

## **SECTION 7 ZONING DISTRICTS, ZONING MAPS, AND STANDARDS**

This section sets out the standards that govern development and the use of land within each of the land use or zoning districts within the Town. The location of the various land use or zoning districts is shown on the Official Zoning Map. The district standards are the core or basic standards with which all activities must comply. In addition to these district standards, activities must also comply with the applicable standards of the General Performance Standards of Section 8, the Environmental Performance Standards of Section 9, and the Good Neighbor Performance Standards of Section 10. Certain uses and activities must also comply with the Performance Standards for Specific Uses of Section 11.

### **7.1 Establishment of Districts**

The Town of Boothbay is divided into the following land use or zoning districts. The land use and development standards for each of these districts are set out in the sections that follow. These standards govern the establishment of new uses and activities as well as the construction and expansion of buildings and related facilities for conforming activities. In some case there are existing uses and buildings that do not conform to these standards. These nonconforming situations are governed by the provisions of Section 6.

#### **7.1.1 Residential Districts**

The following districts primarily allow residential and community uses but some commercial uses are also allowed:

**7.1.1.1 Residential District (R)**

**7.1.1.2 Coastal Residential District (R-C)**

#### **7.1.2 Mixed Use Districts**

The following districts allow residential, community, and a variety of nonresidential uses:

**7.1.2.1 Boothbay Village Center District (BVC)**

**7.1.2.2 Boothbay Village Fringe District (BVF)**

**7.1.2.3 Boothbay Village Mixed-Use District (BVMU)**

**7.1.2.4 East Boothbay Village District (EBV)**

**7.1.2.4 Scenic Gateway District (SG)**

**7.1.2.5 Rural Mixed-Use District (RMU)**

#### **7.1.3 Commercial – Industrial Districts**

The following districts primarily allow commercial, industrial, and community uses but residential uses are also allowed in some of the districts:

- 7.1.3.1 Commercial Corridor District (CC)**
- 7.1.3.2 Manufacturing/Business District (MB)**
- 7.1.3.3 Marine Commercial District (MC)**

#### **7.1.4 Natural Resource Districts**

The following uses are intended to provide protection for significant natural resources in the community:

- 7.1.4.1 Resource Protection District (RP)**
- 7.1.4.2 Water Reservoirs Protection District – Route 27 (WRP-27)**
- 7.1.4.3 Water Reservoirs Protection District (WRP)**
- 7.1.4.4 Wellhead Protection District (WP)**

#### **7.1.5 Overlay Districts**

The following districts establish supplemental standards that apply to development and land use activities within the overlay district in addition to the standards of the underlying district:

- 7.1.5.1 Shoreland Overlay District (SO)**
- 7.1.5.2 Watershed Protection Overlay District (WPO)**

#### **7.1.6 Contract Zones**

The following special district was established as a contract zone subject to specific standards that apply only to the district:

- 7.1.6.1 Bigelow Laboratory District (BL)**

### **7.2 Location of Districts – Zoning Map**

The various land use or zoning districts are located and bounded as shown on the Official Zoning Map, entitled “Zoning Map of the Town of Boothbay, Maine” dated \_\_\_\_, 2019 or as most recently amended, and on file in the office of the Town Clerk. The Official Map shall be signed by the Town Clerk and Chairman of the Planning Board at the time of adoption or amendment of this Ordinance certifying the date of such adoption or amendment.

**7.2.1** The boundary lines shown on the Official Zoning Map are Town lines, property lines, and the centerlines of roads and non-vehicular rights-of-way except where otherwise specifically described.

**7.2.2** Boundaries which are indicated as following shorelines of ponds and saltwater bodies, streams, outlet streams, tributary streams and the upland edge of wetlands shall be construed to follow such shorelines, streams and edges as they exist on the ground. In the event of a natural change in the shoreline, stream or edge, the boundaries shall be construed as moving with the actual shoreline, stream or edge.

**7.2.3** Boundaries indicated as being parallel to, or extensions of, features indicated in Sections 7.2.1 and 7.2.2 shall be so construed.

**7.2.4** The scale of the map shall determine distances not specifically indicated on the Official Zoning Map.

**7.2.5** Where any textual description of a Zoning District is in conflict with the Official Zoning Map as to the boundaries of a Zoning District, the boundary as shown on the official zoning maps shall be used. However where the textual description of an overlay zone is in conflict with the Official Zoning Map as to the location of the overlay district, the boundary in the textual description shall be used.

**7.2.6** The boundary the Watershed Protection Overlay (WPO) District shall not move as a result of alterations to the topography or drainage patterns unless the boundary change is approved by vote of the Town Meeting.

### **7.3 Uncertainty as to the of Location of Boundaries**

Where physical or cultural features existing on the ground vary from those shown on the official zoning maps, or where other circumstances not covered by Section 7.2 exist, or where there is other uncertainty about the location of a district boundary, the Board of Appeals shall interpret the location of the district boundary. The interpretation of the Board of Appeals shall be the final Town authority as to location of the boundaries.

