Section 8 General Performance Standards

The following General Performance Standards apply to all uses of land and structures within the Town of Boothbay.

8.1 Parking and Loading Requirements

Off-street parking shall be required for all new and expanded uses and shall be adequately sized for the proposed use.

8.1.1 General

8.1.1.1 Parking areas in the Shoreland Overlay District shall meet the shoreline setback requirements for structures for the district in which such parking areas are located except as provided in 7.5.17.4.3.

8.1.1.2 Off-street parking shall be located on the same lot as the use for which the parking is required unless other arrangements are approved by the Planning Board.

8.1.1.3 No parking space shall serve more than one use unless the Planning Board finds that it is clearly demonstrated that the shared parking area will substantially meet the intent of the requirements by reason of variation in the probable time of maximum use by patrons or employees of the establishments sharing the parking.

8.1.1.4 Except for parking for one and two family residential uses, including dwellings in a mobile home park, and home occupations, all parking shall be excluded from the area between the principal building and public and private way(s) unless such parking is provided for in the district standards. This requirement does not apply to parking in the Manufacturing/Business District and the Marine Commercial District.

8.1.1.5 Parking areas for all uses except for one and two family residential uses and any associated Home Occupations shall be designed so that vehicles can be turned around within the lot and are not required to back into public ways.

8.1.1.6 Loading facilities shall be located entirely on the same lot as the structure or use to be served. Loading facilities shall be designed so that they do not interfere with customer traffic flows and parking.

8.1.1.7 Any use that is required to provide more than ten (10) off-street parking spaces shall provide handicapped accessible parking facilities in accordance with the requirements of the Americans with Disability Act (ADA).

8.1.2 Access Standards for Other Than One and Two Family Residential Uses Lots shall be designed with a limited number of access points. A maximum of two (2) points of access shall be allowed regardless of the number of businesses served.

8.1.2.1 The Planning Board may approve variations from this requirement if the lot has more than five hundred (500) feet of road frontage or access from more than one road.
8.1.2.2 Access points shall be so located as to minimize traffic congestion and to avoid generating traffic on local streets of a primarily residential character.

8.1.2.3 Provision shall be made for vehicular access in such a manner as to safeguard against hazards to traffic and pedestrians on existing roads and within the lot, to avoid traffic congestion on any road, and to provide safe and convenient circulation on public roads and within the lot. This may require the provision of turning lanes, traffic directional islands, and traffic controls on existing and proposed public or private roads.

8.1.2.4 Access points for commercial uses shall be designed in profile, grading and location to provide the following minimum sight distance, measured in each direction in accordance with the following procedure. The sight distance must be measured from the access (at a point ten (10) feet back from the edge of the travel way) to the centerline of the opposing lane(s), assuming a height of eye of three and a half (3.5) feet and a height of object of four and one quarter (4.25) feet.

<table>
<thead>
<tr>
<th>Posted Speed in Miles per Hour</th>
<th>Minimum Sight Distance in Feet</th>
</tr>
</thead>
<tbody>
<tr>
<td>20</td>
<td>230</td>
</tr>
<tr>
<td>25</td>
<td>300</td>
</tr>
<tr>
<td>30</td>
<td>375</td>
</tr>
<tr>
<td>35</td>
<td>455</td>
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<tr>
<td>40</td>
<td>540</td>
</tr>
<tr>
<td>45</td>
<td>635</td>
</tr>
<tr>
<td>50</td>
<td>740</td>
</tr>
</tbody>
</table>

8.1.2.4.1 The Planning Board may approve access points with less than the required sight distance if the property owner or applicant can show that no alternative exists and the design including any proposed improvements will allow safe use of the intersection or if the primary use of the access will not involve commercial vehicles.

8.1.2.5 Entrances and exits shall be clearly identified by the use of entrance and exit signs, curb cuts, and landscaping.

8.1.3 Parking Area Standards for Uses Other Than One and Two Family Residential Uses

8.1.3.1 Major interior travel lanes within parking areas shall be designed to allow continuous and uninterrupted traffic movement. Enclosures, such as curbs, fences, walls, and landscaping, shall be used to identify circulation patterns within parking areas and to restrict driving movements diagonally across parking aisles, but not to reduce visibility of on-coming pedestrians and vehicles. Entrance/exits shall be designed to allow adequate stacking in vehicle circulation lanes.

8.1.3.2 Access to parking stalls shall not be provided from major interior travel lanes in parking areas with more than fifty (50) spaces.
8.1.3.3 Unless specifically approved by the Planning Board, parking areas shall be designed to permit each motor vehicle to proceed to and from the parking space without requiring the moving of any other motor vehicles. This requirement may be waived by the Planning Board for residential uses in which parking spaces are assigned to specific units.

8.1.3.4 All parking spaces and access drives shall be at least five (5) feet from any side or rear lot line unless the district standards establish a different requirement. Where development is proposed adjacent to a one or two family residential use, the minimum side and rear yard setback shall be observed for parking spaces and access drives. This area is to be used as a buffer zone and shall be landscaped so as to form a visual barrier.

8.1.3.5 The minimum size of parking spaces shall conform to the requirements of 8.1.3.6 except that at least twenty (20) percent of the spaces shall be a minimum of ten (10) feet wide and twenty (20) feet long unless the Planning Board finds that it is clearly demonstrated that smaller parking spaces are appropriate. The larger spaces shall be identified by appropriate signage or pavement markings.

8.1.3.6 The layout of parking areas including the parking stalls and aisles shall conform to the following Parking Design Standards Table:

<table>
<thead>
<tr>
<th>Parking Angle</th>
<th>Stall Width</th>
<th>Skew Width</th>
<th>Stall Depth</th>
<th>Aisle Width</th>
</tr>
</thead>
<tbody>
<tr>
<td>90°</td>
<td>9' - 0'</td>
<td>18' - 5&quot;</td>
<td>24' - 0&quot;</td>
<td></td>
</tr>
<tr>
<td>60°</td>
<td>8' - 6&quot;</td>
<td>10' - 5&quot;</td>
<td>18' - 0&quot;</td>
<td>16' - 0&quot; one way only</td>
</tr>
<tr>
<td>45°</td>
<td>8' - 6&quot;</td>
<td>12' - 9&quot;</td>
<td>17' - 5&quot;</td>
<td>12' - 0&quot; one way only</td>
</tr>
</tbody>
</table>

8.1.3.7 In paved parking areas, painted stripes shall be used to delineate parking stalls. Stripes shall be a minimum of 4 inches in width. Where double lines are used, they shall be separated a minimum of 1 foot on center.

8.1.3.8 In unpaved parking areas, appropriate markers shall be used to delineate parking stalls.

8.1.3.9 In parking area using diagonal parking, arrows shall be painted on the pavement to indicate proper traffic flow.

8.1.3.10 Bumpers or wheel stops shall be provided where overhang of parked cars might restrict traffic flow on adjacent through roads, public ways and interior travel lanes; restrict pedestrian movement on adjacent walkways; or damage landscape materials.

8.1.3.11 All parking areas and driveways shall have a gravel sub-base at least twelve (12) inches in thickness and a surface layer of two (2) inches of finish gravel or bituminous paving.

8.1.3.12 Road and driveway surface drainage shall conform to the stormwater performance standards of 9.3. Runoff shall be directed to an unscarified buffer strip and shall be diffused or spread out to promote infiltration of the runoff and to
minimize channelized flow of the drainage through the buffer strip.

8.1.4 Minimum Parking Requirements A minimum of two parking spaces shall be provided on each tract or parcel of land.

8.1.4.1 Uses other than one and two family residential shall provide at least one parking space per employee on the largest work shift that does not reside on the property and one space for each dwelling unit, guest room, campsite, boat slip, mooring or office.

8.1.4.2 The Planning Board may grant waivers to reduce the minimum number of spaces required if the property owner or applicant demonstrates that less parking is needed to serve the activity.

8.1.4.3 The Planning Board may require additional parking spaces if it determines that the minimum parking provided for in 8.1.4.1 are insufficient to meet the parking demand of the activity. In determining the number of additional spaces required, the Planning Board shall use information provided by the applicant on actual parking demand of similar uses or the most recent edition of the Institute of Traffic Engineers Parking Generation Manual.

8.2 Traffic and Access Requirements

Section 8.2 shall apply to all roads including the roadway, shoulders, curbs, sidewalks, culverts, drainage system and other appurtenances. It shall also apply to driveways where specifically noted. In addition, it shall apply to any improvement or modification of a road external to the development as may be required. Road construction shall conform to good engineering practices and be suitable for the intended usage of the road.

8.2.1 General

8.2.1.1 Road and driveways within the Shoreland Overlay District shall meet the shoreline setback requirements set forth in 7.5.17.4.4.1.

8.2.1.2 Approval of an application by the Planning Board shall not be deemed to constitute or be evidence of acceptance by the Town of Boothbay of any road or easement.

8.2.1.3 Detailed construction drawings showing a plan view, profile, and typical cross-section of any proposed roads shall be required as part of the application as set forth in Section 5.

8.2.1.4 Roads and driveways shall be designed so as not to create through or "short cut" travel paths.

8.2.1.5 New roads and driveways in the Resource Protection District are prohibited except as provided for in 7.5.17.4.4.1.3.

8.2.1.6 The Planning Board, upon recommendation of the Road Commissioner, may approve variations from the road requirements of this section.

8.2.2 Drainage Standards Appropriate drainage must be provided for all new or rebuilt roads and driveways in accordance with the stormwater performance standards of 9.3. Drainage provisions for roads in the Shoreland Overlay District shall also conform to the standards of 7.5.17.4.4.
8.2.2.1 Adequate ditches shall be provided for new and rebuilt roads if no other means are to be used for drainage. When ditches are used, the depth should be approximately twenty-four (24) inches below the center of the road or driveway and should blend with the terrain of the land. It will be up to the discretion of the Road Commissioner as to what good drainage road requirements are in each case.

8.2.2.2 Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

8.2.3 Location Standards Roads and driveways shall be located so as to avoid wetlands and rare species where feasible and to minimize the need for cuts and fills.

8.2.3.1 Road and driveway grades shall be not greater than ten (10) percent except for segments of less than two hundred (200) feet.

8.2.4 Road Standards

8.2.4.1 General

8.2.4.1.1 The center line of the travelway shall be located at the center line of the right-of-way to the extent feasible.

8.2.4.1.2 Roads shall be constructed to their full width and length as shown on the approved plan. Construction shall be completed to the intersection with an existing or proposed road and to the near lot line of the most distant lot.

8.2.4.1.3 Roads that are or are proposed to be Town roads shall be paved with bituminous paving in accordance with 8.2.4.4. Roads that are or will be private roads and will not be maintained by the Town may have a gravel surface rather than a paved surface.

8.2.4.2 Emergency Vehicle Access If the length of a road (including new roads or extensions of existing roads) from the nearest intersection or fire protection water supply exceeds eight hundred (800) feet, a fire protection service area shall be provided adjacent to the road within eight hundred (800) feet of the intersection or water supply. An additional service area shall be provided for each additional eight hundred (800) feet of road length so that there is less than eight hundred (800) feet between service areas. The service area shall be designed to allow appropriate space for establishing a water transfer facility and turning of fire equipment. The location and design of the service area shall be approved by the Fire Chief. This requirement shall also apply to a private accessway or driveway that is more than eight hundred (800) feet in length from its intersection with the road providing access to the property.

8.2.4.3 Termination of Roads New roads and driveways that are an extension of an approved road or whose end is more than two hundred (200) feet from an existing cross road, shall provide a turnaround area at the end of the road or driveway. The turnaround shall be a T or hammerhead turnaround or other turn around approved by the Planning Board. The location and design of the turnaround shall be reviewed and approved by the Fire Chief. A T or hammerhead turnaround shall provide turning legs that have a travel surface that is not less than eighteen (18) feet in width that
extends not less than thirty (30) feet from the edge of the travelway of the road or driveway unless an alternative design is approved by the Planning Board. If it is feasible that the new road could be extended in the future, the plan shall indicate the portion(s) of the turnaround area beyond the required road Right-of-Way that shall revert to the abutting properties.

8.2.4.4 Pavement Roads that are or are proposed to be Town roads shall meet the following paving standards.

8.2.4.4.1 The minimum standards for the base layer of pavement shall be the Maine Department of Transportation specifications for 19.0mm/D mix with a minimum thickness after compaction of two (2) inches.

8.2.4.4.2 The minimum standards for the surface layer of pavement shall be the Maine Department of Transportation specifications for 12.5mm/C mix with a minimum thickness after compaction of one and a half (1½) inches.

8.2.4.4.3 Where new pavement joins an existing pavement, the existing pavement shall be cut along a smooth line to form a neat, even, vertical joint.

8.2.4.5 Preparation of Road Base

8.2.4.5.1 Before any clearing has started on the right-of-way, the center line and side lines of the new road shall be staked or flagged at fifty (50) foot intervals.

8.2.4.5.2 Organic materials, soils not suitable for roadways, and rocks and boulders shall be removed to a depth of two (2) feet below the subgrade of the roadway and replaced with material meeting the specifications for gravel aggregate sub-base.

8.2.4.5.3 Except in a ledge cut, road and driveway banks shall be no steeper than a slope of two and a half (2½) feet horizontal to one (1) foot vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control. Where a cut results in exposed ledge, side slopes no steeper than four (4) feet vertical to one (1) foot horizontal are permitted.

8.2.4.6 Sub-Base and Base Course

8.2.4.6.1 The aggregate sub-base course shall be sand or gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other substances with a minimum thickness after compaction of twenty-four (24) inches. The gradation of the part that passes a three (3) inch square mesh sieve shall meet the following grading standard: Aggregate for sub-base shall contain no particles of rock exceeding four (4) inches in any dimension.

8.2.4.6.2 The aggregate base course shall be sand or gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other substances with a minimum thickness after compaction of four (4) inches. The gradation of the part that passes a three (3) inch square mesh sieve shall meet the following grading standard: Aggregate for the base shall contain no particles of rock exceeding two (2) inches in any dimension.

8.2.4.6.3 Underground utilities shall be installed prior to paving to avoid cuts in the pavement. Building sewers and water service connections shall be installed to the
edge of the right-of-way prior to paving.

8.2.4.7 Road Design Standards

8.2.4.7.1 The following standards apply to Private Roads:

<table>
<thead>
<tr>
<th>Minimum Right-of-Way Width</th>
<th>50 feet</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Travelway Width</td>
<td>16 feet</td>
</tr>
<tr>
<td>Access for 1 – 5 lots/units</td>
<td></td>
</tr>
<tr>
<td>Access for 6 – 9 lots/units</td>
<td>18 feet</td>
</tr>
<tr>
<td>Access for 10 or more lots/units</td>
<td>20 feet</td>
</tr>
<tr>
<td>Roadway Crown</td>
<td>¾ inch per foot</td>
</tr>
<tr>
<td>Minimum width of shoulders (each side)</td>
<td>3 feet</td>
</tr>
</tbody>
</table>

8.2.4.7.2 The following standards apply to roads that are to be considered by the Town of Boothbay for acceptance as Public Roads:

<table>
<thead>
<tr>
<th>Minimum Right-of-Way Width</th>
<th>50 feet</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Pavement Width</td>
<td>20 feet</td>
</tr>
<tr>
<td>Roadway Crown</td>
<td>¾ inch per foot</td>
</tr>
<tr>
<td>Minimum width of shoulders (each side)</td>
<td>4 feet</td>
</tr>
</tbody>
</table>

8.3 Other Requirements

8.3.1 Development Next to Registered Farmland

All development and use of land on a parcel that abuts registered farmland in accordance with 7 M.R.S.A. Chapter 2-B and 12 M.R.S.A. Chapter 6-A shall conform to the requirements of state law to protect registered farmland from incompatible use and inconsistent development except as provided in 8.3.1.1.

