



**Town of Thomaston**  
State of Maine

*Proposals for*  
*Amendments to*

**Chapter 7**  
**Thomaston Land Use**  
*and*  
**Development Ordinance**  
**&**  
**Chapter 10 Definitions**

*For June 2023 Town Meeting*



*NOTE: A copy of all ordinance amendments is available for review and inspection at the Town Clerk's Office and on the Town's website at [www.thomastonmaine.gov](http://www.thomastonmaine.gov)*

**Article ##:** Shall Chapter 7, Thomaston Land Use and Development Ordinance and Chapter 10, Definitions, be amended by replacing all references to "**Selectmen**" or "**Board of Selectmen**" with "**Select Board**"?

**Article ##:** Shall Chapter 7, Thomaston Land Use and Development Ordinance, be amended to change the zoning district of Map 105, Lots 095, 189, and 191 currently in the Urban Residential District (R3) to Village Commercial District (VC)?

**Article ##:** Shall Chapter 7 Thomaston Land Use and Development Ordinance, Sections 707, 707A, 708, 709, 710, 712, 712A, 713, 716, and 718 be amended?

## **Section 707 Urban Residential District (R3)**

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

**1) Affordable Housing Development** *Alphabetize and renumber items as needed*

10) Conversion of existing residential to: \*

**c) Business and Professional Office**

**e) Health Services**

**f) Multi-Unit Residential Structure**

**16) Health Services**

*\* Please see Section 719.2 Conversion of Residential Structures.*

## **Section 707A Village Mixed Use District (R3A)**

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

**5) Health Services** *Alphabetize and renumber items as needed*

## **Section 708 Transitional Residential District (TR3)**

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

2) Affordable Housing Development *Alphabetize and renumber items as needed*

5) Conversion of existing residential to: \*

d) Multi-Unit Residential Structure

*\* Please see Section 719.2 Conversion of Residential Structures.*

## **Section 709 Rural Residential District (R2)**

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

2) Affordable Housing Development *Alphabetize and renumber items as needed*

16) Conversion of existing residential to: \*

d) Multi-Unit Residential Structure

*\* Please see Section 719.2 Conversion of Residential Structures.*

## **Section 710 Rural Residential and Farming District (R1)**

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

2) Affordable Housing Development *Alphabetize and renumber items as needed*

## **Section 712 Highway Commercial District (HC)**

### **712.4 Conditional Uses (Subject to approval of the Planning Board)**

23) Redemption Center *Alphabetize and renumber items as needed*

29) Retail Marijuana Edibles Production Facility

## **Section 712A Village Commercial District (VC)**

### **712A.3 Permitted Uses**

9) Small Retail Business

## 712A.4 Conditional Uses (Subject to approval of the Planning Board)

9) Health Services *Alphabetize and renumber items as needed*

## Section 713 Industrial District (IN)

### 713.4 Conditional Uses (Subject to approval of the Planning Board)

9) Redemption Center *Alphabetize and renumber items as needed*

21) Retail Marijuana Edibles Production Facility

## Section 716 Environmental

### 716.16.7 Retail Marijuana or Cannabis Uses and Facilities

**NOTE: No more than five (5) licenses total shall be issued annually for Marijuana or Cannabis Point of Sale Facilities including Medical, Retail, and Caregiver; this does not apply to Cultivation, Manufacturing or Testing Facilities.**

## Section 718 Signs

### 718.4 Village Commercial and R3A Districts Signs

#### 718.4.7 Other Signs

c) In Village Commercial only on lots of two acres or more one free-standing sign, 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 (718.4.2); no part of the sign or its supporting framework shall exceed eight (8) feet above ground level; no dimension of the signboard or display area shall exceed four (4) feet, and no part of the sign shall be located within the public right-of-way.

#### 718.4.8 Prohibited Signs

c) Freestanding signs except as noted in 718.4.7c

**Article ##:** Shall Chapter 7 Thomaston Land Use and Development Ordinance, Section 719 be amended by altering Section 719.2 and by adding a new Section 719.3?

Note: Affordable Housing Development is mandated by Maine State law effective July 1, 2023

## Section 719 Residential

### 719.2 Conversion of Existing Structures

#### 719.2.2 Bed and Breakfast/Tourist Homes

#### 719.2.4 Business and Professional Offices

- 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) 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.
- c) Off-street parking shall be provided in accordance with Section 717.1 of this ordinance.
- d) No parking shall be located within the minimum setback from street centerlines or from side and rear lot lines.

