

## **Section 3. General Administrative and Enforcement Provisions**

**3.1. Objectives** The Town's objectives with respect to administering and enforcing the land use standards of this Ordinance are:

**3.1.1** To assure that the state and local regulations governing land use, wastewater disposal and development are administered in a fair and even-handed manner;

**3.1.2** To assure that the Town is aware of all new development and construction activity in all areas of the Town and that requests for approvals are acted upon in a timely manner; and

**3.1.3** To assure that all development and construction is carried out in accordance with the applicable codes and regulations and requirements for project approval.

**3.2 Authorization Required** No person shall engage in any development, subdivision, or use requiring either a permit or approval from the Code Enforcement Officer, Planning Board or Board of Appeals, as applicable; or expand, change, or replace an existing use or structure; or renew a discontinued non-conforming use without first obtaining the required permit or approval.

### **3.3. Responsibilities**

**3.3.1 Code Enforcement Officer** The Code Enforcement Officer (CEO) shall be the reviewing authority and shall approve, approve with conditions or deny:

**3.3.1.1** Any request for development or use designated in the **5.2.2.3.3** as requiring CEO review and approval, and

**3.3.1.2** Any request for development or use that is not specifically the responsibility of the Planning Board or the Board of Appeals.

#### **3.3.2 Planning Board**

**3.3.2.1** The Town shall maintain a Planning Board in accordance with the Provisions of State Law and The Town of Boothbay Administrative Code.

**3.3.2.2** The Planning Board shall be the reviewing authority of all applications for development, subdivision and use designated in **5.2.2.3.4** as requiring Planning Board review and approval.

**3.3.3 Board of Appeals** The Town shall maintain a Board of Appeals in accordance with the provisions of 30-A § 4353.

**3.3.3.1** The Board of Appeals shall hear appeals from decisions or actions of the Code Enforcement Officer and the Planning Board, requests for variances, and requests for interpretations of boundaries of Zoning Districts, Overlay Zones and Areas within the Shoreland Overlay Zone.

**3.3.3.1.1** A decision of the Planning Board relative to a subdivision application can

only be appealed to Superior Court.

### **3.4 Enforcement**

**3.4.1** Any property or use existing in violation of the provisions of this Ordinance shall be deemed to be a nuisance.

**3.4.2 Code Enforcement Officer** It shall be the duty of the Code Enforcement Officer (CEO) to enforce the provisions of this Ordinance. If the CEO finds that any development, subdivision or use requiring approval under this Ordinance is taking place without such approval or where approval has been obtained but a provision of this Ordinance or any condition of the application approval is being violated, he or she shall notify, in writing, the person responsible for such violation and the property owner. The notification shall indicate the nature of the violation; and order action necessary to correct the violation. Actions ordered may include: discontinuance of illegal use of land or structures or work being done, removal of illegal structures, and abatement of nuisance conditions.

**3.4.2.1** The CEO shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to land use permits or approvals. The CEO shall also investigate all complaints of alleged violations of this Ordinance.

**3.4.2.2** A copy of any notice of violation issued shall be provided to the Board of Selectmen and be maintained by the CEO as a permanent record. Any notice of violation may be appealed to the Board of Appeals.

**3.4.3 Legal Actions** When any order of the CEO pursuant to Section 3.4.2 does not result in the correction or abatement of the violation or nuisance condition and such order has become final or a timely appeal has not been taken, the Board of Selectmen, upon notice from the CEO, may institute, and in the Shoreland Overlay Zone shall institute, any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town of Boothbay.

**3.4.3.1** The Board of Selectmen is hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by the CEO or Alternate Code Enforcement Officer; and there is no evidence that the owner acted in bad faith; or unless the removal of the structure or use will result in a threat or hazard to public health and safety, or will result in substantial environmental damage.

**3.4.4 Fines** Any person, firm, or corporation, including, but not limited to, a landowner, the landowner's agent, a contractor, or the occupant of any building or premises, who violates any of the provisions of this Ordinance shall be liable for fines as provided for by State law, 30-A § 4452. Each day such a violation is permitted to exist after notification shall constitute a separate offense.

### **3.5. Planning Board Organization**

**3.5.1 Organization and Voting** The Planning Board shall consist of 5 members and 2 alternate members. In the absence of a member(s) the alternate members present shall vote in the order of appointment.

**3.5.1.1 Quorum** Three voting members of the Planning Board shall constitute a quorum.

**3.5.1.2 Majority Vote** The concurring vote of at least 3 members/alternate members of the Planning Board shall be necessary to approve or approve with conditions an application.

### **3.6. Board of Appeals Organization**

**3.6.1 Organization and Voting** The Board of Appeals shall consist of 5 members and 2 alternate members. In the absence of a member(s) the alternate members present shall vote in the order of appointment.

**3.6.1.1 Quorum** Three voting members of the Board of Appeals shall constitute a quorum.

**3.6.1.2 Majority Vote** The concurring vote of at least 3 members/alternate members of the Board of Appeals shall be necessary to approve or approve with conditions an application.