertainty exists as to the exact location of these boundary lines, the Planning Board shall be the final authority as to location.

702.2.2 Survey may be required

Where a question arises in regard to the limits of the Resource Protection District or the Shoreland District established by this Ordinance as they affect an existing or proposed land use, the applicant shall be instructed to obtain a topographic survey from a Registered Land Surveyor or other certified professional based on the nearest known benchmark and showing the appropriate boundary delineating the Resource Protection District or Shoreland Commercial District.

702.2.3 Changes to the Official District Map

If amendments, in accordance with Section 706 are made in the District boundaries or other matter portrayed on the Official District Map, such changes shall be made on the Official District Map within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.

Section 703 Non-Conformance

703.1 Purpose

The purpose of this section is to regulate non-conforming lots, uses and structures as defined in this Ordinance such that they can be reasonably developed, maintained or repaired, or changed to other less non-conforming or to conforming uses.

It is the intent of this Ordinance to promote land uses 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 this section. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

703.2 General Requirements

Any lawful use of buildings, structures, premises, land or parts thereof existing at the effective date of this Ordinance or amendments thereto, and made non-conforming by the provisions of this Ordinance or amendments thereto, may be continued subject to the provisions of this section.

703.3 Non-Conforming Lots

703.3.1 Vacant Lots

- a) A single lot of record in separate ownership and not contiguous with any other lot in the same ownership may be built upon provided all provisions of this Ordinance, except lot size area, lot width and shore frontage, shall be met. Variances relating to setback or other requirements not involving lot size area, lot width or shore frontage shall be obtained only by action of the Board of Appeals.
- b) If two or more contiguous lots are in the same ownership of record at the time of or since adoption or amendment of this Ordinance, and 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. No division of the parcel shall be made that creates any dimension or area below the requirements of this Ordinance, and if any such lot is created after enactment of this Ordinance or any amendment thereof, that lot shall not be built upon. If, after combining all contiguous lots in the same ownership, the parcel fails to meet dimensional standards of this Ordinance, said parcel may be built upon in accordance with paragraph 703.3.1a.

703.3.2 Lots with Structures

- a) A single lot of record that is the site of a principal building or use, may have additional structures built in accordance with paragraph 703.3.1a.
- b) If two or more contiguous lots are in the same ownership, and if all or part of the lots do not meet the dimensional requirements of this Ordinance, and a principal building or use exists on each lot, may have additional structures built accordance with paragraph 703.3.1a.

- c) If two or more contiguous lots are in the same ownership, and if all or part of the lots do not meet the dimensional requirements of this Ordinance, and the lots are the site of permitted accessory buildings or uses, the lots may be built upon in accordance with paragraph 703.3.1b.

703.4 Non-conforming Structures

703.4.1 Maintenance and Enlargement

A structure in existence on the effective date of adoption or amendment of this Ordinance, which does not meet the setback, height, or lot-coverage standards of this Ordinance, may be repaired, maintained and improved. It may be enlarged and/or accessory structures may be added to the lot without a variance provided that:

- a) the enlargement or accessory structure does not exceed the height standards of the District in which it is located; and
- b) that the enlargement or accessory structures(s), in combination with the existing structures(s), does not exceed the lot-coverage standards of the District in which it is located; and
- c) that the enlargement or accessory structure(s) meet the setback standards of the District, or, if not possible and located with the same yard area as the principal non-conforming structure, is no closer than the closest portion of the existing accessory non-conforming structure, or of the principal non-conforming structure if there is no existing accessory structure, to the front, side or rear lot line and contains no more than an additional twenty-five (25) percent of the ground-floor area of the existing accessory non-conforming structure or twenty-five (25) percent of the ground floor area of the principal structure if there is no existing accessory structure. In no case shall this section be construed to allow an existing non-conforming structure to become more non-conforming by enlargement or replacement.

Within the Resource Protection District or the Shoreland District, no portion of a structure that is less than the required setback from the normal high-water line (NHWL) of a water body, or tributary stream or the upland edge of a wetland, shall be expanded, as measured in floor area or volume, by 30% or more, during the lifetime of the structure. If a replacement structure conforms with the requirements of 703.4.2 Reconstruction, and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area and volume since that date.

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 Board of Appeals or its designee, basing its decision on the criteria specified in section 703.4.3, Relocation, below, if

- a) The completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with section 703.4., and
- b) The foundation does not cause the structure to be elevated by more than three (3) additional feet as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.

703.4.2 Reconstruction

- a) Any non-conforming building or structure, which is hereafter damaged or destroyed by 50% or less of its market value, may be restored or reconstructed in conformance with its original dimensions. Nothing in this section will prevent the demolition of the remains of any building or structure damaged or destroyed.
- b) Any non-conforming structure that is located less than the required setback from the side, back or front lot lines in any district or from the normal high-water line of a water body, tributary stream, or upland edge of a wetland in the Resource Protection District or the Shoreland District and that 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, excluding normal maintenance and repair, may be reconstructed or replaced provided that a permit is obtained from the Thomaston Code Enforcement Officer 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 setback requirements to the greatest practical extent as determined by the Board of Appeals 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.
- c) 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 703.4.2(b) as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume 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 703.4.3, if applicable.
- d) In determining whether the building reconstruction or replacement meets the setbacks to the greatest practical extent, the Board of Appeals or its designee shall consider in addition to the criteria in 703.4.3, if applicable, the physical condition and type of foundation present, if any.

703.4.3 Relocation within the Resource Protection District or the Shoreland District

A non-conforming structure in the Resource Protection District or the Shoreland District 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 Board of Appeals, 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 from a water body or wetland to the greatest practical extent, the Board of Appeals 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 Board of Appeals 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.
- b) 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 area where vegetation and/or ground cover was disturbed, damaged, or removed must be re-established 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.
- c) Where feasible, when a structure is relocated on a parcel, the original location of the structure shall be replanted with vegetation that may consist of grasses, shrubs, trees, or a combination thereof.

703.4.4 Change of Use of a Non-conforming Structure in the Resource Protection District or the Shoreland District

The use of a non-conforming structure may not be changed to another use unless the Board of Appeals, 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 Board of Appeals 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, flood-plain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

703.5 Non- Conforming Uses

703.5.1 Discontinuance

If any non-conforming use ceases for any reason for a period of one year or more, any subsequent use shall conform to the provisions of this Ordinance.

703.5.2 Resumption

Whenever a non-conforming use is changed to a permitted or conditional use, such land and/or structure(s) shall not thereafter revert to a non-conforming use.

703.5.3 Expansion of Non-Conforming Use

Expansions of non-conforming uses within the Resource Protection District or the Shoreland District are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Board of Appeals, be expanded within existing residential structures or within expansions of such structures as allowed in Section 703.4.1.

703.6 Transfer of Ownership

Ownership of non-conforming lots, structures and/or uses as defined in this Ordinance may be transferred without loss of their lawful but non-conforming status.

Section 704 Administration

704.1 Planning Board

704.1.1 Establishment of Board

A Planning Board as originally established by town meeting vote on March 29, 1971 is hereby reestablished pursuant to 30-A MRS §3001.

704.1.2 Appointment and Composition

- a) Board members shall be appointed by the Select Board and sworn by the clerk or other person authorized to administer oaths.
- b) The board shall consist of five (5) members and two (2) alternate members serving staggered terms of three (3) years. Planning Board members and alternates currently in office shall continue to serve the remainder of the term for which they were appointed.
- c) When there is a permanent vacancy, the Select Board shall, within 30 days of its occurrence, appoint a person to serve for the unexpired term.
 - i. Vacancies shall occur upon the resignation or death of any member, or when a member ceases to be a legal resident of the *Town of Thomaston*, or when a member fails to attend four (4) consecutive regular meetings, or fails to attend at least 75% of all meetings during the preceding twelve (12) month period. A vacancy may also occur when a non-participating member is removed at the discretion of the Select Board, based on a recommendation made by a majority of the members of the Planning Board, showing just cause for such a request by the Planning Board.
 - ii. The first vacancy on the Planning Board shall be filled by an alternate member as appointed by the Select Board.
 - iii. It shall be the policy for any member who wishes to have a leave of absence for an extended period of time in excess of three (3) regular scheduled meetings, to submit a letter of intent to the Select Board, two (2) weeks prior to the scheduled absence. Failure to do so may mean immediate removal from the Planning Board at the discretion of a majority vote of the Select Board.
- d) A municipal officer or spouse thereof may not serve as a member or alternate member.
- e) Any individual wishing to seek appointment to the board shall have been a resident of the Town of Thomaston for a period of two (2) consecutive years or by recommendation of the Select Board.

704.1.3 Organization and Rules

- a) The board shall elect a chairperson and vice-chairperson from among its members. The board may either elect a secretary from among its members or hire a non-board member to serve as secretary. All officers shall serve for one (1) year with eligibility for re-election.
- b) When a member is unable to act because of conflict of interest, physical incapacity, absence or any other reason satisfactory to the chairperson, the chairperson shall designate an alternate member to sit in that member's stead.

- c) An alternate member shall attend all meetings of the board and participate in its proceedings, but may vote only when he or she has been designated by the chairperson to sit for a member.
- d) An alternate who has not been designated to take the place of a regular member at a particular meeting is not a board member for the purposes of that meeting
 - i. The alternate member for this meeting is a member of the public and has no right to make motions, second them or vote.
 - ii. The alternate member is allowed to make comments or ask questions only to the extent that members of the public are allowed to do this
 - iii. The alternate should not be allowed to make comments once the board has begun its deliberations and decision-making process
- e) When a board member misses a public hearing or other board meeting at which substantive discussions of an application occur, they may continue to participate in the decision-making process without due process if they take the following steps:
 - i. Read hearing and meeting minutes, review any documents or other evidence submitted at those meetings, and listen to/watch any audio or video recordings of those meetings,
 - ii. Prepare a written statement describing what the board member did to educate himself/herself about what occurred at the missed meeting,
 - iii. Sign the statement and enter it into the record at the next meeting.
- f) If the board member does not proceed as stated in e) above, then the alternate designated to replace the absent board member at said public hearing or other board meeting shall participate in the decision-making process when the said application is continued to a following meeting or hearing.
- g) Any question of whether a member shall be disqualified from voting on a particular matter shall be decided by a majority vote of the members except the member who is being challenged.
- h) The chairperson shall call a regular meeting of the board each month or when necessary to conduct normal business.
- i) No meeting of the board shall be held without a quorum consisting of three (3) members or alternate members authorized to vote. The board shall act by majority vote, calculated on the basis of the number of members present and voting.
- j) The board shall adopt rules for the transaction of business and the secretary shall keep a record of its resolutions, transactions, correspondence, findings and determinations. All records shall be deemed public and may be inspected at reasonable times.

704.1.4 Duties and Powers

- a) The board shall perform such duties and exercise such powers as are provided by the Thomaston Ordinances and the laws of the State of Maine.
- b) The board may obtain goods and services necessary to its function within the limits of appropriations made for the purpose.

704.1.5 Conditional Use Permits

a) Purpose and Applicability

The purpose of this Section is to enable the Planning Board to review certain proposed uses of the land that have the potential of creating unusual or undue impacts on surrounding properties, municipal facilities, or the natural environment. A building, structure, or parcel of land may be used for a conditional use if the use is specifically listed in the regulations governing the zoning district in which the use is proposed, and if a conditional use permit is approved by the Board of Appeals.

b) Application for Conditional Use Permit

Application for a conditional use permit shall be made to the Code Enforcement Officer on forms provided for the purpose accompanied by such fee as the Select Board shall set on an annual basis for such applications.

The applicant shall:

- 1) Clearly specify the location of the proposed use, including street address, Assessor's tax map and lot number, and a location map.
- 2) Describe the exact nature of the proposed use.
- 3) Submit such other materials as will enable the Planning Board to determine that the standards for approval of a conditional use permit have been met. The burden of providing the information upon which the Board bases its findings and of proving conformity with the standards shall be the applicant's.

c) Standards for a Conditional Use Permit

A conditional use may be granted by the Planning Board only in the event that the applicant has established to the satisfaction of the Board that:

- 1) Neither the proposed use nor the proposed site upon which the use will be located is of such a character that the use will have significant adverse impact upon the value or quiet possession of surrounding properties greater than would normally occur from such a use in the zoning district. In reaching a determination on this standard, the Board shall consider:
 - i. the size of the proposed use compared with surrounding uses;
 - ii. the intensity of the proposed use, including amount and type of traffic to be generated, hours of operation, expanse of pavement, and similar measures of intensity of use, compared with surrounding uses;
 - iii. the potential generation of noise, dust, odor, vibration, glare, smoke, litter, and other nuisances;
 - iv. unusual physical characteristics of the site, including size of the lot, shape of the lot, topography, and soils, which tend to aggravate adverse impacts upon surrounding properties; and
 - v. the degree to which landscaping, fencing, and other design elements have been incorporated to mitigate impacts on surrounding properties.

- 2) Municipal facilities serving the proposed use will not be overburdened. In reaching a determination on this standard the Board shall consider:
 - i. the ability of traffic to safely move into and out of the site at the proposed location;
 - ii. the presence of facilities to assure the safety of pedestrians passing by the site;
 - iii. the capacity of the street network to accommodate the proposed use;
 - iv. the capacity of public sewerage and water facilities, if they are to be used, to accommodate the proposed use; and
 - v. the capacity of the public storm drainage system, if it is to be used, to accommodate the proposed use.
- 3) The natural characteristics of the site, including topography, drainage, and relationship to ground and surface waters and flood plains, shall not be such that the proposed use when placed on the site will cause undue harm to the environment or to neighboring properties.
- 4) Undisclosed Future Uses:
 - i. In an application for a conditional use requiring renovation or enlargement of an existing building or new construction, the applicant shall not be required to name specifically all the uses on the lot if they are not known at the time of renovation, enlargement or new construction. Instead, the applicant shall state on his/her application all the specific uses that are anticipated for the lot.
 - ii. For the area on the lot for which the use is not then known, the applicant shall designate those areas as "undisclosed future uses".
 - iii. The applicant must designate on the application at least one known conditional use.
 - iv. The Planning Board may grant conditional uses for the known specific uses and the project may proceed to site review, if required, and a building permit may be issued after site plan review, with the condition that any required conditional use permits for the undisclosed future uses will be obtained when the uses are determined.
 - v. The lot shall not be used for the undisclosed future uses which require a conditional use until the required conditional use approval is obtained.
- 5) In considering the foregoing standards the Planning Board shall fully review these standards even though the applicant may also be subject to site plan approval.

d) Additional Standards in Shoreland Areas

For conditional use permit applications in shoreland areas, the Board shall additionally find that the proposed use:

- 1) will not result in unreasonable damage to spawning grounds, fish, aquatic life, bird and other wildlife habitat;
- 2) will reasonably conserve shoreland vegetation;
- 3) will reasonably conserve visual points of access to waters as viewed from public facilities;
- 4) will reasonably conserve actual points of public access to waters;
- 5) will reasonably conserve natural beauty;
- 6) will reasonably avoid problems associated with flood plain development or use;

- 7) Access from shore shall be developed on soils appropriate for such use and constructed so as to reasonably control erosion or sedimentation on both subject and surrounding properties.
- 8) The use shall not unreasonably interfere with beach areas.
- 9) The facility shall be located so as to minimize adverse effect on marine harvesting and commercial fishing.
- 10) The facility shall be located so as not to interfere with commercial or recreational boating and moorings.

e) **Conditions of Approval**

When approving a conditional use permit, the Board shall identify in writing the conditions upon which the permit is approved. These conditions may include, but are not limited to, such requirements as:

- 1) street improvements;
- 2) access restrictions;
- 3) hours of use;
- 4) buffering and screening;
- 5) utility improvements;
- 6) performance guarantees for off-site improvements required as conditions of approval.

f) **Reapplication**

If the Planning Board shall deny a conditional use permit, the applicant shall within thirty (30) days file a request for review by the Board of Appeals with the Thomaston Code Enforcement Officer on forms to be approved by the CEO.

g) **Duration of Conditional Use Permit**

- 1) Provided all conditions and standards of approval are met, a conditional use permit shall be transferable; however, should a conditional use cease for a period of one (1) year, said conditional use shall expire and require Planning Board approval in order to resume.
- 2) A use granted by conditional use may be expanded in area or function only with the granting of new conditional use approval by the Board of Appeals.

h) **Scope of Permit**

Any permit or approval granted hereunder is subject to all elements of the final plans and specifications submitted by the applicant and to all representations, oral or written, made by or on behalf of the applicant in support of the application or with respect to the nature and scope of the use, activity or work proposed, and all such permits or approvals shall include, as an express condition, a written statement to said effect.

i) **Recourse**

If the Planning Board shall deny a conditional use permit, the applicant may, within thirty (30) days, file a request for review by the Board of Appeals with the Thomaston Code Enforcement Officer on forms approved by the Board of Appeals.

704.2 Enforcement Officer

704.2.1 Duty to Enforce

It shall be the duty of the Thomaston Code Enforcement Officer or other person duly authorized by the *Town of Thomaston* to enforce the provisions of this Ordinance. If the Thomaston Code Enforcement Officer shall find that any of the provisions of this Ordinance are being violated, s/he shall notify by certified mail the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. S/he shall order discontinuance of illegal use of land, buildings, or structures, removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.

704.2.2 Officer to Keep Records

The Thomaston Code Enforcement Officer shall keep a complete record of all essential transactions of the office pertaining to the Resource Protection District or the Shoreland District, 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.

704.3 Legal Action and Violations

When any violation of any provision of this Ordinance shall be found to exist, the Thomaston Town Attorney, upon notice from the Thomaston Code Enforcement Officer, is hereby authorized and directed to institute any and all actions and proceedings either legal or equitable that may be appropriate or necessary for the enforcement of this Ordinance, the same to be brought in the name of the *Town of Thomaston*. Any violation of this Ordinance shall be a nuisance.

704.3.1 Enforcement Procedure

- a) It shall be the duty of the Thomaston Code Enforcement Officer to enforce the provisions of this Ordinance. If the Thomaston Code Enforcement Officer shall find that any provision 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 Select Board and shall be maintained as a permanent record.
- b) The Thomaston Code Enforcement Officer shall conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to permit approvals. The Thomaston Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.
- c) The Thomaston Code Enforcement Officer shall keep a complete record of all essential transactions, 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. In the case of violations in the 250-foot Shoreland Zone, the Thomaston Code Enforcement Officer shall, on an annual basis, submit a summary of the record of such violations to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.

704.3.2 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 Thomaston 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 recording 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 substantial environmental damage.

704.4 Fines

Any person, firm or corporation being the owner or having control or use of any building or premises who violates any provision or requirement of this Ordinance shall be subject to the following penalties, payable to the *Town of Thomaston*: For starting construction or undertaking any land-use activity for which a permit is required without the required permit or for any other specific violation of this Ordinance, the minimum fine shall be \$100.00 and the maximum fine for any single violation shall be \$2,500.00. Assessment of penalties under this Ordinance shall be in accordance with Title 30-A MRS Section 4452, as amended.

Each day a violation continues may be counted as a separate offense. An offense shall commence on the date of issuance of a Notice of Violation signed by the Code Enforcement Officer to the person or party in violation of this Ordinance. Return of the receipt indicating that the Notice was undeliverable as addressed or otherwise not delivered to the person or party shall not invalidate enforcement of this Ordinance or any penalties provided for herein; the Town may bring action in District Court to enjoin violation of this Ordinance and for other such relief as the law may provide.

704.5 Building Permit

No building or structure shall be erected, moved, added to, structurally altered or demolished without a Permit issued by the Thomaston Code Enforcement Officer. No permit shall be issued for any project that includes a new driveway until a driveway/access permit has been issued by the Road Commissioner or designated assistant and/or the Maine Department of Transportation. As part of issuance of a building permit or any other construction activity, the property owner will be responsible for any damage incurred to any public property in the course of construction, and shall repair any damage at the property owner's expense. Any damage not repaired by the property owner, shall be repaired by the town and billed as appropriate to the property owner. Any such bill not paid within 30 days will result in legal action being taken against said property owner. No building permit shall be issued except in conformance with the provisions of this Ordinance, except after written order from the Board of Appeals. Within such districts and locations where permitted by this Ordinance, those projects and operations of such size and extent as to require approval of the Department of Environmental Protection under the provisions of the Site Location of Development Act (Title 38 MRS Section 481 et. seq.) shall require municipal approval under the terms of this Ordinance. A Building Permit shall be required for any building or structure requiring a Building Permit under the terms of this Ordinance. Any project constituting a subdivision under the terms of the Subdivision Regulations of the *Town of Thomaston* shall require approval under the Subdivision Regulations. The applicant shall furnish the Code Enforcement Officer with a copy of each ap-

plication submitted to the DEP under the terms of the Site Location of Development Act and a copy of each permit received by the applicant from the DEP under the Site Location of Development Act.

The Thomaston Code Enforcement Officer shall maintain a public record of all Building Permits. If the building or part is not substantially completed within two years of the issuing of the permit, the permit shall lapse. It may be renewed without charge upon application.

704.5.1 Temporary Building Permit

A temporary building permit shall be required for any temporary structure necessary for the construction of permanent structure(s). The term of such temporary building permit shall not exceed the time limit of the building permit issued for the permanent structure(s) and such temporary structure shall be removed within thirty (30) days of completion of construction of the permanent structure(s). A temporary structure serving as a residence shall comply with the Maine State Plumbing Code. A temporary building permit shall not be required for seasonal storage structures, such as those covering boats or woodpiles that are removed within six (6) months of their erection.

704.5.2 Demolition Permit

Before a demolition permit is issued, a plan must be submitted showing the following:

- a) Date the work will start; and
- b) Date the work will be completed. On completion of work, the site shall include finishing grading, landscaping and proper drainage to make the area look presentable; and
- c) Disposal site(s) for demolition debris; and
- d) Description of age, if known, of building(s) or structure(s) to be demolished.

704.5.3 Construction without Building Permit

Any on-site activity prior to issuance of a building permit by the Thomaston Code Enforcement Officer shall be a violation of this Ordinance. Failure to acquire a Building Permit before starting construction shall result in the payment of a double fee for the permit. No building permit shall be required for clearing to allow surveys and soil tests, and excavations for soil tests.

704.5.4 Rapid Entry System

Any new public, commercial or industrial building constructed in the *Town of Thomaston* shall be equipped with a RAPID ENTRY SYSTEM at the discretion of the town fire chief. All new public, commercial and industrial properties within the town protected by fences, gates or related barriers shall be equipped with a high-security padlock or key switch. Key lock boxes, high-security padlocks and key switches, and the locks and keys used in these devices, shall be UL (Underwriters Laboratories) certified. The key lock box shall contain labeled keys easily identified in the field to provide access into the property and or buildings, and to any locked areas within the said building as may be directed by the fire chief. Key lock boxes shall be mounted at a height of six feet above final grade or as designated by the fire chief.

704.5A Farmer's Markets

A regularly scheduled farmer's market may be permitted by the Code Enforcement Officer in any district for up to one year at a time provided the market is to be located at a suitable site with adequate parking and space for the proposed number of vendors.

704.5A.1 - An application for the proposed Farmer's Market must be submitted to, reviewed by, and a permit issued by the Code Enforcement Officer before any market activity may commence.

704.5A.2 - The application must contain at a minimum:

- a) the name(s) and all contact information of the responsible party or parties,
- b) the proposed location along with a description or plan of its facilities and its dimensions,
- c) the property owner's name and all contact information,
- d) a copy of the agreement between the owner and the responsible party or parties governing the use of the location,
- e) the proposed schedule by month giving the days and times of the proposed market,
- f) the proposed maximum number of vendors,
- g) copies of any applicable State or Federal permits that may be required, if any, and
- h) any other information the Code Enforcement Officer shall require.

704.5A.3 - A fee if required by the Thomaston Fee Schedule must be submitted along with the application.

704.5A.4 - The Code Enforcement Officer shall review the submitted materials and the site before granting or denying any permit for the proposed farmer's market.

704.5A.5 - If the application is denied, the Code Enforcement Officer must deliver his written decision along with an explanation of why he is denying the application within 30 days of the submission of the application. The applicant may alter the application to correct any problems the Code Enforcement Officer found with the proposal and resubmit the application at no additional fee.

704.5A.6 - A list of the vendors of the farmer's market with all their contact information and their products being sold along with copies of any State or Federal permits the vendors may be required to have (for example State permits for food processing and preparation) for the products being sold shall be supplied before the first opening of the market under the permit granted and the same shall be updated periodically by the responsible party or parties from time to time as vendors join in or drop out or add new items to their offerings. Failure to supply this list in a timely manner or within 14 days of the request of the Code Enforcement Officer shall make the permit to operate said farmer's market null and void.

704.6 Application

704.6.1-All applications for building permits shall be accompanied by plans drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations and dimensions of the proposed building or alteration and the proposed sewage disposal system as certified by a professional engineer registered in accordance with Maine laws, or a plumbing inspector appointed by the *Town of Thomaston*. The application shall include such other information as lawfully may be required by the Thomaston Code Enforcement Officer to determine conformance with and provide for the enforcement of this Ordinance.

704.6.2-Wherever on-site subsurface disposal is contemplated, the approval of building-permit applications shall be subject to evidence of satisfactory subsurface soil conditions for drainage and sewage disposal, and shall be subject to prior obtainment of a plumbing permit. Such evidence shall be furnished in compliance with the Maine State Plumbing Code.

704.6.3-Wherever development of any kind or use, exclusive of a single dwelling on an oversize lot, and whether occurring essentially at one time or over a period of years, is proposed for a parcel or assembly of parcels of land that in total contiguous area is equivalent to or greater in area than three times the minimum lot size as prescribed for that zone; and before any contract or offer for the conveyance of the proposed development or of any portion thereof shall have been made; and before any plot of subdivision into three or more lots shall have been recorded by the proper registry of deeds; and before any permit be issued; and before any improvements, including the installation of roads or utilities, shall be undertaken, the developer or his authorized agent shall obtain the endorsement of the Thomaston Planning Board for Final Approval of such development. All developments shall be executed in strict conformance with approved plans and with the procedures, standards and requirements of the subdivision regulations of the *Town of Thomaston*.

704.6.4-The Thomaston Code Enforcement Officer shall approve or deny in writing an application for a building permit within fourteen (14) working days of receiving said application. In the event of an adverse decision by the Thomaston Code Enforcement Officer, the aggrieved party may appeal to the Board of Appeals in accordance with Section 705 of this Ordinance.

704.7 Certificate of Occupancy

704.7.1-It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a Certificate of Occupancy shall have been issued by the Thomaston Code Enforcement Officer and endorsed to the effect that the proposed use of the building or land conforms with the requirements of this Ordinance.

704.7.2-No Building Permit shall be issued until an application has been made for a Certificate of Occupancy, and the Certificate of Occupancy shall be issued in conformity with the provisions of this Ordinance upon completion of the work.

704.7.3-A temporary Certificate of Occupancy shall upon request be issued by the Thomaston Code Enforcement Officer for a period of six (6) months at such times as required sanitary facilities are installed and operable during construction or alterations, for partial occupancy of a building pending its completion, provided, however, that such temporary certificate may require such conditions and safeguards as will protect the safety of the occupants and the public.

704.7.4-The Thomaston Code Enforcement Officer shall maintain a public record of all Certificates of Occupancy.

704.7.5-Failure to obtain a Certificate of Occupancy shall be a violation of this Ordinance.

704.8 Fees

704.8.1-Application for a Building Permit shall be accompanied by a fee, in accordance with the schedule in Section 704.9.

704.8.2-The Thomaston Select Board may from time to time amend Section 704.9 Thomaston Fee Schedule to reflect the Town's actual costs of administering and/or enforcing this ordinance after notice and public hearing.

704.9 Thomaston Fee Schedule - Effective 3/27/2012

704.9.1 Residential Construction and Building Siting

Minimum Fee	\$ 20.00
Finished Living Space – New	\$.40/sq. ft.
Unfinished Living Space (Shell)	\$.25/sq. ft.
Accessory Structures	\$.25/sq. ft.
Covered Porches	\$.25/sq. ft.
Decks	\$.15/sq. ft.
Mobile & Manufactured Homes	\$.25/sq. ft.
Foundations Only (Floor Dimensions)	\$.25/sq. ft.

704.9.2 Commercial/Industrial

Minimum Fee	\$20.00
Commercial-Industrial – New	\$.50/sq. ft.
Commercial-Industrial – Renovation	\$.30/sq. ft.
Commercial-Industrial – Accessory	\$.30/sq. ft.
Retail Marijuana or Cannabis Facility Initial License	\$.50/sq. ft.
Retail Marijuana or Cannabis Facility Annual License	\$.35/sq. ft.

704.9.3 Flat Fees

* Demolition of Structure	\$ 50.00
** Moving of Structure	\$ 50.00
Home Occupation	\$ 50.00
Moving Mobile Homes	\$ 25.00
Swimming Pools (above or in ground)	\$ 50.00
Temporary or Permanent Signs	\$ 10.00 each
Street Opening Permit	\$ 50.00
Peddlers Permit	\$ 30.00 Minimum - \$1.50/day

704.9.4 Subdivision Fees

Pre-application Meeting	\$100.00
Preliminary Plan	\$100.00 per lot or Unit (includes residual lots)
Final Plan	\$ 75.00 per lot or Unit (includes residual lots)
Revision to Approved Plan	\$100.00

704.9.5 Site Plan Review – Pre-application	\$ 75.00
Site-Plan Review – Final Plan	\$150.00

704.9.6 Planning Board Review or Board of Appeals

Residential (1 or 2 Family)	\$ 75.00
Non-Residential or Multi Unit	\$150.00

704.9.7 Administrative Appeal	\$100.00
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704.9.8 Mobile Home Park Fees

License Application or Renewal	\$100.00
Plus each additional mobile home over the first 25	\$ 1.50

* Demolition of Structure – This fee is intended for the removal of a structure permanently. The fee for a building permit shall include the demolition to construct a new structure.

** Moving of Structure – This fee is intended for the moving of a structure along any town road and not for the moving of a structure within the same property.

Section 705 Appeals

705.1 Board of Appeals Appointment and Composition

705.1.1-The Thomaston Board of Appeals shall be established by the legislative body of the *Town of Thomaston* and appointed by the Thomaston Select Board.

705.1.2-The Board shall consist of five (5) members and two (2) alternate members, serving staggered terms of three (3) years. Board of Appeals members and alternates currently in office shall continue to serve the remainder of the term for which they were appointed.

- a) The Board shall elect a chairman and vice-chairman from its membership. The board may either elect a secretary from among its members or hire a non-board member to serve as secretary. All officers shall serve for one (1) year with eligibility for re-election.
- b) The secretary shall provide for the keeping of the minutes of the proceedings of the Thomaston Board of Appeals, which shall show the vote of each member upon each question. All minutes of the Board shall be public record.
- c) A quorum shall consist of three (3) members. All decisions shall be by majority vote.
- d) When there is a permanent vacancy, the Select Board shall, within 30 days of its occurrence, appoint a person to serve for the unexpired term.
- e) Vacancies shall occur upon the resignation or death of any member, or when a member ceases to be a legal resident of the *Town of Thomaston*, or when a member fails to attend four (4) consecutive regular meetings, or fails to attend at least 75% of all meetings during the preceding twelve (12) month period. A vacancy may also occur when a non-participating member is removed at the discretion of the Select Board, based on a recommendation made by a majority of the members of the Board of Appeals, showing just cause for such a request by the Board of Appeals.
- f) The first vacancy on the Board of Appeals shall be filled by an alternate member as appointed by the Select Board.
- g) It shall be the policy for any member who wishes to have a leave of absence for an extended period of time in excess of three (3) regular scheduled meetings, to submit a letter of intent to the Select Board, two (2) weeks prior to the scheduled absence. Failure to do so may mean immediate removal from the Board of Appeals at the discretion of a majority of the Select Board.

705.1.3-A municipal officer or spouse thereof may not serve as a member. Any individual wishing to seek appointment to the board shall have been a resident of the *Town of Thomaston* for a period of two (2) consecutive years or by recommendation of the Select Board.

705.1.4-Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members, except the member who is being challenged.

705.1.5-A member of the Board may be dismissed for cause after notice and hearing by the Thomaston Select Board before the expiration of his or her term.

705.2 Powers and Duties

705.2.1 Administrative Appeals

Appeals shall lie from the decision of the Thomaston Code Enforcement Officer and the Thomaston Planning Board. The Thomaston Board of Appeals shall 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 the Planning Board in the enforcement or administration of this Ordinance. Any party may take an appeal from a decision of the Board of Appeals, within 45 days of the date of the Board's vote on the original decision, to Superior Court from any order, relief or denial in accordance with the Maine Rules of Civil Procedure, Rule 80B. This time period may be extended by the court upon motion for good cause shown. The hearing before the Superior Court must be without a jury

705.2.2 Variances

A variance may be granted by the Board only where strict application of this Ordinance, or a provision thereof, to the petitioner and his or her property would cause undue hardship and/or would not be in the best interest of the community to strictly apply the ordinance to the property in question. A financial hardship shall not constitute grounds for granting a variance. The crucial points of variance are undue hardship and unique circumstances applying to the property. A variance is not justified unless both elements are present in the case. Variances may be granted only from dimensional requirements including but not limited to, lot width, structure height, percent of lot coverage, and setback requirements. Any variance application that has any effect in the Shoreland District shall be submitted to the Department of Environmental Protection at least twenty (20) days prior to any action of the Board of Appeals along with all supporting information provided by the applicant.

"Undue hardship" shall mean:

- a) That the land in question cannot yield a reasonable return unless a variance is granted; reasonable return does not mean maximum return;
- b) That the need for a variance is due to the unique circumstances of the property and not to the general conditions of 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.

Further, within the Shoreland Districts, a variance shall be granted only if the Board of Appeals makes a positive finding, based on information presented to it, that the proposed uses:

- e) Will not result in unsafe or unhealthful conditions;
- f) Will not result in erosion or sedimentation;
- g) Will not result in water pollution;
- h) Will not result in damage to spawning ground, fish, aquatic life, bird and other wildlife habitat;
- i) Will conserve shoreland vegetation;

- j) Will conserve visual points of access to waters as viewed from public facilities;
- k) Will conserve actual points of public access to waters;
- l) Will conserve natural beauty;
- m) Will avoid problems associated with flood-plain development and use.

705.2.3 Handicapped accessibility

The Board of Appeals 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, or to provide handicapped accessibility to any structure(s) for which such accessibility is required by the Americans with Disabilities Act. The Board shall restrict any variance granted under this subsection solely to installation of equipment or the construction of structures necessary to provide handicapped access to building(s) on the property. 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 to provide handicapped access to the property" shall include railing, wall or roof systems necessary for the safety or effectiveness of the access structure(s).

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 condition imposed.

705.2.4 Variance from Dimensional Standards

A variance may be granted from the dimensional standards of a zoning ordinance when strict application of the ordinance to the petitioner and the petitioner's property would cause a practical difficulty and when the following conditions exist:

- a) The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;
- b) The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutters' properties;
- c) The practical difficulty is not the result of action taken by the petitioner or a prior owner;
- d) No other feasible alternative to a variance is available to the petitioner;
- e) The granting of a variance will not unreasonably adversely affect the natural environment; and
- f) The property is not located in whole or in part within Shoreland areas as described in Title 38 MRS Section 435.

705.2.5 - A Copy of each Shoreland Zone 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 by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

705.3 Appeal Procedure

705.3.1

- a) In all cases, a person aggrieved by a decision of the Thomaston Code Enforcement Officer shall commence his/her appeal within thirty (30) days after receipt of a written decision of the Thomaston Code Enforcement Officer by certified mail.
- b) An appeal of a final vote of a decision of the Planning Board shall commence within thirty (30) days of the vote and shall not be a *de novo* proceeding and shall be reviewed by the Zoning Board of Appeals after being filed with the Thomaston Code Enforcement Officer on forms to be approved by the Board of Appeals. The aggrieved party shall set forth on said form the grounds for appeal based on the record created by the Planning Board to determine whether the Planning Board's decision was within the scope of its authority and supported by substantial evidence in the record.

705.3.2-Before taking action on any appeal, the Board of Appeals shall hold a public hearing. The Board shall reasonably notify of any hearing: the petitioner, the Thomaston Planning Board and the Thomaston Select Board and such persons shall be made parties to the action. All interested persons shall be given reasonable opportunity to have their view expressed at any hearing. Appropriate public notice of all appeals shall be made prior to the date of said scheduled public hearing.

705.3.3-Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Board of Appeals.

705.3.4-The hearing shall be held no less than seven (7) days and no more than thirty (30) days from the date of the first advertisement of said public notice.

705.3.5-Written notice of the decision of the Board of Appeals shall be sent to the appellant, the Thomaston Code Enforcement Officer, the Thomaston Planning Board and the Select Board within thirty (30) days of the date of the hearing of the appeal.

705.3.6-At any hearing, a party may appear by agent or attorney. Hearing shall not be continued to other times except for good use.

705.3.7-The Thomaston Code Enforcement Officer or his designated assistant shall attend all hearings and may present to the Board of Appeals all plans, photographs, or other materials he deems appropriate for an understanding of the appeal.

705.3.8-The appellant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chairman.

705.3.9 - [Reserved]

705.3.10-If the Board of Appeals shall deny an appeal, a second appeal of a similar nature shall not be brought before the Board within one year from the date of the denial by the Board of the first appeal, unless in the opinion of a majority of the Board, substantial new evidence shall be brought forward, or unless the Board finds, in its sole and exclusive judgment, that an error or mistake of law or misunderstanding of facts shall have been made.

705.3.11-The appellant shall pay a fee in accordance with Section 704.8 to cover the costs of notifications and advertisements concerning an appeal.

705.4 Appeals to Superior Court

Except as provided by 30-AM.R.S.A. section 2691(3)(f), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may appeal to Superior Court in accordance with State laws within forty-five (45) days of the date of the vote of the original decision of the Board of Appeals.

705.5 Reconsideration

In accordance with 30-A M.R.S.A. section 2691 (3)(f), the Board of Appeals may reconsider any decision reached under this section within 45 days of its prior decision. A request to the board to reconsider a decision must be filed within 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 45 days of the date of the vote of 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 as provided in this subsection. 30A -ss2691 (3F)

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

Section 706 Amendments

706.1 Authority

The regulations, restrictions, and boundaries set forth in this Ordinance may from time to time be amended, supplemented or repealed in accordance with the Revised Statutes of Maine, as amended.

706.2 Procedure

Amendments to this Ordinance shall be considered following petition, recommendation of the Thomaston Planning Board or motion of the Selectmen. All petitions for amendment of this Ordinance shall contain the recommendation of the Thomaston Planning Board, whether for or against.

Upon receiving a petition, the Thomaston Town Clerk shall notify the Thomaston Planning Board of the proposed amendment. The Thomaston Planning Board, at its next regular or special meeting following notification, shall determine whether the proposed amendment is consistent with the Thomaston Comprehensive Plan. The decision of the Board may be appealed to the Thomaston Board of Appeals within thirty (30) days of the Thomaston Planning Board's decision.

If the Thomaston Planning Board finds the proposed petitioned amendment to be consistent with the Thomaston Comprehensive Plan or if the Planning Board has initiated a proposed amendment, the Thomaston Planning Board shall hold a public hearing on the proposed amendment. The hearing shall be advertised fourteen (14) days in advance, such notice to be posted in the manner provided for Town Meetings. In addition, public notice shall be published twice in a newspaper or general circulation in the *Town of Thomaston*, the first date of publication shall be at least seven (7) days next prior to the date of the public hearing. Following the public hearing, the Thomaston Planning Board shall forward its recommendations in writing to the Thomaston Select Board.

Not less than ten (10) days prior to Town Meeting, the Thomaston Selectmen shall hold a public hearing on the proposed amendment to the Ordinance. The proposed amendment shall be attested to and posted in the manner provided for Town Meeting Warrants not less than thirteen (13) days prior to the public hearing. In addition, public notice shall be published twice in a newspaper of general circulation in the *Town of Thomaston*, the first date of publication shall be at least twelve (12) days prior to the public hearing and the second date not less than seven (7) days prior to the public hearing.

One copy of the proposed amendment shall be certified by the Thomaston Selectmen to the Thomaston Town Clerk, at least seven (7) days next prior to the day of election or Town Meeting, to be preserved as a public record, and copies shall be available at that time for distribution to the voters by the Thomaston Town Clerk, as well as the time of election or Town Meeting.

The subject matter of the proposed Ordinance or amendment thereto may be reduced to the question:

"Shall an Ordinance or amendment entitled _____ be enacted?"

706.3 Adoption

Copies of amendments to any provisions affecting the Resource Protection District or the Shoreland District, attested to and signed by the Thomaston Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the voters. If the Commissioner fails to act on any amendment within forty-five (45) days of the Commissioner's receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner, or if the Commissioner fails to take action.

Section 707 Urban Residential District (R3)

707.1 Purpose

The Urban Residential District is the area of the town that is best able to support increased residential development. The purpose of this district is to provide a range of housing opportunities. The intent is to do so in a way that emulates the character of the village, continuing the traditional grid pattern and extending the town's compact, walk able neighborhood

707.1.1-The general standards of performance of Article II shall be observed.

707.2 Boundary Description

Beginning at the intersection of US Route One (Main Street) and Shibbles Lane; thence Easterly along the center line of US Route One to the West corner of Map 101, Lot 003; thence Southerly along the boundary lines of Map 101, Lots 003, 007 and 014 to the center line of the State of Maine Rail Road Right of Way, hereinafter the MCRR ROW; thence Easterly along the center line of the MCRR ROW to the Westerly boundary of Map 101, Lot 015; thence Northerly along the boundary of Map 101, Lot 015 and the center line of Ship Street to the Southwest corner of Map 101, Lot 016; thence Easterly, Northerly, and Westerly along the boundaries of Map 101, Lot 016 to the center line of Ship Street; thence Northerly along the center line of Ship Street to the intersection with Main Street; thence Westerly along the center line of Main Street to the intersection with Wadsworth Street; thence Southerly by the center line of Wadsworth Street to the Southeast corner of Map 101, Lot 018 and the Town Right-of-Way as described in an Easement Deed from the State of Maine to the Town of Thomaston located in the Knox County Registry of Deeds in Book 4310, Page 15, dated November 8, 2010; thence Southwesterly by Map 101, Lot 018 to the boundary of Map 101, Lot 015; thence Southerly, Westerly and Southerly along boundary of Map 101, Lot 015 to the normal high water line of St. Georges River; thence Easterly and Southerly along the normal high water line of the St. Georges River to the center line of Ferry Street; thence Easterly along the center line of Ferry Street to the intersection with Wadsworth Street; thence Southerly along the center line of Wadsworth Street to the intersection with Water Street; thence Easterly and Northeasterly along the center line of Water Street to the Southwest corner of Map 101, Lot 057; thence Northerly, Easterly and Southerly along the boundaries of Map 101, Lot 057 to the center line of Water Street; thence Easterly and Southeasterly along the center line of Water Street to the North corner of Map 102, Lot 015; thence Southwesterly, Southeasterly, and Northeasterly by the boundaries of Map 102, Lot 015 to the center line of Water Street; thence by the center line of Water Street to the intersection of Knox Street; thence Northerly along the center line of Knox Street to the intersection of the MCRR ROW; thence Easterly along the center line of the MCRR ROW to the Westerly boundary of Map 103, Lot 007; thence Northerly along the boundary of Map 103, Lot 007 to the center line of Thatcher Street; thence Northerly along the center lines of Thatcher Street and Fish Street to the center line of US Route One; thence Northeasterly along the center line of US Route One to the thread of Mill River; thence Northerly along the thread of Mill River to the Northeast corner of Map 104, Lot 135; thence Westerly along the boundary of Map 104, Lot 135 to the Northwest corner of Map 108, Lot 044; thence Westerly straight across Map 108, Lot 043, to the Northeast corner of Map 108, Lot 039; thence Westerly and Southwesterly along the boundary line of Map 108, Lot 039; thence Northwesterly along the boundary line of Map 108, Lot 037; thence Westerly along the boundary line of Map 108, Lot 037 to the center line of Beechwood Street; thence Northerly along the center line of Beechwood Street to the Southwest corner of Map 204, Lot 068; thence Northeasterly and Northerly along the boundary of Map 204, Lot 068; thence Northeasterly to the Southeast corner of Map 204, Lot 067; thence Northerly along the boundary lines of Map 204, Lots 067, 065 and 063; thence Westerly along the boundary of Map 204, Lot 063 to the center line of Beechwood Street; thence Northerly along the center line of Beechwood Street to the Southwest corner of Map 204, Lot 061; thence Northeasterly along the

boundaries of Map 204, Lots 061 and 059; thence Northerly along the boundary of Map 204, Lot 059, to the Southeast corner of a right of way reserved to Orville T. Ranger, his heirs and assigns forever, as described in Knox County Registry of Deeds Book 720, Page 238, at the Northeast corner of Map 204, Lot 059 ; thence Northwesterly along the described right of way and along the Southwesterly boundary of Map 204 Lot 041; thence Westerly along the boundary lines of Map 204, Lots 043 and 045 to the center line of Beechwood Street; thence Northerly along the center line of Beechwood Street to the Northerly boundary of Map 402, Lot 045; thence Westerly and Southerly along the boundary of Map 402, Lot 045 to the Northeast corner of Map 402, Lot 043; thence Westerly along the boundary of Map 402, Lot 043; thence Northerly, Westerly and Southerly along the boundary of Map 402, Lot 041; thence Southerly by the boundaries of Map 107 Lots 034, 028, 027, 025, and Map 203, Lot 087 to the Northeast corner of Map 203, Lot 083; thence Westerly and Southerly along the boundaries of Map 203, Lot 083 to the center line of Shibles Lane; thence Southerly by the center line of Shibles Lane to the intersection with Main Street and to the point of beginning.

Excepting the area described as being in the Village Commercial District by Section 712A of this Ordinance, and any Resource Protection District areas as described in Section 711 of this Ordinance included in the above description.

707.3 Permitted Uses

- 1) Accessory Structure and Accessory Use subordinate to principal structure
- 2) Church
- 3) Emergency Operations
- 4) Essential Services
- 5) Government Buildings and Uses
- 6) Mineral Exploration
- 7) Municipal Buildings and Uses other than open-space recreational areas
- 8) Non-residential structures less than 100 sq. ft. for educational, scientific or nature-interpretation purposes
- 9) Raising Small animals as pets or for personal use ***
- 10) Single Family dwelling (excluding manufactured/mobile home)

707.4 Conditional Uses (Subject to approval of the Planning Board)

- 1) Apartment Building or Unit ‡
- 2) Art Gallery
- 3) Beauty Salon or Barber Shop
- 4) Bed and Breakfast ‡
- 5) Boarding-care facility
- 6) Building or use of an educational, religious, philanthropic, fraternal, political or social nature not used for residential occupancy
- 7) Business and Professional Office

- 8) Congregate Housing
- 9) Day Care Facility
- 10) Funeral Home
- 11) Home Occupation
- 12) Inn †
- 13) Quasi-Public Facility
- 14) School
- 15) Sub-Station, Pump Station
- 16) Cemetery, mausoleum or columbarium for human remains only
- 17) Crematory

707.5 Dimensional Requirements

	SEWERED	UNSEWERED
Maximum net residential Density	Four (4) dwelling units per net residential acre	Two (2) dwelling units per net residential acre
Minimum area/dwelling	10,000 Sq. Ft.	20,000 Sq. Ft.
Minimum street frontage	100 Feet *	100 Feet *
Minimum shore frontage	100 Feet	100 Feet
Min. setback/centerline Street	40 Feet	40 Feet
Min. rear and side yards	15 Feet **	15 Feet **
Max. Bldg. Height	38 Feet	38 Feet
Max. Lot Coverage	25%	20%
Min. Setback NHWL Of Tidal Waters	75 Feet Structures † 65 Feet Toe of Fill	75 Feet Structures † 65 Feet Toe of Fill
Min. Setback NHWL Other water bodies (10 Acres)	75 Feet Structures 65 Feet Toe of Fill	75 Feet Structures 65 Feet Toe of Fill
Min. Setback drainage Ditches	25 Feet Structures 20 Feet Toe of Fill	25 Feet Structures 20 Feet Toe of Fill
Min. Setback from upland Edge of freshwater wetland From two to ten acres	25 Feet Structures 20 Feet Toe of Fill	25 Feet Structures 20 Feet Toe of Fill

* Frontage may be reduced to thirty (30) feet measured along the chord of a cul-de-sac. A cul-de-sac shall have a minimum right-of-way radius of seventy five (75) feet.

** Buildings higher than thirty (30) feet shall have side and rear yards not less than fifty (50) percent of building height.

- *** This permitted use was enacted as stated below by the submission of a citizen's petition and a vote of Town Meeting by written ballot on June 8, 2010. "A permitted use within the R-3 Zone inside the boundary lines of the Town of Thomaston is the keeping of small animals, such as chickens and/or rabbits. There shall be no more than 12 animals in total. These animals are to be kept as pets or for personal use only, and housed in appropriate protective pens. The pens and housing as well as the disposal of waste and by-products, shall meet all Animal welfare requirements as set forth by the State of Maine and the Town of Thomaston. Slaughtering of, and/or the sale of meat, eggs or fertilized is prohibited. These small animals are to be kept within the confines of the owner's property boundaries".
- † Does not apply to structures, which require direct access to the water as an operational necessity, such as piers, wharves, retaining walls and boathouses.
- ‡ Please see Section 719.2 Conversion of Residential Structures.

Section 707A Village Mixed Use District (R3A)

707A.1 Purpose

To encourage a high quality, moderate density neighborhood that complements physical, aesthetic, and social quality of Thomaston's village area. This neighborhood will: Have a human scale; be sensitive to pedestrian needs; accommodate and manage vehicular traffic by linking the existing local and state road network; and protect historic features. The Village Mixed Use District regulates the implementation of the voter-approved Land Use Master Plan, which shows the general locations of public open space^A and road linkages. The Village Mixed Use District will contain a mix of uses (both residential and non-residential) with buildings that convey a similar character.

707A.1.1 Conflicts

The General Standards of Performance of Articles II, III and IV shall be observed; however, where such standards conflict with those of Section 707A, the standards of Section 707A shall prevail.

707A.2 Boundary Description

Beginning at the intersection of Wadsworth Street and Main Street (US Route One); thence Westerly along the center line of Main Street to the intersection with Ship Street; thence Southerly along the center line of Ship Street to the Northerly boundary of Map 101, Lot 016; thence Easterly, Southerly and Westerly along the boundary lines of Map 101, Lot 016 to the center line of Ship Street; thence Southerly along the center line of Ship Street and the Westerly boundary line of Map 101, Lot 015; to the center line of the MCRR ROW; thence Easterly along the MCRR ROW to the Easterly boundary of Map 101, Lot 015; thence Northerly and Northwest-erly along the boundary lines of Map 101, Lots 015 and 023; thence Northerly along the boundary lines of Map 101, Lots 023, 021 and 019; thence Easterly along the boundary line of Map 101, Lot 019 to the center line of Wadsworth Street; thence Northerly along the center line of Wadsworth Street to the point of beginning.

Excepting any Resource Protection District areas as described in Section 711 of this Ordinance included in the above description.

^A Public Open Space is land within this district that is designed and intended for the common use or enjoyment by the public. It may include complementary structures and improvements, typically used for maintenance and operation of the open space, such as for outdoor recreation. Further division or subdivision of the Public Open Space land and its use for other than non-commercial recreation, agriculture, or conservation purposes, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to non-commercial recreational or conservation uses may be erected on the Public Open Space. Public Open Space shall be owned by the municipality or by a conservation land trust organization. There shall be a conservation easement deeded to the municipality or conservation land trust organization prohibiting future development.

707A.3 Permitted Uses

- 1) Accessory Structure and Accessory Use subordinate to principal structure
- 2) Art Gallery
- 3) Assisted Living Facility
- 4) Business and Professional Office
- 5) Emergency Operations
- 6) Essential Services
- 7) Multi-unit Residential
- 8) Non-residential structures less than 100 square feet for educational, scientific or nature interpretation purposes
- 9) Public Facility
- 10) Quasi-Public Facility
- 11) Recreational Facility or Recreational Activity
- 12) Residential Care Facility
- 13) Restaurant

707A.4 Conditional Uses (Subject to approval of the Planning Board)

- 1) Building or use of an educational, religious, philanthropic, fraternal, political or social nature not used for residential occupancy
- 2) Church
- 3) Government Uses and Buildings
- 4) Home Occupation
- 5) School
- 6) Single Family dwelling (excluding manufactured/mobile home)
- 7) Neighborhood Store

707A.5 Prohibited Uses

Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.

707A.6 Standards

Maximum Structure Height	45 Feet and 4 Stories
Minimum Building Separation	15 feet or Life Safety Code Standard, whichever is greater
Maximum number of entrances or driveways, in addition to those existing as of the date of adoption of this ordinance amendment, in the district directly accessing US Route One	2
Maximum number of entrances or driveways in district directly accessing Ship Street.	1
Maximum number of entrances or driveways, in addition to those existing as of the date of adoption of this ordinance amendment, in district directly accessing Wadsworth Street.	1
Minimum Lot Area per dwelling unit (served by public water and sewer).	2,000 square feet
Minimum Lot Size	7,200 square feet
Minimum setback from US Route 1, Ship Street and Wadsworth Street	10 Feet from property line
Parking Lot Location	Surface level off-street parking lots shall be allowed except in the areas between US Route 1 and the buildings fronting Route 1.
Façade Materials	Brick, Stone or Wooden Clapboard or modern materials similar in appearance, texture and scale to these traditional materials.
Façade Massing	All facades greater than 35 feet shall incorporate vertical elements in the principal facades to simulate smaller scale development.
Historic Features	Historical features including the cemetery and Maine State Prison Memorial Wall shall be preserved as historic sites and public access to these sites shall be maintained.
Roof Pitch	Structures with a height of less than 25 feet and under 2 stories must have a pitched roof with a minimum slope or pitch of 5 feet of rise for every 12 feet of run (5:12).
Civic Facilities Set-Aside	Land sufficient for a building of up to 10,000 square feet of floor space, and accessory parking.
In addition to these standards, all development in the R3A District must meet the Thomaston Green Design Guidelines (dated Nov. 2008) to the maximum feasible extent.	

Section 708 Transitional Residential District (TR3)

708.1 Purpose

This district lies a little further out from the center of town along both sides of Beechwood Street. The Comprehensive Plan identifies this section of Thomaston as a growth area and as the district, after R-3, where public sewer and water should be provided and future residential development should be concentrated. Its purpose is to encourage development closer to the more compact areas rather than more rural areas. It is intended that development in this area continue to emulate the character of the village with traditional interconnected road patterns and compact, walkable neighborhoods.

708.1.1 – The General Standards of Performance of Article II shall be observed.