#### 719.2.5 Health Services

- 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) 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.
- c) Off-street parking shall be provided in accordance with Section 717.1 of this ordinance.
- d) No parking shall be located within the minimum setback from street centerlines or from side and rear lot lines.

#### 719.2.6 Multi-Unit Residential

- 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) 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.

- c) Off-street parking shall be provided in accordance with Section 717.1 of this ordinance.
- d) No parking shall be located within the minimum setback from street centerlines or from side and rear lot lines.

### **719.3 Affordable Housing Development**

#### **719.3.1 Income Limits**

- a) For rental housing a development in which a household whose income does not exceed 80% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority of the units that the developer designates as affordable without spending more than 30% of the household's monthly income on housing costs.
- b) For owned housing a development in which a household whose income does not exceed 120% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority of the units that the developer designates as affordable without spending more than 30% of the household's monthly income on housing costs.

#### **719.3.2 Affordable Housing Standards**

- a) Multifamily dwellings are allowed to have a dwelling unit density of up to 2½ times the base density that is otherwise allowed in that location and require 2 off-street parking spaces for every 3 units.
- b) The development must be in a designated growth area of Thomaston consistent with section 30A MRS §4349-A, subsection 1, paragraph A or B or the development must be served by a public, special district, or other centrally managed water system and a public, special district or other comparable sewer systems.
- c) The development must comply with minimum lot size requirements in accordance with 12 MRS Chapter 423-A, as applicable.
- d) Before approving an affordable housing development, the Planning Board shall require that the owner of the affordable housing development has executed a restrictive covenant, recorded in the Knox County Registry of Deeds, for the benefit of and enforceable by an acceptable party, to ensure that for at least 30 years after completion of construction:
  - i) For rental housing, occupancy of all of the units designated affordable in the development will remain limited to households at or below 80% of the local area median income at the time of initial occupancy; and
  - ii) For owned housing, occupancy of all of the units designated affordable in the development will remain limited to households at or below 120% of the local area median income at the time of initial occupancy.

- e) The owner of an affordable housing development shall provide written verification to the Code Enforcement Officer that each unit of the housing development is connected to adequate water and wastewater services before the Code Enforcement Officer may certify the development for occupancy. Written verification under this subsection must include:
- i) If a housing unit is connected to a public, special district, or another comparable sewer system, proof of adequate service to support any additional flow created by the unit and proof of payment for the connection to the sewer system;
  - ii) If a housing unit is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector under 30A MRS §4221. Plans for subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with subsurface wastewater disposal rules adopted under 22 MRS §42;
  - iii) If a housing unit is connected to a public, special district, or another centrally managed water system, proof of adequate service to support any additional flow created by the unit, proof of payment for the connection, and the volume and supply of water required for the unit; and
  - iv) If a housing unit is connected to a well, proof of access to potable water. Any tests of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

### **719.3.2 Restrictive Covenants**

This section may not be construed to interfere with, abrogate or annul the validity or enforceability of any valid and enforceable easement, covenant, deed restriction, or other agreement or instrument between private parties that imposes greater restrictions than those provided in this section, as long as the agreement does not abrogate rights under the United States Constitution or the Constitution of Maine.



**Article ##:** Shall Chapter 7 Thomaston Land Use and Development Ordinance, Section 719 and Chapter 10 Definitions, Section 1003 Specific Definitions be amended by adding a new Section 719.4 and related definitions?

## Section 719 Residential

### **719.4 Short-term Rental (STR)**

**All Short-Term Rent owners or operators must register with the Maine Revenue Service and collect and remit Maine State Sales Tax.**

#### **719.4.1 Purpose**

**In order to preserve the fabric of residential neighborhoods, minimize the negative impacts of transient occupation on adjacent residents, maintain housing availability for long-term residents, and protect the public safety of visitors and residents, the operation of Short-Term Rental must be efficiently and effectively regulated to balance the respective interests of town residents. The purpose of this section is to balance the desire of property owners to rent their properties to short-term tenants and the desire of residents to preserve the peaceful quiet and enjoyment of their residential neighborhoods.**

#### **719.4.2 Permit Required**

- a) Effective July 1, 2023, no person shall operate a Short-Term Rental without first obtaining annually a one-year permit therefor from the Code Enforcement Office.**
- b) No more than 20 Non-Owner-Occupied Short-Term Rental permits shall be issued annually.**
- c) Each year all Short-Term Rental applications must be renewed before July 1.**
- d) Upon application for renewal, all Short-Term Rentals shall be inspected every three (3) years from initial date of permit issuance for life safety and fire code compliance, or at any time earlier at the request of the Code Enforcement Officer, the Fire Chief, or the Police Chief.**
- e) Change of ownership shall require a new application process.**