### **7.4 Boundaries Based on Natural Resources**

Where a zoning district boundary line is intended to be a natural resource such as a stream, wetland, or watershed divide or a line parallel or offset from such resource, the location of the boundary on the ground shall be determined by the actual physical location of the resource as determined by the Code Enforcement Officer. Where there is uncertainty as the location of the resource or the district boundary, the Code Enforcement Officer may require an applicant to provide a determination of the location of the resource on the ground. Such determination shall be prepared by a competent professional such as a surveyor, soils scientist, or wetlands scientist as appropriate.

### **7.5 District Standards**

This section establishes the standards that govern development and the use of land within each of the land use or zoning districts set out in Section 7.1. The district standards are the core or basic standards with which all activities must comply.

## 7.5.1 Residential District (R)

### 7.5.1.1 PURPOSE (R)

The Residential District is intended to continue to allow a moderate amount of residential development in these areas together with rural and community uses and a limited amount of nonresidential activity that is compatible with residential uses. New housing can be a variety of types and prices to meet the needs of a diverse population. The standards assure that new developments are well designed so they are positive additions to the community.

### 7.5.1.2 ALLOWED USES (R)

The uses allowed in the Residential (R) District are shown in the Table of Land Uses in Section 7.6. If the use is allowed in the district, the table also indicates if a review is required for the use. If review is required, the procedures and standards for each type of review are set out in Section 5. A portion of the R District is located within the watersheds of Adams Pond and the Knickerbocker Lakes and is therefore subject to the provisions of the Watershed Protection Overlay (WPO) District. These provisions modify the allowed uses shown in the Table of Land Uses.

### 7.5.1.3 SPACE AND BULK STANDARDS (R)

<b>7.5.1.3.1</b>	Minimum developable lot area	40,000 SF
<b>7.5.1.3.2</b>	Minimum net developable lot area per dwelling unit	40,000 SF
<b>7.5.1.3.3</b>	Minimum lot width	150 feet
<b>7.5.1.3.4</b>	Minimum road setback	State - 50 feet Town - 33 feet Private way - 8 feet from the closest edge of the R-O-W
<b>7.5.1.3.5</b>	Maximum road setback	None
<b>7.5.1.3.6</b>	Minimum side property line setback	20 feet
<b>7.5.1.3.7</b>	Minimum rear property line setback	20 feet
<b>7.5.1.3.8</b>	Maximum building height	34 feet
<b>7.5.1.3.9</b>	Maximum impervious surface area	30%
<b>7.5.1.3.10</b>	Minimum shoreland setback	Great ponds & associated wetlands - 100 feet Other resources - 75 feet
<b>7.5.1.3.11</b>	Minimum shoreland frontage - tidal	Residential - 150 feet Nonresidential - 200 feet
<b>7.5.1.3.12</b>	Minimum shoreland frontage - non-tidal	Residential - 200 feet Nonresidential - 300 feet

#### **7.5.1.4 ZONE SPECIFIC DEVELOPMENT STANDARDS (R)**

Uses in the R District must conform to the following standards in addition to the Space and Bulk Standards:

**7.5.1.4.1** A dwelling unit with one bedroom in a two-family or multifamily dwelling or in a mixed use building shall be considered as two-thirds of a dwelling unit for purposes of the minimum lot area requirements as long as the dwelling unit has less than eight hundred (800) square feet of floor area.

#### **7.5.1.5 PERFORMANCE STANDARDS FOR SPECIFIC USES (R)**

Section 11 Performance Standards for Specific Uses establishes additional requirements for a group of specific uses. If any of those uses are proposed, the activity must comply with those standards in addition to the standards of this section.

#### **7.5.1.6 OTHER PERFORMANCE STANDARDS (R)**

In addition to the standards of this section, activities must also comply with the applicable standards of the General Performance Standards of Section 8, the Environmental Performance Standards of Section 9, and the Good Neighbor Performance Standards of Section 10.

#### **7.5.1.7 SHORELAND OVERLAY DISTRICT (R)**

A portion of the R District is subject to the additional requirements of the Shoreland Overlay District.

## 7.5.2 Coastal Residential District (R-C)

### 7.5.2.1 PURPOSE (R-C)

The Coastal Residential District is intended to be an interim land use control that allows limited development in coastal areas until the Town is able to undertake and complete a detailed groundwater study to better understand the capability of these areas to support additional building without adversely impacting both the quality and quantity of the groundwater and revise the ordinances appropriately. The standards allow a moderate amount of residential development in these areas together with rural and community uses and a limited amount of nonresidential activity that is compatible with residential uses. The standards address the management of water use and stormwater to reduce potential impacts on the groundwater.

### 7.5.2.2 ALLOWED USES (R-C)

The uses allowed in the Coastal Residential (R-C) District are shown in the Table of Land Uses in Section 7.6. If the use is allowed in the district, the table also indicates if a review is required for the use. If review is required, the procedures and standards for each type of review are set out in Section 5.