708.2 Boundary Description

Beginning at the Northwest corner of Map 402, Lot 047; thence Southerly along the Westerly boundary of Map 402, Lot 047 and the Easterly boundary of Map 402, Lot 053 and the Northerly and Easterly boundaries of Map 402, Lot 049; thence Easterly, Southerly, Easterly, Northerly and Northeasterly along the boundary of Map 402, Lot 047 to the center line of Beechwood Street; thence Southerly along the center line of Beechwood Street to the South corner of Map 204, Lot 027; thence Northeasterly along the boundary lines of Map 204, Lots 027 and 028; thence Southeasterly along the boundary of Map 204, Lot 041 and to the Southwest corner of a right of way reserved to Orville T. Ranger, his heirs and assigns forever, as described in Knox County Registry of Deeds Book 720, Page 238; thence Southeasterly, Northeasterly and Easterly along the boundary line of Map 204, Lot 041; thence Southerly, Easterly and Northerly along the boundary of Map 204, Lot 039; thence Easterly along the boundary lines of Map 204, Lots 125, 127 and 129 to the thread of Mill River; thence Northerly along the thread of Mill River to the Southeast corner of Map 402, Lot 089; thence Westerly along the boundary lines of Map 402, Lots 089, 061, and 059 to Map 402, Lot 047; thence Westerly, Northerly and Westerly along the boundary of Map 402, Lot 047 to the point of beginning.

Excepting any Resource Protection District areas as described in Section 711 of this Ordinance included in the above description.

708.3 Permitted Uses

- 1) Accessory Structure and Accessory Use subordinate to principal structure
- 2) Emergency Operations
- 3) Essential Services
- 4) Government Uses and Buildings
- 5) Mineral Exploration
- 6) Public Facility
- 7) Single Family Dwelling (excluding manufactured/mobile home)

- 8) Soil and Water Conservation Practices and Structures designed for stabilize natural or man-made conditions as part of a Wildlife-Management Plan approved by the state or county Soil and Water District.

708.4 Conditional Uses (Subject to approval of the Planning Board)

- 1) Apartment Building or Unit ‡
- 2) Church
- 3) Cluster Development
- 4) Conversion of existing residential ‡ to:
 - a) Apartment Building or Unit
 - b) Bed and Breakfast
 - c) Boarding-Care Facility
 - d) Rooming House
- 5) Day-care Facility
- 6) Home Occupation
- 7) Keeping and raising horses including horse boarding facility.*
- 8) Public open space and recreational use
- 9) Quasi-Public Facility
- 10) Raising small animals
- 11) Recreational Facility or Recreational Activity
- 12) Small scale farming/gardening including on-premises farm stand for products produced on-site only.
- 13) Sub-station, pump station, sewer treatment facility

708.5 Dimensional Requirements

	SEWERED	UNSEWERED
Maximum net residential Density	Four (4) dwelling units per net residential acre	Two (2) dwelling units per net residential acre
Minimum area/dwelling	10,000 Sq. Ft	20,000 Sq. Ft
Minimum street frontage	100 Feet	100 Feet
Minimum shore frontage	100 Feet	100 Feet
Min. setback/centerline Street	40 Feet	40 Feet
Min. rear and side yards	15 Feet	15 Feet
Max. Bldg. Height	38 Feet	38 Feet
Max. Lot Coverage	25%	20%
Min. Setback NHWL Of Tidal Waters	75 Feet Structures 65 Feet Toe of Fill	75 Feet Structures 65 Feet Toe of Fill
Min. Setback NHWL Other water bodies (10 Acre)	75 Feet Structures + 65 Feet Toe of Fill	75 Feet Structures + 65 Feet Toe of Fill
Min. Setback drainage Ditches	25 Feet Structures 20 Feet Toe of Fill	25 Feet Structures 20 Feet Toe of Fill
Min. Setback from upland Edge of freshwater wetland from two to ten acres	25 Feet Structures 20 Feet Toe of Fill	25 Feet Structures 20 Feet Toe of Fill

* The following standards shall apply for the keeping and raising of horses:

- i. A rear yard, excluding the non-fenced portion of at least 20,000 square feet in size and a net residential acreage of at least 40,000 square feet for each horse kept on the premises, and
- ii. Fencing that will permanently confine the horses to the yard rear of the premises and set back at least 15 feet from adjoining property lines, and
- iii. Shelter provisions meeting any requirements promulgated by State Law or by the State Bureau of Animal Welfare, and
- iv. Provisions for the prevention of animal-effluent accumulation and for the prevention of effluent draining from the site.

† Does not apply to structures, which require direct access to the water as an operational necessity, such as piers, wharves, retaining walls and boathouses.

‡ Please see Section 719.2 Conversion of Residential Structures.

Section 709 Rural Residential District (R2)

709.1 Purpose

The Rural Residential District is an area for limited residential growth. Much of the prevailing character of the *Town of Thomaston* is rural. The purpose of this district is to protect this rural quality from development sprawl. The intent is to allow limited residential development that is compatible with the character and traditional use of rural lands, preserving as much open space and forestland as possible, minimizing visual impact and protecting scenic views. Cluster or conservation subdivisions are encouraged in this area.

709.1.1- The general standards of performance of Article II shall be observed.

709.2 Boundary Description

WEST MAIN STREET AREA

Beginning at the Northwest corner of Map 203, Lot 043 in the center of the main channel of the Oyster River and at the Warren-Thomaston Town Line; thence Southerly along the center of the main channel of the Oyster River and the Warren-Thomaston Town Line to the intersection with St. Georges River and the center line of Atlantic highway, also known as US Route One; thence Easterly along the center line of Atlantic Highway to the Northeast corner of Map 203, Lot 007; thence Southerly along the boundary of Map 203, Lot 007 to the center line of Toll Bridge Road; thence Westerly along the center line of Toll Bridge Road to the center line of the MCRR ROW; thence Westerly along the center line of the MCRR ROW to the normal high water mark of St. Georges River; thence Southeasterly along the normal high water mark of St. Georges River to the Southeast corner of Map 202, Lot 013; thence Northerly along the boundary of Map 202, Lot 013 extended to the center line of the MCRR ROW; thence Southerly and Easterly along the MCRR ROW to the Southwest corner of Map 101, Lot 014; thence Northwesterly along the boundary lines of Map 101, Lots 014, 007 and 003 to the center line of Main Street; thence Westerly along the center line of Main Street to the intersection with Shibles Lane ; thence Northerly along the center line of Shibles Lane and the Easterly boundary of Map 203, Lot 081; thence Westerly and Southerly along the boundary of Map 203, Lot 081; thence Westerly along the boundary of Map 203, Lot 061; thence Northerly and Westerly along the boundary of Map 203, Lot 053 to the center line of Studley Lane; thence Southerly along the center line of Studley Lane to the Northeast corner of Map 203, Lot 043; thence Northwesterly, Northerly and Northwesterly along the boundary of Map 203, Lot 043 to the center of the main channel of the Oyster River and the point of beginning.

BROOKLYN HEIGHTS AREA

Beginning at a point on the Cushing-Thomaston Town Line at the normal high water mark of St. Georges River at the Southwest corner of Map 201, Lot 043; thence Northerly and Easterly along the normal high water mark of St. Georges River to the center line of Brooklyn Heights Road; thence Southwesterly along the center line of Brooklyn Heights Road to the intersection with Sunrise Terrace; thence Southeasterly along the center line of Sunrise Terrace to the South corner of Map 201, Lot 049; thence Northeasterly along the boundary of Map 201, Lot 049 to the normal high water line of St. Georges River; thence Easterly and Southerly along the normal high water line of St. Georges River to the Southeast corner of Map 201, Lot 205 and the Thomaston-Cushing Town Line; thence Westerly along the Thomaston-Cushing Town Line to the point of beginning.

Excepting any Resource Protection District areas as described in Section 711 of this Ordinance included in the above descriptions.

709.3 Permitted Uses

- 1) Accessory Structure and Accessory Use subordinate to principal structure
- 2) Emergency Operations
- 3) Essential Services
- 4) Mineral Exploration
- 5) Non-residential structures less than 100 sq. ft. for educational, scientific or nature-interpretation purposes
- 6) Single Family Dwelling (excluding manufactured/mobile home)
- 7) Soil and Water Conservation practices and structures designed to stabilize natural or man-made conditions as part of Wildlife Management Plan approved by the state or county Soil and Water District

709.4 Conditional Uses (Subject to approval of the Planning Board)

- 1) Agriculture Building or use including keeping and raising of large animals or poultry
- 2) Apartment Building or Unit ‡
- 3) Beauty Salon or Barber Shop
- 4) Bed and Breakfast ‡
- 5) Building or use of an educational, religious, philanthropic, fraternal, political or social nature not used for residential occupancy
- 6) Business and Professional Office
- 7) Campground including RV Park
- 8) Church
- 9) Cluster Development
- 10) Commercial agriculture and horticulture sales of farm produce on premises
- 11) Commercial agriculture uses and practices
- 12) Congregate Housing
- 13) Conversion of Existing Residential ‡ to:
 - a) Apartment Building or Unit
 - b) Bed and Breakfast
 - c) Boarding-Care Facility
 - d) Nursing Home
 - e) Rooming House
- 14) Day-care Facility
- 15) Funeral Home
- 16) Government Uses and Buildings

- 17) Home Occupation
- 18) Keeping and raising horses including Horse Boarding Facility ****
- 19) Neighborhood Store
- 20) Nursing Home
- 21) Outdoor Conservation and Recreational Uses not for profit
- 22) Public Facility
- 23) Public Open Space and Recreational Use
- 24) Quasi-public Facility
- 25) Recreational Facility or Recreational Activity
- 26) Repair Service – Non-Automotive (Small engines, computer, etc.)
- 27) Sawmill
- 28) School
- 29) Service Business
- 30) Shop Used in Pursuit of Trade
- 31) Storage Facility
- 32) Sub-station, Pump Station, Sewer Treatment Facility
- 33) Transportation Facility
- 34) Raising small animals

709.5 Dimensional Requirements

	SEWERED	UNSEWERED
Maximum net residential Density	Four (4) dwelling units per net residential acre	One (1) dwelling unit per net residential acre
Minimum area/dwelling	10,000 Sq. Ft.	40,000 Sq. Ft. **
Minimum street frontage	100 Feet	150 Feet
Minimum shore frontage	100 Feet	150 Feet
Min. setback/centerline Street	60 Feet	60 Feet
Min. rear and side yards	15 Feet	15 Feet*
Max. Bldg. Height	38 Feet	38 Feet
Max. Lot Coverage	20%	20%
Min. Setback NHWL Of Tidal Waters	75 Feet Structures*** 65 Feet Toe of Fill	75 Feet Structures*** 65 Feet Toe of Fill
Min. Setback NHWL Other water bodies (10 Acre)	75 Feet Structures 65 Feet Toe of Fill	75 Feet Structures 65 Feet Toe of Fill
Min. Setback drainage Ditches	25 Feet Structures 20 Feet Toe of Fill	25 Feet Structures 20 Feet Toe of fill
Min. Setback from upland Edge of freshwater wetland From two to ten acres	25 Feet Structures 20 Feet Toe of Fill	25 Feet Structures 20 Feet Toe of Fill

* Buildings higher than thirty (30) feet shall have side and rear yards not less than fifty (50) percent of building height.

** Unsewered; Minimum area for single-family dwelling reduced to 30,000 square feet for cluster development.

*** Does not apply to structures, which require direct access to the water as an operational necessity, such as piers, wharves, retaining walls and boathouses.

**** The following standards shall apply for the keeping and raising of horses:

- i. A rear yard, excluding the non-fenced portion of at least 20,000 square feet in size and a net residential acreage of at least 40,000 square feet for each horse kept on the premises, and
- ii. Fencing that will permanently confine the horses to the yard rear of the premises and set back at least 15 feet from adjoining property lines, and
- iii. Shelter provisions meeting any requirements promulgated by State Law or by the State Bureau of Animal Welfare, and
- iv. Provisions for the prevention of animal-effluent accumulation and for the prevention of effluent draining from the site.

‡ Please see Section 719.2 Conversion of Residential Structures.

Section 710 Rural Residential & Farming District (R1)

710.1 Purpose

This district includes most of the town's rural lands. It also includes lands with multiple natural resource constraints or that are especially important for their recreational, scenic, or other resource-based opportunities. This district is designated as a rural, as opposed to growth zone. Its purpose is to allow a level of development and activity, including farming and wood harvesting, consistent with the protection of the natural features of these lands. Any residential development in this district must be compatible with the character and traditional use of rural lands, preserving as much open space and forestland as possible, minimizing visual impact and protecting scenic views. Cluster development is preferred for any residential subdivision in this district.

710.1.1-The general standards of performance of Article II shall be observed.

710.2 Boundary Description

PLEASANT STREET AREA

Beginning at a point in the center line of Pleasant Street on the Rockland-Thomaston Town Line at the North corner of Map 207, Lot 087; thence Southwesterly to the West corner of Map 207, Lot 087; thence Southeasterly along the boundary lines of Map 207, Lots 087, 085, 083, and 081 to a point directly opposite the Northwest corner of Map 207, Lot 079; thence to the Northwest corner of Map 207, Lot 079; thence continuing Southeasterly along the boundary lines of Map 207, Lots 079, 077, 075 and 073; thence Easterly along the Southerly boundary of Map 207, Lot 073 to the center line of Pleasant Street and the Rockland-Thomaston Town Line; thence Northwesterly along the center line of Pleasant Street and the Rockland-Thomaston Town Line to the North corner of Map 207, Lot 087 and the place of beginning.

THOMASTON STREET AREA

Beginning at a point on the center line of Buttermilk Lane at the Thomaston-South Thomaston Town Line; thence East along the Marsh Brook and the Thomaston-South Thomaston, Thomaston-Owl's Head and Thomaston-Rockland Town Lines; thence Northerly along the Thomaston-Rockland Town Line to the center line of the MCRR ROW; thence Southwesterly along the MCRR ROW to the center line of Buttermilk Lane; thence Southerly along the center line of Buttermilk Lane to the point of beginning.

HIGH STREET, OLD COUNTY ROAD, ROCKLAND/WARREN TOWN LINES

Beginning at the North corner of the Town of Thomaston where the Thomaston-Warren-Rockland Town Lines converge; thence Southerly along the Westerly boundary of the Town of Thomaston to the center of the main channel of the Oyster River; thence Southerly along the main channel of the Oyster River and the Thomaston-Warren Town Line to the Northwest corner of Map 203, Lot 043; thence Easterly, Southerly and Easterly along the boundary of Map 203, Lot 043 to the center line of Studley Lane; thence Northerly along the center line of Studley Lane to the Southwest corner of Map 402, Lot 025; thence Easterly along the boundary lines of Map 402, Lots 025 and 023; thence Southerly, Easterly, Northerly and Easterly along the boundary of Map 402, Lot 027; thence Southerly and Easterly along the boundary of Map 402, Lot 029; thence Northeasterly along the boundary lines of Map 402, Lots 029, 033, 051, 049 and 053 to the Northwest corner of Map 402, Lot 049; thence Easterly

along the boundary of Map 402, Lot 055; thence Southerly along the boundary lines of Map 402, Lots 073, 067 and 057; thence Easterly along the boundary lines of Map 402, Lots 057, 061 and 089 to the thread of Mill River; thence Southerly along the thread of Mill River to the Northeast corner of Map 204, Lot 079; thence Westerly and Southerly along the boundary line of Map 204, Lot 079 to the Northeast corner of Map 108, Lot 043; thence Westerly along the boundary of Map 108, Lot 043; thence Northerly along the boundary line of Map 204, Lot 071; thence Westerly and Southwesterly along the boundary lines of Maps 204, Lot 071 and 069 to the center line of Beechwood Street; thence Southerly along the center line of Beechwood Street to the Northwest corner of Map 204, Lot 063; thence Southeasterly along the boundary lines of Map 204, Lots 063, 065, and 067 to the Southeast corner of Map 204, Lot 067; thence in a straight line to the Northerly corner of Map 204, Lot 068; thence Southerly and Westerly by the boundary of Map 204, Lot 068 to the center line of Beechwood Street; thence along the center line of Beechwood Street to the Southwest corner of Map 204, Lot 075; thence along the boundary of Map 204, Lot 075 to the Northeast corner of Map 108, Lot 039; thence Easterly to the Northwest corner of Map 108, Lot 044; thence Easterly along the boundary lines of Map 108, Lot 044 and Map 104, Lot 135 to the thread of Mill River; thence Southerly along the thread of Mill River to the normal high water mark of the Mill River at the Northerly part of Map 104, Lot 005; thence Southerly along the normal high water mark of the Eastern shore of the Mill River to the center line of the MCRR ROW and the Thomaston-South Thomaston Town Line; thence Easterly along the MCRR ROW and the said Town Line to a point that is 1,000 feet Easterly of the Westerly Right-of-Way line of High Street; thence Northerly in a straight line to the Southeast corner of Map 104, Lot 153; thence Northerly along the boundary between Map 104, Lots 151 and 153 to the center line of US Route One; thence Westerly along the center line of US Route One to the intersection with Old County Road; thence Northerly along the center line of Old County Road to the Northerly boundary of Map 104, Lot 149; thence Easterly along the boundary of Map 104, Lot 149 and Map 401, Lot 007 to the center line of US Route One; thence Easterly along US Route One to the center line of the CMP Power line Right-of-Way located on Map 401, Lot 019 as described in Knox County registry of Deeds Book 503, Page 287, dated December 24, 1969, Parcels #21 and #22; thence Northwesterly along the center line of the CMP Power line Right-of-Way to the center line of Old County Road; thence Northeasterly along the center line of Old County Road to the Thomaston-Rockland Town Line; thence Westerly, Northerly, Westerly, Northerly and Westerly along the Thomaston-Rockland Town Line and the Meadow Brook and the Branch Brook to a point where the Thomaston, Warren and Rockland Town Lines converge and the point of beginning.

Excepting any Resource Protection District areas as described in Section 711 of this Ordinance included in the above descriptions.

710.3 Permitted Uses

- 1) Accessory Structure and Accessory Use subordinate to principal structure
- 2) Agriculture Building or Use including keeping large animals or poultry
- 3) Cluster Development
- 4) Commercial Agriculture Uses and Practices
- 5) Emergency Operations
- 6) Essential Services
- 7) Government Uses and Buildings
- 8) Keeping and Raising Horses including Horse Boarding Facility ****
- 9) Manufactured or Mobile Home

- 10) Mineral Exploration
- 11) Non-residential structures less than 100 sq. ft. for educational, scientific or nature-interpretation purposes
- 12) Raising small animals
- 13) Single-Family Dwelling
- 14) Soil and Water Conservation Practices and Structures designed to stabilize natural or man-made conditions as part of a Wildlife Management Plan approved by the state or county soil and water district

710.4 Conditional Uses (Subject to approval of the Planning Board)

- 1) Apartment Building or Unit ‡
- 2) Art Gallery
- 3) Automobile Repair Garage excluding Auto Body Repair
- 4) Beauty Salon or Barber Shop
- 5) Bed and Breakfast ‡
- 6) Business and Professional Office
- 7) Building or use of an educational, religious, philanthropic, fraternal, political or social nature not used for residential occupancy
- 8) Campground including RV Park
- 9) Church
- 10) Commercial Agriculture and Horticulture sales of farm produce on premises
- 11) Congregate Housing
- 12) Conversion of Existing Residential ‡ to:
 - a) Apartment Building or Unit
 - b) Bed and Breakfast
 - c) Boarding Care Facility
 - d) Nursing Home
 - e) Rooming House
- 13) Day-Care Facility
- 14) Fast-Food Take-out Stand, Walk-Up only
- 15) Funeral Home
- 16) Home Occupation
- 17) Kennel
- 18) Mobile Home Park
- 19) Neighborhood Store

- 20) Nursing Home
- 21) Outdoor Conservation and Recreational Uses not for profit
- 22) Public Facility
- 23) Public Open Space and Recreational Use
- 24) Quasi-public Facility
- 25) Recreational Facility or Recreational Activity not for profit
- 26) Repair Service – Non-Automotive (Small engines, computer, etc.)
- 27) Research Facilities and Services accessory to principal permitted use
- 28) Research Laboratory
- 29) Restaurant
- 30) Retail Business
- 31) Sawmill
- 32) School
- 33) Service Business
- 34) Shop Used in Pursuit of Trade
- 35) Substation, Pump Station, Sewer Treatment Facility
- 36) Transportation Facility
- 37) Upholstery Shop
- 38) Cemetery, mausoleum or columbarium
- 39) Crematory

710.5 Dimensional Requirements

	SEWERED	UNSEWERED
Maximum net residential Density	Two (2) dwelling units per net residential acre	One (1) dwelling unit per net residential acre
Minimum area/dwelling	20,000 Sq. Ft.	40,000 Sq. Ft. **
Minimum street frontage	100 Feet	150 Feet
Minimum shore frontage	100Feet	150 Feet
Min. setback/centerline Street	60 Feet	60 Feet
Min. rear and side yards	15 Feet *	15 Feet *
Max. Bldg. Height	38 Feet	38 Feet
Max. Lot Coverage	20%	20%
Min. Setback NHWL Of Tidal Waters	75 Feet Structures *** 65 Feet Toe of Fill	75 Feet Structures *** 65 Feet Toe of Fill
Min. Setback NHWL Other water bodies (10 Acres)	75 Feet Structures 65 Feet Toe of Fill	75 Feet Structures 65 Feet Toe of Fill
Min. Setback drainage Ditches	25 Feet Structures 20 Feet Toe of Fill	25 Feet Structures 20 Feet Toe of Fill
Min. setback from upland Edge of freshwater wetland From two to 10 acres	25 Feet Structures 20 Feet Toe of Fill	25Feet Structures 20 Feet Toe of fill

* Buildings higher than thirty (30) feet shall have side and rear yards not less than fifty (50) percent of building height.

** Unsewered; Minimum area for single-family dwelling reduced to 30,000 square feet for cluster development.

*** Does not apply to structures that require direct access to the water as an operational necessity, such as piers, wharves, retaining walls and boathouses.

**** The following standards shall apply for the keeping and raising of horses:

- i. A rear yard, excluding the non-fenced portion of at least 20,000 square feet in size and a net residential acreage of at least 40,000 square feet for each horse kept on the premises, and
- ii. Fencing that will permanently confine the horses to the rear yard of the premises and set back at least 15 feet from adjoining property lines, and
- iii. Shelter provision meeting any requirements promulgated by state law or by the state Bureau of Animal Welfare, and
- iv. Provisions for the prevention of animal effluent accumulation and for the prevention of effluent draining from the site.

‡ Please see Section 719.2 Conversion of Residential Structures.

Section 711 Resource Protection District (RP)

711.1 Purpose

This district includes shoreland areas and other lands of unique geologic and natural features, especially those that include wetlands, wildlife habitats, steep slopes and unstable soils. The purpose of the district is to maintain the safe and healthful conditions of these lands and protect them from development that would disrupt productive habitat systems, degrade water quality, or destroy scenic value.

711.2 Boundary Description

Major Wetlands

- 1) Areas within two hundred fifty (250) feet, horizontal distance, of the Normal High Water Line (NHWL) of tidal waters, of the upland edge of salt marshes and salt meadows, and of freshwater wetlands associated with rivers; and wetlands that 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 the Maine Office of Geographic Information Systems (MOGIS). For the purpose of this paragraph, "wetlands associated with rivers" shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a river, and have a surface elevation at or below the water level of the river during the period of normal high water. "Wetlands associated with rivers" are considered to be part of the river.
- 2) The floodplains along rivers, defined by the one hundred (100) year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Map effective July 7, 2016, excluding those areas located in the Shoreland Commercial District.

Steep Slopes and Areas with Wetland Characteristics not part of an Identified Wetland

- 3) Areas of two (2) or more contiguous acres with sustained slopes of twenty (20) percent or greater, except that human excavated slopes, including, but not limited to, quarries, borrow pits, and road embankments, are not included. Such areas are not depicted on the Official Zoning Map but must be determined on the ground.
- 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. Such areas are not depicted on the Official Zoning Map but must be determined on the ground.

Areas Subject to Severe Erosion

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

Other Wetlands

- 6) The area within all wetlands greater than two (2) acres in size shown on the Official Zoning Map, identified from the U.S. Fish & Wildlife National Wetlands inventory maps. The descriptions and delinations of wetlands are for general location purposes only. Map and Lot numbers refer to the Thomaston Tax Assessment Maps. Actual locations and sizes must be determined on the ground. The following are as depicted on the Official Zoning Map.

Wetland 5, lying within Map 202, Lot 003, with an area of less than ten (10) acres

Wetland 6, lying within Map 202, Lots 011 and 013, with an area of less than ten (10) acres.

Wetland 7, lying within Map 202, Lots 005 and 007, with an area of less than ten (10) acres.

Wetland 8, lying within Map 203, Lots 010, 012 and 013, with an area of less than ten (10) acres.

Wetland 9, lying within Map 203, Lot 039, with an area of more than ten (10) acres.

Wetland 10, lying within Map 203, Lots 041 and 043, and Map 402, Lot 003, with an area of less than ten (10) acres.

Wetland 11, lying within Map 203, Lots 081 and 083, with an area of less than ten (10) acres.

Wetland 12, lying within Map 203, Lot 081, with an area of less than ten (10) acres.

Wetland 13, lying within Map 105, Lots 235, 237, 239, 241, 245, 247, 249 and 293, with an area of less than ten (10) acres.

Wetland 14, lying within Map 402, Lot 029 , Map 106, Lots 027, 33, 53 ; Map 107, Lots 001, 025, 116 and 118; and Map 203, Lots 083 and 087, with an area of more than ten (10) acres.

Wetland 15, lying within Map 107, Lots 057 and 059, and Map 402, Lots 043, 045 and 047, with an area of more than ten (10) acres.

Wetland 16, lying within Map 402, Lots 027 and 033, with an area of less than ten (10) acres.

Wetland 20, lying within Map 105, Lots 387, 389, 391, 393 and 411, with an area of less than ten (10) acres.

Wetland 21, lying within Map 105, Lot 293, Map 108, Lots 017, 019, 021, 023, 025, 027, and Map 402, Lot 43, with an area of less than ten (10) acres.

Wetland 31, lying within Map 401, Lots 031, 039 and 043, with an area of less than ten (10) acres.

Wetland 34, lying within Map 207, Lots 067, 069 and 071, with an area of less than ten (10) acres.

Wetland 35, lying within Map 209, Lots 009, 011 and Map 208, Lots 003, 033 and 059, with an area of more than ten (10) acres.

Wetland 36, lying within Map 209, Lots 043 and 045, and Map 401, Lots 043 and 045, with an area of more than ten (10) acres.

Wetland 42, lying within Map 204, Lots 021, 023, 033, 037, 143, 147, 155, 159, 163 and 175, with an area of more than ten (10) acres.

Wetland 43, lying within Map 108, Lot 043 and Map 204, Lots 039, 041, 071 and 79, with an area of more than ten (10) acres.

Wetland 45, lying within Map 204, Lots 069 and 071, with an area of less than ten (10) acres.

Wetland 46, lying within Map 402, Lots 047 and 049, with an area of more than ten (10) acres.

Wetland 47, lying within Map 402, Lots 003 and 005, with an area of less than ten (10) acres.

Wetland 48, lying within Map 402, Lots 005 and 007, with an area of less than ten (10) acres.

Wetland 49, lying within Map 402, Lot 019, with an area of less than ten (10) acres.

Wetland 50, lying within Map 401, Lots 027 and 033, with an area of less than ten (10) acres.

Wetland 51, lying within Map 402, Lots 027, 055, 073, and 075, with an area of less than ten (10) acres.

Wetland 52, lying within Map 403, Lots 205, 207, 209 and 211, with an area of less than ten (10) acres.

Wetland 54 along the Meadow Brook, South and West of West Meadow Road, lying within Map 205, Lots 041, 043, 049, 051, 053, 055, 057, 059, 061, 073 and 075; Map 206, Lots 063, 065, 067, 069, 083, 085; and Map 207, Lots 025 and 031, with an area of more than ten acres.

Wetland 55, lying within Map 206, Lot 045, with an area of less than ten (10) acres.

Wetland 57, lying within Map 402, Lots 027, 071, 076, 077 and 079 and Map 403, Lots 009, 013, 015, 027, 029, 033, 039, 041, 042, 043, 047 and 049, with an area of more than ten (10) acres.

Wetland 58, lying within Map 403, Lots 047, 048, 049 and 051 and Map 402, Lot 027, with an area of more than ten (10) acres.

Wetland 59, lying within Map 403, Lot 061, with an area of less than ten (10) acres.

Wetland 60, lying within Map 403, Lot 2, with an area of less than ten (10) acres.

Wetland 61, lying within Map 403, Lots 51 and 61, with an area of less than ten (10) acres.

Wetland 62, lying within Map 403, Lots 153, 155, and 157, with an area of less than ten (10) acres.

Wetland 63, lying within Map 403, Lots 095, 097 and 099, with an area of less than ten (10) acres.

Wetland 64, lying within Map 403, Lots 081, 085, 087 and 091, with an area of less than ten (10) acres.

Wetland 65, lying within Map 403, Lots 177, 179, 181, 183, 185, 187 and 189, with an area of more than ten (10) acres.

Wetland 66, lying within Map 403, Lots 151 and 153, with an area of less than ten (10) acres.

Streams and Stormwater Drainage Ditches

- 7) As shown on the Official Zoning Map, land within seventy-five (75) feet from the normal high waterline (NHWL) of streams and within fifteen (15) feet from the center line of stormwater drainage ditches. Stormwater drainage ditches are identified on the Official Zoning Map and do not include drainage ditches located within the rights-of-way of any public or private way.

St. Georges River

- 8) The area two hundred fifty (250) feet from the NHWL or the upland edge of wetland vegetation along St. Georges River from a point on the Cushing/Thomaston Town Line at the Southeast corner of Map 201, Lot 205 Northerly to the center line of the right-of-way extending to the shore from the cul-de-sac of Bobolink Lane described in Knox County Registry of Deeds Book 3490, Page 123;
- 9) The area two hundred fifty (250) feet from the NHWL or the upland edge of wetland vegetation along the Southerly side of St. Georges River Westerly and Southerly from the Easterly right-of-way of Brooklyn Heights Road (upstream of the Wadsworth Street bridge) to the Thomaston/Cushing Town Line;
- 10) The area from the NHWL or the upland edge of wetland vegetation along the Northerly side of St. Georges River to the height of the 20% or greater slope at the center line of Ferry Street and following along the said height of slope to the South corner of Map 101, Lot 035; thence along the Westerly boundary of Map 101, Lot 035 extended to the center line of the , MCRR ROW; thence Westerly along the center line of the MCRR ROW to the easterly boundary of Map 202, Lot 013 extended from the center line of the MCRR ROW to the

NHWL of St. Georges River and including any contiguous land within the 100-year floodplain as defined in Section 711.2.2 above.

Oyster River

- 11) The area two hundred fifty (250) feet from the NHWL or the upland edge of wetland vegetation along St. Georges River from the center line of US Route One at the Thomaston-Warren Town Line Northerly to the mouth of the Oyster River; thence along the Easterly side of the Oyster River Northerly to where the West Branch of the Oyster River crosses into Warren; excluding land, except for wetland 10, within one hundred fifty (150) feet from the center line of Oyster River Road, also known as State Route 131 North, being all or part of Map 203, Lots 037, 039 and 041; including numbered wetland 9, 10, 10A, 47, 48, 49 and 60; and including any contiguous land within the 100-year Floodplain as defined in Section 711.2.2, above;
- 12) The area seventy-five (75) feet from the NHWL or from the upland edge of wetland vegetation along the East Branch of the Oyster River from its confluence with the West Branch of the Oyster River Northerly to the Thomaston/Rockland town line, including numbered wetland 64 and including any contiguous land within the 100-year Floodplain as defined in Section 711.2.2, above;

Mill River

- 13) The area from the NHWL or upland edge of wetland vegetation Northerly along the Westerly side of the Mill River from the center line of the MCRR ROW (boundary of the Shoreland Commercial District); thence Northerly along the boundary of Map 102, Lot 261; thence to the center line of Thatcher Street; thence along the center line of Thatcher and Fish Streets to the center line of US Route One; thence Southerly along the center line of High Street to the point where said line is two hundred fifty (250) feet from the NHWL or upland edge of wetland vegetation of the Easterly side of the Mill River thence Southerly two hundred fifty (250) feet from the NHWL or upland edge of wetland vegetation of the Easterly side of the Mill River to the Thomaston/South Thomaston Town Line;
- 14) The area two hundred fifty (250) feet from the NHWL or upland edge of wetland vegetation along the Mill River from the Southeast corner of Map 204, Lot 079 on the West and from the Northeast corner of Map 104, Lot 137 on the East to the confluence of and including Branch and Meadow Brooks and their associated wetlands Northerly to the Thomaston/Rockland town line, except that the distance is seventy-five (75) feet from either side of the NHWL along Meadow Brook from its junction with the Mill River to a point that is two hundred fifty (250) feet Easterly from where the Meadow Brook crosses under the center line of West Meadow Road, including numbered wetlands 54 and 65. All wetlands through which the Mill River, Branch Brook and Meadow Brook flow and lands within the 100-year Floodplain, as defined in Section 711.2.2, above, shall be included within the Resource Protection District even if they are within a lot or lots otherwise excluded from the RP District.

Marsh Brook

- 15) The area two hundred fifty (250) feet from the NHWL or upland edge of wetland vegetation along Marsh Brook and its tributary streams lying southerly of Route One, including numbered wetlands 35 and 36.
- 16) All State-owned land lying Southerly of Kermit Lane and Thomaston Street being Map 209, Lot 045, a part of the Waldo Tyler Wildlife Management Area.

711.3 Standards

711.3.1- The general Standards of Performance of Article II shall be observed.

711.3.2- All Appeals or changes to District Boundary Lines shall be transmitted to the Maine Department of Environmental Protection with return receipts retained as a permanent record of the Board of Appeals.

711.4 Special Exceptions

In addition to other criteria as may be required by this Ordinance, the Thomaston Board of Appeals may approve a permit for a single-family residential structure in the Resource Protection District provided that the applicant demonstrates all of the following conditions are met:

711.4.1- There is no location on the property, other than a location within the Resource Protection District, where the structure can be built; and

711.4.2- The lot on which the structure is proposed is undeveloped and was established and recorded in the Knox County Registry of Deeds before the adoption of this Ordinance; and

711.4.3- The proposed location of 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 floodplain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as 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 the Thomaston Flood Management 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; and

711.4.4- The total ground-floor area, 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.

711.4.5- 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 Thomas-

ton Board of Appeals 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 floodplain, and its proximity to moderate-value and high-value wetlands.

711.4.6-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.

711.5 Permitted Uses

- 1) Essential Services (Refer to 716.15)
- 2) Mineral Exploration
- 3) Outdoor Conservation and Recreational Uses not for profit
- 4) Soil and water-conservation practices and structures designed to stabilize natural or man-made conditions as part of Wildlife Management Plan approved by state or county soil/water district

711.6 Conditional Uses (Subject to Approval of the Planning Board)

- 1) Accessory Structure and Accessory Use subordinate to principal structure
- 2) Home Occupation
- 3) Keeping and raising horses including Horse Boarding Facility
- 4) Non-residential structures less than 100 sq. ft. for educational, scientific or nature-interpretation purpose
- 5) Public Facility
- 6) Public Open Space and Recreational Uses
- 7) Raising Small Animals
- 8) Road and driveway construction, except to provide access to permitted uses or where no Reasonable alternative route or location exists outside the RP district
- 9) Single-Family Dwelling (excluding manufactured/mobile home; allowed only under the Special Exception provisions of 711.4)
- 10) Wharf, Pier, Floats, Launching Facility and Bulkheads

711.7 Dimensional Requirements

Maximum net residential Density	One (1) dwelling unit net residential acre *
Minimum area/dwelling	40,000 Sq. Ft. *
Minimum street frontage	200 Feet
Minimum shore frontage	200 Feet
Min. setback/centerline Street	60 Feet
Min. rear and side yards	15 Feet
Max. Bldg. Height	35 Feet
Max. Lot Coverage	20%
Min. Setback NHWL of Tidal Waters	75 Feet **
Min. Setback NHWL other water bodies (10 Acres)	75 Feet
Min. Setback drainage Ditches	25 Feet
Min. setback from upland edge of freshwater wetland from two to 10 acres	25 Feet

* The Thomaston Board of Appeals, only under the Special Exception provisions of Section 711.4, may authorize the issuance of a permit.

** Does not apply to structures that require direct access to the water as an operational necessity, such as piers, wharves, retaining walls and boathouses.

Section 712 Highway Commercial District (HC)

712.1 Purpose

The Highway Commercial District includes the lands along the U.S. Route One East of the cement plant. The purpose of the district is to provide an area suitable for highway-oriented general sales, services and businesses.. The intent is that the scale of future development in this area is in keeping with the needs of the region and the maintenance of a viable commercial district in Thomaston's village center. Appropriate landscaping and parking is required to improve both the appearance and safety of the area and encourage business investment.

712.1.1-The general standards of performance of Article II shall be observed.

712.2 Boundary Description

US ROUTE ONE EAST COMMERCIAL DISTRICT (Rockland Line)

Beginning at a point in the center line of New County Road, also known as US Route One, at the Northwest corner of Map 208, Lot 019; thence Southeasterly along the boundary of Map 208, Lot 019; thence Northeasterly along the boundary lines of Map 208, Lots 019, 021 and 023 to the center line of Dexter Street Extension; thence Southeasterly along the center line of Dexter Street Extension to the Southwest corner of Map 208, Lot 049; thence Northeasterly along the boundary lines of Map 208, Lots 049, 051, and 055 to a Granite Monument marked PLS# 148 BEAL which marks the Northeasterly points of Map 208, Lots 041 and 043; thence proceeding as depicted on the *Thomaston Commons Subdivision Plan* filed in the Knox County Registry of Deeds in Cabinet 22, Sheet 29, dated September 9, 2011, along the Northerly, Easterly and Southerly boundaries of the parcel identified on said plan as "Property to be Conveyed, George C. Hall & Sons, Inc., Tax Map 208, Lot 33, Portion of Lot 3", along the following bearings and distances as identified on said plan and as corrected: N 62° 19' 21" E 240.94'; S 33° 56' 38" E 628.6' passing through the Wal-Mart Super Center Store; S 79° 43' 44" E 378.6'; S 9° 6' 7" W 356.63'; and S 48° 7' 41" W 484.78'; thence Southerly on the same course to the center line of the MCRR ROW; thence Northeasterly along the center line of the MCRR ROW to the Thomaston-Rockland Town Line; thence Northerly along the Thomaston-Rockland Town Line crossing US Route One to the Southerly boundary of Map 207, Lot 073; thence Westerly along the boundary of Map 207, Lot 073; thence Northerly along the boundary lines of Map 207, Lots 073, 075, 077, and 079; thence continuing in a straight line across Map 207, Lot 067 to a point on the boundary of Map 207, Lot 081; thence Northerly along the boundaries of Map 207, Lots 081, 083, 085 and 087; thence Southerly along the boundary of Map 207, Lot 047; thence Westerly along the boundary of Map 207, Lots 047 and 055; thence Southwesterly along the boundary of Map 207, Lot 047 to the center line of Dexter Street; thence Southeasterly along the center line of Dexter Street to the intersection with New County Road, also known as US Route One; thence Westerly along the center line of US Route One to the point of beginning.

Excepting any Resource Protection District areas as described in Section 711 of this Ordinance included in the above descriptions.

712.3 Permitted Uses

- 1) Accessory Structure and Accessory Use subordinate to principal structure
- 2) Bank or Financial Service
- 3) Beauty Salon or Barber Shop

- 4) Business and Professional Office
- 5) Commercial Agriculture and Horticulture Sales of Farm Produce on Premises
- 6) Emergency Operations
- 7) Essential Services
- 8) Government Uses and Buildings
- 9) Retail Business
- 10) Service Business
- 11) Shop Used in Pursuit of Trade
- 12) Soil and water conservation practices and structures designed to stabilize natural or man-made conditions as part of a Wildlife Management Plan approved by state or county soil/water district

712.4 Conditional Uses (Subject to approval of the Planning Board)

- 1) Apartment Building - 8 Units or more
- 2) Art Gallery
- 3) Auto Sales Lot
- 4) Automobile-Repair Garage
- 5) Bowling Alley
- 6) Building or use of an educational, religious, philanthropic, fraternal, political or social nature not used for residential occupancy
- 7) Car-Wash Facility
- 8) Church
- 9) Day-care facility
- 10) Fast Food Restaurant
- 11) Fast-Food Take-Out Stand, Walk-Up Only
- 12) Funeral Home
- 13) Gasoline Station including convenience store
- 14) Health Club
- 15) Hotel, Motel
- 16) Laundry and Dry-cleaning Facility
- 17) Lumber Yard
- 18) Medical Facility
- 19) Public Facility
- 20) Quasi-Public Facility
- 21) Recreational Facility
- 22) Repair Service (Non-automotive, small engine, computer, etc.)

- 23) Research Facilities and Services accessory to principal permitted use
- 24) Research Laboratory
- 25) Restaurant including fast food
- 26) Self-Storage facility
- 27) Storage facility
- 28) Substation, Pump Station, Sewer Treatment Facility
- 29) Tattoo Facility
- 30) Theater
- 31) Transportation Facility
- 32) Warehouse
- 33) Wholesale Business
- 34) Registered Marijuana Dispensary
- 35) Retail Marijuana Store

712.5 Dimensional Requirements

Maximum net residential Density	None
Minimum area/dwelling	N/A
Minimum street frontage	None
Minimum shore frontage	None
Min. setback/Property Line	30 Feet*
	Shall include a 10-foot green-space buffer from front property line
Max. Bldg. Height	None
Max. Lot Coverage	80%
Maxi. Bldg. Footprint per structure	200,000 Sq. Ft.
Max. Single Retail Facility	150,000 Sq. Ft.
Min. Setback drainage Ditches	25 Feet Structures
	20 Feet Toe of Fill
Min setback from upland Edge of freshwater wetland from two to 10 acres	25 Feet Structures
	20 Feet Toe of Fill

For all properties bordering on Route One and another street, the front shall be Route One.

* Or 50% of the building or outdoor stored material height, whichever is greater.

Section 712A Village Commercial District (VC)

712A.1 Purpose

The Village Commercial District includes the business area located around the intersection of Main Street and Knox and Beechwood Streets in the village center and the intersection of U.S. Route One and Old County Road. The purpose of the district is to provide for small-scale general sales and services and businesses and for municipal activities. The intent is that the small-town atmosphere of Thomaston be maintained. Both new and renovated buildings in this district will be compatible in design and scale with the surrounding commercial and residential uses and historic character of the area.

712A.1.1 – The general standards of performance of Article II shall be observed.

712A-2 Boundary Description

MAIN STREET COMMERCIAL DISTRICT (Downtown Business Area)

Beginning at the Northwest corner of Map 105, Lot 267; thence Southerly along the boundary of Map 105, Lot 267 to the center line of Main Street, also known as US Route One; thence Easterly along the center line of US Route One to the intersection with Green Street; thence Southerly along the center line of Green Street to the Southwest corner of Map 105, Lot 099; thence Easterly along the boundary lines of Map 105, Lots 099, 185 and 121 to the center line of Knox Street; thence Northerly along the center line of Knox Street to the Southwest corner of Map 105, Lot 123; thence Easterly along the boundary lines of Map 105, Lots 123, 179, 177, 175, 173 and 171 to the center line of Gilchrest Street; thence Northerly along the center line of Gilchrest Street to the intersection with US Route One; thence Westerly along the center line of US Route One to the Southeast corner of Map 105, Lot 375; thence Northerly and Westerly along the boundary lines of Map 105, Lots 375, 373 and 369 to the center line of Beechwood Street; thence Northerly along the center line of Beechwood Street to the Northeast corner of Map 105, Lot 307; thence Westerly along the boundary lines of Map 105, Lots 307 and 303 to the center line of Watts Lane; thence Northerly along the center line of Watts Lane to the Northeast corner of Map 105, Lot 297; thence Westerly along the boundary of Map 105, Lot 297 to the boundary of Map 105, Lot 295; thence Northerly and Easterly along the boundary of Map 105, Lot 295 to the center line of Watts Lane; thence Northerly along the center line of Watts Lane to the Southeast corner of Map 105, Lot 299; thence Northwesterly, Northeasterly and Easterly along the boundaries on Map 105, Lots 299 and 301 to the centerline of Watts Lane; thence Northerly along the centerline of Watts Lane to the Northeast corner of Map 105, Lot 295; thence Westerly, Southerly, Westerly, Southerly and Easterly along the boundary of Map 105, Lot 295 to the Northeast corner of Map 105, Lot 265; thence Southerly to the point of beginning.

CREEK HILL COMMERCIAL DISTRICT (US Route One at Old County Road)

Beginning at a point at the intersection of Old County Road and US Route One, also known as New County Road; thence Northerly along the center line of Old County Road to the Northerly boundary of Map 104, Lot 149; thence Easterly along the boundary of Map 104, Lot 149 and Map 401, Lot 007 to the center line of US Route One; thence Westerly along the center line of US Route One to the intersection of Old County Road and the place of beginning.

Excepting any Resource Protection District areas as described in Section 711 of this Ordinance included in the above descriptions.

712A.3 Permitted Uses

- 1) Accessory Structure and Accessory Use subordinate to principal structure
- 2) Bank or Financial Service Institution
- 3) Beauty Salon or Barber Shop
- 4) Business and Professional Office
- 5) Emergency Operations
- 6) Essential Services
- 7) Government Uses and Buildings
- 8) Non-essential structures less than 100 sq. ft. for educational, scientific or nature-interpretation purpose
- 9) Retail Business
- 10) Service Business

712A.4 Conditional Uses (Subject to approval of the Planning Board)

- 1) Apartment Building (Restricted to second floor or above – first-floor commercial use only)
- 2) Art Gallery
- 3) Building or use of an educational, religious, philanthropic, fraternal, political, or social nature not used for residential occupancy
- 4) Church
- 5) Commercial Agriculture and Horticulture Sales of Farm Produce on Premises
- 6) Day-care Facility
- 7) Fast-Food Take-out Stand, Walk-Up Only
- 8) Health Club
- 9) Laundry and Dry-cleaning Facility
- 10) Medical Facility
- 11) Neighborhood Store
- 12) Public Facility
- 13) Quasi-Public Facility
- 14) Public Open Space and Recreational Use
- 15) Recreational Facility
- 16) Restaurant
- 17) School
- 18) Theater

19) Upholstery Shop

712A.5 Dimensional Requirements

Maximum net residential density	None
Minimum area/dwelling	N/A
Minimum street frontage	None
Min. setback/centerline street	40 Feet
Min. rear and side yards	15 Feet *
Max. building height	40 Feet
Max. lot coverage	None
Min. setback drainage Ditches	25 Feet Structures 20 Feet Toe of Fill

All properties bordering on Route One and another street, the front setback shall be measured from Route One.

- * Fifteen (15) feet except as otherwise required by the buffer provisions of this ordinance and except where the side and/or rear yards abut a residential district, in which case a minimum of twenty (20) feet or 50% of the building or outdoor stored material height, whichever is greater, shall be required.

Section 713 Industrial District (IN)

713.1 Purpose

The Industrial District includes those lands owned by Dragon Products and an area between Buttermilk Lane and the Highway Commercial District. Its purpose is to provide an area in town for manufacturing, processing, treatment, research, warehousing, storage and distribution where there is no danger of hazards to the public health and safety. The intent is to locate and capitalize on the proximity of the railroad line and spurs.

713.1.1-The general standards of performance of Article II shall be observed.

713.2 Boundary Description

Beginning at the Southeast corner of Map 104, Lot 153 ; thence Southerly in a straight line to a point that is 1,000 feet East of the Westerly Right-of-Way line of High Street on the Thomaston-South Thomaston Town Line; thence Easterly along the said Town Line to the center of Buttermilk Lane; thence Northerly along the center line of Buttermilk Lane to the center of the MCRR ROW; thence Easterly along the center line of the MCRR ROW to the Southeast corner of Map 208, Lot 033; thence proceeding along the center line of the MCRR ROW and as depicted on the *Thomaston Commons Subdivision Plan* filed in the Knox County Registry of Deeds in Cabinet 22, Sheet 29, dated September 9, 2011, along the Southerly, Easterly and Northerly boundaries of the parcel identified on said plan as "Property to be Conveyed, George C. Hall & Sons, Inc., Tax Map 208, Lot 33, Portion of Lot 3", along the following bearings and distances as identified on said plan and as corrected: N 48° 7' 41" E 484.78'; N 9° 6' 7" E 356.63'; N 79° 43' 44" W 378.6'; N 33° 56' 38" W 628.6' passing through the Wal-Mart Super Center Store; and S 62° 19' 21" W 240.94' to a Granite Monument marked PLS# 148 BEAL which marks the Northeasterly points of Map 208, Lots 041 and 043; thence Southwesterly along the boundary lines of Map 208, Lots 043, 045 and 047 to the center of Dexter Street Extension; thence Northerly along the center line of Dexter Street Extension to the Northeast corner of Map 208, Lot 017; thence Westerly along the boundary line of Map 208, Lot 017; thence Northerly along the boundary line of Map 208, Lot 019 to the center of US Route One which is also known as New County Road; thence Easterly along the center line of US Route One to the intersection with Dexter Street; thence Northwesterly along the center line of Dexter Street to the Southwest corner of Map 207, Lot 047; thence Northeasterly along the boundary of Map 207, Lot 047; thence Easterly along the boundary lines of Map 207, Lots 055 and 047; thence Northeasterly along the boundary of Map 207, Lot 047 to the center of Pleasant Street; thence Northwesterly along the center line of Pleasant Street and the Thomaston-Rockland Town Line to the North corner of Map 207, Lot 047; thence Southerly and Westerly along the Thomaston-Rockland Town Line to Old County Road; thence Southwesterly along the center line of Old County Road to the center line of the CMP power line Right-of-Way located on Map 401, Lot 019 as described in Knox County registry of Deeds Book 503, Page 287, dated December 24, 1969, Parcels #21 and #22; thence Southeasterly along the center line of the CMP power line to the center line of US Route One; thence Southwesterly along the center line of US Route One to a point opposite the Northeast corner of Map 104, Lot 153; thence Southerly along the boundary between Map 104, Lots 151 and 153 to the point of beginning.

Excepting any Resource Protection District areas as described in Section 711 of this Ordinance included in the above description.

713.3 Permitted Uses

- 1) Accessory Structure and Accessory Use subordinate to principal structure
- 2) Business and Professional Office
- 3) Emergency Operations
- 4) Essential Services
- 5) Manufacturing, or Processing Facility
- 6) Mineral Exploration
- 7) Non-residential structures less than 100 sq. ft. for educational, scientific or nature-interpretation purpose
- 8) Research Facility and Services accessory to principal permitted use
- 9) Research Laboratory
- 10) Shop Used in Pursuit of Trade
- 11) Soil and Water Conservation Practices and Structures designed for stabilize natural or man-made conditions as part of a Wildlife Management Plan approved by state or county Soil and Water District
- 12) Warehouse
- 13) Storage Facility

713.4 Conditional Uses (Subject to approval of the Planning Board)

- 1) Aquaculture Facility
- 2) Auto-Repair Garage
- 3) Fish and Shellfish Loading, Processing, Depuration and Storage
- 4) Kennel
- 5) Lumber Yard
- 6) Mineral Extraction including Sand and Gravel
- 7) Recycling Facility
- 8) Repair Service including auto-body shop, small-engine, computer, etc.
- 9) Retail Business
- 10) Sawmill
- 11) Self-Storage facility
- 12) Service Business
- 13) Substation, Pump Station, Sewer Treatment Facility
- 14) Transportation Facility
- 15) Wholesale Business
- 16) Wireless Telecommunication Facility

- 17) Registered Marijuana Dispensary
- 18) Retail Marijuana Cultivation Facility
- 19) Retail Marijuana Manufacturing Facility
- 20) Retail Marijuana Testing Facility

713.5 Dimensional Requirements

Maximum net residential Density	None
Minimum area	N/A
Minimum street frontage	None
Min. setback/ Property Line	30 Feet
Min. rear and side yards	25 Feet
Max. Bldg. Height	None
Max. Lot Coverage	60%
Min. Setback drainage Ditches	25 Feet Structures 20 Feet Toe of Fill
Min. setback from upland edge of freshwater wetland from two to 10 acres	25 Feet Structures 20 Feet Toe of Fill

Section 714 Shoreland Commercial District (SC)

714.1 Purpose

The Shoreland Commercial District includes the lands immediately along the St. George River from the railroad trestle to just beyond Wadsworth Street, and a small piece along the river at the western entrance to the town. The purpose of the district is to ensure that these limited areas are retained for water-dependent and marine-related businesses. It is the intent that public access to the harbor for commercial and recreational purposes be encouraged. It is also the intent that any new structures be located and configured so as to preserve visual access to the water from public vantage points.

714.1.1-The general standards of performance of Article II shall be observed.

714.2 Boundary Description

THOMASTON HARBOR EAST

Beginning at a point on the center line of Ferry Street at the normal high water mark of St. Georges River; thence Easterly along the center line of Ferry Street to the intersection with Wadsworth Street; thence Southerly along the center line of Wadsworth Street to the intersection with Water Street; thence Easterly along the center line of Water Street to the Southwest corner of Map 101, Lot 057; thence Northerly, Easterly and Southerly along the boundary of Map 101, Lot 057 to the center line of Water Street; thence Easterly and Southeasterly along the center line of Water Street to the North corner of Map 102, Lot 015; thence Southwesterly, Southeasterly and Northeasterly along the boundary of Map 102, Lot 015 to the center line of Water Street; thence Easterly along the center line of Water Street to the intersection with Knox Street; thence Northerly along the center line of Knox Street, to the center line of the MCRR ROW; thence Easterly along the center line of the MCRR ROW to the normal high water mark of the Mill River; thence Westerly along the normal high water mark of the Mill River and St. Georges River to the point of beginning.

THOMASTON HARBOR WEST

Beginning at a point on the center line of Brooklyn Heights Road at the normal high water mark of St. Georges River; thence Easterly along the normal high-water mark of St. Georges River to the East corner of Map 201, Lot 049; thence Southerly along the boundary of Map 201, Lot 049 to the center line of Sunrise Terrace; thence Westerly along the center line of Sunrise Terrace intersection with Brooklyn Heights Road; thence Northerly along the center line of Brooklyn Heights Road to the point of beginning.

WARREN BRIDGE

Beginning at a point on the center line of Atlantic Highway, also known as US Route One at the normal high water line of St. Georges River; thence Southerly along the normal high water line of St. Georges River to the center line of the MCRR ROW; thence Easterly along the center line of the MCRR ROW to the center line of Toll Bridge Road; thence Easterly along the center line of Toll Bridge Road to the Southeast corner of Map 203, Lot 007; thence Northerly along the boundary of Map 203, Lot 007 to the center line of US Route One; thence Westerly along the center line of US Route One to the point of beginning.

Excepting any Resource Protection District areas as described in Section 711 of this Ordinance included in the above descriptions.