#### **719.4.3 Standards**

- a) The Code Enforcement Office or Planning Board may condition or deny any Short-Term Rental permit/or renewal upon the basis of a recommended condition or denial of certification by any of the following: Police Chief, Fire Chief, Code Enforcement Officer, or Plumbing Inspector.**
- b) The Code Enforcement Office may condition, suspend or revoke a Short-Term Rental permit on the basis of the permittee's non-compliance with any applicable law, ordinance, regulation, or permit certification, condition, or criterion. Such denial, suspension, or revocation of said**

permit may be appealed to the Appeals Board pursuant to Section 705.2.1 of Chapter 7 Land Use Ordinance.

#### **719.4.4 Eligibility.**

The Code Office may accept applications for Short-Term Rentals from only those persons who are eligible to apply, as follows:

- a) Short-Term Rental Permits may not be granted to a renter, lessee, or another party who is not the owner of the proposed Short-Term Rental or the owner's property manager. No renter or lessee of a dwelling unit may sub-let the rented or leased premises as a short-term rental.
- b) Where the proposed Short-Term rental is a single-family structure, the applicant must demonstrate in the application either that
  - i) the structure is the applicant's primary residence, **or**
  - ii) the applicant's primary residence is at another residence within the Town of Thomaston, **or**
  - iii) the applicant is a resident living in one of the municipalities listed below, **or**
  - iv) the applicant has provided evidence of an individual or management company whose residence, or in the case of a management company, whose business is in Thomaston, Rockland, Owls Head, Rockport, Warren, Camden, Cushing, South Thomaston, or St. George, and who is available to provide around-the-clock on-site response capacity to address complaints arising from the short-term rental of the structure.
- c) Where the proposed Short-Term Rental is an approved accessory dwelling, the applicant must demonstrate in the application that the applicant owns and maintains his/her primary residence at the primary structure on the same lot to which the short-term rental is an accessory dwelling.
- d) Where the proposed Short-Term Rental is a unit in a duplex or two-unit condominium, the applicant must demonstrate that the applicant owns and maintains his/her primary residence in the other unit in the duplex or two-unit condominium, or if such unit is not the primary residence of the applicant, that the applicant either
  - i) maintains his/her primary residence elsewhere in Thomaston **or**
  - ii) is a resident of one of the municipalities listed below **or**
  - iii) has provided evidence of an individual or management company whose residence, or in the case of a management company, whose business is in Thomaston, Rockland, Owls Head, Rockport, Warren, Camden, Cushing, South Thomaston, or St. George, and who is available to provide around-the-clock on-site response capacity to address complaints arising from the short-term rental in the structure.

#### **719.4.5 Application Fee.**

The Select Board shall establish a non-refundable Application/Annual Renewal fee for Short-Term Rental Permits.

#### **719.4.6 Notice.**

Within seven (7) days of receipt of a complete application for a Short-Term Rental Permit, the Code Office shall by U.S. Mail, First Class, provide notice of the application to the owner(s) of record of abutting parcels, including the owner(s) of record of parcels located directly across a street or other way from the subject parcel, at least seven (7) days prior to issuing such license. Such notice shall include the name, address, and telephone number of the person(s) responsible for the management of the STR. Notice is effective upon mailing.

#### **719.4.7 Permitting Authority**

- a) Non-Owner-Occupied Short-term rental must submit a Conditional Use Application to the Thomaston Planning Board for review at a regularly scheduled Planning Board Meeting. The Planning Board shall grant with conditions or deny the application for Short-Term Rental.
- b) Owner-Occupied Short-term rental must submit a Short-Term Rental application to the Code Enforcement Officer who is the permitting authority. The Code Enforcement Officer shall grant, grant with conditions, or deny applications for Owner-Occupied Short-Term Rental Permits, no sooner than fourteen (14) days and no later than thirty (30) days after notice of such application is mailed to abutters pursuant to 719.4.5.

When the application is for the renewal of a current Short-Term Rental Permit and the permittee is in compliance with this and other applicable Ordinances, the Code Office may grant an administrative extension of the current permit for up to thirty (30) days when reasonably necessary to allow the continuance of the accommodations during the renewal process. All Short-Term Rentals are also subject to the Additional Requirements set forth in Section 719.4.9.

