Shall Chapter 7, Thomaston Land Use and Development Ordinance, Sections 704.1.5, 704.5, 704.9, 719.42, 736.2 be amended to read "No Permit shall be issued if back taxes are owed on any property within the Town of Thomaston owned by the Applicant (whether individually, jointly, or in any other capacity (for example, as partner or shareholder of a partnership or corporation))"?

704.1.5 Conditional Use Permits

No Permit shall be issued if back taxes are owed on any property within the Town of Thomaston owned by the Applicant (whether individually, jointly, or in any other capacity (for example, as partner or shareholder of a partnership or corporation)).

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 if back taxes are owed on any property within the Town of Thomaston owned by the Applicant (whether individually, jointly, or in any other capacity (for example, as partner or shareholder of a partnership or corporation)). 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.

704.9 Thomaston Fee Schedule (above the list of fees)

No Permit for any purpose shall be issued if back taxes are owed on any property within the Town of Thomaston owned by the Applicant (whether individually, jointly, or in any other capacity (for example, as partner or shareholder of a partnership or corporation)).

719.42 Permit Required (Short Term Rental)

f) No Permit shall be issued if back taxes are owed on any property within the Town of Thomaston owned by the Applicant (whether individually, jointly, or in any other capacity (for example, as partner or shareholder of a partnership or corporation)).

Section 736 Procedures (Site Plan Review)

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. No Permits shall be issued if back taxes are owed on any property within the Town of Thomaston owned by the Applicant (whether individually, jointly, or in any other capacity (for example, as partner or shareholder of a partnership or corporation)).

Shall Chapter 7, Land Use and Development Ordinance Section 704.5.4 Rapid Entry System be amended?

704.5.4 Rapid Entry System (~~removing~~)

~~**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.**~~

704.5.4 Rapid Entry System (new language per request of Fire Chief)

The purpose of this ordinance is to promote the safety of residents, visitors, businesses, and emergency personnel by requiring the installation of rapid entry key systems, commonly known as Knox Boxes, on certain buildings within the Town of Thomaston. These systems provide the Fire Department immediate access to locked buildings in the event of an emergency, thereby reducing the potential for forced entry damage and improving emergency response times.

a) **The installation of a rapid Key Entry System (Knox Box) is required on all new commercial, manufacturing, and industrial properties as well as all commercial, manufacturing, and industrial properties that undergo a remodel that would require the issuance of a building permit. For structures that have multiple occupancies one Knox Box for the entire facility is acceptable provided it is large enough to accommodate all keys for all occupancies. An acceptable alternative is for each occupancy to have a separate Knox Box for its own entry.**

b) **Knox Boxes will be required for all new multi-family residential structures that have restricted access through locked doors and have a common corridor for access to living units. Knox Boxes will also be required for all existing multi-family residential structures that have restricted access through locked doors and have a common corridor for access to living units that undergo renovations to the common spaces that would require the issuance of a building permit.**

c) **Additionally, Knox Boxes will be required on:**

   All Town owned buildings, new and existing
   All new educational facilities.
   All Locked gates that would restrict access to any buildings listed in Sections (A), (B), or (C) above. If multiple gates, only the main gate would require a Knox Box.
   Any new buildings or facility containing a quantity of hazardous materials which would require compliance with Title III of SARA (Superfund Amendment Reauthorization Act)

d) Buildings and structures that are staffed 24 hours a day, seven days a week and that provide direct, immediate access for Fire Department personnel are exempt. If a building reduces its staff below this level at any time then a Knox Box will be required even on existing structures retroactively.

e) The location of the Knox Box on the building shall be within 8 feet of the main entrance or other locations as required or allowed by the fire chief or their designee. The Knox Box shall be affixed not less than 4 feet and not more than 6 feet above final grade unless allowed by the fire chief or their designee.

f) Installation of the Knox Box and associated keys must be completed prior to Occupancy.

g) Keys in the Knox Box shall be clearly labeled for all restricted/locked areas that include but are not limited to:

Main Entrance
Fire Alarm Room
Mechanical and or Sprinkler room
Electrical Room
Utility rooms
Elevator Room
Any other room as specified by the fire chief or their designee

h) The Fire Chief and/or Code Enforcement Officer is authorized to enforce the provisions of this ordinance. Compliance with this ordinance shall be required prior to the issuance of a final Certificate of Occupancy by the Code Enforcement Officer.

i) Ordering Instructions.

Go to www.knoxbox.com
Click on buy tab
Under the responding dept. or agency, type Thomaston Fire Dept.
Select state: Maine
Follow ordering instructions

Shall Chapter 7, Thomaston Land Use and Development Ordinance Section 704.3.9 be amended?

704.3.9 Property Maintenance

The purpose of this Ordinance is to set minimum standards for the maintenance of all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for the maintenance of structures and adjoining property in order to protect public health and safety of humans and animals, and to prevent nuisance conditions.

704.3.10 Effective Date

This Ordinance shall be effective upon adoption by voters of the Town of Thomaston in town meeting.

