

SECTION 5 PERMIT AND DEVELOPMENT REVIEW REQUIREMENTS

5.1 GENERAL PERMIT REQUIREMENTS

5.1.1 Permit Requirements

A permit from the Code Enforcement Officer or the Local Plumbing Inspector and/or the approval of the Planning Board is required for all of the following activities:

5.1.1.1 The construction, alteration, enlargement, or moving of any building, structure, or sign.

5.1.1.2 An expansion of a nonconforming use or structure.

5.1.1.3 Conversion of an existing building from one use to another use.

5.1.1.4 The establishment of a new or expanded land use activity that is listed in the Land Use Table in Section 7 as requiring a permit or approval.

5.1.1.5 The installation of internal plumbing and/or a subsurface wastewater disposal system.

5.1.1.6 Any development within the regulated floodplain pursuant to this Ordinance.

5.1.1.7 Activities or development within the Shoreland Zone pursuant to this Ordinance that are listed in the Land Use Table in Section 7 as requiring a permit or approval.

5.1.1.8 The rental of a dwelling unit or rooms within a dwelling unit for a period of less than thirty (30) days.

5.1.2 Permits Not Required

Permits are not required for the following:

5.1.2.1 An “allowed” use as indicated in the Land Use Table in Section 7.

5.1.2.2 The normal repair and maintenance of any structure.

5.1.3 Permits and Approvals Required Prior to Development

A permit or approval must be obtained from the Code Enforcement Officer or Planning Board as appropriate for all activities listed in section 5.1.1 prior to the start of any development, construction, site work or commencement of a land use activity.

5.1.4 Permits Issued After Appropriate Review

All permits shall be obtained from the Code Enforcement Officer after meeting the appropriate review requirements established in **5.2 General Review Requirements**.

5.1.4.1 The applicant must obtain a permit from the Code Enforcement Officer within one year from the date the Planning Board approved a planning board review or site plan review application. If a permit is not obtained within one year of approval, the approval shall be null and void unless extended by vote of the Planning Board.

5.1.5 Plumbing and Subsurface Wastewater Permits

An internal plumbing permit and a subsurface wastewater disposal permit must be obtained for all land use and construction activities or the applicant shall submit a statement to the Code Enforcement Officer indicating that the structure for which the application is made does not require an internal plumbing or subsurface waste water permit as per state law or regulation. Activities served by the public sewer system are not required to obtain a subsurface wastewater disposal permit.

5.1.6 Expiration of Permit or Approval

A permit or approval secured under the provisions of this Ordinance shall expire if the work or change is not commenced within one year of the date on which the permit or approval is granted, and if the work or change is not substantially completed within two years of the date of the permit or approval. The Code Enforcement Officer or the Planning Board may allow a one year extension of a permit or approval if the property owner requests it for good reason. If a permit or approval lapses, the applicant shall be required to obtain a new permit or approval including any required review for any expired permit or approval.

5.1.7 Permit Fees

A non-refundable permit fee and review fee established by the Board of Selectmen shall be paid.

5.1.8 General Permit Requirements

5.1.8.1 An application for a permit or approval shall be submitted to the Code Enforcement Officer on the applicable forms provided by the Town.

5.1.8.2 All applications shall be signed by the owner (s) of the property, or a person with right, title, or interest in the property, or a duly authorized agent, and such signature shall certify that the information is complete and correct.

5.1.8.3 The applicant shall have the burden of proving that the proposed activity is in conformity with the purposes and provisions of this Ordinance.

5.1.8.4 An application for a permit or approval by the Planning Board shall be approved and the related permits issued only if the application is deemed complete and has been reviewed and fully complies with all the provisions of this Ordinance.

5.1.8.5 A permit shall be issued only if the applicant demonstrates that any conditions of a Planning Board approval for the project have been met or that provisions for complying with any conditions of approval are incorporated into the permit.

5.1.8.6 If a performance guarantee is required as part of the approval of the project, a permit shall be issued only when the applicant provides written evidence that the performance guarantee has been established and is acceptable in amount and form to the Town Manager.

5.1.8.7 All decisions and applicable conditions pertaining to an application shall be stated in writing.

5.1.8.8 Applications for permits and approvals and all related plans and drawings shall be maintained as a permanent record by the Code Enforcement Officer or their designee.

5.1.8.9 A person issued a permit for construction pursuant to this Ordinance shall have a copy of the permit posted in a visible location at the site while the work authorized by the permit is performed.