### 7.5.2.3 SPACE AND BULK STANDARDS (R-C)

7.5.2.3.1	Minimum developable lot area	Existing lots of record and new residential lots that are not part of a subdivision that are used for a single-family home – 60,000 SF All other lots and uses – see 7.5.2.4.1 and 7.5.2.4.2
7.5.2.3.2	Minimum net developable lot area per dwelling unit	Existing lots of record and new residential lots that are not part of a subdivision that are used for a single-family home– 60,000 SF All other lots and uses– see 7.5.2.4.1 and 7.5.2.4.2
7.5.2.3.3	Minimum lot width	150 feet
7.5.2.3.4	Minimum road setback	State - 50 feet Town – 33 feet Private way – 8 feet

		from the closest edge of the R-O-W
<b>7.5.2.3.5</b>	Maximum road setback	None
<b>7.5.2.3.6</b>	Minimum side property line setback	20 feet
<b>7.5.2.3.7</b>	Minimum rear property line setback	20 feet
<b>7.5.2.3.8</b>	Maximum building height	34 feet
<b>7.5.2.3.9</b>	Maximum impervious surface area	20%
<b>7.5.2.3.10</b>	Minimum shoreland setback	Great ponds & associated wetlands – 100 feet Other resources – 75 feet
<b>7.5.2.3.11</b>	Minimum shoreland frontage - tidal	Residential – 150 feet Nonresidential – 200 feet
<b>7.5.2.3.12</b>	Minimum shoreland frontage – non-tidal	Residential – 200 feet Nonresidential – 300 feet

#### **7.5.2.4 ZONE SPECIFIC DEVELOPMENT STANDARDS (R-C)**

Uses in the R-C District must conform to the following standards in addition to the Space and Bulk Standards:

**7.5.2.4.1** Except for single-family homes on existing lots of record or new residential lots that are not part of a subdivision, single-family homes on lots in subdivisions approved after the date of adoption of this section and all new or expanded two-family dwellings, multifamily dwellings, or other residential or nonresidential uses that use an on-site water supply for any portion of the year must be located on a lot that has a minimum of thirty thousand (30,000) square feet of net developable lot area for every one hundred (100) gallons per day of sewage flow based on the State of Maine Subsurface Wastewater Disposal Rules.

**7.5.2.4.2** Except for single-family homes on existing lots of record or new residential lots that are not part of a subdivision, single-family homes on lots in subdivisions approved after the date of adoption of this section and all new or expanded two-family dwellings or multifamily dwellings or other residential or nonresidential uses that use public water year-round must be located on a lot that has a minimum of forty thousand (40,000) square feet of net developable lot area and a minimum of forty thousand (40,000) square feet of net developable lot area per dwelling unit.

**7.5.2.4.3** A dwelling unit with one bedroom in a two-family or multifamily dwelling or in a mixed use building shall be considered as two-thirds of a dwelling unit for purposes of the minimum lot area requirements as long as the dwelling unit has less than eight hundred (800) square feet of floor area.

**7.5.2.4.4** A new residential or nonresidential use must connect to the public water system (either year-round or seasonal) if a water main with adequate capacity to serve the use is available within three hundred (300) feet of the nearest point on the lot as measured along public or private streets or utility easements.

**7.5.2.4.5** An existing building or use that is located on a lot with less than sixty thousand (60,000) square feet of developable lot area that uses an on-site water supply for any portion of the year cannot be altered in a manner that increases its potential groundwater use. This determination shall be based on the design sewage flows set forth in the State of Maine Subsurface Wastewater Disposal Rules. In assessing the potential use of groundwater, the Code Enforcement Officer or Planning Board may take into account changes that will reduce the existing use of groundwater.

#### **7.5.2.5 PERFORMANCE STANDARDS FOR SPECIFIC USES (R-C)**

Section 11 Performance Standards for Specific Uses establishes additional requirements for a group of specific uses. If any of those uses are proposed, the activity must comply with those standards in addition to the standards of this section.

#### **7.5.2.6 OTHER PERFORMANCE STANDARDS (R-C)**

In addition to the standards of this section, activities must also comply with the applicable standards of the General Performance Standards of Section 8, the Environmental Performance Standards of Section 9, and the Good Neighbor Performance Standards of Section 10.

#### **7.5.2.7 SHORELAND OVERLAY DISTRICT (R-C)**

A portion of the R-C District is subject to the additional requirements of the Shoreland Overlay District.



### 7.5.3 Boothbay Village Center District (BVC)

#### 7.5.3.1 PURPOSE (BVC)

The Boothbay Village Center District is intended to facilitate the evolution of the area around the Common and along Route 27 toward Boothbay Harbor into a true community center while enhancing its character as a New England village center. Traffic flow around the Common is improved and facilities for parking and pedestrians and bicyclists are upgraded making this more of a pedestrian area and linking the Common to adjacent residential areas. Boothbay Village Center continues to be the public heart of the community and is increasingly used for community activities. Over time, the buildings in the Village Center are improved and limited new development occurs that reinforces the role of the Common Area as the community center.