8.3.1.1 The Board of Appeals may grant a variance permitting development or use of land for residential purposes if adherence to the state setback requirements renders a parcel of land unusable for residential purposes in accordance with the provisions of the state law. Any variance granted for such a purpose shall be conditioned to provide the maximum feasible setback from the abutting registered farmland.

8.3.2 Construction Standards

New structures shall meet the following minimum design criteria.

8.3.2.1 The exterior walls shall be finished with a covering of wood, vinyl, or metal clapboards; wood siding; or wood, asphalt, vinyl, or metal shingles; masonry, brick or stone or other nationally advertised siding materials. Tarred paper or tarred felt or similar substances shall not be used unless completely hidden from view by previously prescribed finished exterior wall covering.

8.3.2.2 Every chimney shall be constructed of solid masonry units or materials prefabricated or otherwise approved by the National Board of Fire Underwriters.

8.3.2.3 All newly erected structures that are to be wired shall have an adequate and safe electrical service of at least one hundred (100) amperes and shall be wired in accordance with acceptable industry standards.

8.3.2.4 All buildings shall be set on masonry foundations in the form of masonry walls at least six (6) inches thick, or masonry posts at least six (6) inches in diameter which in
turn rest on ledge or which extend into solid earth for 3½ feet, or a concrete slab at least six (6) inches thick. Foundations for mobile homes in approved mobile home parks are not required to meet these standards. Buildings that do not exceed four hundred (400) square feet are exempt from this requirement.

8.3.2.5 New commercial construction should be compatible with surrounding properties in terms of formal characteristics such as height, massing, roof shapes and window proportions. Where existing historic buildings surround new construction, building height and exterior materials shall be harmonious with those of adjacent properties.

8.3.3 Cuts and Fills
The top of a cut or bottom of a fill section shall not be closer than ten (10) feet to an adjoining property, unless otherwise approved by the Planning Board.

8.3.3.1 Except in a ledge cut, cuts and fills shall be no steeper than a slope of two and a half (2½) feet horizontal to one (1) foot vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control. Where a cut results in exposed ledge, side slopes no steeper than four (4) feet vertical to one (1) foot horizontal are permitted.

8.3.4 Lots
8.3.4.1 General
8.3.4.1.1 Lots with multiple frontages are to be avoided whenever feasible. When lots have frontage on two or more right-of-ways, the plan and deed restrictions shall indicate that vehicular access shall be located only on the less-traveled way. The Planning Board may approve variations from this requirement.

8.3.4.1.2 Any side of a lot abutting a public or private way shall have the lot line in common with the right-of-way of the public or private way.

8.3.4.1.3 Lot configuration and structure location shall provide for adequate off-street parking and service facilities.

8.3.4.2 Lot Size
8.3.4.1 Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.

8.3.4.2 Land beneath roads serving more than two lots shall not be included towards calculating minimum lot area.

8.3.4.3 Land below the high-water line of great ponds and associated wetlands, streams, outlet streams or the upland edge of other wetlands shall not be included towards calculating minimum lot area.

8.3.5 Outdoor Storage
All outdoor storage facilities for uses other than one and two family dwelling for fuel, chemicals, or industrial wastes, and potentially harmful raw materials, shall be located on impervious pavement, and shall be completely enclosed by an impervious dike high enough to contain the total volume of liquid kept in the storage area, plus the accumulated rainfall of
a 25 year storm. This requirement is intended to prevent harmful materials from spilling and seeping into the ground and contaminating the ground water. Storage tanks for “home heating oil” and diesel fuel, not exceeding two hundred seventy-five (275) gallons in size, may be exempted from this requirement provided that there is no seasonal high-water table within four (4) feet of the surface, and that rapidly permeable sandy soils are not involved.

8.3.6 Roadside Trees and Walls

8.3.6.1 Roadside trees are extremely important to the character of Boothbay. Removal of existing roadside trees shall be minimized, especially along public ways. To minimize the removal of roadside trees, the Planning Board may require that the location of the building, parking lot, or the entrance or exit drive be modified.

8.3.6.2 Where stone walls exist, the development plan shall minimize any disturbance of the walls to retain the character of country roads.

8.3.7 Sanitation

8.3.7.1 General

8.3.7.1.1 New buildings and additions or remodeling of existing buildings designed for human habitation or use requiring new or additional plumbing facilities shall not be occupied anywhere in the Town unless they are connected to the municipal sewer district or equipped with a sewage disposal meeting the requirements of the Maine Plumbing Code and the Maine Subsurface Wastewater Disposal Rules. The provisions for sewage disposal must be approved by the Local Plumbing Inspector and/or the Maine Department of Health and Human Services Division of Health Engineering id state approval is required.

8.3.7.1.2 No wastewater treatment facility that services more than one dwelling unit shall be approved unless such facility is owned jointly by the owners of each dwelling unit.

8.3.7.2 Subsurface Wastewater Disposal

8.3.7.2.1 General

8.3.7.2.1.1 All subsurface waste disposal systems shall be located, designed and installed in accordance with the requirements of the Maine Subsurface Wastewater Disposal Rules.

8.3.7.2.1.2 Any person transferring property on which a subsurface wastewater disposal system is located shall provide the transferee with a written statement by the transferor as to whether the system has malfunctioned during the one hundred eighty (180) days preceding the date of transfer.

8.3.7.2.2 Inspections

8.3.7.2.2.1 The Local Plumbing Inspector must make three (3) inspections of any installation of a subsurface wastewater disposal system as follows:

8.3.7.2.2.1.1 After site preparation: An inspection must be made after site preparation to ascertain that the vegetation has been removed in the disposal field area, the area under the disposal field and backfill extensions has been
roughened, a transitional horizon has been established, and the erosion and sedimentation control measures are in place.

8.3.7.2.2.1.2 Prior to covering the system: An inspection must be made after installation of the systems components, including stone, pipes or proprietary devices, tanks, hay, filter fabric, and fill beneath and beside of the disposal area before back filled is placed above the disposal system components. This inspection must include any curtain drain, diversion ditches, berms or other measures outlined on the design to improve the function of the system.

8.3.7.2.2.1.3 Prior to signing off on the permit: An inspection must be made after the system has been covered with fill and loam to confirm the finished grade elevation, that seed, hay, and mulch have been placed on all disturbed areas, and fill extensions are installed correctly per the Site Evaluator’s plan that was permitted.

8.3.8 Signs

8.3.8.1 Exemptions For purposes of Section 3.11.20, the term “sign” shall not include and no permit shall be required for:

8.3.8.1.1 “FOR SALE”, “FOR RENT” and “FOR LEASE” signs that have been placed on the property with the owner’s permission for the purpose of advertising that property or item for sale, rent or lease. Permitted signs shall include the small standalone signs normally used by real estate agencies and other signs not over three (3) square feet in area;

8.3.8.1.2 One or two signs not over three (3) square feet in area that identify the occupants of a residential property;

8.3.8.1.3 Signs erected or posted and maintained for public safety and welfare or pursuant to any governmental function, law, code, or other regulation;

8.3.8.1.4 Signs relating to trespassing and hunting, not exceeding two (2) square feet in area; and

8.3.8.1.5 Brass, or similar metallic material, plaques of a personal nature not exceeding one square foot in area.

8.3.8.1.6 Wayfinding signs installed in accordance with a community or regional wayfinding sign plan that has been approved by the Board of Selectmen.

8.3.8.2 Prohibited Signs

8.3.8.2.1 Billboards, streamers, pennants, ribbons, spinners or other similar devices shall not be constructed, posted or erected in any area in Town, except of a temporary nature for a festival or celebration.

8.3.8.2.2 Flashing signs, roof signs, signs containing moving parts, and signs containing reflective elements that sparkle or twinkle in the sunlight are not permitted. This prohibition shall not apply to electronic changeable display signs permitted in accordance with 8.3.8.8.

8.3.8.2.3 Signs advertising or identifying a business, organization, occupants or goods
or services that is either defunct or no longer located or available on the premises.

8.3.8.2.4 Signs larger than thirty-two (32) square feet in sign area except in the Resource Protection District where signs are limited to a maximum of six (6) square feet. This limit shall not apply to Directory Signs in the Manufacturing/Business District.

8.3.8.2.5 Signs, except for a traffic, regulatory, or informational sign, using the words “stop”, “caution”, or “danger”, or incorporating red, amber, or green lights resembling traffic signals, or resembling “stop” or “yield” signs in shape and color.

8.3.8.2.6 Internally illuminated signs except as provided in 8.3.8.9.

8.3.8.2.7 Illuminated signs where the source of illumination is visible beyond the property boundary.

8.3.8.2.8 More than two signs per premise in the Resource Protection District.

8.3.8.3 Placement Standards

8.3.8.3.1 No signs other than directional signs allowed in accordance with 8.3.8.5 may be located:

8.3.8.3.1.1 within thirty-three (33) feet of the center line of any public way if the highway/right-of-way is less than sixty-six (66) feet in width;

8.3.8.3.1.2 within twenty (20) feet from the outside edge of the paved portion of any public way with more than two (2) travel lanes and a total paved width in excess of twenty-four (24) feet; or

8.3.8.3.1.3 within the full width of the right-of-way of any public way.

8.3.8.3.2 No person shall erect a sign that is affixed to a utility pole. Only signs that identify the property owner may be affixed to a tree, shrub, rock, or other natural object.

8.3.8.3.3 Signs shall not be mounted on roofs or extend above the roof line (unless mounted on a parapet wall that extends above the roof line, in which case the sign shall not extend above the top of the parapet).

8.3.8.3.4 No projecting sign shall extend into a vehicular public way, nor be less than ten (10) feet above a pedestrian way.

8.3.8.3.5 No sign or supporting framework shall extend to a height above the maximum building height permitted in the district in which it is located except in the Shoreland Overlay District.

8.3.8.3.5.1 In the Shoreland Overlay District no sign shall extend higher than twenty (20) feet above the ground.

8.3.8.4 Nonresidential Signs

8.3.8.4.1 General Signs other than directory signs allowed under 8.3.8.4.3 and directional signs allowed under 8.3.8.5 shall be placed on the same lot as the nonresidential use or activity, shall not obstruct motorists’ vision on any abutting
road or in parking areas, and shall conform to the following standards:

8.3.8.4.1.1 The longest dimension of any sign shall not be over eight (8) feet.

8.3.8.4.1.2 One stand-alone sign, visible from each direction, shall be allowed for each road abutting the property. This sign(s) may be a directory sign in accordance with 8.3.8.4.3. Lots with more than three hundred (300) feet of frontage shall be permitted to have a second freestanding sign on that road.

8.3.8.4.1.3 No more than two signs relating to activities on the premises shall be permitted for all nonresidential uses in the Shoreland Overlay District.

8.3.8.4.2 Identification Signs Two identification signs per lot are permitted. Such signs shall not exceed six (6) square feet with the maximum dimension of three (3) feet.

8.3.8.4.3 Directory Signs One freestanding directory sign, visible from each direction, shall be allowed for nonresidential uses in the Boothbay Village Center, Boothbay Village Fringe, Boothbay Village Mixed-Use, East Boothbay Village, Commercial Corridor, and Manufacturing/Business Districts.

8.3.8.4.3.1 The directory sign shall be of an integrated and uniform design.

8.3.8.4.3.2 The maximum size of a directory sign shall be thirty-two (32) square feet except in the Manufacturing/Business District and the Shoreland Overlay District. In the Manufacturing Business District the maximum size shall be one hundred forty-four (144) square feet. The maximum size of a directory sign in the Shoreland Overlay District shall be six (6) square feet.

8.3.8.4.3.3 The maximum size of a sign for individual uses shall be four (4) square feet.

8.3.8.4.3.4 The directory sign shall be located at the entrance to the lot or development in the vicinity of the road, accessway or driveway providing the primary vehicular access. If the directory sign will be located within the right-of-way of a public road, the location must be approved by the Board of Selectmen.

8.3.8.4.3.5 Within the Manufacturing/Business District one additional directory sign not exceeding thirty-two (32) square feet in area shall be permitted at each interior road intersection.

8.3.8.4.3.5.1 The directory sign shall be of an integrated and uniform design.

8.3.8.4.3.5.2 The maximum size of a sign for individual uses shall be four (4) square feet.

8.3.8.4.4 Wall Signs A lot shall have an aggregate area of all wall signs on the lot of not more than one and a half (1½) square feet for each lineal foot of building face parallel to a street lot line, or ten (10) percent of the wall area to which it is attached, whichever is less. Where a lot fronts on more than one street, the maximum aggregate sign area facing each street frontage shall be calculated separately.
8.3.8.4.4.1 Where two (2) or more wall signs are affixed to one wall, the gross display area shall be the sum total area of all signs.

8.3.8.4.4.2 Wall signs shall not obscure architectural features of the building, including, but not limited to, arches, sills, mountings, cornices, and transoms.

8.3.8.4.4.3 No part of a wall sign, including the display surface, shall extend beyond the ends of the wall on which it is located or more than six (6) inches from the building surface.

8.3.8.4.4.4 The size of signs attached to buildings may be increased in area by twenty five (25) percent for every one hundred (100) feet of building setback beyond one hundred (100) feet. The increase may be prorated according to the actual setback distance.

8.3.8.4.5 Signs indicating an entrance or exit, or a combined entrance/exit, shall be limited to two (2) at each driveway. Such signs shall contain no advertising material, shall be no more than three (3) square feet in area, and shall not extend higher than three (3) feet above ground level.

8.3.8.5 Off-Premise Directional Signs

8.3.8.5.1 General Off-Premise Directional signs shall be limited to one at each intersection where travelers must change direction from one public way to another to reach a particular business, organization or other nonresidential use to a maximum of four (4) signs within the Town for the nonresidential use.

8.3.8.5.1.1 Such signs shall be uniform in size and type of lettering and shall conform to the following specifications:

- **Width**: thirty-six (36) inches
- **Height**: eight (8) inches
- **Letter Height**: maximum of four (4) inches
- **Sign Face**: white with black lettering
- **Rear Face**: painted dark green
- **Material**: 1/2 inch to 3/4 inch wood board.

8.3.8.5.1.2 Directional information, including one arrow figure only, shall be provided on each sign.

8.3.8.5.1.3 The Town shall provide posts for mounting. Each owner shall provide, maintain, and replace his own sign. The owner shall pay a fee to the Town in an amount established by the Board of Selectmen for each sign. The Town may remove a sign if it is not properly maintained or if use to which the sign relates ceases operation or moves.

8.3.8.6 Nonconforming Signs and Sign Structures Signs not in conformance with the provisions of this section shall be allowed to remain except as qualified below:

8.3.8.6.1 Other than sign maintenance, no nonconforming sign shall be reconstructed, remodeled, relocated, or changed in size unless such action will make the sign conforming to the greatest extent practicable. The existing sign face may be changed provided that it is not enlarged or made more nonconforming with any
provisions of this section.

8.3.8.6.2 Nothing in Section 8.3.8.6.1 shall be deemed to prevent keeping in good repair a nonconforming sign, including sign maintenance, repainting, and replacement of broken or deteriorated parts of the sign itself.

8.3.8.6.3 A nonconforming sign or sign structure that is destroyed or damaged by any means may be restored within six (6) months after such destruction only after the owner has shown that the damage did not exceed fifty (50) percent of the appraised value of the sign. If such sign or sign structure is destroyed or damaged to an extent exceeding fifty (50) percent of its appraised value it shall be removed and shall not be reconstructed or replaced unless such action makes the sign and sign structure conforming to the greatest extent practicable.

8.3.8.7 Temporary Signs

8.3.8.7.1 Temporary signs for business openings, commercial, community and other non-commercial special events may be posted in any place in Town upon a written permit from the Code Enforcement Officer. The Code Enforcement Officer shall only grant such a permit after presentation of evidence that the authorities controlling the proposed location of the sign have approved its posting. A temporary sign shall be posted for a period not to exceed fourteen (14) consecutive days or forty-two (42) days per calendar year. The applicant shall remove said signs upon termination of the activity. Street banners shall be no larger than fifty (50) square feet in area. No temporary sign, other than a street banner, shall be larger than twenty-four (24) square feet in area. Complete liability for any damage resulting from the placement of a banner across the public way shall be provided, in writing, by the person, firm, organization or corporation hanging the banner before the issuance of a permit for such banner. Such liability shall be acknowledged upon the application for the permit.

