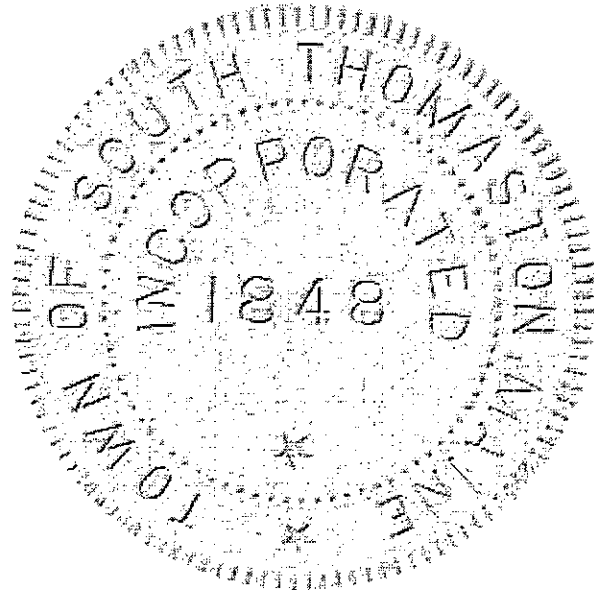


TOWN OF
SOUTH THOMASTON, MAINE



LAND USE ORDINANCE

Adopted 21 March 1989

Amended 29 March 2005

Amended 27 March 2012

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HISTORY OF AMENDMENTS

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

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

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

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

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

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

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

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

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

"Outpatient Addiction Treatment Clinics"

"Medical Facilities Other Than Professional Office Use":

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

2. Further, by deleting the period, after the last sentence in Section IV., Subsection B., Paragraph (1), after the words "this Ordinance" and adding the following:

; including, but not limited to:

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

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

(c) the dimensions and acreage of the property;

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

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

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

- (a) increased setbacks and yards;
- (b) specified water supplies or sewage disposal facilities, as well as the impact of the use on the quality and quantity of groundwater available to abutting properties, is comparable to that for surrounding uses, and the capacity of sewerage and water supply systems is adequate to accommodate the proposed use and, where applicable, the capacity of the storm drainage system is adequate to accommodate the proposed use;
- (c) type of vegetation, landscaping, planting screens, installation and maintenance of effective opaque fencing and to provide visual screening at least six feet in height to be located along side and rear property lines that abut properties in residential use;
- (d) periods and methods of operation, including types of services provided, clientele and populations to be served, staffing requirements, security provisions, hours of operation, anticipated parking demand and peak hour traffic; lighting; signs, markings and advertisement; the generation of noise, dust, odor, vibration, glare, smoke, litter and other nuisances in comparison to that generated by surrounding uses; that the proposed onsite

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use shall not be a character as to have significant adverse impact upon the value or quiet possession of surrounding properties.

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

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

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

(h) maintenance and inspection of sewage disposal facilities;

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

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

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

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

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

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

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

Family Day Care Home: means child care for three to 12 children under 13 years of

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

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

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

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Section I TITLE

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

Section II PURPOSE AND ESTABLISHMENT OF DISTRICTS

A. Purpose

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

B. Establishment of Districts

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

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

C. Land Use Maps

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

D. District Boundaries

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

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

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

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

E. Conflict with Other Ordinances

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

F. Separability

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

G. Effective Date, Amendments

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

Section III NONCONFORMANCE

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

A. Separate Lots

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

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B. Contiguous Lots

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

C. Vacant Contiguous Lots

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

D. Abandonment

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

E. Change In Use

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

F. Expansion of Use or Structure

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

Section IV ADMINISTRATION

A. Building Permits

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

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

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B. Applications and Permits Issued

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

- (a) name, address and contact information, including a phone number of the applicant and all other persons having a legal interest in the property, and, when applicable, individual(s) hired by the applicant to manage or control such property;
- (b) the location of the premises for which a permit is sought by identification of town tax map number and street address;
- (c) the dimensions and acreage of the property;
- (d) the identification of any other approvals required by the Town of South Thomaston, by any state or federal agency or department, if any;
- (e) a copy of a site plan, drawn to a scale of 50 feet or less to the inch, which identifies the boundary lines of the property for which a permit is sought;
- (f) the location of all existing and proposed buildings and structures;
- (g) when applicable (see *Special Exceptions/Conditional Use*), the location of all existing and proposed parking areas and walkways and any other site improvements;
- (h) the location and characteristics of all existing and proposed vegetation and or fencing to be maintained for screening, when required (see *Special Exceptions/Conditional Use*);
- (i) when applicable (see *Special Exceptions/Conditional Use*), a site location map at a scale of not greater on 1" to 100' showing all adjoining residential uses and any schools, churches, cemeteries, family day care homes, small day care facilities, day care centers and public parks and play grounds; the location and characteristics of all vehicular entrances and exits serving the property;
- (j) a nonrefundable application fee in accordance with the Town's fee schedule and an original and eight (8) copies of the permit application, and all supporting documentation.

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2. Soils. Plumbing Permit. In all districts, no Building Permit for any building or structure which requires any form of plumbing, shall be issued until the applicant, or his agent, has secured a satisfactory soil analysis test and/or a Plumbing Permit in accordance with the State Plumbing Code.