#### 7.5.3.2 ALLOWED USES (BVC)

The uses allowed in the Boothbay Village Center (BVC) District are shown in the Table of Land Uses in Section 7.6. If the use is allowed in the district, the table also indicates if a review is required for the use. If review is required, the procedures and standards for each type of review are set out in Section 5. A portion of the BVC District is located within the watersheds of Adams Pond and the Knickerbocker Lakes and is therefore subject to the provisions of the Watershed Protection Overlay (WPO) District. These provisions modify the allowed uses shown in the Table of Land Uses.

#### 7.5.3.3 SPACE AND BULK STANDARDS (BVC)

<b>7.5.3.3.1</b>	Minimum developable lot area	Residential – 20,000 SF or 6,000 SF with public sewer and year-round public water – Nonresidential – 10,000 SF
<b>7.5.3.3.2</b>	Minimum net developable lot area per dwelling unit	20,000 SF or 6,000 SF with public sewer and year-round public water
<b>7.5.3.3.3</b>	Minimum lot width	Residential– 100 feet or 60 feet with public sewer and year-round public water Nonresidential – 75 feet
<b>7.5.3.3.4</b>	Minimum road setback	State - 50 feet Town – 33 feet Private way – 8 feet from the closest edge

		of the R-O-W
<b>7.5.3.3.5</b>	Maximum road setback	The minimum road setback plus 25 feet
<b>7.5.3.3.6</b>	Minimum side property line setback	10 feet
<b>7.5.3.3.7</b>	Minimum rear property line setback	20 feet
<b>7.5.3.3.8</b>	Maximum building height	34 feet
<b>7.5.3.3.9</b>	Maximum impervious surface area	60%

#### **7.5.3.4 ZONE SPECIFIC DEVELOPMENT STANDARDS (BVC)**

Uses in the BVC District must conform to the following standards in addition to the Space and Bulk Standards:

**7.5.3.4.1** Single-family homes that are served by public sewer and year-round public water may be located on lots with a minimum developable lot area of at least 6,000 square feet and a minimum of sixty (60) feet of road frontage.

**7.5.3.4.2** Except for one-bedroom units with less than eight hundred (800) square feet of floor area, a dwelling unit in a two-family or multifamily dwelling or in a mixed-use building that is served by public sewer and year-round public water shall be allowed at a density of one dwelling unit per 6,000 square feet of net developable lot area. A dwelling unit with one bedroom in a two-family or multifamily dwelling or in a mixed use building that is served by public sewer and year-round public water shall be allowed at a density of one dwelling unit per 4,000 square feet of net developable lot area as long as the dwelling unit has less than eight hundred (800) square feet of floor area.

**7.5.3.4.3** As part of the review of a project, the Planning Board may allow a building to be located further from the front property line if one of the following conditions is met:

**7.5.3.4.3.1** The shape or physical condition of the portion of the parcel close to the road makes construction of the building in this area unreasonable, or

**7.5.3.4.3.2** The new building will be located behind a building that is close to the front property line.

**7.5.3.4.4** New buildings and expansions of existing buildings that increase the gross floor area by more than fifty percent (50%) shall be designed in a manner that reinforces the New England village character of the district. This shall include the use where practical of pitched or shed roofs, traditional siding or materials that simulate traditional siding, and windows with a vertical orientation in which the height exceeds the width of the window.

**7.5.3.4.5** Buildings must be designed so that the main entrance is located and designed to promote pedestrian movement. If there is a sidewalk or other pedestrian way along the frontage of the lot, there must be a pedestrian connection between the sidewalk and the main entrance of the building.

**7.5.3.4.6** The space between the road right-of-way and the front wall of the building must be maintained as a lawn or landscaped area or as a pedestrian environment. No vehicular or service facilities or areas shall be located in this area.

**7.5.3.4.7** Parking and service areas must be located to the side or rear of the principal building. No parking shall be permitted in area in front of the front wall of the principal building for the full width of the lot.

#### **7.5.3.5 PERFORMANCE STANDARDS FOR SPECIFIC USES (BVC)**

Section 11 Performance Standards for Specific Uses establishes additional requirements for a group of specific uses. If any of those uses are proposed, the activity must comply with those standards in addition to the standards of this section.

#### **7.5.3.6 OTHER PERFORMANCE STANDARDS (BVC)**

In addition to the standards of this section, activities must also comply with the applicable standards of the General Performance Standards of Section 8, the Environmental Performance Standards of Section 9, and the Good Neighbor Performance Standards of Section 10.

## 7.5.4 Boothbay Village Fringe District (BVF)

### 7.5.4.1 PURPOSE (BVF)

The Boothbay Village Fringe District is intended to accommodate a variety of housing and compatible non-residential uses that can be served by the public sewer system and year-round public water. While there are constraints to development in this area, the district provides the private sector the opportunity to find creative approaches for developing a limited amount of higher density housing and appropriate commercial uses that are served by public sewerage and year-round public water that is provided at the developer's expense. The new residential areas have a pedestrian-friendly village character. To complement this development, the Town works to enhance pedestrian and bicycle facilities to link this new housing to the Boothbay Village Center.