8.3.8.1.1 “FOR SALE”, “FOR RENT” and “YARD/GARAGE SALE” signs are exempt from 8.3.8.6.7.1.

8.3.8.8 Electronic Changeable Display Signs

8.3.8.8.1 Electronic changeable display signs are permitted only for the following uses in the following locations:

8.3.8.8.1.1 A nonresidential use that is located in the Commercial Corridor District;

8.3.8.8.1.2 A time and temperature display in accordance with 8.3.8.8.8; or

8.3.8.8.1.3 A governmental use in all land use districts other than the Resource Protection District.

8.3.8.8.2 Only one electronic changeable display sign may be located on a lot. The changeable display may be part of a freestanding sign or a wall sign.

8.3.8.8.3 Electronic changeable display signs must change as rapidly as technologically practicable with no phasing, rolling, scrolling, flashing, streaming or blending.
8.3.8.4 Electronic changeable display signs may only consist of alphabetical or numeric text including punctuation, characters or symbols found on a standard keyboard on a plain or colored background and shall not include any graphic, pictorial or photographic images. The background may not be white or a bright primary color. The sign cannot display letters or numbers in more than two (2) colors at any time.

8.3.8.5 The area of the electronically changeable display shall not exceed sixteen (16) square feet.

8.3.8.6 The electronically changeable area must be incorporated into a larger sign and may not be more than sixty (60) percent of the total sign area.

8.3.8.7 The illumination level of the display must be regulated by an automatic dimming control to limit the maximum luminance level from one-half hour before sunset to one-half hour after sunrise to seven hundred fifty (750) cd/m² or Nits.

8.3.8.8 Signs indicating the current time or temperature are permitted in all commercial, industrial and mixed-use districts provided that the time and temperature display is incorporated into a larger sign and the area of the electronic display is not more than twelve (12) square feet.

8.3.8.9 Sign Illumination

8.3.8.9.1 Externally illuminated signs shall conform to the following standards:

8.3.8.9.1.1 Any sign for a nonresidential use in any land use district except the Resource Protection District may be externally illuminated.

8.3.8.9.1.2 The sign shall only be illuminated by steady white lights.

8.3.8.9.1.3 The light source must be shielded to prevent beams or rays of light from being directed at any portion of the public way. Any signs found to cause roadside glare shall be removed.

8.3.8.9.1.4 Lighting may not be of such intensity or brilliance as to cause glare or impair the vision of any operator of any motor vehicle or in any way interfere with the driver’s operation of a motor vehicle.

8.3.8.9.1.5 Wall signs shall only be illuminated by light fixtures mounted on the building or structure.

8.3.9.1.6 Signs shall only be illuminated between 6:00 a.m. and 8:00 p.m. A sign may be illuminated outside of this period if the use is open for business. In this situation, the sign shall be turned off one-half hour after the use closes and may be turned on one-half hour before the use opens.

8.3.8.9.2 Internally illuminated signs shall conform to the following standards:

8.3.8.9.2.1 Internally illuminated signs are only permitted for nonresidential uses in the Commercial Corridor District.

8.3.8.9.2.2 A lot in the Commercial Corridor District shall be limited to one internally illuminated free-standing sign and one internally illuminated wall sign. If a sign includes an electronic changeable display, it shall count as one
of the allowed internally illuminated signs.

8.3.8.9.2.3 The illumination of an internally illuminated sign shall be constant and shall not cause the appearance or color of the sign to change or move.

8.3.8.9.2.4 The background of the sign face shall not be white.

8.3.9.9.2.5 Signs including any electronic changeable display that is part of the sign shall only be illuminated between 6:00 a.m. and 8:00 p.m. A sign may be illuminated outside of this period if the use is open for business. In this situation, the sign shall be turned off one-half hour after the use closes and may be turned on one-half hour before the use opens.

8.3.8.10 Sign Materials

The face of the sign including a sign composed of channel letters shall conform to the following standards:

8.3.8.10.1 The face of the sign shall not be or include any elements that are reflective or that have a high gloss surface such that it creates a distraction to motorists on adjacent roads or to abutting property owners including the owner of a lot directly across a road.

8.3.8.10.2 In the Residential, Coastal Residential, Boothbay Village Center, Boothbay Village Fringe, Boothbay Village Mixed-Use, East Boothbay Village, Watershed Protection, Watershed Protection – 27, and Resource Protection Districts the face of the sign shall be made of wood, stone, metal or other natural materials or of materials that simulate the appearance of wood, stone, metal, or natural materials.

8.3.8.1.1 Calculation of the Sign Area

The area of each sign shall be determined based on the following procedures depending on the type of sign.

8.3.8.1.1.1 General Standard The area of a sign shall include the effective sign area of the sign including all lettering, wording, and accompanying design symbols, together with the background whether open or enclosed, on which they are displayed, including sections between paneled signs. Minimal supporting bracing or framework shall be excluded from the calculation of the area of a sign, but any decorative structure shall be included in the area.

8.3.8.1.1.2 Two-Sided Signs Only one side of a two-sided sign shall be counted when determining the sign area of such a sign.

8.3.8.1.1.3 Signs with a Sign Board When a sign consists of a sign board in which the lettering, wording, graphics and similar features are on a separate sign board such as a wall sign attached to a building, a projecting sign, or a ground-mounted sign, the entire area of the sign board shall be counted in the area of the sign.

8.3.8.1.1.4 Applied Signs When the lettering, wording, graphics and similar features are applied directly to a surface such as in an awning sign, canopy sign, channel letter sign, or a wall sign painted/applied directly on the wall surface and there is a distinctive background behind the features that sets it apart from the rest of the
surface, the entire area within the distinctive background shall be counted in the area of the sign. When there is no distinctive background behind the features such as in a channel letter sign, the area of the sign shall be calculated by the area of the smallest square, rectangle, circle, ellipse, or triangle that can enclose the effective sign area of the sign.

8.3.8.1.1.5 Complex Signs: When the lettering, wording, graphics and similar features are located on a larger surface such as in a pylon sign, only the area including the effective sign area that encompasses lettering, wording, graphics and similar features shall be included in the area of the sign. If these features are not located on a distinctive background that creates an identifiable sign face, the area of the sign shall be calculated by the area of the smallest square, rectangle, circle, ellipse, or triangle that can enclose the effective sign area of the sign.

8.3.8.1.1.6 Changeable Display Signs: When a sign incorporates either a manual or electronic changeable display, the entire area of the area that can display changeable copy shall be included in the area of the sign together with any border or framing.

8.3.9.1 General

8.3.9.1.1 No more than one principal structure shall be placed on one lot unless:

8.3.9.1.1.1 The minimum lot area and shore frontage standards, without variance, are met for each principal structure; and

8.3.9.1.1.2 The placement of the principal structures will allow division of the lot in conformance with all requirements of this ordinance including the required minimum setbacks between principal and accessory structures on abutting lots.

8.3.9.1.1.3 The Planning Board may waive or modify the requirements of 8.3.9.1.1.1 and 8.3.9.1.1.2 multi-structure developments that are not located in the Shoreland overlay District.

8.3.9.1.2 Accessory structures shall meet the standards for approval of a principal structure except for minimum lot area.

8.3.9.1.3 Lawfully created lot coverage that exceeds that allowed in a Zoning District may be continued and maintained but cannot be further increased.

8.3.9.2 Location

8.3.9.2.1 New structures shall be sited with respect to significant natural features such as wetlands or designated unique or critical areas to minimize adverse impacts on these features on or off the property.

8.3.9.2.1.1 New structures other than one and two family residential dwellings and their associated structures shall be sited so that obstruction of views from the public ways will be minimized. This can be achieved by taking advantage of topographic changes or existing vegetation.

8.3.9.2.2 The lowest floor elevation or openings of all structures, including basements shall be elevated at least one (1) foot above the elevation of the 100 year flood,
the flood of record, or in the absence of these, the flood as defined by soil types identified as recent floodplain soils. The development shall be in compliance with the Town of Boothbay Floodplain Management Ordinance.

8.3.10.2.2.1 All proposed developments and uses shall provide evidence that the development or use will not increase the 100-year flood elevation.

8.3.9.2.3 Structures that require direct access to the water as an operational necessity; such as piers, docks and retaining walls; or other functionally water-dependent uses are exempt from shoreline setback requirements.

8.3.9.2.4 Structures functionally water related shall be located outside the velocity zone in areas subject to tides. The Federal Emergency Management Agency’s Flood Insurance Rate Maps shall be used to determine these areas.
Section 9  Environmental Performance Standards

The following Environmental Performance Standards apply to all uses of land and structures within the Town of Boothbay.

9.1 Floodplain Management Requirements The use of land and structures shall conform to the requirements of the Town’s Floodplain Management Ordinance.

9.2 Water Supply Protection Requirements

9.2.1 Buffers, Water Supply Protection A water supply protection buffer shall be designed and maintained in accordance with the standards of 9.2.1 to provide a buffer between any shoreline, including watershed tributary streams, and development in the Watershed Protection Overlay District.

9.2.1.1 Water supply protection buffers for new structures on existing lots that are not part of a subdivision already incorporating appropriate phosphorous controls shall, to the greatest practical extent given lot limitations, be on the down slope from developed areas and located so that as much as feasible of any runoff from any developed area drains to the buffer in overland, unchanneled flow.

9.2.1.1.1 Driveways and parking areas shall be designed and constructed so that disruption of natural drainage patterns is minimized. Runoff shall be directed to an unscarified buffer strip at least fifty (50) feet, plus two times the average slope, in width between the outflow point of any ditch or culvert and a shoreline.

9.2.1.1.1 As an example, if the average slope between the shoreline and the proposed road, driveway or parking area is thirty (30) percent, then the road setback at that location would be fifty (50) feet plus 2 times thirty (30) feet or one hundred ten (110) feet.

9.2.1.1.2 Best Management Practices including swales, ditch turnouts, water bars and broad based drainage dips shall be used. Gravel driveways shall be graded to prevent runoff from concentrating in the driveway.

9.2.1.2 Runoff from roofs shall be distributed over stable, well-vegetated areas or be infiltrated into the soil using dry wells or other infiltration systems.

9.2.1.2 Forest buffers shall be at least seventy-five (75) feet in width. Meadow buffers shall be a minimum of one hundred twenty-five (125) feet in width. The required width of a Mixed Meadow and Forest buffer shall be determined as a weighted average, based on the percentage of meadow and the percentage of forest.

9.2.1.2.1 The width of the buffer may be reduced if not doing so would restrict the Developable Area to less than the twenty (20) percent of the lot area.

9.2.1.3 Buffers shall meet the following:

9.2.1.3.1 The canopy of a forest buffer must be maintained. Activities that may result in disturbance of the duff layer are prohibited.
9.2.1.3.2 A meadow buffer must be maintained as a meadow with a generally tall stand of grass, not as a lawn. It must not be mown more than twice per calendar year. If a buffer is not located on natural soils, but is constructed on fill or reshaped slopes, a buffer surface must either be isolated from stormwater discharge until a dense sod is established, or must be protected by a three inch layer of erosion control mix or other wood waste material approved by the DEP before stormwater is directed to it. Vegetation must be established using an appropriate seed mix.

9.2.1.3.3 The maximum slope of a buffer must be less than fifteen (15) percent to be included in the calculation of buffer flow path length. Areas with slopes greater than fifteen (15) percent are too steep to be effective as a treatment buffer but should be left undisturbed. A buffer slope in excess of fifteen (15) percent may be used if it has been evaluated using a site specific hydrologic buffer design model approved by the DEP, and measures have been included to ensure that runoff remains well-distributed as it passes through the buffer.

9.2.1.3.4 Buffers must be maintained and eroded areas within the buffer must be repaired, seeded and mulched.

9.2.1.3.5 Buffers should not be traversed by all-terrain vehicles or other vehicles. Activities within buffers should be conducted so as not to damage vegetation, disturb the organic duff layer, or expose soil.

9.2.1.4 Buffer areas are not required if the per acre phosphorus load limit for the impacted great pond or stream can be met by other means approved by the Planning Board.

9.2.1.5 The latest Department of Environmental Protection approved methods shall be used for water supply protection buffers for development not included in Sections 9.2.1.1 or 9.2.1.4.

9.2.1.6 Upon approval of any development that involves a Water Supply Protection Buffer, the applicant shall:
  9.2.1.6.1 File a signed copy of the approval with the Lincoln County Registry of Deeds.
  9.2.1.6.2 File a copy of the registered approval with the Town of Boothbay Assessor. This copy shall include the Registry’s Book and Page reference.

9.2.1.7 A footpath not to exceed six (6) feet in width as measured between tree trunks or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.

9.3 Stormwater Management Requirements

9.3.1 New construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where feasible, existing natural runoff control features, such as berms, swales, terraces and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of storm waters. If it is not feasible to retain water on site, downstream improvements to the channel may be required of the applicant to prevent flooding caused by his project. The natural state of
watercourses, swales, floodways, or right-of-ways shall be maintained as nearly as feasible. The design shall be for a 25 year storm.

9.3.2 General Any activity that requires a permit or approval from the Town shall be responsible for the management of all stormwater on the site including the discharge of any stormwater off the site in accordance with the following:

9.3.2.1 Drainage Plan Any activity that disturbs more than four thousand (4000) square feet of vegetated area or creates more than two thousand (2000) square feet of impervious surface shall prepare a drainage plan for the lot showing at a minimum the following:

9.3.2.1.1 The general topography of the lot;
9.3.2.1.2 The existing pattern of drainage on the lot including any drainage facilities;
9.3.2.1.3 Any changes in the drainage patterns on the lot as a result of the proposed activity;
9.3.2.1.4 All methods that will be used to minimize the flow of stormwater off the lot; and
9.3.2.1.5 The adequacy of any downstream drainage facilities to accommodate stormwater flows from proposed use of the lot.

9.3.2.2 Stormwater Management Plan Any activity that disturbs more than twenty thousand (20,000) square feet of vegetated area or creates more than ten thousand (10,000) square feet of impervious surface or more than five thousand (5,000) square feet of impervious surface if the average pre-development slope of the area that is being disturbed is more than fifteen (15) percent shall submit a formal stormwater management plan rather than a drainage plan. The stormwater management plan shall be prepared by a licensed engineer and shall demonstrate how the stormwater on the site will be managed to minimize the amount of runoff from the site and meet the stormwater management provisions of the Maine Stormwater Management Design Manual - Stormwater Management Manual Volume I published by the Maine Department of Environmental Protection.

9.3.3 Low Impact Development

9.3.3.1 A stormwater management plan prepared in accordance with 9.3.2.2 shall be designed in accordance with the principles of Low Impact Development (LID) set forth in Chapter 4 of the Maine Stormwater Management Design Manual - Stormwater Management Manual Volume I published by the Maine Department of Environmental Protection.

9.3.3.2 To the extent feasible given the natural conditions on the site, the stormwater management plan shall utilize LID Best Management Practices (BMPs) set forth in Chapter 10 of the Maine Stormwater Management Design Manual - Stormwater Management Manual Volume III published by the Maine Department of Environmental Protection.
9.3.3.3 Small-scale activities that require the preparation of a drainage plan shall use vegetated buffers as set forth in Chapter 5 of the Maine Stormwater Management Design Manual - Stormwater Management Manual Volume III published by the Maine Department of Environmental Protection where feasible.

9.3.4 Stormwater Runoff

9.3.4.1 Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed using Best Management Practices in order to carry water from a 25-year storm or greater, and shall be stabilized with vegetation or lined with riprap.