704.3.11 Maintenance Standards

The grounds of all residential and non-residential property and the exterior of structures or parts thereof shall be kept in good repair and free from any accumulation of rubbish or garbage and any unsafe or unsanitary conditions, including, without limitation, the following materials, and conditions:

a) Grounds

i. Exterior accumulation of but not limited to refuse, household trash, junk, discarded plumbing, heating supplies, old or scrap copper, brass, rope, rags, batteries, paper/cardboard trash, rubber, waste and all scrap iron, steel, other scrap ferrous or nonferrous material, debris, scrap lumber and building materials, inoperable machinery or part 'thereof, glass, used furniture, used household items and unused and inoperable appliances.

ii. One or more, old discarded, worn out, junked, unserviceable vehicle(s), except in an approved licensed junkyard or auto repair business permitted under the Town of Thomaston Land Use Ordinance.

iii. Materials intended for the private use of the property owner may be stored on the property as long as such material is screened from the public way and from abutting properties and is not in violation with State Laws. Private use does not include items intended for resale.

iv. Upon the closure of a business activity, the owner of said business or activity, or property owner, if different from the business owner, shall, within 30 days, remove from public view all signs identifying the business or activity that has vacated the premises.

b) Structures including but not limited to garage, shed and other outbuildings and other improvements

i. All fences and barriers shall be kept in good repair.

ii. All exterior walls, roofs, chimneys, smokestacks, stairs, decks, porches, and balconies shall be structurally sound and maintained in good repair.

iii. All projections from structures, such as awnings, signs, fire escapes, and ductwork shall be properly anchored and maintained in good repair.

iv. All handrails and guards shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

v. All exterior doors, door assemblies and hardware shall be maintained in good condition.

vi. All exterior wall and roof surfaces of any structure used for human occupancy shall be protected so as to prevent wind, rain, and snow penetration.

vii. Buildings and basements shall be enclosed so as to prevent entry of vermin and nondomesticated animals. All structures in which insects or vermin are found shall be exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent re-infestation.

viii. All exterior surfaces on buildings shall be completed with a finished exterior siding product within one year of either building construction or a residing project. Finished exterior products do not include; underlayment, house wrap, tarps, or tarpaper.

704.3.12 Maintenance after Casualty Damage

a) Within a period of 90 days after casualty damage to grounds or structures, the Owner shall cause or contract for the repair or restoration of damaged areas and the demolition of any areas not to be repaired and the removal of all debris connected therewith.

b) Violators may submit a written request to the Code Enforcement Officer (CEO) a one-time extension of time to correct the violation/s. The CEO may grant one special extension per Owner/per violation of up to 180 days for extenuating circumstances. For example, if a violation is discovered during winter months (November 1 - April 1) and if winter weather prevents the correction of a violation, an extension may be given.

c) Extensions shall be at the reasonable discretion of the CEO, and such discretion shall be exercised consistently in all instances. The CEO shall issue a written decision stating the factual basis for his/her decision to grant or deny an extension.

704.3.13 Responsibilities

Owners, operators, and occupants of properties in violation of this Ordinance shall be jointly and severally liable for violations and for corrective actions required.

704.3.14 Enforcement & Penalties

The Code Enforcement Officer (CEO) shall enforce the provisions of this Ordinance. If the CEO shall find that any provision of this Ordinance is being violated, they shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. The CEO may initiate 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. Any person, including but not limited to an Owner or the Owner's agent or contractor who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with Title 30-A M.R.S.A. Section 4452.

704.3.15 Appeal

The Board of Appeals shall have jurisdiction to hear and decide appeals brought pursuant to the enforcement of this Ordinance according to its authority as set forth in LUO Section 705 Appeals. Any person aggrieved by the action of the CEO or any other municipal official in their administration of this Ordinance shall have the right of appeal to the Board of Appeals. Such appeal shall be taken pursuant to the procedures set forth in the Board of Appeals Section 705. The Board of Appeals shall sit in its capacity as an appellate board, utilizing and applying its procedures as set forth in LUO Section 705 and such other rules and procedures of the Board as they may apply. Any person aggrieved by the decision of the Board of Appeals shall have the right to appeal to Superior Court.

704.3.16 Severability

Each provision of this Ordinance shall be deemed independent of all other provisions herein. If any provision of this Ordinance is declared invalid all other provisions thereof shall remain valid and enforceable.

Shall Chapter 7, Land Use and Development Ordinance Section 704.5 Building Permit be amended? (currently this section is all one paragraph proposal is to separate it out as shown here and add items in red)

a) No building or structure shall be erected, moved, added to, structurally altered or demolished without a Permit issued by the Thomaston Code Enforcement Officer.

b) 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.

c) 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 during 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 by the Town against the said property owner.

d) No building permit shall be issued except in conformance with the provisions of this Ordinance, except after a written order from the Board of Appeals.

e) 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 Maine Department of Environmental Protection (MDEP) under the provisions of the Site Location of Development Act Title 38 MRS §481 et. seq. shall require municipal approval under the terms of this Ordinance.

f) A Building Permit shall be required for any building or structure requiring a Building Permit under the terms of this Ordinance.

g) Any project constituting a subdivision under the terms of the Subdivision Regulations of the *Town of Thomaston* shall require approval under the Subdivision Regulations.

h) The applicant shall furnish the Code Enforcement Officer with a copy of each application 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 MDEP under the Site Location of Development Act.

The Thomaston Code Enforcement Officer shall

a) 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 upon payment of appropriate charge upon application.

b) When the Building Permit request is for a commercial project or that of a residential structure of three (3) units or more, one (1) copy of the application must be forwarded for review to each of the following: the Fire Chief, Environmental Department Superintendent and Public Works Director.

c) Within ten (10) days after receipt of the site plan, the Fire Chief, Environmental Department Superintendent and Public Works Director shall each submit written or electronic comments to the Code Enforcement Officer.

Shall Chapter 7, Land Use and Development Ordinance Article II General Standards of Performance be amended?

(These regulations dictated by Board of Appeals November 21, and December 9, 2000, and supported by court and legal documentation should have been included in the Land Use and Development Ordinance in 2001 but were omitted in error) (these regulations are retroactive to December 2000)

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. In the case of Mineral Extraction activities, Planning Board approval shall be conditional on the following:

a) Limiting hours of operation from 7:00 a.m. to 5:00 p.m. Monday through Friday.
b) No operations on Saturday and Sunday or on the following: New Years Day, Memorial Day, Independence Day, Veterans Day, Thanksgiving Day and Christmas Day.
c) The limitations on operating hours and days of operation apply to all activities in the pits.
d) Paving the entrance 200 feet from intersection with primary road/street
e) All loads must be covered
f) Stop signs at the intersection with primary road/street
g) Truck Entering signs on primary road/street

Shall Chapter 7, Thomaston Land Use and Development Ordinance 719.4.8 Requirement of Application for All Short-Term Rental be amended?