### 7.5.4.2 ALLOWED USES (BVF)

The uses allowed in the Boothbay Village Fringe (BVF) District are shown in the Table of Land Uses in Section 7.6. If the use is allowed in the district, the table also indicates if a review is required for the use. If review is required, the procedures and standards for each type of review are set out in Section 5. A portion of the BVF District is located within the watersheds of Adams Pond and the Knickerbocker Lakes and is therefore subject to the provisions of the Watershed Protection Overlay (WPO) District. These provisions modify the allowed uses shown in the Table of Land Uses.

### 7.5.4.3 SPACE AND BULK STANDARDS (BVF)

<b>7.5.4.3.1</b>	Minimum developable lot area	Residential – 20,000 SF or 4,000 SF with public sewer and year-round public water – Nonresidential – 10,000 SF
<b>7.5.4.3.2</b>	Minimum net developable lot area per dwelling unit	20,000 SF or 4,000 SF with public sewer and year-round public water
<b>7.5.4.3.3</b>	Minimum lot width	Residential – 100 feet or 60 feet with public sewer and year-round public water Nonresidential – 100 feet
<b>7.5.4.3.4</b>	Minimum road setback	State - 50 feet Town – 33 feet Private way – 8 feet from the closest edge

		of the R-O-W
<b>7.5.4.3.5</b>	Maximum road setback	None
<b>7.5.4.3.6</b>	Minimum side property line setback	10 feet
<b>7.5.4.3.7</b>	Minimum rear property line setback	20 feet
<b>7.5.4.3.8</b>	Maximum building height	34 feet except 44 feet for structures located on Country Club Road within two hundred fifty (250) feet of Route 27
<b>7.5.4.3.9</b>	Maximum impervious surface area	50%

#### **7.5.4.4 ZONE SPECIFIC DEVELOPMENT STANDARDS (BVF)**

Uses in the BVF District must conform to the following standards in addition to the Space and Bulk Standards:

**7.5.4.4.1** The creation of new residential lots fronting on Country Club Road is prohibited unless the Planning Board finds that the size, shape or physical characteristics of the site make this layout the most reasonable alternative. New residential lots should have their road frontage and vehicular access from interior roads when feasible.

**7.5.4.4.2** Single-family homes that are served by public sewer and year-round public water may be located on lots with a minimum developable lot area of at least four thousand (4,000) square feet and a minimum of sixty (60) feet of road frontage.

**7.5.4.4.3** Except for one-bedroom units with less than eight hundred (800) square feet of floor area, a dwelling unit in a two-family or multifamily dwelling or in a mixed-use building that is served by public sewer and year-round public water shall be allowed at a density of one dwelling unit per four thousand (4,000) square feet of net developable lot area. A dwelling unit with one bedroom in a two-family or multifamily dwelling or in a mixed use building that is served by public sewer and year-round public water shall be allowed at a density of one dwelling unit per two thousand five hundred (2,500) square feet of net developable lot area as long as the dwelling unit has less than eight hundred (800) square feet of floor area.

**7.5.4.4.4** Residential subdivisions and developments with multiunit housing should be developed as planned developments in accordance with the provisions of \_\_\_\_\_.

**7.5.4.4.5** Any new nonresidential use with frontage on Country Club Road must establish and maintain a vegetated buffer strip at least fifteen (15) feet in width along the Country Club Road frontage. The buffer strip shall meet the requirements of \_\_\_\_\_.

#### **7.5.4.5 PERFORMANCE STANDARDS FOR SPECIFIC USES (BVF)**

Section 11 Performance Standards for Specific Uses establishes additional requirements for a group of specific uses. If any of those uses are proposed, the activity must comply with those standards in addition to the standards of this section.

#### **7.5.4.6 OTHER PERFORMANCE STANDARDS (BVF)**

In addition to the standards of this section, activities must also comply with the applicable standards of the General Performance Standards of Section 8, the Environmental Performance Standards of Section 9, and the Good Neighbor Performance Standards of Section 10.

## 7.5.5 Boothbay Village Mixed-Use District (BVMU)

### 7.5.5.1 PURPOSE (BVMU)

The Boothbay Village Mixed-Use District is intended to allow the portion of the Route 27 corridor on the northerly approach to the Boothbay Village Center to evolve into an attractive gateway to the Village Center while it continues to be an area with a mix of uses including auto-orientated uses that are not appropriate in the Village Center. Over time, uses that involve the handling or storage of petroleum or other chemicals are phased out, and the visual environment of this portion of the corridor improves as do provisions for access and stormwater management. Since much of this area has access to the public sewer system and is served by year-round public water, a variety of higher density housing is allowed in master planned residential developments potentially increasing the range of housing options available in Boothbay.

### 7.5.5.2 ALLOWED USES (BVMU)

The uses allowed in the Boothbay Village Mixed-Use (BVMU) District are shown in the Table of Land Uses in Section 7.6. If the use is allowed in the district, the table also indicates if a review is required for the use. If review is required, the procedures and standards for each type of review are set out in Section 5. A portion of the BVMU District is located within the watershed of Adams Pond and is therefore subject to the provisions of the Watershed Protection Overlay (WPO) District. These provisions modify the allowed uses shown in the Table of Land Uses.