9.3.4.2 Storm water runoff management systems shall be maintained as necessary to ensure proper functioning.

9.4 Erosion and Sediment Management Requirements

9.4.1 All activities that involve filling, grading, excavation or other similar activities that result in unstabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval. The plan shall demonstrate conformance with the standards of the most recent edition of Maine Erosion and Sediment Control Best Management Practices (BMPs) published by the Maine Department of Environmental Protection.

9.4.2 In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

9.4.3 Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

9.4.4 Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:

9.4.4.1 Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.

9.4.4.2 Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.

9.4.4.3 Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

9.4.5 Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and
constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.

9.5 Groundwater Protection Requirements

9.5.1 Where on-site conditions are appropriate for infiltration, stormwater management shall utilize infiltration Best Management Practices (BMPs) to the maximum extent reasonable in accordance with Chapters 6 and 10 of the Maine Stormwater Management Design Manual - Stormwater Management Manual Volume III published by the Maine Department of Environmental Protection.

9.5.2 Any activity or development including single-family subdivisions that will not be served by the year-round public water supply system and that will have a total design sewage flow of more than twelve hundred (1,200) gallons per day based on the design sewage flows in the Subsurface Wastewater Disposal Rules shall prepare a groundwater hydrologic analysis. This analysis must demonstrate that the use of groundwater will not have an adverse impact on the quality or quantity of groundwater available to uses on surrounding properties including any provisions to mitigate any identified adverse impacts.

9.6 Waste All new and expanded uses shall provide for the disposal of all solid and liquid wastes on a timely basis and in an environmentally safe manner. The Planning Board shall consider the impact of particular industrial or chemical wastes or by-products upon the Town’s disposal method and disposal area (in terms of volume, flammability or toxicity) and may require the applicant to dispose of such wastes elsewhere in conformance with all applicable state and federal regulations. The Planning Board may require the applicant to specify the amount and exact nature of all industrial or chemical wastes to be generated by the proposed operation.

9.7 Snow Removal No snow collected from outside the Watershed Protection Overlay District shall be deposited within the Watershed Protection Overlay District.
Section 10  Good Neighbor Performance Standards

The following Good Neighbor Performance Standards apply to all uses of land and structures within the Town of Boothbay where appropriate.

10.1 Buffering

10.1.1 Visual Buffers Adjacent to Public Streets or Roads.

10.1.1.1 Any new use or development or any activity that expands the gross floor area of an existing building by more than fifty (50) percent shall establish a landscaped buffer strip along the property line with any public street or road when required by the land use district specific requirements of the district in which the use or activity is located.

10.1.1.2 The width of the buffer strip shall be determined based on the district specific requirements for the district in which the use or activity is located.

10.1.1.3 The buffer strip shall be maintained as a vegetated area and shall not be used for parking, storage, display of materials, and placement of dumpsters or similar items. A visual buffer shall be established within the buffer strip by landscaping, grading or fencing.

10.1.1.4 The Planning Board or Code Enforcement Officer may waive the requirement for a buffer strip if the applicant can demonstrate that the proposed development or the circumstances of the lot provide for adequate visual buffering from a public street or road.

10.1.2 Buffering of Residential Uses from Adjacent Nonresidential Activity

10.1.2.1 When a new or expanded nonresidential use or activity is adjacent to a residential use as defined in 10.1.2.1.2 a buffer shall be created and maintained within the required side and/or rear setbacks adjacent to the residential use to minimize the visual impacts of the nonresidential use on the residential activity.

10.1.2.1.1 This requirement shall apply when:

10.1.2.1.1.1 A new nonresidential use or nonresidential activity is established on a lot, or

10.1.2.1.1.2 The gross floor area of an existing building used for nonresidential activity is increased by more than fifty (50) percent, or

10.1.2.1.1.3 The area of an existing parking area serving a nonresidential use or activity is increased by more than fifty (50) percent.

10.1.2.1.2 This standard shall apply where the non-residential use abuts:

10.1.2.1.2.1 An existing residential use,

10.1.2.1.2.2 A lot where a Building Permit for a residential building has been obtained from the Code Enforcement Officer,
10.1.2.1.2.3 A lot created as part of a residential subdivision, or
10.1.2.1.2.4 A lot in the Residential or Coastal Residential District.

10.1.2.2 Temporary or permanent structures, including but not limited to, driveways and parking areas, dumpsters and storage shall not be allowed in the setback area. Subsurface wastewater disposal facilities may be installed in the buffer area but the required visual barrier shall still be required.

10.1.2.3 The buffer shall consist of landscaping, fencing or a berm or a combination thereof. The Planning Board or Code Enforcement Officer may approve buffers consisting of existing vegetation if it will provide adequate buffering.

10.1.2.4 The buffer shall be designed and maintained to screen on a year-round basis areas used for parking and for outside activities including storage and service associated with the nonresidential activity from the adjacent residential use.

10.1.2.5 The buffer shall be created in accordance with these provisions and inspected by the Code Enforcement Officer prior to the issuance of a Certificate of Occupancy for the project.

10.1.2.6 The property owner shall be responsible for maintaining the buffer. Any vegetation that dies or is damaged or removed and any fencing that is damaged or removed shall be repaired or replaced within a timeframe determined by the Code Enforcement Officer.

10.1.3 Screening

10.1.3.1 Dumpsters and other storage facilities or areas for wastes shall be screened from view from public streets and abutting lots that are in residential use.

10.1.3.2 The screening may be composed of fencing or landscaping or a combination thereof. The Planning Board may approve other methods of screening providing the intent of this section is met.

10.2 Exterior Lighting

10.2.1 Exterior lighting for nonresidential and multifamily residential uses shall be shielded so that the source of illumination is not visible beyond the property boundary.

10.2.2 Where there is a mix of residential and commercial uses, exterior lights associated with commercial uses are restricted to a maximum of twenty (20) feet in height.

10.2.3 In addition, all lighting (except for security purposes) shall be turned off between 11 p.m. and 6 a.m. Lighting between 11 p.m. and 6 a.m. will be allowed for the period a business is operating with Planning Board approval.

10.3 Emissions

10.3.1 Plans for new or expanded nonresidential and multifamily residential uses shall show the location and vertical height of all exhaust fans, vents, chimneys, or any other sources discharging or emitting smoke, fumes, gases, vapors, odors, scents or aromas with a description of the source materials.

10.3.2 The submission shall include details on any proposed measures to minimize the impact of the air emissions on neighboring properties and the greater Boothbay
community.

10.4 Noise

10.4.1 Nonresidential and multifamily residential uses as well as residential uses that include a home business or home occupation shall conform to the following standards:

10.4.1.1 Excessive noise at unreasonable hours shall be required to be muffled so as not to be objectionable due to intermittence, beat frequency, shrillness or volume.

10.4.1.2 The maximum permissible sound pressure level of any continuous, regular or frequent source of sound produced by any activity regulated by 10.4.1 shall be as established by the time period and type of District listed below. Sound pressure levels shall be measured at all lot lines, at a height of at least 4 feet above the ground surface.

10.4.1.2.1 Sound from any source regulated by 10.4.1 shall not exceed the following limits at the property line of said source between the hours of 9 p.m. and 7:00 a.m.:

<table>
<thead>
<tr>
<th>Land Use District</th>
<th>Sound Pressure Level Limits Measured in dBA's</th>
</tr>
</thead>
<tbody>
<tr>
<td>Boothbay Village Mixed-Use, Commercial Corridor, Manufacturing/Business, and Marine Commercial Districts</td>
<td>65</td>
</tr>
<tr>
<td>Scenic Gateway, Boothbay Village Center, Boothbay Village Fringe, East Boothbay Village Center and Water Reservoirs Protection - 27 Districts</td>
<td>55</td>
</tr>
<tr>
<td>All other districts</td>
<td>45</td>
</tr>
</tbody>
</table>

10.4.1.2.2 Where the emitting and receiving premises are in different districts, the limits governing the stricter district shall apply.

10.4.1.2.3 The levels specified in 10.4.1.2.1 may be exceeded by ten (10) dBA for a single period, no longer than 15 minutes in any one day.

10.4.1.2.4 The Planning Board may permit sound pressure levels that exceed the standards of 10.4.1.2.1 by not more than ten (10) dBA for construction, repair or non-routine maintenance if the property owner demonstrates that there is no other reasonable alternative to completing the work during the regulated time period. In its motion, the Planning Board shall establish the duration of its approval.
Section 11 Performance Standards For Specific Uses

The following Performance Standards apply to the following specific uses of land and structures within the Town of Boothbay.

11.1 Accessory Apartments One accessory apartment shall be permitted on a lot having a one or two family residential dwelling.

11.1.1 The owner(s) of the principal structure must reside in the principal structure or the accessory apartment.

11.1.2 The number of occupants of the accessory apartment is limited to two adults.

11.1.3 The accessory apartment shall contain a maximum of eight hundred (800) square feet of living space.

11.1.3.1 For purposes of Section 11.1.3, “living space” means the total floor area designated for occupancy and exclusive use as an accessory apartment, expressed in square feet, measured from the apartment side of adjoining partitions and the exterior of outside walls.

11.1.4 A lot must have a minimum of twenty thousand (20,000) square feet of area if connected to a municipal sewer district to be eligible for the addition of an accessory apartment on the same lot as an existing dwelling unit. The applicant shall have the burden to establish the lot area. The Code Enforcement Officer or Planning Board may require the lot area be established by a survey signed and sealed by a Maine licensed land surveyor.

11.1.5 In order for an accessory apartment to be added to a lot where wastewater is disposed of by other than connection to a municipal sewer district, the lot must have a minimum of forty thousand (40,000) square feet or comply with the requirements of the State Minimum Lot Size law whichever is larger. The applicant shall have the burden to establish the lot area. The Code Enforcement Officer or Planning Board may require the lot area be established by a survey signed and sealed by a Maine licensed land surveyor. The wastewater disposal system on the property in question shall be functioning properly at the time of application. In addition, the applicant must submit a new HHE-200 form as documentation that the existing system can support the addition of an accessory apartment. The HHE-200 form, after review and approval by the Local Plumbing Inspector, shall be recorded by the applicant at the Lincoln County Registry of Deeds at the same time that the Registration of Accessory Apartment form is recorded, with a copy of the HHE-200 form as recorded provided to the Code Enforcement Officer within ten (10) days of it being recorded. Failure to provide a copy of the HHE-200 form to the Code Enforcement Officer within ten (10) days of it being recorded shall void the approval of the accessory apartment.

11.1.6 Two ways to enter/exit the accessory apartment shall be provided.

11.1.7 Should the owner(s) of the principal structure be found in noncompliance with the
standards contained in Section 11.1, the noncompliance shall be considered a violation of this Ordinance.

11.1.8 An accessory apartment that complies with the requirements of Section 11.1 shall not be considered a principal structure when calculating the required minimum lot area per principal structure.

11.1.9 In the Shoreland Overlay Zone an accessory apartment shall be permitted only on one family residential dwelling lots.

11.2 Agriculture/Farming

11.2.1 Livestock Grazing New livestock grazing areas shall not be permitted within One hundred (100) feet of the high-water line of a great pond and associated wetlands; within seventy-five (75) feet of other water bodies and coastal wetlands; nor within twenty-five (25) feet of outlet streams, tributary streams, watershed tributary streams and freshwater wetlands.

11.2.1.1 Activity associated with ongoing farm activities and which is not in conformance with the setback requirements of Section 11.2.1 may continue, provided that such grazing is conducted in accordance with a Soil and Water Conservation Plan.

11.2.2 Manure Disposal and Storage All storage, spreading or disposal of manure shall be accomplished in conformance with the Maine Nutrient Management Rules.

11.2.2.1 All manure storage areas shall be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.

11.2.2.2 Manure shall not be stored or stockpiled within one hundred (100) feet of the shoreline of a great pond or within seventy-five (75) feet of any other shoreline.

11.2.3 Tilling of Soil The tilling of soils for the growing of fruits, vegetables, grains, or other products for human or animal consumption shall be allowed in any District in the Town where farming is a permitted use. No tilling of land shall be done in a manner or left in such state as to promote soil erosion or to create or cause a water drainage problem or a public nuisance.

11.2.3.1 A Soil and Water Conservation Plan shall be filed with the Code Enforcement Officer for tilling of soil of more than twenty thousand (20,000) square feet of surface area. Non-conformance with the provisions of said plan shall be a violation of this Ordinance.

11.2.3.1.1 A Soil and Water Conservation Plan shall be filed with the Code Enforcement Officer for any tilling of soil in the Resource Protection District

11.2.3.1.2 Assistance in preparing a soil and water conservation plan may be available through the local Soil and Water Conservation District office.

11.2.3.2 There shall be no new tilling of soil within one hundred (100) feet of the high-water line of a great pond and associated wetland; within seventy-five (75) feet of streams and coastal wetlands; nor within twenty-five (25) feet of outlet streams, tributary streams, watershed tributary streams and freshwater wetlands.
11.2.3.2.1 Operations in existence on March 24, 1990 and not in conformance with this provision may be maintained.

11.3 Animal Breeding or Care Animals and fowl shall be kept in such a manner as to not cause or create a public nuisance; not cause or create excessive air, water or land pollution; or that violates state, local, or humane laws or regulations.

11.3.1 The raising of such animals or fowl shall be done in such yards or buildings that are necessary to contain or confine their respective kind.

11.3.2 No person shall erect, occupy, or use any building or portion thereof or any other facility for a commercial purposes unless all waste storage areas produce no discharge of effluent or contaminated storm water.

11.4 Bed and Breakfast A bed and breakfast shall conform to the following standards:

11.4.1 The building housing the bed and breakfast shall have a residential character.

11.4.2 The owner or manager of the bed and breakfast shall reside on the premises.

11.4.3 Food and beverage service shall be limited to overnight guests.

11.4.4 Food service shall not include dinners and shall be limited to breakfast, snacks, afternoon tea, and similar light food service.

11.4.5 Off-street parking shall be provided for guests and if the building is located within seventy-five (75) feet of the front property line, the guest parking shall not be located in the area between the front wall of the building and the street extending the full width of the lot.

11.4.6 A natural or landscaped buffer strip at least fifteen (15) feet in width shall be maintained between any guest parking area and the property line with any abutting lot in residential use.

11.5 Campgrounds The minimum requirements imposed under State licensing requirements and the following shall apply:

11.5.1 Each campsite shall be a minimum of five thousand (5,000) square feet of land that shall not include roads and driveways. Land below the upland edge of a wetland, and land below the high-water line of a great pond or stream shall not be included in calculating land area per site.

11.5.2 The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of fifty (50) feet from all abutting residential properties, one hundred (100) feet from registered farmland, one hundred (100) feet from the shoreline of a great pond and associated wetlands, and seventy-five (75) feet from any other shoreline.

11.5.2.1 The setback requirement from registered farmland shall not apply to development or uses exempted in Title 7 M.R.S.A. §§ 52 & 56.

11.6 Camps A camp shall conform to the following requirements:

11.6.1 The camp shall be licensed by the State of Maine.
11.6.2 The primary use of the camp shall be as a “youth camp” in which the organization operating the camp shall administer year-round programming and activities primarily focused on youth development.

11.6.3 The camp may provide “sleep over” facilities and programs provided that they are accessory and subordinate to the primary use.

11.6.4 The camp may be used for adult programs and activities including social events, leadership training, retreats and/or meetings which may require overnight accommodations provided that such use is accessory and subordinate to the primary use.

11.6.5 Sleeping and living facilities may be provided for staff.

11.6.6 The camp may be used for community activities and recreational programs as well as special events including activities that involve overnight stays provided that such use is accessory and subordinate to the primary use.

11.7 Chemical and Petroleum Product Storage The storage of chemical, herbicide, pesticide, fertilizer, gasoline, petroleum, or kerosene products or by-products in excess of the amount normally associated with a use, such as individual household use, farming, commercial fishing and maritime activities, and restaurants, is prohibited:

11.7.1 The Planning Board may allow storage of greater quantities if there is a demonstrated need for the additional volume of storage.

11.7.2 No chemical, herbicide, pesticide, fertilizer, gasoline, petroleum, or kerosene products or by-products in excess of the amount normally associated with a use shall be stored within one hundred fifty (150) feet from any high-water line or upland edge of a wetland.