714.3 Permitted Uses

- 1) Accessory Structure and Accessory Use subordinate to principal structure
- 2) Emergency Operations
- 3) Essential Services
- 4) Non-residential structures less than 100 sq. ft. for educational, scientific or nature-interpretation purpose
- 5) Soil and Water Conservation Practices and Structures designed to stabilize natural or man-made conditions as part of Wildlife Management Plan approved by state or county Soil and Water District

714.4 Conditional Uses (Subject to approval of the Planning Board)

- 1) Aquaculture Facility
- 2) Building or use of an educational, religious, philanthropic, fraternal, political or social nature not used for residential occupancy (Marine-related activity only)
- 3) Business and Professional Office (Marine-related activity only)
- 4) Fish and Shellfish Loading, Processing, Depuration and Storage
- 5) Government Uses and Buildings (Marine-related activity only)
- 6) Manufacturing, (Marine related activity only)
- 7) Marina, Boatyard, Shipyard
- 8) Neighborhood Store
- 9) Outdoor Conservation and Recreational Uses not for profit
- 10) Public Facility
- 11) Public Open Space and Recreational Use
- 12) Repair Service (Marine-related activity only)
- 13) Research Facility and Services accessory to principal permitted uses (Marine-related activity only)
- 14) Research Laboratory (Marine-related activity only)
- 15) Restaurant
- 16) Retail Business (Marine-related activity only)
- 17) School (Marine-related activity only)
- 18) Service Business (Marine-related activity only)
- 19) Shop Used in Pursuit of Trade (Marine-related activity only)
- 20) Transportation Facility
- 21) Warehouse (Marine-related only)

- 22) Wharf, Pier, Floats, Boat Launching Facility and Bulkheads extending over or below the NHWL or wet-land
- 23) Wholesale Business (Marine-related activity only)

714.5 Dimensional Requirements

Minimum Lot area	7,500 Sq. Ft.
Minimum street frontage	75 Feet
Minimum shore frontage	75 Feet
Min. setback/Front property line	15 Feet
Min. rear and side yards	15 Feet
Max. Bldg. Height	35 Feet
Max. Lot Coverage	50%
Min. Setback NHWL of Tidal Waters	25 Feet Structures* 20 Feet Toe of Fill
Min. Setback NHWL Other water bodies (10 Acres)	25 Feet Structures 20 Feet Toe of Fill
Min. Setback drainage Ditches	25 Feet Structures 20 Feet Toe of Fill
Min. setback from upland edge of freshwater wetland from two to ten acres	25 Feet Structures 20 Feet Toe of Fill

* Does not apply to structures that require direct access to the water as an operational necessity, such as piers, wharves, retaining walls and boathouses.

ARTICLE II

GENERAL STANDARDS OF PERFORMANCE

All development proposed within the Town of Thomaston shall comply with the standards specified in Article II, Sections 715 through 722 of this ordinance, in addition to those standards pertaining to the particular district in which the development occurs. The Thomaston Code Enforcement Officer may employ any independent, recognized consultant(s) necessary, after prior notification to and at the expense of the applicant, to ensure compliance with all requirements of this ordinance related to the public health, safety and welfare and the abatement of nuisances. The applicant shall deposit the estimated costs of such studies with the *Town of Thomaston* prior to their undertaking.

Section 715 Shoreland Standards

To aid in the fulfillment of the State's role as trustee of its waters and to promote public health, safety and the general welfare, it is declared to be in the public interest that the Shoreland Zone, defined as those land areas any part of which are located within 250 feet of the normal high-water line (NHWL) of any river or saltwater body; within 250 feet, horizontal distance, of the upland edge of a coastal or freshwater wetland associated with a river system or at the upland edge of a freshwater wetland not associated with a river system; within 75 feet, horizontal distance, of the NHWL of a stream; and within 15 feet of the center line of stormwater drainage channels that are identified as essential for their purpose; all as defined in this Ordinance, be subject to the standards of this section, where applicable.

The purpose of such standards is to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect wildlife spawning grounds, fish, aquatic life, bird and wildlife habitat; protect freshwater and coastal wetlands; control building sites, placement of structures and land uses; to protect commercial fishing and maritime industries; protect archaeological and historic resources; conserve shore cover, visual as well as actual points of access to inland and coastal waters; conserve natural beauty and open space; and to anticipate and respond to the impacts of development in Shoreland areas.

715.1 Applicability

The following conditions, limitations or standards shall apply to any use or structure permitted on land located within the Shoreland Zone (Resource Protection and Shoreland Commercial Districts, as defined in this Ordinance), if applicable, in addition to all other standards and conditions required by this Ordinance:

715.2 Principal and Accessory Structures

715.2.1-All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the NHWL of great ponds classified GPA and rivers that flow to great ponds classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, except that in the Shoreland Commercial 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.

715.2.2-Permitting under the Natural Resources Protection Act for activities adjacent to significant wildlife habitat areas may require greater setbacks. Contact your local Department of Environmental Protection office to see if additional permitting is required.

715.2.3-Additional Setback Requirements

- 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) 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.
- c) The Planning Board is authorized to increase the required setback of a proposed structure, as a condition to permit approval, if necessary to accomplish the purposes of this ordinance. Instances where a greater setback may be appropriate include, but are not limited to: areas of steep slope; shallow or erodible soils; or where an adequate vegetative buffer does not exist.
- d) 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.

715.2.4-Principal or accessory structures and expansions of existing structures which are permitted in the Shoreland 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, nor to a cupola, dome, widow's walk or other similar feature in accordance with 38 M.R.S.A. Section 439-A(9).

715.2.5-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 flood-plain 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.

715.3-Non-vegetated Surfaces

715.3.1-In the Resource District, non-vegetated surfaces shall not exceed a total of twenty (20) percent of the portion of the lot located within the Shoreland Zone.

715.3.2-In the Shoreland Commercial District, non-vegetated surfaces shall not exceed a total of seventy (70) percent of the portion of the lot located within the Shoreland Zone.

715.3.3-The foregoing limitations do not apply to public boat launching facilities in the Shoreland Zone.

715.3.4-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.

715.3.5-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.

715.4-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, and Shoreline Stabilization

715.4.1-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 required in the specific district, a second structure may be allowed and may remain as long as the lot is not further divided.

715.4.2-Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.

715.4.3-The location shall not interfere with existing developed or natural beach areas.

715.4.4-The facility shall be located so as to minimize adverse effects on fisheries.

715.4.5-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.

715.4.6-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.

715.4.7-A structure constructed on a float or floats is prohibited unless it is designed to function as, and is registered with the Maine Department of Inland Fisheries and Wildlife as a watercraft.

715.4.8-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.

715.4.9-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.

715.4.10-Structures built on, over or abutting a pier, wharf, dock or other structure in the Resource Protection District 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.

715.4.11-Vegetation may be removed in excess of the standards in Section 715.16 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 715.19.

NOTE: A permit pursuant to the Natural Resource Protection Act is required from the Department of Environmental Protection for Shoreline Stabilization activities.

715.4.12-In accordance with 38 M.R.S.A. § 439-A(4-B), 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 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;
- 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 715.2; and
- e) The construction of the deck complies with all other state and federal laws.
- f) 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.

715.5-Campgrounds and Campsites

715.5.1-Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:

- a) 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.
- b) The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

715.5.2-Individual Private Campsites

Individual private campsites not associated with campgrounds are allowed provided the following conditions are met:

- a) 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.
- b) 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, plus the individual private campsite separately.
- c) Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
- d) 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.
- e) 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 (1,000) square feet.

- f) 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.
- g) 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.

715.6-Commercial and Industrial Uses in the Shoreland Zone

The following new commercial and industrial uses are prohibited within the Shoreland Zone adjacent to great ponds classified GPA, and rivers and streams which flow to great ponds classified GPA:

715.6.1-Auto washing facilities

715.6.2-Auto or other vehicle service and/or repair operations, including body shops

715.6.3-Chemical and bacteriological laboratories

715.6.4-Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms

715.6.5-Commercial painting, wood preserving, and furniture stripping

715.6.6-Dry cleaning establishments

715.6.7-Electronic circuit assembly

715.6.8-Laundromats, unless connected to a sanitary sewer

715.6.9-Metal plating, finishing, or polishing

715.6.10-Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas

715.6.11-Photographic processing

715.6.12-Printing

715.7-Parking Areas

715.7.1-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 Shoreland Commercial 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 the Resource Protection 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.

715.7.2-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.

715.7.3-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.

715.8-Roads and Driveways.

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

715.8.1-Roads and driveways shall be set back at least one-hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river that flows to a great pond classified GPA, and seventy-five (75) feet, horizontal distance from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board.

715.8.2-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.

715.8.3-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.

715.8.4-The standards of Sections 715.7.1 through 715.7.3 do 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 Sections 715.7.1 through 715.7.3 except for that portion of the road or driveway necessary for direct access to the structure.

715.8.5-Existing public roads may be expanded within the legal road right of way regardless of their set-back from a water body, tributary stream or wetland.

715.8.6-New roads and driveways are prohibited in the 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 the 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 the 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.

715.8.7-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 715.20.

715.8.8-Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.

715.8.9-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.

715.7.10-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	

- 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.

715.8.11-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.

715.9-Signs.

The following provisions shall govern the use of signs in the Shoreland Zone, in addition to the requirements of Section 718:

715.9.1-Signs relating to goods or services not sold or rendered on the premises shall be prohibited.

715.9.2-In the Resource Protection District signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed an aggregate of four (4) square feet in area and shall not exceed two (2) signs per premises.

715.9.3-In the Shoreland Commercial District signs relating to goods and services sold on the premises shall be in conformance with the requirements of Section 718.5.

715.9.4-Additionally, an attached name sign is allowed in the Resource Protection District, provided it is a single sign of no more than two (2) square feet in size.

715.9.5-Additionally, a temporary single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises is allowed.

715.9.6-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.

715.9.7-Signs relating to public safety shall be allowed without restriction.

715.9.8-No sign shall extend higher than twenty (20) feet above the ground.

715.9.9-Signs may be illuminated only by shielded, non-flashing lights, if approved by the Planning Board.

715.10-Storm Water Runoff

715.10.1-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.

715.10.2-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 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.

715.11-Septic Waste Disposal

715.11.1-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.

715.12-Essential Services

715.12.1-Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.

715.12.2-The installation of essential services, other than road-side distribution lines, is not allowed in the Resource 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.

715.12.3-Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

715.13-Mineral Exploration and Extraction

715.13.1-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.

715.13.2-Mineral extraction may be permitted under the following conditions:

- a) 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 715.13.2(d) below.
- b) No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other 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.
- c) Developers of new gravel pits along Significant River Segments shall demonstrate that no reasonable mining site outside the Shoreland Zone exists. When gravel pits must be located within the zone, they shall be set back as far as practicable from the normal high-water line and no less than seventy-five (75) feet and screened from the river by existing vegetation.
- d) 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:

- i. 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.

- ii. The final graded slope shall be two and one-half to one (2 1/2:1) slope or flatter.
- iii. 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.
- e) 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.

715.14-Agriculture

715.14.1-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).

715.14.2-Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. 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.

715.14.3-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.

715.14.4-There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies and coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of 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.

715.14.5-Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, of other 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.

715.15-Timber Harvesting

Title 38 M.R.S.A. section 438-A provides that, notwithstanding other provisions of the Mandatory Shoreland Zoning Act, the regulation of timber harvesting and timber harvesting activities in shoreland areas must be in accordance with section 438-B and rules adopted by the Maine Forest Bureau pursuant to Title 12, section 8867-B.

715.15.1-Pursuant to Section 438-B(2) the Town of Thomaston chooses to have the statewide standards apply to timber harvesting and timber harvesting activities in said municipality.

715.15.2-All provisions within the Thomaston Ordinances that regulate timber harvesting and timber harvesting activities in shoreland areas are hereby repealed on the date of the adoption of this Section.

715.15.3-The Director of the Bureau of Forestry within the Department of Agriculture, Conservation and Forestry shall be notified within sixty (60) days of said repeal by the Town Clerk. The notification must specify the repeal date.

715.15.4-Upon acceptance of the statewide standards in accordance with this section, the Director of the Bureau of Forestry shall administer and enforce the statewide standards within said municipality beginning on the said municipal repeal date specified in the notification made under this section.

715.16-Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting

715.16.1-In a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove hazard trees as described in Section 715.17.

715.16.2-Elsewhere, 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.

715.16.3-Except in areas as described in Section 715.16.1, above, within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, or within a strip extending seventy-five (75) feet, horizontal distance, from any 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 this Section a "well-distributed stand of trees" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1,250 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	

Adjacent to other water bodies, tributary streams, and wetlands, a "well-distributed stand of trees" is defined as maintaining a minimum rating score of 16 per 25-foot by 50-foot rectangular area.

NOTE: As an example, adjacent to a great pond, 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 12 points (36 - 24 = 12) may be removed from the plot provided that no cleared openings are created.

The following shall govern in applying this point system:

- 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 this Section “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 (4½) 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 four and one-half (4½) 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 Sections 715.16.3 and 715.16.3(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 715.17, 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 715.16.3.

715.16.4-At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other 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 four and one-half (4½) 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.

- a) 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, 25% of the lot area within the Resource Protection District 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 Resource Protection District, including the buffer area.

715.16.5-Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.

715.16.6-Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 715.16.

715.17-Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal

715.17.1-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 (4½) 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 (4½) 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 (4½) 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 (4½) 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 (4½) feet above the ground level.

715.17.2-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 (4½) 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.

715.18-Exemptions to Clearing and Vegetation Removal Requirements

The following activities are exempt from the clearing and vegetation removal standards set forth in Section 715.16, provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:

715.18.1-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 al-

lowed 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(P) apply;

715.18.2-The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of Section 715.2 are not applicable;

715.18.3-The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;

715.18.4-The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of Section 715.14 are complied with;

715.18.5-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, commercial fisheries and maritime activities 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) A coastal wetland; or
- b) A river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A section 465-A.

715.18.6-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.

NOTE: An updated list of non-native invasive vegetation is maintained by the Department of Agriculture, Conservation and Forestry's Natural Areas Program: http://www.maine.gov/dacf/mnap/features/invasive_plants/invasives.htm

715.18.7-The removal of vegetation associated with emergency response activities conducted by the Department, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.

715.19-Revegetation Requirements

When revegetation is required in response to violations of the vegetation standards set forth in Section 715, 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.

715.19.1-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.

715.19.2-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:

715.19.3-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.

715.19.4-Revegetation activities must meet the following requirements for trees and saplings:

- 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.

715.19.5-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

715.19.6-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 minimum of five (5) years.

715.20-Erosion and Sedimentation Control

715.20.1-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.

715.20.2-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.

715.20.3-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.

715.20.4-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.

715.20.5-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.

715.21-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 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.

715.22-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.

715.23-Archaeological Sites

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.

Section 716 Environmental

716.1 Agriculture

716.1.1-All spreading or disposal of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 MRS section 4201-4209).

NOTE: Copies of all documents incorporated by reference into this or any other Municipal Ordinance are available for inspection at the Thomaston Town Office.

716.1.2-Manure shall not be stored or stockpiled within seventy five (75) feet, horizontal distance, of water bodies, tributary streams or the upland edge of wetlands. 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.

716.1.3-Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the Shoreland zone Districts shall require a Conservation Plan to be filed with the Planning Board based on the standards contained in "Strategy for Managing Nonpoint Source Pollution From Agricultural Sources and Best Management System Guidelines," Non-Point Source Agricultural Task Force, October, 1991, standards of which are hereby incorporated by reference, to be filed with the Thomaston 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 Knox-Lincoln Soil and Water Conservation District Office.

716.1.4-There shall be no new tilling of soil within seventy five (75) feet, horizontal distance, from water bodies and coastal wetlands; nor within fifty (50) feet, horizontal distance, of tributary streams and the upland edge of freshwater wetlands. Where soil is tilled, an untilled filter strip at least fifty (50) feet in width of natural vegetation shall be retained between the tilled ground and the normal high- water mark of the surface waters. Operations in existence on the effective date of this Ordinance and not in conformance with this provision may be maintained, provided such operations are in accordance with a Conservation Plan based on the standards contained in "Strategy for Managing Non-point Source Pollution From Agricultural Sources and Best Management System Guidelines," Non-Point Source Agricultural Task Force, October, 1991, standards of which are hereby incorporated by reference.

716.1.5- 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 the upland edge of 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 based on the standards contained in "Strategy for Managing Non-point Source Pollution From Agricultural Sources and Best Management System Guidelines," Non-Point Source Agricultural Task Force, October, 1991, standards of which are hereby incorporated by reference.

716.2 Air Pollution

716.2.1-All air-pollution control shall comply with minimum State requirements and detailed plans shall be submitted to the State of Maine Department of Environmental Protection for approval before a permit is granted.

716.2.2-All activities emitting odor into the ambient air shall comply with the requirements of the Thomaston Odor Ordinance.

716.3 Archaeological Sites

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.

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

716.4 Buffer Areas

716.4.1-Any non-residential yard space abutting an existing or potential residential area shall be maintained as a buffer strip by the developer. Such buffer area shall be for the purpose of eliminating any adverse effects upon the environmental or aesthetic qualities of abutting properties or any type of nuisance affecting the health, safety, and welfare and property values of the residents of Thomaston.

716.4.2-Natural features shall be maintained wherever possible to provide a break between the proposed development and abutting properties.

716.4.3-When natural features such as topography, gullies, stands of trees, shrubbery and rock outcrops do not exist or are insufficient to provide a buffer, the developer shall landscape or otherwise provide fencing or screening at a minimum height of four (4) feet above finished grade.

716.4.4-Fencing, screening or natural features, or a combination thereof, shall be sufficient to shield from the view of abutting residential properties, and otherwise prevent any kind of nuisance, all loading and unloading operations, storage areas, commercial vehicle parking, waste disposal and collection areas.

716.4.5-Fencing and screening shall be durable and properly maintained at all times by the owner.

716.4.6-Fencing and screening shall be so located within the developer's property line to allow access for maintenance on both sides without intruding upon abutting properties.

716.4.7-The owner shall properly maintain all buffer areas.

716.5 Earth Material Removal

716.5.1-All rock quarrying and sand and gravel excavation and processing operations, including on-site and off-site materials, may be permitted under the terms of this Ordinance, with Planning Board approval.

716.5.2-Topsoil, sand and gravel may be removed from locations where allowed by this Ordinance only after a permit for such operations has been granted by the Planning Board for such operations and issued by the Thomaston Code Enforcement Officer in accordance with the provisions of this Ordinance. Nothing herein shall be deemed to apply to normal excavation operations incidental to construction activities for which a valid permit is held. The following standards shall be met:

- a) Specific plans shall be established to avoid hazards from excessive slopes or standing water. Where an embankment must be left upon the completion of operations, it shall be at a slope not steeper than one (1) foot vertical to three (3) feet horizontal. This slope provision shall not apply to rock quarry faces;
- b) The operation shall be shielded from surrounding property with screening sufficient in depth and height to conceal the entire operation;
- c) No water source shall be disturbed;
- d) No excavation shall be located so that the upper edge of such excavation is located within seventy five (75) feet of any property line without written permission of the owner of such adjacent property. No excavation shall be extended below the grade of adjacent streets unless the upper edge of such excavation is not less than one hundred (100) feet from the street line or unless provision has been made for reconstruction of the street at a different level;
- e) Sufficient topsoil or loam shall be retained to cover all areas, except for quarry pits, so that they shall be seeded and properly restored to a stable condition adequate to meet the provisions of the "Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices," published by the Cumberland County Soil and Water Conservation District and the Department of Environmental Protection, March 1991, standards of which are hereby incorporated by reference.

NOTE: Copies of all documents incorporated by reference into this or any other Municipal Ordinance are available for inspection at the Thomaston Town Office.

- f) 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:
 - i. 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.
 - ii. The final graded slope, except for quarry faces, shall be three to one (3:1) slope or flatter; and
 - iii. Topsoil or loam shall be retained to cover all disturbed land areas, except for quarry pits, which shall be reseeded and stabilize with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.

716.5.3-In considering permits for removal of earth materials, the Planning Board may impose such conditions as necessary to safeguard the health, safety and welfare of the community and shall take into consideration the following items:

- a) Fencing, landscaping, buffer strips, public safety;
- b) Signs, lighting;
- c) Parking space, loading and unloading areas, entrances and exits, weight and loading limit and routing of trucks over public roads, coverage of loads and prevention of sand and gravel spillage upon public roads;
- d) Time period for operation;
- e) Hours of operation;
- f) Methods of operation;
- g) Ecological and other natural considerations, including control of erosion and sedimentation; and
- h) Rehabilitation proposals for the site following completion of excavation or quarrying operations.

716.6 Prevention of Erosion and Sedimentation

716.6.1-No person shall perform any act or use of the land in a manner that would cause substantial or avoidable erosion, create a nuisance, or alter existing patterns of natural water flow except as part of a soil and water conservation plan including practices and structures designed to stabilize natural or manmade conditions, based on the standards contained in "Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices," Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, March 1991; "Erosion and Sediment Control Handbook for Maine Timber Harvesting Operations: Best Management Practices," Maine Forest Service, June, 1991; and "Best Management Practices for Storm Water Runoff," Department of Environmental Protection, Bureau of Water Quality, October, 1991; standards of which are hereby incorporated by reference.

***NOTE:** Copies of all documents incorporated by reference into this or any other Municipal Ordinance are available for inspection at the Thomaston Town Office.*

This shall not apply to any extractive operations complying with the provisions of Section 716.5 "Earth Material Removal," of this Ordinance.

716.6.2-All development shall generally comply with the "Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices," published by the Cumberland County Soil and Water Conservation District and the Department of Environmental Protection, March 1991, standards of which are hereby incorporated by reference.

Special consideration shall be given to the following:

- a) Select a site with the right soil properties, including natural drainage and topography, for the intended use.
- b) Utilize for open-space uses those areas with soil unsuitable for construction.
- c) Preserve trees and other vegetation wherever possible.

- d) Hold lot-grading to a minimum by fitting the development to the natural contour of the land, and avoid substantial areas of excessive grade. Any applicant having existing incompatible uses and/or activities on slopes greater than 20% shall be required to take necessary measures to minimize adverse environmental impact to expand, relocate or change land use as a condition of approval for a permit.
- e) Spread jute matting or straw during construction in critical areas subject to erosion.
- f) Construct sediment basins to trap sediment from runoff waters during development. Expose as small an area of subsoil as possible at any one time during development and for as short a period as possible.
- g) Provide for disposing of increased runoff caused by changed land formation, paving and construction, and for avoiding sedimentation of runoff channels, on or off the site.
- h) Plant permanent vegetation and install structures as soon as possible for the purpose of soil stabilization and re-vegetation.

716.6.3-All activities within the Resource Protection District or the Shoreland Commercial District that involve filling, grading, excavation or other similar activities that result in unstabilized soil conditions and that require a permit shall require a written soil-erosion and sedimentation-control plan complying with "Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices," published by the Cumberland County Soil and Water Conservation District and the Department of Environmental Protection, March 1991, standards of which are hereby incorporated by reference.

Note: Assistance in preparing the Soil and Erosion Control Plan is available from the Knox-Lincoln Soil and Water Conservation District office.

716.6.4-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.

716.6.5-Natural and man-made drainage ditches and drainage outlets shall be protected from erosion from water flowing through them. Drainage ditches 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 rip-rap.

716.7 Floodplain Areas

Land along rivers, streams and ponds that is subject to flooding through storm or seasonal action, called floodplain areas, may be used for woodland, grassland, agriculture, outdoor recreational use or other uses permitted in a Resource Protection District. Floodplain areas shall be considered as those areas within the 100-year frequency flood plan as identified by the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map effective December 4, 1985. All new or substantially improved buildings, whether residential or non-residential, shall have their lowest flood, including basement elevated one (1) foot above the 100-year flood level, twelve (12) feet above National Geodetic Vertical Datum (NGVD), formerly Mean Sea Level (MSL) 1929.

All construction within the Floodplain Area shall be in compliance with the Thomaston Floodplain Management Ordinance.

716.8 Mineral Exploration

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

In addition to the guidelines of Section 716.5 Earth Material Removal, the following shall apply to mineral extraction activities in the Shoreland Districts:

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

716.8.2-A reclamation plan shall be filed with and approved by the Thomaston Planning Board before a permit is granted. Such plan shall describe in detail the procedures to be undertaken to fulfill the requirements of 716.8.4 below

716.8.3-Unless authorized pursuant to the Natural Resources Protection Act, Title 38, M.R.S.A, Section 480-C 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 any 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.

716.8.4-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, Title 38, Maine Revised Statutes Annotated, Section 1310 and Chapter 404 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 (2½:1) slope or flatter;
- c) Topsoil 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.

716.9 Noise Abatement

Noise may be equal to but not exceed during any consecutive eight-hour period an average of seventy-five (75) dba (re 20 micro-newtons/m2) measured at any boundary line. During the peak activity of 60 minutes in a twenty four (24) hour period, a noise may not exceed one hundred (100) dba when measured at the source.

716.10 Reserved

716.11 Soil Suitability

716.11.1-In all districts, the approval of building-permit applications shall be subject to evidence of satisfactory subsurface soil conditions for drainage and sewage disposal, and where on-site septic disposal is proposed, shall be subject to prior obtainment of a Plumbing Permit.

716.11.2-The requirements and standards of the Maine Department of Environmental Protection, Department of Human Services and the latest revised edition of the State Plumbing Code shall be met.

716.11.3-When soil suitability is in doubt, a review may be required for a developer to have the Knox-Lincoln Soil and Water Conservation District or others conduct a review, and the review costs shall be borne by the developer.

716.11.4-Proposed uses in the Resource Protection District or the Shoreland District 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, and Maine certified geologists and other persons who have training and experience in the recognition and evaluation 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, and presence of ledge, drainage conditions, and other pertinent data that the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

716.12 Storm-Water Runoff

716.12.1-All new construction and development shall be designed to minimize storm-water runoff from the site in excess of the natural pre-development 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 storm water.

716.12.2-Storm-water runoff-control systems shall be maintained as necessary to ensure proper functioning.

716.13 Wastewater Pollution and Solid Waste

716.13.1-Wastewater to be discharged into Thomaston municipal sewers, should they be available, shall be in such quantities and/or of such quality as to be compatible with standards established by the Municipality.

716.13.2-To meet those standards, the Municipality may require that such waters shall undergo pre-treatment or full treatment at the site in order to render them acceptable for the treatment process.

716.13.3-The disposal of wastewater by means other than a public system must comply with the laws of the State of Maine and the *Town of Thomaston* concerning water pollution. All subsurface sewage disposal systems shall be installed in conformance with the Maine Subsurface Wastewater Disposal Rules, and the following:

716.13.3.1-Clearing or removal of woody vegetation necessary to site a new system and 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;

716.13.3.2-A holding tank is not allowed for a first-time residential use in the shoreland zone.

716.13.4-Solid Waste with respect to all proposed subdivision and all site-plan review activities, the Planning Board must find the proposed activity will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be utilized.

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 by the Board of Owls Head, South Thomaston and Thomaston Solid Waste Corporation on a form for that purpose before any approval can be final by the Planning Board.

716.14 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.

716.15 Essential Services

716.15.1-Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.

716.15.2-Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

716.16 Standards for Commercial/Industrial Use

716.16.1 Applicability and Purpose

The purpose of these standards is to protect and enhance the economic potential, aesthetic and visual character of land in accordance with the Comprehensive Plan. All development proposed within these districts shall be subject to the procedures, standards and guidelines specified in the following sections; in addition to those standards pertaining to the particular district in which the development occurs. In particular, the purpose of the Standards of Performance is to encourage high-quality economic development, to provide for more positive visual experiences and ensure the continued safe and efficient utilization of municipal services.

716.16.2 Delineation of the Application of These Standards of Performance

- a) The Standards of Performance Regulations shall include all lands within 500 feet as measured from the paved edge of the roadway.

- b) All applications for development located within the district shall be reviewed by the Planning Board.
- c) The regulation in this section shall apply to all property located within the Commercial and Industrial Districts of this ordinance.

716.16.3 Area Regulations

Landscape plans shall be included as part of applications for all developments. All landscape plans must address the requirements of all the applicable sections that follow. Landscape plans shall include:

- a) A planting schedule showing location, quantity, time of proposed planting and type of proposed plantings.
- b) A planting plan naming plants to be used for landscaping, botanical name, common name, quantity and size at installation (sizing and grading standards of the latest edition of "American Standard for Stock" as well as "Maine Community Forestry Council, Recommended Tree Species List, For Street and Park Trees" shall be used. See 716.16.4 (f & i)
- c) All horizontal landscape construction such as walls, drives, decks, terraces, etc., shall be drawn on the landscape plan and labeled according to material and finish.
- d) All vertical landscape construction such as walls, fences, raised decks, shelters, light standards, signs, flagpoles, trellises, seats, mailboxes, etc., shall be drawn and labeled sufficiently to indicate size, materials and general appearance.
- e) If landscaping is to be irrigated, show approximate extent of coverage and outline performance specification.
- f) Landscape lighting, if used on site, showing location, wattage, typical fixture design, type of bulb and quantity.
- g) A landscape plan shall also show what native vegetation will remain and what will be removed. A landscaping maintenance schedule shall also be provided.

If, at the time of the project, construction-site conditions require more than a twenty-five (25%) percent alteration from the landscape plan, review of changes with the Planning Board will be required to ensure conformance with the intent of these standards.

716.16.4 Front-Yard Landscaping Requirements

The purpose of these front-yard landscaping requirements is to improve the appearance of vehicular use areas and property abutting public rights-of-way; to require buffering between potentially incompatible uses and to protect, preserve and promote the aesthetic appeal, character and value within the district.

- a) The area falling within the front-yard setback shall be used only as a landscaped buffer zone. Parking is not permitted in the front-yard buffer zone. The purpose of this buffering front yard is to partially screen from the view of the traveling public the building or buildings and the use including parking and any outdoor storage. The front-yard setback area is restricted to that of a buffered zone with the exception noted in 716.16.4 (b) (1 thru 6)

To accommodate circumstances where the setback requirements may not fit the site conditions, an applicant may submit an alternative plan for a landscaped front-yard setback area, provided that,

to the extent possible, an equal or greater amount of landscaped area is created elsewhere on the site and the buffering intent is met, and provided that the alternative plan conforms to the maximum extent possible to the standard requirements and compliance with the intent of these regulations.

- b) There shall be no development, clearing, grading or construction activity within the required front yard with the following exceptions:
 - i. Roadway or driveway access
 - ii. Provisions of electrical, telephone, cable utilities, etc., service lines
 - iii. Pedestrian and/or bicycle paths
 - iv. Signs and lighting fixtures that comply with the Thomaston sign ordinance
 - v. Clear sight distances at permitted entrances and exits to proposed uses
- c) The addition of plantings, earth forms or other visual buffers that, in the opinion of the Planning Board, would better serve the purposes of this section of the ordinance.
- d) All front-yard areas that are to be preserved as natural native-plant communities shall be maintained free of all debris and trash, trimmed at least once a year and managed in order to maintain the plant community for which they were established.
- e) Cultivated landscaped areas around and in conjunction with parking lots and signs are required as detailed in section 716.16.6.
- f) For each one hundred feet (100') in length, this buffer zone at the minimum shall contain two (2) canopy or evergreen trees, four (4) under-story trees and six (6) shrubs.
- g) For every mature canopy or evergreen tree existing in the buffer area and retained within this area, the required number of new trees shall be reduced by two (2). If any such retained tree dies within five (5) years of the date of the issuance of the original permit, it shall be replaced with two (2) canopy trees meeting the standards of this ordinance.
- h) A canopy tree is a tree that reaches at least thirty-five (35) feet in height at maturity; an evergreen tree is at least thirty-five (35) feet at maturity. An under-story tree reaches ten (10) feet to thirty-five (35) feet at maturity. Shrubs have mature heights of two (2) to ten (10) feet.
- i) The above plants shall have the following minimum size standards at the time of installation, with calipers measured in diameter at breast height:
 - i. Canopy trees – one and one-half inch (1-1/2") caliper.
 - ii. Evergreen trees – four (4) feet in height;
 - iii. Under-story trees – one and one-half inch (1-1/2") caliper;
 - iv. Shrubs – eighteen inches (18") in height. Any plants required by this section that die shall be replaced within one (1) growing season.

716.16.5 Architectural-Review Guidelines

The compatible relationship of architecture along the road in the district is of critical public concern for any new buildings or site improvements. The intent of these guidelines is to ensure respect for the visual experience and to reduce incompatible and adverse impacts on the visual experience from the roadway and to protect the gateways into the *Town of Thomaston*. To accomplish this, the Planning Board shall utilize the following guidelines in reviewing proposed structures and site improvements:

716.16.5.1-Proposed development shall avoid excessive or unsightly grading, indiscriminate earth-moving or clearing of property and removal of trees and vegetation that could cause disruption of natural water courses or disfigure natural land forms.

716.16.5.2-Proposed development shall be located and configured in a visually harmonious manner with the terrain and vegetation of the parcel and surrounding parcels. Structures shall impede as little as reasonably practical, scenic views from the main road or from existing structures and the natural environment.

716.16.5.3-The architectural design of structures and their materials and colors shall be visually harmonious with the overall appearance, history and cultural heritage of the *Town of Thomaston*, with natural land forms and existing vegetation and with other development plans already approved by the town. Architectural design of all non-residential structures must be designed to be unobtrusive and set into the natural environment in accordance with the following section:

- a) Pitched roof, or the appearance of pitched roofs, with minimum slope of five and one-half (5½) inches per foot is strongly encouraged. Long, monotonous façade designs including, but not limited to, those characterized by unrelieved repetition of shape or form or by unbroken extension of line shall be avoided.
- b) Clapboards, wood shingles, bricks, or other materials with similar texture and appearance are recommended.
- c) Colors of materials, paints and stains shall be compatible with the existing overall appearance of the location.
- d) The location and dimensions of wall signs shall be indicated and shall maintain compatibility with architectural features of the building.

716.16.6 Parking Lot Design and Landscaping

General-All development shall provide permanent off-street parking space in accordance with and at a minimum in the amount specified by the Thomaston Land Use and Development Ordinance. Required off-street parking spaces shall be so designed, arranged and regulated as to have individual parking spaces marked unobstructed and have access to an aisle or driveway so that any automobile may be moved without moving another, and so that no maneuvering directly incidental to entering and leaving a parking space shall be on any public right-of-way or walkway; the space shall be provided with bumper guards or wheel guards so located that no part of the parked vehicle will extend beyond the boundary of the established parking area into any minimum required yard. Such parking areas shall be graded and properly drained in such a manner that there will be no free flow of water onto any adjacent property.

716.16.6.1 Shared Parking

The required parking space for any number of separate uses may be combined in one facility. Generally, the required space assigned to one use may not be assigned to another use; thus, the total available spaces should be the sum of required spaces for each individual uses. Shared parking facilities where available parking is below the strict requirements for users set forth in this ordinance shall be allowable when the functional nature of the uses allow for differing peak-hour demands. The number of spaces required in such a shared facility shall be determined by the Planning Board in accordance with the guidelines of the Thomaston Land Use and Development Ordinance. Any such combined use will require the recording of a perpetual easement in form and substance acceptable to the Planning Board, in the Office of the Knox County Registry of Deeds.

716.16.6.2 Landscaping

Parking areas shall be suitably landscaped to minimize noise, glare and other nuisance characteristics as well as to enhance the environment and ecology of the site and surrounding area. As a guideline, large parking lots shall be designed and landscaped to fit harmoniously within the landscape and wherever possible shall be broken down into sections of not more than forty (40) spaces, separated from other sections by landscaped dividing islands, strips, berms, and similar elements, in accordance with the following requirements:

- a) The cultivated landscaping of the perimeter of all off-street parking areas is required except for access-ways as necessary. The minimum width of the perimeter landscape strip shall be ten (10) feet and shall be landscaped with at least one (1) tree and five (5) shrubs for every thirty (30) feet of parking lot perimeter. Trees and shrubs in a perimeter landscape strip may be planted singly or in clusters. The remainder of the perimeter landscape strip shall be landscaped with grass, ground cover or other appropriate landscape treatment. Sand or pavement shall not be considered to be appropriate landscape treatment.
- b) Landscaping of the interior of off-street parking areas larger than forty (40) cars is required. Terminal islands between rows of parking spaces shall be provided that shall be at least five (5) feet in width and shall contain at least one (1) tree and five (5) shrubs or every five (5) parking spaces. Trees and shrubs in terminal islands or landscaped islands may be planted singly or in clusters. The remainder of any terminal island or other interior landscape islands shall be landscaped with grass, ground cover or other appropriate landscape treatment. Not less than ten percent (10%) of the interior of off-street parking areas for more than forty (40) cars shall be landscaped and maintained with grass or other living vegetative materials. Sand or pavement shall not be considered to be appropriate landscape treatment.
- c) Plants that restrict visibility such as tall shrubs or low branching trees should be avoided for security and traffic safety reasons.

716.16.7 Retail Marijuana or Cannabis Uses and Facilities

The purpose of these regulations is to ensure that only such uses that have been established as a result of successful review as a Conditional Use and under Site Plan Review shall be allowed in the districts as designated in this ordinance and that all required state and municipal regulations are followed. Review under this section is in addition to all other requirements of this ordinance.

716.16.7.1 Location of Retail Marijuana or Cannabis Uses and Facilities

- a) Pursuant to 36-A MRS §§ 4351-4361, retail marijuana or cannabis uses are prohibited in all Thomaston Zoning Districts except the Industrial (IN) and Highway Commercial (HC) Districts as noted under Sections 712.4 Conditional Uses and 713.4 Conditional Uses of this Ordinance.
- b) Pursuant to 7 MRS§ 2447 (4), specific retail marijuana or cannabis uses may be prohibited by vote of the Town Meeting in all zoning districts in Thomaston. Retail Marijuana Social Clubs are prohibited in all zoning districts in Thomaston.
- c) Notwithstanding paragraph 716.16.7.1a, above, Retail Marijuana Cultivation Facilities may be approved by the Planning Board on any parcel in any district that has been enrolled in the Maine Farmland Program and receiving Farmland Program Assessments for five (5) years or more.

716.16.7.2 Specific Regulations for Retail Marijuana or Cannabis Uses and Facilities

- a) In addition to all other requirements of Section 716 of this Ordinance, and Pursuant to 7 MRS § 2449, retail marijuana or cannabis uses and facilities must meet the following regulations.
 - i. All retail marijuana or cannabis uses and facilities must meet the applicable sections of the 2015 Life Safety Code and the NFPA Fire Prevention Code.
 - ii. Due to high electrical requirements, Retail Marijuana Cultivation and Retail Marijuana Manufacturing Facilities specifically must meet the requirements of the 2015 Life Safety Code Section 7.4.2, in addition to all other applicable sections.
 - iii. Due to the use of solvents and/or other flammable substances, Retail Marijuana Manufacturing Facilities must specifically meet the requirements of the 2015 Life Safety Code Section 8.7 Special Hazard Protection, in addition to all other applicable sections.
- b) In addition to all other requirements of Section 716 of this Ordinance, the Planning Board must consider and may require the following when reviewing a request for a retail marijuana or cannabis use and facility.
 - i. Abatement measures for the potential effect of odor to the surrounding properties and neighborhood for retail marijuana cultivation, manufacturing, or testing facilities.
 - ii. Exterior safety lighting for all retail marijuana or cannabis facilities.
 - iii. Surveillance cameras, alarms or other similar protective systems for all retail marijuana or cannabis facilities.
 - iv. Access to an appropriate range of business records for the Code Officer, Fire Officials and/or Law Enforcement Officers to verify compliance with this Ordinance and the appropriate State laws for all retail marijuana or cannabis facilities.

716.16.7.3 Local Licensure for Retail Marijuana or Cannabis Uses and Facilities

- a) In addition to all the licensure, certification and/or registration requirements of 7 MRS Chapter 417 The Maine Marijuana Legalization Act and 22 MRS Chapter 558-C The Maine Medical Use of Marijuana Act that must be in place before a retail marijuana or cannabis use and facility may be considered under the Conditional Use standards of this Ordinance and under the Site Plan Review requirements of this Ordinance, all retail marijuana or cannabis facilities must be annually licensed by the Board of Selectmen of Thomaston.
 - i. The fee for Initial and Annual Local Licensure is calculated based on the square footage of the facility as listed in Section 704.9.2 of this Ordinance. This fee is non-refundable whether or not the license is granted.
 - ii. Evidence of valid licensure, certification and/or registration under the applicable State laws and of the granting of a Conditional Use and Approval of Site Plan Review must be submitted along with the fee when applying for Initial or Annual Local Licensure.

- iii. The Board of Selectmen may require other items, forms, and/or records for Initial or Annual Local Licensure as they decide by majority vote are needed.
- iv. The Board of Selectmen must hold a public hearing within 45 days of the receipt of an Application for Initial or Annual Local Licensure.
- v. Notice of the Public Hearing must be verbally communicated, mailed or emailed to all property owners within 500 feet of the premises proposed for the use and facility subject to Initial or Annual Local Licensure plus publically posted as for a Town Meeting no later than 14 days before the public hearing.
- vi. The Board of Selectmen may approve or deny Initial or Annual Local Licensure following the conclusion of the Public Hearing. A written notice must be mailed or emailed to the applicant within 14 days of the decision giving appeal rights.
- vii. Failure to receive Initial or Annual Local Licensure either by action of the Board of Selectmen or on Appeal voids the Conditional Use granted for the parcel.

Section 717 Parking, Loading and Traffic

717.1 Off-Street Parking Standards

717.1.1-Off-street parking, in addition to being a permitted use, shall be considered as an accessory use when required or provided to serve conforming uses located in any district.

717.1.2-The following minimum off-street parking and loading requirements shall be provided and maintained in case of new construction, alterations, expansions and changes of use. Such parking may be provided in the open air in spaces each nine (9) feet wide by eighteen (18) feet long, or spaces dimensioned as may be required to suit the particular use or in garages. All spaces shall be accessible from lanes of adequate size and location.

Automobile, Truck and Tractor Repair and Filling Stations:	1 parking space for each regular employee plus 1 space for each 50 sq. ft. of floor area used for service work.
Dwellings:	2 vehicle spaces per each dwelling unit.
Motels, Tourist Homes, Rooming Houses, or other rooming spaces associated with a permitted use:	1 parking space for each sleeping room.
Hotels:	1 parking space for each 2 guest rooms.
Schools:	Nursery Schools - 1 parking space for each 2 rooms used as nursery rooms. Elementary Schools - 1 parking space for each adult employee plus 3 parking spaces. Junior High Schools - 1 parking space for each adult employee plus 15 parking spaces for each 100 students or major fraction thereof of total enrollment. Senior High Schools - 1 parking space for each adult employee plus 15 parking spaces for each 100 students or major fraction thereof of total enrollment.
Hospitals, Sanatoria, Nursing Homes:	1 parking space for each 500 sq. ft. or major fraction thereof of floor area, exclusive of basement.
Theaters, Auditoria, Churches, Arenas:	1 parking space for each 4 seats or for each 100 sq. ft. or major fraction thereof of assemblage space if no fixed seats.
Mortuary Chapels:	5 parking spaces for each chapel.
Retail Stores:	1 parking space is minimal requirement for every 350 square feet of gross floor area.
Bowling Alley:	3 parking spaces for each bowling lane.

Restaurants:	1 parking space for each 100 sq. ft. or major fraction thereof of floor area not used for storage or food preparation.
Drive-in Restaurants, Snack Bars:	Minimum 25 parking spaces plus 4 sq. ft. of parking for each square foot of floor space in excess of 2,500 sq. ft.
Offices, Professional and Public Buildings:	1 parking space for each 500 sq. ft. or major fraction thereof of floor area exclusive of bulk-storage areas.
Transportation Terminals:	In addition to meeting all applicable standards as enumerated above, transportation terminals shall meet the following: 1 parking space for each employee, 1 parking space for each three seats of the terminal's major carrier vehicle and 1 parking space for each rented vehicle to be based on-site.
Industry, Manufacturing and Business:	1 parking space for each 1,000 sq. ft. of floor area or major fraction thereof for that part of every business, manufacturing and industrial building not catering to retail trade and with floor area over 3,000 sq. ft.

717.1.3-Required off-street parking in all districts shall be located on the same lot as the principal building or use except where it cannot be reasonably provided on the same lot, the Planning Board may authorize residential off-street parking to be located on another lot within 300 feet of the residential uses served as measured along lines of public access. Such parking areas shall be held under the same ownership or lease as the residential uses served and evidence of such control or lease shall be required.

717.1.4-Required off-street parking in all business and industrial districts shall be located on the same lot with the principal building or use, or within 100 feet measured along lines of public access, except that where off-street parking cannot be provided within these limits, the Planning Board may permit such off-street parking to be located a reasonable distance from the principal building or use, measured along lines of public access. Such parking areas shall be held under the same ownership or lease, and evidence of such control or lease shall be required. Such lots shall be located within business or industrial districts.

717.1.5-The surface of driveways for business, industrial and joint residential maneuvering areas and parking areas shall be uniformly graded with a sub-grade consisting of gravel or equivalent materials at least six (6) inches in depth, well compacted and with a wearing surface equivalent in qualities of compaction and durability to fine gravel.

- a) A system of surface drainage shall be provided in such a way that the water run-off shall not run over or across any public sidewalk or street.
- b) Where artificial lighting is provided, it shall be shaded or screened so that no light source shall be visible from outside the area and its access driveways.

717.1.6- [Reserved]

717.1.7-The Thomaston Planning Board may approve the joint use of a parking facility by two or more principal buildings or uses where it is clearly demonstrated that said parking facility will substantially meet the intent of the requirements by reasons of variation in the probable time of maximum use by patrons or employees among such establishments.

717.2 Off-Street Loading Standards

717.2.1-In those districts where off-street loading is required, the following minimum off-street loading bays or loading berths shall be provided and maintained in the case of new construction, alterations, and changes of use:

- a) Office Buildings and Hotels with a gross floor area of more than 100,000 square feet: 1 Bay.
- b) Retail, Wholesale and Industrial Operations with a gross floor area of more than 5,000 square feet:

5,001 to 40,000 sq. ft.	1 Bay
40,001 to 100,000 sq. ft.	2 Bays
100,001 to 160,000 sq. ft.	3 Bays
Each 80,000 square feet over 160,000	1 additional Bay

717.2.2-Each loading bay shall have minimum dimensions of 70 feet by 14 feet and may be located either within a building or outside and adjoining an opening in the building. Every part of such loading bay shall be located completely off the street. In cases where trucks, trailers, or other vehicles larger than the dimensions of the minimum loading bay habitually serve the building in question, additional space shall be provided so that such vehicle shall park or stand completely off the street.

717.2.3-The provisions of this section for off-street loading shall not be construed as prohibiting incidental curbside business deliveries, dispatches, or services, provided that they are in compliance with all applicable State and local traffic regulations.

717.2.4- [Reserved]

717.3 Access and Parking Layout

717.3.1-To limit the proliferation of access points from parking areas to public highways and the resultant strip development, traffic hazards, congestion and other manifestations of commercial or industrial sprawl, each developer in a Commercial or Industrial District shall be required to prepare and implement plans to ameliorate visual and safety concerns associated with highway development. The Thomaston Planning Board shall review all plans and proposals under the terms of this Ordinance and together with the Thomaston Town Manager shall approve or deny plans prior to the obtainment of a building permit. The following standards, based on "Access Management - Improving the Efficiency of Maine Arterials, a Handbook for Local Officials," Maine Department of Transportation, 1994, standards of which are hereby incorporated by reference, shall be considered:

***NOTE:** Copies of all documents incorporated by reference into this or any other Municipal Ordinance are available for inspection at the Thomaston Town Office.*

Ingress and egress shall be controlled and limited and shall consider:

- a) Sight distances along the public right-of-way;
- b) Effects on adjacent public-access points;
- c) Overall traffic-safety considerations;
- d) Turning movements of vehicles contemplated to be using the facility;
- e) Snow removal;

- f) Aesthetic and visual sighting from the public right-of-way; and
- g) Traffic-signalization requirements.

717.3.2-Where sufficient land is available, all traffic turning movements will be accomplished off the public traveled way.

717.3.3-The *Town of Thomaston* reserves the right to designate all ingress and egress points to the public highway and to select areas for the grouping and placement of signs and traffic directions.

717.3.4-All traffic flow in parking areas shall be clearly marked with signs and/or surface directions at all times.

717.3.5-All parking spaces shall be clearly marked

717.3.6-Off-street parking shall be constructed in accordance with Maine State Department of Environmental Protection standards and guidelines.

717.4 Corner Clearances

For purposes of traffic safety in all Districts, no building or structure other than public-utility structures and traffic-control devices may be erected and no vegetation other than shade trees may be maintained above a height of three (3) feet above the plane through the curb grades of intersecting streets within a triangle two sides of which are the edges of the public ways for twenty (20) feet measured from their point of intersection or in the case of rounded street corners, the point of intersection of their tangents. The *Town of Thomaston* shall not be held responsible for violations that lead to accidents.

Section 718 Signs

Purpose

The purpose of regulating signs is to promote and protect the public health, safety and welfare by regulating existing and proposed signs of all types; to protect property values; enhance and protect the physical appearance of Thomaston.

718.1 General

The following shall apply to all signs within the *Town of Thomaston*.

718.1.1 Permit Required Fee

No permanent sign shall hereafter be placed in view of the general public until a permit has been issued by the Thomaston Code Enforcement Officer. Fees shall be in accordance with Section 704.9 of this Ordinance.

Nothing in this Section shall permit the placement of a sign not conforming to the requirements of any other lawfully adopted rules, regulations ordinances, deed restrictions or covenants nor on property not under title, right, or interest of the owner or applicant.

718.1.2 Altering Signs

No sign, erected prior to (effective date of this Ordinance) shall be altered or moved without being brought into compliance with the requirements of this Ordinance. The changing of movable parts of signs that are designed for changes or the re-painting of display matter, or the replacement in-kind of structural parts, shall not be considered as alterations.

718.1.3 Placement

No sign shall be placed so as to obstruct or interfere with free entrance or exit from any door, window, or fire escape.

- a) No sign shall be attached to a standpipe or fire escape.
- b) No sign other than a traffic-control sign or device shall extend more than three (3) feet above the grade of intersecting streets and/or driveways within twenty (20) feet of their point of intersection or of the tangents of the curbs or edges of the pavement or driveway surface.

718.1.4 Area

Sign Area: See *Thomaston Ordinances, Chapter 10, Definitions*.

718.1.5 Maintenance and Repair

All signs, including their supporting structures and other components, shall be kept in good repair and shall be maintained to prevent rust, peeling, or similar deterioration. Vegetation and landscaping adjacent to any sign shall be maintained in a neat and sightly condition, and shall not interfere with the legibility of the sign. Damaged signs shall be repaired or removed within thirty (30) days. Any sign determined by the CEO to be an immediate public-safety hazard shall be removed or repaired within twenty-four (24) hours. The Thomaston Code Enforcement Officer may have it removed or repaired or secured to make it safe at the cost of the owner of the property on which the sign is located.

718.1.6 Obsolete Signs

All signs that cease to advertise a bona fide business conducted or product sold on the property after one (1) year shall be removed upon notification from the Thomaston Code Enforcement Officer. If the sign is not removed, the Thomaston Code Enforcement Officer shall have it removed. The owner of the property on which the sign is located is liable for the costs of removal.

718.1.7 Structural Standards

All signs shall be so constructed of metal, wood, or other approved material and shall be so supported and braced as to provide for the weight of the sign and to withstand wind pressure of at least thirty (30) pounds per square foot of surface. All electrical service shall be installed according to National Electric Code Standards.

718.1.8 Defects

Signs placed within or over the limits of the sidewalks and streets in accordance with permits issued under the terms of this Ordinance shall not be deemed defects in such sidewalks and streets.

718.1.9 Illumination

All illumination shall meet applicable safety codes and standards.

- a) All signs may be illuminated only by stationary non-flashing lights, except those devices that offer essential services to the public such as date, time, and weather conditions.
- b) Light fixtures illuminating signs shall be of a type such that the light source (bulb) is hooded or shielded and not directly visible from adjacent public or private streets or properties. Fixtures used to illuminate signs shall be top mounted and directed downward (i.e. below the horizontal).
- c) In order to prevent internally illuminated signs from becoming light fixtures such signs shall consist of light lettering or symbols on a dark background.

718.1.10 Prohibited Signs in All Districts

- a) Billboards.
- d) Signs on roofs, extending above the main roof line or cornice line of the building on which it is installed.
- e) Signs painted on or applied to any roof or exterior wall.
- f) Feather, flutter, sail, bow or swooper flags, teardrop banners, spinner signs and inflatables.
- g) Any sign not allowed in this Ordinance.

718.1.11 Exempt Signs in All Districts

The following signs do not require a permit.

- a) Real-estate signs not exceeding eight (8) square feet in area that advertise the sale, rental or lease of the premises upon which said signs are located. Real-estate signs may remain for a time period necessary for the conveyance of real property.
- b) Signs denoting the architect, engineer, contractor or funding agency when placed upon work under construction, and not exceeding eight (8) square feet in area. Said signs must be removed within 30 days of the issuance of a certificate of occupancy.
- c) Memorial signs or tablets, names of buildings, and date of erection when cut into any masonry surface or when constructed of bronze or other incombustible materials.

- d) Traffic or other municipal signs, legal notices, railroad crossing signs, danger, and such temporary emergency or non-advertising signs.
- e) Official Business Directional Signs erected and maintained in accordance with the Maine Traveler Information Services Act, Title 23, MRSA, Section 8 1906.
- f) National, state, or municipal flags, or the official flag of any institution as well as Open for Business flags.
- g) Yard sale/garage sale signs provided they do not interfere with pedestrian and vehicular movement, and are erected for no more than five (5) days. Yard sale/garage sale signs shall be removed by the person posting the sign within twenty four (24) hours of the final day of the sale.
- h) Temporary signs shall be allowed for a period of ninety (90) days. Said signs may be extended for an additional ninety (90) day period should the sign be in good condition and at the discretion of the Code Enforcement Officer.

718.2 Signs in Residential Districts

718.2.1 R3 and TR3 Districts

A residential use may display the following:

- a) One attached sign displaying the street number or name of the occupant(s) of the property, or both, not exceeding two (2) square feet in area.
- b) One attached sign identifying permitted uses, or services rendered on the property, not exceeding four (4) square feet in area.

OR

- c) One free-standing sign, which may display the street number, name of the occupant(s), permitted uses, and services rendered on the property, shall be permitted. The area of the sign shall not exceed four (4) square feet; no part of the sign or its supporting framework shall exceed eight (8) feet above ground level; no dimension of the sign board or display area shall exceed four (4) feet, and no part of the sign shall be located within the public right-of-way.
- d) Signs conforming to the above shall be made of traditional materials such as wood, brass, bronze and slate or of contemporary material that have the appearance of traditional materials.

718.2.2 R1 and R2 Districts

718.2.2.1 A parcel with a residential use may display the following:

- a) One attached sign displaying the street number or name of the occupant(s) of the property, or both, not exceeding two (2) square feet in area.
- b) One attached sign identifying permitted uses, or services rendered on the property,

AND

- c) One free-standing sign, which may display the street number, name of the occupant(s), permitted uses, and services rendered on the property. The area of the sign shall not exceed the maximum for the district; no part of the sign or its supporting framework shall exceed eight (8) feet above ground level; no dimension of the sign board or display area shall exceed four (4) feet, and no part of the sign shall be located within the public right-of-way.