### 7.5.5.3 SPACE AND BULK STANDARDS (BVMU)

<b>7.5.5.3.1</b>	Minimum developable lot area	Residential – 40,000 SF or 10,000 SF as part of a master planned development in accordance with 7.5.5.4.1 – Nonresidential – 20,000 SF or 10,000 SF with public sewer and year-round public water
<b>7.5.5.3.2</b>	Minimum net developable lot area per dwelling unit	40,000 SF or 10,000 SF as part of a master planned development in accordance with 7.5.5.4.1
<b>7.5.5.3.3</b>	Minimum lot width	100 feet
<b>7.5.5.3.4</b>	Minimum road setback	State - 50 feet Town – 33 feet Private way – 8 feet

		from the closest edge of the R-O-W
<b>7.5.5.3.5</b>	Maximum road setback	None
<b>7.5.5.3.6</b>	Minimum side property line setback	10 feet
<b>7.5.5.3.7</b>	Minimum rear property line setback	20 feet
<b>7.5.5.3.8</b>	Maximum building height	34 feet
<b>7.5.5.3.9</b>	Maximum impervious surface area	20% for residential uses that are not part of a master planned development in accordance with 7.5.5.4.1 – 40% for nonresidential uses and residential uses that are part of a master planned development in accordance with 7.5.5.4.1

#### **7.5.5.4 ZONE SPECIFIC DEVELOPMENT STANDARDS (BVMU)**

Uses in the BVMU District must conform to the following standards if applicable in addition to the Space and Bulk Standards:

**7.5.5.4.1** A property may be developed as a master planned development utilizing the alternative development standards set forth in **7.5.5.3** if the project meets all of the following additional requirements and is approved by the Planning Board in accordance with the applicable provisions of Section 5:

**7.5.5.4.1.1** The master plan addresses the development of a lot or portion of a lot that includes a minimum of five (5) acres or will result in the construction of ten (10) or more dwelling units.

**7.5.5.4.1.2** The master planned development will be served by the public sewer system.

**7.5.5.4.1.3** The master planned development will be served by the year-round public water system.

**7.5.5.4.1.4** The master planned development will be accessed from a public road via a road(s) that meets the road construction and stormwater management standards in effect at the time of approval of the project.

**7.5.5.4.1.5** The development shall be designed and constructed to limit the export of phosphorous from the area included in the master plan and any new or upgraded roads outside of the area included in the master plan. Phosphorous export shall be limited to the maximum allocation per acre established for Adams Pond in Appendix C Per Acre Phosphorous Allocations for Selected Maine Lakes in Volume II Phosphorous Control Manual of the



Maine Stormwater Management Design Manual. The calculation of phosphorous export shall be done in accordance with the procedures for determining phosphorous export in lake watersheds established by the Maine Department of Environmental Protection in the Volume II of the Stormwater Management Design Manual.

**7.5.5.4.1.6** The project will include a stormwater facility maintenance plan establishing a schedule for the regular inspection of all active stormwater BMPs within the development and for the maintenance and repair of the BMPs to assure that they function as designed.

**7.5.5.4.1.7** If any portion of the site is proposed to be left as open space to meet the phosphorous export limit, the development approval shall include permanent restrictions on the future use and development of this open space.

**7.5.5.4.2** A dwelling unit in a master planned development with one bedroom in a two-family or multifamily dwelling or in a mixed use building that is served by public sewer and year-round public water shall be allowed at a density of one dwelling unit per five thousand (5,000) square feet of net developable lot area as long as the dwelling unit has less than eight hundred (800) square feet of floor area.

**7.5.5.4.3** Any multifamily residential unit or nonresidential use that is served by a subsurface wastewater disposal system shall be limited to a maximum sewage flow of three hundred (300) gallons per day based on the design sewage flows set forth in the State of Maine rules for subsurface wastewater sewage disposal systems.

**7.5.5.4.4** Any new nonresidential use with frontage on Route 27 must establish and maintain a landscaped buffer strip at least ten (10) feet in width along the Route 27 frontage. The buffer strip shall meet the requirements of \_\_\_\_\_.

**7.5.5.4.5** Parking for nonresidential uses must be located to the side or rear of the principal building unless the Planning Board finds that this is not a reasonable requirement given the size, shape or physical characteristics of the site. If the Planning Board allows parking in front of the principal building, it must be designed to prevent the need to back into the road.

**7.5.5.4.6** Notwithstanding the allowed uses listed in the Table of Land Uses in Section 7.6, no new uses shall be permitted in the district that handle or store commercial volumes of materials that have the potential for contaminating the groundwater including fuels, chemicals, or solvents. For the purpose of this provision, commercial volume shall mean a volume greater than that normally stored or used on a similar sized premise for routine building operation and maintenance.

**7.5.5.4.7** Any existing use that handles or uses commercial volumes of materials that have the potential for contaminating the groundwater including fuels, chemicals, and solvents must provide for the safe handling and storage of these materials if any enlargement or change in the use is proposed in accordance with the provisions of the Watershed Overlay District.