The Applicant Shall:

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.

Shall Chapter 7, Thomaston land Use and Development Ordinance Section 746 Street Opening and Driveway Permit be amended?

Section 746 Street Opening and Driveway Permit (new language in red)

746.6 Pavement Moratorium

Street Opening Applications that propose to impact the travel lanes of any recently repaved, rehabilitated, or reconstructed Street will be denied within 5 years of completion of said Street. If the applicant can show that the need for an opening permit could not have been anticipated before the highway was paved and that it has made an effort to investigate alternative installation procedures, Thomaston Public Works may elect to consider an Exception in accordance with 746.7 Exceptions. In the case where an exception is granted, Thomaston Public Works will normally require a higher standard of repair.

746.7 Exceptions

Thomaston Public Works may authorize an exception to any provision of the pavement moratorium whenever it determines that an exception will best serve the purpose of the Street corridor, or that compliance with the requirement would be unduly burdensome, and granting the exception would not undermine the purpose of the moratorium. Some considerations that may contribute to such a decision include:

i. Application of the standards presents an exceptional hardship or unreasonable cost under the circumstances;
ii. A unique situation exists which could not have been anticipated or considered in the development of these rules;
iii. All affected parties, as determined by Thomaston Public Works, jointly agree to a lesser requirement that is supported by applicable National or State Standards; or
iv. The requirements stated herein exceed the limits of the available Steet corridor.

In instances where an applicant initiates a request for an exception, Thomaston Public Works may require documentation demonstrating that any other location is extremely difficult and costly to the consumer and that the installation will not adversely affect the design, construction, stability, traffic safety or operation of the Street.

Requests for exceptions shall be in writing and shall state the reasons for the requested deviation from the rules. This written request must accompany the application for a Street Opening Permit.

Shall Chapter 7, Thomaston Land Use and Development Ordinance Section 759 Definitions be amended?

Abandonment of property: the voluntary and intentional giving up of all rights, title, and interest in property, with no intent to reclaim it, whether through action or prolonged non-use.

Affected Land: refers to property degraded, contaminated, or impacted by human activity, such as pollution, industrial waste, or development, or by natural events like floods. It often signifies areas where soil or water quality poses risks to health, the environment, or agricultural productivity.

Annual Compliance Inspection: An examination by the Code Enforcement Officer conducted on an annual basis that shall check for compliance of the operations with the conditions and requirements of any permit.

Appeal: an application for a decision to be reversed.

Blasting: the use of explosives to break up or otherwise aid in the extraction or removal of rock or other consolidated natural formation.

Casualty: Any unforeseeable, unintended accident, mishap or natural disaster that adversely affects a property.

Cause or Contract: For this Ordinance, "cause or contract" includes the initiation of an insurance claim (as opposed to resolution), the contracting of a construction/repair business, or the substantial preparation for self-repair work.

Common Scheme of Development: Separate, but similar or coordinated, land use activities being conducted on either a single parcel of land or on multiple contiguous parcels of land that are either under common ownership or common management.

Disposal: the action or process of throwing away or getting rid of something.

Duration: A specified length of time.

Enforcement: The proper execution of the process of ensuring compliance with laws, regulations, rules, standards, and social norms.

Grounds: The part of a property not covered by structures, including driveways, pathways, flowers, trees, and lawn.

Inactive: not engaged in work or activity

Infrastructure: Structures, roads, or utility facilities that are a necessary part of the development of a society or enterprise.

Maintenance: the activity of keeping a building, vehicle, road, etc. in good condition by checking it regularly and repairing it when necessary.

Material(s): The elements or substance of which something is made or can be made.

Maximum Seasonal High Groundwater Level: The upper level at which the groundwater table normally is located during the season of the year when such levels are at their highest.

Mineral Extraction Site or Area: All the land area disturbed or otherwise developed, including any access roads and cleared areas adjacent to a pit or excavated area for 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.

Nuisance Condition: The erection, continuance or use of a building or place which, by noxious exhaust, offensive smells, vermin or other annoyances, are injurious and dangerous to the health, comfort or property of individuals, or of the public; corrupting or rendering unwholesome or impure the water of a river, stream, pond or aquifer; unlawfully diverting it from its natural course or state, to the injury or prejudice of others; and places where three or more unregistered or un-inspected motor vehicles or parts thereof, are gathered together, kept, deposited or allowed to accumulate.

Occupant: Any person living, sleeping, or having actual possession of a dwelling unit or rooming unit.

Operator: Any person who has charge, care or control of a dwelling or property, or a part thereof, whether with or without the knowledge and consent of the Owner.

Outbuilding: A building that is subordinate to and separate from a main building.

Owner: Any person who, alone or jointly or severally with each other, shall have legal or equitable title to any property (land or structures), with or without accompanying actual possession thereof, or shall have charge or control of any dwelling unit as Owner or agent of the Owner or as fiduciary including but not limited to executor, administrator, trustee, receiver or guardian of the estate or as a mortgagee in possession, regardless of how such possession was obtained.

Penalties: Fines or punishment for failing to obey an ordinance, rule, or law.

Protected Natural Resources: Vital environmental assets like wetlands, forests, rivers, wildlife habitats, and coastal areas, safeguarded by laws (like Maine's NRPA) and management to prevent degradation from development and ensure their ecological, recreational, and scenic value for the future, often involving permits for activities that could impact them. These protections apply to both biological resources (plants, animals) and physical features (soil, water)

Reclamation: The restoration to conditions similar to what existed prior to an operation or that will be compatible with what existed prior to an operation on the area of land.