- d) The maximum size for either sign shall not exceed six (6) square feet in area in the R2 District or eight (8) square feet in area in the R1 District.
- e) Signs conforming to the above shall be made of traditional materials such as wood, brass, bronze and slate or of contemporary material that have the appearance of traditional materials.

718.2.2.2 Free-Standing Signs for Non-Residential Uses

A parcel with only a non-residential use may display the same attached signs as above only when the Planning Board, as a part of its Conditional Use and/or Site Plan Review, finds that the use requires it and the property is adequate for it. In so determining, the Planning Board must consider the impact on the rural nature of the adjacent area, the type of business, road capacity, road speed limit, road sight distance, open area where each sign is proposed to be placed and the proposed design of the sign(s).

- a) Where buildings are set back forty (40) feet or more as measured from the closest point of the building from the edge of the public way where the sign shall be placed, free-standing signs shall meet the following standards:
 - i. The Planning Board upon review and decision may allow a sign area up to double the otherwise allowable maximum square feet for the district the sign is located in upon finding the maximum sign area otherwise permitted is not adequate for the proposed use of the parcel and the design and location of the sign.
 - ii. No part of the sign or its supporting framework shall exceed twelve (12) feet above ground level measured at any point of the sign. The Planning Board may adjust this dimension to no more than twelve (12) feet above the highest point of ground below the sign when considering signs to be placed on sloping ground upon finding that the maximum height allowed otherwise will not allow good visibility of the sign.
 - iii. No more than one (1) freestanding sign per property shall be permitted.
 - iv. No dimension of the signboard or display area shall exceed eight (8) feet.
 - v. No part of the sign shall be located closer than ten (10) feet from any lot line or curb.
- b) Where buildings are set back less than forty (40) feet as measured from the closest point of the building from the edge of the public way where the sign shall be placed, free-standing signs shall meet the following standards:
 - i. Sign area shall not exceed the maximum allowed in the district.
 - ii. No part of the sign or its supporting framework shall exceed twelve (12) feet above ground level measured at any point of the sign. The Planning Board may adjust this dimension to no more than twelve (12) feet above the highest point of ground below the sign when considering signs to be placed on sloping ground upon finding that the maximum height allowed otherwise will not allow good visibility of the sign.
 - iii. No more than one (1) freestanding sign per property shall be permitted.
 - iv. No dimension of the signboard or display area shall exceed six (6) feet.
 - v. No part of the sign shall be located closer than six (6) feet from any lot line or curb.

- c) Signs conforming to the above shall be made of traditional materials such as wood, brass, bronze and slate or of contemporary material that have the appearance of traditional materials and shall be professionally lettered and finished.

718.2.3 Prohibited Signs in the R1, R2, TR3 and R3 Districts

- a) Neon and internally illuminated signs are strictly prohibited in residential areas.
- b) Changeable signs
- c) Revolving signs
- d) Attached Projecting signs
- e) Awning signs
- f) Marquee signs
- g) Window signs
- h) Iconic signs
- i) Multiple signs
- j) Historic Markers in excess of four (4) square feet in sign area
- k) Any sign not allowed in this ordinance.

718.3 Highway Commercial/Industrial Uses

Commercial/Industrial uses may display signs identifying occupants, goods sold, or services rendered on the property.

718.3.1 Free-Standing Signs

- a) Where buildings are set back not less than forty (40) feet from the edge of the nearest public way, free-standing signs shall meet the following standards:
 - i. Sign area shall not exceed one hundred (100) square feet.
 - ii. The height of the sign shall not exceed twenty-five (25) feet above ground level. No part of the signboard or display area located within twenty (20) feet of the edge of the traveled way as defined by curbing or the pavement edge, shall be located between three (3) feet and ten (10) feet above ground level.
 - iii. No more than one (1) freestanding sign per property shall be permitted.
 - iv. No dimension of the signboard or display area shall exceed sixteen (16) feet.
 - v. No part of the sign shall be located closer than ten (10) feet from any lot line or curb.
 - vi. Changeable Signs shall comply with the rules of buildings set back less than 40 feet.
- b) Where buildings are set back less than forty (40) feet from the edge of the nearest public way, free-standing signs shall meet the following standards:
 - i. Sign area shall not exceed twenty (20) square feet.
 - ii. The height of the sign shall not exceed fifteen (15) feet above ground level. No part of the

signboard or display area located within twenty (20) feet of the edge of the traveled way, as defined by curbing or pavement edge, shall be located between three (3) feet and ten (10) feet above ground level.

- iii. No more than one (1) freestanding sign per property shall be permitted.
- iv. No dimension of the signboard or display area shall exceed six (6) feet.
- v. No part of the sign shall be located closer than six (6) feet from any lot line or curb.

718.3.2 Changeable Signs

- a) May be changed no less than once every 15 seconds.
- b) Must change as rapidly as technologically practicable, with no phasing, rolling scrolling, flashing or blending.
- c) May consist of alphabetic or numeric text on a plain or colored background and may include graphic pictorial or photographic images.
- d) The display may comprise no more than 50% of the surface area of a changeable sign,
- e) No more than one changeable sign with two (2) sides is allowed per lot of record.
- f) The highest point of the display of a changeable sign may not exceed a height of 25 feet above either the centerline of the nearest public way or actual ground level adjacent to the sign, whichever is lower.
- g) Changeable message board signs in existence may continue to exist if the signs:
 - i. Are reasonably incapable of being modified or reprogrammed to comply with this section as amended.
 - ii. Are not replaced, substantially rebuilt, reconstructed or repaired beyond routine maintenance.
- h) The size, intensity of illumination and acceptable rate of change between the time display and the temperature display of a time temperature sign must comply with rules, policies or guidelines adopted by the Maine Department of Transportation. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, Chapter 375, Subchapter 2-A. Time and temperature signs erected prior to September 29, 1995 need not comply with those rules, policies or guidelines.

718.3.3 Attached Parallel Signs

The lowest part of a parallel sign overhanging the public way shall have a minimum pedestrian clearance of eight (8) feet.

- a) A parallel sign shall not extend beyond the side of a building.
- b) The sign area shall not exceed ten percent (10%) of the wall area to which it is attached.

718.3.4 Attached Projecting Signs

The lowest part of a projecting sign overhanging the public way shall have a minimum pedestrian clearance of eight (8) feet.

- a) A projecting sign shall not extend more than six (6) feet from the building face nor beyond a point eighteen (18) inches toward the building from the curb line of the nearest street.
- b) The sign area shall not exceed ten (10) square feet.

718.3.5 Awning or Canopy Signs

No awning or canopy shall extend more than two-thirds (2/3) of the width of the sidewalk, or eight (8) feet from the building, whichever is less, nor beyond a point eighteen (18) inches toward the building from the curb line of the nearest street.

- a) The lowest part of any awning shall have a minimum pedestrian clearance of eight (8) feet.
- b) Lettering shall be limited to the valances.
- c) The sign area shall not exceed twenty (20) square feet.
- d) All awnings or canopies shall be made of fire resistant materials.

718.3.6 Marquee Signs

No marquee shall extend more than two-thirds (2/3) of the width of the sidewalk nor closer than two (2) feet toward the building from the curb line of the nearest street.

- a) The lowest part of any marquee shall have a minimum pedestrian clearance of eight (8) feet.
- b) Lettering shall not extend over one (1) foot above the roof of the canopy or marquee.
- c) The sign area shall not exceed twenty (20) square feet.

718.3.7 Other signs

Window signs indicating only business hours shall not cover more than twenty-five (25) percent of window area and shall not exceed two (2) feet in height. Such signs are also limited by the Section 718.3 aggregate sign area total.

- a) Iconic Signs shall not exceed ten (10) square feet in sign area.
- b) Multiple Signs shall not exceed overall dimensions of forty-eight (48) inches by eighteen (18) inches.
- c) Historic Markers shall not exceed six (6) square feet in sign area.

718.4 Village Commercial and R3A Districts

The purpose of these districts is to provide for small-scale general sales and services, businesses and municipal activities. R3A may also contain a mix of both residential and non-residential buildings. The intent is that the small-town atmosphere of Thomaston be maintained.

718.4.1 Signs shall be permitted only on the front, side and the rear of a building or structure.

718.4.2 Area

- a) On projecting signs having parallel signboards within one (1) foot of each other or, with two (2) sides of the same projecting sign, only one side shall be counted in computing the area.
- b) Total area of wall mounted, projecting and attached signs shall not exceed ten (10) % of the wall area to which it is attached and the total allowable sign area.
- c) A building having a second façade which is visible primarily from a rear street or a rear parking area may have an additional number of signs on the secondary façade which cover up to 5% of the wall area of the secondary façade.
- d) Total allowable sign area of all signs per building shall not exceed two (2) square feet for every foot of ground- floor street frontage to a maximum of one hundred (100) square feet.

718.4.3 Attached Parallel Signs

- a) The lowest part of a parallel sign overhanging the public way shall have a minimum pedestrian clearance of eight (8) feet.
- b) A parallel sign shall not extend beyond the side of a building.
- c) The sign area shall not exceed two (2) feet in height.
- d) Parallel signs shall be made of traditional materials such as wood, brass, bronze and slate or of contemporary material that have the appearance of traditional materials.
- e) Mounting of parallel signs shall be into mortar or other appropriate materials and shall not damage the surrounding brick, granite, or other building components

718.4.4 Projecting and Wall Mounted Signs

- a) Projecting signs at the primary entrance shall be limited to one sign for each business that occupies the ground floor of the building.
- b) One additional sign shall be permitted at the rear entrance of the building.
- c) Each business above the ground floor may have one window sign and one projecting or parallel sign.
- d) A wall mounted directory board shall be permitted on a building at the ground floor level (one at front entrance and one at rear entrance if applicable) and contain name identification for more than one activity or business located in a single building. Each listing shall be no larger than one (1) square foot. A directory board shall be considered to be one wall sign.
- e) Signs shall not alter or obscure an architectural feature component or detail of a structure or building. Interior and window signs shall not result in permanent alteration of any glass.
- f) Signs shall be made of traditional materials such as wood, brass, bronze and slate or of contemporary material that have the appearance of traditional materials.
- g) Projecting and wall mounted signs shall be mounted on black iron, copper or brass mounts using black iron, copper or brass fasteners. A replica of black iron, copper or brass is acceptable.
- h) Mounting of either projecting or wall mounted signs shall be into mortar or other appropriate materials and shall not damage the surrounding brick, granite, or other building components

718.4.5 Awning or Canopy Signs

- a) No awning or canopy shall extend more than two-thirds (2/3) of the width of the sidewalk, or eight (8) feet from the building, whichever is less, nor beyond a point eighteen (18) inches toward the building from the curb line of the nearest street.
- b) The lowest part of any awning or canopy shall have a minimum pedestrian clearance of eight (8) feet.
- c) Lettering shall be limited to the valances.
- d) The sign area shall not exceed twenty (20) square feet.
- e) All awnings or canopies shall be made of fire resistant materials.

718.4.6 Marquee Signs

- a) No marquee shall extend more than two-thirds (2/3) of the width of the sidewalk nor closer than two (2) feet toward the building from the curb line of the nearest street.
- b) The lowest part of any marquee shall have a minimum pedestrian clearance of eight (8) feet.
- c) Lettering shall not extend over one (1) foot above the roof of the canopy or marquee.
- d) The sign area shall not exceed twenty (20) square feet.

718.4.7 Other Signs

- a) Window signs including open for business and business hours shall not cover more than twenty-five (25) percent of window area and shall not exceed two (2) feet in height. Also limited by 718.4.2 d, total sign area.
- b) Iconic Signs shall not exceed ten (10) square feet in sign area.
- c) Multiple Signs shall not exceed overall dimensions of forty-eight (48) inches by eighteen (18) inches.
- d) Historic Markers shall not exceed six (6) square feet in sign area.

718.4.8 Prohibited Signs

- a) External neon and internally illuminated signs.
- b) Animated or Electronic Message Display and Changeable copy signs.
- c) Free standing signs
- d) Revolving Signs
- e) Any sign not allowed in this ordinance.

718.5 Shoreland Commercial District

The purpose of the Shoreland Commercial District is to ensure that these limited areas are retained for water-dependent and marine related businesses only. It is the intent that the small town atmosphere and residential nature of the surrounding area be maintained.

718.5.1 Signs shall be permitted only on the front, side and the rear of a building or structure.

718.5.2 Area

- a) On projecting signs having parallel signboards within one (1) foot of each other or, with two (2) sides of the same projecting sign, only one side shall be counted in computing the area.
- b) Total area of wall mounted, projecting and attached signs shall not exceed ten (10) % of the wall area to which it is attached and the total allowable sign area.
- c) A building having a second façade which is visible primarily from the water may have an additional number of signs on the secondary façade which cover up to 5% of the wall area of the secondary façade.

- d) Total allowable sign area of all signs per building shall not exceed two (2) square feet for every foot of ground- floor street frontage to a maximum of one hundred (100) square feet.
- e) The area of a free standing sign shall not exceed twenty (20) square feet.

718.5.3 Attached Parallel Signs

- a) The lowest part of a parallel sign overhanging the public way shall have a minimum pedestrian clearance of eight (8) feet.
- b) A parallel sign shall not extend beyond the side of a building.
- c) Parallel signs shall be made of traditional materials such as wood, brass, bronze and slate or of contemporary material that have the appearance of traditional materials.

718.5.4 Projecting and Wall Mounted Signs

- a) Projecting signs at the primary entrance shall be limited to one sign for each business that occupies the ground floor of the building.
- b) One additional sign shall be permitted at the rear entrance of the building.
- c) Each business above the ground floor may have one window sign and one projecting or parallel sign.
- d) A wall mounted directory board shall be permitted on a building at the ground floor level (one at front entrance and one at rear entrance if applicable) and contain name identification for more than one activity or business located in a single building. Each listing shall be no larger than one (1) square foot. A directory board shall be considered to be one wall sign.
- e) Signs shall not alter or obscure an architectural feature component or detail of a structure or building. Interior and window signs shall not result in permanent alteration of any glass.
- f) Signs shall be made of traditional materials such as wood, brass, bronze and slate or of contemporary material that have the appearance of traditional materials.
- g) Projecting and wall mounted signs shall be mounted on black iron, copper or brass mounts using black iron, copper or brass fasteners. A replica of black iron, copper or brass is acceptable.

718.5.5 Free Standing Sign

- a) No more than one free-standing sign, which may display the street number, name of the occupant(s), permitted uses, and services rendered on the property, shall be permitted.
- b) No part of the sign or its supporting framework shall exceed six (6) feet above ground level
- c) No vertical dimension of the sign board or display area shall exceed four (4) feet
- d) No part of the sign shall be located within the public right-of-way.

- e) Signs shall be made of traditional materials such as wood, brass, bronze and slate or of contemporary material that have the appearance of traditional materials.

718.5.6 Awning or Canopy Signs

- a) No awning or canopy shall extend more than two-thirds (2/3) of the width of the sidewalk, or eight (8) feet from the building, whichever is less, nor beyond a point eighteen (18) inches toward the building from the curb line of the nearest street.
- b) The lowest part of any awning or canopy shall have a minimum pedestrian clearance of eight (8) feet.
- c) Lettering shall be limited to the valances.
- d) The sign area shall not exceed twenty (20) square feet.
- e) All awnings or canopies shall be made of fire resistant materials.

718.5.7 Other Signs

- a) Window signs including open for business and business hours shall not cover more than twenty-five (25) percent of window area and shall not exceed two (2) feet in height. Also limited by 718.5.2 d, total sign area.
- b) Iconic Signs shall not exceed ten (10) square feet in sign area.
- c) Multiple Signs shall not exceed overall dimensions of forty-eight (48) inches by eighteen (18) inches.
- d) Historic Markers shall not exceed six (6) square feet in sign area.

718.5.8 Prohibited Signs

- a) External neon and internally illuminated signs.
- b) Animated or Electronic Message Display and Changeable copy signs.
- c) Revolving Signs
- d) Any sign not allowed in this ordinance.

Section 719 Residential

719.1 Clustered Residential Development

In all Residential Districts the following special provisions may apply subject to the conditions set forth herein.

Notwithstanding other provisions of this Ordinance relating to space and bulk, the Thomaston Planning Board, in reviewing and approving proposed residential developments located in Thomaston, may modify said provisions related to space and bulk to permit innovative approaches to housing and environmental design in accordance with the following standards. This shall not be construed as granting variances to relieve hardship.

Innovative approaches to residential layout and environmental design shall be subject to the following criteria:

719.1.1-The purpose and intent of this Land Use and Development Ordinance shall be upheld;

719.1.2-There shall be compliance with all State and local codes and ordinances;

719.1.3-Each building shall be an element of an overall plan for site development. Only developments having a total site plan for structures will be considered;

719.1.4-There shall be no approval of any proposed development that exceeds the allowable net residential densities permitted without appeal in the district in which it is located. For the purposes of this Ordinance, net residential density shall be established by the area of residual space available for residential development after deduction of vehicular rights-of-way and land not buildable because of drainage, subsurface conditions or other natural impediment.

719.1.5-Residual open space shall be usable for recreational or other outdoor-living purposes and for preserving large trees, tree groves, woods, ponds, streams, glens, rock outcrops, native plant life and wildlife cover. The use of any open space may be further limited or controlled at the time of final approval where necessary to protect adjacent properties or uses. Residual open space shall be dedicated to the recreational amenity and environmental enhancement of the development and shall be recorded as such. Such dedications may include private covenants or arrangements to preserve the integrity of open spaces and their use for agricultural or conservation purposes.

719.1.6-The developer shall take into consideration the following points, and shall illustrate the treatment of spaces, paths, roads, service and parking areas and other features required in the proposal.

- a) Orientation: buildings and other improvements shall respect scenic vistas and natural features.
- b) Streets: access from public ways, internal circulation and parking shall be designed to provide for vehicular and pedestrian safety and convenience, emergency and fire equipment, snow clearance, street maintenance, delivery and collection services. Streets shall be laid out and constructed consistent with local requirements.
- c) Drainage: adequate provision shall be made for storm waters, with particular concern for the effects of any effluent draining from the site. Erosion resulting from any improvements on the site shall be prevented by landscaping or other means.

- d) Sewage Disposal: adequate provision shall be made for sewage disposal, and shall take into consideration soil conditions and potential pollution of surface or ground waters.
- e) Water Supply: adequate provision shall be made for both ordinary use as well as special fire needs.
- f) Utilities: all utilities shall be installed underground wherever possible. Transformer boxes, pumping stations, and meters shall be located so as not to be unsightly or hazardous to the public.
- g) Recreation: facilities shall be provided consistent with the development proposal.
- h) Buffering: planting, landscaping, disposition and form of buildings and other improvements, or fencing and screening shall be utilized to integrate the proposed development with the landscape and the character of any surrounding development.
- i) Disposition of Buildings: shall recognize the need for natural light and ventilation.

719.1.7-For the purposes of this section, the tract or parcel of land involved must be either in single ownership, or the subject of an application filed jointly by the owners of all the property included.

719.1.8-The developer shall file with the *Town of Thomaston* at the time of submission of final plans a performance guarantee. This may be tendered in the form of a certified check payable to the *Town of Thomaston*, a savings-account passbook issued in the name of the *Town of Thomaston*, or a faithful performance bond running to the *Town of Thomaston* and issued by a surety company acceptable to the municipality. The conditions and amount of such check, passbook or performance bond shall be determined by the Thomaston Town Manager with the advice of various departments or agencies concerned. The amount shall be at least equal to the total cost of furnishing, installing, connecting and completing the entire street grading, paving, storm drainage, and utilities or other improvements specified in the final plan, and shall guarantee the satisfactory completion of all specified improvements.

719.1.9-Common open space shall be dedicated after approval of the project. There shall be no further subdivision of this land, nor buildings constructed upon it without further planning review and that would cause the net residential density to exceed the density permitted in that district.

719.1.10-The common open space(s) shall be shown on the development plan and with appropriate notation on the face thereof to indicate that:

- a) It shall not be used for future building lots.
- b) A part or all of the common open space may, at the option of the *Town of Thomaston*, be dedicated for acceptance by the *Town of Thomaston* for operation as a municipal recreation facility.

719.1.11-If any or all of the common open space is to be reserved for use by the residents, the formation and incorporation by the developer of a neighborhood association shall be required prior to final plat approval.

719.1.12-Covenants for mandatory membership in the neighborhood association setting forth the owner's rights and interest and privileges in the neighborhood association and the common land shall be approved by the Thomaston Planning Board and included in the deed for each lot.

719.1.13-This neighborhood association shall have the responsibility of maintaining the common open space(s).

719.1.14-The neighborhood association shall levy annual charges against all property owners to defray the expenses connected with the maintenance of open space, neighborhood recreational facilities and *Town of Thomaston* assessments.

719.1.15-The developer or sub-divider shall maintain control of such open space(s) and be responsible for their maintenance until development sufficient to support the neighborhood association has taken place or, alternatively, the objectives of clustering have been met. Such determination shall be made by the Thomaston Planning Board upon request of the neighborhood association or the developer or sub-divider.

719.2 Conversion of Existing Residential Structures

In all Residential Districts the following provisions shall apply to conversion of residential structures existing on the effective date of adoption or amendment of the following provisions of this Ordinance.

719.2.1 Apartment Buildings

- a) All required frontage, setback, building coverage, side and rear yard, building height, and setback from streams, water bodies and wetlands standards shall be met.
- b) The maximum net residential density for buildings served by public sewer and water shall not exceed four (4) dwelling units/net residential acre; a minimum land area per dwelling unit of 10,000 square feet. Buildings not served by public sewer shall conform to the density and minimum area per dwelling unit required in the district and to the requirements of the State of Maine Plumbing Code.
- c) Each apartment unit shall contain complete cooking and bathroom facilities for the exclusive use of residents thereof and shall contain the following minimum floor areas:

Type of Apartment	Square Feet
Efficiency or studio.....	425
1 Bedroom	570
2 Bedroom	700
3 Bedroom	850
4 Bedroom	1,020

- d) There shall be no exterior changes to the street-front of the residence. Other exterior alterations shall be limited to those required to comply with applicable health, building, and fire safety codes and shall not substantially alter the single-family appearance of the residence.
- e) Off-street parking shall be provided in accordance with Section 717.1 of this ordinance.
- f) No parking shall be located within the minimum setback from street centerlines or from side and rear lot lines.

719.2.2 Bed and Breakfast/Tourist Homes

- a) All required frontage, setback, building coverage, side and rear yard, building height, and setback from streams, water bodies and wetlands standards shall be met.
- b) Not more than four (4) sleeping rooms, in addition to those occupied by the residents of the building, shall be permitted to be rented. Buildings not served by public sewer shall conform to the requirements of the State of Maine Plumbing Code.

- c) There shall be no exterior changes to the street-front of the residence. Other exterior alterations shall be limited to those required to comply with applicable health, building, and fire-safety codes and shall not substantially alter the single-family appearance of the residence.
- d) Off-street parking shall be provided in accordance with Section 717.1 of this ordinance.
- e) No parking shall be located within the minimum setback from street centerlines or from side and rear lot lines.

719.2.3 Rooming Houses

- a) All required frontage, setback, building coverage, side and rear yard, building height, and setback from streams, water bodies and wetlands standards shall be met.
- b) Not more than four (4) sleeping rooms, in addition to those occupied by the residents of the building, shall be permitted to be rented. Buildings not served by public sewer shall conform to the requirements of the State of Maine Plumbing Code.
- c) At least one (1) complete bathroom shall be provided for every two (2) rented sleeping rooms.
- d) There shall be no exterior changes to the street-front of the residence. Other exterior alterations shall be limited to those required to comply with applicable health, building, and fire-safety codes and shall not substantially alter the single-family appearance of the residence.
- e) Off-street parking shall be provided in accordance with Section 717.1 of this ordinance.
- f) No parking shall be located within the minimum setback from street centerlines or from side and rear lot lines.

Section 720 Street Design Standards

720.1 Minimum Standard for Street Design and Construction

The design of streets shall provide for proper continuation of streets from adjacent development and for proper projection of streets into adjacent un-subdivided and open land.

720.2 Acceptance of Streets and Ways

720.2.1-A street or way constructed on private lands, by the owner(s) thereof, and not dedicated for public travel prior to the date of enactment of this Ordinance, shall be laid out and accepted as a public street or way by the appropriate vote at Town Meeting only upon the following conditions:

- a) The owner (shall give the *Town of Thomaston* a deed to the property within the boundaries of the street at the time of its acceptance by the *Town of Thomaston*.
- b) A plan of said street or way shall be recorded in the Knox County Registry of Deeds at the time of its acceptance.
- c) A petition for the laying out and acceptance of said street or way shall be submitted to the *Town of Thomaston* upon a form to be prescribed by the Thomaston Town Manager.

Said petition shall be accompanied by a plan, profile and cross section of said street or way as follows:

- i. An "as-built" plan drawn when practical to a scale of 40 feet to 1 inch, and to be on one or more sheets of paper not exceeding 24 inches by 36 inches in size. Said plan shall show the north point, the location and ownership of all adjoining lots of land, passageways, street lights and electric lines, boundary monuments, waterways, topography and natural drainage courses with contour at not greater than two (2) feet intervals, all angles, bearings and radii necessary for the plotting of said street and lots and their reproduction on the ground, and the distance to the nearest established street or way, together with the stations of their side lines.
- ii. A profile of said street or way drawn to a horizontal scale of 40 feet to 1 inch, and a vertical scale of 4 feet to 1 inch. Said profile shall show the profile of the sidelines and centerline of said street or way and the proposed grades thereof. Any buildings abutting on said street or way shall be shown on said profile.
- iii. A cross-section of said street or way drawn to a horizontal scale of 5 feet to 1 inch and a vertical scale of 1 foot to 1 inch.
- iv. The location and size of the proposed water and/or sewer mains in accordance with this Ordinance.

720.2.2-Said street or way shall be previously constructed in accordance with the following specifications:

- a) **General.** All streets shall intersect at right angles wherever possible, but under no circumstances shall they intersect at an angle of less than sixty (60) degrees. "T" intersections formed on opposite sides of the same collector street shall not be closer than 200 feet, center-line to center-line. Street lines at intersections and curves shall be so designed as to permit adequate visibility for both pedes-

trian and vehicular traffic. Curves in general shall have a minimum center-line radius of 100 feet. Curb-line radius at street intersections should be at least 20 feet. A dead-end street or cul-de-sac shall be provided with a suitable turnaround at the closed end. When a turning circle is used, it shall have a minimum outside radius of 75 feet. Grades of all streets shall be at a reasonable minimum, but in no case shall the grade be less than 0.5% or more than 6%, unless specifically approved the Thomaston Planning Board. The construction of all streets will include the removal of all stumps, roots, brush, perishable materials and all trees not intended for preservation. All loam, loamy material and clay shall be removed from the street or way to the depth specified by the Thomaston Town Manager. All streets shall have a crown to provide for proper drainage. The crown shall be a minimum of 1/8" per running foot of roadway width. The right-of-way lines of all streets shall be marked with granite monuments sufficient to reproduce the right-of-way lines. Limitations (if any) on the length of the roadway shall be as approved by the Road Commissioner and Fire Chief.

- b) **Local Residential Streets.** All local residential streets shall have a minimum street right-of-way width of 60 feet. The street shall be graded to a sub-grade of not less than 12 inches of base gravel and 6 inches of 1½" minus with a total of 18" compacted in the roadway location and driveway areas, and not less than 8 inches in the sidewalk area below the parallel to the finished grade on the plans, profiles and cross sections of said street or way. The sub-grade shall be carefully shaped and thoroughly compacted before gravel is set in place. When a minimum length of 300 feet (or the entire length of the street if it is less than 300 feet long) has been excavated to sub-grade and this sub-grade properly prepared for the gravel, the Thomaston Town Manager or his or her designated representative shall be notified. His or her written approval of the sub-grade must be obtained prior to the placing of gravel. The roadway shall be built to a minimum thickness of 18 inches with heavy road gravel that meets the approval of the Thomaston Town Manager. The gravel shall be placed in compacted layers of not more than 8 inches each in the sidewalk areas. Before any surface material is placed on the roadway, sidewalk, or driveway areas, the work shall again be inspected and approved in writing by the Thomaston Town Manager or his or her designated representative. The roadway, sidewalk and driveway areas shall then be covered with 2.5 inches of bituminous concrete properly prepared and laid in two courses of .75 inch of surface course and 1.75 inch of base course each, after compaction, in accordance with specifications prepared by the Town of Thomaston.

The 60-foot minimum width of the street right-of-way shall be divided in the following manner:

- i. A 28-foot roadway consisting of two 10-foot lanes for traffic or as recommended by the Thomaston Town Manager or his or her designated representative.
 - ii. A curbing made of bituminous concrete or better with a minimum height of 6 inches; and a 3-foot esplanade; and a 5-foot sidewalk, unless adequate pedestrian walkways are provided elsewhere; and a 2-foot buffer zone shall be provided.
 - iii. The site of the roadway to the side containing the sidewalk shall have an 8-foot esplanade commencing at the terminus of the roadway pavement and ending at the terminus of the roadway right-of-way. This area shall be loamed and seeded.
- c) **Collector Streets.** All collector streets shall be designed and constructed in accordance with the specifications for local residential streets, except that paved traveled surface shall be at least 32 feet in width.

- d) **Arterial Streets.** All arterial streets shall have minimum right-of-way width of 60 feet and a roadway of 40 feet in width. The street shall be graded to a sub-grade of not less than 24 inches in the roadway location and driveway areas below the parallel to the finished grade as shown on the plans, profiles, and cross-sections of said street or way. The sub-grade shall be carefully shaped and thoroughly compacted before gravel is set in place. When a minimum length of 300 feet (or the entire length of the street if it is less than 300 feet long) has been excavated to sub-grade and this sub-grade properly prepared for the gravel, the Thomaston Town Manager shall be notified. His or her written approval of the sub-grade must be obtained prior to the placing of gravel. The roadway shall be built to a minimum thickness of 18 inches with heavy road gravel that meets the approval of the Town. The gravel shall be placed in compacted layers of not more than 6 inches in the roadway and driveway areas. Before any surface material is placed on the roadway or driveway areas, the work shall again be inspected and approved in writing by the Thomaston Town Manager. The roadway and driveway areas shall then be covered with 2.5 inches of compacted bituminous concrete properly prepared and laid in two courses of each consisting of .75 inch of surface course and 1.75 inches of base course in accordance with specifications prepared by the Thomaston Town Manager

720.2.3-The developer at his or her expense shall perform all engineering work, including the setting of grade stakes necessary for the construction of the street and sidewalks, and storm sewers.

720.2.4-Any sewers and appurtenances, drains, including house drains, and catch basins that are to be built in the street or sidewalk and all underground utilities, and their respective services, shall be constructed before any road materials is placed. The sole exception shall be for house connections to serve lots where no construction has begun prior to the placing of such road material.

720.2.5-Whenever it shall be deemed necessary by the Thomaston Planning Board, after consulting with the Thomaston Town Manager, that a storm sewer shall be constructed to serve the street under consideration, such storm sewer shall be completed before the gravel or road material is placed thereon. Said sewer shall be built by the developer in accordance with the following method: the developer shall cause the storm sewers and appurtenances, including catch basins, to be built to the specifications of the Thomaston Town Manager. When said street has been accepted, said sewers shall be deeded to the *Town of Thomaston* as a public sewer at no cost to the *Town of Thomaston*.

720.2.6-When reasonably available, a water main of at least 8 inches in diameter must exist for the use of buildings, residents and occupants of the street to be accepted. The Chief of the Thomaston Fire Department must, in writing, certify that adequate water service for sufficient fire protection exists. It shall be the policy of the *Town of Thomaston* to cause the installation of such fire hydrants as may be required for fire protection at the same time as the installation of the water main.

720.3 Acceptance of Streets and Ways required by Public Interest

Notwithstanding the provisions of any other Section hereof, the *Town of Thomaston* may at any time lay out and accept any street or way in the *Town of Thomaston*, as a public street or way of said Town whenever the general public interest so requires. The cost of said street or way may be borne by said Town.

720.4 Curbs and Sidewalks

The Thomaston Planning Board may require curbing on both sides of any proposed street of a type approved by the Thomaston Town Manager. Sidewalks are required per Section 720.2.2(b)(ii), above, on any road or street proposed to be dedicated as a public street per Section 720.2 and in all Subdivisions per Article III of this Ordinance.

720.5 Easements

The Thomaston Planning Board may require easements for sewerage, other utilities, drainage, and stream protection. In general, easements shall not be less than twenty (20) feet in width. Wider easements may be required

720.6 No Street or Way to be accepted until After Report by the Thomaston Planning Board and the Thomaston Town Manager

No street or way shall be laid out and accepted by the Legislative Body until the Thomaston Planning Board and the Thomaston Town Manager shall have made a careful investigation thereof, and shall have reported to the Thomaston Legislative Body their recommendations in writing with respect thereto.

720.7 Private Streets and Ways

Private streets and ways may be constructed within the *Town of Thomaston* upon showing by the applicant that the public health, safety and welfare will be maintained. It shall be clearly demonstrated, in written form, that the proposed private street will be adequately maintained, will provide sufficient spaces for emergency-vehicle access, will conveniently serve its intended properties and will not exceed the maximum permissible lengths established by the *Town of Thomaston*.

- a) A Private Way shall be a fifty (50) foot-wide private way plotted by a registered land surveyor and approved by the Planning Board, dedicated and recorded.
- b) Any proposed Private Way serving three or more lots or dwelling units shall meet the submission, design and construction criteria identified in Section 729-Road Design and Construction Standards.
- c) No additional lots or dwelling units may be created on an existing Private Way that would increase the number of lots or dwelling units serviced by such Private Way to three or more without upgrading that Private Way to meet the submission, design and construction criteria identified in Section 729-Road Design and Construction Standards.
- d) The requirement for a cul-de-sac identified in Section 729.2.7-Dead-End Roads may be waived by the Planning Board upon their review and approval by the *Town of Thomaston* Fire Chief of such Private Way.
- e) Each lot accessed by a Private Way may be improved with no more than two (2) dwelling units and related accessory buildings.
- f) Any Private Way that is created to service three (3) or more lots or dwelling units shall have legal documentation addressing maintenance, including snow removal of the Private Way and a funding mechanism to support such activities.
- g) All plans for Private Ways shall contain the following statement:

"The *Town of Thomaston* shall not be responsible for the maintenance, repair, snow removal or similar services for the Private Way shown on this plan."

720.8 “As-Built” Plans

All improvements must be certified as built to the design approved by the Planning Board by a Certified Maine Engineer chosen by the Town at the expense of the developer within 90 days of completion.

Section 721 Manufactured/Mobile Home Parks

721.1 Licenses

No person, firm, or corporation shall establish or maintain a Manufactured/Mobile Home Park within the *Town of Thomaston* without a license issued in conformity with the provisions of this Ordinance. A Manufactured/Mobile Home Park in existence prior to the adoption of this Ordinance may be enlarged only if the extension complies with the terms as specified herein.

721.1.1-Application for a Manufactured/Mobile Home Park

- a) The Application shall be filed with the Thomaston Code Enforcement Officer.
- b) The Thomaston Code Enforcement Officer shall present said application to the Thomaston Planning Board for review as a subdivision except that applications for license renewals are not subject to Thomaston Planning Board review.
- c) The Thomaston Planning Board shall review plans of the proposal and approve, approve with conditions, or deny approval of the proposal on the basis of standards contained herein and as contained in the *Town of Thomaston* Subdivision Regulations.
- d) The Thomaston Planning Board shall inform the Thomaston Code Enforcement Officer of its decision and s/he shall act on the application.

721.1.2-A fee in accordance with Section 704.8 of this Ordinance, shall accompany each application, for a license or renewal.

- a) Each such license shall expire on the first day of April next following date of issuance.
- b) Before any license shall be renewed, the premises shall be subject to inspection by the *Town of Thomaston* Health and Code Enforcement Officers.
- c) If they shall find all requirements of this and other *Town of Thomaston* and State Ordinances and Laws have been complied with, they shall certify same.

721.1.3-Such license shall be conspicuously posted on the premises at all times and shall not be transferable.

721.1.4-The Thomaston Planning Board are hereby authorized to revoke any licenses issued pursuant to the terms of this Ordinance if after due investigation they determine the holder thereof has violated any of the provisions of this Ordinance, after notice and hearing.

721.1.5-Manufactured/Mobile homes manufactured after September 1, 1974 shall be approved and certified by the Maine State Housing Authority or an approved agent prior to locating in the *Town of Thomaston*.

721.2 Design

Manufactured/Mobile Home Parks or subdivisions shall be constructed and installed in accordance with the following minimum standards and shall provide areas for the location and development of manufactured/mobile homes, as defined in Chapter 10 of this Ordinance.

721.2.1 Streets

Design and construction of all manufactured/mobile home park streets shall be in accordance with the specifications established in Section 729 of this Ordinance.

721.2.2 Utilities

- a) Sewerage systems may be designed to collect sewage from each manufactured/mobile home and dispose of it in a common septic-tank disposal facility provided that the design, construction, and operation of said facility are in compliance with the specifications of the State of Maine Plumbing Code.
- b) Water systems shall be capable of delivering 250 gallons per day per lot.

721.2.3 Minimum Area, Frontage and Density

- a) A Manufactured/Mobile Home Park Lot shall conform to the standards for minimum lot size and frontage contained in 30A MRS 4358(3).
- b) There shall be a minimum distance of 30 feet between manufactured/mobile homes and/or other structures.
- c) The density provisions of this Ordinance shall be fully complied with.

721.2.4 Setback Requirements

- a) There shall be a minimum distance of 60 feet between mobile-home lot lines and public road rights-of-way located outside the boundaries of the Manufactured/Mobile Home Park.
- b) There shall be a minimum distance of 25 feet between boundaries not fronting on a public right-of-way and mobile-home stands.
- c) There shall be a minimum distance of 15 feet between interior park rights-of-way and mobile-home stands.

721.2.5 Refuse Disposal

- a) Each manufactured/mobile home lot shall be provided with an area for refuse storage.
- b) Within a maximum of 150 feet from each manufactured/mobile home lot, there shall be a fly-tight, watertight, and rodent-proof container capable of storing the amount of refuse that the manufactured/mobile homes for which it was designed could generate in one week.
- c) The manufactured/mobile home park management shall dispose of refuse from said containers by transporting the refuse in a closed truck to the *Town of Thomaston* disposal area at least once a week.

721.2.6 Fire Protection

- a) Functioning fire extinguishers shall be kept in all service buildings.
- b) It shall be the responsibility of the developer to provide adequate fire protection with the installation of a fire hydrant not more than 1,000 feet of the entrance of the park and at the expense of the developer. All future hydrant rental fees shall be borne by the *Town of Thomaston*.
- c) In the absence of a public water supply, the developer shall construct a fire pond on site and install a dry hydrant hook-up.
- d) If another water body is readily available, it may be utilized, providing it has the approval of the fire chief and its property owner.
- e) A manufactured/mobile home park shall be provided suitable ingress and egress so that every manufactured/mobile home may be readily serviced in emergency situations.

721.2.7 Responsibilities of Manufactured/Mobile Home Park Management

- a) The management of all manufactured/mobile home parks shall be responsible for operating their respective parks in accordance with all *Town of Thomaston* codes and ordinances and all State laws and regulations.
- b) The Manufactured/mobile home Park management shall maintain a register of all park residents and notify the Thomaston Assessors of all impending arrivals or departures or changes in ownership.
- c) The maintenance of all open space areas, roads, and utilities in a manufactured/mobile home park shall be the responsibility of the manufactured/mobile home park management.

721.2.8 Responsibilities of Manufactured/Mobile Home Park Occupants

Manufactured/mobile home park occupants shall be responsible for maintaining their manufactured/mobile home lots in an orderly condition and preventing the accumulation of refuse on manufactured/mobile home lots or under a manufactured/mobile home.

Section 722 Individual Manufactured/Mobile Homes

722.1 Permits

No person, firm, or corporation shall erect, move, place, add to, or structurally alter a manufactured/mobile home without a permit issued by the Thomaston Code Enforcement Officer, in accordance with the provisions of Section 704 Administration, of this Ordinance.

722.2 Design

Manufactured/mobile homes shall be constructed and installed in accordance with the following minimum standards.

722.2.1. Construction

A manufactured/mobile home shall be a minimum of 14 feet wide and contain not less than 750 square feet of floor area.

722.2.2. Placement

Each manufactured/mobile home shall be placed on a permanent foundation. This may be:

- a) A poured concrete or concrete block cellar; or
A poured concrete frost wall or grade beam enclosing a crawl space; or
A concrete slab.
- b) There shall be not more than 20 inches from the top of the slab to the bottom of a manufactured/mobile home.
- c) All side and end openings shall be enclosed with metal sheathing, concrete block, pressure-treated wood or plywood, or other permanent material.
- d) There shall be an access door in the sheathing to permit service to utilities.
- e) No permanent additions, foundations, lean-to, studs, or rooms shall be added to any manufactured/mobile home until a building permit has been obtained from the Thomaston Code Enforcement Officer.

722.2.3. Utilities

- a) All interior and exterior plumbing shall be in compliance with the State of Maine Plumbing Code.
- b) All electrical installations shall be in compliance with the National Electric Code or with requirements of the Central Maine Power Company.
- c) Sewerage systems shall be in compliance with the specifications of the State of Maine Plumbing Code and lots shall be subject to soil testing to ensure that private sewerage disposal, if required, is acceptable.

722.2.4. Lot Size and Setbacks

Lot sizes and setbacks shall be as required for single-family dwellings in each District where permitted, or as required in manufactured/mobile homes parks under Section 721.

722.3 Modular Homes

Modular homes that meet the requirements of the state manufactured-housing act shall be treated as single-family homes, provided that they are located on a permanent foundation. Modular homes shall meet the provisions of the municipality's building code, namely IRC and IBC International Building Code (2009) edition, as published by the International Code Council.

722.4 Trailers and RVs within Thomaston

Recreational vehicles (RVs) and trailers that are unregistered are not allowed within Thomaston, except that the storage of unoccupied RVs or trailers will be permitted. The intent of this paragraph is not to prevent occasional, short-term family occupancy of a stored RV or trailer, not to exceed 30 days in any calendar year, provided that no connection to sanitary facilities is maintained and that approved sanitary facilities are available nearby.

ARTICLE III LAND SUBDIVISIONS

Section 723 Purpose

The purposes of these regulations are to ensure the comfort, convenience, safety, health and welfare of the people of the *Town of Thomaston*, to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving subdivisions in the *Town of Thomaston*, the Thomaston 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. 4404.

723.1-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 floodplains; the nature of soils and subsoil 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; including minimum lot size recommendations as recommended by the Department of Health Engineering, State of Maine Subsurface Wastewater Disposal Rules.

723.2-Has sufficient water available for the reasonable foreseeable needs of the subdivision;

723.3-Will not causes an unreasonable burden on an existing water supply, if one is to be utilized;

723.4-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;

723.5-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 and, if the proposed subdivision requires driveways or entrances onto a state or state-aid highway located outside the urban-compact area of an urban- compact municipality as defined by Title 23, section 754, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23, section 704 and any rules adopted under that section;

723.6-Will provide for adequate solid and sewage-waste disposal;

723.7-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;

723.8-Will not have an undue adverse affect 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;

723.9-Is in conformance with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land-use plan, if any. In making this determination, the municipal reviewing authority is authorized to interpret these regulations and plans;

723.10-The sub-divider has adequate financial and technical capacity to meet the above stated standards.

723.11-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 M.P.S.A. 4956, 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.

723.12-Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water; and;

723.13-The sub-divider 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 sub-divider will determine the 100-year flood elevation and flood-hazard boundaries within the subdivision. The proposed subdivision plan shall include a condition of plan 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.

723.14-All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as a part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district.

723.15-Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For the purposes of this section, "river, stream or brook" has the same meaning as in 38 MRS Section 480B, Subsection 9.

723.16-The proposed subdivision will provide for adequate storm-water management.

723.17-If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in 38 MRS Section 480B, none of the lots created within the subdivision have a lot-depth to shore-frontage ratio greater than 5 to 1.

723.18 – Lake Phosphorus Concentration.

The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision; and

723.19 – Impact on adjoining municipality.

For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe condition with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.

723.20 – Lands subject to liquidation harvesting.

Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12 Section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the municipal reviewing authority must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. A municipal reviewing authority may request technical assistance from the Department of Conservation, Bureau of Forestry to

determine whether a rule violation has occurred, or the municipal reviewing authority may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If a municipal reviewing authority requests technical assistance from the bureau, the bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. The bureau shall provide a written copy of its find and determination to the municipal reviewing authority within 30 days of receipt of the municipal reviewing authority's request. If the bureau notifies a municipal reviewing authority that the bureau will not provide assistance, the municipal reviewing authority may require a subdivision applicant to provide a determination certified by a licensed forester.

For the purpose of this subsection, "liquidation harvesting" has the same meaning as Title 12, section 8868, subsection 6 and "parcel" means a contiguous area within one municipality, township or plantation owned by one person or a group of persons in common or joint ownership. This subsection takes effect on the effective date of rules adopted pursuant to Title 12, section 8869, subsection 14.

Section 724 Authority and Administration

724.1 Authority

These regulations are enacted under the authority granted to the *Town of Thomaston* by the statutes of the State of Maine, and in accordance with the provisions of Title 30-A of Maine Revised Statutes Annotated, Section 3001.

724.2 Administration

The provisions of these regulations shall apply to all of the land proposed for subdivision within the boundaries of the *Town of Thomaston* and shall be administered by the *Town of Thomaston* Planning Board.

Section 725 Pre-Application Procedure (Step One)

725.1 Thomaston Planning Board Agenda

At each stage of the process of subdivision review, an applicant shall request to be placed on the Thomaston Planning Board's agenda at least twenty one (21) days prior to the regularly scheduled meeting at which s/he wishes to be heard. Submission requirements shall be accompanied by the appropriate documentation as prescribed by the Thomaston Planning Board and any required fee.

725.2 Pre-Application Meeting

725.2.1-The applicant shall appear informally to discuss the proposed subdivision at a regular meeting of the Thomaston Planning Board.

725.2.2-At this meeting the applicant shall submit:

- a) The fee required for the pre-application meeting.
- b) The Pre-Application Sketch Plan: This sketch may be a free-hand drawing based on the *Town of Thomaston* 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 super-imposed on a copy of the *Town of Thomaston* tax map.

725.2.3-On-Site Inspection

The Thomaston Planning Board at the pre-application meeting shall schedule an on-site inspection of the land to be subdivided. This inspection may be jointly attended by the Thomaston Planning Board and the applicant.

- a) A site visit must be preceded by public notice and at which the public has a right to be present under FOAA.
- b) It is enough for the purposes of giving notice under FOAA for the board to announce the date, time and place of the site visit without also providing additional public notice by other means if the announcement is made at a meeting which itself complied with FOAA notice requirements.
- c) Questions may be asked by board members however they have an obligation not to discuss substantive issues about the site or the application with each other, the applicant or anyone else.
- d) A site visit is not a public hearing therefore members of the general public may attend but have no statutory right to ask questions or offer comments under FOAA.
- e) The applicant or anyone else shall not conduct a demonstration to prove a point which might be in controversy about the application
- f) The board needs note for the written record at the time of the next board meeting the fact that a site visit was conducted and what information the visit generated.

725.2.4-Purpose of Pre-Application and Site Inspection

The purpose of both the pre-application meeting and site inspection is to give the Thomaston Planning Board a clear understanding of what is proposed, and what is possible. Subsequent filing of a Subdivision application must be within six (6) months of the application meeting.

725.2.5-Applicants Rights not vested

Submissions and attendance at the pre-application meeting shall create no binding commitments between the Applicant and the Thomaston 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 726 Preliminary Plan Procedure (Step Two)

726.1 Procedure

726.1.1-Within six months of the pre-application meeting the applicant shall submit an application for approval of the preliminary plan with the appropriate fee. If an application is not submitted within this period of time, the Thomaston Planning Board shall require a new pre-application meeting.

726.1.2-The applicant shall request to be placed on the Thomaston Planning Board agenda twenty-one (21) days prior to the next regularly scheduled meeting at which s/he wishes to be heard. The applicant shall include with the request a single copy of the preliminary plan for the purpose of review by the *Town of Thomaston* staff members, along with the engineering principal, and for the sole purpose of reviewing and making any needed changes before the actual meeting of the Planning Board.

726.1.3-Upon receiving an application for preliminary plan approval, at a regularly scheduled Thomaston Planning Board meeting, the Thomaston Planning Board or their authorized agent shall issue the applicant a dated receipt.

726.1.4-Within thirty (30) days from the receipt of an application the Thomaston Planning Board shall notify the applicant in writing that the application is either complete or incomplete. If the application is incomplete, the Thomaston Planning Board shall notify the applicant, in writing, of the specific steps necessary to make a complete application.

726.1.5-Upon receiving an application the Thomaston Planning Board shall notify all property owners within 500 feet of the proposed subdivision, specifying the location and a general description of the project.

726.1.6-A public hearing shall be held within thirty (30) days of complete preliminary-plan application. The Thomaston Planning Board shall give notice in two publications of a newspaper having general circulation in the municipality, of the date, time and place of the hearing. The date of the first publication shall be at least seven (7) days prior to the hearing.

726.1.7-The Thomaston 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 Thomaston 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 Thomaston Planning Board, may be waived without jeopardy to the public health, safety and general welfare.
- c) The amount of guarantee that the Thomaston Planning Board will require as a prerequisite of Final Plan Approval.

726.1.8-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.

726.1.9-Prior to the approval of a final plan, the Thomaston Planning Board may require additional changes in the final plan as the result of new information.

726.2 Preliminary-Plan Submission Requirements

The complete preliminary-plan submission requirements shall consist of the following information:

726.2.1 The Subdivision Application

The applicant shall complete and sign five (5) copies of the subdivision application.

726.2.2 Fee

The applicant shall submit the appropriate preliminary-plan fee.

726.2.3 Location Map

Seven (7) copies of a location map showing the relationship of the proposed subdivision to adjacent properties and the surrounding area shall accompany the preliminary plan. The location map shall show all the area within five hundred (500) feet of any property line within the proposed subdivision. The location map shall show:

- a) Names of existing and proposed roads.
- b) Boundaries of land-use districts.
- c) Names of all owners of property abutting or directly across the 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.
- e) Existing utilities.

726.2.4 Preliminary Plan

The preliminary plan shall be submitted in five (5) copies that 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 shall be 24" by 36" inches. In addition seven (7) copies of the plan reduced to a size of 11" by 17" 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 be 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, rights-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 in the subdivision.
- e) Contour lines at the interval specified by the Thomaston 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 Development of 18 acres or more shall submit hydro-geologic information and impact assessments.

- g) Indication of the type of sewage disposal to be used in the subdivision.
 - i. When sewage disposal is to be accomplished by connection to the public sewer, a letter from the Sewer District indicating that there is adequate capacity within the District's system to transport and treat the sewage shall be submitted.
 - ii. When sewage disposal is to be accomplished by sub-surface sewage disposal systems, test-pit analyses, prepared by a licensed Site Evaluator shall be provided. A map showing all test pits dug on the site shall be submitted.
- h) Indication of the type of water-supply system (to be used in the subdivision.
- i) The date the plan was prepared, magnetic north point, graphic map scale, name and addresses of the record owner, sub-divider, and surveyor who prepared the plan.
- j) The names, addresses, and telephone numbers of all property owners within five hundred (500) feet of the proposed subdivision.
- 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. Wherever possible, prime farmland and soils shall be reserved as open space as well as significant forest parcels and deeryards, as part of the final approval.
- 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) Lines or dots in the center of proposed streets or roads every 50 feet to aid in the assignment of numbers to structures subsequently constructed per Ch. 1, Article XIV, Thomaston Road Naming and Numbering Ordinance, Section 114.6.2

Section 727 Final Plan Review Procedures (Step Three)

727.1 Procedure

727.1.1-Within six (6) months after approval of a preliminary plan, the applicant shall submit the final plat plan and supporting documentation for Final Plan review. If the final plan is not submitted to the Thomaston Planning Board within this period, the Thomaston Planning Board may refuse, without prejudice, to act on the final plan and may require resubmission of the preliminary plan.

727.1.2-The appropriate fee shall accompany all applications for Final Plan approval.

727.1.3-Prior to the 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 proposed to provide a central water-supply system.
- b) The servicing sewer district, if an existing public sewage-disposal system is to be used.
- c) Maine Department of Human Services, if a centralized or shared subsurface sewage-disposal system(s) is to be utilized.

727.1.4-The applicant or his duly authorized representative shall attend a regularly scheduled meeting of the Thomaston Planning Board to discuss the Final Plan.

727.1.5-The Thomaston Code Enforcement Officer shall solicit comments from the Road Commissioner and Fire Chief on the proposed subdivision including the number of lots proposed and the length of roadways. The Thomaston Planning Board shall request in writing that these officials comment upon the facilities to service the proposed subdivision as well as require the developer to present documentation that the driveway/entrance conform to rules applying to state roads. No building permit shall be issued until a entrance permit has been issued by the MDOT.

727.2 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 Thomaston Town Office. The plans shall be drawn to not more than one hundred (100) feet to the inch. Where practical, the sheet size of the drawings shall be 24 inches by 36 inches. Space shall be reserved on the drawing for conditions the Thomaston Planning Board may impose and the endorsement of the Thomaston Planning Board. In addition seven (7) copies of the Final Plan reduced to a size of 8½ inches by 11 inches shall be submitted. The application for Final Plan approval shall include the following:

727.2.1-All of the information presented on the preliminary plan and location map and any amendments thereto as required by the Thomaston Planning Board.

727.2.2-The name, registration number, and seal of the land surveyor, architect, engineer, or planning consultant who prepared the plan.

727.2.3-Road names, pedestrian ways, easements, open spaces and other spaces to be reserved for or dedi-

cated to public use and/or ownership.

727.2.4-Sufficient data acceptable to the Thomaston 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 lines should be tied to reference points previously established.

727.2.5-A copy of such covenants or deed restrictions, if any, as are intended to cover any part of or all of the tract.

727.2.6-Construction drawings for roads, sanitary sewers, and storm-drainage systems.

727.2.7-Lots and blocks within the subdivision numbered in accordance with local practice.

727.2.8-Permanent monuments at all outside corners of the subdivision tract and referenced in the Final Plan.

727.2.9-Written offers of cession, in a form certified as satisfactory by the Thomaston Town Attorney, of all land proposed to be dedicated to the *Town of Thomaston*.

727.2.10-A performance bond or guarantee in a form and amount meeting the requirements of Section 731 to secure the completion of all improvements required by the Thomaston Planning Board, and written evidence that the Select Board has approved the bond or guarantee.

727.3 Final Plan - Approval and Filing

727.3.1-No Final Plan shall be approved by the Thomaston Planning Board as long as the applicant is in default on a previously approved plan.

727.3.2-Upon findings of fact and determination that all standards in 30-A M.R.S.A., §4401 et. seq., and these regulations have been met, and upon voting to approve the subdivision, the Thomaston Planning Board shall sign the Final Plan. The Thomaston Planning Board shall specify in writing its findings of facts and reason for any conditions or denial. Any subdivision plan or amendment to an existing plan not recorded in the Registry of deeds within ninety (90) days of the date upon which the plan is approved and signed by the Thomaston Planning Board shall be considered unapproved and shall require resubmission, review and approval, based on the criteria of Article III, Land Subdivisions.