11.8 Cluster or Open Space Development

11.8.1 Purpose Open Space Development (or Cluster Development) is a form of development that allows a subdivision design in which individual lot sizes and setbacks are reduced in exchange for the creation of common open space and recreation areas, the preservation of environmentally sensitive areas, agriculture and silviculture and the reduction in the size of road and utility systems. The purpose of open space development is to provide permissive, voluntary and alternative zoning provisions that will help to preserve or provide desirable open space, tree cover, recreation areas and scenic vistas.

11.8.2 Procedures for Review The Planning Board shall follow the procedures for Subdivision Review.

11.8.2.1 Application In addition to the information required for Subdivision approval, an application for an open space subdivision shall include:

11.8.2.1.1 A site plan, including, but not limited to, recreational facilities and landscaping plans with open spaces and existing and proposed trees and other vegetation.

11.8.2.1.2 Information regarding land use designations; surrounding land uses; project design team; development schedule; type, size, number and estimated selling price of units; and density calculation.
11.8.2.1.3 Information regarding the following:

11.8.2.1.3.1 The extent to which the plan departs from the regulations of this and all other Ordinances otherwise applicable to the subject property, and the reasons why such departures are deemed to be in the public interest;
11.8.2.1.3.2 The nature and extent of the common open space in the project, the reliability of the proposals for maintenance and conservation of the common open space, and the adequacy of the amount and function of the open space in terms of the densities and dwelling types proposed in the plan;
11.8.2.1.3.3 The manner in which said plan makes adequate provision for public services, provides adequate control over vehicular traffic, and furthers the amenities of light and air, recreation, and visual enjoyment;
11.8.2.1.3.4 The relationship, beneficial or adverse, of the proposed development upon the physical environment and the neighborhood in which it is proposed to be established; and
11.8.2.1.3.5 Whenever applicable, documents indicating compliance and approval of mandated State statutes or other laws shall be obtained and submitted as part of the application.

11.8.3 Requirements for Approval The Planning Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the review criteria of Section 5.6 and the following are met:

11.8.3.1 The development is designed to produce an environment of stable and desirable character, consistent with the intent and purpose of the cluster development regulations to promote public health, safety, and general welfare, and is in harmony with its surrounding neighborhood.
11.8.3.2 Property in the vicinity of the area, included in the plan, will not be adversely affected.
11.8.3.3 The property would be used for purposes and in a manner permitted in the existing district except for lot area and location of buildings.
11.8.3.4 The location, size, nature, and topography of the open areas make them suitable for use as common areas for park, recreational purposes, and buffer areas between groups of home sites.

11.8.4 Standards In addition to the standards for Subdivision approval in Section 5.6, the following standards shall apply:

11.8.4.1 Dimensional Standards

11.8.4.1.1 Area of Development Within the Residential and Coastal Residential Districts and the Rural Mixed-Use District, the minimum area of an open space subdivision shall be ten (10) acres. In all other zoning districts the minimum area of an open space subdivision shall be three times the required minimum lot area per dwelling unit.

11.8.4.1.2 Maximum Number of Lots The intention in allowing Open Space Subdivisions is that a property owner or subdivider can create approximately the same number of lots that they could in a subdivision in which the lots meet the
minimum lot size requirement. The maximum number of lots allowed in an Open Space Subdivision shall be calculated based on the following formula:

\[ \text{The Developable Area of the Parcel} \]
\[ \text{Minus} \]
\[ \text{Fifteen percent (15\%) of the Total Area of the Parcel} \]
\[ \text{Equals} \]
\[ \text{The Net Useable Area of the Parcel} \]
\[ \text{Divided by} \]
\[ \text{The Minimum Lot Size/Area Requirement per Unit/Lot} \]
\[ \text{Equals} \]

The Maximum Number of Lots/Units Allowed in an Open Space Subdivision

11.8.4.1.3 Minimum Size of Lots -- To provide property owners and subdividers with flexibility in the design of an Open Space Subdivision, there is no minimum lot size requirement subject to the following limitations:

11.8.4.1.3.1 All lots that have its primary road frontage on an existing public road must meet the minimum lot area for the district in which it is located.

11.8.4.1.3.2 For single-family lots with less than twenty thousand (20,000) square feet of lot area, the applicant must demonstrate that the lot will meet the requirements of the State Minimum Lot Size law.

11.8.4.1.3.3 For lots that will have more than one (1) dwelling unit or a nonresidential use, the applicant must demonstrate that the lot will meet the requirements of the State Minimum Lot Size law.

11.8.4.1.3.4 No lot that is located entirely within the Shoreland Zone shall have less than required minimum lot area required by the Shoreland Zoning Ordinance. Lots that are located partially within the Shoreland Zone may be smaller than required by the Shoreland Zoning Ordinance if the principal building and the on-site sewage disposal system are located outside of the Shoreland Zone.

11.8.4.1.4 Minimum Lot Width-- To encourage the creation of lots that do not front on existing roads, lots in an Open Space Subdivision shall conform to the following minimum lot width requirements:

11.8.4.1.4.1 A lot that fronts on an existing public road shall meet the minimum lot width requirement for the district in which it is located.

11.8.4.1.4.2 A lot that fronts on an existing private road may have a minimum lot width of not less than seventy-five (75) percent of the minimum lot width requirement for the district in which it is located.

11.8.4.1.4.3 Lots that front on a new road within the subdivision may have a minimum lot width of not less than fifty (50) percent of the minimum lot width requirement for the district in which it is located.

11.8.4.2 Development Standards
11.8.4.2.1 **Shape** To allow flexibility in the design of the subdivision in accordance with the process laid out in Section 5.6, there are no limitations on the shape of lots in an Open Space Subdivision as long as each lot contains a suitable development site of an appropriate size to accommodate the anticipated development. Flag lots and other irregularly-shaped lots are allowed as long as they are consistent with the overall utilization of the parcel based on the site inventory and analysis and conceptual subdivision plan.

11.8.4.2.2 **Sewage Disposal** Sewage disposal may be provided by connection to the public sewer system or individual, shared, or common subsurface sewage disposal facilities. The components of the sewage disposal systems may be located on the lot which they serve or may be located off the lot including within the protected or common open space.

11.8.4.2.3 **Perimeter Buffer** Whenever any portion of a lot in an Open Space Subdivision is located within twenty (20) feet of a parcel that is not part of the Open Space Subdivision, that portion of the lot shall be maintained as a vegetated buffer. No principal or accessory buildings, structural improvements (other than fences as part of an approved buffer), lawns, gardens, storage of personal items, or similar activities shall occur within this area. As part of the subdivision plan, the applicant shall provide details for how this buffer will be treated and maintained. If the area is currently wooded or heavily vegetated, this should be retained if possible. Where this area is not currently wooded, the applicant shall provide for the establishment of a vegetated buffer sufficient to provide visual relief to the abutting property. The Planning Board may waive or reduce this requirement to allow for utilities to cross the buffer or to retain scenic views.

11.8.4.3 **Open Space Standards**

11.8.4.3.1 **Minimum Protected or Common Open Space** – The concept of an Open Space Subdivision is to allow for smaller lots in return for a substantial portion of the parcel being set aside as open space. The minimum amount of land included in protected or common open space shall be determined by the following formula:

\[
\text{One Hundred Percent (100\%) of the Area of the Parcel That Is Deducted From the Total Lot Area to Determine the Developable Area of the Parcel} \\
\text{Plus} \\
\text{Thirty Percent (30\%) of the Developable Area of the Parcel}
\]

11.8.4.3.2 **Location of the Protected or Common Open Space** – The protected or common open space shall be located in accordance with the site inventory and analysis. In determining which land should be included in the open space, the applicant shall be guided by the following priorities:

11.8.4.3.2.1 **First Priority – Primary Conservation Areas** – Most or all of the identified Primary Conservation Areas should be included in the protected or common open space.

11.8.4.3.2.2 **Second Priority – Secondary Conservation Areas** – After including the Primary Conservation Areas in the open space, the following
Secondary Conservation Areas should be considered for inclusion in the protected or common open space in the following order:

11.8.4.3.2.2.1 Land that has been used for traditional access to the water or public beaches.

11.8.4.3.2.2.2 Land that will be used to provide new or expanded access to the water.

11.8.4.3.2.2.3 Land within one hundred (100) feet of tidal waters or streams that drain to tidal waters.

11.8.4.3.2.2.4 Land within two hundred fifty (250) feet of Adams Pond or Knickerbocker Lakes.

11.8.4.3.2.2.5 Land that is within two hundred fifty (250) feet of a significant vernal pool.

11.8.4.3.2.2.6 Land that is adjacent to land that is owned by the Town, a land trust, formally organized conservation organization, or state agency or that is otherwise permanently protected as open space.

11.8.4.3.2.2.7 Land which will allow for the continuation or connection of trails whether or not such a facility is proposed as part of the subdivision.

11.8.4.3.2.2.8 Land that maintains the integrity of blocks of unfragmented habitat that protects identified habitats and/or travel areas between habitat blocks.

11.8.4.3.2.2.9 Land containing identified historic or archeological sites or significant cultural features such as stone walls and specimen trees.

11.8.4.3.2.2.10 Land that is in current or planned agricultural or managed forestry use.

11.8.4.3.2.2.11 Land that is in current or planned commercial fisheries use.

11.8.4.3.2.2.12 Land that protects scenic views visible from public property or the views of abutting property owners or of dwellings to be built within the subdivision.

11.8.4.3.3 Use of Protected or Common Open Space

For purposes of this section, protected or common open space areas must comply with the following:

11.8.4.3.3.1 The common open spaces must be dedicated to the recreational amenity and environmental enhancement of the development, must protect natural resources, and must be recorded as such. For the purpose of these provisions, common open space means an area that:

11.8.4.3.3.1.1 is not encumbered in any way by a principal structure;

11.8.4.3.3.1.2 is not devoted to use as a roadway, road right-of-way, parking lot, sidewalk, or similar structural improvements;
11.8.4.3.3.1.3 is left in its natural or undisturbed state, except for low-intensity recreational facilities including the cutting of trails for non-motorized recreation, unless the land will be managed by an approved sustainable forestry plan signed by a Licensed Maine Forester, or for community gardens, or for continuance of currently existing agricultural use, or for components of subsurface sewage disposal or water supply systems;

11.8.4.3.3.1.4 is capable of being used and enjoyed for the purpose of informal and unstructured recreation and relaxation; and

11.8.4.3.3.1.5 is legally and practicably accessible to residents of lots in the development out of which the open space is taken unless the open space will be owned by a private party for agricultural or other natural resource use or such access will compromise the natural resource value of the open space.

11.8.4.3.3.2 The common open space shall be controlled by one (1) or more of the following methods:

11.8.4.3.3.2.1 Common ownership by the owners of the lots/units within the development with covenants or deed restrictions approved by the Planning Board establishing restrictions on the use of the open space and provisions for its permanent management; and/or

11.8.4.3.3.2.2 Transfer, with permanent restrictions, to a land trust or other recognized conservation organization; and/or

11.8.4.3.3.2.3 Ownership by a private party for agricultural or other natural resource use provided that permanent restrictions are in place to provide for its continued use for this purpose.

11.8.4.3.3.3 Any development proposed under this section shall specify the ownership, use, management, and entity responsible for maintenance of all common areas and facilities. When the open space will be protected through covenants or deed restrictions, those provisions must provide that the covenants or deed restrictions are enforceable by the owner of any lot in the subdivision, by the owner of any lot outside of the subdivision that abuts the common open space, or by the Town of Boothbay. The covenants, deed restrictions and/or conservation easements shall provide for the monitoring of compliance with the restrictions at least once every two (2) years. The initial monitoring shall be conducted within two (2) years of the approval of the subdivision by the Planning Board. A report of each monitoring setting out the findings of the monitoring and any needed corrective action shall be submitted to the Code Enforcement Officer. The Code Enforcement Officer shall review the monitoring report and shall have the opportunity to conduct an on-site visit if necessary to verify the findings of the monitoring report. If the homeowners association or easement holder fails to conduct the required monitoring, the Town may carry out the monitoring. If the Town takes action to monitor or enforce the covenants, deed restrictions, or
conservation easements, the cost of such monitoring and/or enforcement shall be recoverable by the Town from the homeowners association or easement holder. The Planning Board shall approve the arrangements for the ownership, control, use and maintenance of the common open space in accordance with the standards of subsections (a) and (b) above as part of the approval of a final subdivision plan. No changes in the use or management of common open space shall be made without Planning Board approval and a note shall be provided on the approved subdivision plan to this effect.

11.8.4.3.4 Any common open space or facility not retained by a private owner shall be maintained by a developer or homeowners' association unless and until it is transferred in its entirety to a recognized conservation organization and until the transfer actually is completed. The formation and incorporation by the developer of a homeowners' association, if one is proposed, shall be accomplished prior to final subdivision approval.

11.9 Essential Services

11.9.1 A public utility, water district, sanitary district or a utility company of any kind may not install services to any new structure nor to any lot or dwelling unit in a subdivision, unless written authorization attesting to the validity and currency of all local permits required under Section 3 or any previous ordinance have been issued by the appropriate Town officials or other written arrangements have been made between the Town officials and the utility.

11.9.1.1 If a public utility, water district, sanitary district or a utility company of any kind has installed services to a lot or dwelling unit in a subdivision in accordance with 11.9.1, a subsequent public utility, water district, sanitary district or utility company of any kind may install services to the lot or dwelling unit in a subdivision without first receiving written authorization pursuant to 11.9.1.

11.9.2 Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.

11.9.3 The repair or replacement of existing essential services does not require Code Enforcement Officer or Planning Board approval if no new construction is proposed.

11.9.4 The installation of essential services, other than road-side distribution lines, is not allowed except to provide services to a permitted use within these locations, or except where the applicant demonstrates to the Planning Board that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including adverse visual impacts.

11.10 Home Occupations and Home Businesses

11.10.1 General The Town shall permit residents to operate small businesses and services on their property provided:

11.10.1.1 The business activity is incidental to the use of the property as a residence;

11.10.1.1.1 Accessory apartments; one family, two family and multifamily
dwellings; lodging houses; and retirement facilities are residential uses.

11.10.1.1.2 Home Occupations shall be permitted in any residential unit.

11.10.1.1.3 Home Businesses shall be permitted only in single-family homes with approval of the Planning Board.

11.10.1.2 The business or service does not alter the residential character of the building or property, and is carried on primarily within the home or an accessory building.

11.10.1.3 Any item sold shall be a product of the owner’s labor (e.g., manufactured, produced, created, grown, or caught) or otherwise produced on the premises.

11.10.1.4 There shall be provisions made to protect neighboring property owners from adverse impact from traffic, parking, hazardous materials, pollution, and electrical or electronic interference; and

11.10.1.5 The water supply shall be adequate.

11.10.2 Standards The standards for accessory uses do not apply to Home Occupations and Home Businesses. The following standards shall apply:

11.10.2.1 Emissions The location and vertical height of all exhaust fans, vents, chimneys, or any other sources discharging or emitting smoke, fumes, gases, vapors, odors, scents or aromas shall be shown on plans submitted with an application, with a description of the source materials.

11.10.2.2 Employees Home Businesses shall be limited to no more than three (3) employees or subcontractors other than members of the family. Home Occupations shall be limited to members of the family and shall not have employees who are not members of the family.

11.10.2.3 Hazardous Materials The use shall not produce, use, manufacture or store hazardous materials; except that storage of hazardous materials shall be allowed in amounts that would be commonly found in an average household.

11.10.2.4 Lighting Lights shall be a maximum of 20 feet in height and shall be shielded so that the source of illumination is not visible at the lot lines.

11.10.2.5 Noise

11.10.2.5.1 Excessive noise at unreasonable hours shall be required to be muffled so as not to be objectionable due to intermittence, beat frequency, shrillness or volume.