5.2 DEVELOPMENT REVIEW REQUIREMENTS

5.2.1 Purpose

This ordinance establishes varying provisions for the review of development and other land use activities. The purpose of the different review processes established by this ordinance is to provide a level of Town review that is proportionate to the anticipated impact of a particular proposed land use upon the community and the requirements of state law. Therefore, the level of each review is based on the type and scale of proposed activity and its location in Boothbay.

5.2.2 Classification of Projects for Review

The ordinance establishes five categories for the review of land use activities. This section establishes the process for determining which category of review shall apply to each proposed activity.

5.2.2.1 Prior to submitting an application for review, the applicant and/or his/her representative is required to meet with the Code Enforcement Officer to discuss the project, the review process, and the potential classification of the project. This meeting shall be informational and no binding decisions shall be made at this meeting. At this meeting, the applicant shall provide the Code Enforcement Officer with information on the location of the project, the proposed use of the property, and proposed development activities.

5.2.2.2 Upon receipt of an application, the Code Enforcement Officer shall review the application and shall classify the project as subject to:

1. Subdivision Review
2. Mobile Home Park Review
3. Site Plan Review
4. Planning Board Review
5. Code Enforcement Officer Review

5.2.2.3 Activities Subject to Subdivision Review

Any proposal to divide land that creates a subdivision as defined in _____ shall be reviewed in accordance with the General Review Procedures of Section 5.3 and the Subdivision Review procedures and approval criteria of Section 5.7:

5.2.2.4 Activities Subject to Mobile Home Park Review

Any proposal to divide land that creates a mobile home park as defined in Section 2 shall be reviewed in accordance with the General Review Procedures of Section 5.3 and the Mobile Home Park Review procedures and approval criteria of Section 5.8:

5.2.2.5 If the application involves a use or activity that is designated as permitted with review or Code Enforcement Officer review in the Land Use Table in Section 7, the Code Enforcement Officer shall assign the project to the highest level of review based on the following criteria:

5.2.2.5.1 Activities Subject to Site Plan Review

Land use activities that are designated as Permitted with Review in the Land Use Table in Section 7 and that meet any of the following criteria shall be reviewed in accordance with the General Review Procedures of Section 5.3 and the Site Plan Review procedures and approval criteria of Section 5.4. The proposed activity shall be combined with any other development or activity on the parcel in the previous five (5) years in determining if any of the criteria are met:

5.2.2.5.1.1 The modification of an existing nonresidential building to convert the use of the building to a multi-family dwelling with more than five (5) dwelling units; or

5.2.2.5.1.2 An expansion of an existing nonresidential building that increases the gross floor area of the building by more than five thousand (5,000) square feet; or

5.2.2.5.1.3 A change to a developed site that increases the amount of impervious surface by more than twenty thousand (20,000) square feet; or

5.2.2.5.1.4 The construction of more than twenty thousand (20,000) square feet of impervious surface; or

5.2.2.5.1.5 The construction of a non-residential building with more than five thousand (5,000) square feet of gross floor area; or

5.2.2.5.1.6 The construction of multi-family or senior housing with more than five (5) dwelling units; or

5.2.2.5.1.7 Any activity that disturbs more than forty thousand (40,000) square feet of land.

5.2.2.5.1.8 Any activity in the watersheds of Adams Pond or Knickerbocker Lake that creates more than two thousand five hundred (2,500) square feet of gross floor area or five thousand (5,000) square feet of impervious surface or that disturbs more than ten thousand (10,000) square feet of land or that is subject to site plan review based on the requirements of the Water Reservoirs Protection or Watershed Protection Overlay Districts.

5.2.2.5.2 Activities Subject to Planning Board Review

Land use activities that are designated as Permitted with Review in the Land Use Table in Section 7 that do not meet the criteria for Site Plan Review and that meet any of the

following criteria shall be reviewed in accordance with the General Review Procedures of Section 5.3 and the Planning Board Review procedures and approval criteria of Section 5.5. The proposed activity shall be combined with any other development or activity on the parcel in the previous five (5) years in determining if any of the criteria are met:

5.2.2.5.2.1 The modification of an existing nonresidential building to convert the use of the building to a multi-family dwelling with five (5) or fewer dwelling units; or