727.3.3-At the time the Thomaston Planning Board grants Final Plan approval, it may permit the plan to be divided into two or more phases subject to any conditions the Thomaston Planning Board deems necessary in order to ensure the orderly development of the Plan.

727.3.4-No changes, erasures, modifications or revisions shall be made in any final Plan after approval has been given by the Thomaston Planning Board and endorsed in writing on the Plan, unless the revised Final Plan is first submitted and the Thomaston Planning Board approves any modifications. The Thomaston Planning Board shall make findings that the revised plan meets the standards of 30-A M.R.S.A 4401, 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 Thomaston Planning Board shall institute proceedings to have the plan stricken from the records of the Registry of Deeds. See Sections 727.4 and

734.3.

727.3.5-The approval by the Thomaston Planning Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the *Town of Thomaston* of any road, easement, or other open space shown on such plan. When a park, playground, or any other recreation area shall have been shown on the plan to be dedicated to the *Town of Thomaston*, approval of the Plan shall not constitute an acceptance by the municipality of such areas. The Thomaston Planning Board shall require the Plan to contain appropriate notes to this effect. The Thomaston Planning Board may also require the filing of a written agreement between the applicant and the Select Board covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.

727.3.6-Failure to commence substantial construction of the subdivision within five (5) 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 Thomaston Planning Board shall have a notice placed in the Registry of Deeds to that effect.

727.4 Revisions to Approved Plans

727.4.1-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 Thomaston Planning Board agenda. If the revision involves the creation of additional lots, the applicant shall follow the procedure for preliminary and Final Plan approval.

727.4.2-The applicant shall submit one (1) copy of the approved plan, as well as seven (7) copies of the proposed revision.

727.4.3-The Thomaston Planning Board shall use the criteria in Sections 723, 727.3.1 and 727.3.2 in approving the revised plan.

727.4.4-Approved Subdivision Plan Revisions must be recorded in the Registry of deeds within ninety (90) days of the date upon which the plan is approved and signed by the Thomaston Planning Board by and at the expense of the applicant or property owner.

Section 728 General Performance Standards

In reviewing applications for the subdivision of land, the Thomaston Planning Board shall consider the following requirements. In all instances the burden of proof shall be upon the person proposing the subdivision.

728.1 Conformance with Performance Standards

Any proposed subdivision shall be in conformity with the Comprehensive Plan of Thomaston and with the provisions of all pertinent State laws and local ordinances and regulations, specifically, but not limited to, Article II of this Ordinance, except where the provisions of Article III of this Ordinance override those of Article II.

728.2 Preservation of Natural and Historic Features

728.2.1-The Thomaston Planning Board shall require that the proposed subdivision include a landscape plan that will show the preservation of scenic, historic, or environmentally desirable areas. Areas in which archaeological resources exist shall require professional archaeological review. The developer shall make adequate provision for fitting the development harmoniously into the existing natural environment and that the development will not adversely affect existing uses, scenic character, air quality, water quality or other natural resources in the municipality or in neighboring municipalities.

728.2.2-The road and lot layout shall be adapted to the topography.

728.2.3-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.

728.2.4-Cutting of trees on the northerly borders of the subdivision shall also be avoided as far as possible to retain a natural wind buffer.

728.2.5-Land in the subdivision to be reserved as open space or natural area shall so be labeled, with the notation, "Open space not to be developed," on the Final Plan.

728.3 Land Not Suitable for Development

The Thomaston Planning Board shall not approve for development such portions of any proposed subdivisions that

728.3.1-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 that shows that the property in question lies at least two (2) feet above the one hundred (100) year floodplain.

728.3.2-Are located on filled or drained Great Ponds (natural body of water of ten (10) acres or more).

728.3.3- Are located within a Resource Protection District.

728.3.4-Have soils that have severe limitations for development unless the applicant takes appropriate measures to minimize any known or likely adverse environmental impacts.

728.4 Blocks

In parcels of land exceeding eight hundred (800) feet in length, the Thomaston Planning Board may require the reservation of a twenty (20) foot-wide easement through the block to provide for the crossing of underground utilities.

728.5 Lots

728.5.1-All lots shall meet the minimum requirements of the Thomaston Land Use 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.

728.5.2-Where a tract is subdivided into lots substantially larger than the minimum size required by the Land Use Ordinance, the Thomaston Planning Board in its review may consider the potential effect of future re-subdivision.

728.5.3-If a lot on one side of a stream, road railroad, 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 on-site waste disposal.

728.5.4-Odd-shaped lots in which narrow strips are joined to other parcels to meet lot-size requirements are prohibited. The ratio of lot length to width shall be no more than 3:1.

728.5.5-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 lot is land-locked.

728.6 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.

728.7 Utilities

Utilities shall be installed underground except as otherwise approved by the Thomaston Planning Board. They shall be installed in a timely manner during road construction to prevent re-excavation of the finished road.

728.8 Monuments

728.8.1- Monuments shall be set at all street intersections and points of curvature, but no further than 750 feet apart along street lines without curves or intersections.

728.8.2-Monuments shall be set at all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is 135 degree or less located in the ground at final grade level, and referenced on the Final Plan.

728.8.3-All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked with iron pipe not less than three quarters (3/4) of an inch in diameter and thirty six (36) inches long, or by suitable monument, as required by the Maine Board of Licensure for Professional Land Surveyors..

728.9 Road Names and Signs

728.9.1-Roads that join, or are in alignment with roads of abutting or neighboring properties, shall bear the same name.

728.9.2-Road-name signs shall be furnished and installed by the sub-divider, and shall be of a type and size that conform to local practice.

728.10 Sidewalks and Curbs

728.10.1-Sidewalks are required in all Subdivisions. Sidewalks and curbs will be installed by the sub divider to improve safety and retain traffic-carrying abilities of major routes; curb cuts shall be limited to improve access and egress to parking areas at the discretion of the Thomaston Planning Board, and at such locations as the Thomaston Planning Board deems necessary. In making its determination, the Thomaston Planning Board shall consider the number and density of lots.

728.10.2-The Planning Board, after written findings of fact, may determine that a sidewalk is impractical in a specific situation or that alternate walkways already exist or that such walkways are not needed when considering the use of the subdivision. When making such a finding, the Board may require the developer to contribute an amount of money equal to the cost of constructing a sidewalk along all roads in the Subdivision to the Thomaston Sidewalk Reserve Account in lieu of building said sidewalks. To determine the cost to be assessed to the developer under this provision, the Board may require the developer get one or more estimates from experienced companies that build such infrastructure and use the lowest reasonable estimate to assess such cost. Such estimates shall not include curbing or other non-sidewalk costs

728.11 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.

728.12 Cluster Development

728.12.1-Cluster Development shall receive priority and is preferred for residential subdivision plans consisting of six (6) acres or more in the R-1 and R-2 Districts. Applicants for such subdivisions shall at the pre-application meeting submit a cluster design instead of, or in addition to, a traditional design. All clustering proposals shall comply with the standards outlined in the Thomaston Land Use and Development Ordinance.

728.12.2-The purpose of cluster development is to encourage innovative concepts for providing housing that will result in:

- a) A choice in the types of housing available in Thomaston
- b) Open space and recreation areas
- c) Development that preserves trees, natural topography, and prevents soil erosion.

728.12.3 Basic requirements

- a) Cluster developments must meet all the requirements and standards of these regulations, except

those dealing with lot layout and dimensions. Lot size may be reduced a maximum of twenty-five (25) percent in exchange for open-space development.

- b) Where cluster development abuts a water body, a portion of the shoreland shall be part of the common land.
- c) In cluster developments with individual lot size of twenty thousand (20,000) feet or less, all dwelling units shall be connected to a common water supply and distribution system.
- d) In cluster developments with individual lot size of twenty thousand (20,000) feet or less, all dwelling units shall be connected to a public or private central sewer system.
- e) The overall density under cluster development shall conform to these regulations and the Thomaston Land Use and Development Ordinance.

Section 729 Road Design & Construction Standards

729.1 General Requirements

729.1.1-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.

729.1.2-Provisions shall be made for providing and maintaining convenient and all emergency-vehicle access to lots.

729.1.3-The Thomaston 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 Thomaston Planning Board shall not be deemed to constitute or be evidence of acceptance by the *Town of Thomaston* of any road or easement. The sub divider shall install streets and roads in accordance with the current road specifications of the *Town of Thomaston*. Until the *Town of Thomaston* accepts a street or road, the sub divider shall maintain the street or road, including the plowing of snow, in order to provide vehicular access to every dwelling fronting upon the street or road for which a Certificate of Occupancy has been issued.

729.1.4-Applicants shall submit to the Thomaston Planning Board, as part of their Final Plan, detailed construction drawings showing the profile and typical profile 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, edge of shoulder, sidewalks, and curbs.
- d) Complete curve data shall be indicated for all horizontal and vertical curves.
- e) Turning radii at all intersections.
- f) Center-line gradients.
- g) Locations of all existing and proposed utilities.

729.1.5-No excavation shall occur in an existing sidewalk or road without a permit.

729.2 Road Design Standards

729.2.1-These design standards shall be met by all roads within subdivisions reviewed under these regulations, and shall control the roadway, shoulders, sidewalks, drainage systems, culverts, and other appurtenances.

729.2.2-Roads shall be designed to discourage through-traffic within a subdivision.

729.2.3-Wherever existing or proposed roads, topography, and the public safety permit, roads should run

in east-west directions to maximize access for solar-energy utilization.

729.2.4-Any subdivision containing twenty (20) lots or more shall have at least two (2) road connections with existing public roads or roads on an approved development plan for which performance guarantees have been filed and accepted.

729.2.5-The following design standards apply according to road classification:

DESCRIPTION	PUBLIC RIGHTS-OF- WAY	PRIVATE RIGHTS-OF- WAY
Minimum ROW Width	60'	50'
Minimum Pavement width	20'	20'
Shoulder Width	4'	N/A
Minimum Grade	.5%	N/A
Maximum Grade	6%	10%
Minimum Centerline Radius	150'	150'
Roadway Crown	.25"/ft	N/A
Minimum angle of Road Intersections	72 Degrees	72 Degrees
Maximum Grade within 75' of Intersection	2%	N/A
Minimum Curb Radii at Intersections	15'	N/A
Minimum R-O-W Radii at Intersections	10'	10'
Minimum Width of Shoulders (each side)	3'	3'

729.2.6-The Centerline of the roadway shall be the centerline of the right-of-way.

729.2.7-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: Seventy-five (75) foot property-line radii and sixty (60) foot outer edge of travel-way radii. The Thomaston Planning Board may require the reservation of a twenty (20) foot easement in line with the dead-end road to provide continuation of pedestrian traffic or utilities to the next road. The Thomaston 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.

729.2.8-Grades, Intersections, and Sight Distances

- Grades of all roads shall conform in general to the terrain, so that cut and fill are minimized while maintaining the grade standards above.
- All changes in grade shall be connected by vertical curves to provide for the minimum sight distances.
- Where necessary, corner lots shall be cleared of all growth and sight obstructions, including ground excavation, to achieve the required visibility.

- d) Cross road (four cornered) intersections shall be avoided insofar as possible. A minimum distance of two hundred (200) feet shall be maintained between centerlines of side roads.

729.3 Road Construction Standards

729.3.1- Minimum thickness of material after compaction:

ROAD MATERIALS	PUBLIC RIGHTS-OF- WAY	PRIVATE RIGHTS-OF- WAY
Sub-base course - bank run gravel	12"	12"
Base course - crushed gravel	6"	6"
<i>Hot bituminous pavement</i>		
Total Thickness	2.5"	2.5"
Surface Course	.75"	.75"
Base Course	1.75"	1.75"

729.3.2 Preparations

Before any clearing has started on the right-of-way, the center lines and side lines of the new road shall be staked or flagged at fifty (50) foot intervals.

- a) 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.

729.3.3-Each stage of the road or street construction shall be inspected and approved by the Public Works Director before continuation to the next phase of construction. It shall be the responsibility of the subdivider or his agent to properly notify the Public Works Director as to each phase of inspection as required. Notification of inspection requests shall be in a timely manner.

729.4 Cleanup

Following road construction, the sub divider/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.

729.5 Certification and Construction

Upon completion of road construction, a written certification signed by the Thomaston Code Enforcement Officer or a professional engineer registered in the State of Maine shall be submitted to the Thomaston Planning Board at the expense of the applicant, certifying that the proposed way meets or exceeds the design and construction standards of these regulations.

Section 730 Drainage Design & Construction Standards

730.1 General Provisions

730.1.1-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.

730.1.2-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 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.

730.2 Storm Water Management Design Standards

730.2.1- A review shall be conducted of the proposed development as it pertains to proper soil erosion and sedimentation control, as well as storm-water management. At the discretion of the Thomaston Planning Board, a request for a developer to have the Knox-Lincoln Soil and Water Conservation District conduct a review may be required and the review costs shall be borne by the developer. Adequate provisions shall be made for disposal of all storm water generated within the development, and any drained groundwater through a management system of swales, culverts, under-drain, and water courses. The storm water- management system shall include BMP during and after construction and require detention basins to restrict the rate of flow off the premises to levels existing prior to development.

730.2.2-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.

730.2.3-Catch basins shall be installed where necessary and located at the curb line.

730.2.4-Inlets and outlets shall be stabilized against soil erosion by stone riprap or other suitable materials to reduce storm water velocity.

730.2.5-The storm water management system shall be designed to accommodate upstream drainage yet built and shall include a surplus design capacity factor of twenty-five (25) percent for potential increases in upstream runoff.

730.2.6-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.

730.2.7-Where soils require a subsurface drainage system, the drains shall be installed and maintained separately from the storm water drainage systems.

Section 731 Performance Guarantees Required

731.1 Types of Performance Guarantees

A performance guarantee may be tendered in one of the following forms:

- a) A certified check made payable to the *Town of Thomaston*;
- b) A savings account passbook issued in the name of the *Town of Thomaston*;
- c) An irrevocable letter of credit from a financial institution acceptable to the Thomaston Planning Board;
- d) A faithful performance bond running to the *Town of Thomaston* and issued by a surety company licensed to do business in the State of Maine.

731.2 Amount of Guarantees

The amount of the guarantee shall be one hundred twenty five (125) percent of the cost of furnishing, installing, connection 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 731.1 has been satisfactorily filed with the *Town of Thomaston*, 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 and a certificate of occupancy issued.

731.3 Condition of Agreement

A conditional agreement, if acceptable in lieu of a performance guarantee, shall be endorsed by the Thomaston Planning Board by 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 Thomaston 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.

731.4 Inspection of Required Improvements

731.4.1-Completion of required improvements shall be determined by the Thomaston Planning Board to its satisfaction, which shall receive written and signed certifications by the Thomaston 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 Thomaston Planning Board with adequate written notice and a proposed schedule of construction.

731.4.2-The Thomaston Planning Board may hire, at the applicant's expense, a professional engineer or other qualified person to represent the *Town of Thomaston* in monitoring the construction of required improvements.

731.4.3-Monitoring by the *Town of Thomaston* shall not in any way cause the *Town of Thomaston* to be liable for the improvement. All grades, materials engineering, and construction techniques are the responsibility of the applicant.

731.5 Release of Guarantee

The performance guarantee shall be released by the Thomaston Planning Board upon the request of the applicant only after:

731.5.1-The Thomaston Planning Board receives the certifications of completion required in paragraph 731.4.1.

731.5.2-The applicant has furnished the *Town of Thomaston* with an accurate record plan and profile (which may be the original reproducible drawing with corrections, provided the *Town of Thomaston* has been provided with a print of the unaltered originals approved by the Thomaston 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.

731.5.3-The applicant has presented to the Thomaston 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 732 Waivers

732.1 Waiver of Submission Requirements

Where the Thomaston Planning Board makes written findings of fact that there are special circumstances of a particular site proposed to be subdivided, it may waive portions of the submission requirements.

Section 733 Appeals

Appeals from a final decision of the Thomaston Planning Board to approve, approve with conditions, or deny a subdivision application, may be filed with the Board of Appeals by any person aggrieved within thirty (30) days of the Planning Board's decision. An appeal shall not be heard "de novo" by the Appeals Board but rather shall be reviewed by the Appeals Board to determine whether the Planning Board's decision was within the scope of its authority and supported by substantial evidence on the record.

Section 734 Enforcement

734.1 Violations and Enforcement

734.1.1-No subdivision plan shall be recorded in the Registry of Deeds until a Final Plan has been approved and signed by the Thomaston Planning Board in accordance with these regulations.

734.1.2-No person, corporation, or other legal entity may sell or offer to sell any land in a subdivision that has not been approved by the Thomaston Planning Board and recorded in the Registry of Deeds.

734.1.3-No public utility, water district or sewer district shall serve any lot in a subdivision for which the Thomaston Planning Board has not approved a Final Plan.

734.1.4-No development of the infrastructure of a subdivision may begin until Final Plan approval by the Thomaston 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.

734.1.5-No lot may be built upon before the road on which the lot fronts is completed in accordance with these regulations.

734.1.6-Violations of these regulations shall be punishable in accordance with the standards promulgated in 30-A M.R.S.A. 4452.

734.2 Ineligible Applicant

No plan may be approved by the Thomaston Planning Board as long as the applicant or sub divider shall have failed to complete the required improvements in a timely manner of any previously approved subdivision plan.

734.3 Amendments after Approval

No changes, erasures or modifications of any type shall be made in a Final Plan at any time after approval has been given by the Thomaston Planning Board unless the plan is first resubmitted and the Thomaston 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 Thomaston Planning Board, the amendment substantially alters the character of the original subdivision, or unless the change constitutes a re-subdivision. If an amended Final Plan is recorded without complying with this requirement, it shall be null and void. The Thomaston Planning Board may institute proceedings to have the plan stricken from the Registry of Deeds. See Section 727.3.4.

ARTICLE IV SITE-PLAN REVIEW

Section 735 Projects Reviewed

735.1 Purpose and Applicability

The purpose of site-plan review is to assess the impact of new development on surrounding properties, municipal facilities and services, and the natural environment. Only uses that have been established as permitted uses, either as a matter of right or as a result of successful review as a conditional use, are intended to be able to proceed to site-plan review. Therefore, the purpose of site-plan review is not to establish the right of a use to be located in the area proposed, but rather it is to assure that the way the use is designed and placed on a lot is appropriate to its surroundings. This section shall apply to:

735.1.1 - Proposals for new construction of or conversion to Commercial or Industrial buildings or structures, above ground or underground tanks or other installations and of multi-unit dwellings, including their accessory buildings or structures and all impervious areas.

735.1.2 - Proposals for enlargement of Commercial or Industrial buildings or structures and of multi-unit dwellings, including their accessory buildings or structures and all impervious areas.

735.1.3 - This section does not apply to agricultural or forest-management practices.

Section 736 Procedures

The following procedure shall govern the submission and review of all mandatory site plans as well as Article II; General Standards of Performance shall be observed.

736.1 - Applicants are required to meet in a pre-application conference with the Planning Board prior to formal submission of an application or starting any excavation work or site preparation..

736.2 - No building permit, sign permit, or plumbing permit shall be issued by the Code Enforcement Officer or Local Plumbing Inspector for any use or development within the scope of this article until a site plan of development has been approved by the Planning Board.

736.3 - Every applicant applying for site plan approval shall submit to the Code Enforcement Officer three (3) copies of a complete site plan of the proposed development, which shall be prepared in accordance with Section 737 of this article, accompanied by a fee as determined by Section 704.9, Thomaston Fee Schedule. The Code Enforcement Officer shall retain two (2) copies of the plan and forward one (1) copy for review by the Town Manager, Fire Chief, Pollution Control Superintendent and Public Works Director. Within ten (10) days after receipt of the site plan, the Town Manager, Fire Chief, Pollution Control Superintendent and Public Works Director shall submit written comments to the Thomaston Planning Board.

736.4 - A complete application for site-plan approval shall be submitted at least fifteen (15) days prior to the Planning Board meeting at which the applicant wishes to be heard. However, any application that is not complete, including the payment of fees, shall not be placed on the agenda but shall be returned to the applicant by the Code Enforcement Officer with instruction as to the additional information required. The Code Enforcement Officer shall review the proposed project for Zoning Ordinance compliance and to determine that all conditional uses and/or variances that may be necessary first have been obtained from the Planning Board or the Board of Appeals as appropriate. The Code Enforcement Officer shall continue to review the project for Zoning Ordinance compliance as changes are made during the site-plan review process. Any supplemental information or plan revisions shall be submitted no less than seven (7) days prior to the Planning Board meeting.

736-5 - The Planning Board shall hold a public hearing within 30 days of the receipt of a completed application and place on the next regular Planning Board Agenda. The time limit for scheduling such public hearing may also be extended by mutual agreement for extension of time for a public hearing or of the time for review shall be in writing, signed by the Planning Board and the applicant or applicant's agent.

736.5.1 - Within thirty (30) days after the date on which the site-plan application first appears on the Planning Board agenda, the board shall act to approve, approve with conditions or disapprove the site-plan application submitted or amended in writing and shall forward copies of its decision to the applicant, building inspector, Town Manager and Select Board of the *Town of Thomaston*. The time limit for review may be extended by mutual agreement between the Planning Board and applicant. During this thirty (30) day period, the board may schedule an on-site visit.

736.6 - Within seven (7) days of reaching its decision, the Planning Board shall notify the applicant in writing of its action and the reason for taking such action. All decisions of the Thomaston Planning Board under this article shall contain a statement setting forth its findings of fact, its conclusions and reasons therefore upon all the material issues of fact, law or discretion presented and the appropriate order, relief or denial thereof. Notice of any decision shall be mailed by certified letter with return receipt requested or hand-delivered to the applicant.

736.7 - Application for piers, wharves, breakwaters, municipal boat ramps, municipal piers, consolidated piers, or other marine-related uses requiring site-plan approval under the terms of this ordinance, during which time the Planning Board shall obtain comments from the Harbor Committee. In addition, the Planning Board shall schedule a public hearing to obtain additional information from the public. All Federal and State permits shall have been applied for prior to making application to the town. No construction authorized under this procedure shall be considered usable or completed until a Certificate of Occupancy has been issued by the Code Enforcement Officer certifying completion in conformance to all terms and conditions under which the application was approved.

736.8 - An appeal from a decision of the Planning Board concerning a site-plan application may be filed by an aggrieved party with the Zoning Board of Appeals within thirty (30) days after the decision of the Planning Board. The Zoning Board of Appeals shall have no authority to decide any appeal that is not filed within that thirty (30) day period.

On appeal, the review of the site Plan decision shall be limited to correction of clear errors of law made by the Planning Board in connection with the site plan decision, and the Zoning Board of Appeals shall have no authority to reverse or modify a factual finding of the Planning Board. In connection with such an appeal, the review of the Zoning Board of Appeals shall be based exclusively on the record before the Planning Board. Upon receipt of an appeal of a site-plan decision, the Zoning Board of Appeals may defer consideration of that appeal for a period not to exceed thirty (30) days, in order to permit consideration of an appeal of the issuance or denial of a building permit for the same project. At such a meeting concerning both appeals, the appeal of the issuance or denial of the building permit shall not be limited to the review of clear errors of law, and shall be considered separately from the appeal of the site-plan decision of the Planning Board. A decision of the Zoning Board of Appeals concerning an appeal to the Superior Court within forty-five (45) days of the date of the vote on the original decision as provided by Title 30-A M.R.S.A., Section 2691.

736.9 - Any permit or approval granted hereafter is subject to all elements of the final plans and specifications submitted by the applicant and to all representations, oral or written, made by or on behalf of the applicant in support of the application or with respect to the nature and scope of the use, activity or work proposed, and all such permits or approvals shall include, as an express condition, a written statement to said effect.

736.10 - The Thomaston Planning Board may, at its sole discretion, require a performance guarantee from the developer in the form of a certified check payable to the *Town of Thomaston* or a performance bond running to the town and issued by a corporate surety acceptable to the Thomaston Planning Board or an escrow agreement with the town, managed by a financial institution acceptable to the Thomaston Planning Board or a non-revocable letter of credit from a financial institution. The conditions and amount of such a performance guarantee shall be determined by the Planning Board with the advice of the various town departments or agencies concerned. The amount shall at least be equal to the total cost of furnishing, installing, connecting and completing the entire street-grading, paving, storm drainage, utilities and any other improvements specified in the site plan. The performance guarantee shall not be released by the Planning Board until it has been established that the work required has been completed in accordance with the approved site plan.

Section 737 - Elements of the Site Plan

The site plan shall be drawn to a scale of not less than one (1) inch equal to fifty (50) feet and shall contain the following:

737.1 - Name and Title

Owner's name and address and proposed identifying title of the development along with the date, project cost and anticipated completion date. Names of abutting landowners are required in all cases. In addition, show all land owners within the area required by the site plan in accordance with Section 737.8, Building Location.

737.2 - Scale

Scale and orientation.

737.3 - Parcel Size

Dimensions (to the nearest foot) and acreage of the parcel to be built on or converted as well as a sketch map showing general location of the site within the town.

737.4 - Contours

Existing contours at elevation intervals of not more than two (2) feet. Proposed contours to be shown on contrasting demarcation at intervals of not more than two (2) feet prepared and sealed by a surveyor licensed in the State of Maine.

737.5 - Boundaries

Boundaries of all contiguous property under the control of the owner or applicant, regardless of whether all or part is being developed at the time.

737.6 - Zoning

Zoning classification(s) of the property lines of the property to be developed and the source of this information.

737.7 - Bearings and Distances

The bearing and distances of all property lines of the property to be developed and the source of this information. The board may require a formal boundary survey when sufficient information is not available to establish, on the ground, all property boundaries.

737.8 - Building Location

The location of all building setbacks required by ordinance; the size, shape and location of existing and proposed buildings, structures and other significant physical features both within the development and outside the perimeter of the development in accordance with the following schedule:

Additions or separate buildings having a ground-floor and/or new impervious area of:	Distance beyond property line of development:
Up to 10,000 Sq. Ft.	One Hundred Feet (100')
10,000+ Sq. Ft. up to 50,000 Sq. Ft.	Two Hundred Feet (200')
More than 50,000 Sq. Ft.	Three Hundred Feet (300')

737.9 - Other Data

The location, dimensions, front view and ground-floor elevations of all existing and proposed buildings in the site, location and dimensions of driveways, parking and loading areas, and walkways, intersecting roads or driveways within 200 feet of the site; location and dimensions of all provisions for water supply and wastewater disposal, open drainage courses, wetlands, stands of trees and other important natural features, with a description of such features to be retained and of any new landscaping planned. Location and dimensions of any existing easements and rights-of-way and copies of existing covenants or deed restrictions. Location of all pedestrian access and handicapped access when required and the dimensions thereof, existing and proposed. Such other information as the Thomaston Planning Board may, from time to time, request.

737.9.1 – It shall be the requirement that any commercial or industrial development of any structure requiring Site-Plan Review and consisting of two or more floors, provide some means of fire suppression if the second floor or above is to be used for other than storage. This requirement may be waived with the approval of the *Town of Thomaston* fire chief or his designated assistant.

737.10 - Signs

Location, front view and dimensions of existing and proposed sign.

737.11 - Lighting

Location and type of exterior lighting and the intensity of illumination thereof..

737.12 - Permits and Approvals

Copies of applicable state approvals and permits, provided, however, that the board may approve site plans subject to the issuance of specified state approvals and permits where it determines that it is not feasible for the applicant to obtain them at the time of site-plan review.

737.13 - Signature Block

A signature block on the site plan, including space to record a reference to the order by which the plan is approved as well as space to record any conditions placed on the site plan.

737.14 - Supplemental Information

The Planning Board may require any and all of the following submissions where it determines that, due to the scale, nature of the proposed development or relationship to surrounding properties, such information is necessary to ensure compliance with the intent and purpose of this ordinance.

- 1) A storm-water drainage and erosion-control plan prepared by an engineer or landscape architect registered in the State of Maine, showing:
 - a) The existing and proposed method of handling storm-water runoff.
 - b) The direction of flow of the runoff through the use of arrows.
 - c) The location, elevation and size of all catch basins, drywells, drainage ditches, swales, detention basins and storm sewers.
 - d) Engineering calculations used to determine drainage requirements based upon a 25-year storm frequency, if the project will significantly alter the existing drainage pattern due to such factors as the amount of new impervious surfaces (such as paving and building area) being proposed.
 - e) Methods of controlling erosion and sedimentation during and after construction.

- 2) A utility plan showing, in addition to provisions for water supply and wastewater disposal, the location and nature of electrical, telephone and any other utility services to be installed on site.
- 3) A planting schedule keyed to the site plan and indicating the varieties and sizes of trees, shrubs and other plants to be planted.
- 4) In addition, applications for Piers, Wharves, Breakwaters and Boat Ramps shall include:
 - a) A site plan prepared to state and federal requirements.
 - b) An elevation showing the height of the pier in relation to normal high water.
 - c) A pier section.
 - d) A detailed erosion-control plan, including a schedule of construction. The schedule shall include the kind of motorized equipment, how and when it will be used below high or low water.
 - e) A detailed plan showing how oils, greases or other contaminants will be separated and handled.
 - f) Copies of required Maine Department of Environmental Protection and U.S. Army Corp of Engineers permit applications.
 - g) A copy of the Maine Department of Conservation submerged land lease if available

737.15 - Space for Approval

Suitable space to record, on the site plan, approval by the Thomaston Planning Board, date and conditions of approval, certification of standard completion by the Thomaston Code Enforcement Officer as follows:

APPROVED: Thomaston Planning Board

	Chairperson	
	Board Members	DATE

Conditions _____

Section 738 - Waiver of Submission Requirements

The Planning Board may modify or waive any of the submission requirements when it determines that, because of the size of the project or circumstances of the site, such requirements would not be applicable or would be an unnecessary burden upon the applicant and that such modification or waiver would not adversely affect the abutting landowners or the general health, safety and welfare of the town.

Section 739 - Approval Criteria

The following criteria are to be used by the Planning Board in judging applications for site-plan reviews and shall serve as minimum requirements for approval of the site plan. The site plan shall be approved unless, in the judgment of the Planning Board, the applicant is not able to reasonably meet one or more of these standards. In all instances the burden of proof shall be on the applicant and such burden of proof shall include the production of evidence necessary to complete the application.

739.1 - Preserve and Enhance the Landscape

The landscape shall be preserved in its natural state insofar as practical by minimizing tree removal, disturbance of soil and by retaining existing vegetation during construction. After construction is completed, landscaping shall be designed and planted to define, soften or screen the appearance of off-street parking areas from the public right-of-way and abutting properties and/or structures and to minimize the encroachment of the proposed use on neighboring land uses. The requirements of 716.16.6.4, Standards for Commercial/Industrial Use, Shall also be taken into consideration.

739.2 - Erosion Control

Filling, excavation and earth-moving activity shall be carried out in a way that keeps erosion and sedimentation to a minimum, including:

- a) Preservation and protection of natural vegetation where possible.
- b) Keeping duration of exposure of disturbed soils to as short a period as possible and stabilizing the disturbed soils as quickly as practicable.
- c) Use of temporary vegetation or mulching to protect exposed critical areas during development.
- d) Use of debris basins, sediment basins, silt traps or other acceptable methods to trap the sediment from storm-water runoff.
- e) No storage of fill materials within 65 feet of the banks of any stream, intermittent or perennial, or water body.
- f) No removal of topsoil from any lot, except for that removed from areas to be occupied by buildings, paving or other surfaces that will not be re-vegetated.

739.3 - Relationship of the Proposed Building to Environment and Neighboring Buildings.

The physical placement of proposed buildings or structures on the site shall fit harmoniously with the terrain of the site and with neighboring buildings or structures, taking into account the bulk, location and height of the buildings or structures and such natural features as slope, soil type and drainage ways. The proposed building or structures shall not interfere unreasonably with the solar access of existing buildings or adjacent parcels.

739.4 - Vehicular Access, Parking and Circulation.

The proposed site layout shall provide for safe access to and egress from the public and private roads as well as MDOT standards and permits

- a) Any exit driveway shall be so designed as to provide the minimum sight-distance measured in each direction, as measured from the point at which the driveway meets the public or private right-of-way:

	Town	State
25 MPH	200 Feet	300 Feet
30 MPH	250 Feet	380 Feet
35 MPH	305 Feet	480 Feet
40 MPH	350 Feet	580 Feet
45 MPH	425 Feet	710 Feet
50 MPH	495 Feet	840 Feet
55 MPH	570 Feet	990 Feet

- b) The street serving the site shall be adequate to carry the anticipated traffic and the site plan shall locate points of access to avoid hazardous conflicts with existing turning movements and traffic flows.
- c) Pedestrian ways shall be safely separated from vehicular traffic.

739.5 - Surface Water Drainage

Adequate provision shall be made for surface drainage so that removal of storm waters will not have an unreasonably adverse effect on neighboring properties, downstream water quality, soil erosion or the public storm-drain system. Whenever possible, on-site absorption of runoff waters shall be used to minimize discharges from the site. Drainage facilities shall be designed for a twenty-five (25) year storm frequency.

The development shall not impose an unreasonable burden on sewers and storm drains, water lines or other public utilities. New utilities shall be sized and existing utilities upgraded to adequately handle the demands of the development.

739.6 - Special Features of Development

Exposed storage areas, exposed machinery installation, service areas, truck-loading areas, utility buildings and similar structures shall have setbacks and screening to provide a buffer to sight and sound sufficient to minimize their adverse impact on other land uses within the development area and on surrounding properties.

739.7 - Exterior Lighting

All exterior lighting shall be designed and shielded to avoid undue adverse impact on neighboring properties and rights-of-way.

739.8 - Emergency Vehicle Access

Provisions shall be made for convenient and safe emergency-vehicle access to all buildings and structures at all times of the year, including twenty (20) foot-wide fire lanes at locations as may be recommended by the fire department.

739.9 - Special Criteria

Piers, wharves, breakwaters, municipal boat ramps municipal piers, consolidated piers and other marine-related uses requiring site-plan approval under the terms of this ordinance shall adhere to these special criteria in addition; the site must be demonstrated to be suitable for the proposed use according to the following:

- a) The project must not cause undue erosion on or near the site.
- b) The proposed use must not cause degradation of marine life in or near the area. The board may ask for an examination and statement by a qualified marine biologist regarding the impact of the project and that statement shall show no significant adverse impact on marine life.

739.10 - Expiration of Approval

Approval of the site plan and any building permit issued for development within the scope of this ordinance shall expire after a period of two (2) years, if not substantially completed as approved under section 736 the Thomaston Planning Board shall order the applicant to comply within a time certain unless the applicant can show good cause why the project is not completed as approved and why the approval should be modified.

739.11 – Site-Plan Review

- a) The Code Enforcement Officer may approve and allow minor field adjustments to an approved site plan if the CEO is satisfied that such changes have no adverse effect upon approval criteria or conditions of approval.
- b) Upon request of an applicant, the Planning Board may allow amendments to an approved site plan without requiring a new site-plan application if the board is satisfied by majority vote that such amendment has only minor or no new effect upon approval criteria or conditions of approval. If the board is satisfied by the above criteria that the matter may be heard as an amendment, the board may allow an amendment if it is satisfied the amendment meets the site- plan approval criteria.
- c) Notice of the consideration of a request for an amendment to a site plan by the Planning Board shall be accomplished by posting the agenda and publication at least seven (7) days prior to the board meeting.

739.12 - Penalty

Failure to comply with the order of the Thomaston Planning Board shall constitute a violation of this article and shall be subject to a fine of not less than one hundred (100) dollars a day or more then two thousand five hundred (2,500) dollars per day; each day is considered an additional violation. State Law Reference: 30A MRS 4452

ARTICLE V

WIND-ENERGY CONVERSION SYSTEM

Section 740 Authority

The Thomaston Planning Board is vested with the authority to review and approve, conditionally approve or reject any application for wind-energy conversion systems (also referred to as "Wind Turbines").

The purpose of this Ordinance is to alleviate dependence on fossil-fuel energy sources by encouraging the development of on-site energy production and consumption by providing standards for alternative wind-power energy. The wind-energy conversion provision set forth in this Ordinance is intended to protect the public health and safety, promote the general welfare of the community and conserve the environment, wildlife habitat, fisheries and unique natural areas; and to fit wind-energy conversion systems (WECS) harmoniously into the fabric of the community.

Notwithstanding, and in addition to any other provision of this Article, before granting Site Plan Approval for any land-use activity described in this section, the Planning Board must find that the proposed plan will comply with such of the following standards as are applicable:

740.1 Exemptions:

The following is exempt from the provisions of this Article:

- a) A WECS on property owned, leased or otherwise controlled by the *Town of Thomaston*.

740.2 Location:

A WECS is a permitted use in all districts. On lots less than five (5) acres, no more than one (1) WECS shall be allowed. On lots of five acres or more, up to three (3) WECS shall be allowed.

740.3 Capacity:

A WECS shall have a maximum capacity of 10 KW in all districts except for the Commercial, and Industrial districts where the maximum capacity shall be 100 KW.

740.4 Setbacks:

All parts of the WECS shall be setback from all property lines a distance equal to the height of the wind-system structure measured from the ground to the system's highest point and the required minimum setback of the district in which it is located.

740.5 Height:

A WECS shall have a maximum height of 80 feet in all districts as measured from the ground level to the system's highest point except for the commercial and Industrial districts where the maximum height shall be 140 feet as measured from the ground level to the system's highest point.

704.6 Noise:

The WECS shall not exceed 45 dBA as measured at the property line in all districts except for the Commercial, and Industrial districts, where the WECS shall not exceed 55 dBA as measured at the property line. A WECS may exceed 65 dBA in the Commercial, and Industrial districts and 55 dBA in all other districts during short-term events such as severe wind storms.

740.7 Submission Requirements:

In addition to all of the relevant site-plan review submission requirements listed in Section 737, the following submissions shall be required unless waived by the Planning Board.

740.7.1 A completed Wind-Energy System application checklist provided by the Code Enforcement Office.

740.7.2 Description of the project, including specific information on the type, size, tower type and height, rotor material and diameter, rated power output, performance, safety and noise, manufacturer, model and serial number of the WECS.

740.7.3 A site plan showing the planned location of the WECS and location of the distance to setback lines, property lines, roads, driveways, ROWs and any overhead utility lines on the subject property and adjacent properties within 300 Feet.

740.7.4 A scaled representation of the WECS showing system height and evidence that the proposed height does not exceed the height recommendation by the manufacturer of the system.

740.7.5 A line drawing of the electrical components of the system in sufficient detail to establish that the installation conforms to all applicable electrical codes.

740.7.6 Emergency and normal shutdown procedures.

740.7.7 If connection to the publicly regulated utility grid is proposed, a copy of the contract between applicant and utility verifying that the proposed connection is acceptable, and/or evidence making clear that the utility is aware of the proposed connection and finds it acceptable.

740.7.8 Photographs of the proposed site.

740.7.9 The Planning Board may require a scenic assessment consisting of one or more of the following:

- a) A visual analysis composed of elevation drawings of the proposed WECS and any other proposed structures, showing height above ground level. The analysis shall also indicate the color treatment of the system's components and any visual screening incorporated into the site that is intended to lessen the system's visual prominence.
- b) A landscaping plan indicating the proposed placement of the facility on the site; location of existing trees and other significant site features; and the method of fencing, if any.
- c) A narrative discussing the extent to which the WECS would be visible from a designated scenic resource, the tree-line elevation of vegetation within 100 feet and the distance to the proposed facility from the designated scenic resources noted viewpoints.

740.8 Design Standards:

740.8.1 The minimum distance between the ground and any wind-turbine blades of a WECS shall be 25 feet as measured at the lowest arc of the blades.

740.8.2 A WECS shall be equipped with both manual and automatic over-speed controls.

740.8.3 The WECS shall be operated and located such that no disruptive electromagnetic interference with signal transmission or reception is caused beyond the site. If it has been demonstrated that the system is causing disruptive interference beyond the site, the system operator shall promptly eliminate the disruptive interference or cease operation of the system.

740.8.4 The WECS shall be designed and installed such that public access via step bolts or a ladder is prevented for a minimum of 12 feet above the ground.

740.8.5 The WECS shall be a non-reflective color that blends the system and its components into the surrounding landscape to the greatest extent possible and incorporates non-reflective surfaces to minimize any visual disruptions.

740.8.6 All on-site electrical wires associated with the system shall be installed underground except for "tie-ins" to a public-utility company transmission poles, towers and lines. This standard may be modified by the Planning Board if the project terrain is determined to be unsuitable for underground installation.

740.8.7 The WECS shall not be lighted unless required by the FAA.

740.8.8 The WECS shall not display any permanent or temporary signs, writing, symbols, logos or any graphic representation of any kind except appropriate manufacturer's or installer's identification and warning signs.

740.9 Abandonment:

A WECS that is not generating electricity for twelve (12) consecutive months shall be deemed abandoned and shall be dismantled and removed from the property by the owner within 120 days of receipt of notice from the *Town of Thomaston*.

ARTICLE VI STREET CONSTRUCTION & EXCAVATIONS

Section 742 Authority

This article is adopted pursuant to 23 MRS Section 3381 and 30-A MRS Section 3001.

Section 743 Purpose

This ordinance is designed to permit necessary digging and excavation in Thomaston streets, establishing an application and permit procedure therefore, providing for measures to protect underground facilities and restore the surface of the street to a durable, "as-new" condition.

Section 744 Intent

It is necessary from time to time for those owners, corporations, persons, firms or the water district to excavate Thomaston streets to install or repair underground facilities. The *Town of Thomaston*, Maine intends that such excavations be rebuilt to the standards necessary to eliminate the later development of unsafe and offensive bumps or sags in the road surface, protecting the value and safety of the Thomaston road network. This ordinance establishes excavation permit procedures and is in conjunction with "*Town of Thomaston - Road Construction and Acceptance Ordinance.*"

Section 745 Penalty

Any person, firm or corporation that shall violate a provision of this ordinance or fails to comply with any of the requirements thereof, shall be punished by a fine not to exceed one thousand dollars (\$1,000.00).

Section 746 Street Opening Permit

No person, corporation or legal entity shall cut a curb or construct or maintain a driveway entrance or approach within the right-of-way of any street in the *Town of Thomaston* without a written permit from the Thomaston Code Enforcement Officer and the approval of the Thomaston Public Works Director. Such a right-of-way shall be determined by full width of the right-of-way as laid out by the *Town of Thomaston*. Curb cuts and driveway entrances shall be at the expense of the applicant, and the work shall be performed to the satisfaction of the Thomaston Public Works Director. This section shall not apply to public work performed by or under the direction of the Thomaston Public Works Director. The following conditions shall be considered before a permit is issued:

746.1 Safe Access

Reasonable ingress and egress to property abutting a *Town of Thomaston* street shall not be denied, but safe access, with respect to grades, sight-distance, intersections, vehicular and pedestrian traffic volume, schools, elderly and handicapped housing and other traffic generators and any other elements to adequately protect and promote the safety of the traveling public shall be considered before any permit is issued.

746.2 Driveways cut into Existing Sidewalks

When driveways are cut into existing sidewalks, curbing must be cut back at least four (4) feet on each side of the driveway opening. Replacement curbing must be re-laid with ends tapered from seven (7) inches high (or equivalent height of existing curbing) to no more than one and one-half (1.5) inches at the driveway.

746.3 Driveway Slope across Sidewalks

Driveways must be constructed to slope towards the gutter line of the street at a grade of no less than one-quarter inch (.25") per foot and no more than one-half inch (.5") per foot across the complete width of the sidewalk.

746.4 When Permit Required

No permit shall be required for an existing driveway entrance or approach unless the grade, location or degree of kind of use of some is changed, in which case a permit shall be required.

746.5 Driveway or Entrance Width and Distance Between

No permit issued under this section shall allow for a driveway or entrance of more than thirty (30) feet in width and if more than one driveway or entrance is requested for the same parcel of land, a minimum of fifty (50) feet shall be required between driveways or entrances.

Section 747 When Permit Issued

No Street or sidewalk opening permit will be issued between November 1 in any one year and March 15 in the following year except for emergency excavations as determined by the Thomaston Public Works Director. (See Section 1-5B).

Section 748 Fee

A fee in accordance with Section 704.8 shall be paid prior to the issuance of any permit under this section.

Section 749 Charges

When the *Town of Thomaston's* equipment, materials and/or personnel charges are established as being not in excess of the reasonable cost of the replacement of the Street and Sidewalk openings, the following rates shall be charged:

Street Opening Charges (per square yard)	Up to 25 Sq. Yds.	Over 25 Sq. Yds.
749.1 Streets paved within 2 years		
749.1.1 Bituminous Concrete 4" or more in depth	\$60	\$54
749.1.2 Bituminous Concrete less than 4" in depth	\$50	\$40
749.2 Streets paved over two years		
749.2.1 Bituminous Concrete 4" or more in depth	\$34	\$30
749.2.2 Bituminous Concrete less than 4" in depth	\$25	\$23
749.2.3 Bituminous Concrete over Portland Cement Concrete	\$34	\$30
749.3 Other Areas		
749.3.1 Bituminous Treated Surface of Shoulder	\$20	\$17
749.3.2 Plain Gravel Surface	\$ 5	\$ 4
749.3.3 Grass Esplanade	\$ 8	\$ 8
749.3.4 Bituminous Concrete Curbing	\$ 4	per linear foot
749.3.5 Granite Curbing-Removal or Realignment	\$11	per linear foot
749.3.6 Granite Curbing-Installation	\$17	per linear foot
749.4 Sidewalk		
749.4.1 Bituminous Concrete Sidewalk	\$17	\$17
749.4.2 Portland Cement Concrete Sidewalk	\$24	\$24
749.4.3 Brick Sidewalk	\$15	\$15
749.4.4 Brick Sidewalk on Concrete Base	\$30	\$30
749.4.5 Gravel Sidewalk	\$ 8	\$ 8

Section 750 Minimum Charges

There will be a minimum charge made for any street or sidewalk opening equivalent to three square yards assessed at the appropriate unit rate listed in Section 749.

Section 751 Three or More Openings in a Sequence

Where three or more street openings are made in sequence, adjacent openings being 15 feet or less from center to center, the responsible party will be charged for one opening measured from the first opening to the last opening.

Section 752 General

The responsible party may request the *Town of Thomaston's* permission to contract privately for the street or sidewalk repairs. Street and sidewalk repair work must be done to the *Town of Thomaston's* specifications as stated below and in Section 729 "Road Design and Construction Standards" and is subject to frequent inspection by the Thomaston Public Works Director or his or her designated agent.

Section 753 Performance Bond

After reviewing the scope of work applied for with the responsible party and private contractor, the Thomaston Public Works Director may require the responsible party to post a performance bond computed at the appropriate unit rate cited above in Section 749, Ten times the estimated area of the opening.

Section 754 Violations

The bond or check shall be conditional upon the performance of any work by the applicant for which a specific permit is issued in compliance with the requirements of this article.

754.1-Proper performance of the work shall include the repair or replacement of any public or privately owned property damaged in the course of the work.

754.2-The bond or check shall further be conditional upon the applicant's maintenance of any areas in a condition approximating as nearly as possible that which existed prior to the excavation for a period of two years (twenty-four months) from the date upon which the refilled excavation is accepted by the Thomaston Public Works Director or his or her representative. Any settlement of the refilled surface of the excavation within the two-year period shall be deemed to be conclusive evidence of defective backfilling by the applicant.

754.3-In any case in which the applicant neglects or refuses to complete any such excavation in accordance with the requirements of this ordinance or the "*Town of Thomaston* Street Design and Construction Standards" Ordinance or to correct substandard work after demand made within said two-year period, the *Town of Thomaston* may complete the work, perform any necessary repairs and reimburse the costs of doing so from the check or bond or charge the same to the applicant.

Section 755 Inspections

The permitted shall cooperate in the making of inspections for the performance of work by the Thomaston Public Works Director or his or her representative. The permitted shall notify the Thomaston Public Works Director so that an inspection can be made before any backfilling is done. The permitted shall also notify the Thomaston Public Works Director of the completion of work in order that the final inspection can be made to determine whether the work has been done in a manner acceptable to the *Town of Thomaston*. Prior to any such acceptance, the permitted shall have his workers and equipment available to return to the excavation on short notice to make corrections in the work specified by the Thomaston Public Works Director or his or her representative.

Section 756 Standards

The party performing the street-opening work by virtue of having acquired a permit agrees to perform the work in accordance with the following:

756.1-The street and/or sidewalk surface shall be cut in a line prior to excavation. The cut portion of the surface of the street and/or sidewalk shall be cut back an additional twelve (12) inches on each side beyond the sides of the actual opening necessary to perform the work.

756.2-On all streets, where a permanent pavement has been built, a period of two months shall elapse after a trench has been backfilled before the permanent surface is replaced, and during this two-month period, a temporary surface of premixed bituminous material shall be used. On all other streets, the trench shall be patched with premixed bituminous material, as soon as the backfilling has been completed.

756.3-Excavated material will be allowed for use as backfill as long as it contains no rocks or pavement chunks larger than six inches (6") diameter and can be compacted to meet the requirements of the "Town of Thomaston Street Design and Construction Standards" Ordinance. Pipes carrying heated substances will be thoroughly insulated.

756.4-The last eighteen inches (18") of backfill shall be a bank run or screened gravel having a maximum partial diameter of four inches (4"); fine sand is unacceptable.

756.5-The backfill shall be placed in nine (9) inch lifts and compacted by power tampers.

ARTICLE VII WIRELESS TELECOMMUNICATIONS FACILITIES

Section 757 Wireless Telecommunications Facilities

757.1 Applicability

This section applies to all construction and expansion of wireless telecommunications facilities, including communication facilities and towers, except as provided in 757.2.

757.2 Exemptions

The following are exempt from the provisions of this Ordinance:

757.2.1-Wireless Telecommunications Facility.

Wireless communication facilities for telecommunications by public officials.

757.2.2-Amateur (ham) radio stations.

Amateur (ham) radio stations licensed by the Federal Telecommunications Commission (FCC).

757.2.3-Parabolic antenna.

Parabolic Antennas less than seven (7) feet in diameter that are an accessory use of the property.

757.2.4-Maintenance or repair.

Maintenance, repair or reconstruction of a wireless telecommunications facility and related equipment, provided that there is no change in the height or any other dimension of the facility.

757.2.5-Temporary wireless telecommunications facility.

Temporary wireless telecommunications facility, in operation for a maximum period of one hundred eighty (180) days.

757.2.6-Antennas as Accessory Uses.

An antenna that is an accessory use to a residential dwelling unit.

757.3 Site-Plan Review Application

Wireless telecommunications facilities, including expansions of existing facilities, shall comply with the application requirements of the *Town of Thomaston* Land Use Ordinance. Article IV, Site-Plan Review, and shall also include the following additional information:

757.3.1-A copy of the FCC license for the facility, or a signed statement from the owner or operator of the facility attesting that the facility will comply with FCC regulations.

757.3.2-A USGS 7.5-minute topographic map showing the current location of all structures and wireless telecommunications facilities above 150 feet in height above ground level, except antennas located on

roof tops, within a five (5) mile radius of the proposed facility. This requirement shall be deemed to have been met if the applicant submits current information (i.e. within thirty days of the date the application is filed) from the FCC Tower Registration Database. Include documentation of longitude and latitude.

757.3.3-A site plan prepared and certified by a professional engineer registered in Maine indicating the location, type and height of the proposed facility, antenna capacity, on-site and abutting off-site land uses, means of access, setbacks from property lines. The site plan must include certification by a professional engineer registered in Maine that the proposed facility complies with all-American National Standards Institute (ANSI) and other applicable technical codes.

757.3.4-Elevation drawings of the proposed facility, and any other proposed structures. Showing height above ground level.

757.3.5-A landscaping plan indicating the proposed placement of the facility on the site; location of existing structures, trees, and other significant site features; the type and location of plants proposed to screen the facility; the method of fencing, the color of the structure, and the proposed lighting method.

757.3.6-Photo simulations of the proposed facility. Each photo must be labeled with the line of sight, elevation, and with the date taken imprinted on the photograph. The photos must show the color of the facility and method of screening.

757.3.7-A written description of how the proposed facility fits into the applicant's telecommunications network. This submission requirement does not require disclosure of confidential business information.

757.3.8-Evidence demonstrating that no existing building, site, or structure can accommodate the applicant's proposed facility, which may consist of any one or more of the following:

- a) Evidence that no existing facilities are located within the targeted market coverage area as required to meet applicant's engineering requirements.
- b) Evidence that existing facilities do not have sufficient height or cannot be increased in height at a reasonable cost to meet the applicant's engineering requirements.
- c) Evidence that existing facilities do not have sufficient structural strength to support applicant's proposed antenna and related equipment. Specifically:
 - i. Planned, necessary equipment would exceed the structural capacity of the existing facility, considering the existing and planned use of those facilities, and these existing facilities cannot be reinforced to accommodate the new equipment.
 - ii. The applicant's proposed antenna or equipment would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna equipment on the existing facility would cause interference with the applicant's proposed antenna.
 - iii. Existing or approved facilities do not have space on which planned equipment can be placed so it can function effectively.

- d) For facilities existing prior to the effective date of this amendment, the fees, costs, or contractual provisions required by the owner in order to share or adapt an existing facility are unreasonable. Costs exceeding the pro rata share of a new facility development are presumed to be unreasonable. This evidence shall also be satisfactory for a tower built after the passage of this amendment there-to.

757.3.9-A signed statement stating that the owner of the wireless telecommunications facility and his or her successors and assigns agree to:

- a) Respond in a timely, comprehensive manner to a request for information from a potential collocation applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
- b) Negotiate in good faith for shared use of the wireless telecommunications facility by third parties;
- c) Allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for co-location;
- d) Require no more than a reasonable charge for shared use, based on community rates and generally accepted accounting principles. This charge may include, but is not limited to, a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the useful life span of the facility.

757.3.10-A form of surety approved by the Planning Board to pay for the costs of removing the facility if it is abandoned.

757.4 Standards

757.4.1-Location.

The Commercial and Industrial zones East of Dragon Products and further described by 712.2, Boundary Description, Route 1 East Commercial District (Rockland Line) and 713.2 Industrial Zone-Route 1 East. Also that portion of the *Town of Thomaston* Pollution Control Facility in the R-1 Rural Residential & Farming District and that portion of the R-3 Urban Residential District, further described by the Compiled Boundary Survey Map drawn by Joseph G. LaBranche, Jr.PLS, July 1995.

757.4.2-Siting on Municipal Property.

If an applicant proposes to locate a new wireless telecommunications facility on municipal property, or expand an existing facility on municipal property, the applicant must show the following:

- a) The proposed location complies with applicable municipal policies and ordinances.
- b) The proposed facility will not interfere with the intended purpose of the property.
- c) The applicant has adequate liability insurance and a lease agreement with the municipality that includes reasonable compensation for the use of the property and other provisions to safeguard the public rights and interests in the property.

757.4.3-Design for Collocation.