11.10.2.5.2 The maximum permissible sound pressure level of any continuous, regular or frequent source of sound shall conform to the requirements of 10.4.

11.10.2.6 Outdoor Storage Any outdoor storage and any business or service not conducted entirely within a structure shall be screened to protect neighboring property owners.
11.10.2.6.1 In locations where potential health or safety hazards may arise, such as rubbish storage or collection areas, a solid wooden fence, six (6) feet in height is required to deter children and animals from entering the premises.

11.10.2.7 Sign There shall be no more than one unlighted exterior sign, not to exceed four (4) square feet.

11.10.2.8 Size The total space on a lot used for the Home Business or Home Occupation shall not exceed thirty (30) percent of the gross floor area of the principal building if located in the building nor seventy-five (75) percent of the gross floor area of the principal building if located in an accessory structure.

11.10.2.9 Waste Disposal The applicant shall provide for the disposal of all solid and liquid wastes on a timely basis and in an environmentally safe manner. The Planning Board shall consider the impact of particular industrial or chemical wastes or by-products upon the Town’s disposal method or disposal area in terms of volume, flammability or toxicity and may require the applicant to dispose of such wastes elsewhere in conformance with all applicable state and federal regulations. The Planning Board may require the applicant to specify the amount and exact nature of all industrial or chemical wastes to be generated by the proposed operation.

11.10.3 Home Businesses and Home Occupations shall not be permitted within a mobile home park except those conducted by occupants entirely within a mobile home with no direct customer contact within the park.

11.11 Individual Private Campsites Individual private campsites not associated with campgrounds are allowed on one family residential properties provided that the following conditions are met:

11.11.1 One campsite per lot existing on March 24, 1990, or thirty thousand (30,000) square feet of lot area within the Shoreland Overlay Zone, whichever is less.

11.11.2 Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet from the shoreline of a great pond and seventy-five (75) feet from any other shoreline.

11.11.3 Only one recreational vehicle shall be allowed on a campsite.

11.11.4 Recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure(s) except canopies shall be attached to the recreational vehicle.

11.11.5 A written wastewater disposal plan describing the proposed method and location of wastewater disposal shall be required for each campsite and shall be approved by the Town Plumbing Inspector. Where disposal is off site, written authorization from the receiving facility or land owner is required.

11.11.6 When a recreation vehicle, tent or similar shelter is occupied on a site for more than one hundred twenty (120) days per year, all requirements for residential buildings shall be met, including the installation of a subsurface wastewater disposal system in compliance with the Maine Subsurface Wastewater Disposal Rules unless the site is served by public wastewater facilities.
11.11.7 In the Resource Protection District the clearing of vegetation shall be limited to one thousand (1,000) square feet.

11.12 Inns An inn shall conform to the following standards:

11.12.1 Food and beverage service shall be limited to overnight guests

11.12.2 Food service may include dinner as well as breakfast, lunch, snacks, afternoon tea, and similar light food service

11.12.3 Off-street parking shall be provided for guests and if the building is located within seventy-five (75) feet of the front property line, the guest parking shall not be located in the area between the front wall of the building and the street extending the full width of the lot

11.12.4 A natural or landscaped buffer strip at least fifteen (15) feet in width shall be maintained between any guest parking area and the property line with any abutting lot in residential use.

11.13 Junkyards

11.13.1 Application In addition to the requirements of 5.4, all applications shall include:

11.13.1.1 Name and address of junkyard operator if different from the landowner;

11.13.1.2 Identity by list and definition the materials to be stored; and

11.13.1.3 A plot plan of the storage area proposed to be used including size; height of screening fences; setbacks from property lines, public roadways, and residences on neighboring properties.

11.13.2 Standards The Planning Board shall review each application for a new or expanded junkyard and approve or deny the application based on the ability of the applicant to meet the approval standards of Section 5 and the following:

11.13.2.1 All junkyards shall be set back one hundred (100) feet from the edge of the public road surface, seventy-five (75) feet from all side and rear lot lines, one hundred fifty (150) feet from all shorelines, three hundred (300) feet from any public building, public park, public playground, public bathing beach, school, church or cemetery, and three hundred (300) feet from any well that serves as a public or private water supply (except any well that only serves the junkyard or the owner or operator's residence).

11.13.2.2 If a junkyard is located within six hundred (600) feet of any roadway and adjoining properties, it shall be screened by means of well-constructed and properly maintained fencing, plantings, or natural and man-made landscaping to a minimum height of six (6) feet, but in all cases sufficient to accomplish complete screening of the junkyard from ordinary view;

11.13.2.3 The ability to conform to state and federal hazardous waste regulations in regards to handling and storage of materials, including, without limitation,

11.13.2.4 Requirements as established in the Maine Subsurface Wastewater Management Rules regarding the discharge of fluids into ground and surface waters; and

11.13.2.5 The ability to provide adequate means of fire safety as determined by inspection by the Town Fire Chief or State Fire Marshal.
11.14 Kennels

11.14.1 All animals shall be housed indoors between 9:00 p.m. and 7:00 a.m.

11.14.2 Structures or pens for housing or containing the animals shall be located not less than two hundred (200) feet from the nearest property line.

11.14.3 All pens, runs, or kennels, and other facilities shall be designed, constructed, and located on the site in a manner that will minimize the adverse effects upon the surrounding properties. Among the factors that shall be considered are the relationship of the use to the topography, natural and planted horticultural screening, the direction and intensity of the prevailing wind, the relationship and location of the residences and public facilities on nearby properties, and other similar factors.

11.14.4 The owner or operator of a use approved under these standards shall maintain the premises in a clean, orderly, and sanitary condition at all times. No garbage, feces, or other waste material shall be allowed to accumulate on the premises.

11.14.5 Temporary storage containers for any kennel wastes containing or including animal excrement shall be kept tightly covered at all times and emptied not less frequently than once every four (4) days. Such containers shall be made of metal, fiberglass or plastic to facilitate cleaning, and shall be located in accordance with the setbacks required for outdoor runs.

11.14.6 All enclosed kennels shall be constructed of materials to provide for cleanliness, ease of maintenance, and noise control.

11.14.7 Outdoor dog runs shall be completely fenced.

11.14.8 Any incineration device for burning excrement, soaked waste papers, and/or animal organs or remains shall be located in accordance with the setbacks required for outdoor runs and shall have chimney vents not less than thirty-five (35) feet above the average ground elevation. The applicant shall also provide evidence that he has obtained approval from the Maine Department of Environmental Protection for the proposed incinerator, and that it meets state standards for particulate emissions, flue gas temperature, and duration of required flue temperatures.

11.15 Mineral Exploration and Extraction Mineral exploration and extraction shall conform to the Erosion and Sedimentation Control standards of Section 9.4 and the Storm Water standards of Section 9.3.

11.15.1 Mineral Exploration Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods that create minimal disturbance of ground surface that shall not exceed one hundred (100) square feet. All excavations, including test pits and holes shall be immediately capped, refilled or secured by other equally effective measures, so as to restore disturbed areas and to protect the public health and safety.

11.15.2 Mineral Extraction The following provisions apply to any mineral extraction activity:

11.15.2.1 Expansions of gravel pits in existence on November 7, 1989 shall meet the standards contained herein and shall require approval by the Planning Board.
11.15.2.1.1 For the purposes of Section 11.15.2.1, an expansion is defined as an enlargement of the excavated pit perimeter.

11.15.2.2 Setbacks

11.15.2.2.1 Property Line Extraction operations (sandpits, etc.) shall not be permitted within fifty (50) feet of any property line.

11.15.2.2.2 No part of any extraction operation, including drainage and runoff control features, in the Shoreland Overlay District shall be permitted within one hundred (100) feet of the shoreline of a great pond or within seventy-five (75) feet of any other shoreline.

11.15.2.3 Standards

11.15.2.3.1 A reclamation plan shall be filed with and approved by the Planning Board before an approval is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 11.15.2.3.5.

11.15.2.3.2 Mineral extraction shall not expose more than four (4) surface acres of soil in total at any one point in time. When this limit has been reached, extraction in new areas shall not begin until the formerly excavated area has been reclaimed in accordance with the reclamation plan required herein such that no more than four (4) surface acres are exposed at any one time.

11.15.2.3.3 The average slope of any cut bank shall not exceed four (4) feet vertical to one (1) foot horizontal. The owner of the gravel pit is responsible for maintaining this condition.

11.15.2.3.4 Mineral deposits shall not be removed or excavated within two (2) feet of the seasonal high water table.

11.15.2.3.5 Within twelve (12) months following the completion of extraction operations at any extraction site, ground levels and grades shall be established in accordance with the following:

11.15.2.3.5.1 All debris, stumps, and similar material shall be removed for disposal in an approved location or buried on site. Only materials generated on site may be buried or covered on site;

11.15.2.3.5.1.1 The State of Maine Solid Wastewater Laws, 38 § 1310, and Chapter 404 of the Department of Environmental Protection’s regulations may contain other applicable provisions regarding disposal of such materials.

11.15.2.3.5.2 The final grade slope shall be two and a half (2.5) feet horizontal to one (1) foot vertical or flatter; and

11.15.2.3.5.3 Topsoil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
11.15.2.3.5.4 Extraction operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period.

11.15.2.4 In keeping with the purposes of the Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

11.16 Mobile Homes and Modular Housing Any mobile home meeting the U.S. Department of Housing and Urban Development construction standards or any modular home constructed in accordance with state standards for modular homes shall be considered a one family dwelling and allowed to be located in the Town under the same terms as any other one family dwelling. This shall include, but not be limited to, compliance with the minimum lot area and setback standards.

11.17 Mobile Home Parks

11.17.1 Standards Mobile home parks shall conform to the standards of 30-A M.R.S.A. § 4358 and the following:

11.17.1.1 Access The park shall have at least one paved road with unobstructed access to a public street or highway with a pavement width of not less than sixteen (16) feet for one (1) to five (5) lots, eighteen (18) feet for six (6) to nine (9) lots and twenty (20) feet for ten (10) or more lots. The right-of-way shall be twenty-three (23) feet in width.

11.17.1.2 Individual Mobile Home Lots The minimum size of individual mobile home lots shall conform to the standards of 30-A M.R.S.A. § 4358. Each individual mobile home lot shall be provided with:

11.17.1.2.1 A continuing and potable supply of safe and sanitary water capable of furnishing a minimum of one hundred twenty-five (125) gallons per day per mobile home lot;

11.17.1.2.2 An adequate wastewater disposal means; and

11.17.1.2.3 An adequate electrical power service of at least one hundred (100) amp capacity supplying at least 110 volts. All electrical outlets shall be weatherproof. No power line shall be permitted to lie on the ground or to be suspended less than twelve (12) feet above the ground.

11.17.1.3 Location The park shall be located on a well-drained site properly graded to insure rapid drainage and freedom from stagnant pools of water. The park shall not be located on land that is exposed to chronic nuisances such as noise, smoke, fumes and odors.

11.17.1.4 Motor Vehicle Parking Space A vehicle parking space of ten (10) feet by twenty (20) feet shall be provided in every mobile home park for each individual mobile home space in addition to the minimum mobile home space requirement. Such spaces shall have a well-drained stabilized or paved surface, maintained in good repair.
11.17.1.5 Parking of Mobile Homes The mobile home park shall be laid out so that each mobile home shall be separated in all directions at least thirty (30) feet from any adjacent mobile home. Setback requirements from adjoining lots not part of the mobile home park shall apply to each individual mobile home lot.

11.17.1.6 Playground Area Not less than one hundred (100) square feet of play space for each individual mobile home lot shall be provided and restricted in every mobile home park exclusively to playground use. Such spaces shall be protected from streets and parking areas, and shall have a well-drained stabilized or paved surface, maintained in good repair.

11.17.1.7 Refuse and Garbage Disposal The storage, collection, and disposal of refuse in the mobile home park shall not create health hazards, rodent harborage, insect-breeding areas, accident hazards or air pollution. All refuse or garbage shall be stored in fly-tight, watertight, and rodent-proof containers, which shall be provided in sufficient number and capacity to prevent any refuse from overflowing. Satisfactory container racks or holders shall be provided for each mobile home space. The mobile home park owner or operator will be responsible for the removal of garbage and refuse from such containers.

11.17.2 Mobile Home Storage No mobile home shall be stored or used for commercial purposes, within a mobile home park.

11.17.2.1 Home occupations conducted by occupants entirely within a mobile home with no direct customer contact are allowed.

11.18 Public Facilities

11.18.1 Parking areas serving public boat launching facilities shall be setback no less than fifty (50) feet from the shoreline if the Planning Board finds that no other reasonable alternative exists further from the shoreline.

11.18.2 Picnic areas, public wells and drinking water springs and water supply intake points shall be set back one hundred (100) feet from registered farmland.

11.18.2.1 The setback requirement from registered farmland shall not apply to developments or uses exempted in 7 M.R.S.A. §§ 52 & 56.

11.19 Wind Turbines may be placed on lots with at least forty thousand (40,000) square feet in accordance with the Table of Land Uses in 7.6 and shall be placed on the lot so that the distance from any lot line shall be at least one hundred twenty-five (125) percent of the maximum height.

11.19.1 The height of the turbine shall be measured to the maximum height of the rotating blades.

11.19.2 The height measured to the maximum height of the rotating blades shall not be greater than three times the length of a rotating blade above the tree line adjacent to the turbine.

11.19.3 The Planning Board may grant waivers to the height and setback standards.

11.20 Communications Towers
11.20.1 Priority of Locations New communications towers must be located according to the order of priorities as listed below. The applicant shall demonstrate that a facility of a higher priority cannot reasonably accommodate the applicant’s proposed facility.

11.20.1.1 Colocation on an existing communications tower or other existing structure (e.g., water tower).

11.20.1.2 A new facility on public or private property in the Manufacturing/Business District (MB), Marine Commercial District (MC) or Bigelow Laboratory Contract Zone Districts.

11.20.1.3 A new facility on public or private property in the Commercial Corridor District (CC), Rural Mixed-Use District (RMU), or Scenic Gateway District (SG).

11.20.1.4 A new facility on public or private property in the Boothbay Village Mixed-Use District (BVMU), Residential District (R), Coastal Residential District (R-C), Water Reservoirs Protection Districts (WRP or WRP-27) or Well Head Protection Districts.

11.20.1.5 A new facility on public or private property in the Boothbay Village Center District (BVC), Boothbay Village Fringe District (BVF), or East Boothbay Village District (EBV).

11.20.2 Height

11.20.2.1 Within the Residential, Coastal Residential, Water Reservoirs Protection, Village Mixed-Use, Well Head Protection, Boothbay Village Center, Boothbay Village Fringe, or East Boothbay Village Districts, the standard height limit for a new communications tower shall be one hundred thirty (130) feet as measured from the base of the tower to the highest point of the tower, including any attached receiving or transmitting antennas and devices. The Planning Board may allow the standard height limit to be exceeded by up to an additional twenty (20) feet, to a maximum of one hundred fifty (150) feet, if the increase in height enables the collocation of additional antennas that otherwise could not be accommodated on the tower and results in no material increase in the visual impacts of the tower as determined by the Planning Board. The Planning Board may also require the height of a tower be reduced down by as much as twenty (20) feet, to a maximum of one hundred ten (110) feet if the Planning Board finds through review that reducing the tower height most effectively screens and mitigates the visual impacts of the tower from surrounding properties, abutters, roadways and public spaces. When considering a reduction in the maximum tower height, the Planning Board shall ensure that such a reduction still accommodates the collocation requirements of Section 11.23.8.

11.20.2.2 Within the Manufacturing/Business, Marine Commercial, Commercial Corridor, Rural Mixed-Use, or Scenic Gateway Districts and the Bigelow Laboratory Contract Zone Districts, the height limit for a new communications tower or the expansion of an existing communications tower shall be two hundred (200) feet as measured from the base of the tower to the highest point of the tower, including any attached receiving or transmitting antennas and devices. The Planning Board may require the height of a tower be reduced down by as much as
twenty (20) feet, to a maximum of one hundred eighty (180) feet if the Planning Board finds through review that reducing the tower height would materially reduce the visual impacts of the tower from surrounding properties, abutters, roadways and public spaces, including to avoid the need for FAA lighting.