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

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

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

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

C. Code Enforcement Officer.

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

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provisions. A copy of such notices shall be maintained by the Code Enforcement Officer as a permanent record.

D. Legal Actions and Violations.

When any violation of any provision of this Ordinance shall be found to exist, the Selectmen upon their own Initiative or upon notice from the Code Enforcement Officer or Planning Board, are hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable including seeking injunctions of violations and impositions of penalties, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town of South Thomaston.

E. Penalties.

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

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

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

F. Appeals

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

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

The Board of Appeals may amend the Code Enforcement Officer's or Planning Board's decision only upon the finding that there has been an error in administrative procedures, or an error in interpretation of the ordinance, or that the information provided to the Code

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Enforcement Officer or Planning Board was erroneous or incomplete. The case shall continue as follows:

1. If the Board of Appeals finds errors in administrative procedure, the case shall be referred back to the Officer or Board for rectification.
2. If the Board of Appeals finds errors of interpretation, the Board of Appeals may modify the interpretation or reverse the order of the Code Enforcement Officer or Planning Board but may not alter the conditions attached by the Planning Board. The case shall be referred back to the Code Enforcement Officer or Planning Board for rectification and changes in conditions shall be made by the Planning Board in accordance with the Board of Appeals' interpretation.
3. If the Board of Appeals finds errors or omissions in information leading to the decision of the Code Enforcement Officer or Planning Board, the case shall be referred back to the Officer or Board for rectification.

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

G. Special Exceptions (Conditional Uses)

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

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

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

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

(a) increased setbacks and yards;

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

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

(d) periods and methods of operation, including types of services provided, clientele and populations to be served, staffing requirements, security provisions, hours of operation, anticipated parking demand and peak hour traffic; lighting; signs, markings and advertisement; the generation of noise, dust, odor, vibration, glare, smoke, litter and other nuisances in comparison to that generated by surrounding uses; that the proposed onsite use shall not be of a character as to have significant adverse impact upon the value or quiet possession of surrounding properties.

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

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

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

(h) maintenance and inspection of sewage disposal facilities;

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

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

3. Procedure. The Planning Board shall follow the following procedure in considering Special Exception: A quorum of at least three members shall be present to consider a Special Exception. The secretary of the Board shall maintain a record of all meetings, including a transcript, if any, and exhibits or documents submitted regarding Special Exceptions, which shall be a public record. The Board

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may receive oral or documentary evidence regarding the requested Special Exception; each party having the right to submit rebuttal evidence, conduct cross-examination and to be represented by legal counsel. Notice of any decision shall be mailed to the applicant and the Code Enforcement Officer within seven days of the decision.

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

H. Variances

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

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

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

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

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

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

Section V DISTRICTS

A. General

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

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gardening. Such activities shall conform to applicable state and federal laws and regulations.

1. District Definitions

Island	-- Spruce Head Island
Village -1	-- Spruce Head and Spruce Head Village
Village -2	-- Keag Village
Rural -1	-- least restrictive
Rural -2	-- rural, agricultural, open space
Shoreland	-- there is a separate Shoreland Zoning Ordinance. Any use within the Shoreland Districts shall, in addition to the standards of this Ordinance, conform to the standards of the Shoreland Zoning Ordinance.

2. Purposes of Districts

Island District

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

Village - 1 District

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

Village - 2 District

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

Rural - 1 District

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

Rural - 2 District

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

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B. Table of Land Uses

Key

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

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

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

* Amended on November 10, 1993

** Amended on March 27, 2012

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C. Table of Dimensions

District Dimension	Island	V-1	V - 2	R - 1	R - 2
Minimum Lot Area Per Dwelling Unit	1 ACRE	1 ACRE	1 ACRE	1 ACRE	1 ACRE
Industrial Uses				3 ACRES	
Campgrounds				3 ACRES	3 ACRES
All Other Non-Residential Uses	1 ACRE	1 ACRE	1 ACRE	1 ACRE	1 ACRE
Maximum Building Height (Feet)					
Residential	34	34	34	34	34
Non-Residential	50	50	50	50	50
Corner Clearance (Feet)	40	40	40	40	40

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

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

Section VI GENERAL PERFORMANCE STANDARDS

A. Purpose

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

B. Campgrounds:

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

C. Community Living Use, Elderly Congregate Housing

This subsection was amended to be deleted on November 10, 1993.

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D. Lighting:

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

E. Industrial Uses:

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

F. Off-Street Parking and Loading Standards:

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

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

G. Off-Street Parking and Loading Standards

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

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

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

Section VII DEFINITIONS

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

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

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

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

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

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

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

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

Church: Any place of worship, regardless of denomination.

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

Community Living Arrangement: A residential grouping of handicapped people which is designed to emulate a permanent family like environment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Neighborhood Store: A retail store which occupies less than 3,000 square feet of total floor area and covers less than 2,000 square feet of ground area, which may sell motor vehicle fuels and supplies, and within which no alcoholic beverages are consumed.

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

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

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

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

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

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

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

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

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

Tradesman's Shop: The shop of a self-employed craftsman or person in a skilled trade, employing two or fewer full-time equivalent employees. For the purposes of this Ordinance, the activities of a Tradesman's Shop shall not include outdoor sales or displays.

Attest a true copy

Barbara J. Slack

Town Clerk