A new or expanded wireless telecommunications facility and related equipment must be designed and constructed to accommodate future collocation of at least three additional wireless telecommunications facilities or providers, except any public or private wireless telecommunication antennas 100 feet or less shall not be required to accommodate the additional three facilities or providers. Collocation shall not be considered an expansion. It shall also be the responsibility of the applicant to investigate the use of any existing antenna already in place before or after adoption of this ordinance and make use of said antenna, if feasible, with the owner's permission. Any lease agreement would be between the applicant and the owner of record.

757.4.4 Height.

The maximum height of new or expanded wireless telecommunications facilities shall be 199 feet from the top of the base. The facility shall be designed to collapse in a manner that does not harm other property.

757.4.5-Setbacks.

A new or expanded wireless telecommunications facility must comply with the setback requirements set forth in the *Town of Thomaston Land Use Ordinance*, or be set back one hundred five percent (105%) of its height from all property lines or other independent structures, whichever is greater. The setback may be satisfied by including the areas outside the property boundaries if secured by an easement. An antenna is exempt from the setback requirement if it extends no more than five (5) feet horizontally from the edge of the structure to which it is attached, and it does not encroach upon an abutting property.

757.4.6-Landscaping.

The base of a new or expanded wireless telecommunications facility must be screened with plants from view by abutting properties, to the maximum extent practicable. Existing plants and natural landforms on the Site shall also be preserved to the maximum extent practicable.

757.4.7-Fencing.

A new or expanded wireless telecommunications facility must be fenced with a secured perimeter fence of a height of eight (8) feet to discourage trespass on the facility and to discourage climbing on any structure by trespassers.

757.4.8-Lighting.

A new or expanded wireless telecommunications facility must be illuminated as necessary to comply with FAA or other applicable state, federal and local requirements or Site-Plan Review conditions. Security lighting may be used as long as it is shielded to be down directional to retain light within the boundaries of the site, to the maximum extent practicable.

757.4.9-Color and Materials.

A new or expanded wireless telecommunications facility must be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable. Unless otherwise required, muted colors, earth tones, and subdued hues shall be used.

757.4.10-Structural Standards.

A new or expanded wireless telecommunications facility must comply with the current Electronic Industries Association/Telecommunications Industries Association (EIA/TLA) 222 Revision Standard entitled "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures."

757.4.11-Noise.

Except during construction, repair, or replacement, operation of a back-up power generator at any time during a power failure and testing of a back-up generator between 8 a.m. and 9 p.m. are exempt from existing municipal noise standards.

757.5 Standard Conditions of Approval

The following standard conditions of approval shall be a part of any approval issued by the Planning Board. Reference to the conditions of approval shall be clearly noted on the final approved site plan, and shall include:

757.5.1-The owner of the wireless telecommunications facility and his or her successors and assigns agree to:

- a) Respond in a timely, comprehensive manner to a request for information from a potential collocation applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
- b) Negotiate in good faith for shared use of the wireless telecommunications facility by third parties;
- c) Allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for collocation.
- d) Require no more than a reasonable charge for shared use of the wireless telecommunications facility, based on community rates and generally accepted accounting principles. This charge may include, but is not limited to, a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction and maintenance. Financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the life span of the useful life of the wireless telecommunications facility.

757.6 Abandonment

A wireless telecommunications facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The Code Enforcement Officer shall notify the owner of an abandoned facility in writing and order the removal of the facility within ninety (90) days of receipt of a written notice. The owner of the facility shall have thirty (30) days from the receipt of the notice to demonstrate to the CEO that the facility has not been abandoned.

If the Owner fails to show that the facility has not been abandoned, the owner shall have sixty (60) days to remove the facility. If the facility is not removed within this time period, the municipality may remove the facility at the owner's expense. The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of roads, and reestablishment of vegetation.

If a surety has been given to the municipality to ensure removal of the facility. The owner of the facility may apply to the Planning Board for release of the surety when the facility and related equipment are removed to the satisfaction of the Planning Board.

CHAPTER 10

Definitions

1001 Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have in 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.

1002 Terms Not Defined – Whenever a term is not defined in any ordinance, it is intended to have the meaning set forth in any state statute, if defined by that statute. In the event of a conflict between the definition of this ordinance and that contained in said statute, the definition in said statute shall apply.

1003 Specific Definitions

ANSI - shall mean *American National Standards Institute*.

ASME - shall mean *American Society of Mechanical Engineers*.

ASCE - shall mean *American Society of Civil Engineers*.

ASTM - shall mean *American Society for Testing and Materials*.

Abutter - Any person who owns property that is contiguous to the property boundary, including owners or property directly across a public or private right-of-way.

Accessory Structure - A subordinate structure or a portion of the main building, the use of which is incidental to that of the main or principal building.

A deck or similar extension of the principal building or a garage attached to the principal building by a roof or common wall is considered part of the principal building.

Accessory Use - A use customarily incidental and subordinate to the principal building or use and located on the same lot with such principal building or use. A dwelling shall not be considered an accessory use, except for a dwelling unit for a resident owner or security personnel and their family providing security for a permitted or conditional use. Accessory uses, when aggregated shall not subordinate the principal use of the lot.

Addition – An extension or increase in floor area or height of a building or structure.

Adjacent Grade - means the natural elevation of the ground surface prior to construction next to the proposed walls of a 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 greenhouse products. Agriculture does not include forest management and timber harvesting activities. *SD*

See also *Small Scale Farming/Gardening*.

Agriculture Building - A structure designed and constructed to house farm implements, hay, grain, poultry, livestock or other horticultural products.

Ambient Air - means that portion of the atmosphere, external to buildings, to which the general public has access.

Animal and Marine Matter - Any product or derivative of animal or plant life.

Animals, small - small-animal specialties such as, but not limited to, chickens and other fowl, rabbits and other fur-bearing animals; aviaries; worm farms; rats, mice, ferrets; guinea pigs; excepting personal household pets, such as cats and dogs, not otherwise regulated by ordinance. For the purposes of the Town's ordinances, also includes miniature species such as, but not limited to panda cows, miniature horses, micro-pigs, or pygmy goats.

Animals, large - farm or game animals such as, but not limited to, cattle, horses, goats, sheep, pigs, bison, llamas, or alpacas.

Antenna – A system of poles, panels, rods, reflecting discs or similar devices used for the transmission and reception of radio or electromagnetic-frequency signals.

Antenna Height – The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure, even if said highest point is an antenna. Measurement of tower height shall include antenna and other appurtenances and shall be measured from the top of the base pad of the facility. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

Apartment Building - A building arranged, intended or designed to be occupied by two or more families living in an independent dwelling unit.

Apartment Unit - A single self-contained dwelling unit that occupies only part of a building.

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

Area of Special Flood Hazard - means the land in the floodplain having a one percent (1%) or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Rate Map cited in Article I of this Ordinance.

Art Gallery - a business providing space for the display and sale of graphic art, sculpture, textiles and photographs to the public.

Arterial Streets - major traffic routes connecting communities or substantial portions of communities.

Assisted Living Facility - A housing facility for people with disabilities. These facilities provide supervision or assistance with activities of daily living; coordination of services by outside health care providers; and monitoring of resident activities to help to ensure their health, safety, and well-being.

Auto Body Repair (Collision Repair) - Restoring a damaged vehicle back to its original condition. Some of the processes include automotive body construction, welding, sheet metal repair, frame straightening, adjusting body panels, replacing damaged automobile parts, paint and refinishing, and estimating the cost.

Automobile Repair Garage: - a business that services and repairs automobiles, vans and light trucks.

Auto Sales Lot - a commercial lot designed primarily for the conveyance of new and used vehicles.

Bank - An establishment for the custody, loan, exchange, or issue of money, for the extension of credit, and for facilitating the transmission of funds.

Basal Area - the area of cross-section of a tree stem at four and one-half (4.5) feet above ground level, inclusive of bark.

Base Flood - means the flood having a one percent (1%) chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

Basement – any area of a structure with a floor-to-ceiling of 6 feet or more and having more than 50% of its volume below the existing ground level.

Bed & Breakfast - An owner-occupied dwelling in which up to four (4) sleeping rooms (Airbnb limited to one (1) sleeping room), without kitchen facilities in the rooms, are, for a fee, occupied by travelers and other transient guests staying for a limited duration of less than two (2) weeks and that does not provide full-service dining, but may serve breakfast and/or an afternoon snack to guests only.

Beauty Salon or Barber Shop - An establishment for the hairdressing, manicuring, or other cosmetic treatment of men and women, including sale of hair products but excluding a tattoo facility.

Berth - the place where a vessel lies when at anchor or when secured to a wharf.

Best Available Control Technology (BACT) - means an emission-limitation process based on the maximum degree of reduction for each odor-causing pollutant emitted from or that results from the source, which on a case-by-case basis, taking into account energy, environmental and economic impact, and other costs, determines is achievable for such source through application of production processes or available methods, systems, and techniques. In no event shall application of BACT result in emissions of any pollutant that would cause objectionable odors by any applicable standards under this Ordinance. If the technological or economic limitations on this application of measurement methodology to a particular source would make the imposition of an emission standard infeasible, a design, equipment, work practice, operational standards or combination thereof may be proscribed instead to satisfy the requirements for the application of BACT. Such standards shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means that achieve equivalent results. This BACT standard includes emission limitation that we achieved in practice by that class or category of source nationally under air emission permits of any state and as required under the United States Clean Air Act, 42 USC S 1857, as amended, by the *United States Environmental Protection Agency (EPA)*, and as may be documented in the BACT Clearinghouse published by the *EPA* for the class or category of source.

Best management practices (BMP) – methods, measures, practices and design techniques that will prevent or reduce to the lowest reasonable practicable level the pollution of surface waters and adverse impacts on critical areas. BMPs proposed for any development must as a minimum meet all requirements of other applicable town ordinances.

Biochemical Oxygen Demand (BOD) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees C, expressed in milligrams per liter.

Boarding Care/ Residential Care Facility - A facility designed to provide those who require assisted living services both living quarters and proper care. These facilities can either be located in a small residential home or a large modern facility. All Boarding Care/Residential Living Facilities must meet Maine State Regulations Governing the Licensing and Functioning of Assisted Housing Programs.

Boat-Launching Facility - a facility designed primarily for the launching and landing of watercraft, and that may include an access ramp, docking area, and parking spaces for vehicles and trailers.

Boat/Ship Yard - a facility, whether open or enclosed, providing one or more of the following services to the public: boat/ship construction, boat/ship storage.

Bowling Alley - A facility or building equipped to play the game of bowling.

Buffer Area - a part of a property or entire property, which is not built upon and is specifically intended to separate and thus minimize the effects of a land-use activity on adjacent properties or on sensitive natural resources.

Building - any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of persons, animals or chattel. Each portion of a building, separated from other portions by a fire wall, shall be considered as a separate structure. *See Structure.*

Shall mean a structure built, erected and framed of component structural parts designed for the housing, shelter, enclosure, or support of persons, animals, or property of any kind.

Building Drain - shall mean that part of the lowest horizontal piping of a drainage system that receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer. The building drain extends eight (8) feet (2.44 meters) outside the inner fact of the building wall.

Building Sewer - shall mean the extension from the building drain to the public sewer or other place of disposal, also called house connection.

Bulkhead - a permanent, solid structure, vertical or sloped towards the land, built along the shore to retain and protect the upland from wave and water erosion.

Bureau of Forestry– *State of Maine Department of Agriculture, Conservation, and Forestry, Bureau of Forestry.*

Business and Professional Offices - any building or portion of a building wherein services are performed involving predominantly administrative, professional, or clerical operations.

cm - shall mean *centimeter*.

CS - shall mean *Commercial Standards*.

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.

Car Wash Facility - a building or portion thereof containing facilities for washing automobiles using production-line or methods for a chain conveyor, blower, steam-cleaning device or other mechanical devices or providing space, water, equipment or soap for the complete or partial hand-washing of automobiles, whether by operator or customer.

Cemetery, mausoleum or columbarium - land or structures used for interment of the dead or their remains. Includes animal cemeteries; cemetery real estate operations; cemetery associations; cemetery, crematory, mausoleum and columbarium operations, including funeral parlors accessory to a cemetery, crematory or columbarium.

Per 13 MSA §1341 (1) crematoria and mausoleums may only be sited on the grounds of a cemetery that is 20 acres or more in size and that has been in existence for 2 or more years.

Per 13 MSA §1341 (2) columbaria may only be sited on the grounds of a cemetery that is 5 acres or more in size and that has been in existence for 2 or more years.

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.

Change of Use – the use of a building or land that is in any manner different from the previous use by way of function, operation, extent, products sold or manufactured and the like, but not including a change in ownership or occupancy unless the nature of the use, as described above, is changed.

Channel - that area enclosed by the mean low-water lines along the northerly and southerly sides of the natural channel of the St. George River.

Churches - places of worship, with or without living quarters for persons engaged in carrying on church activities, and shall not include a separate structure or accessory structure such as a religious school, Sunday school, etc., provided any such church is recognized under the laws of the State of Maine and under the laws of the United States of America as a charitable organization.

Clear Passage Zone - a 50 foot-wide area in the north side of the *Corps of Engineers'* layout channel. North side of zone shall be 20 feet and 35 feet from north layout channel line as shown on attached mooring plan.

Cluster Development - a subdivision or development in which the lot sizes are reduced below those normally required, a maximum of twenty-five (25) percent, 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 maximum residential dwelling density.

A parceling of land in which the lots may not contain all the yards and/or total width required in the zone in which they are located due to their configuration, although the resulting density of the subdivision does not exceed or other restricted building areas.

A subdivision or development in which the lot sizes are reduced below those normally required in return for the provision of permanent open space in common by lot and/or unit owners, the town or a land conservation organization and approved by the *Planning Board*.

Coastal Wetland - all tidal and sub-tidal lands; all lands below any identifiable debris line left by tidal action; 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 highest annual 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.

Code Enforcement Officer - any person certified under Title 30-A MRS, Section 4451 (including exceptions in subsection 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land-use laws and ordinances. Shall mean the Building inspector of the *Town of Thomaston*.

Collector Streets - Any street that carries the traffic to and from the major arterial streets to local access streets, or directly to destinations, or to serve local traffic generators.

Co-location – the use of a wireless telecommunications facility by more than one wireless telecommunications provider.

Columbarium – a wall or other similar structure designed to permanently hold the cremated remains of the deceased.

Combined Sewer - shall mean a sewer intended to receive both wastewater and storm or surface water.

Commercial fishing activities - activities directly related to commercial fishing and those commercial activities commonly associated with or supportive of commercial fishing, such as the manufacture or sale of ice, bait and nets, and the sale, manufacture, installation or repair of boats, engines and other equipment commonly used on boats.

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.

Commercial Mooring - mooring assigned to a commercial enterprise involved in sales, service, storage, construction, repair or operation of vessels for hire rather than to specific vessels that may be used by a suitable sized vessel with the permission of such commercial enterprise to which the mooring is assigned.

Complete Final Plan Application: an application presented to the *Planning Board* that includes (1) required fee; (2) completed application form and associated drawings; and (3) *Planning Board* notification stating that all submissions required for Final Plan approval have been received by the *Planning Board*.

Comprehensive Economic Impact Area - means the geographic area affected by proposed large-scale retail development. This area includes the municipal and abutting municipalities.

Comprehensive Economic Impact Study - means a municipal study that estimates the effects of a large-scale retail development on the local economy, downtown and community pursuant to Section 736.11, Subsection 4.

Comprehensive Plan: - any part or element of the overall plan for development of the Town as defined in 30A MRS Chapter 187, as the same may be amended from time to time.

Conditional Use - a conditional use is a use that would not be appropriate generally or without restriction throughout the zoning district but that, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Conditional Uses shall be transferable; however, should a conditional use cease for a period of one (1) year, said conditional use shall expire and require *Planning Board* approval in order to resume.

Congregate Housing - a residence in which tenants have private rooms but share common areas, such as kitchens, dining room, living room and bathroom. A multifamily dwelling consisting of private dwelling units and central dining facilities within which a supportive services program serves occupants who are unable to live independently yet do not require the constant supervision or intensive health care available at intermediate care or skilled nursing facilities, who services have been certified by the appropriate state agency.

Construction Drawings: - drawings showing the location, profile, grades, size and type of drains, sewers, water mains, underground power and telephone ducts, pavements, cross-sections of roads, miscellaneous structures, drainage and other easements, and similar items.

Contiguous Lots: - lots in the same ownership that adjoin at any line or point, except that they are on opposite sides of a public or private road shall be each considered a separate tract or parcel.

Corner Lot - A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost point of the side lot lines to the foremost point of the lot (or an extension of the lot where it has been rounded by a street radius) are at an interior angle of less than 135 degrees.

- (1) Such corner lots shall be deemed to have a side yard rather than a front yard between the principal building and side street.
- (2) Such side yard shall not be less than the side- yard requirements of uses located on the side street, or no less than other non-conforming existing structures on said side street.
- (3) Such corner lots located at the intersection of two streets, shall be deemed to have a side rather than a front yard between the principal building and the abutting property on the side street.
- (4) A side street is that which the property does not have an address number on.
- (5) All such side yards described above shall conform with the specific regulations related to yard space and related building height contained in the district provisions of this Ordinance.
- (6) In any district where a front yard is required, no structure, fence, or planting shall be maintained within 30 feet of any corner street lot line intersection and within the required front yard, above a height of 3 feet above curb level or so as to interfere with traffic visibility across the corner.

Coverage - that percentage of the plot or lot area covered by the building area and all non-vegetated surfaces such as, but not limited to, paved roads, driveways and parking lots.

Cremating or cremation - a process for the reduction of bodily remains by fire or heat.

Crematory - a building fitted with appliances for the purpose of cremating human remains and includes everything incidental and ancillary thereto.

Day Care Facility - A place, program, or organization that takes care of children or adults during the day.

Deer Yards - as referenced by 38 MRS §480-B(10), "Significant wildlife habitat."

Degrees C - shall mean degrees *Celsius*.

Degrees F - shall mean degrees *Fahrenheit*.

DEP - shall mean *State of Maine Department of Environmental Protection*.

Densely developed - any commercial, industrial or compact residential area of 10 or more acres with a density of at least one principal structure per two (2) acres. This criterion is used to determine the amount of development in a floodplain, and whether or not an area meets the shoreland zoning requirements for Resource Protection designation.

Development- means any man-made change caused by individuals or entities to improved or unimproved real estate, including but not limited to the construction of buildings or other structures; the construction of additions or substantial improvements to buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials. . 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 structure height.

Disability - any disability infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; including 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.

Dock - the slip or waterway extending between two piers or projecting wharves or cut into the land for the reception of vessels.

Downtown - means the central business district of a community that serves as the center for socioeconomic interaction in the community and is characterized by a cohesive core of commercial and mixed-use buildings, often interspersed with civic, religious and residential buildings and public spaces, typically arranged along the main street and intersecting side streets, walkable and served by public infrastructure.

Drainage Ditch - a channel for storm water that may be dry during certain times of the year. Drainage ditches may include intermittent streams, but not "streams" as defined elsewhere in this Ordinance.

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. 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 - a building designed or used as the living quarters for one or more families. The term shall not be deemed to include motel, rooming house, or trailer.

Dwelling Unit - a room or group of rooms forming a habitable unit for one family with facilities used or intended to be used for living, sleeping, cooking, and eating. The term shall not be deemed to include trailer.

EPA - shall mean *United States Environmental Protection Agency*.

Easement - shall mean an acquired legal right for the specific use of land owned by others.

Elderly Congregate Housing: - a type of multifamily dwelling including multiple individual rooms or dwelling units, to be occupied by elderly persons as residential shared-living environment. Such construction will normally include small individual apartments, combined with shared community space, shared dining facilities, housekeeping services, personal care and assistance, transportation assistance and specialized shared services such as medical-support services and physical therapy.

Elevated Building - means a non-basement building (i) built, in the case of a building in Zones A, to have the top of the elevated floor elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and (ii) adequately anchored so as not to 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, "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 Section 806.11.

Elevation Certificate - an official form (FEMA Form 81-31, 02/06 , as amended) that (i) is used to verify compliance with the floodplain-management regulations of the National Flood Insurance Program; and, (ii) is required as a condition for purchasing flood insurance.

Emergency Operations - operations conducted for the public health, safety or general welfare, such as protection of resources including human lives, property and livestock from the threat of immediate destruction, loss or injury and the protection of natural resources and law-enforcement activities. Shall not include the ongoing overnight residential use other than a declared emergency situation.

Entertainment - shall include any amusement, performance, exhibition or diversion for patron or customers Of the licensed premises whether provided by professional or amateur entertainers, by patrons or full-time or part-time employees of the licensed premises whose incidental duties including activities with entertainment value.

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 sewerage 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.

Establishment – a place of business together with its employees, merchandise, equipment, etc. (Webster). Each individual business outlet shall be considered a separate establishment.

Expansion – the addition of antennas, towers, or other devices to an existing structure.

Expansion of a structure - an increase in the footprint or volume 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; the use of more footprint of a structure or ground area devoted to a particular use.

FAA – *The Federal Aviation Administration*, or its lawful successor.

FCC – *The Federal Communications Commission*, or its lawful successor.

Family - one or more persons occupying a premise and living as a single housekeeping unit as distinguished from a group occupying a rooming house or motel.

Farmer’s Market - a physical retail market featuring foods sold directly by farmers to consumers that operates multiple times per year during daylight hours typically consisting of booths, tables or stands, outdoors or indoors, where farmers sell fruits, vegetables, meats, or other raw or minimally processed food stuffs. Crafts, prepared foods and beverages made by the farmers may also be sold as an accessory to the sale of raw or minimally processed food stuffs. A farm stand offering products produced on and located on a farmer’s own property is not a Farmer’s Market unless other non-resident farmers are also selling items at that same location.

Fast Food Restaurant - A specific type of restaurant characterized both by its fast food cuisine and by minimal table service. Food served in fast food restaurants is offered from a limited menu; is cooked in bulk in advance and kept hot; is finished and packaged to order; and is usually available ready to take away, though seating may be provided.

Fast Food Take Out Stand, Walk up only - Small sandwich shops or food concession stands offering food to walk-up customers for take away consumption.

Final Subdivision Plan - the final drawings, on which the subdivider’s plot of subdivision is presented to the Planning Board for approval and that, if approved, shall be filed for recording with the Select Board and the Knox County Registry of Deeds.

Financial Service - a service listed under U.S. Standard Industrial Classification Codes 60 through 67 inclusive, and including accounting and bookkeeping, banking, other credit agencies, security and commodity brokers and service, insurance, real-estate and investment services.

Fish and Shellfish Loading, Processing, Depuration and Storage – The loading, processing depuration or storage of seafood harvest or harvests. Depuration is used to treat shellfish with low levels of contamination by placing the harvested shellfish into tanks of high quality water so they will purge any contaminants stored in their gut.

Float - a structure, permanent or temporary, supported by its buoyancy, whether attached to the shore, a wharf, a pier, or moored to the bottom, having no installed means of propulsion, and constructed with a deck. Temporary as used herein, means a structure that remains in the water for less than seven (7) months in any consecutive twelve (12) months. No structure shall extend more than four (4) feet above the deck of the Flood and no dwelling shall be located thereon.

Floatable oil - is oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable oil if it is properly pretreated and the wastewater does not interfere with the collection system.

Flood or Flooding - means:

- (1) A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (a) The overflow of inland or tidal waters.
 - (b) The unusual and rapid accumulation of runoff of surface waters from any source.
- (2) 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 that results in flooding as defined in paragraph (1)(a) of this definition.

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

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

Floodplain or Flood-prone Area- means any land area susceptible to being inundated by water from any source (see definition of “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 - means 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, that provide standards for the purpose of flood-damage prevention and reduction.

Flood Proofing- means any combination of structural and non-structural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

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.

Forested wetland - a freshwater wetland dominated by live woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

Foundation - the supporting substructure of a building or other structure excluding wooden sills and post supports, but including basements, slabs, sills, posts, frost walls, or other base consisting of concrete, block, brick or similar material.

Freeboard - means 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, that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

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. For the purposes of this Ordinance, freshwater wetlands are two (2) acres or greater in size.

Frontage:

The full length of a plot of land or a building measured alongside the road onto which the plot or building fronts. 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 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 approved subdivision plan.
- (3) A private way approved by the Planning Board and plotted by a registered land surveyor, dedicated and recorded at the Registry of Deeds.

Functionally water-dependent uses or structures - those uses or structures 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, excluding recreational boat storage buildings; 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 such as retaining walls; industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that cannot reasonably be located or operated at an inland site; and uses that primarily provide general public access to coastal or inland waters such as port facilities that are necessary for the loading and unloading of cargo or passengers.

Funeral homes - A business that provides burial and funeral services for the dead and their families. These services may include a prepared wake and funeral, and the provision of a chapel for the funeral.

Garbage - shall mean the animal and vegetable waste resulting from the handling, preparation, cooking, and serving of food.

Gasoline Station - Any place of business at which gasoline, other motor fuels or motor oil are sold to the public for use in a motor vehicle, regardless of any other business on the premises and that may involve servicing or repairing vehicles. For the purpose of this Ordinance, gasoline station shall not be included within the term "retail sales or business."

Grandfather Clause – Legal provision that exempts a business, class of persons, etc. from a new regulation that would affect prior rights or privileges. As being in existence and legal prior to adoption of the article.

Great pond - any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

Great pond classified GPA - any great pond classified GPA, pursuant to 38 M.R.S. Article 4-A Section 465-A. This classification includes some, but not all impoundments of rivers that are defined as great ponds.

Gross Floor Area - means the aggregate of the areas of each floor of a building or structure, including accessory structures, measured between the exterior faces of the exterior walls or limits of the building structure at the level of each floor.

Ground Cover – small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

Harbor - that portion of Thomaston's tidal waters between a projection of the centerline of Knox Street intersecting with the granite beacon westward to the Cushing Bridge.

Harbor Master - an officer appointed by the Selectmen and employed by the *Town of Thomaston* to enforce the ordinances of the Town as regard with the Harbor and all tidal waters of the Town, with the power to make arrests and to work with and for the Thomaston Harbor Committee and to serve as ex-officio advisor to the Committee.

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 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.

Health Club - A usually commercial establishment having members who pay a fee to use its health and fitness facilities and equipment.

Health Service - an out-patient medical or fitness service provided to humans, including physicians, dentists, and other health practitioners, clinical services, medical testing or analysis services, and health and exercise services.

Height – the vertical measurement from the point on the ground at the mean finish grade adjoining the foundation as calculated by averaging the highest and lowest finished grade around the building or structure, to the highest point of the building or structure. The highest point shall exclude farm-building components, flagpoles, chimneys, ventilators, skylights, domes, water towers, bell towers, church spires, processing towers, tanks bulkheads, or other building-accessory features usually erected at a height greater than the main roofs of buildings.

Height of a Structure - the vertical measurement from grade to the highest point of the roof beams in flat roofs; to the highest point on the deck of mansard roofs; to a level midway between the level of the eaves and highest point of pitched roofs or hip roofs; or to a level two-thirds of the distance from the level of the eaves to the highest point of gambrel roofs. For this purpose, the level of the eaves shall be taken to mean the highest level where the plane of the roof intersects the plane of the outside wall on a side containing the eaves. 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.

Historic Structure – Means any structure that is:

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

Home Occupation - an occupation or profession that is: customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit; carried on by a member of the family residing in the dwelling unit; clearly incidental to and compatible with the residential use of the property and surrounding residential uses; secondary to the use of the dwelling unit for residential purposes; conforms with the following conditions:

- (1) The occupation or profession shall be carried on wholly within the principal building or within a building or other structure accessory thereto.
- (2) Not more than one (1) person outside the family shall be employed in the home occupation. There shall be no stock in trade made off-premises for resale.
- (3) The home occupation shall include the retailing only of items actually produced on the premises and shall not utilize more than 50% of the total floor area of the dwelling unit plus accessory structure.
- (4) There shall be no exterior display, no exterior sign (except as expressly permitted by the district regulations of this Ordinance), no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building
- (5) No nuisance, offensive noise, vibration, smoke, dust, odors, heat, glare, traffic or parking shall be generated. In furtherance of the standard, no commercial or industrial machinery, ovens or other equipment normally associated with a commercial or industrial scale facility shall be used by a home occupation to process goods, materials, or foods.

Horse Boarding Facility - A facility for the keeping and training of horses which are not owned by the occupant or owner of the property.

Hotel - An establishment that provides lodging and usually meals, entertainment, and various personal services for the public.

ICR - shall mean *Industrial Cost Recovery*.

Impervious Surface - mainly artificial structures, such as pavements (roads, sidewalks, driveways and parking lots) that are covered by impenetrable materials such as asphalt, concrete, brick, stone; large areas of natural stone or ledge; or the area covered by the rooftops of buildings.

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 that in-fill irregularly shaped structures.

Individual private campsite - an area of land that 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 gravel pads, parking areas, fire places, or tent platforms.

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

Industrial Wastes - shall mean the wastewater from industrial processes, trade or business as distinct from domestic or sanitary wastes.

Inn - A public lodging house serving food and drink to travelers; small hotel.

Institutional – a nonprofit 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 purpose.

Junk Yard - a lot or part thereof, exposed to the elements, that is used for the sale or for the storage of secondhand products or materials, including, but not limited to, automobile parts, building supplies, bottles, papers, household appliances, old scrap iron, copper, brass and/or other metals. Also includes the out-of-doors storage of three or more vehicles and/or vessels whose state-required registration has been lapsed for more than a year, and/or that do not display state-required license plates, and/or are without state-required inspection certificates affixed thereto, and/or for the storage of three or more vehicles and/or vessels which cannot pass the State inspection test and/or are inoperable in their existing condition.

Kennel - a commercial establishment or nonprofit animal shelter in which dogs, cats or other similar animals are housed, bred, boarded, trained, sold or groomed.

kg - shall mean *kilograms*.

l. - shall mean *liters*.

Landing - A place for landing or discharging persons or things, as from a vessel.

Land Use Permit - means a municipal permit or approval required by a municipal land ordinance, site-plan ordinance, subdivision ordinance, zoning ordinance or building-permit ordinance or by the state subdivision law pursuant to 736.11.4(a).

Large Animals - farm or game animals such as, but not limited to, cattle, horses, goats, sheep, pigs, bison, llamas, or alpacas.

Laundry and Dry Cleaning Facility - A commercial establishment where clothing and other fabrics are washed or cleaned.

Legal Access - In real estate, the right and ability to get to the property.

License – shall include any person, individual, firm, association, corporation or other legal entity that is the holder of a license for the sale of liquor to be consumed on premises owned by said licensee or any agent or employee of any such licensee.

Line of Sight – The direct view of the object from the designated scenic resource.

Locally Established Datum - means, for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are references. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD) 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.

Local Residential Street - any street that affords direct access to houses and places of business that do not generate significant amounts of traffic. These streets are always to be designed and constructed so as to discourage through-traffic of any type.

Lot - a parcel of land in single ownership described in a deed or on a plan occupied or capable of being occupied by one building and the accessory buildings or uses customarily incidental to it, including such open spaces are required by this Ordinance and having frontage upon an approved street or private right-of-way.

Lots of forty (40) acres or more shall be counted as lots for purposes of subdivision review.

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.

Lot Coverage – the area of a lot covered by buildings, structures, and any impervious substance such as, but not limited to, paving.

Lowest Floor - means 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 Section 806.11 of this ordinance.

Lumber Yard - An establishment where timber and sometimes other building materials are stored or sold.

M. - shall mean *meter*.

mg/l. - Shall mean *milligrams per liter*.

Manufacturing - means converting processed raw materials into a finished product, complete and ready for the final use for which it is intended, or so completed that in the ordinary course of business of the concern it is ready to be put on the market for sale to any person wishing to buy it.

Manufactured/Mobile Home - A single-family house constructed entirely in a controlled factory environment, built to the federal *Manufactured Home Construction and Safety Standards* known as the "HUD code". The requirement to have a wheeled chassis permanently attached differentiates "manufactured/mobile housing" from other types of prefabricated homes, such as modular homes.

- 1) The two major forms of manufactured/mobile homes are single-wides and double-wides.
 - a) Single-wides are sixteen feet or less in width and can be towed to their site as a single unit, whereas
 - b) Double-wides are twenty-four feet or more wide and are towed to their site in two separate units, which are then joined together.
- 2) Manufactured/Mobile homes are not self-propelled vehicles containing housekeeping space inside them: Such vehicles are more properly referred to as motor homes or RVs.
- 3) For Land Use and Development purposes, this definition includes those units constructed after June 15, 1976 that the manufacturer certifies are constructed in compliance with HUD standards, and are 14 feet or more in width and are 750 or more in square feet in size

Manufactured/Mobile Home Park - a parcel (or contiguous parcels) of land under unified ownership approved by the Town for the placement of two or more manufactured/mobile homes on lots for rent or sale.

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.

Maritime activities - the construction, repair, storage, loading and unloading of boats, chandlery and other commercial activities designed and intended to facilitate maritime trade.

Marine-Related Retail and Service Use - a retail or service activity primarily selling and servicing boats, marine engines, equipment, accessories and supplies used by commercial or recreational boat owners, or providing services to boat owners such as documentation, insurance, management, brokerage and security.

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. **SD**

Mausoleum – an above-ground building designed to permanently hold the remains of the deceased.

Mean Sea Level- means, for purposes of the National Flood Insurance Program, the *National Geodetic Vertical Datum (NGVD) of 1929*.

Medical facility - a facility, licensed by the State of Maine, providing acute medical, surgical and/or psychological care on an in-patient basis and that may also provide emergency and other care on an out-patient basis; or an institution providing, but not limited to, overnight health services, primarily for in-patient and medical or surgical care for the sick or injured, including as an integral part of the institution such related facilities as laboratories, out-patient departments, training facilities, central-services facilities and staff offices.

Mineral exploration – hand-sampling, test-boring, or other methods of determining the nature or extent of mineral resources that 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.

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 includes, but is not limited to: accessory structures as provided for in section 806.9: 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, towers, fencing and pipelines, wharves and piers.

Mobile Home – See “Manufactured/Mobile Home”, above.

Mobile Home Park – See “Manufactured/Mobile Home Park”, above.

Modular Home – A type of prefabricated housing assembled in factories, transportable in one or more sections, which are not constructed on a permanent chassis. When delivered to their intended site of use the house sections are lifted onto the foundation by a crane where they are permanently anchored. Modular homes can be built to multi-story heights. Once assembled on the site, they are essentially indistinguishable from typical site-built homes.

Mooring - A fixed and adequate means of securing watercraft to a specified location upon Thomaston’s Tidal Waters. Permit(s) must be obtained for all watercraft moorings from the Harbor Master/Harbor Committee and , possibly , ACOE, depending on the type of mooring.

Motel - a building or group of detached or connected buildings designed or intended or used primarily for the providing of sleeping accommodations for automobile travelers and having a parking space adjacent to a sleeping room. An automobile court or a tourist court with more than one unit or a motor lodge shall be deemed to be a motel.

Motor Vehicle – Unless otherwise defined by specific sections of the Ordinance, this term means the same

as the term “Vehicle”.

Municipal Reviewing Authority - means the municipal planning board, agency or office or, if none, the municipal officers.

Multiple sign - a group of signs clustered together in a single structure or compositional unit.

Multi-unit residential - A residential structure containing two (2) or more individually owned residential dwelling units.

Municipal uses and buildings - any structure used by, or used of any space solely for the conduct of governmental affairs of the municipality, its agents, officers, officials, employees and its subsidiary agencies.

NEIWPCC - shall mean *New England Interstate Wastewater Pollution Control Commission*.

NPC - shall mean *National Plumbing Code*.

National Geodetic Vertical Datum (NGVD) – means the *National Vertical Datum*, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and also has been called “1929 Mean Sea Level (MSL)”

Native – indigenous to the local forests.

Natural Outlet - shall mean any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface or groundwater.

Neighborhood Store - a retail store that occupies less than two thousand five hundred (2,500) square feet of total floor area, which may include the sale of prepared food for take-out.

Net Residential Acreage - the gross available acreage less the area required for streets or access and less the areas of any portions of the site that are unsuitable for development because of topography, natural drainage or subsoil conditions. An acre shall be considered equal to 40,000 square feet of land area.

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

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 minimum lot area, lot area per dwelling unit or frontage requirements of the District in which it is located, but was legal when created.

Non-Conforming Structure - a structure which does not meet any one or more of the following dimensional requirements: the setback, height, lot-coverage or footprint of the District in which it is located 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.

A building, structure or use of land existing at the time of enactment of this Ordinance and that does not conform to the regulations of the district or zone in which it is situated.

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.

Normal high-water line (NHWL) (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 and great ponds 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 or great pond during the period of normal high-water are considered part of the river or great pond. Adjacent to tidal waters, setbacks are measured from the upland edge of the "coastal wetland".

Nursing home - a facility maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than that available in a hospital.

Obstruction - a mooring, a vessel, floats and any object that impedes navigation is defined as an obstruction.

Odor - shall mean that property of an emission that stimulates the sense of smell.

Odor Concentration - the number of cubic feet that one cubic foot of sample will occupy when diluted to the odor threshold. It is a measure of the number of odor units in one cubic foot of the sample. It is expressed in odor units per cubic foot.

Odor Unit - one cubic foot of air at the odor threshold.

Official Submittal Date - the time of a 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 information needed to complete the application. The date of notification of a complete application shall constitute the official submittal date.

100-year flood see "Base Flood."

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.

ppm - shall mean *parts per million*.

Parabolic Antenna – (Also known as a satellite dish antenna): An antenna that is bowl-shaped, designed for the reception and transmission of radio-frequency communication signals in a specific directional pattern.

Parking Space - means an area of not less than 9 foot x 18 foot, one hundred sixty two (162) square feet, exclusive of drives or aisles giving access thereto, accessible from streets or aisles leading to streets and usable for the storage or parking of passenger vehicles. Parking space or access thereto shall be construed as to be usable year round.

Permitted Use - A use by right that is specifically authorized in a particular zoning district.

Person - An individual, firm, company, association, society, corporation, joint-stock company, municipality, or quasi-municipal agency, trust, estate, partnership, co-partnership, governmental agency, two or more individuals having a joint or common interest or other legal entity or their legal representative, agent or assigns.

pH- shall mean the logarithm of the reciprocal of the hydrogen-ion concentration. The concentration is the weight of hydrogen-ions, in grams, per liter of solution. Neutral water, for example, has pH value of 7 and a hydrogen-ion concentration of 10^{-7} .

Pier - a permanent or temporary structure, located generally perpendicular to the shore, supported by piling, cribbing or solid fill, having a deck or platform suitable for the berthing, loading, unloading, or servicing of vessels. Temporary, as used herein, means any structure that remains in the water for less than seven (7) months in any consecutive twelve (12) months. Except for mooring devices, safety; equipment, equipment and structures directly associated with the services rendered to vessels using the pier, no building or structure shall extend above the level of the deck of the pier and no dwelling shall be located thereon.

Piers, docks, wharves, bridges and other structures and uses extending over or beyond the normal high-water line or within a wetland- A permanent or temporary structure, located generally perpendicular to the shore, supported by piling, cribbing or solid fill, having a deck or platform suitable for the berthing, loading, unloading or servicing of vessels.

Temporary: any structure that remains in or over the water for less than seven (7) months in any consecutive twelve (12) months.

Permanent: any structure that remains in or over the water for seven (7) months or more in any period of twelve (12) consecutive months'

Piggery - a building or portion thereof, or an enclosure, used or designed for the keeping of pigs.

Planning Board - The *Planning Board* of the *Town of Thomaston* as created by 30A MRS §4324.

Pollutant - shall mean to include but is not limited to dredged spoil, solid waste, junk, sewage sludge, munitions, chemicals, biological, or radiological materials, oil, petroleum products or by-products, heat, wrecked, or discarded equipment, rock, sand, dirt, and industrial, municipal, domestic, commercial, or agricultural wastes of any kind.

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.

Prime Farm Land - land that has not been urbanized, has slopes that are predominantly eight percent or less, and that has soils identified by the National Cooperative Soils Survey as within one or more of the following soils classifications: *Agawam, Buxton, Charlton, Elmwood, Paxton, Sudbury, Sutton, and Woodbridge*.

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 lot.

Principal use - a use other than one which is wholly incidental or accessory to another use on the same lot.

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.

Process - any action, operation, or treatment and the equipment used in connection therewith, and all methods or forms of manufacturing or processing that may emit smoke, particulate matter or gaseous matter. Also a series of changes taking place in a definite manner.

Processing Facility – any land area, structure, equipment, machine, device, system or combination thereof that operates to reduce volume or change the chemical or physical characteristics. Processing facilities include, but not limited to facilities that employ shredding, bailing, mechanical and magnetic separation, and composting or other stabilization techniques to reduce or otherwise change the nature of the product.

Professional Service - a professional service other than a financial service, or health service, as defined in this Ordinance. Such professional services include advertising and public relations, and radio, television and movie businesses, engineering, surveying, computer and data-processing, photocopying and blueprinting, law, management and other professional consulting, personnel supply, secretarial, social services, business services, and other services clearly similar in nature and purpose to those listed here.

Properly Shredded Garbage - shall mean the wastes from the handling, preparation, cooking, and serving of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (.5) inch (1.27 centimeters) in any dimension.

Public and private education facilities - *See Schools*.

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.

Public Open Space and Recreational Use - a park; playground; forest preserve; wildlife habitat; hiking or bridle path; or active recreational facility such as a ball field, tennis court, beach or launching ramp; owned or controlled by the municipality or an agency, board or commission thereof; which is primarily open but that includes those buildings and structures associated with the facility.

Public Recreational Facility – a regionally or locally significant facility, as defined and identified either by state statute or in Thomaston’s Comprehensive Plan, designed to serve the recreational needs of municipal property owners.

Public Sewer - shall mean a common sewer owned, operated, and maintained by public authority, or governmental agency.

Public Utilities - those essential, public services, such as water, electricity, telephone, gas and transportation, whether publicly or privately owned, that 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 facilities, either above or below ground, lying wholly within public rights-of-way.

Pump Station - A facility including pumps and equipment for pumping fluids from one place to another. They are used for a variety of infrastructure systems, such as the supply of water to consumers and the removal of sewage to processing sites.

Quasi-Public Facility - a facility for a recognized public purpose, such as an auditorium, library, park or museum, which is operated by a not-for-profit organization or by a public agency other than a municipality.

Recent Floodplain Soils - the following soil series as described and identified by the National Cooperative Soil Survey: *SD*

<i>Alluvial</i>	<i>Cornish</i>	<i>Charles</i>
<i>Fryeburg</i>	<i>Hadley</i>	<i>Limerick</i>
<i>Lovewell</i>	<i>Medomak</i>	<i>Ondawa</i>
<i>Podunk</i>	<i>Rumney</i>	<i>Saco</i>
<i>Suncook</i>	<i>Sunday</i>	<i>Winooski</i>

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.

Recycling Facility - An establishment set up to collect, treat or process used or waste materials so as to make suitable for reuse.

Regulatory Floodway

- (1) Means 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
- (2) In Zone A riverine areas, the floodway 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.

Rendering - any heating process, including cooking, drying, dehydrating, digesting, evaporating and protein and/or oil concentrating of animal or marine matter.

Repair Services - The replacement or renewal of any part of a device, or equipment with like or similar materials or parts, for the purpose of maintenance of such device, or equipment or to restore that which is unserviceable to a serviceable condition by replacement of parts, components, or assemblies.

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.

Research Facility - A building or group of buildings, together with associated grounds, in which are located facilities for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

Research Laboratory - a type of Research Facility. A building or complex of buildings on a single site, devoted to scientific or medical research, including analysis, testing, design, experimentation and material and product development, and to offices for persons engaged in or administering such research. One or more buildings in a research-laboratory complex may be devoted exclusively to offices for persons performing professional, executive or administrative functions with respect to scientific or medical research. No manufacturing shall be performed on the premises.

Residential Care Facility - A facility offering long-term care to adults or children who stay in a residential setting rather than in their own home or family home. The facility may include treatment of mental illness, drug or alcohol addiction or physical disability.

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.

Restaurant - a place for the serving of prepared food and beverages to the public. For the purpose of this Ordinance, restaurants shall not be Included within the term "retail sales or business."

Re-subdivision - the division of an existing subdivision or any change in the plan for an approved subdivision that affects the lot lines, including land transactions by the subdivider not indicated on the approved plan.

Retail Business Establishment - means a business engaged in the sale of goods to the ultimate consumer for direct use or consumption.

Retail Marijuana – cannabis that is cultivated, manufactured, distributed or sold by a licensed retail marijuana cultivation facility pursuant to 7 MRS Chapter 417 *The Marijuana Legalization Act* to other licensed retail marijuana establishments.

Retail Marijuana or Cannabis Uses and Facilities

Registered marijuana dispensary – a dispensary that is a nonprofit corporation organized under 13-B MRS *Maine Nonprofit Corporation Act* and registered with the Department of Health and Human Services pursuant to 22 MRS Chapter 558-C *The Maine Medical Use of Marijuana Act* for one or more dispensaries.

Retail marijuana cultivation facility – an entity licensed by the State of Maine to cultivate, prepare, package and sell retail marijuana to other retail marijuana establishments. Such facility may not sell retail marijuana directly to the public.

Retail marijuana establishments – stores, cultivation facilities, products manufacturing facilities, testing facilities, or social clubs licensed by the State of Maine pursuant to 7 MRS Chapter 417 *The Marijuana Legalization Act* and registered marijuana dispensaries pursuant to 22 MRS Chapter 558-C *The Maine Medical Use of Marijuana Act*.

Retail marijuana manufacturing facility – an entity licensed by the State of Maine to purchase retail marijuana strictly for the purpose of the manufacture, preparation and packaging of retail marijuana products and to sell said products to other retail marijuana establishments. Such facility may not sell retail marijuana products directly to the public.

Retail marijuana store – an entity licensed by the State of Maine to purchase retail marijuana from a retail marijuana cultivation facility and/or to purchase retail marijuana products from a retail marijuana products manufacturing facility and to sell retail marijuana and/or retail marijuana products to consumers.

Retail marijuana social club – an entity licensed by the State of Maine to sell retail marijuana and retail marijuana products to consumers for consumption on the licensed premises.

Retail marijuana testing facility – an entity licensed and certified by the State of Maine to analyze and certify the safety and potency of retail marijuana and retail marijuana products.

Retail Marijuana Products – concentrated products that are composed of retail marijuana and other ingredients and are intended for use or consumption, including, but not limited to, edible products, ointments and/or tinctures, produced by a retail marijuana manufacturing facility pursuant to 7 MRS Chapter 417 *The Marijuana Legalization Act*.

Retail Sales or Business - the selling of goods or merchandise to the general public for personal or household consumption or to businesses that will be consumers or end-users of the goods. The term may include services incidental to the sale of such goods. The term does not include gas stations or restaurants.

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.

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. The portion of a river that is subject to tidal action is a coastal wetland.

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

Road - public and private ways such as town roads, public rights-of-way and private rights-of-way. 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.

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.

Road Classification - Private Right-of-Way - 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.

Rooming House - any dwelling in which more than three persons, whether individually or as families, are housed for compensation with or without means. This shall be deemed to include fraternities and sororities.

RV Park - A place where people with a recreational vehicle, such as a camper or motor home, can stay overnight, or longer, in allotted spaces.

Sq.M - shall mean *square mile*.

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 salt-marsh cord grass (*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 cord grass (*Spartina patens*) and black rush; common three-square occurs in fresher areas.

Sanitary Sewer - shall mean a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.

Sapling – A tree species that is less than two (2) inches in diameter at four and one half (4.5) feet above ground level.

Sawmill - A facility where logs are cut into lumber.

School - A private, municipal or state facility that provides a curriculum of academic instruction, including day-care nursery, kindergartens, elementary, secondary, career technical education and post-secondary schools.

Seedling - a young tree species that is less than four and one half (4.5) feet in height above ground level.

Self-Storage Facility - A facility designed and used for the purpose of renting or leasing individual storage space to occupants who are to have access to such facility for the purpose of storing and removing personal property. A self-service storage facility is not a public warehouse.

Service Animals - dogs that are individually trained to do work or perform tasks for people with disabilities. Service animals are working animals, not pets. Dogs and/or animals whose sole function is to provide comfort or emotional support do not qualify as service animals.

Service Business - a business providing health, financial or professional services as defined in this Ordinance.

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:

- (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 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:

- (1) the normal high-water line of a water body or tributary stream, or
- (2) the upland edge of a wetland, or
- (3) the nearest part of a structure, road, lot line, parking space or
- (4) other regulated object or area.

Sewer - shall mean a pipe or conduit that carries wastewater or drainage water.

Sewer Treatment Facility - A facility whose purpose is the process of removing contaminants from wastewater, including household sewage and runoff (effluents). It includes physical, chemical, and biological processes to remove physical, chemical and biological contaminants.

Shall - is mandatory; "may" is permissive.

Shop Used in Pursuit of Trade - the shop of a self-employed craftsman or person in a skilled trade, including but not limited to carpenters, boat builders, plumbers, electricians, etc., For the purpose of this Ordinance, the activities of a tradesman's shop shall not include outdoor sales or displays.

Shore Frontage - The length of a lot bordering on a water body or wetland measured in a straight line be-

tween the intersections of the lot lines with the shoreline.

Shoreland district - the land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or 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. This district includes the Resource Protection and Shoreland Commercial Districts.

Shoreline – the normal high-water line or upland edge of a freshwater or coastal wetland.

Sign - any structure or part thereof attached thereto or painted or represented thereon, that shall display or include any letter, word, model, banner, flag, pennant, insignia, device or representation used as, or that is in the nature of an announcement direction or advertisement. The word "sign" does not include the flag, pennant or insignia of any nation, state, or city or other political unit, or of any political, educational, charitable, philanthropic, civic, professional, and religious or like campaign, drive, movement, or event.

Animated or Electronic Message Display Signs - A sign that shows motion or changes in copy, color or text most often through computer-generated messages or other electric means.

Applied Sign – A sign painted or applied to the exterior building surface, including all lettering and symbols and background coloring other than the color of the building. Does not include attached, parallel and/or projecting signs.

Architectural Sign – A sign that relates to the architectural composition of or is directly applied to the building façade becoming a strong element of the buildings visual appearance.

Awning Sign – A sign affixed to or part of an awning (A shelter usually constructed of non-rigid materials on a supporting framework that projects from and is supported by the exterior wall of a building.) which directs attention to a business, industry, profession or service conducted on the premises where the sign is displayed.

Banner – A sign of temporary construction made of vinyl, canvas, or similar flexible material.

Billboard - the surface of any building or structure that is available for hire for advertising purpose.

Bow Flag - Long narrow flags or banners supported by a flexible, tapered, pole designed to move in the wind. Light-weight, portable and easy to assemble, they are meant as temporary attention getting signs.

Canopy Sign – A sign affixed to or part of a canopy (A structure of canvas on a framework sheltering an area or forming a sheltered walk to the entrance of a building) which directs attention to a business, industry, profession or service conducted on the premises where the sign is displayed.

Changeable Copy Sign - A sign on which the copy can be changed, either manually through the use of attachable letters (usually plastic), mechanically using rotating panel elements, or through the use of electric or electronic means.

Construction Site Sign - Announces project credits and information regarding a construction project such as architect, developer, consultants, financing, etc. Typically painted, vinyl, or digital print mounted onto plywood or exterior-grade particle board substrate. Also called job site sign.

Directory Board – A wall sign affixed to a building containing name identification for two (2) or more

- activities or businesses located in a single building or group of buildings.
- Feather Flag** - Long narrow flags or banners supported by a flexible, tapered, pole designed to move in the wind. Light-weight, portable and easy to assemble, they are meant as temporary attention getting signs.
- Flag** - A piece of plastic or cloth, usually square or rectangular in shape and suspended by its top or one side. It may or may not be decorated; most often used as a temporary attention-getting device. (Ex. Federal and state flags and Open for Business flags).
- Flutter Flag** - Long narrow flags or banners supported by a flexible, tapered, pole designed to move in the wind. Light-weight, portable and easy to assemble, they are meant as temporary attention getting signs.
- Free-standing sign** - a sign not attached to any building
- Gateway Sign** - Typically a sign at the entry to a neighborhood or large facility, graciously announcing the entrance to a grand destination.
- Historic Marker** - A historical marker or historic marker is an indicator such as a plaque or sign to commemorate an event or person of historic interest and to associate that point of interest with a specific locale one can visit.
- Iconic Sign** - a sign that is traditionally accepted as a pictorial symbol conveying the nature of the business, such as: Barber pole, eyeglasses, boots, mortar and pestle. It is normally constructed in heavy relief or is three dimensional.
- Inflatable** - Plastic or fabric signage that assumes a three-dimensional shape when filled with air under pressure or with helium gas.
- Interior Sign** – A sign installed on the interior but visible from the exterior of the building.
- Internally Illuminated Signs** - A sign that is lighted through the use of internal electric fixtures or lamp banks.
- Marquee Sign** - a sign on or attached to a permanent overhanging shelter often of metal and glass projecting over an entrance of a theater or arena that displays the names of featured attractions and principal performers.
- Multiple sign** - a group of signs clustered together in a single structure or compositional unit.
- Neon Sign** – Tubing using neon, another gas, or a technology simulating neon such as light emitting diodes (LED), to spell the name of a business, promote a product or convey information.
- Parallel Sign** - a wall-mounted sign parallel to the building surface projecting not more than six (6) inches from that surface.
- Permanent sign** - a sign associated with a permanent or long-term, including seasonal, activity, whether attached to a building or fixed supporting structure or customarily placed in public view during any hours the associated establishment is open to the public.
- Portable Sign** – A sign not designed or intended to be permanently affixed into the ground or on to a structure.
- Projecting Sign** - a wall-mounted sign at an angle to the building surface.

Regulatory Signs – A route marker, warning sign, sign directing traffic to or from a community, bridge, ferry or airport, or sign regulating traffic which has been erected by officers having jurisdiction over the public way. Also signs installed by various government bodies to inform the public of traffic laws and other regulations.

Revolving Sign - A sign that has the ability to turn 360 degrees because of the presence of an electric motor to drive its movable parts. All or a portion of the sign may revolve at a steady or variable speed.

Sail Flag - Long narrow flags or banners supported by a flexible, tapered, pole designed to move in the wind. Light-weight, portable and easy to assemble, they are meant as temporary attention getting signs.

Sign Area - The sign area includes all lettering, wording and accompanying design and symbols, together with the background, whether open or enclosed, on which they are displayed. (This includes sections between parallel signs.) Minimal supporting bracing or framework is excluded, but any decorative structure is included. The area of painted or applied signs includes background of a color different from the building. Where lettering and/or symbols are applied or painted upon the natural color of the building, the sign area includes that within the outside dimensions of the message and symbol.

a) The sign area of complex signs is that area within a line connecting all major points of the sign's circumference.

b) On projecting signs having parallel signboards within one (1) foot of each other, or with two (2) sides of the same projecting sign, only one (1) side shall be counted in computing the area.

Snipe Sign – A temporary overlay sign added to an existing sign layout, as an additional message to the main sign, for example a band across a corner saying "coming soon."

Special sign - any special sign or three-dimensional sign structure requiring special treatment, not included in the previous definitions.