Reclamation Plan: A plan which depicts how the project area will be restored, or altered for the productive use of the land, after excavation is complete.

Rubbish: Combustible and non-combustible waste materials except garbage. The term shall include but is not limited to the residue from burning wood, coal, coke and other combustible materials, paper, rags, cartons, cardboard, plastic, boxes, wood, rubber, leather, tin cans, metals, mineral matter, glass, plastic crockery, and other similar materials.

Screening: Includes, but is not limited to, the planting of trees, placement of solid fence or creation of berm to prevent a direct view of an operation or a part of an operation from public ways and other properties.

Severability: The legal concept that if one clause of a contract or ordinance is invalid, the rest remains enforceable

Stop Work Order: An order from Town Officials to cease a specified activity.

Surface Water: Any water flowing on the surface, either channelized or by sheet flow including, but not limited to, rivers, streams, brooks, ponds, lakes and any swamp, marsh, bog, or other contiguous lowland where water is periodically ponded on the surface.

Topsoil: The top layer of soil that is predominantly fertile and ordinarily moved in tillage or the equivalent of such a layer in uncultivated soils.

Unserviceable: Not ready to use or presently unusable.

Vermin: animals that are believed to be harmful to crops, farm animals, or game, or that carry disease, for example mice or rats.

Water Table: The upper surface of groundwater, or that level below which the soil is seasonally saturated with water.

Shall Chapter 7, Land Use and Development Ordinance be amended to include Article IX Mineral Extraction?

Article IX Mineral Extraction

759.1 Authority

a) The Thomaston Planning Board is vested with the authority to review and approve, conditionally approve or reject any application for Mineral Extraction within the town of Thomaston.

b) This Ordinance is enacted pursuant to home rule authority granted to the Town by Title 30-A, section 3001 and by the Constitution of Maine, Article VIII, Part Second.

c) The provisions of this Ordinance shall be administered by the Town of Thomaston Planning Board and enforced by the Town Code Enforcement Officer (CEO).

759.2 Purpose

The purpose of this Ordinance is to put into law minimum removal and reclamation standards, and municipal procedures intended to regulate the removal, processing and storage of minerals, including, without limitation, topsoil, loam, rock, flat rock, sand, gravel, or other similar materials. These standards and procedures are intended to protect the public health, safety, and general welfare, and to minimize the adverse impact of extraction to the Town, abutting property owners, citizens of the Town, and wildlife and natural resources by:

a) Preserving cemeteries, public and private streets/roads and protecting surface and groundwater quality and quantity for current and future use of the town and/or its residents.

b) Preserving the value of property and its future ability to be an asset to the town and its residents.

c) Limiting the volume and size of the most intensive types of Mineral Extraction.

759.3 Activities Exempt From This Ordinance

This Ordinance shall <u>not</u> apply to the following:

[NOTE: Mineral Extraction activities which are exempt from this Ordinance may need Planning Board approval, as well as the provisions of Article XI of the Site Plan Review required by the Land Use Ordinance and must comply with other rules and regulations of the Town.]

a) Storage or Stockpiles of winter abrasives (sand) used for the maintenance of private or public roads. This applies to the stockpile or storage area itself and not any associated Mineral Extraction activity or area.

b) Removal or filling of material incidental to construction, alteration or repair of a structure or in the landscaping incidental thereto.

c) Construction of farm and fire ponds and normal agricultural operations.

d) Inactive areas where previous Mineral Extraction had last occurred at least 12 months prior to the adoption of this Ordinance.

e) Removal or restoration of foundation walls.

f) Stripping of topsoil (loam) not part of a Mineral Extraction operation to a depth no greater than 1(one) foot provided the area so stripped is reseeded and/or replanted within 1(one) year.

759.4 References

a) Where there is a conflict between the language contained in this Ordinance and any other Town Ordinances, the stricter language shall apply for purposes of this Ordinance.

b) All references in this Ordinance to "Town," "the Town," "the Town of Thomaston," and to any board, official or officer, unless clearly defined otherwise, shall be construed to be references to The Town of Thomaston, Maine, and its municipal boards, officials and officers.

c) All references in this Ordinance to any document, chapter, handbook, or other external reference, shall be construed to be references to said documents and their successor documents, as they may be amended or replaced from time to time by other materials.

759.5 Effective Date

This Ordinance shall be effective upon its adoption by vote of the eligible voters of the Town of Thomaston in Town Meeting.

759.6 Permit Required

a) The provisions of this Ordinance shall apply to all Mineral Extraction activities within the boundaries of the Town of Thomaston, Maine, except as provided in 759.3 of this Ordinance. This applies to all extraction activities described in Article I which are:

i. a resumption of extraction activities in inactive operations, or on parcels of land on which inactive operations are located, or on parcels of land that are under a common scheme of development with parcels of land on which inactive operations are located;

ii. active and unpermitted by the Town;

iii. new or proposed; and

iv. expansions of the above, and Mineral Extraction activities previously permitted by the town, except as provided in Article II of this Ordinance.

b) Planning Board approval, as well as the provisions of Article IV of the Site Plan review required by the Land Use Ordinance, if applicable, must be obtained prior to making application under this Ordinance.

c) The owner or operator of any active Mineral Extraction activity operating without a valid Town Mineral Extraction permit shall within 30 days from the effective date of this Ordinance submit an application pursuant to this Ordinance.

d) Any owner or operator of an active operation that has not applied for a permit within 30 days from the effective date of this Ordinance shall be in violation of this Ordinance. Subject to Maine Law.

e) No permit shall take effect or be valid unless it is filed for recording in the Knox County Registry of Deeds together with the site plan, the reclamation plan and all other plans such as but not limited to the spill containment plan or blasting plan, and the survey, if required, within 30 days of the granting of said permit at the expense of and by the Applicant.

f) No permit shall be granted for any operations for more than 5 years in duration. A new permit may be applied for at any time.