#### **719.4.8 Requirement of Application for All Short-Term Rental**

##### The Applicant Shall

- a) Provide evidence of current insurance providing coverage for the use of the premises as a Short-Term Rental. Evidence of such insurance must be available for inspection at all times while the unit or structure is used for Short-Term Rental.
- b) Provide the name, address, and telephone number of the person(s) who will be responsible for the management of the STR.
- c) Provide two on-site parking spaces for a single-family structure and three on-site spaces for a two-family structure.

- d) Not currently be in violation of any applicable law, including, without limitation, any law, ordinance, regulation, or permit relating to a short-term rental, lodging house, bed and breakfast establishment, hotel or motel, or other commercial residential facility.
- e) Demonstrate compliance with applicable building, fire prevention, and life safety codes upon inspection by the Thomaston Code Enforcement Officer and Fire Chief or their designees.

#### **719.4.9 Additional requirements**

In addition to the standards set forth in 719.4.6 and other applicable laws, ordinances, or regulations, the following criteria shall apply to applications for a Short-Term Rental:

- a) The occupancy classification of a single-family structure or a unit in a two-family or multi-family structure, used as a Short-Term Rental shall be in compliance with that of a “one-family dwelling” as described in Chapter 2 NFPA 101 Life Safety Code.
- b) Short-term rentals shall be to a single individual or entity.
- c) The maximum occupancy for Short-Term Rental shall be limited to two people per existing bedroom plus no more than two additional children under the age of twelve;
- d) Provided that there are approved fire separations between dwelling units in an existing duplex or condominium structure, each unit under separate, unrelated, or affiliated ownership shall be considered a single-family structure for the purpose of Short-Term Rental Permit provisions.
- e) Multi-family dwellings must be a permitted use in the zone in which it is located in order to rent any unit as a Short-Term Rental;
- f) An approved functional sprinkler system is required in any multi-family dwelling in which a single unit is used as a Short-Term Rental;
- g) No recreational vehicle, trailer, tent, or other mobile residential equipment, including a mobile home? may be permitted or rented as a Short-Term Rental.
- h) The use of a dwelling unit as a Short-Term Rental may not violate any other applicable condition of municipal approval, covenant, or other lawful restriction on the use of the parcel.
- i) Signage identifying, advertising, providing wayfinding, or otherwise relating to the use of a dwelling as a Short-Term Rental is not permitted, either on- or off-site.
- j) The Permittee must maintain accurate, up-to-date records of all rental transactions in the Short-Term Rental, including the number of guests and the duration of their stays. Such records must be available for review by the Code Enforcement Officer upon request.
- k) The Permittee must post in plain sight to visitors near the entrance the Short-Term Rental a Notice that identifies the name, address, phone number(s), e-mail address, and emergency contact of the owner or owner’s manager of the Short-Term Rental.

- l) Renters of Short-Term Rentals may not sublease any portion of the short-term rental to another person, or entity.
- m) The Permittee shall maintain permit eligibility in conformance with Section 719.4.4 continuously during the permit period.

#### **719.4.10 Complaints**

Complaints regarding Short-Term Rentals filed with the Police Department shall be brought to the attention of the Code Enforcement Officer. Any person may also file a complaint with the Code Enforcement Officer. The Code Enforcement Officer shall create and maintain a log for each Short-Term Rental of all complaints received and substantiated by the Town. The Code Enforcement Officer shall seek the correction by the Permittee of all substantiated complaints.

#### **719.4.11 Revocation, Suspension, or Denial of Permit**

The Code Enforcement Officer may deny any application for a Short-Term Rental Permit upon failure of the applicant to meet all regulations set forth in this section. When, in the judgment of the Code Enforcement Officer, the nature and/or number of complaints warrants further review of the Short-Term Rental, he shall provide a report of the same to the Select Board for its consideration. The Select Board may condition, suspend, or revoke a Short-Term Rental Permit, following a public hearing, on the basis of the licensee's non-compliance with any applicable law, ordinance, regulation, or permit certification, condition, or criteria.