#### **7.5.5.5 PERFORMANCE STANDARDS FOR SPECIFIC USES (BVMU)**

Section 11 Performance Standards for Specific Uses establishes additional requirements for a group of specific uses. If any of those uses are proposed, the activity must comply with those standards in addition to the standards of this section.

#### **7.5.5.6 OTHER PERFORMANCE STANDARDS (BVMU)**

In addition to the standards of this section, activities must also comply with the applicable standards of the General Performance Standards of Section 8, the Environmental Performance Standards of Section 9, and the Good Neighbor Performance Standards of Section 10.

#### **7.5.5.7 SHORELAND OVERLAY DISTRICT (BVMU)**

A portion of the BVMU District is subject to the additional requirements of the Shoreland Overlay District.

## 7.5.6 East Boothbay Village District (EBV)

### 7.5.6.1 PURPOSE (EBV)

The East Boothbay Village District is intended to allow East Boothbay to continue to evolve as a classic marine village with a mix of uses such as residential uses, small-scale retail, office, and service uses, and smaller-scale marine uses. Facilities for pedestrians and bicyclists are upgraded making this more of a pedestrian area and linking East Boothbay to Ocean Point and to the remainder of the peninsula. East Boothbay Village continues to be the heart of the East Boothbay community and is increasingly used for community activities. Over time, the buildings in the Village are improved and limited new development occurs that reinforces the role of the East Boothbay as a traditional marine village while protecting established residential uses.

### 7.5.6.2 ALLOWED USES (EBV)

The uses allowed in the East Boothbay Village (EBV) District are shown in the Table of Land Uses in Section 7.6. Retail and restaurant uses are allowed only on lots with frontage on Ocean Point Road and School Street. Commercial uses allowed in the district are limited to a maximum of two-thousand five hundred (2,500) square feet of gross floor area unless the Planning Board determines that a larger occupancy will be compatible with and contribute to a pedestrian focused village environment. If the use is allowed in the district, the table also indicates if a review is required for the use. If review is required, the procedures and standards for each type of review are set out in Section 5.

### 7.5.6.3 SPACE AND BULK STANDARDS (EBV)

<b>7.5.6.3.1</b>	Minimum developable lot area	Residential - 20,000 SF Nonresidential - 20,000 SF
<b>7.5.6.3.2</b>	Minimum net developable lot area per dwelling unit	20,000 SF – See 7.5.6.4.1
<b>7.5.6.3.3</b>	Minimum lot width	50 feet
<b>7.5.6.3.4</b>	Minimum road setback	10 feet from property line
<b>7.5.6.3.5</b>	Maximum road setback	See 7.5.6.4.2
<b>7.5.6.3.6</b>	Minimum side property line setback	10 feet
<b>7.5.6.3.7</b>	Minimum rear property line setback	20 feet
<b>7.5.6.3.8</b>	Maximum building height	34 feet – the maximum height for marine-related uses may be up to 45 feet in accordance with 7.5.6.4.8.
<b>7.5.6.3.9</b>	Maximum impervious surface area	40%
<b>7.5.6.3.10</b>	Minimum shoreland setback	Great ponds &

		associated wetlands – 100 feet Other resources – 50 feet
<b>7.5.6.3.11</b>	Minimum shoreland frontage - tidal	Residential – 100 feet Nonresidential – 100 feet
<b>7.5.6.3.12</b>	Minimum shoreland frontage – non-tidal	Residential – 100 feet Nonresidential – 100 feet

**7.5.6.4 ZONE SPECIFIC DEVELOPMENT STANDARDS (EBV)**

Uses in the EBV District must conform to the following standards in addition to the Space and Bulk Standards:

**7.5.6.4.1** Buildings in existence on the date of the adoption of this section may fully utilize the gross habitable floor area of the building existing as of that date for residential uses or a mixed of residential and commercial uses without needing to meet the minimum lot area requirements of 7.5.6.3.1 and 7.5.6.3.2 provided that the sewage disposal system conforms to state requirements for the proposed occupancy. In addition the use must meet the parking requirements.

**7.5.6.4.2** New buildings or modifications to existing buildings that increase the gross floor area by more than fifty percent (50%) shall be sited to maintain the established pattern of setbacks existing on the same side of the street for up to three lots in either direction to the extent feasible with the reasonable use of the site.

**7.5.6.4.3** New buildings and expansions of existing buildings that increase the gross floor area by more than fifty percent (50%) shall be designed in a manner that reinforces the New England village character of the district. This shall include the use where practical of pitched or shed roofs, traditional siding or materials that simulate traditional siding and windows with a vertical orientation in which the height exceeds the width of the window.

**7.5.6.4.4** Nonresidential buildings must be designed so that the main entrance is located and designed to promote pedestrian movement. If there is a sidewalk or other pedestrian way along the frontage of the lot, there must be a pedestrian connection between the sidewalk and the main entrance of the building.

**7.5.6.4.5** The space between the road right-of-way and the front wall of the building must be maintained as a lawn or landscaped area or as a pedestrian environment. No vehicular or service facilities or areas shall be located in this area.