(See Fee Schedule for Permit Fee and Fines for non-compliance)

759.7 Types of Mineral Extraction Activities Prohibited

Any proposed Mineral Extraction activity not specifically described in this Ordinance shall be prohibited.

759.8 Accessory Uses Not Permitted

It is the intent of this Ordinance to not allow fracking.

759.9 Hours of operation

a) Hours shall be from 7:00 a.m. to 5:00 p.m. Monday through Friday. These limitations on operating hours and days of operation apply to all activities in the pits.

b) Blasting is limited to the hours between 11 a.m. and 3 p.m.

c) No operation shall occur on Saturdays, Sundays and the following Holidays: New Year's Day, Memorial Day, Independence Day, Veterans Day, Thanksgiving Day, and Christmas Day.

d) Emergency extraction of materials under extenuating circumstances such as road or other infrastructure needing immediate repair may be permitted during off hours/days.

e) Any operations in the pit outside of the hours of 7:00 a. m. and 5:00 p.m. on Monday through Friday, except as listed in d) will be in violation of the permit and subject to various penalties, fines and costs.

759.10 Minimum Design Standards

a) A copy of the permit must be displayed on site at all times.

b) Mineral Extraction activities shall conform to all applicable State laws and local Ordinances or regulations. Where the provisions of this section conflict with specific provisions of the Land Use Ordinance, the more restrictive standards shall prevail. It is anticipated that the Application will be reviewed concurrently with this Ordinance and the requirements of the Land Use Ordinance.

c) This Article details the specific application requirements for the submissions required in Article V.

d) The owner and/or permit holder of a Mineral Extraction activity shall be responsible, both jointly and severally, for ensuring the maintenance of all infrastructure, structures and their sites.

e) The Planning Board shall consider the financial capacity, technical ability, and prior performance of the Applicant to complete all proposed activities.

f) The Planning Board may approve the Application only if the Applicant or agent is in compliance with all other Town of Thomaston and State of Maine permits for Mineral Extraction Activity.

g) In all cases, the Applicant shall have the burden of proving that all requirements, standards, and conditions of this Ordinance and subsequent approval are met.

759.11 Performance Standards – All Operations

a) Erosion, Sedimentation Control & Stormwater Management. All projects.

   i. Sediment and topsoil must be stabilized and remain on the parcel and cannot enter a Protected Natural Resource.

b) Internally Drained projects.

   i. Land shall be restored and stabilized according to the Reclamation Plan.

   ii. For Large and Extra-Large projects, a volume calculation shall be provided demonstrating that the area(s) will safely hold a volume of precipitation at least equal to that which may be expected in the area from the 25 year, 24 hour storm event for the region, U.S.D.A. Natural Resources Conservation Service.

c) Externally Drained Projects.

   i. If surface water flows out of and away from the proposed site during and after the site is excavated, the following should be provided to ensure proper erosion control and prevent siltation of downstream waters. Temporary erosion control measures shall be included in the project design, such as hay bale barriers, silt fencing, and riprap. Plans shall show the location and installation details and include a description of the timing of installation, inspection and maintenance of erosion control measures.

   ii. Additional information including:

      a. A plan and narrative detailing specific erosion control measures; and

      b. A site plan showing the pre-construction and post-construction contours, and if applicable, phased contours. The plan must show on and off-site watershed boundaries and hydrologic surface water flow lines.

      c. Sedimentation Pond location and design, if any, shall be designed to the 25-year storm event and based on the U.S.D.A. Natural Resources Conservation Service methodology. The location and construction details of the pond shall be shown on the site plans.

759.12 Reclamation Plan

The land affected by any permitted Mineral Extraction activities must be mitigated to a state of safety for people and wildlife when such activities have ceased.

A Reclamation Plan must be submitted with ALL permit applications according to the following specifications. Reclamation shall be conducted in accordance with the Maine Department of Environmental Protection's (MDEP) best management practices for erosion and sedimentation control and must include the following:

a) Highwalls, or quarry faces, must be treated in such a manner as to leave them in a condition that minimizes the possibility of rock falls, slope failures and collapse. A highwall that is loose must be controlled using blasting or scaling, the use of safety benches, the use of flatter slopes or reduced face heights or the use of benching near the top of the face or rounding the edge of the face.

b) Side slopes of gravel pits must be re-graded to a slope no steeper than two and a half (2 1/2) feet horizontal to one (1) foot vertical.

c) Within six months of the completion of extraction operations, ground levels and grades shall be established in accordance with the reclamation plan; within 30 days of final grading, vegetative cover, where possible, must be established, except for quarry walls and flooded areas. This requirement may be waived if the CEO determines that the slope(s) exhibits substantial vegetation and is stable.

d) Vegetative cover is acceptable if within one year of seeding:

i. The planting of trees and shrubs results in a permanent stand or a stand capable of regeneration and succession sufficient to ensure a 75% survival rate; and

ii. The planting of all material results in permanent ground cover, where possible.

iii. Vegetative cover used in reclamation must consist of grass, legumes, herbaceous plants, shrubs, trees or a mixture of these.

e) All access roads, haul roads and other support roads must be reclaimed, unless reserved for future productive use of the land, as described in the reclamation plan.

f) All structures or temporary shelters and equipment used in active extraction operation shall be removed within 90 days following completion of active extraction operations.

g) All affected lands must be reclaimed within 2 years after final grading.