11.20.3 Setbacks A new or expanded communications tower must comply with the setback requirements for the zoning district in which it is located, or be setback one hundred twenty-five (125) percent of its height from all property lines, whichever is greater. This setback requirement may be satisfied by including areas outside the property boundaries if secured by a recorded easement. The following exceptions apply:

(1) The setback may be reduced by the Planning Board upon a showing by the applicant that the tower is designed to collapse in a manner that will not harm other property. The Planning Board cannot reduce the setback by more than sixty (60) percent of tower height.

(2) An antenna is exempt from the setback requirement if it extends no more than five (5) feet horizontally from the edge of the structure to which it is attached, and it does not encroach upon an abutting property.

11.20.4 Buffering All communications towers shall be surrounded by a buffer of dense tree growth and vegetation that screens the facility and minimizes its visual impact from abutting properties, roadways and public spaces. If the majority of the site is heavily vegetated with mature tree growth and effectively screens the facility, the Planning Board may require the existing vegetation to be preserved, and supplemented with new plantings where necessary, except for the minimum amount of clearing necessary to install the facility and provide access and utilities. If heavy vegetation and mature tree growth are not present to effectively screen the facility on one or more property lines or from surrounding roadways or public spaces, the Planning Board has the authority to require the tower to be sited in an alternative location on the property that exhibits an adequate buffer or screening that screens the facility and minimizes its visual impact from abutting properties, roadways and public spaces. The Planning Board has the authority to require the landscape buffer be protected by a landscape easement: specifying that the trees within the buffer not be removed or topped, unless the trees are dead or dying. This landscape easement may include a distance equivalent to one hundred fifty (150) percent of the total tower height, be within the carrier's lease, and/or apply to buffering and vegetation on other areas of the site that provide effective screening.

11.20.5 Visual Impact Analysis In order to review and assess the suitability of the proposed buffering of a tower, the optimal tower setback from adjacent property lines, the proposed color, style and height of the tower, and the tower's overall visual impacts and effects, the Planning Board may require photo simulations and a line of sight profile of the tower within the landscape from a variety of perspectives, including surrounding roadways, abutting properties, public spaces, designated scenic resources as identified in the Comprehensive Plan, and from archaeological and historic resources including, but not limited to, the National Register of Historic Places. (The analysis of impact on historical and archaeological resources shall meet the requirements of the Maine State Historic Preservation Officer in his/her review capacity for the FCC.) The Planning Board may require other simulations of the tower height and location within the
landscape using a balloon test or similar method typical in the industry. To assess the extent of the structure's actual visibility within the landscape, float a brightly colored balloon, or collection of balloons, at the height of the tower or other tall structure and check each previously identified area of concern. The applicant may be required to provide an assessment via ARC GIS (ESRI software). Using the visual impact analysis, the Planning Board has the authority to mitigate and minimize the visual impact of a tower by: specifying the required setback and location, requiring changes and/or enhancements to the buffering, and regulating the tower height and style.

11.20.6 Tower Style Tower types shall be limited to monopole-style towers. The exterior finish of a tower shall be either a galvanized metal surface or a surface that is painted or otherwise treated in a neutral color. The design and color of the tower shall be approved by the Planning Board.

1.20.7 Lighting Towers and attached antennas and devices shall not be artificially lighted, unless required by the FAA or other federal or state agency. If lighting for such equipment is required, the Planning Board may review the available lighting alternatives and require the design that would cause the least impact to surrounding properties and views. All other lights installed at the facility shall be mounted less than twelve (12) feet above ground level, located and shielded to minimize light pollution, and illuminated only as necessary for work or safety at the facility.

11.20.8 Colocation All new communications towers shall be designed and constructed to accommodate the colocation of additional antennas, equipment and facilities on the tower and site. To meet this standard the applicant, owner and all other tower users shall allow other commercial wireless telecommunication service providers using functionally compatible technology to collocate; shall provide a mechanism for the construction and maintenance of collocated antennas and infrastructure; and shall provide for reasonable sharing of costs in accordance with industry standards. To ensure colocation and prevent the need for additional new towers within the same coverage area, the Planning Board may require an existing or new tower to be increased in height up to the maximum height allowed and/or make other accommodations in order to provide for colocation. When designing a tower and site for colocation the facility should be designed to accommodate the inclusion of at least three additional telecommunication service providers and shall have the structural integrity to accommodate these additional antennas and/or an expansion in height of the tower. The Planning Board may waive the requirement for colocation or the number of additional providers to be collocated, but only after the Planning Board reviews and determines with satisfactory evidence that technical constraints prohibit colocation.

11.20.9 Noise generated should not exceed limits permitted under local ordinance (per zoning district). Testing of generators, at separate times, shall be limited to between 8 a.m. and 5 p.m., Monday – Friday.

11.20.10 Advertising No advertising or signage is permitted on communications towers or any attached transmitting and receiving antennas or devices.

11.20.11 Coverage As part of any proposal, the applicant shall submit a radio frequency coverage analysis showing existing or planned wireless facilities within ten (10) miles of the proposed location. Maps shall be supplied that indicate on street and in building coverage for both existing/planned sites and the proposed location. The coverage
analysis for the proposed location must show all available optional antenna heights if it is a co-location or all possible antenna heights starting at a minimum of ninety (90) feet if it is a new facility. The coverage analysis must use each current licensed frequency band by the applicant. An applicant shall demonstrate that there is inadequate coverage for the area covered by the application.

11.20.12 Structural Standards New communications towers shall meet all applicable requirements of federal and state regulations and shall be designed and installed in accordance with the standards of the Electronic Industries Association / Telecommunications Industries Association (EIA/TIA) Structural Standards for Steel Antenna Towers and Antenna Supporting Structures.

11.20.13 Emergency Access A new communications tower must install a “knox box” on the compound entrance and shall provide the Town and its Fire Department with sets of keys to the knox box in order to allow emergency access to the facility by emergency vehicles and personnel.

11.20.14 Fencing A new communications tower must be fenced to discourage trespass on the facility and to discourage climbing on any structure by trespassers.

11.20.15 Existing Towers Communications towers existing before May 2, 2015 that do not comply with these performance standards or with the use or dimensional requirements of the zoning district in which they are located may continue to be used subject to the nonconformity provisions of this Ordinance. The addition, removal or relocation of transmitting or receiving devices on such towers does not constitute the expansion or enlargement of the nonconforming use and does not require Planning Board review, provided the total height of the communications tower, including attached devices, is not increased.

11.20.16 Abandonment A communications tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The Code Enforcement Officer shall notify the owner of an abandoned facility in writing and order the removal of the facility within ninety (90) days of receipt of the written notice. The owner of the facility shall have thirty (30) days from the receipt of the notice to demonstrate to the Code Enforcement Officer that the facility has not been abandoned. If the owner fails to show that the facility is in active operation, the owner shall have sixty (60) days to remove the facility. If the facility is not removed within this time period, the Town may remove the facility at the owner’s expense. The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of roads, and reestablishment of vegetation.

11.20.17 Removal Prior to the commencement of any construction, the applicant shall provide the Town with a performance bond or letter of credit in an amount sufficient to cover the cost of removal of the facility if it is abandoned as set forth above, including all site reclamation costs deemed necessary to return the site to its pre-construction condition, such as the removal of any road and reestablishment of vegetation. The applicant shall maintain such bond or replacement bond/letter of credit in place throughout the time period that the communications tower is in existence. The performance bond or letter of credit or any replacement performance bond/letter of credit shall be subject to the prior approval of the Town Attorney. The amount of the
performance bond or letter of credit or any replacement performance bond/letter of credit shall be increased by 15% on the first of January every five years. The owner of the facility may apply to the Planning Board for release of the surety when the facility and related equipment are removed to the satisfaction of the Planning Board.

11.20.18 Shoreland Zoning Communications towers shall not be allowed within the Shoreland Overlay Zone. However, land within the Shoreland Overlay Zone may be counted toward the setback requirements provided that the siting of the communications tower is outside the Shoreland Overlay Zone.

11.20.19 Standard Conditions of Approval. The following standard conditions of approval shall be a part of any approval issued by the Planning Board. Where necessary to ensure that an approved project meets the criteria of this ordinance, the Planning Board may impose additional conditions of approval. Reference to the conditions of approval shall be clearly noted on the final approved plan, and shall include:

11.20.19.1 The owner agrees to allow shared use of the tower if another applicant agrees to pay reasonable charges for co-location. The owner of the communications tower and his or her successors and assigns agree to:

11.20.19.1.1 Respond in a timely, comprehensive manner to a request for information from a potential co-location applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;

11.20.19.1.2 Negotiate in good faith for shared use of the communications tower by third parties;

11.20.19.1.3 Allow shared use of the communications tower if an applicant agrees in writing to pay reasonable charges for co-location; and

11.20.19.1.4 Require no more than a reasonable charge for shared use of the communications tower, based on community rates and generally accepted accounting principles. This charge may include, but is not limited to, a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction and maintenance, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the life span of the useful life of the communications tower.

11.20.19.2 The proposed facility will comply with all FCC standards for radio frequency emissions. Upon request by the Town, the applicant shall certify such compliance.

11.20.19.3 Upon request, the applicant shall provide the Town with a list of tenants of the facility.
Section 12 Appeals, Interpretations and Variances

12.1 Purpose The purpose of Section 12 is to define the authority and procedures of the Board of Appeals of the Town of Boothbay established in accordance with the provisions of 30-A M.R.S.A. § 2691.

12.2 Applicability

12.2.1 Section 12 applies to requests for:

12.2.1.1 A variance from the strict interpretation of the standards of this Ordinance;

12.2.1.2 An administrative appeal in connection with a decision or interpretation of the Code Enforcement Officer;

12.2.1.3 An administrative appeal in connection with a decision of the Planning Board except with respect to a subdivision application, and

12.2.1.4 An interpretation of a zoning boundary.

12.2.2 A decision of the Planning Board relative to a subdivision application shall be appealed directly to Superior Court.

12.3 Responsibilities

12.3.1 Applicant or Aggrieved Party

12.3.1.1 An applicant shall have the burden of proving that:

12.3.1.1.1 The relief requested from the ordinance standards meets all requirements for granting of variances as set forth in Section 12.5; or

12.3.1.1.2 A zoning boundary should be located as proposed by the applicant.

12.3.1.2 An aggrieved party shall have the burden of proving that:

12.3.1.2.1 A decision or action of the Code Enforcement Officer is not in conformity with the purposes and provisions of this Ordinance; or

12.3.1.2.2 A decision of the Planning Board is not in conformity with the purposes and provisions of this Ordinance.

12.3.1.3 The applicant is responsible for determining what, if any, other approvals are needed from Town, State or Federal agencies or authorities.

12.3.2 Board of Appeals

12.3.2.1 De Novo Administrative Appeals The Board of Appeals shall conduct a de novo review for the following:

12.3.2.1.1 Decisions of the Code Enforcement Officer The Board of Appeals shall hear and shall grant, grant with conditions, remand, or deny administrative appeals from decisions or actions of the Code Enforcement Officer where it is alleged that there is an error in any order, requirement, decision or determination; a failure to act; or inappropriate action by the Code Enforcement Office in his or
her review of a permit application or enforcement responsibilities under this Ordinance.

12.3.2.1.2 Violations The Board of Appeals shall hear and shall grant, grant with conditions or deny appeals of notices of violations, including those relating to subdivisions.

12.3.2.2 Appellate Administrative Appeals The Board of Appeals shall conduct an appellate review for the following:

12.3.2.2.1 Decisions of the Planning Board The Board of Appeals shall hear and shall grant, grant with conditions, remand, or deny administrative appeals from decisions of the Planning Board where it is alleged that there is an error in any order, requirement, decision or determination; a failure to act by the Planning Board in the administration of this Ordinance.

12.3.2.3 Interpretations When requested by an applicant, the Board of Appeals shall interpret the boundaries of a Zoning District, an Overlay District or an Area within the Shoreland Overlay District.

12.3.2.4 Variances The Board of Appeals shall hear and shall, subject to the limitations of 12.5, grant, grant with conditions or deny requests for relief from the standards of the Zoning Ordinance that cannot be granted by the Planning Board.

12.4 Appeal Procedure

12.4.1 Time Limits

12.4.1.1 An administrative appeal must be filed within thirty (30) days of the date of the decision being appealed. The date of a written Code Enforcement Officer decision shall be the date of the decision. The date of the final vote by the Planning Board on an application shall be the date of the decision.

12.4.1.1.1 The failure to bring an administrative appeal within the time frame provided may be determined by a court to be a forfeiture of the right to challenge the underlying decision in subsequent proceedings.

12.4.1.2 A variance request and a request for an interpretation of a boundary may be submitted at any time.

12.4.2 Application

12.4.2.1 Applications shall be made to the Code Enforcement Officer in writing on forms prescribed by the Board of Appeals.

12.4.2.1.1 Applications shall be dated and signed by the person requesting a decision by the Board of Appeals, certifying that the information in the application is complete and correct.

12.4.2.1.2 An application fee in such amount as the Board of Selectmen may from time to time establish by Board of Selectmen order shall accompany the application.
12.4.2.1.3 Applications shall include a concise written statement indicating what provision or provisions of the Zoning Ordinance requires interpretation or what relief is requested as well as an explanation of why it should be granted.

12.4.2.1.3.1 A sketch drawn to scale, showing, but not limited to, lot lines, location of existing structures, and other physical features of the lot pertinent to the relief requested shall be included unless the Board of Appeals determines it is not necessary. This requirement shall not apply to administrative appeals of Planning Board decisions.

12.4.2.1.3.2 The Board of Appeals may at any time before approval require the submission of additional information except for administrative appeals of Planning Board actions.

12.4.2.2 Applications shall only be accepted when:

12.4.2.2.1 Taxes and accounts payable to the Town are current.

12.4.2.2.1.1 The applicant’s real and personal property taxes, plus any and all other accounts of the applicant payable to the Town, have been paid in full.

12.4.2.2.1.2 Real and personal property taxes for the property to be developed or used have been paid in full.

12.4.2.2.1.3 Notification expenses as required by Section 12.4.2.1.2 have been paid in full.

12.4.2.2.1.4 The requirement that all taxes and accounts be paid prior to making an application under Section 12 may be:

12.4.2.2.1.4.1 Satisfied by the execution of an agreement with the Town Manager for their payment in full under such terms and conditions as the Town Manager may deem advisable, provided that payment in full is made in or within twelve (12) months from the date of said agreement; or

12.4.2.2.1.4.2 Waived in whole or in part by the Board of Selectmen upon good cause shown and upon such terms and conditions as are agreeable to the applicant. The Board of Selectmen’s decision in this regard shall be final, subject only to an appeal by an aggrieved party to Superior Court.

12.4.2.2.2 There is no outstanding notice of violation duly issued by the Code Enforcement Officer:

12.4.2.2.2.1 That has not been appealed to the Board of Appeals within the required time period;

12.4.2.2.2.2 That is pending before the Board of Appeals or a reviewing court; or

12.4.2.2.2.3 Where the decision of the Board of Appeals or a reviewing court has not been fully complied with.

12.4.2.2.3 There is no outstanding notice of violation duly issued by any State or federal environmental agency relating to the property that is the subject of the application:

12.4.2.2.3.1 That is pending before the State or federal environmental agency or a
reviewing court; or

12.4.2.3.2 Where the decision of the State or federal environmental agency or a reviewing court has not been fully complied with, or no further action will be taken by the issuing agency.

12.4.2.3 The Code Enforcement Officer shall record on each application the date and time of its receipt.

12.4.2.3.1 The Code Enforcement Officer shall determine if all pages of the current application forms have been submitted and, if not, notify the applicant that the application must be on the current forms and be complete.