Spinner Sign - A sign, either freestanding or wall-mounted, where the messages rotate in the wind. A spinner sign is not considered an animated sign.

Swooper Flag - Long narrow flags or banners supported by a flexible, tapered, pole designed to move in the wind. Light-weight, portable and easy to assemble, they are meant as temporary attention getting signs.

Teardrop Banner - Long narrow flags or banners supported by a flexible, tapered, pole designed to move in the wind. Light-weight, portable and easy to assemble, they are meant as temporary attention getting signs.

Temporary Sign - a sign or banner associated with a specific event or activity of limited duration, and customarily removed following the event or cessation of the activity.

Wall Mounted Sign – A sign mounted parallel to the building surface projecting not more than six (6) inches from that surface.

Window Sign – A sign placed, painted, or affixed to the interior or exterior window or the glazed portion of a door that is visible from the building exterior.

Significant River Segments – Note: Per 38 M.R.S. section 437 there are no Significant River Segments in Thomaston.

Significantly Developed - areas- residential areas that contain, on average, at least one residential structure per one-hundred feet of shore frontage over a distance of at least one-thousand feet of shoreline.

Site Plan - A plan of one or more lots on which is shown (1) the existing and proposed condition of the lot, including, but not necessarily limited to, topography, vegetation, drainage, floodplains, marshes and waterways, (2) the location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, structures and signs, lighting, screening devices, and (3) any other information that may be reasonably required in order to make an informed determination pursuant to Site Plan Review.

Sludge - shall mean any discharge of water, or wastewater that in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes, more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation and adversely affect the collection system and/or performance of the wastewater-treatment works.

Small Animals - small-animal specialties such as, but not limited to, chickens and other fowl, rabbits and other fur-bearing animals; aviaries; worm farms; rats, mice, ferrets; guinea pigs; excepting personal household pets, such as cats and dogs, not otherwise regulated by ordinance. For the purposes of the Town's ordinances, also includes miniature species such as, but not limited to panda cows, miniature horses, micro-pigs, or pygmy goats.

Small Scale Farming/Gardening – the production of agricultural products (see *Agriculture*) solely on a small parcel of land (ten acres or less) by a single family plus no more than one hired hand using sustainable farm practices including, but not limited to, organic farming, permaculture, arable and non-arable land uses.

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

Start of Construction – means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, 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 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, whether or not that alteration affects the external dimension of the building.

Storage Facility - A commercial building for safe keeping/storage of goods not being used such as boats, cars and other large items (not a Self-Storage Facility).

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.

Storm Drain – (sometimes termed “Storm Sewer”) shall mean a drain or sewer for the conveying of water, groundwater, subsurface water, or unpolluted water from any source.

Stream – A free-flowing body of water from the outlet of a great pond or 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 on the website of the United States Geological Survey or the national map 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.

A perennial, free-flowing body of water having a defined channel with a mineral bottom as depicted on the official Zoning Map, *Town of Thomaston*, to the point where the body of water becomes a river, or flows to a water body or wetland.

Street Frontage – the linear distance of a piece of land along a street, highway or whatever right-of-way serves as legal access to the lot. For the purpose of this ordinance, the following ways shall constitute legal access to a lot along which frontage shall be measured:

- (1) A way accepted by or belong to the *Town of Thomaston*, Knox County or the State of Maine, providing access is not specifically prohibited.
- (2) A way, whether dedicated to public ownership or not, as shown on an approved subdivision plan and approved by the Planning Board.
- (3) A private or public way that has been established and recorded on the Knox County Registry of Deeds or otherwise legally established by adverse possession or adverse use
- (4) Frontage of a lot shall have a minimum depth not including the way, equal to one half the width or greater of the frontage required for that particular district, when creating a separate lot from a larger parcel of land and become a buildable lot.
- (5) In the case of a lot situated on a curve of a way, frontage may include the entire length of the property line(s) measured along such way(s).

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.

Sub divider - assessed owner of 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 - as defined by 30A MRS §4401, as the same may be amended from time to time, namely:

- (1) 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 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 ordinance.
- (2) The term “subdivision” shall also include the division of a new structure or structures on a tract or parcel of land into three 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 three 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.
- (3) 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 lots, by whomever accomplished, the second dividing of such tract or parcel unless otherwise exempted herein shall be considered to create a third lot, unless both such those dividing are accomplished by a sub divider who shall have retained one of 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 second dividing.

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% of the market value of the structure before the damage occurred.

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

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions; or
- (2) 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 community’s Board of Appeals.
- (3) For purposes of this definition, “substantial improvement” is considered to occur at the time of the first alteration of any wall, ceiling, floor, or structural part of the building commences, whether or not that alteration affects the external dimensions.
- (4) All contiguous land in the same ownership, whether or not the tract is separated at any point by an intermittent non-navigable stream, tidal waters where there is not flow at low tide, or a private road established by the abutting land owner(s) without approval of the Planning Board under the terms of these subdivision regulations.

Substantial start - completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

Substation - A subsidiary station where electricity is transformed for distribution by a low-voltage network; a facility equipped with special equipment and personnel for a particular purpose (ex. post office or police station serving a particular area of a town or city).

Subsurface sewage-disposal system – any system designed to dispose of waste or wastewater on or beneath the surface of the earth.

- (1) 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;
- (2) Does not include any discharge system licensed under 38 M.R.S.A. Section 414, any surface wastewater-disposal system, or any municipal or quasi-municipal sewer or wastewater-treatment system.
- (3) Collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface-spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth.
- (4) The term shall not include any wastewater-discharge system licensed under 38 MRS Section 414, any surface wastewater-disposal system licensed under 38 MRS Section 413 Subsection 1-A, or any public sewer.
- (5) The term shall not include a wastewater-disposal system designed to treat wastewater that is in whole or in part hazardous waste as defined in 38 MRS Chapter 13, Subch. 1.

Superintendent - shall mean the Superintendent of wastewater facilities, and/or of wastewater treatment works, and/or of Water Pollution Control of the *Town of Thomaston* or other agent, or representative designated, the Select Board (i.e., Public Works Director, Town Manager).

Sustained slope - a change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

Suspended Solids - shall mean total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater or other liquids, and that is removable by laboratory filtering as prescribed in "Standard Methods for the Examination of Water and Wastewater" published by the American Public Health Association and referred to as non-filterable residue.

Targeted Market Coverage Area – the area that is targeted to be served by this proposed telecommunications facility.

Temporary – lasting or effective for a time only; not permanent. Implies an arrangement established with no thought of continuance, but with the idea of being changed soon (a temporary structure).

Terms Not Defined – whenever a term is not defined in any ordinance, it is intended to have the meaning set forth in any state statute, if defined by that statute. In the event of a conflict between the definition of this ordinance and that contained in said statute, the definition in said statute shall apply.

Thomaston Harbor Committee - a board of five permanent members and two alternates appointed by the Selectmen, without compensation, to oversee, direct, police and plan the general operation of the Harbor including all piers, docks, floats and moorings therein, and such other duties that are consistent with the intent of the committee.

Thomaston Tidal Waters –Beginning at a point on the Thomaston-South Thomaston boundary below the center of the Maine Central Railroad (MCRR) tracks on the Normal High Water Line (NHWL) of the Eastern side of the Mill River proceeding Westerly under the MCRR bridge to the center thereof where the town lines turn Southerly, and follow the center of the Mill River channel to a point where it meets the center of the St. Georges River channel and continuing Southerly along the line to a point opposite Hospital Point which the Cushing-Thomaston boundary, thence turning Westerly to the NHWL and following the NHWL North-Easterly along the shore of Brooklyn Heights and continuing up the center of the St. Georges River which is also the boundary of Thomaston and Warren to a point at the center of the Oyster River and continuing up the center of the Oyster River which is also the Warren-Thomaston boundary to a point where the town boundaries turn North-Westerly onto land to the NHWL, thence following the NHWL down the Oyster River and thence turning Southerly along the NHWL of the St. Georges River to the NHWL on the Western side of the Mill River and thence upstream along the NHWL to a point where U.S. Route One crosses said river and thence to the NHWL on the Easterly side of the Mill River and thence Southerly along the NHWL on the Easterly side of the Mill River to the point of beginning.

Timber harvesting - the cutting and removal of timber for the primary purpose of selling or processing forest products, but not the construction or creation of approved roads. Timber harvesting does not include the clearing of land for approved construction.

NOTE: Timber Harvesting in the Shoreland District is regulated by the Department of Agriculture, Conservation and Forestry Bureau of Forestry (Maine Forest Service); Chapter 21: Statewide Standards for Timber Harvesting and Related Activities in Shoreland Areas (copy of the regulation is available in the Thomaston Code Enforcement Office)

Tract or Parcel of Land - all contiguous land in the same ownership, whether or not the tract is separated at any point by an intermittent non-navigable stream, tidal waters where there is no flow at low tide, or a private road established by the abutting land owner(s) without approval of the Planning Board under the terms of these subdivision regulations.

Trailer - trailer shall mean any vehicle used or so construed as to permit its being used as a conveyance on the public streets and highways and duly licensed as such, and constructed in such a manner as will permit occupancy thereof as a temporary dwelling for one or more persons. A trailer shall not be construed as a mobile home for the purposes of this ordinance.

Transportation Facility - a fixed installation serving public transportation such as tracks, piers, stations, storage facilities.

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 District of the receiving water body or wetland. Water setback requirements apply to tributary streams within the Shoreland District.

Undue Adverse Impact - means within the comprehensive economic-impact area, the estimated overall negative effects on the factors listed for consideration of Section 736.11, (4) outweigh the estimated overall positive effects on those factors and that the estimated negative effects of at least two (2) of the factors listed in Section 736.11 (4), paragraph (a) outweigh the positive effects on those factors.

Unpolluted Water - is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water-quality standards and would not be benefited by discharge to the sanitary sewers and wastewater-treatment facilities provided.

Unreasonable Adverse Impact – that the proposed project would produce an end result that is:

- (1) Excessively out of character with the designated scenic resources affected, including existing buildings and features within the designated scenic resource, and
- (2) Would significantly diminish the scenic value of the designated scenic resource.

Upholstery Shop - An establishment used in the craft of covering, padding, and stuffing furniture, including automobile, airplane and boat seating/furniture.

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 highest annual 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.

Variance - a variance is a relaxation of the terms of this Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Ordinance will result in unnecessary or undue hardship. A financial hardship shall not constitute grounds for granting a variance. The crucial points of variance are undue hardship and unique circumstances applying to the property. A variance is not justified unless both elements are present in the case. **LUO** Means a grant of relief by a community from the terms of a floodplain management regulation.

Vegetation - all live trees, shrubs, ground cover, and other plants including without limitation, trees both over and under four (4) inches in diameter, measured at least four and one-half (4.5) feet above ground level.

Vehicle - a device that is intended to be used to carry people or goods from one place to another, including, but not limited to, powered vehicles such as cars, trucks, busses, airplanes, tractors or trains; and to non-powered vehicles such as cargo or other kinds of trailers, boxcars, or animal-drawn wagons, carts, hacks, coaches, carriages, sleds or sleighs. Such vehicles that are altered by the removal of wheels or other devices necessary to allow movement are still vehicles unless they have been permitted as structures. Vessels are exempt from this definition.

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.

Vessels - vessels shall include boats of all sizes propelled by sail, machinery or hand plus scows, dredges, shellfish cars and craft of any kind.

Viewpoint – that location that is identified either in the municipally adopted comprehensive plan or by a federal or state agency, and that serves as the basis for the location and determination of a particular designated scenic resource.

Violation- means the failure of a structure or other development to fully comply with a community's floodplain-management regulation or ordinance.

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.

WPCF - shall mean *Water Pollution Control Federation*.

Warehouse - a facility that is dedicated to the storage, wholesale and distribution of manufactured products, supplies and equipment, but excluding bulk storage of materials that are inflammable or explosive or that create hazardous or commonly recognized offensive conditions.

Wastewater - shall mean the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, business buildings, institutions, and industrial establishments together with such ground, surface and storm waters as may be present.

Wastewater Treatment Plant - shall mean an arrangement of devices and structures for treating wastewater, industrial waste, and sludge.

Wastewater facilities - shall mean the structures, equipment and processes required to collect, carry away, and treat domestic and industrial wastes and dispose of the effluent.

Water body - any great pond, river, or stream.

Water Course - shall mean a natural or artificial channel for the passage of water either continuously or intermittently.

Water crossing - any project extending from one bank to the opposite bank of a river or stream, tributary stream or wetland whether under, through, or over the water course 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.

Water Levels -

Annual High Water - the highest tide of the year. Normally 12-foot tide.

Mean (Normal) High Water - The average of the high water over a 19-year period.

Mean Water Level - midway between mean high water and mean low water.

Mean (Normal) Low Water - The average of the low water over a 19-year period.

Way (R.O.W.) - A way established or maintained under public authority, or a fifty (50) foot-wide private way plotted by a registered land surveyor and approved by the Planning Board and plotted, dedicated and recorded, or a way shown on a plan of a subdivision duly approved by the Planning Board. If a private way is created and approved by the Planning Board for the development of a second dwelling, no further dwellings shall be allowed without the ROW being constructed according to Section 729, Road Design and Construction Standards. The five-year subdivision residency requirement shall not apply as an exemption

Said private right-of-way shall be sixty (60) feet wide if the future intent is for consideration for a public road and to be accepted by the *Town of Thomaston* as such. Said private way shall be designed, constructed and approved as per Site Design Standards, Section 720, before accepted by the *Town of Thomaston*.

Wetland - a freshwater or coastal wetland. For the purposes of this Ordinance, wetlands include both forested and non-forested wetlands greater than two (2) acres in area.

Wharf - a permanent structure located generally parallel to the shore, supported on piling, cribbing or solid fill, having a deck or platform suitable for berthing, boarding or servicing of vessels. **LUO** A structure of timber, masonry, cement, earth or other materials, built on the shore of a harbor, river, canal or the like, especially one extending parallel to the shore line, so that vessels may lie close alongside to receive and discharge passengers and cargo.

Wholesale Business – Pertaining to or engaged in the sale and/or distribution primarily to retailers and on an incidental basis to ultimate consumers.

Wireless Telecommunications Facility or Facility – any structure, antenna, tower, or other device that provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular-phone services, specialized mobile-radio communications (SMR), common carrier wireless-exchange phone services, specialized mobile-radio communications (SMR), common carrier wireless-exchange access services, and personal- communications service (PCS) or pager services.

Woody Vegetation - live trees or woody, non-herbaceous shrubs.

Word Usage – words used in the present tense include the future, the singular number includes the plural, and the plural singular. The word “lot” can also mean “plot”. The word “building” includes the word “structure”. The term “such as” where used herein shall be considered as introducing a typical or illustrative, rather than an entirely exclusive or inclusive, designation of permitted or prohibited uses, activities, establishments or structures. The word “zone” and “district” are synonymous.

Yard - an unoccupied space, open to the sky, on the same lot with a building or structure.

Yard, Front - an open unoccupied space on the same lot with the building between the front line of the building and the front line of the lot and extending the full width of the lot as it abuts along a public or private street.

Yard, Rear - an open unoccupied space on the same lot with the building between the rear line of the building and the rear line of the lot and extending the full width of the lot.

Yard Sales - any resident of the *Town of Thomaston* may conduct a temporary sale of his household goods from his place of residence. The term "Yard Sale" shall include private sales, advertised in local media or otherwise, as garage, yard, household or barn sales, moving sales and private sales of all or a part of, the household goods located at the seller's place of residence. Yard sales shall be allowed to operate for a period of three (3) consecutive days. No such yard sale shall be operated more than two (2) such sales in a calendar year by any one person or from any one location.

Yard, Side - an open unoccupied space on the same lot with the building situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.

CHAPTER 3 ICC BUILDING CODE

ARTICLE I -ADOPTION OF THE IBC BASIC BUILDING CODE AND THE IRC RESIDENTIAL BUILDING CODE

SECTION 301 ADOPTION OF CODE

An ordinance of the *Town of Thomaston* adopting the 2015 edition of the *International Residential Code (IRC)* regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories in height with separate means of egress in the *Town of Thomaston*; and including the 2015 edition of the *International Building Code (IBC)* regulating and governing the ; construction, alteration, relocation, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures not governed by the (IRC) in the *Town of Thomaston*; and including the 2015 edition of the *International Property Maintenance Code (IPMC)* regulating and governing all existing residential and nonresidential structures and all existing *premises* and constitute minimum requirements and standards for *premises*, structures, equipment and facilities for light, *ventilation*, space, heating, sanitation, protection from the elements, a reasonable level of safety from fire and other hazards, and for a reasonable level of sanitary maintenance; and for administration, enforcement and penalties in the *Town of Thomaston*; providing for the issuance of permits and collection of fees therefore; repealing the 2009 editions of the above codes.

The *Town of Thomaston* does ordain as follows:

301.1– That a certain document, three (3) copies of which are on file in the office of the Town Clerk of Thomaston, keeper of records of the *Town of Thomaston*, being marked and designated as the *International Residential Code*, 2015 edition as well as the *International Basic Building Code*, 2015 edition as well as the *International Property Maintenance Code*, 2015 edition and as well as the *International Existing Building Code*, 2015 edition on file in the office of the *Town of Thomaston* are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 301.2 of this ordinance.

301.2 – The following sections are hereby revised:

IRC Section R-101.1 - Insert *Town of Thomaston*
IBC Section A-101.1 - Insert *Town of Thomaston*
IPMC Section A-101.1 - Insert *Town of Thomaston*
IEBC Section A101.1 - Insert *Town of Thomaston*

301.3 – The following chapters of the *International Residential Code*, published by the International Code Council, Inc., in effect on June 13, 2018 are hereby adopted and incorporated by reference: Chapters 1 through 10, 12 through 19, 23, 41, 44.

301.4 – The following chapters, and all appendices, of the *IRC* are specifically excluded from adoption:

Chapter 11 Energy Efficiency;
Chapter 20 Boilers and Water Heaters;
Chapter 21 Hydronic Piping;
Chapter 22 Special Piping and Storage Systems;

Chapter 24 Fuel Gas;
 Chapter 25 Plumbing Administration;
 Chapter 26 General Plumbing Requirements;
 Chapter 27 Plumbing Fixtures;
 Chapter 28 Water Heaters;
 Chapter 29 Water Supply and Distribution;
 Chapter 30 Sanitary Drainage;
 Chapter 31 Vents;
 Chapter 32 Traps;
 Chapter 33 Storm Drainage;
 Chapter 34 General Requirements;
 Chapter 35 Electrical Definitions;
 Chapter 36 Services;
 Chapter 37 Branch Circuit and Feeder Requirements;
 Chapter 38 Wiring Methods;
 Chapter 39 Power and Lighting Distribution;
 Chapter 40 Devices and Luminaries;
 Chapter 43 Class 2 Remote-control, Signaling and Power Limited Circuits; and
 Appendix A through Q.

301.5 –The *Town of Thomaston* adopts the 2015 edition of the *International Existing Building Code (IEBC)* regulating and governing the repair, alteration, change of occupancy, addition to and relocation of existing buildings the intent of which is to provide flexibility to permit the use of alternative approaches to achieve compliance with minimum requirement to safeguard public health, safety and welfare insofar as they are affected by the repair, alteration, change of occupancy, addition and relocation of existing buildings in the Town of Thomaston. All other ordinances or parts of ordinances in conflict herewith are hereby repealed.

301.6– That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The *Town of Thomaston* hereby declares that it would have passed this ordinance, and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

301.7 – That nothing in this ordinance or in the code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any causes or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 301.5 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

301.8 – That the *Thomaston* Town Clerk is hereby ordered and directed to cause this ordinance to be published in a newspaper of general circulation.

301.9 – That this ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect from and after the date of its final passage and adoption.

Chapter 3 - BOCA Building and Property Maintenance Code
 adopted 6/22/1999
 amended 11/3/2004
 repealed 6/13/2012
Chapter 3 - ICC Building Code
 adopted 6/13/2012
 amended 6/11/2014
 amended 6/13/2018

ARTICLE 39: Shall an ordinance entitled "Chapter 8: Floodplain Management Ordinance for the Town of Thomaston, Maine" marked "60.3 (d) Prepared on 2/8/16 by DACF/JP" be enacted and the present ordinance entitled "Chapter 8: Floodplain Management Ordinance" marked "60.3 (b) Rev. 4/05" be repealed?

CHAPTER 8

FLOODPLAIN MANAGEMENT ORDINANCE

FOR THE

TOWN OF THOMASTON, MAINE

ENACTED: June 15, 2016
Date

EFFECTIVE: June 15, 2016
Date

CERTIFIED BY: 
Signature

CERTIFIED BY: Joan Linscott
Print Name

Town Clerk
Title



CHAPTER 8 **FLOODPLAIN MANAGEMENT ORDINANCE**

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SECTION 801 - PURPOSE AND ESTABLISHMENT

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

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of 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 Thomaston, Maine.

The areas of special flood hazard, Zones A and AE, for the Town of 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: 170D, 327D, 328D, 329D, 333D, and 335D, 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.

SECTION 802 – FLOOD HAZARD DEVELOPMENT PERMIT REQUIRED

Before any construction or other development (as defined in Section 813), including the placement of manufactured homes, begins within any areas of special flood hazard established in Section 801, **a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer**. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Thomaston, Maine.

SECTION 803 - APPLICATION FOR PERMIT

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

- 803.1 The name, address and phone number of the applicant, owner, and contractor.
- 803.2 An address and a map indicating the location of the construction site.
- 803.3 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.

- 803.4 A statement of the intended use of the structure and/or development.
- 803.5 A statement of the cost of the development including all materials and labor.
- 803.6 A statement as to the type of sewage system proposed.
- 803.7 Specification of dimensions of the proposed structure and/or development.

Note: Items 803.8 – 803.11.2 apply only to new construction and substantial improvements.

- 803.8 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:

- 803.8.1 base flood at the proposed site of all new or substantially improved structures, which is determined:

- 803.8.1.1 in Zone AE, from data contained in the “*Flood Insurance Study - Knox County, Maine*”, as described in Section 801; or,

- 803.8.1.2 in Zone A:

- 803.8.1.2.1 from any base flood elevation data from federal, state, or other technical sources (such as FEMA’s Quick-2 model), including information obtained pursuant to Sections 806.11 and 808.4.; or,

- 803.8.1.2.2 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

- 803.8.1.2.3 in the absence of all other data, 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; and,

- 803.8.2 highest and lowest grades at the site adjacent to the walls of the proposed building; and,

- 803.8.3 lowest floor, including basement; and whether or not such structures contain a basement; and,

- 803.8.4 level, in the case of non-residential structures only, to which the structure will be floodproofed.

- 803.9 A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Section 806.

- 803.10 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.

- 803.11 All of the following certifications as required in Section 806 by a Maine registered professional engineer or architect:
- 803.11.1 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 Section 803.8.4; Section 806.7; and other applicable standards in Section 806;
 - 803.11.2 a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Section 806.12.2.1;
 - 803.11.3 a certified statement that bridges will meet the standards of Section 806.13;
 - 803.11.4 a certified statement that containment walls will meet the standards of Section 806.14;
- 803.12 A description of the extent to which any water course will be altered or relocated as a result of the proposed development.
- 803.13 A statement of construction plans describing in detail how each applicable development standard in Section 806 will be met.

SECTION 804 - APPLICATION FEE AND EXPERT'S FEE

A nonrefundable application fee, per the Thomaston Fee Schedule and as established annually by the Select Board, shall be paid to the Town of Thomaston 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.

SECTION 805 - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Code Enforcement Officer shall:

- 805.1 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 Section 806 (Development Standards) have been, or will be met.
- 805.2 Utilize, in the review of all Flood Hazard Development Permit applications:
 - 805.2.1 the base flood and floodway data contained in the "*Flood Insurance Study - Knox County, Maine*", as described in Section 801; and,
 - 805.2.2 in special flood hazard areas where base flood elevation and floodway data are not provided, the Code Enforcement Officer 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 Section 803.8.1; Section 806.11; and Section 808.4, in order to administer Section 806 of this Ordinance; and,

- 805.2.3 when the community establishes a base flood elevation in a Zone A by methods outlined in Section 803.8.1.2, the community shall submit that data to the Maine Floodplain Management Program.
- 805.3 Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Section 801 of this Ordinance.
- 805.4 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 Article 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344.
- 805.5 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.
- 805.6 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:
- 805.6.1 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 an 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 Sections 806.6, 806.7 or 806.8. 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,
- 805.6.2 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 Sections 806.7.1.1, 806.7.1.2, and 806.7.1.3. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
- 805.6.3 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 Section 806.9, 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.
- 805.7 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 Section 809 of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications

of design standards required under the provisions of Sections 803, 806, and 807 of this Ordinance.

SECTION 806 - DEVELOPMENT STANDARDS

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

806.1 All Development - All development shall:

806.1.1 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; and,

806.1.2 use construction materials that are resistant to flood damage; and,

806.1.3 use construction methods and practices that will minimize flood damage; and,

806.1.4 use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.

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

806.3 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.

806.4 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.

806.5 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.

806.6 Residential - New construction or substantial improvement of any residential structure located within:

806.6.1 Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.

806.6.2 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 Section 803.8.1.2; Section 805.2; or Section 808.4.

806.7 Non Residential - New construction or substantial improvement of any non-residential structure located within:

806.7.1 Zone AE shall have

806.7.1.1 the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or

806.7.1.2 together with attendant utility and sanitary facilities shall:

806.7.1.2.1 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; and,

806.7.1.2.2 have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,

806.7.1.2.3 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 Section 803.11 and shall include a record of the elevation above mean sea level to which the structure is floodproofed.

806.7.2 Zone A shall have

806.7.2.1 the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Section 803.8.1.2; Section 805.2; or Section 808.4, or

806.7.2.2 together with attendant utility and sanitary facilities meet the floodproofing standards of Section 806.7.1.

806.8 **Manufactured Homes** - New or substantially improved manufactured homes located within:

806.8.1 Zone AE shall:

806.8.1.1 be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation; and,

806.8.1.2 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,

806.8.1.3 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:

806.8.1.3.1 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,

806.8.1.3.2 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).

806.8.1.3.3 all components of the anchoring system described in Section 806.8.1.3.1 & 806.8.1.3.2 shall be capable of carrying a force of 4800 pounds.

806.8.2 Zone A shall:

806.8.2.1 be elevated on a permanent foundation, as described in Section 806.8.2, 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 Section 803.8.1; Section 805.2; or Section 808.4; and

806.8.2.2 meet the anchoring requirements of Section 806.8.1.3.

806.9 **Recreational Vehicles** - Recreational Vehicles located within:

806.9.1 Zones A and AE shall either:

806.9.1.1 be on the site for fewer than 180 consecutive days; or,

806.9.1.2 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,

806.9.1.3 be permitted in accordance with the elevation and anchoring requirements for “manufactured homes” in Section 806.8.1.

806.10 **Accessory Structures** - Accessory Structures, as defined in Section 813, located within Zones A and AE, shall be exempt from the elevation criteria required in Section 806.6 and 806.7 above, if all other requirements of Section 806 and all the following requirements are met. Accessory Structures shall:

806.10.1 have unfinished interiors and not be used for human habitation; and,

806.10.2 have hydraulic openings, as specified in Section 806.12.2, in at least two different walls of the accessory structure; and,

806.10.3 be located outside the floodway; and,

806.10.4 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,

806.10.5 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.

806.11 **Floodways** -

806.11.1 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.

806.11.2 In Zones A and AE, 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 Section 806.11.2.3 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:

806.11.2.1 will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,

806.11.2.2 is consistent with the technical criteria contained in FEMA's guidelines and standards for flood risk analysis and mapping.

806.11.3 In Zones A and AE 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.

806.12 **Enclosed Areas Below the Lowest Floor** - New construction or substantial improvement of any structure in Zones A and AE that meets the development standards of Section 806, including the elevation requirements of Sections 806.6, 806.7, or 806.8 and is elevated on posts, columns, piers, piles, "stilts," or crawlspace may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

806.12.1 Enclosed areas are not "basements" as defined in Section 813.

806.12.2 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:

806.12.2.1 be engineered and certified by a registered professional engineer or architect; or,

806.12.2.2 meet or exceed the following minimum criteria:

806.12.2.2.1 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; and,

806.12.2.2.2 the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,

806.12.2.2.3 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; and,

806.12.3 The enclosed area shall not be used for human habitation; and,

806.12.4 The enclosed areas are usable solely for building access, parking of vehicles, or storage.

806.13 **Bridges** - New construction or substantial improvement of any bridge in Zones A and AE shall be designed such that:

806.13.1 when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and

806.13.2 a registered professional engineer shall certify that:

806.13.2.1 the structural design and methods of construction shall meet the elevation requirements of this Section and the floodway standards of Section 806.11; and

806.13.2.2 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.

806.14 **Containment Walls** - New construction or substantial improvement of any containment wall located within Zones A and AE shall:

806.14.1 have the containment wall elevated to at least one foot above the base flood elevation; and,

806.14.2 have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,

806.14.3 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 Section 803.11.

806.15 **Wharves, Piers and Docks** - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones A and AE, in and over water if the following requirements are met:

806.15.1 wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and

806.15.2 for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

SECTION 807 - 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:

- 807.1 For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer, an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Sections 806.6, 806.7, or 806.8.
- 807.2 The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.
- 807.3 Within 10 working days, the Code Enforcement Officer shall:
 - 807.3.1 review the Elevation Certificate and the applicant's written notification; and,
 - 807.3.2 upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

SECTION 808 - 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 or 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:

- 808.1 All such proposals are consistent with the need to minimize flood damage.
- 808.2 All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- 808.3 Adequate drainage is provided so as to reduce exposure to flood hazards.
- 808.4 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.
- 808.5 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 Section 806 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.

SECTION 809 - APPEALS AND VARIANCES

The Board of Appeals of the Town of 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:

809.1 Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

809.2 Variances shall be granted only upon:

809.2.1 a showing of good and sufficient cause; and,

809.2.2 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,

809.2.3 a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,

809.2.4 a determination that failure to grant the variance would result in “undue hardship,” which in this Section means:

809.2.4.1 that the land in question cannot yield a reasonable return unless a variance is granted; and,

809.2.4.2 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,

809.2.4.3 that the granting of a variance will not alter the essential character of the locality; and,

809.2.4.4 that the hardship is not the result of action taken by the applicant or a prior owner.

809.3 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 it deems necessary.

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

809.4.1 other criteria of Section 809 and Section 805.11 are met; and,

809.4.2 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.

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

809.5.1 the development meets the criteria of Section 809, paragraphs 809.1 through 809.4 above; and,

809.5.2 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.

809.6 Any applicant who meets the criteria of Sections 809.1 through 809.5 shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:

809.6.1 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; and,

809.6.2 such construction below the base flood level increases risks to life and property; and,

809.6.3 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.

809.7 Appeal Procedure for Administrative and Variance Appeals

809.7.1 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.

809.7.2 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.

809.7.3 The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.

809.7.4 The person filing the appeal shall have the burden of proof.

809.7.5 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.

809.7.6 The Board of Appeals shall submit to the Code Enforcement Officer 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.

809.7.7 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.

SECTION 810 - ENFORCEMENT AND PENALTIES

- 810.1 It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.
- 810.2 The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.
- 810.3 In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, may submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of;
- 810.3.1 the name of the property owner and address or legal description of the property sufficient to confirm its identity or location; and,
 - 810.3.2 a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance; and,
 - 810.3.3 a clear statement that the public body making the declaration has authority to do so and a citation to that authority; and,
 - 810.3.4 evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
 - 810.3.5 a clear statement that the declaration is being submitted pursuant to Article 1316 of the National Flood Insurance Act of 1968, as amended.

SECTION 811 - 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.

SECTION 812 - 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.

SECTION 813 – DEFINITIONS *(See also Chapter 10 – Definitions, Town of Thomaston Ordinances)*

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

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

Area of Special Flood Hazard - means the 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 Section 801 of this Ordinance.

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

Basement - means any area of the building having its floor subgrade (below ground level) on all sides.

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, Article 4451 (including exceptions in sub-Article 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws and ordinances.

Development - means any man made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials.

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

Elevated Building - means a non-basement building

- a. built, in the case of a building in Zones A or AE, to have the top of the elevated floor elevated above the ground level by means of pilings, columns, post, piers, or “stilts;” and
- b. adequately anchored so as not to 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 or AE, **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 806.12.

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 - means:

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

Flood Insurance Rate Map (FIRM) - means 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 Flood-prone Area - means any 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 - means 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 - means 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 - mean the lines marking the limits of floodways on federal, state, and local floodplain maps.

Freeboard - means 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 that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

Functionally Dependent Use - means a use which 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 - means, 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 - means 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 Section 806.12 of this ordinance.

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

Mean Sea Level - means, for purposes of 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 Section 806.10., 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) - means the national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and also has been called “1929 Mean Sea Level (MSL)”.

New Construction - means 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 - means a vehicle which 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. means 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 - means 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 - means 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 community's 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.

SECTION 814 - 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 (d) Rev. 02/16
Prepared by DACF/JP

TOWN OF THOMASTON POLLUTION CONTROL SEWER ORDINANCE

Section 901 - MANAGEMENT PLAN

901.1 - PURPOSE

The Town of Thomaston in order to promote the health, general welfare, comfort, and public convenience of its citizens and to protect the environment owns, controls, maintains and operates a wastewater collection, treatment, and disposal facility. The purpose of this ordinance is to set up a management plan for the facility and to provide for control of its use.

901.2 - AUTHORITY AND ABROGATION

This ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII Part 2, Sec.1. of the Maine Constitution and M.R.S.A. Title 30-A Section 3001.

This Ordinance shall be known as the "Sewer Ordinance" of the Town of Thomaston, Maine, enacted by vote of the Town Meeting. This ordinance repeals and replaces any municipal ordinance previously enacted to establish a management plan for the wastewater treatment facilities and sewer systems.

The authority to act on behalf of the Town of Thomaston in all matters pursuant to the Town's Wastewater Facilities shall be vested in the Board of Selectmen to the extent allowed by M.R.S.A. Title 30-A Section 3402-3406, and Section 3422 and all other applicable State statutes.

901.3 - POLLUTION CONTROL DEPARTMENT

There is hereby established a POLLUTION CONTROL DEPARTMENT (P.C.D.) FOR THE TOWN OF THOMASTON. This Wastewater Department shall maintain and operate all of the town's wastewater facilities located within the legal limits of the Town of Thomaston including any portions covered by interlocal agreement with other municipalities. The Board of Selectmen shall provide for its staffing, establish rules and regulations for its operations and prepare and approve a fiscal year budget for the Department. The Pollution Control Department shall be under the general direction of the Town Manager and direct direction of the P.C.D. Superintendent. In addition, the Board of Selectmen may establish such sewer advisory boards and committees as it deems necessary and provide for their charges and rules and regulations.

901.4 - ORDINANCE

There shall be an ordinance established as may be necessary to restrict and regulate the accumulation, transportation, treatment and disposal of wastewater in such a manner that the creation of any wastewater system, whether public or private, industrial or residential, shall not result in pollution, health hazards or other nuisances for the citizens of the Town of Thomaston.

The Board of Selectmen may establish such additional rules and regulations to clarify and supplement the ordinance as they consider expedient after holding a public hearing, within 7 days notice of the public hearing. Additional rules and regulations will include:

- a. Discharges to public sewer;
- b. Pretreatment requirements in accordance with federal requirements;

- c. Long-term sewer maintenance plan;
- d. Sewer use violation monitoring plan;
- e. Sewer service charges and schedule of user fees;
- f. System development charges and schedule of fees.

The invalidity of any section, clause, sentence, or provision of this ordinance shall not effect the validity of any other part of this ordinance which shall remain in effect without such invalid part or parts.

The Board of Selectmen have the right to alter or waive any provisions of this ordinance, rules, regulations or conditions of services for the following reasons:

1. The person who, by reason of infirmity or poverty, is in the Board of Selectmen's judgement unable to contribute to the public charges. Said abatement procedure shall be the same as provided under M.R.S.A. 36, Section 841 (2)
2. That the topography of the land is such that not to grant a waiver would result in undue hardship and would not be in the best interest of the community. A financial hardship shall not constitute grounds under this paragraph.

The decision and the reason(s) for the decision shall be recorded in the minutes of the meeting in which the waiver is granted. The burden of proof for granting of an alteration or waiver is upon the applicant or developer and not upon the Board of Selectmen.

901.5 - USER FEES

All persons, firms and corporations, whether public or private, shall pay to the Treasurer of the Town the rates, tolls, rents, fees, and other lawful charges established by the Board of Selectmen after a public hearing for the wastewater service used or available with respect to their real estate.

901.6 - VIOLATION, PENALTIES AND ENFORCEMENT

The Code Enforcement Officer/Local Plumbing Inspector (hereafter referred to as CEO/LPI) shall be responsible for the enforcement of this Ordinance. Upon finding that any owner is violating any provision of this ordinance, the CEO/LPI may serve the owner with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

Any owner who continues to violate beyond the time limit provided for in the written notice, may be subject to court action, shall be guilty of a civil violation and on conviction shall be fined not less than \$100 nor more than \$2,500 or such other penalty provided by M.R.S.A. Title 30-A Section 4452. Each day in which such violation shall continue shall be deemed a separate offense violation.

Any owner violating any of the provisions of this ordinance shall become liable to the Town for any such expense, loss or damage occasioned the Town by reason of such violation.

901.7 - APPEAL PROCEDURE

Any owner aggrieved by the decision of the CEO/LPI, which decision arises from provisions of this Thomaston Sewer Ordinance may appeal such decision to the Board of Selectmen within thirty (30) days of the Code Officer's decision to the Board of Selectmen of the Town of Thomaston. The Board of Selectmen shall hear said appeal within thirty (30) days of the date of hearing of the Board of Selectmen. The decision of the Board of Selectmen shall be entered at the office of the Town clerk upon form to be approved by the Board of Selectmen and the appellant shall be sent a notice of said decision, postage prepaid, to the address of the appellant. The appellant shall, in his application, set forth as grounds for

appeal and shall refer to the specific provisions of the ordinance involved in an appeal to the Board of Selectmen.

At any rate, a party may appeal from the decision of the Board of Selectmen to the Superior Court in accordance with the Maine Rules of Civil Procedure, Rule 80(b). Hearing before the Superior Court shall be without jury.

901.8 - AUTHORITY TO INSPECT

The Board of Selectmen or the CEO/LPI or P.C.D. Superintendent and other duly authorized representatives of the Board of Selectmen bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, and testing pertinent to discharge to the public sewer in accordance with the provisions of this Ordinance but only at reasonable times and upon reasonable notice. The Board of Selectmen or CEO/LPI or P.C.D. Superintendent shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the Town's Wastewater facilities or waterways. Any information so obtained and considered as proprietary shall be held so by the Board of Selectmen.

While performing the necessary work on private properties referred to above, the Board of Selectmen or CEO/LPI or P.C.D. Superintendent shall observe all safety rules applicable to the premises. The owner shall be held harmless for injury or death to the Town's employees or representatives and the Town shall indemnify the owner against loss or damage to his/her property by Town employees or representatives and against liability claims and demands for personal injury or property damage asserted against the owner and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the owner to maintain safe conditions.

The Board of Selectmen or CEO/LPI or P.C.D. Superintendent bearing proper credentials and identification shall be permitted to enter all private properties through which the Town holds a fully executed easement for the purpose of , but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the Town's Wastewater facilities lying with said easement. All entry and subsequent work, if any, on said easement shall be done in full accordance with the terms of the duly executed easement pertaining to the private property involved.

901.9 - DAMAGE TO FACILITIES

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment which is a part of the Town wastewater facilities. Any person violating this provision shall be subject to those penalties provided by State law. A person shall be liable to the Town in a civil action for all damages incurred, and double damages where appropriate as provided by M.R.S.A. Title 30-A Section 3407.

901.10 - CONFLICT WITH OTHER ORDINANCES

This Ordinance shall completely supersede all other wastewater ordinances enacted by the Town of Thomaston prior to the date of the enactment of this Ordinance. Other ordinances and rules and regulations are hereby repealed, except as otherwise noted herein.

901.11 - VALIDITY

This Ordinance shall be effective when approved by the voters at Town Meeting. Hereafter any person owning or proposing to own any real estate within the Town of Thomaston which is source of wastewater shall comply with the requirements of this of this Ordinance, or the Maine State Plumbing Code.

901.12 - AMENDMENT TO ORDINANCE

This Ordinance may be amended by a majority vote at an annual or Special Town Meeting. Amendments may be initiated by a majority vote of the Board of Selectmen or on petition to the Board of Selectmen by voters numbering no fewer than 10% of the votes cast in the last gubernatorial election in the Town. The Board of Selectmen shall conduct a public hearing on any proposed amendment.

A public hearing notice on any proposed amendment shall be published in a newspaper of general circulation in the Town of Thomaston at least 7 days prior to the date of the public hearing.

Section 902 - CONNECTIONS TO PUBLIC SEWER

902.1 - USE OF PUBLIC SEWERS REQUIRED

The owner of each lot or parcel of land upon which a building has been constructed which abuts upon a street or public way containing a public sewer shall connect that building with the public sewer within ninety (90) days after date of official notice to do so, provided that said public sewer is within two hundred (200) feet of any existing or proposed buildings and/or private on-site septic disposal systems and shall cease using any other method for the disposal of wastewater.

Upon completion of the connection of the building sewer to the public sewer, all contents, the old septic tank(s) and its contents shall be secured or disposed of in accordance with the Maine State Plumbing Code.

902.2 - CONNECTION OF PRIVATE SEWERS, PERMITS, AND REGULATIONS

Application. Abutters upon the line of a public sewer and abutters upon the line of a public sewer constructed before a municipality accepts those sections, and the owner of contiguous private sewers may enter and connect with the public sewer on written application to the Board of Selectmen distinctly describing the land to which the application applies and paying a sewer connection permit fee in form of a one-time Sewer System Development Charge (hereafter referred to as S.S.D.C.) payment (refer to sewer charges). Expense for any testing and sampling of waste for acceptance at the treatment plant shall be borne by the owner or applicant. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgement of the Board of Selectmen.

Permit issued. Upon approval, the Board of Selectmen shall give the applicant a written permit to enter and connect with the public sewer. This permit is available to the owner of the land described in the application, the owner's heirs and assigns, and shall run with the land. Failure to enter and connect into the public sewer within one year from the date of the granting of the permit shall result in the expiration of the permit and forfeiture of the permit fee or the S.S.D.C. Renewal of a permit shall be treated as a new application and shall be subject to all of the provisions of this ordinance including the appropriate fees and charges.

Regulations. The Board of Selectmen shall establish any other rules, regulations and conditions for connecting with public sewers that they consider expedient and after holding a public hearing with 7 days notice of the public hearing.

For all connections an inspection fee as determined by the Board of Selectmen shall be paid to the Town at the time the application is filed.

902.3 - NOTIFICATION PERIODS

The Board shall require written notice of any new discharge or any major change, either in volume or character of wastewater, in an existing discharge. the minimum notification period shall be as outlined in Table 1.

Table 1 - Minimum Notification Period

New Discharge	Less than 5,000 G.P.D.	15 days
	More than 5,000 G.P.D.	60 days
Existing Discharge Modifications	Change of less than 10,000 G.P.D.	None
	Change of more than 10,000 G.P.D.	30 days

902.4 - CONNECTIONS WITHOUT PERMIT

If any owner connects a private sewer or building drain with a public sewer or enters it by a side connection without a permit, the municipal officers may immediately destroy the connection. That owner commits a civil violation for which a forfeiture of not more than twice the normal fee may be adjudged, to be paid to the municipality where the offense is committed.

902.5 - VIOLATION OF PERMIT; NUISANCES

If any owner willfully or negligently violates any condition or regulation prescribed in the permit, the municipal officers may immediately disconnect the sewer from the public sewer and declare the permit forfeited. That owner, the owner's heirs and assigns may not connect with the public sewer again without a new permit and new sewer connection permit fee (S.S.D.C.). Whoever commits a nuisance by the construction or use of a private sewer is liable for that nuisance notwithstanding this chapter.

902.6 - SEWER CONNECTION PERMIT REQUIREMENT FOR ADDITIONAL FLOWS TO EXISTING SEWERS

A sewer connection permit shall also be required for any new construction or change of use or expansion by renovation or alteration of an existing structure which will increase the amount of wastewater added to the sewer system. This applies even if no new sewer connection may be required. All additional wastewater gallonage shall be based on the volume design flows specified, in the Maine State Plumbing code Subsurface Wastewater Disposal rules. This section does not apply to existing single family dwellings.

The CEO/LPI shall determine whether or not there is an additional increase in the amount of wastewater added to the sewer system.

902.7 - OWNER'S COSTS - NEW CONNECTIONS

All costs and expenses, incidental to the application, review, installation, connection, repair and maintenance of the building sewer shall be borne by the owner. The owner shall indemnify the Town.

902.8 - OWNER'S COSTS - BUILDING SEWER REPLACEMENT

The owner of each lot or parcel of land upon which a building that generates wastewater has been constructed and that is legally connected to the public sewer may permit the Town to reconstruct the building drain as necessary. If the owner agrees to replace these lines, the Town will reimburse all costs up to a limit of \$2,000.00 provided the owner:

- 1.) adheres to Thomaston Sewer Ordinance;
- 2.) provides a written estimate which is approved by the Town prior to any work being done.

Any owner who elects not to permit the town to replace these lines shall either certify to the Town in writing that their lines meet or exceed the testing requirements of new sewer lines as specified in Section 903.4 of this Ordinance or replace said lines at their own expense within 90 days of refusal to enter into agreement with the Town.

902.9 - CONNECTION AND INSPECTION

The applicant for the building sewer permit shall notify the Town at least forty-eight (48) hours before beginning work and also when the building sewer is ready for inspection and connection to public sewer. The completed building sewer shall be inspected and approved by the CEO. The connection to the public sewer shall be made under the full-time supervision of the CEO-LPI or his assistant.

902.10 - PRIVATE WASTEWATER DISPOSAL

Where a public sanitary sewer is not available under the provisions of Section 902.1, the building sewer shall be connected to a private on-site septic disposal system complying with the provisions of the State of Maine Plumbing Code, Part II subsurface Wastewater Disposal Regulations and the ordinances of the Town of Thomaston.

902.11 - SEPTAGE

The septage from private on-site septic disposal systems and the contents of wastewater holding tanks from dwellings or recreational vehicles shall not be discharged to the public sewer system except by specific permit issued by the Board of Selectmen.

902.12 - BUILDING SEWERS

A separate and independent "building sewer" shall be provided for every building, except where one building stands at the rear of another on the same lot or on an exterior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building if approved by the Selectmen. Each building shall be considered as one service except for the purposes of charging sewer fees, S.S.D.C. and other charges, where they shall be considered as separate services.

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the Town. In the absence of code provisions or in amplifications thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9 shall apply.

In all buildings in which any building drain is too low to permit gravity flow to the public sewer, wastewater carried by such building drain shall be lifted by an approved means and discharged to the building sewer or service lateral. Plans and details of the proposed method shall be submitted to the CEO/LPI.

A clean septic tank in good condition as determined by the CEO/LPI may be used for a pump tank. The outlet to the disposal field shall be disconnected and plugged. If required by the CEO/LPI the tank shall be tested for water tightness.

The fittings used and manner of connecting a building sewer to an existing public sewer shall conform with current applicable state building and plumbing code requirements and local ordinances. All such connections shall be gas tight and water tight. For sewer extensions the connection shall be made in

accordance with approved drawings. Any deviation from the prescribed procedures and materials must be approved in writing by the Board of Selectmen before installation. Internal drop connections to connect house services directly into existing manholes are not permitted.

902.13 - FORCE MAINS

No connection of any kind shall be made directly from any private property to a Town sewer force main. No building sewer shall be connected into a manhole.

902.14 - UNPOLLUTED WATER

No person(s) shall discharge or cause to be discharged any unpolluted waters such as stormwater, surface water, groundwater, roof runoff, cellar drainage, water from sump pumps, water from building drains, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such conduits as are specifically designed as storm drains, or to a natural outlet approved by the Superintendent. Unpolluted industrial cooling water or unpolluted process waters may be discharged, on approval of the Superintendent, to a storm drain, or natural outlet; and the discharge shall comply with all federal, state and local laws, rules, or ordinances and regulations.

902.15 - CONSTRUCTION SAFETY

All excavation for a building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to and in conformance with the ordinances of the Town and the owner shall indemnify the Town and hold the Town harmless for all claims, damages, losses and expenses, including attorney's fees, arising out of or resulting from owner's work. The Town shall have the right to select its own attorney at the owner's expense.

903 - SEWER EXTENSION PROCEDURES

903.1 - PUBLIC SEWER EXTENSION BY TOWN

Public sewer extensions may be constructed by the Town, if, in the opinion of the Selectboard, the number of existing, improved properties to be served by such extension warrants its costs or if such extension is likely to provide adequate revenues to warrant its cost in the reasonable future.

903.2 – TOWN EXTENSION INITIATED

The Selectboard, after study, may elect to extend public sewers into areas that meet the above criteria or when extension is required by specific state or federal mandate or when property owners(s), builder(s) or developer(s) have proposed sewer extensions within the Town property or road right-of-way or easement to the Town by written petition filed with the Selectboard.

903.3 – APPROVAL OF TOWN EXTENSION

Prior to authorizing a sewer extension greater than 500 feet by the Town, except by specific state or federal mandate, the Selectboard shall:

1. Notify the Town of Thomaston Planning Board in order to assure conformity with the comprehensive plans and other public policies relating to the Town's growth and development.

2. Notify all abutting property owners to the proposed sewer extension not less than 10 days prior to the meeting at which they will take final action on the authorization of the extension.
3. Publish notice of the proposed action in a newspaper with general circulation in the Town not less than 7 days prior to the meeting at which they will take final action on the authorization of the extension.

903.4 – FINANCING A TOWN EXTENSION

The costs associated with such extensions may be borne by the benefited property owners in a manner determined by the Selectboard to prevent unreasonable increases in the bonded indebtedness of the Town. In addition, each owner connecting into the public sewer system must obtain a written connection permit from the Town and pay the Sewer System Development Charge (SSDC) and any other charges associated with the connection.

903.5 – PROCEDURE FOR TOWN EXTENSION

The Town may acquire any property or easements needed, contract for the design and construction and perform any other tasks necessary to install the sewer extension. All extensions constructed under this section shall comply with Section 903.20 "Sewer Design Standards" and Section 903.25 "New Sewer Testing".

903.6 - PUBLIC SEWER EXTENSION IN SPECIAL SEWER ZONE

The Selectboard may establish a Special Sewer Zone comprising all non-sewered lots of benefiting property owners to a proposed sewer extension.

903.7 – SPECIAL SEWER ZONE EXTENSION INITIATED

Property owners(s), builder(s) or developer(s) may petition the Selectboard to establish a Special Sewer Zone for the purpose of extending the public sewer within the Town property or road right-of-way or easement of the Town.

903.8 – APPROVAL OF SPECIAL SEWER ZONE EXTENSION

Prior to establishing a Special Sewer Zone and authorizing any sewer extension the Selectboard shall:

1. Notify the Town of Thomaston Planning Board in order to assure conformity with the comprehensive plans and other public policies relating to the Town's growth and development.
2. Notify all abutting property owners to the proposed sewer extension by registered mail not less than 10 days prior to the meeting at which they will take final action on the authorization of the extension.
3. Publish notice of the proposed action in a newspaper with general circulation in the Town not less than 7 days prior to the meeting at which they will take final action on the authorization of the extension.

903.9 – FINANCING A SPECIAL SEWER ZONE EXTENSION

Extensions to the sewer collection system provide benefits by increasing the area served by public sewers, spreading the cost of safely treating and disposing of wastewater among more users and helping to protect the Georges River and its watershed. However, existing buildings along the proposed sewer route may have working septic systems and not need public sewer at the time the sewer is installed. There may be vacant lots that are not built on until years after the sewer is installed. To promote the benefits of expanding the public sewer service area the Town may establish a Special Sewer Zone and provide funding, or not, as necessary to install a public sewer. To reimburse the Town, or others, for a portion of the sewer extension expense the Selectboard may establish a Special Assessment for each owner within the zone to be paid at the time of connecting into the public sewer. This Special Assessment must be paid before the owner can obtain a written connection permit from the Town and is in addition to the Sewer System Development Charge (SSDC) and any other charges associated with the connection.

903.10 – PROCEDURE FOR SPECIAL SEWER ZONE EXTENSION

The Town may acquire any property or easements needed, contract for the design and construction and perform any other tasks necessary to install the sewer extension. All extensions constructed under this section shall comply with Section 903.20 "Sewer Design Standards" and Section 903.25 "New Sewer Testing".

903.11 - PUBLIC SEWER EXTENSION BY OTHERS

If the Selectboard does not elect to construct a public sewer extension the property owners(s), builder(s), or developer(s) may construct the necessary public sewer extension if the Selectboard in accordance with the requirements of Section 903.12 approves such extension.

903.12 – APPROVAL OF PUBLIC SEWER EXTENSION BY OTHERS

Prior to authorizing a sewer extension greater than 500 feet the Selectboard shall:

1. Notify the Town of Thomaston Planning Board in order to assure conformity with the comprehensive plans and other public policies relating to the Town's growth and development.
2. Notify all abutting property owners to the proposed sewer extension not less than 10 days prior to the meeting at which they will take final action on the authorization of the extension.
3. Publish notice of the proposed action in a newspaper with general circulation in the Town not less than 7 days prior to the meeting at which they will take final action on the authorization of the extension.

903.13 – FINANCING EXTENSIONS BY OTHERS

He or they shall pay for the entire installation, including planning and design, installation of sewers, pump stations, service connections, Sewer System Development Charges and all expenses incidental to the project. Each building sewer installed must be installed and inspected as required under the Town regulations and the inspection fees shall be paid. The construction of any sewer extension may be subject to continuous full time inspection by the Town, or its representative. The expenses incurred by the Town and the Town's consulting engineer in reviewing and approving the plans and specifications and performing the inspection work shall be paid from an escrow deposit made by the property owner(s), builder(s) or developer(s) to the Town at the time of application to the Selectboard. The amount of the

deposit shall be 2% of the estimated cost of the extension. If the expenses exceed the amount of the 2% escrow account, the extra expense shall be levied against the property owner, builder or developer. Failure to pay the extra expenses will result in the disapproval of the application and no physical connection to the public sewer shall be made. Any funds remaining in the escrow account after the Town has paid all of the expense for review and inspection of the sewer extension shall be returned to the owner, builder or developer.

903.14 – PROCEDURE FOR EXTENSION BY OTHERS

Design of sanitary sewers shall be as specified in Section 903.20. The design of sewers and pump stations to be deeded to the Town shall anticipate and allow for all possible future system extensions or developments within the future drainage areas as established by the Town. The Selectboard's decisions or the decisions of its representative shall be final in matters of quality and methods of construction. The owner(s), builder(s), developer(s) or their successor in interest shall warranty the public sewer extension and pay for all operations, maintenance, corrections and repair costs for one year after acceptance by the Town. In order to ensure that all operations, maintenance, corrections and repair costs are paid by the owner, builder or developer, a one-year maintenance guarantee as specified in Section 903.15 may be required by the Town.