h) Topsoil that is stripped or removed must be stockpiled for use in reclaiming disturbed land areas unless the applicant demonstrates that the soil is not needed for reclamation purposes. Stockpiles must be seeded, mulched or otherwise stabilized. Whenever practical, at least 4 inches of topsoil should be used for final cover.

i) The site must be reclaimed in phases so that the active extraction area does not exceed 5 acres at any time. This refers to the area of extraction and does not include roads, structures, stockpiles, etc., not part of the active mineral extraction operation.

j) Upon completion of the reclamation, or the reclamation phase, a written reclamation certificate, signed by an independent registered professional engineer, shall be provided to the CEO.

k) No open quarry pits or mining pits shall be used to dump landfill garbage for water quality safety (see Ground Water Usage and Impacts)

759.13 Petroleum Usage

Spill Prevention, Control, and Countermeasures Plan shall be required for all Mineral Extraction projects.

a) Petroleum Products Storage

i. If any petroleum products or other materials with potential to contaminate groundwater are to be stored on the site, a Spill Prevention Control, and Countermeasures (SPCC) Plan shall be submitted. A SPCC Plan shall be developed in accordance with DEP regulations, *Section 5A* of *Chapter 378 Performance Standards for the Storage of Petroleum Products (CMR 378) and* shall be submitted with the Application and kept with the permit in the Town's records.

ii. Any petroleum products, highly flammable or explosive liquids, solids or gasses to be stored on site shall be located in bulk, above ground, anchored tanks or containers, having a roofed, secondary containment system, adequate to contain 110% of the full contents of such container, for control of spills and leaks, and must be located at least 75 feet from any lot line, Town road or interior road.

iii. A minimum 300-foot setback must be maintained between the fuel storage area and a private drinking water well not owned or controlled by the operator.

iv. Fuel storage areas must be at least 1000 feet from a public drinking water well and are prohibited from the source water protection area of any public drinking water well, if the area is mapped by the Department of Health and Human Services as described under 30-A M.R.S.A. §2001(20-A).

v. **The use of underground tanks is strictly prohibited.**

vi. Any discharge or leak of petroleum product over a gallon shall be immediately reported to the Maine DEP and a copy of said DEP report kept with the permit in the Town's records. All discharges or leaks of any size shall be cleaned up promptly according to the spill containment and cleanup provisions of Maine DEP *CMR 378*, Section 5H.

vii. A copy of the Spill Prevention Control and Countermeasures Plan shall be kept available on site at all times.

viii. The Applicant shall demonstrate to the Planning Board's satisfaction the Applicant's ability and willingness to implement the SPCC plan.

759.14 Buffer areas and Setbacks

Buffer areas and setbacks shall be shown on the site plans as presented to and approved by the Planning Board in connection with the original approval of a permit for the Mineral Extraction activities as follows:

a) Property Boundaries

i. To minimize visual impacts and provide for wildlife, a 100-foot buffer area shall be maintained from property boundaries. This buffer area may be reduced to 25 feet with written permission of an abutting landowner; or may be eliminated between abutting properties provided:

a. written permission is obtained, and

b. erosion & stormwater control standards on both properties are met.

b) Existing Structures.

i. A 300-foot buffer area from the closest edge of an existing residence or business, cemetery, or farm building used for livestock shall be maintained with all projects. This buffer area may be reduced to a 100-foot buffer area with written permission of the owner of the structure.

c) Protected Natural Resources The following shall apply:

i. A 100-foot horizontal distance undisturbed natural buffer area shall be maintained from the Normal High Water of all other permanent surface water body or wetland. A minimum 25-foot undisturbed natural buffer area shall be maintained from any Normal High Water of a seasonal waterbody or wetland.

a. Where the slope is greater than 15% a natural buffer area of 75 feet plus 4 times the average slope percent in horizontal width shall be maintained between the affected land and the protected resource, e.g. if the slope is then the calculation would be 75 + (4 x 15) = 135 feet for the buffer area.

ii. Public/Private Roads. A 150-foot natural buffer area from the closest edge of the shoulder of a public or private road/way shall be maintained with all projects. A 50 feet wide undisturbed natural vegetated area, closest to any private road or right of way, shall be maintained, except for any access road entrance.

iii. Screening. The Applicant must take specific actions to ensure the effectiveness of any buffer area required by the Planning Board, including, but not limited to, the planting of trees, placement of solid fence or creation of a berm.

759.15 Ground Water Usage and Impacts

The following apply to all projects unless otherwise noted

a) Assessment Submitted.

The Planning Board must find that the Mineral Extraction Activity will not cause an adverse impact to ground water quality and quantity before the proposed Mineral Extraction Activity and completion

of the Reclamation Plan prior to approving any application. The assessment shall be submitted to the Thomaston Planning Board and kept in the applicant's file.

b) Groundwater buffer area.

To provide an adequate buffer area for ground water and allow for filtration of impurities from surface water, extraction shall not be any closer than 5 feet above the maximum seasonal high-water level. The applicant shall provide documentation of the groundwater table. The Planning Board may require monitoring of groundwater levels and quality to ensure there are no adverse impacts to any water supplies or wells within 500 feet of the site.

c) Water Supply buffer area.

i. A 300-foot separation must be maintained between the area of excavation and any preexisting private drinking water supply. A 1,000-foot separation must be maintained between the limit of excavation and any well or spring which qualifies as a public drinking water supply. The Planning Board shall require larger buffer areas from water supplies, if they find that a hazard is shown to exist due to the Mineral Extraction Activity.

d) Water Use.

i. A mineral extraction activity shall not withdraw more than 5,000 gallons of ground water per day, unless a hydrogeologic study is submitted by a hydrogeologist that determines this will not represent an environmental hazard or threaten drinking water supplies.

ii. Any water that is discharged from the site shall be monitored for sediment, pH and other contaminants to ensure the discharge shall not adversely affect surface water quality.

e) Standards for Acceptable Ground Water Impacts

i. Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).

ii. No mineral extraction activity shall increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Water Standards. No mineral extraction activity shall increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards

iii. If pre-existing ground water contains contaminants in excess of the primary standards, and the mineral extraction activity is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated, if necessary.