5.2.2.5.2.2 An expansion of an existing nonresidential building that increases the gross floor area of the building by more than two hundred fifty (250) square feet or more than ten percent (10%) of the pre-existing gross floor area whichever is greater but not more than five thousand (5,000) square feet; or

5.2.2.5.2.3 A change to a developed site that increases the amount of impervious surface by more than one thousand (1000) square feet or more than ten percent (10%) of the pre-existing impervious surface area whichever is greater but not more than twenty thousand (20,000) square feet; or

5.2.2.5.2.4 The construction of not more than twenty thousand (20,000) square feet of impervious surface; or

5.2.2.5.2.5 The construction of a non-residential building with not more than five thousand (5,000) square feet of gross floor area; or

5.2.2.5.2.6 The construction of multi-family or senior housing with five (5) or fewer (5) dwelling units; or

5.2.2.5.2.7 Any activity that disturbs more than twenty thousand (20,000) square feet of land; or

5.2.2.5.2.8 Any activity subject to review that is located on a lot that abuts a lot that is used for a single-family or two-family dwelling as of the date the application is filed with the Code Enforcement Officer; or

5.2.2.5.2.9 Any activity in the watersheds of Adams Pond or Knickerbocker Lake that creates more five hundred (500) square feet of gross floor area or one thousand (1,000) square feet of impervious surface or that disturbs more than two thousand (2,000) square feet of land or that is subject to Planning Board review based on the requirements of the Water Reservoirs Protection or Watershed Protection Overlay Districts; or

5.2.2.5.2.10 The change of use of an existing building that does not increase the size of the building or the amount of impervious surface on the lot if the new use will increase the intensity of use of the property based on any one of the following:

- a. An increase in the number of peak hour vehicle trips based on the ITE Trip Generation Manual
- b. An increase in the amount of sewage generated based on the Maine State Plumbing Code
- c. Operation of the new use between 10:00 PM and 7:00 AM
- d. The installation of new exterior lighting, or

5.2.2.5.2.11 Any project involving the construction or installation of a wharf or weir.

5.2.2.5.3 Activities Subject to Code Enforcement Officer Review

Land use activities that: 1) are designated as Code Enforcement Officer Review in the Land Use Table in Section 7, or 2) are designated as Permitted with Review in the Land

Use Table in Section 7 and that do not meet the criteria for either Site Plan Review or Planning Board Review shall be reviewed in accordance with the General Review Procedures of Section 5.3 and the Code Enforcement Officer Review procedures and approval criteria of Section 5.6. The proposed activity shall be combined with any other development or activity on the parcel in the previous five (5) years in determining if any of the criteria are met. If the Code Enforcement Officer determines that the complexity of the application or a need for the opportunity for public involvement in the review exists, they may classify the application as requiring planning board review in accordance with **5.2.2.5.2**. In classifying projects for review, the Code Enforcement Officer may review the following:

5.2.2.5.3.1 The modification of an existing residential building to create one (1) additional dwelling unit; or

5.2.2.5.3.2 The modification of an existing nonresidential building to convert the use of the building to a single-family or two-family dwelling; or

5.2.2.5.3.3 The change of use of an existing nonresidential building to another nonresidential use that is permitted with review that does not increase the size of the building or the amount of impervious surface on the lot and that does not trigger planning board review increase the intensity of use of the property including the amount of traffic or sewage; or

5.2.2.5.3.4 An expansion of an existing nonresidential building that does not increase the gross floor area of the building by more than two hundred fifty (250) square feet or ten percent (10%) of the pre-existing gross floor area whichever is greater; or

5.2.2.5.3.5 An change to a developed site that does not increase the amount of impervious surface by more than one thousand (1000) square feet or ten percent (10%) of the pre-existing impervious surface area whichever is greater; or

5.2.2.5.3.6 Any other activity that is designated as Permitted with Review in the Land Use Table that does not trigger Planning Board or Site Plan Review.

5.3 GENERAL REVIEW PROCEDURES APPLICABLE TO ALL APPLICIIONS

5.4 SITE PLAN REVIEW PROCEDURES AND STANDARDS

5.5 PLANNING BOARD REVIEW PROCEDURES AND STANDARDS

5.6 CODE ENFORCEMENT OFFICER REVIEW PROCEDURES AND STANDARDS

5.7 SUBDIVISION REVIEW PROCEDURES AND STANDARDS

5.8 MOBILE HOME PARK REVIEW PROCEDURES AND STANDARDS