#### **719.4.11 Penalties and Violations**

- a) Whoever operates a Short-Term Rental within the of Thomaston without a permit therefore shall be penalized with a fine of five hundred dollars (\$500) for the first offense and additional fines of one thousand dollars (\$1,000) for each subsequent offense. Following notice by the Code Enforcement Officer, any person or entity who fails to abate such violation by immediately ceasing such rental or advertising for rent and fails to apply for a permit therefore, if all permits for Short-Term Rentals for the applicable year have not already been issued as provided in 719.4.2.b shall be penalized with a fine in accordance with this section, to be recovered upon a complaint before the Maine District Court in Rockland, for the use of the Town. Each day following said notice from the Code Enforcement Officer that such violation is allowed to continue shall constitute a separate offense.
- b) A short-term rental permittee who violates any applicable law, ordinance, or regulation other than the violations contained in paragraph a) above, and who, following notice by the Code Enforcement Officer fails to abate the violation within the period prescribed shall be penalized with a fine of two hundred and fifty dollars (\$250) for each such violation, to be recovered upon a complaint before the Maine District Court in Rockland, for the use of the Town. Each day such violation is allowed to continue shall constitute a separate violation.

c) In addition to or instead of such penalty(ies), in the sole discretion of the Town, the Town may seek an injunction prohibiting the operation of the Short-Term Rental until the offense or violation shall have been abated.

## Chapter 10 Definitions

### Section 1003 Specific Definitions

#### Short Term Rental

(1) "Short-Term Rental" ("STR") means the use of all or part of a legally-existing dwelling unit for rental to a person or persons unrelated to the owner or occupant of the unit, for consideration, for periods of not more than 30 days.

(2) "Minimum Stay Period" means the minimum number of nights for which a Short-Term Rental may be rented to guests. Guests may stay for less than the minimum stay period provided that the STR remains vacant until the end of the minimum stay period. *(For example, if the minimum stay period is four (4) nights, this does not preclude rental to guests for two (2) nights, provided the unit remains unrented for the two (2) subsequent nights before being occupied again as a short-term rental.)*

(3) "Owner-Occupied" means a dwelling unit that is the owner's primary residence and is occupied, including over-night, by the owner when any part of the dwelling is rented as a short-term rental. A two-family structure shall be considered "owner-occupied" when one of the units in the structure is occupied by the owner of the structure as his or her primary residence. An accessory apartment shall be considered "owner-occupied" when the primary single-family structure to which the apartment is accessory is occupied by the owner of said primary structure as his or her primary residence.

(4) "Non-owner-occupied" means a dwelling unit that is not the owner's primary residence and/or is not occupied, including overnight, by the owner when any part of the dwelling is rented as a short term rental. Dwelling units in a two-family structure and accessory apartments that meet the definition of owner-occupied above shall not be considered non-owner-occupied.

(5) "Primary residence" means a dwelling unit that is owned and occupied as the owner's primary place of residence where the owner carries on basic living activities and is the owner's usual place of return. Reasonable documentation, such as Maine homestead exemption qualification, voter registration, government ID with address, motor vehicle registration, motor vehicle excise tax payment receipt, or other documents approved by the Town of Thomaston demonstrating that the property is the owner's legal residence and that it is such for 183 or more days of the calendar year, shall be indicia of primary residence.

Article ##: Shall Chapter 10 Definitions, Section 1003 Specific Definitions be amended?

**Affordable Housing Development** (See Section 719 Residential)

**For rental housing** - a development in which a household whose income does not exceed 80% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority of the units that the developer designates as affordable without spending more than 30% of the household's monthly income on housing costs.

**For owned housing** - a development in which a household whose income does not exceed 120% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority of the units that the developer designates as affordable without spending more than 30% of the household's monthly income on housing costs.

**Harbor Master** - an officer appointed by the Selectmen Select Board and employed by the *Town of Thomaston* to enforce the ordinances of the Town as regards **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 **an** ex-officio advisor to the Committee.

**Redemption Center** - a facility at which consumers may return empty beverage containers and receive payment for the refund value of the empty beverage containers.

**Retail Edible Marijuana Product** – a retail marijuana product intended to be consumed orally, including, but not limited to, any type of food or drink containing retail marijuana or retail marijuana products produced by a Retail Edible Marijuana Production Facility licensed pursuant to 7 MRS Chapter 417 Marijuana Legalization Act.

**Retail Marijuana Edibles Production Facility** – an entity licensed by the State of Maine to purchase retail marijuana and retail marijuana products strictly for the purpose of the production, preparation and packaging of retail edible marijuana products to sell to other retail marijuana establishments. Such a facility may not sell retail edible marijuana products directly to the public.

**Small Retail Business** - a retail establishment that sells goods or provides services to consumers and occupies under four thousand square feet of retail or wholesale space, excluding storage space, and is not one of a chain of stores.

**Thomaston Harbor Committee** - a board of five permanent members and two alternates appointed by the ~~Selectmen~~ **Select Board** 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.



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