12.4.2.4 Any inconsistency or conflicting information in an application shall be construed against the applicant.

12.4.3 Notification

12.4.3.1 The Code Enforcement Officer shall notify by U. S. Postal Service first class mail:

12.4.3.1.1 The applicant and the owner of the property where the is relief requested;

12.4.3.1.2 Owners as listed by the Boothbay Tax Assessor of property within one hundred (100) feet of any property line of the property;

12.4.3.1.3 The Boothbay Region Water District if the property is within the Watershed Protection Overlay District or the Well Head Protection District;

12.4.3.1.4 The Planning Board if the appeal is from its decision or is a zoning interpretation request;

12.4.3.1.5 The Board of Selectmen; and

12.4.3.1.6 The Boothbay Harbor or Edgecomb Town Clerk if the proposed variance or appeal is for a property abutting or including any portion of their Town.

12.4.3.2 The notification shall be at least seven (7) days before the first Board of Appeals meeting on the application and include:

12.4.3.2.1 The date, time and place of the first public hearing on the request, variance or appeal; and

12.4.3.2.2 The location and a general description of the request, variance or appeal.

12.4.3.3 The Code Enforcement Office or Board of Appeals may determine that additional property owners should be made aware of the application. The applicant shall reimburse the Town for the expense of these additional notifications. No further action shall be taken on the application until the Town has been reimbursed.

12.4.3.3.1 Failure to receive a notice of a public meeting shall not necessitate another public meeting or invalidate any action taken by the Board of Appeals.

12.4.4 Notice The Code Enforcement Officer shall publish at least two (2) times in the Boothbay Register a notice of the date, time and place of the first meeting to be held on a request for interpretation, a variance, or an appeal. The first publication of the notice shall be at least seven (7) days before the meeting. In addition, the notice shall be posted in a
public place in Boothbay. The notice shall include the location and a general description of the request for interpretation, a variance, or an appeal.

12.4.4.1 A copy of each variance request in the Shoreland Overlay Zone, including the application and all supporting information supplied by the applicant, shall be forwarded by the Code Enforcement Officer to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to the first Board of Appeals hearing on the application.

12.4.5 Record of Decision being Appealed The Code Enforcement Officer shall transmit to the Board of Appeals all documentation in connection with the decision being appealed. For decisions of the Planning Board this shall include the Board’s findings of fact and the minutes of the meetings at which the Board considered the application.

12.4.6 Public Hearing

12.4.6.1 Completeness Review The Board of Appeals shall hold a public hearing on a request for an interpretation, a variance, or an appeal within thirty-five (35) days of its receipt of an application.

12.4.6.1.1 The purpose of a Completeness Review is to determine if information required being on paper is sufficiently complete to proceed to an Application Review.

12.4.6.1.2 At the conclusion of Completeness Review, the Board of Appeals shall notify the applicant that:

12.4.6.1.2.1 An Application Review has been scheduled, or

12.4.6.1.2.2 An Application Review has been scheduled conditioned upon the receipt of specific additional information. Such information shall be provided in accordance with the deadline for submission specified in the application form.

12.4.6.2 Application Review Within thirty-five (35) days of the conclusion of a Completeness Review specified in 12.4.6.1 an Application Review meeting shall be held.

12.4.6.2.1 The Planning Board and Board of Selectmen shall be made parties to the action.

12.4.6.2.2 For Administrative Appeals of Code Enforcement Officer decisions, variance requests, and interpretations, the Board of Appeals shall permit testimony and the presentation of evidence at any public hearing by any interested person, provided that such testimony and evidence is relevant to the proceeding and not unduly repetitious.

12.4.6.2.3 For Administrative Appeals of Planning Board decisions subject to appellate review, the Board of Appeals shall limit testimony and the presentation of evidence at any public hearing only to people who participated in or attended the Planning Board meetings at which the application that is the subject of the appeal was considered. Any testimony shall be limited to information that was presented at the Planning Board meeting. The Board of Appeals shall not accept
new information that was not available to the Planning Board at the public hearing.

12.4.6.2.4 An applicant may agree to an extension of time for Board of Appeals review, public hearings or decision on an application.

12.4.6.2.5 The purpose of the Application Review meeting is to interpret the boundaries of a Zoning District, an Overlay Zone or an Area within the Shoreland Overlay Zone, or to determine if:

12.4.6.2.5.1 The proposed deviation from the Ordinance standards meets the requirements for approval of Sections 12.5;

12.4.6.2.5.2 The decision or action of the Code Enforcement Officer was in conformance with the standards of the Zoning Ordinance and other applicable regulations, or

12.4.6.2.5.3 The decision or action of the Planning Board was in conformance with the standards of the Zoning Ordinance.

12.4.6.2.6 Administrative Appeal

12.4.6.2.6.1 The Board of Appeals will examine the facts that were presented to the Planning Board or the Code Enforcement Officer as the case may be, and will determine if the Planning Board or Code Enforcement Officer was correct in applying the Zoning Ordinance to those facts.

12.4.6.2.6.2 For a de novo review of a decision or action of the Code Enforcement Officer, the Board of Appeals will accept the presentation of facts, whether orally or in documentary form, from any person. They may accept the presentation of such facts from any person who did not present facts in the decision of the Code Enforcement Officer, and they may examine other facts that had not been presented to the Code Enforcement Officer. The Board of Appeals will listen to the parties and to their lawyers or other representatives that the parties may bring to the Board of Appeals.

12.4.6.2.6.3 For an appellate review of a decision of the Planning Board, the Board of Appeals shall confine its review to the record of the application review by the Planning Board and any information provided at the public hearing that relates directly to the information available to the Planning Board during its consideration of the application. The Board of Appeals shall not consider any information that was not available to the Planning Board except advice from the Town's legal counsel.

12.4.6.2.6.4 When the Board of Appeals has completed its work under 12.4.6.2.6.1, 12.4.6.2.6.2, or 12.4.6.2.6.3 above, the Board of Appeals will take one of the following three actions:

12.4.6.2.6.4.1 The Board of Appeals can decide that the Planning Board or Code Enforcement Officer needs to consider more facts before making a valid decision, in which case the Board of Appeals will send the matter back to the Planning Board or Code Enforcement Officer with instructions
to consider these additional facts and then make a decision based on all of the facts; or

12.4.6.2.6.4.2 The Board of Appeals can decide that the Planning Board or Code Enforcement Officer did not apply the Zoning Ordinance properly, or did not interpret the Zoning Ordinance properly, in which case the Board of Appeals can reverse or modify the decision of the Planning Board or Code Enforcement Officer; or

12.4.6.2.6.4.3 The Board of Appeals can decide that the Planning Board or Code Enforcement Officer was correct in its interpretation and application of the Zoning Ordinance, in which case the Board of Appeals can uphold the decision of the Planning Board or Code Enforcement Officer.

12.4.6.2.6.4.4 If the Board of Appeals sends the matter back to the Planning Board or the Code Enforcement Officer under 12.4.6.2.6.4.1 above, then the Planning Board or Code Enforcement Officer will hold another hearing or otherwise conduct further proceedings, at which time additional facts will be presented in accordance with the instructions from the Board of Appeals, and make a decision based on all the facts.

12.4.6.2.7 Variance Appeals

12.4.6.2.7.1 Any comments received from the Commissioner of the Department of Environmental Protection in connection with a variance request in the Shoreland Overlay Zone prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

12.4.6.3 Final Action The Board of Appeals shall within thirty-five (35) days of the conclusion of a public hearing at which all requested information has been provided, and during which all verbal submissions for and against the interpretation, variance, or appeal have been heard, determine if the interpretation, variance, or appeal is in conformance with the applicable provisions of the Zoning Ordinance.

12.4.6.3.1 The reasons and basis for its decision, including a statement of the facts found and conclusions reached, as well any conditions shall be stated in writing.

12.4.6.3.2 A copy of the decision shall, within seven (7) days of reaching a decision, be sent to the applicant, Code Enforcement Officer, Planning Board and Board of Selectmen.

12.4.6.3.3 If the action involves a variance within the Shoreland Overlay District, written notice of a decision shall be mailed to the Department of Environmental Protection within seven (7) days of the decision.

12.4.6.4 Variance Recorded If the Board of Appeals grants a variance, a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title, and indicating the fact that a variance, including any conditions on the variance, has been granted and the date of the granting, shall be prepared in recordable form. This certificate must be signed by the Board of Appeals members approving the variance and recorded by the applicant in the Lincoln County Registry of Deeds within ninety (90) days of the date stated on
the final written approval of the variance or the variance is void. The variance is not
valid until the certificate of variance is recorded.

12.4.6.4.1 A variance in connection with a subdivision must be included as a note on
the face of the subdivision plan being recorded and must be recorded within
ninety (90) days of the final Planning Board vote on the subdivision application.

12.4.7 Approved Appeals

12.4.7.1 All approvals of appeals shall lapse and become void unless Start of
Construction or Operation there under, as defined in Section 2, begins within one year
of the date of the authorization. On showing of good cause before the expiration of
the one year period, the Board of Appeals may grant a one year extension. If
operations under any use permit do not begin or cease for a period of more than one
year, such use permit shall lapse and a new permit shall be required before
recommencement of such use.

12.4.7.2 Every building permit shall be displayed in a conspicuous place on the premises
and a copy of all other permits shall be on site while work authorized by the permit is
being conducted.

12.4.7.3 On approval of an appeal of a required water supply protection buffer, the Board
of Appeals shall sign the original and 4 copies of the final site plan. The Code
Enforcement Officer and applicant shall each retain one signed copy and the applicant
shall:

12.4.7.3.1 File the original and one copy with the Lincoln County Registry of Deeds.

12.4.7.3.2 File one copy with the Town of Boothbay Assessor. This copy shall
include the Registry’s Book and Page reference.

12.4.8 Reconsideration The Board of Appeals may reconsider any decision reached within
forty-five (45) days of the date of the final vote on the appeal or interpretation or variance
request. The request to the Board to reconsider a decision must be filed within ten (10)
days of the final vote to be reconsidered. A vote to reconsider and the action taken on that
reconsideration must occur and be completed within forty-five (45) days of the final vote
on the original decision. The Board of Appeals in reconsidering a prior decision may
conduct an additional hearing and receive additional evidence and testimony.

12.4.9 Appeal to Superior Court An aggrieved party may appeal a decision of the Board of
Appeals to Superior Court in accordance with Rule 80B of the Maine Rules of Civil
Procedure within forty-five (45) days of the date of the final Board of Appeals vote on
the appeal or interpretation or variance request.

12.4.9.1 Appeal of a reconsideration decision must be made within fifteen (15) days the
final vote on the reconsideration request.

12.4.10 Remanded Appeals

12.4.10.1 Code Enforcement Officer The Code Enforcement Officer shall, within thirty-
five (35) days of receiving the reasons why an appeal from his/her decision is being
remanded, approve, approve with conditions or deny the application.
12.4.10.2 Planning Board The Planning Board shall consider all remanded appeals as Old Business at its next regularly scheduled Public Hearing.

12.4.11 Records The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications and associated documentation submitted, permits granted or denied, applications approved or denied, waivers and variances granted or denied, revocation actions, revocation of permits and approvals, appeals, court actions, violations investigated, violations found, and fees collected.

12.5 Review Criteria – Variance

12.5.1 General The Board of Appeals may grant a variance:

12.5.1.1 If the activity, development or use is not prohibited by this Ordinance and is consistent with the land use goals and objectives of Section 1.8.

12.5.1.2 If the proposed development or use would meet the standards of this Ordinance except for the specific provision(s) from which relief is sought;

12.5.1.3 If the minimum setback for new subsurface wastewater disposal systems from water bodies required by the Maine Subsurface Wastewater Disposal Rules is not reduced; and

12.5.1.4 Except as provided in Sections 12.5.2, 12.5.3 and 12.5.6, only when strict application of this Ordinance to the petitioner and the petitioner’s property would cause undue hardship.

12.5.1.4.1 Except as provided in Section 12.5.6, the term “Undue Hardship “ as used in Section 12.5 shall mean all of the following:

12.5.1.4.1.1 The land in question cannot yield a reasonable return unless a variance is granted;

12.5.1.4.1.2 The need for a variance is due to the unique circumstances of the property and not to general conditions in the neighborhood;

12.5.1.4.1.3 The granting of a variance will not alter the essential character of the locality; and

12.5.1.4.1.4 The hardship is not the result of action taken by the applicant or a prior owner.

12.5.2 Dimensional Standards Variance A variance may be granted from the dimensional standards relating to lot area, developable area, frontage, lot width and setback standards, when strict application of this Ordinance to the petitioner and the petitioner’s property would cause a practical difficulty and when all of the following conditions exist:

12.5.2.1 That the need for a variance is due to the unique circumstances of the property and not to general conditions in the neighborhood;

12.5.2.2 The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;

12.5.2.3 The practical difficulty is not the result of action taken by the petitioner or a prior owner;
12.5.2.4 No other feasible alternative to a variance is available to the petitioner;

12.5.2.5 The granting of a variance will not adversely affect the natural environment to an unreasonable degree; and.

12.5.2.6 The property is not located in whole or in part within the Shoreland Overlay District.

12.5.2.7 As used in 12.5.2, “dimensional standards” means and is limited to ordinance provisions relating to lot area, lot coverage, frontage, lot width and setback requirements.

12.5.2.8 As used in 12.5.2, “practical difficulty” means that the strict application of this Ordinance to the property precludes the ability of the petitioner to pursue a use permitted where the property is located and results in significant economic injury to the petitioner.

12.5.3 Disability Variance A dimensional variance may be granted to an owner of a dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The Board of Appeals shall restrict any variance granted under 12.5.3 solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The Board of Appeals may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term “structures necessary for access to or egress from the dwelling” shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.

12.5.4 Endangered Species Variance A dimensional variance in connection with developments or uses affecting endangered species may be granted if the Commissioner of Inland Fisheries and Wildlife certifies that the proposed action would not pose a significant risk to any population of endangered or threatened species and a public hearing is held on the proposed action.

12.5.5 Registered Farmland Variance A dimensional variance permitting development upon or use of land for residential purposes within one hundred (100) feet of Registered Farmland or land held in common ownership with the registered farmland, may be granted if the parcel of land was subdivided prior to registration of the farmland. Any variance granted for such a purpose shall be conditioned to provide the maximum feasible setback from the abutting registered farmland.

12.5.5.1 A variance is not required for residential development if the exceptions of Title 7 M.R.S.A. §§ 52 and 56 are met.

12.5.6 Set-back Variance for One Family Dwellings A dimensional variance from a set-back requirement for a one family dwelling that is the primary year-round residence of the petitioner shall only be permitted when strict application of the zoning ordinance to the petitioner and the petitioner's property would cause undue hardship. The variance shall not exceed twenty (20) percent of a set-back requirement and shall not be granted if the variance would cause the area of the dwelling to exceed the maximum permissible lot coverage and developable area.
12.5.6.1 The term "undue hardship" as used in Section 12.5.6 means all of the following conditions apply:

12.5.6.1.1 The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

12.5.6.1.2 The granting of a variance will not alter the essential character of the locality;

12.5.6.1.3 The hardship is not the result of action taken by the applicant or a prior owner;

12.5.6.1.4 The granting of the variance will not substantially reduce or impair the use of abutting property; and

12.5.6.1.5 That the granting of a variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.

12.5.6.2 In the Shoreland Overlay District, the standards for a set-back variance for one family dwellings of 12.5.1 shall apply. The standards of 12.5.6 shall not apply.

12.5.7 Limitations The Board of Appeals shall limit any variances granted as strictly as feasible in order to insure conformance with the purposes and provisions of this Ordinance to the greatest feasible extent, and in doing so, may impose such conditions on a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed. The provisions of 12.5.1 shall apply to any variance granted under 12.5.2, 12.5.4, 12.5.5 and 12.5.6.

12.5.7.1 A variance shall not be granted for establishment of any use otherwise prohibited by this Ordinance.