759.16 Sanitary Standards

a) Sewage Disposal

i. All water carried sewage shall be disposed of by sewage systems meeting the requirements of the State of Maine Plumbing Code (CMR 238).

b) Solid Waste Disposal

i. No solid waste, including stumps and miscellaneous items, shall be placed stored or disposed of in the Mineral Extraction site unless it meets the requirements of the rules and regulations of the Maine Department of Environmental Protection.

ii. The storage, collection and disposal of refuse in the Mineral Extraction site shall not create health hazards, rodent or insect breeding areas, accident or fire hazards, air pollution, or surface or ground water pollution.

iii. No off-site solid waste material shall be brought in for disposal.

759.17 Blasting and Noise

The applicant must ensure that the blasting is conducted in accordance with regulations issued pursuant to M.R.S.A. Title 25, Chapter 318 and conform, at a minimum, to Maine Department of Environmental Protection (MDEP), Article 8-A, Performance Standards for Quarries, 38 M.R.S.A.§490-Z(14). NOTE: A telephone call to the Thomaston town office, Police Department, and Pollution Control Department must be made prior to blasting to ensure the safety of people working in close proximity of the pit.

a) The blasting will be conducted in a manner which will cause no damage or unreasonable disturbances to the surrounding properties. The owner or operator shall use sufficient stemming, matting or natural protective cover to prevent fly rock from leaving property owned or under control of the owner or operator or from entering protected natural resources or natural buffer strips. Crushed rock or other suitable material must be used for stemming when available; native gravel, drill cuttings or other material may be used for stemming only if no other suitable material is available.

b) Sound from Production Blasting/Noise

The sound level limits contained in this regulation apply to property lines of the proposed mineral extraction operation or contiguous property owned by the operator, whichever are farther from the proposed operation's regulated sound sources. The sound level limits contained in this regulation do not apply to noise within the mineral extraction operation boundary.

c) Sound Level Limits Except as allowed for production blasting, the hourly sound levels resulting from the mineral extraction operation shall not exceed the following limits:

i. At any property line of the mineral extraction operation or contiguous property owned by the operator, whichever is farther from the proposed mineral extraction operation's regulated sound sources: 65 dBA between 7 a.m. and 5 p.m.

ii. Measurement of sound levels will be measured in accordance with regulations pursuant to MDEP's Site Location of Development Law, Chapter 375.10. Control of Noise.

iii. Sounds associated with the following shall be exempt from regulations by the Planning Board:

a. Warning signals and alarms.

b. Safety and protective devices are installed in accordance with code requirements.

c. Test operations of emergency equipment occurring in the daytime and no more

frequently than once per week.

d) The Planning Board may, as a term or condition of approval, establish any reasonable requirement to ensure that the mineral extraction operator has made adequate provision for the control of noise from the operation, and to reduce the impact of noise at the property boundaries.

i. Such conditions may include, but are not limited to, enclosing equipment or operations, imposing limits on hours of operation, or requiring the employment of specific design technologies, site design, modes of operation, or traffic patterns.

e) The sound level limits prescribed in this regulation shall not preclude the Planning Board from requiring a mineral extraction operator to demonstrate that sound levels from a mineral extraction operation will not unreasonably disturb wildlife or adversely affect wildlife populations. In addition, the sound level limits shall not preclude the Planning Board, as a term or condition of approval, from requiring that lower sound level limits be met to ensure that the operator has made adequate provision for the protection of wildlife and impact on abutting properties.

f) Noise resulting from production blasting at a mine or quarry shall be limited as follows:

i. Sound from blasting shall not exceed the following limits at any location:

a. Number of Blasts Per Day Sound Level Limit:

1) 129 dBL
2) 126 dBL
3) 124 dBL
4) 123 dBL

ii. Blast sound shall be measured in peak linear sound level (dBL) with a linear response down to 5 Hz.

g) Refer to Bureau of Mines Report of Investigations 8485 for information on air blast sound levels and pertinent scaled distances.

h) The maximum allowable air blast at any building not owned or controlled by the developer may not exceed 129 decibels peak when measured by an instrument having a flat response (+ or -3 decibels) over the range of 5 to 200 hertz.

i) If necessary to prevent damage, the Planning Board may specify lower maximum allowable air blast levels than those in f) of this section for use in the vicinity of a specific blasting operation.

j) Routine production blasting is not allowed on Saturday, Sunday, and holidays as specified in 759.9.

i. Detonation of misfires may occur outside of these times.

ii. A misfire must be reported to the Thomaston Police Department as soon as reasonably practicable.

759.18 Performance Guarantee

Refer to Section 731 Performance Guarantees Required in this Land Use Ordinance

759.19 Enforcement and inspections

a) Annual Compliance Inspection

i. Each Calendar year, the Operator of any mineral extraction use must seek an Annual Compliance Inspection ("ACP) from the Code Enforcement Officer.

ii. Annual Compliance Inspections may only occur between June 1 and October 1 of each year.

iii. Every five years, the Operator shall submit an updated site plan incorporating the current configuration of the pit and all reclaimed land as shown in prior sketch plans and a copy of any Notice to Comply filed with the State of Maine.

iv. The Operator shall demonstrate that they are in compliance with the Mining Ordinance or with the State standards if they have utilized State Permitting for their project.

v. Prior to performing the ACI, the Operator must pay the Annual Compliance Inspection Fee.

vi. The CEO shall provide to the Selectmen, Operator, and Site Owner, a report within 60 days of the ACI outlining violations of this Ordinance.