903.15 – OWNERSHIP OF NEW SEWERS

All extensions of public sewers constructed at the expense of property owner(s), builder(s) or developer(s), after approval and acceptance by the Town, shall become the property of the Town and shall thereafter be maintained by the Town. The property owner(s), builder(s) or developer(s), shall, for all sewers, pump stations and appurtenances not in a public right-of-way, and before acceptance, provide, by deed free and clear of encumbrances or by easement to the Town, right or title to the sewers, pump stations and appurtenances including access from a public right-of-way.

Said sewers, after their acceptance by the Town, shall be guaranteed against defects in materials or workmanship for twelve (12) months, the guarantee being in a form stipulated by the Selectboard. At the sole discretion of the Selectboard, a completion bond or certified check may be demanded as part of the guarantee.

903.16 - PRIVATE SEWER EXTENSION

All private sewer extensions on private property that discharge or connect to the public sanitary sewer shall be approved by the Selectboard prior to construction. Excluded from this requirement are building drains and building sewers. The Selectboard may approve a private sewer extension if plans and specifications, properly designed by an engineer registered in the State of Maine and conforming to design standards set out in this regulation, are submitted sixty (60) days before the regularly scheduled meeting at which Selectboard approval of the extension will be requested.

903.17 – APPROVAL OF PRIVATE SEWER EXTENSIONS

Prior to authorizing a private sewer extension the Selectboard shall:

1. Notify the Town of Thomaston Planning Board in order to assure conformity with the comprehensive plans and other public policies relating to the Town's growth and development.
2. Notify all abutting property owners to the proposed sewer extension not less than 10 days prior to the meeting at which they will take final action on the authorization of the extension.

3. Publish notice of the proposed action in a newspaper with general circulation in the Town no less than 7 days prior to the meeting at which they will take final action on the authorization of the extension.

903.18 – FINANCING PRIVATE SEWER EXTENSIONS

He or they shall pay for the entire installation, including planning and design, installation of sewers, pump stations, service connections, Sewer System Development Charges and all expenses incidental to the project. Each building sewer installed must be installed and inspected as required under the Town regulations and the inspection fees shall be paid. The construction of any sewer extension may be subject to continuous, full time inspection by the Town or its representative. The expenses incurred by the Town and the Town's consulting engineer in reviewing and approving the plans and specifications and performing the inspection work shall be paid from an escrow deposit made by the property owner(s), builder(s) or developer(s) to the Town at the time of application to the Selectboard. The amount of the deposit shall be 2% of the estimated cost of the extension. If the expenses exceed the amount of the 2% escrow account, the extra expense shall be levied against the property owner, builder or developer. Failure to pay the extra expenses will result in the disapproval of the application and no physical connection to the public sewer shall be made. Any funds remaining in the escrow account after the Town has paid all of the expense for review and inspection of the sewer extension shall be returned to the owner, builder or developer.

903.19 – PROCEDURE FOR PRIVATE SEWER EXTENSION

Design of sanitary sewers shall be as specified in Section 903.5. The design of sewers and pump stations shall anticipate and allow for all possible future system extensions or developments within the future drainage areas as established by the Town. The Selectboard's decisions or the decisions of its representative shall be final in matters of quality and methods of construction. The owner(s), builder(s), developer(s) or their successor in interest shall pay for all operations, maintenance, corrections and repair costs to the private sewer extension. None of these costs will be borne by the Town of Thomaston. Prior to the actual physical connection of the private sewer extension to the public sewer, the person, builder or developer must obtain a sewer connection permit and pay the Sewer System Development Charge to the Town or else no physical connection to the public sewer shall be made.

903.20 – SEWER SYSTEM DESIGN STANDARDS

All extensions to sanitary sewer system shall be properly designed in accordance with the standards set by:

“Recommended Standards for Sewage Works”, as adopted by the Great Lakes - Upper Mississippi River Board of State Sanitary Engineers (the Ten State's Standards).

“Design and Construction of Sanitary and Storm Sewers”, published by the Water Environment Federation as Manual of Practice No. 9.

The design of sewers must anticipate and allow for flows from all possible future extensions or developments within the immediate drainage area.

903.21 – APPROVAL OF PLANS & SPECIFICATIONS

Plans and specifications for sewer extensions shall be submitted to the Town and written approval received from the Superintendent before construction may proceed.

Alternate materials for pipe, manholes or pump stations may be approved for use if, in the opinion of the Superintendent and the Selectboard, the resulting construction will be of acceptable standards.

903.22 – PIPE STANDARDS

All pipe material used for either gravity sewers (excluding building sewers) or for pressure force mains or appurtenances to these lines shall be:

- Ductile iron, Class 52, conforming to AWWA C150 with joints meeting AWWA C104 and fittings meeting AWWA C110.
- Poly Vinyl Chloride pipe (PVC) conforming to ASTM specification D3034 with pipe class to be appropriate for pipe loading.
- High Density Polyethylene pipe (HDPE) conforming to ASTM D3350 cell classification of 345434C.

No clay pipe or concrete pipe shall be used.

Minimum internal pipe diameter for gravity sewers shall be eight (8) inches.

Building sewers shall be six (6) inch minimum internal diameter from the sewer main to the property line of the structure being served and may be reduced to four (4) inch minimum internal pipe diameter on private property.

Joints for each kind of pipe shall be designed and manufactured such that a positive compression seal is provided by means of gaskets and sealing surfaces resistant to deterioration under the service conditions anticipated. The assembled pipe shall meet the requirements of testing set out in Section 903.60. Joint preparation and assembly shall be in accordance with the manufacturers recommendations.

Bedding material, when required, shall be well-graded crushed rock or bank run gravel meeting the following standard: 100% will pass a 3/4 inch screen and not more than 10% will pass a 200-mesh sieve.

Pipe thickness and field strength shall be calculated on the following criteria:

Safety Factor	1.9
Load Factor	1.7
Weight of Soil	120 lbs/cu. ft.
Wheel loading	16,000 lbs.

903.23 – MANHOLE STANDARDS

Manholes shall be constructed at all changes in slope or alignment or at intervals not exceeding four hundred (400) linear feet.

The manholes shall be precast four (4) foot diameter, or larger if required, concrete base, barrel sections with tapered top sections, as specified by ASTM C-478. All pipe openings shall have a rubber seal (boot) cast into the concrete that can be placed over the pipe and secured with a non-corroding fastener. Inverts and bench walls shall be precast into the bases or field constructed with brick and steel troweled concrete or mortar. All manhole joints, including frame, shall be sealed against infiltration.

The manhole frame and cover shall be the standard design of the Town and shall be set with no less than two (2) courses of sewer brick underneath to allow for later adjustment in elevation.

903.24 – PUMP STATION DESIGN CRITERIA

The Town has standardized the pump stations owned by the Town such that controls and alarms are the same in all stations and that pumps and standby generators in stations of similar size are the same. New pump stations shall, whenever possible, be designed with the same manufacturers equipment as is used in existing stations of similar size. When a pump of a different size or manufacturer that is currently in use is used in a new station a third or spare pump shall be provided.

All stations shall have control systems with double backup such that if the primary control fails the controller will continue to cycle on the same schedule as it was on when it failed and if that fails the high-high water alarm will turn on (and off) at least one pump through a float independent of the primary controller.

All pump stations shall have either standby power capable of operating the station for a minimum of three (3) days without outside power or a wet well sized to hold a minimum of twenty-four (24) hours of flow at maximum design above the high-high water alarm level.

903.25 - SEWER TESTING & CONNECTION REQUIREMENTS

All public sewers, force mains and manholes shall pass a final test before the extension will be approved and building sewer connections allowed by the Town. All testing shall be done in the presence of the Town's representative.

If leakage exceeds the specific amount allowed by any test, the necessary repairs or replacements required shall be made and the test repeated until leakage is permanently reduced to within the specified limit.

903.26 – SEWER TEST

All gravity sewer lines shall be tested by a low pressure exfiltration air test. All sewer lines shall be cleaned to remove all sediment and debris prior to testing. Test plugs shall be properly installed blocking both ends of the pipe and air introduced through a mechanism in one of the air lock units to a minimum of four (4) pounds per square inch pressure. The air source shall then be shut off. A pressure drop, from the applied pressure, of less than one (1.0) psi during the period of time specified in the table below will constitute an acceptable air pressure test. If the pressure drop during the indicated time interval is exceeded, the test will be determined as a failure. The pipe shall be retested following the necessary repairs or replacement.

<u>Table of Air Testing Timing</u>								
Sewer Diameter (inches)	4	6	8	10	12	15	18	21
Test Duration (minutes)		2	3	4	5	6	8	9

No repairs shall be made internally on the pipe unless specially authorized by the Town. If any pipe is defective, it shall be removed and replaced. If debris and sediment enters the pipe during repair, the pipe shall be cleaned again before retesting.

At the option of the Town a deflection test on any PVC sewer lines may be required with a mandrel assembly (7½%) pulled through the entire length of each sewer run. If a deflection in the diameter of the pipe equal to or greater than 7½% of the specified pipe diameter is measured, the defective pipe will be removed and replaced. The pipe shall then be re-tested until found to be satisfactory.

903.27 – MANHOLE TEST

All manholes shall be vacuum tested immediately after assembly and prior to backfilling. All life holes shall be plugged with an approved non-shrink grout. All pipes entering the manhole shall be plugged. The plugs shall be securely braced to prevent them from being sucked into the manhole. The test head shall be placed at the inside of the top of the cone section and the seal inflated in accordance with the manufacturer's recommendations. A vacuum of ten (10) inches of mercury shall be drawn and the vacuum pump shut off. With the valves closed the time shall be measured for the vacuum to drop nine (9) inches.

The manhole shall pass the test if the time is greater than:

<u>Manhole Diameter</u>	<u>Minimum Time</u>
Four (4) foot	60 seconds
Five (5) foot	75 seconds
Six (6) foot	90 seconds

903.7 - OWNER OF NEW SEWERS

All extensions of public sewers constructed at the expense of property owner, building, or developer, after approval and acceptance by the Superintendent, shall become the property of the town and shall thereafter be maintained by the

If the manhole fails the initial test, necessary repairs shall be made with a non-shrink grout while the vacuum is still being drawn. Retesting shall proceed until a satisfactory test is obtained.

903.28 – FORCE MAIN TEST

All force mains shall be water-pressure tested. Because of serious safety hazards air-pressure testing is not allowed. All force mains shall be cleaned by flushing to remove all sediment and debris prior to testing. The force main shall be satisfactorily valved or capped on each end and slowly filled with water. All air must be expelled from the pipe. Pressure shall be applied to the pipe by means of a pump connected to the pipe until a minimum of one hundred (100) pounds per square inch is reached. The duration of the pressure test shall be one (1) hour and water shall be added during that time to maintain the pressure within five (5±) psi of the initial pressure.

Leakage shall be defined as the quantity of water that must be supplied into the new force main to maintain pressure within five (5) psi of the initial pressure and acceptance shall be determined on the basis of allowable leakage.

Allowable leakage from the force main shall be as specified in the table below:

Pipe diameter (inches)	3	4	6	8	10	12
Max. leakage (gph/1,000 ft)	0.20	0.37	0.55	0.74	0.92	1.10

903.29 - CONNECTION REQUIREMENTS

No building sewers shall be connected to a sewer extension until all of the following conditions are completed to the satisfaction of the Town.

1. The completed sewers, force mains and manholes shall satisfy the requirements of a final exfiltration, or for manholes vacuum test.
2. All fees due for the extension have been paid.
3. Reproducible mylar or paper record drawings of the completed sewer have been furnished.
4. Presentation to the Selectboard of a one (1) year maintenance guarantee in the form of a performance bond or escrow deposit or letter of credit or other guarantee acceptable to the Selectboard for an amount equal to thirty (30) percent of the cost of construction of the sewer and appurtenances as estimated by the Selectboard.

903.30 - INSURANCE REQUIRED

All contractors working for the Town or on Town property must present a certificate of insurance showing the minimum liability coverage in effect:

1. Liability coverage of \$2,000,000 including:
 - a. \$1,000,000 for bodily injury.
 - b. \$1,000,000 for property damage including underground collapse and completed operations.
2. Workers Compensation to meet the statutory requirement of the State of Maine.

The Town must be named as an additional insured before a permit will be issued for construction of sewer extensions.

Coverage exceeding the above amounts may be required by the Selectboard.

903.31 – HOLD HARMLESS

A contractor shall indemnify and defend the Town and hold it harmless for all claims, damages, losses and expenses, including attorney's fees, arising out of or resulting from, contractor's work. The Town shall have the right to select its own attorney at the contractor's expense.

903.32 – SAFETY

All contractors working for the Town or on Town property shall be responsible for initiating, maintaining and supervising all safety precautions in connection with work on the sewer system and take all necessary precautions to prevent damage, injury or loss. They shall comply with all applicable laws, ordinances, rules, regulations and orders of any public body having jurisdiction. They will erect and maintain as required by the conditions, all necessary safeguards for safety and protection. They shall comply with all pertinent provisions of the Occupational Safety and Health Administration (OSHA) and any state safety and health agency requirements. They shall comply with all provisions of Title 23 Section 3360 of the MRSA, Protection of Underground Public Utilities, commonly known as the "Dig-Safe Law".

Special attention shall be paid to work in high traffic areas, whether State owned or not, to provide traffic control procedures to meet the requirements of the Maine Department of Transportation (MDOT).

903.33 – RESTORATION OF DISTURBED AREAS

All streets, sidewalks, driveways, lawns, natural areas, drainage courses and other public and private property disturbed in the course of the work shall be restored in a manner satisfactory to and in conformance with the regulations and ordinances of the Town of Thomaston, the State of Maine or the property owner.

ADOPTED: OCTOBER 29, 1990 AT TOWN MEETING

AMENDED: MARCH 25, 1991 AT TOWN MEETING

JUNE 15, 2005 AT TOWN MEETING

FEBRUARY 10, 2009 AT SPECIAL TOWN MEETING

**ADDENDUM
SEWER USE RULES & REGULATIONS
JANUARY 1991
DISCHARGES TO PUBLIC SEWERS
Approved August 20, 1991**

AUTHORITY

The following regulation is established as provided by the Sewer Ordinance of the Town of Thomaston, Section 901.4.

UNPOLLUTED WATER

No person shall discharge or cause to be discharged any unpolluted water such as stormwater, surface water, groundwater, roof runoff, cellar drainage, water from sump pumps, water from building drains, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such conduits as are specifically designed as storm drains, or to a natural outlet. All discharges must be approved by the Superintendent. Unpolluted industrial cooling waste or unpolluted process waters may be discharged, on approval of the Superintendent, to a storm drain, or natural outlet; and the discharge shall comply with all federal, state and local laws, rules, or ordinances and regulations. All discharges, both prior to, and after the date of acceptance of this regulation must comply with this section.

MATERIALS NOT ALLOWED

No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer:

- a. any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas with a flashpoint of less than 60 degrees Celsius (140 degrees F); which will create a fire or explosive hazard in the Town's wastewater facilities;
- b. any water or pollutants containing toxic or poisonous solids, liquids, or gases not listed on Table 1 of this Section herein capable of causing either singly or by interaction with other wastes, injury or interference with any waste treatment process, a hazard to humans or animals, public nuisance, or any hazard in the Town's facilities;
- c. any waters or wastes having a pH lower than 5.0 or higher than 9.5 or having any other corrosive property capable of causing damage or hazard to the Town's facilities and personnel;
- d. solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the Town's facilities such as, but not limited to stone, gravel, ashes, cinders, sand, concrete, paving materials, mud, straw, sticks, plaster, cement, mortar, shavings, metal, glass, garbage, whole blood, paunch manure, hair, fleshings, entrails, paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders;
- e. any waters or pollutants including oxygen demanding pollutants (BOD, etc.) which released in quantities of flow or concentrations or both constitute a "slug" as defined herein;
- f. any material defined as hazardous waste by either Federal or State regulations;

- g. any heated waters or pollutants in amounts which will inhabit or interfere with biological activity in the Town's wastewater treatment facilities but in no case heated waters or pollutants in such quantities that the temperature at the wastewater treatment facilities influent exceeds 40 degrees Celsius (104 degrees Fahrenheit);
- h. any industrial sludges from septic tanks, cesspools, or other receptacles storing organic wastes;
- i. any other materials as determined by the Board to create an adverse impact upon the wastewater facilities.

MATERIALS LIMITED

The following described substances, materials, wastes or wastewaters, or pollutants discharged to the public sanitary sewers shall be limited to concentrations or quantities which will not harm either the public sewers, wastewater treatment process or other Town facilities, will not have an adverse effect on the receiving stream, or will not otherwise endanger life, limb, public property, or constitute a nuisance. the Board may set concentration limitations lower than the limitations established in regulations below if in the opinion of the Board that much more severe limitations are necessary to meet the above objectives. In forming an opinion as to the acceptability, the Board will give consideration to such factors as the quantity of subject wastes in relation to flows and velocities in the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, and other pertinent factors.

- a. Liquids or vapors having a temperature higher than 65 degrees Celsius (150 degrees Fahrenheit).
- b. Wastewater containing fats, wax, grease, or oils, whether emulsified or not, in excess of a total of one hundred (100) mg/1 or containing substances which may solidify or become viscous at temperatures between 0 and 65 degrees Celsius (32 and 150 degrees Fahrenheit).
- c. Garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of one (1) horsepower or greater shall be subject to review and approval of the Board.
- d. Waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity to injure or interfere with any sewage treatment process or the effluent of the Town's sewage treatment facilities. Such toxic substances shall be limited by quantity or concentration to the average concentrations as established in Table 1 or as established to meet the requirements of the State, Federal, or other public agencies or jurisdiction for such discharge to the receiving waters, whichever is lower. At no time shall any substance be discharged as a "slug" as defined herein. If concentrations listed in Table 1 are exceeded, individual establishments will be subject to monitoring and control by the Town in volume and concentration of wastes discharged provided in the Pretreatment Requirements.
- e. Any waters or pollutants containing odor-producing substances exceeding limits which may be established by the Board.
- f. Radioactive wastes or isotopes of half-life or concentrations as may exceed limits established by the Board in compliance with applicable State or Federal regulations.
- g. Quantities of flow or concentrations of any wastewater constituent or both which constitute a "slug" as defined herein.
- h. Boiler blowoffs or sediment traps.

TABLE 1

Maximum Limits of Certain constituents Acceptable in Discharge to Town's
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Facilities	
Constituent Concentration	mg/l
BOD	30
Suspended Solids	350
Dissolved Solids	600
Settleable Solids	20
Ammonia as N	15
Total Nitrogen	25
Boron as Bo	5.0
Cadmium as Cd	0.05
Calcium as Ca	400
Chloride as Cl	500
Chlorine demand	15.0
Chromium as Cr (hexavalent)	0.05
Chromium Cr (total)	0.25
Copper as Cu	0.05
Cyanides as Cn	0.03
Iron as Fe	5.0
Fluoride as F	1.5
Lead as Pb	0.4
Magnesium as Mg	100
Manganese as Mn	5.0
Mercury	Not Detectable
Nickel as Ni	0.5
Phenol as C ₆ H ₅ OH	0.1
Phosphate as P	10
Potassium as K	500
Silver as Ag	0.10
Sulfate as SO ₄	250
Sulfide as S	1.0
Zinc as Zn	0.5

- i. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment process employed, or are amendable to treatment only to such a degree that the sewage treatment facility effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- j. Any water or pollutant which, by interaction with other water or pollutants in the public sewer system; release obnoxious gases, form suspended solids which interfere with, or create a condition deleterious to the Town's facilities and operation.

- k. Any other materials as determined by the Board to create an adverse impact upon the wastewater facilities.

DEFINITIONS

Unless the context specifically indicates otherwise, the meaning of the terms used in this part of the Thomaston Wastewater Pollution control Program shall be as follows:

"BOARD" shall mean the Board of Selectmen of the Town of Thomaston.

"BOD" (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter in five (5) day at 20 degrees c, expressed in milligrams per liter as determined by test methods defined in Standard Methods.

"Town Facilities" shall include Town owned or leased structures, conduits, pump stations, wastewater collection, treatment and disposal facilities, and other appurtenances for the purpose of collecting, treating and disposal of domestic and/or industrial wastewater.

"Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage, and sale of food produce.

"Industrial Wastewaters" shall mean the liquid wastes, including any types of solids, from industrial or commercial manufacturing processes as distinct from sanitary wastewater. Industrial wastewaters may or may not be discharged separately from sanitary wastewaters. For a combined discharge the Board shall determine if the discharge meets the definition of "industrial wastewater".

"Natural Outlet" shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface water or groundwater.

"Person" shall mean any individual, firm, company, association, public body, society, corporation, group or applicant.

"pH" shall mean the logarithm of the reciprocal of weight of hydrogen ions in grams per liter of solution. It is a method of expressing the acidic or basic strength of a solution and the tendency or ability of that solution to react with other acidic or basic solutions. The pH value may range from 1 (strong acid) to 14 (strong base). Pure water is neutral and has a pH of 7.

"Plant Operator" shall mean the operator of the Town Wastewater facilities.

"Properly shredded Garbage" shall mean the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch in any dimension.

"Public Sewer" shall mean a common sanitary sewer serving the general public and owned and controlled by the Town.

"Sanitary Sewer" shall mean a sewer which carries domestic and/or industrial wastewater and to which natural storm, surface, and groundwaters are not intentionally admitted.

"Septage" shall mean the mixture of liquids and solid matters removed from a septic tank during normal cleaning.

"Sewage" shall mean a combination of water carried wastes from residences, business buildings, institutions, and industrial establishments, together with such natural ground, surface and stormwaters as may be present. This term shall be interchangeable with the word "wastewater."

"Shall" is a mandatory; "May" is permissive.

"Slug" shall mean any discharge of water or wastewater in which the concentration of any given constituent or the rate of flow exceeds, for any period of duration longer than fifteen (15) minutes, more than five (5) times the average twenty-four (24) hours concentration, or flow, during normal operation.

"Standard Methods" shall mean Standard methods for the Examination of Water and Wastewater, latest edition, published by the American Public Health Association.

"Storm Drain" (sometimes termed "storm sewer") shall mean a sewer which carries natural storm and surface waters and drainage, but not sewage and industrial wastes, other than unpolluted cooling water.

"Superintendent" shall mean the superintendent of the Town's Pollution control Department.

"Suspended Solids" shall mean solids that either float on the surface of, settle to the bottom of, or are in suspension in water, sewage, or other liquids, and which are defined as non-filterable residue and are determined in accordance with Standard Methods.

"Town" shall mean the Town of Thomaston, Knox County, Maine.

"Watercourse" shall mean a natural or improved channel in which a flow of water occurs, either continuously or intermitently. The terms "waterway" and "swale" shall be considered interchangeable.

"Wastewater Treatment Facilities" shall mean any arrangement of services and structures used for treating sewage.

ADDENDUM

SEWER USE RULES & REGULATIONS

PRETREATMENT REQUIREMENTS

AUTHORITY

The following regulation is established as provided by the Sewer Ordinance for the Town of Thomaston, Section 901.4.

PRETREATMENT REQUIRED

If any waters or wastes are discharged, or are proposed to be discharged to the public sanitary sewers, which waters contain substances (a) in excess of the limits set forth in Table 1 of this part, or (b) having a daily flow greater than 2 percent of the average daily flow of the Town's treatment facility, the Board shall:

- a. Reject the wastes.
- b. Require pretreatment by the owner or applicant that will result in a discharge to public sewers that does not exceed table 1 and the current EPA industrial categorical limit and will not cause violation of the town's treated wastewater discharge permits.

When the Board requires the pretreatment or equalization of waste flows, the design and installation of the process structures and equipment shall be subject to review for the codes, ordinances, and laws. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for review. No construction of such facilities shall be commenced until the review is completed and permission to proceed is obtained in writing.

As a minimum the following pretreatment facilities shall be required:

SOURCE	MINIMUM PRETREATMENT
(A) Any single source that exceeds flow measurement	5% of the average daily flow.
(B) Central food processing facility	Grease interceptor i.e. school kitchen or restaurant.
(C) Car wash	Sand interceptor.
(D) Public laundry	Screen.

TABLE 1

Maximum Limits of Certain constituents Acceptable in Discharge to Town's Facilities	
Constituent Concentration	mg/l
BOD	30
Suspended Solids	350
Dissolved Solids	600
Settleable Solids	20
Ammonia as N	15
Total Nitrogen	25
Boron as Bo	5.0
Cadmium as Cd	0.05
Calcium as Ca	400
Chloride as Cl	500
Chlorine demand	15.0
Chromium as Cr (hexavalent)	0.05
Chromium Cr (total)	0.25
Copper as Cu	0.05
Cyanides as Cn	0.03
Iron as Fe	5.0
Fluoride as F	1.5
Lead a Pb	0.4
Magnesium as Mg	100
Manganese as Mn	5.0
Mercury	Not Detectable
Nickel as Ni	0.5
Phenol as C ₆ H ₅ OH	0.1
Phosphate as P	10
Potassium as K	500
Silver as Ag	0.10
Sulfate as SO ₄	250
Sulfide as S	1.0
Zinc as Zn	0.5

PRETREATMENT DISCHARGE PERMIT

Each wastewater generator that the Board requires to provide pretreatment to its wastewater under Pretreatment Required (b.) of this regulation may be issued a Pretreatment Discharge Permit by the Town. The purpose of the permit shall be protect the operation and equipment of the wastewater facilities from upsets or damage; protect the receiving waters and assure that any by-products of operations are not detrimentally affected. Such permit shall constitute an enforceable control mechanism between the generator and the Town. Such permit shall contain, at a minimum, the following conditions:

- A. Duration not to exceed 5 years;
- B. May not be transferred with town approval;
- C. Sets forth effluent discharge limits;
- D. requires permittee to perform, sampling, self monitoring, reporting, notification and record keeping;
- E. Penalties for non-compliance.
- F. If needed, a schedule for compliance.

PRETREATMENT SYSTEM MAINTENANCE

Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

MONITORING EQUIPMENT

When required by the Board, the owner of any property serviced by a building sewer into which industrial wastewaters are discharged shall install suitable control manhole together with such necessary monitoring equipment and other appurtenances to facilitate observation, sampling and measurement of the wastewaters in the building sewer. Such manholes and equipment, when required, shall be safely and accessibly located, and shall be constructed in accordance with plans reviewed by the Superintendent. the manhole shall be installed by the owner at his expense, and shall be maintained by the owner so as to be safe and accessible at all times. the owner shall, if required by the Board, perform flow measurements and analyses of the wastewaters at his expense.

RECORDS REQUIRED

The Board may required a user of sewer services to provide information needed to determine compliance with this ordinance. The requirements may include:

- a. Wastewater discharge peak rate and volume over a specified time period.
- b. Chemical analyses of wastewater performed by a laboratory that satisfactorily participates in the United States Environmental Protection Agency (USEPA) Water Pollution Series of Performance Evaluations.
- c. Information on raw materials, processes, and products affecting wastewater volume and quality.
- d. Quantity and disposition of specific liquid, sludge, oil, solvent, or other materials important to sewer use control.
- e. A plot plan of the user's property showing location of all structures, water lines, storm drainage, sewers and pretreatment facility location, drawn to a scale determined by the Superintendent.

- f. Details of wastewater pretreatment facilities design and construction.
- g. An details of systems to prevent spills or control the losses of materials through spills to the public sewer.

SAMPLING & TESTING

All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this regulation shall be determined in accordance with Standard Methods or equivalent U.S.E.P.A. methods as outlined in 40 CFR, Part 261, October 26, 1985, and shall be determined at the control manhole provided based on suitable samples taken at eh control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out as outlined in the U.S. E.P.A. Handbook for Sampling and Sample Preservation of Water and Wastewater to reflect the effect of constituents upon the Town's facilities and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken.) Normally, but not always, BOD and suspended solids analyses are obtained from twenty-four (24) hour composites of all outfalls, whereas pH's are determined from periodic grab samples. The owner shall submit to the Superintendent on the first of the month the results of any monitoring and testing required by the Board. These records shall be available for review by local, state and federal agencies.

All industries discharging into a public sewer shall perform such monitoring of their discharges as the Board may reasonably require, including installation, use, and maintenance of appropriate sampling and monitoring of the equipment, keeping records and reporting the results of such monitoring to the Superintendent. Such record shall be made available upon request by the Board to other agencies having jurisdiction over discharges to the receiving waters.

GREASE AND SAND INTERCEPTORS

Grease, oil, and sand interceptors shall be provided when, in the opinion of the Board, they are necessary, for the proper handling of liquid wastes containing floatable grease in excessive amounts or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required on services functioning solely for private living quarters or private dwelling units. All interceptors shall be of a type tan capacity approved by the Superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

In maintaining these interceptors the owner(s) shall be responsible for the proper removal and disposal by legal and environmentally safe methods of the captured material and shall maintain records of the date, name of hauler, quantity hauled, and means of disposal. Signed copies of these records shall be submitted every 6 months to the Superintendent. Any removal and hauling of the collected materials not performed by owner(s) personnel shall be performed by state licensed waste disposal firms.

NEW DISCHARGE NOTIFICATION

The Board shall require forty-five (45) days notification of any new proposed discharge having a daily flow greater than 2 percent of the average daily flow of the Town's facilities. In addition, a change in volume or character of wastewater greater than twenty (20) percent of the present flow or load, shall require said notification.

UNUSUAL WASTE

No statement contained in this regulation shall be construed as preventing any special agreement or arrangements between the Town and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Town for treatment, subject of payment thereof, by the industrial concern, provided that such agreements do no contravene any requirements of existing Federal or State laws and/or regulations promulgated thereunder, and are compatible with any user charge and industrial cost recovery system in effect.

ADDENDUM

SEWER USE RULES & REGULATIONS

SEWER SERVICE CHARGES

AUTHORITY

The following sewer service charges are established as provided by the Sewer Ordinance of the Town of Thomaston, Section 901.4.

SERVICE CHARGES

The Board shall establish from time to time a schedule of service charges, rates and fees upon improved real estate either discharging or having the ability to discharge wastewater to a public sanitary sewer or meeting the requirements of Section 902.1 of the Sewer Ordinance.

The wastewater sewer charges, rates and fees shall be so established as to provide revenue for the following purposes:

- a. To pay the current expenses for operating and maintaining the Pollution Control Department.
- b. To provide for the payment of the interest and retirement of such long term indebtedness as the town has legally entered into for its wastewater treatment and collection facilities and is not paid by other sources.
- c. To provide increased capacity in the Town wastewater facilities for the benefit of future residential and commercial and industrial users.
- d. To provide contributions for such reserve fund, as the Board shall establish.

The Board may establish reserve funds within the Pollution Control Department Budget consisting of the following accounts, by appropriating money or by authorizing the transfer of unencumbered surpluses or fund balances at the end of any fiscal year for the following purposes:

1. Capital improvement account. For financing the acquisition, construction, or reconstruction of a specific, or a type of, capital improvement;
2. Capital equipment account. For financing the acquisition of a specific item or type of capital equipment;
3. Credit reserve account. For providing a reserve which may be applied in periods of financial emergency to assist in continuing the Pollution control Department's normal operation;
4. Sinking fund account. For paying a funded debt. The Sewer System Development Charge (S.S.D.C.) can be used to repay a legally incurred debt by the Town or by the Board;
5. Capital Dedicated Reserve account. Used to help finance increases in the wastewater facilities resulting from the collection of the Sewer System Development Charge (S.S.D.C.)

UNUSUAL WASTE CHARGE

A special sewer service charge shall be imposed for any wastewater generator who, by virtue of the volume, strength or unusual characteristic of their waste alone, would overload or upset the capacity or efficiency of the Town Wastewater facilities or any part thereof if such waste entered the public sewer. The Board, after appropriate study, and advice from the Superintendent, shall establish a special sewer service charge to the generator by separate agreement with said firm. The applicable portions of the

Pollution control Program, as well as the equitable rights of the public shall be basis for such an arrangement.

RATES ASSESSED

Sewer rates shall be assessed by the Board in the following manner:

- a. Residential and commercial sewer charges for active accounts shall be based on water usage as determined by water meter readings and calculated from rates established under this section.
- b. All properties, with buildings that are connected and that have plumbing, whether occupied or unoccupied, shall pay the minimum rate.
- c. Property owners who are serviced by a public sewer and who obtain their water from a private source such as a private well are required to install a metering device that will measure the amount of flow from the private water source. The sewer rate for such owners shall be based upon the metered amount if in excess of the minimum rate. Otherwise the minimum amount will be charged.
- d. All charges pursuant to this section will be billed quarterly or monthly.
- e. All users found, after investigation by the Superintendent to be in violation of Town of Thomaston, Sewer Ordinance, Section 902.14., (discharging unpolluted waters to sanitary sewers) may be charged an additional surtax of 100% of their sewer rate for a minimum period of one year after notice or \$750.00 whichever is greater.
- f. The Board may reduce the rate for users who, at the request of the town, are required to operate a sanitary wastewater pump.
- g. The Board may allow a bypass meter for water not going to the public sewer and authorize appropriate adjustment of charges and fees.
- h. The Board may allow a discount of up to 10% on sewer rates for a public laundromat, provided that:
 - a. clothes driers are available at the location, and
 - b. water meter readings are available for the laundromat alone.

DELINQUENT ACCOUNTS

Delinquent accounts shall be handled as provided by Maine Revised Statutes Annotated and as outlined below:

Interest - As authorized by M.R.S.A. Title 30-A Section 3406, the Board may charge interest on delinquent accounts at a rate not to exceed the highest lawful rate set by the Treasurer of State for municipal taxes.

Lien - There shall be a lien on real estate served or benefited by a municipal sewer or sewer disposal system to secure the payment of service rates and charges and interest on delinquent accounts established under this regulation. This lien takes precedence over all other claims on the real estate, excepting only claims for taxes.

Collection - The treasurer of the municipality may collect the service charges and interest on delinquent accounts in the same manner as granted by M.R.S.A. Title 38 section 1208, to treasurers of sanitary sewer districts with reference to rates established and due under M.R.S.A. Title 38 section 1202.

Partial Payments – The town may accept partial payments on sewer accounts and such payments shall always be credited to the oldest outstanding amount on that account. Partial payments may be accepted on liens and this shall not negate the lien.

ADOPTION OF SEWER CHARGES

Prior to the adoption of a new rate, charge and fee schedule, the Board shall hold a public hearing regarding the proposed rate, charges and fee schedule. The Board shall publish the proposed rates, charges and fees and notice of the hearing not less than once in a newspaper having general circulation in Thomaston not less than 7 days prior to the hearing. Prior to the adoption of new sewer rates only, the Board shall mail to each ratepayer a notice of the public hearing and the proposed new rates at least 14 days prior to the hearing. The mailing requirement does not apply to the Sewer System Development Charge or other charges and fees.

DEFINITIONS

The definitions in the Sewer Ordinance shall apply to this document and shall be supplemented by the following terms:

"ACTIVE" account - Any improved real estate discharging or having the ability to discharge wastewater to the public sewer under the rules and regulations of the Thomaston Pollution Control Program.

"BOARD" – Shall mean the selectboard of the *Town of Thomaston*.

"STANDBY" account - Any active account who does not discharge wastewater to the public sewer during an entire calendar month/quarter is a standby account for that month/quarter only.

Note: Usually commercial/Industrial accounts are billed monthly; residential accounts are billed quarterly.

**ADDENDUM
SEWER USE RULES & REGULATIONS
SCHEDULE OF SEWER CHARGES AND FEES
EFFECTIVE DATE 1-1-91
AMENDED 8-10-92**

SEWER SERVICE RATES

Residential (active)	\$3.25/100 cu ft
Minimum billing	900 Cu Ft per quarter
Commercial* (active)	\$3.50/100 cu ft
Minimum billing	300 Cu Ft per month
Standby	\$1.62/100 cu ft
Minimum billing	900 Cu Ft per quarter

*includes industrial & institutional

INSPECTION FEES

Inspection fee for new sewers and sewer connections = \$50.00 per hour with a one (1) hour minimum.

MISC. CHARGES

Interest on late accounts	Maximum annual percentage rate permitted by State Treasurer
Lien - filing charge	\$15.00
Lien - discharge charge	\$15.00
30 day lien notice	\$ 5.00

ADDENDUM SEWER USE RULES & REGULATIONS BYPASS METER POLICY

Sewer user fees in Thomaston are based on water usage as measured by the buildings incoming water meter. The readings from that meter are provided to the town by the Camden-Rockland Water Co. The town recognizes that not all water purchased by the user goes to the public sewer. To compensate for this the user may, at their expense, purchase and install a bypass meter on any source of water that does not go into the public sewer. The water that passes through this bypass meter may be deducted from the total water use for sewer billing purposes.

The procedure for installing and using a bypass meter is as follows:

1. The bypass meter can be installed on any water line that does not discharge any portion of its flow to the public sewer.
2. The owner must purchase and install the bypass meter. A list of suppliers is shown below.
3. The owner must notify the Town Office either in writing or by phone (354-6107) that the meter is installed and ready to be used. The CEO will then inspect and approve the installation.
4. At the end of each calendar quarter the owner must submit the readings from the bypass meter to the town.

NOTE: The town will try to send a reminder to the owner each quarter but the reporting responsibility is with the owner and not the town.

5. The town may deduct the bypass water meter reading from the total water used before the sewer bills are calculated.

Sources for bypass meters are as follows:

E.J. Prescott Co., Gardiner, Me; phone no. 582-2006

George Caldwell Co., Stoughton, MA; phone no. 1-800-695-4101.

Both firms will ship meters C.O.D. A 5.8 water meter costs between \$40.00 to \$60.00.

ADDENDUM

SEWER USE RULES & REGULATIONS

SEWER SYSTEM DEVELOPMENT CHARGES (S.S.D.C.)

AUTHORITY

The following charges are established as provided by the Sewer Ordinance of the Town of Thomaston, 901.5.

INTRODUCTION

Increased residential, commercial and industrial development within the Town of Thomaston has created a need to undertake capital improvements to the existing wastewater facilities to accommodate and treat the increased wastewater flow directly produced and generated by this increased development. These capital improvements have created a cost which is separate and distinct from normal maintenance and upgrading repairs which benefits existing users.

In order to assess these capital improvement costs for increasing capacity fairly and equitably among those creating this demand the Town hereby established a Sewer System Development Charge (S.S.D.C.). The proceeds from this charge are to be applied solely towards the overall capital costs of financing the necessary capital improvements and capital equipment purchases to increase the capacity of the wastewater facilities.

An A.A.D.C. is the new or expanded municipal sewer users proportional cost of increasing the capacity of the wastewater collection, pumping and treatment system which benefits the new or expanded user. This charge is separate and distinct from the physical connection costs, the sewer rate, other sewer fees and any sewer extension costs. The S.S.D.C. is the fee for a sewer connection permit and is a one-time charge.

CHARGE CALCULATIONS

The S.S.D.C., which is the sewer connection permit fee, shall be due any payable by the property owner prior to the issuance of a sewer connection permit for any new or additional expanded construction, renovation or change in use that will be connected to an existing or proposed municipal sanitary sewer. The S.S.D.C. shall also be charged when there is an additional wastewater flow to the collection and treatment facilities resulting from new or expanded construction, renovation or change in use and no new physical sewer connection is involved and there already an existing sewer connection. The S.S.D.C. in this case shall be based on the difference between the existing calculated flows and the proposed calculated flows. The S.S.D.C. shall not apply to a single family living unit that is not changed from a single family living unit by renovation or expansion.

The S.S.D.C. charge shall be established by the Selectmen and shall be based upon the gallons of daily flow of wastewaters projected to be generated by each use as established in design criteria of the Maine Department of Human Services, State Plumbing Code, Subsurface Wastewater Disposal Rules. Residential rates shall be determined by using the minimum flow calculations in the Code except as allowed in the next paragraph. The S.S.D.C. shall be calculated and determined by the Code Enforcement Officer (C.E.O.). The wastewater flow of any use not included in this Code shall be determined by the C.E.O.

Residential dwelling units in which water conserving fixtures, meeting or exceeding the standards below, are permanently installed shall be allowed to reduce the daily flow figure by 1/3 and pay an S.S.D.C. based on the lower figure. Non-residential users may install water conserving fixtures any reduction in the S.S.D.C. will be considered on a case by case basis.

Standards for water conserving fixtures:

Low flush toilets - maximum 1.6 gallons per flush;

Low flow shower heads - maximum 2.5 gallons per minute.

It shall be the responsibility of the applicant to provide proof that proposed fixtures meet these standards.

An applicant applying to expand wastewater generation within an existing residential dwelling unit(s) may claim a credit for converting existing fixtures to water conserving fixtures. In no event shall the credit claim exceed the S.S.D.C.

The S.S.D.C. may not be the only cost the property owner will pay for a connection to the public sewer or for adding additional sewage flow to the sewer system. The Town under the sewer ordinance may assess fees for inspection, connection, sewer extension and others.

PERMIT

Upon approval, the Board of Selectmen shall give the applicant a written permit to enter and connect with the public sewer. This permit is available to the owner of the land described in the application, the owner's heirs and assigns, and shall run with the land. Failure to enter and connect into the public sewer within one year from the date of granting the permit shall result in the expiration of the permit and forfeiture of the permit fee or the S.S.D.C. Renewal of a permit shall be treated as a new application and shall be subject to all of the provisions of this ordinance including the appropriate fees and charges.

The S.S.D.C. may be refunded, upon request of the owner, under the following conditions:

1. No portion of the permit has been used;
2. The permit is still valid as of the date a written request for refund is received;
3. A 20% administrative charge is deducted from any refund.

MUNICIPAL PROPERTY EXEMPT

The S.S.D.C. shall not apply to the treatment of any wastewater flow from property owned by the Town of Thomaston including tax-acquired property. Other tax-exempt properties such as public or private schools or institutions shall be charged an S.S.D.C.

S.S.D.C. FUND

All S.S.D.C. fees collected shall be paid into a special interest bearing Capital Dedication Reserve Account of the Town or into a special sinking fund account for debt service payment as determined by the Selectmen. Accounting practices shall identify the amounts paid in by each person or firm and the amounts expended for system development. Expenditures shall be tracked on a first-paid, first-spent basis. The use of the special capital Dedicated Reserve Account or sinking fund account shall be clearly shown in the Town's annual audit.

Monies collected from the S.S.D.C. shall be used solely to finance increases in the wastewater facilities capacity including but not limited to the following:

- a. Enlargement, upgrading, and rehabilitation of the wastewater treatment plant or equipment or elements thereof;
- b. Construction or upgrading of pumping stations to increase wastewater system capacity;
- c. Reconnection or enlargement of existing sewer lines or storm drains which removes unpolluted water from the sanitary sewer;
- d. Construction of new sanitary sewers to replace existing sewer lines when unpolluted water is removed in the project;
- e. Debt service payments for any loans, bonds, notes or other evidence of indebtedness legally incurred by Town meeting vote or by the Board of Selectmen for the purpose of increasing the capacity of the Town Wastewater facilities.

The funds may not be used to finance routine maintenance and repair activities or other expenses solely related to operation of the wastewater system.

Any S.S.D.c., or portion thereof, paid into the fund, if not expended within ten (ten) years of payment shall be refunded with interest to the person or firm who paid the fee or his successor in interest.

SCHEDULE OF CHARGES

The S.S.D.C. shall be based on the Town of Thomaston, Sewer System Evaluation Report, done by Wright-Pierce Engineers and dated June 1990. table 9 of this report is a prioritized list of twenty-two (22) recommended sewer system improvements projects. The total estimated cost (in 1990 dollars) is \$5,978,750 and the total estimated removable peak instantaneous flow is 1,837,274 gallons. The average cost per gallon of clean water removed is \$3.25. Based on normal removal ratio of 5 to 1 require by DEP in other communities (the 10 to ratio require in the Consent Agreement expires October 1992) a gallon of capacity in Thomaston's wastewater facilities will cost \$16.25 in 1990 dollars. An allowance of 5% per year has been added to cover normal construction cost increases in future years.

YEAR	S.S.D.C. (per gallon)
1990	4.00
1991	4.20
1992	4.40
1993	4.65
1994	4.85

TOWN OF THOMASTON SEWER MONITORING PROGRAM SEWER USE VIOLATION MONITORING PLAN

AUTHORITY

The following plan is established as provided by the Sewer Ordinance of the Town of Thomaston, Section 901.4.

INTRODUCTION

A significant portion of the total I & I reaching the Wastewater Treatment Plant comes from the private portion of the collection system. Some of this is intentional such as sump pumps, and some of it is unintentional such as groundwater leaking into building sewers. For many years this private I & I was overlooked for two reasons: first, it was not believed by many people to be as large a portion of the problem as it is, and second, it was believed that little or nothing could be done about it. Today, however, both of these may have been dispelled.

Thomaston's sewer Ordinance prohibits any source of unpolluted water from being connected to the sanitary sewer. No sump pumps, roof drains, cellar drains, foundation drains or any other unpolluted waters are permitted. This is fairly easy to control with a new building. However, just as the town has to upgrade its public sewers, so the private owners must look at their situation and assert that they are also in compliance with the Sewer Ordinance. Just because a building has been connected to the sewer for many years does not exempt them from compliance.

This plan outlines a step by step program to bring as may sewer users as possible into full compliance with the Sewer Ordinance. Just because a building has been connected to the sewer for many years does not exempt them from compliance.

This plan outlines a step by step program to bring as may sewer users as possible into full compliance with the Sewer Ordinance and to try to do this by working with people and not against them.

1990-1992 RECONSTRUCTION

Each structure generating wastewater and adjoining a section of the sewer scheduled for reconstruction as shown on the map entitled "Preliminary Plan Thomaston Sewer Replacement" as prepared by T. Y. Lin Consulting Engineers of Falmouth, shall be inspected by the C.E.O. or his agent. This inspection shall, as a minimum, determine the following:

- . location of existing building drain and building sewer; . location of proposed building sewer; . necessary basement elevations; . if the structure is in violation of the Sewer Ordinance (Section 902.14 polluted Waters).

Prior to any visit, a letter with similar format to the one shown as Appendix A of the plan shall be sent to each structure owner. The written record of the inspection shall be forwarded to the engineers designing the project. Provision shall be made to handle unpolluted water in the design stage in the order shown below:

- . if possible a new sanitary sewer and sanitary building sewer shall be provided so that the existing building sewer may remain as a storm drain. This new sanitary building sewer should enter the basement several feet above the basement floor to prevent its use as a basement drain; . or, if the existing sewer cannot be converted to a storm drain then a new separate storm drain should also be installed to each building and connected to an existing storm sewer or ditch or natural watercourse.

In any event, esigned construction shall ensure that only sanitary wastewater enters the sanitary sewer and that unpolluted water has an acceptable outlet from each building directly effected by the construction project.

When the house sewer is being installed it shall be inspected by the C.E.O. as provided by Section 902.9 of the Sewer Ordinance. This inspection shall ensure that all portions of the Sewer Ordinance are complied with including Section 902.14 unpolluted water. A copy of the form used for approving the installation is shown as Appendix C. This is the same form used for approval to reconnect. On the back of this form a sketch will be made, with ties, of the new house service line.

NON-RECONSTRUCTION SURVEY

The work outlined in this section shall be substantially completed by the end of 1992. The C.E.O. shall prepare a list of all structures meeting the following criteria:

. The structure can generate wastewater; . the structure is connected to the public sewer in Thomaston (including East Thomaston). . The building sewer is not scheduled for replacement under the 1990-1992 reconstruction as described in 1990-1992 Reconstruction of this plan,

Each structure on this list shall be inspected by the C.E.O. or his agent during periods of maximum groundwater levels. This is approximately March through May in the spring.

Prior to inspection a notice shall be sent to each owner and/or tenant of similar format to the one shown in Appendix D. This inspection shall determine if the structure is in compliance (or not in compliance) with Section 902.14 of the Sewer Ordinance. As a minimum, the inspection shall determine if the structure has any; sump pumps, roof runoff, cellar drainage or other unpolluted water connected to th public sanitary sewer. A written record of each inspection shall be made on a form such as shown in Appendix E. information on foundation drains should be gathered if possible, but they cannot be removed until the town replaces the building sewer.

The C.E.O. shall notify the owner of any structure found to be in violation of the Sewer Ordinance in writing within 10 working days of the inspection. The format shall be similar to the model in Appendix E. Each situation shall be followed up until compliance with the Sewer Ordinance is obtained.

NEW CONNECTION INSPECTION

Each new structure before connecting to the public sewer must make out an Application for Sanitary Sewer Connection Permit. Once this is approved and the building sewer is installed, the line and the connection to the public sewer must be inspected by the C.E.O. to record the inspection. There is also space to note here that a check of the structure has been made to insure compliance with Section 902.14 Unpolluted Water. The back of this form is also used to make a sketch with ties of the location of the new house sewer. Should part of the plumbing not be complete at the time of inspection the C.E.O. shall revisit the site at a later date to check for compliance with the Sewer Ordinance.

LONG TERM MONITORING

In the spring of each year thereafter, during the wettest time of the year, a portion of the sanitary collection system should be inspected by TV cameras. It is suggested that several thousand feet be televised each year. This way the whole system could be looked at each five or six years. This inspection is for two purposes. First to ensure that the private property excess water removal plan is being adhered to, and second to check the main sewer lines for leaks, broken pipes, and other problems.

Because part of the reason for televising is to inspect the main sewer pipe itself, it would make more sense to start this work on the sections of sewer not replaced in the Capital Improvement Program.

Since the major objective of this program is to remove excess water, not charge people a surcharge for it, a warning letter should be sent to anyone found to be in violation. A suggested form is shown in letter F. Anyone who does not correct the problem in the allowed time, however, will have the added charge. Even if the problem is corrected immediately after the surcharge is added, it must be paid for a full year. If the problem is not corrected by the time of the next inspection, the surcharge will continue for another year.

TOWN OF THOMASTON SEWER MONITORING PROGRAM SANITARY SEWER OPERATIONS PLAN

AUTHORITY

The following plan is established as provided by the Sewer Ordinance of the Town of Thomaston, Section 901.4.

INTRODUCTION & GOALS

In order to protect the substantial investment the Town has made in a modern wastewater collection system and to keep the system in a condition whereby it will meet the goals outlined below, this operational plan has been established for the maintenance and management of the Town's sanitary sewer system. The function of this collection system is to collect, contain and transport wastewater to a point of treatment. The goals of this plan are:

- Prevent public health hazards;
- Protect the Town's investment by maximizing the useful life and capacity of the system;
- Prevent unnecessary damage;
- Convey wastewater with minimum inflow, infiltration and exfiltration;
- Perform all activities safely and avoid injury.

OPERATIONAL CONTROL

The Town of Thomaston operates three drainage systems for the benefits of its citizens:

SYSTEM	PURPOSE
SANITARY	Collect and convey to treatment polluted wastewater.
CLEAN WATER	Convey cellar drains, sump pump discharge and other clean water from building to receiving waters.
STORM WATER	Collect and convey rainwater from streets to receiving waters.

NOTE: MDOT is responsible for State highways storm water.

The Pollution Control Department (PCD) shall be responsible for operation and maintenance of the sanitary sewers and shall work with the Public Works Department (PWD) as outlined in sections below. PWD shall be completely responsible for all clean water drains and all storm drains except for those owned by MDOT.

PCD RESPONSIBILITY

PCD shall be solely responsible for:

- Keeping the sanitary sewer mapping up-to-date and seeing to it that current copies of overall plans are available at both the Town Office and the PWD Office.

- Arranging for all planning, design and construction (with the approval of the Board) of all major repairs, replacements and extensions to the sanitary sewer system.

NOTE: consideration shall be given to using the PWD for construction work.

- Providing video inspection and smoke testing as needed to check condition of lines, leakage problems, problem areas or other reasons.
- Monitoring flows as needed to check for infiltration or illegal sewer use.

PWD RESPONSIBILITY

PWD shall be solely responsible for:

- Emergency calls such as plugs sewers, holes in pavement and calls from sewer users.

JOINT RESPONSIBILITY

PWD and PCD shall work together in the following areas:

- Regular inspection and maintenance PCD shall coordinate inspections with PWD and the regular annual maintenance program shall be agreed to by both Departments before budgets are approved. Performance of the regular maintenance shall be done by PWD with assistance from PCD.
- Policies covering public relations shall be developed by PCD (with approval from PWD and the board) and administered by both departments.
- A system for record keeping shall be set up by the PCD and both departments shall follow this system. Data shall be assembled by PCD with regular summaries made available to PWD.
- Training shall be coordinated between both departments with the goal of having all personnel involved in sewer work trained. All personnel shall be certified for the work they perform.
- Minor repairs and improvements to the sanitary sewer system such as rebuilding manhole tops, repairing manhole channels and patching around manholes. PWD shall perform such work if possible.

FUNDING

Funding for the operation and maintenance of the sanitary sewer system shall be paid for by PCD for items that are listed herein that are PCD's responsibility and by PWD for items contained herein that are PWD's responsibility. Funding for major sewer line replacement or extension may come from other sources (i.e.: grants, loans, etc.) if approved by the Town. Items contained herein that are under joint responsibility will be paid for by the Department performing the work. The two departments will be responsible for coordinating the planning and scheduling in sufficient time to include necessary funds in their respective annual budgets.

In the event the two departments cannot agree on responsibility the Town manager shall resolve the questions.

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

Amended September 11, 2014

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.
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- 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, who are 18 years or older as of June 1st or a member of the current graduating class.
- b. **Nonresident Commercial Shellfish License:** This license is available only to nonresidents of the participating towns, who are 18 years or older as of June 1st or a member of the current graduating class.
- c. **Resident Student Commercial Shellfish License:** This license is available to resident students enrolled in an accredited school Kindergarten through 12th grade as outlined in the management plan. The student must remain enrolled, or had graduated, for the period of the license. A resident student license will be half the cost of 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 as outlined in the management plan. The student must remain enrolled, or had graduated, for the period of the license. A nonresident student license will be half the cost of 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.

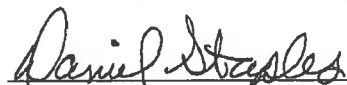
H. Harvesting Without a License: It is unlawful to harvest clams without a license.

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.

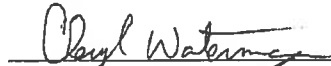
- I. Littering:** A person may not throw, drop, deposit, discard, dump or otherwise dispose of litter in any manner or amount. Any person doing so shall be in violation of the municipal ordinance.
- J. Trespass:** A person may not access or cross private property or lands without permission. A person 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.

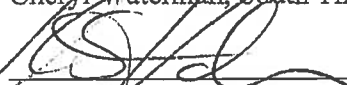
September 11, 2014



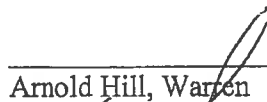
Daniel Staples, Cushing, Chairman



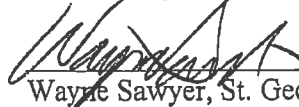
Cheryl Waterman, South Thomaston



Bill Hahn, Thomaston



Arnold Hill, Warren



Wayne Sawyer, St. George

Georges River Regional Joint Board

A True Copy: Attest



Lisa M. Young
Town Clerk
Town of Cushing