vii. Failure to obtain an ACI prior to October 1 of the calendar year in which the pit was operated may result in a stop work order and notice of violation.

viii. Operating a pit after a notice of violation shall be a daily violation. Each daily violation shall be subject to all the remedies described 30-A MRSA §4452.

b) It is the responsibility of the permit holder to see that the inspection is done as required by this section and to ensure payment of the annual mineral extraction inspection fee as established by the Board of Selectmen. Failure to pay the annual inspection fee shall result in a "Stop Work Order" being issued.

c) In addition, the CEO shall inspect the gravel extraction or rock mining operation for compliance with all standards contained in MRSA title 38, Chapter 3, Subchapter 1, Article 7 Performance Standards for Excavations for Borrow, Clay, Topsoil, or Silt and Article 8-A Performance Standards for Quarries. Whenever the provisions of MRSA title 38 come into conflict with other inspection requirements of this ordinance, the more restrictive shall apply.

759.20 Violations

a) No mineral extraction activity plan shall be recorded in the Knox County Registry of Deeds until a

Final Plan has been approved and signed by the Planning Board in accordance with this Ordinance.

b) No person, corporation or other legal entity may sell or offer to sell any materials in a Mineral Extraction activity site which has not been approved by the Planning Board and recorded in the Knox County Registry of Deeds.

c) The Code Enforcement Officer shall issue a "Notice of Violation" outlining any violations and if the order is not complied with, the Code Enforcement Officer shall refer the violation(s) to the Board of Selectmen for legal action.

d) Any operation that is in violation of other approvals (such as DEP Intent to Comply for Pits or for Quarries or DEP permits) covering the same operation shall be deemed in violation of approvals granted under this ordinance, in that all other approvals are necessary for approvals under this ordinance to be valid.

759.21 Enforcement

a) The Code Enforcement Officer of the Town of Thomaston shall enforce this Ordinance, and the Selectmen of the Town of Thomaston are authorized to institute legal proceedings to enjoin violations of this Ordinance.

b) If the Code Enforcement Officer finds violation of any provision of this ordinance or failure to comply with any order, permit, approval, condition or other final decision or action of the Planning Board that constitutes a substantial and immediate danger to the health, safety or welfare of any person(s), or property or environment of the Town of Thomaston, said Town may initiate immediate injunction proceedings to abate or correct such violations. Violations are subject to inspection as per 759.20 of this ordinance.

c) In any action to enforce any provision of this ordinance where the Town of Thomaston prevails, said Town shall be awarded reasonable attorney fees, expert witness fees, and costs unless the court finds that special circumstances make the award of these fees and costs unjust. If the defendant is the prevailing party, the defendant may be awarded reasonable attorney fees, expert witness fees, and costs provided by court rule.

d) The CEO shall have the right to entry onto any Mineral Extraction site at reasonable times and with reasonable notice.

759.22 Penalties

a) Any person, firm or corporation, being the owner or having control or use of any mineral extraction activity in violation of any of the provisions of this Ordinance or terms or conditions of any order, permit or approval or final decision of the Planning Board shall be subject to a civil penalty due and payable to the Town of Thomaston of not less than one hundred dollars ($ 100.00) for each day said violation exists and not more than twenty-five hundred dollars ($2,500) for each day said violation exists or twice the economic benefit resulting from the violation, whichever is greater, not to exceed twenty-five hundred dollars ($2,500) per day. If the same person or company has been convicted of a violation of this ordinance within the previous two years, the maximum penalty is twenty-five hundred dollars ($2,500) for each day said violation exists.

b) In setting the penalties, the Court shall consider but is not limited to the following:

i. Prior violations by the same person;

ii. The degree of environmental damage that cannot be abated or corrected;

iii. The extent to which the violation continued following an order to stop;

iv. The extent to which the Town of Thomaston contributed to the violation by providing incorrect information or failing to take timely action; and

v. Whether penalties have been imposed by another governmental agency for the same incident(s).

c) Payment of any penalty shall be made within thirty (30) days in cash or by certified check drawn on a recognized financial institution, made payable to the Town of Thomaston in an amount equal to the full amount of the penalty.

d) If the maximum penalty amount of this ordinance is held void or invalid it is the intent of the Town of Thomaston that provisions of Title 30-A, M.R.S.A. Section 4452 be given full force and effect and that the maximum penalty amounts authorized by such provision apply to violations of any order, permit, approval or final decision of the Planning Board, or any provision of this ordinance.

759.23 Severability and Conflict

a) Severability

Should any section of this Ordinance be declared by the courts of the State of Maine or by the courts of the United States to be invalid, such decisions shall not invalidate any other section or provision of this Land Use Ordinance.

b) Conflict with other Ordinances

This Ordinance shall in no way impair or remove the necessity of compliance with any other rule, regulation, bylaw, permit or provision of law. Where this Ordinance imposes a greater restriction upon the use of the land, buildings or structures, than any other rule, regulation, by-law, permit or provision of law, the provisions of this Ordinance shall prevail.

Shall the voters approve moving Lots 029 and 031 Map 402 from R1 Rural Residential & Farming District to R3 Urban Residential District?

Rationale: Lot 029 was meant to be included in the moving of lot 033 a few years ago but was omitted in error. Lot 031 being next to these lots should also be moved to be consistent within the area.

Shall Chapter 7, Thomaston Land Use and Development Ordinance, Section 727.1.5 Final Plan Review Procedures Subdivision be amended?

727.1.5-The Thomaston Code Enforcement Officer shall solicit comments from the Road Commissioner, Fire Chief, Town Manager, Police Chief, Public Works Director and Environmental Department Superintendent 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 conforms to rules applying to state roads. No building permit shall be issued until a entrance permit has been issued by the MDOT.