**7.5.6.4.6** Parking and service areas must be located to the side or rear of the principal building. No parking shall be permitted in area in front of the front wall of the principal building for the full width of the lot.

**7.5.6.4.7** Any proposal or the establishment or expansion of maritime activities must prepare and submit as part of their application for approval a neighborhood mitigation plan that documents how the facility will be designed and operated to minimize the adverse impacts on adjacent residential properties. This plan must address traffic and parking, buffering, and nuisance considerations including noise, exterior lighting, dust and fumes.

**7.5.6.4.8** The maximum building height for a marine-related nonresidential building may exceed thirty-four (34) feet up to a maximum of forty-five (45) feet if all of the following are met:

**7.5.6.4.8.1** The increased height of the building is approved in writing by the Fire Chief; and

**7.5.6.4.8.2** The area of the building above thirty-four (34) feet is not habitable space; and

**7.5.6.4.8.3** The building will setback from all side and rear property lines a minimum of twenty (20) feet.

#### **7.5.6.5 PERFORMANCE STANDARDS FOR SPECIFIC USES (EBV)**

Section 11 Performance Standards for Specific Uses establishes additional requirements for a group of specific uses. If any of those uses are proposed, the activity must comply with those standards in addition to the standards of this section.

#### **7.5.6.6 OTHER PERFORMANCE STANDARDS (EBV)**

In addition to the standards of this section, activities must also comply with the applicable standards of the General Performance Standards of Section 8, the Environmental Performance Standards of Section 9, and the Good Neighbor Performance Standards of Section 10.

#### **7.5.6.7 SHORELAND OVERLAY DISTRICT (EBV)**

A portion of the EBV District is subject to the additional requirements of the Shoreland Overlay District.

## 7.5.7 Scenic Gateway District (SG)

### 7.5.7.1 PURPOSE (SG)

The Scenic Gateway District is intended to manage development in the Route 27 corridor from the Edgecomb town line to the intersection with Hardwick Road so that it continues to be an attractive and scenic entrance to Boothbay and the Boothbay-Boothbay Harbor region while the Route 96 corridor from the Boothbay Harbor town line to the intersection with Ship Builder Lane continues to provide separation between East Boothbay village and the commercial development in Boothbay Harbor and reinforces East Boothbay's image as a traditional coastal village. This corridor continues to be an attractive and scenic entrance to East Boothbay and Ocean Point. The character of these two portions of these corridors continues to appear to be primarily rural and undeveloped. New buildings have a small, rural character and are well set back from the road. A vegetated buffer is maintained along the road to enhance the visual character of the roadway and to soften the appearance of buildings that are visible from the road.

### 7.5.7.2 ALLOWED USES (SG)

The uses allowed in the Scenic Gateway (SG) District are shown in the Table of Land Uses in Section 7.6. Allowed retail, restaurant, office and service uses are limited to a maximum of five thousand (5,000) square feet of gross floor area unless the Planning Board as part of the approval process determines that a larger building can be designed and sited to maintain the rural, scenic character of the corridor. Allowed uses indicated by footnote 10 in the Table of Land Uses in Section 7.6 are permitted only if they are located a minimum of one hundred (100) feet from the Route 27 or Route 96 right-of-way and are screened from view from the road. If the use is allowed in the district, the table also indicates if a review is required for the use. If review is required, the procedures and standards for each type of review are set out in Section 5.

### 7.5.7.3 SPACE AND BULK STANDARDS (SG)

<b>7.5.7.3.1</b>	Minimum developable lot area	Residential - 40,000 SF – See 7.5.7.4.1 Nonresidential - 80,000 SF –
<b>7.5.7.3.2</b>	Minimum net developable lot area per dwelling unit	40,000 SF – See 7.5.7.4.1
<b>7.5.7.3.3</b>	Minimum lot width	State – 200 feet Other – 100 feet
<b>7.5.7.3.4</b>	Minimum road setback	State - 75 feet Town – 33 feet Private way – 8 feet from the closest edge of the R-O-W
<b>7.5.7.3.5</b>	Maximum road setback	None

<b>7.5.7.3.6</b>	Minimum side property line setback	Residential - 20 feet Nonresidential 30 feet – See 7.5.7.4.4
<b>7.5.7.3.7</b>	Minimum rear property line setback	20 feet
<b>7.5.7.3.8</b>	Maximum building height	34 feet – The maximum height for nonresidential or mixed-use buildings may be up to 45 feet in accordance with 7.5.7.4.5.
<b>7.5.7.3.9</b>	Maximum impervious surface area	30%
<b>7.5.7.3.10</b>	Minimum shoreland setback	Great ponds & associated wetlands – 100 feet Other resources – 75 feet
<b>7.5.7.3.11</b>	Minimum shoreland frontage - tidal	Residential – 150 feet Nonresidential – 200 feet
<b>7.5.7.3.12</b>	Minimum shoreland frontage – non-tidal	Residential – 200 feet Nonresidential – 300 feet

#### **7.5.7.4 ZONE SPECIFIC DEVELOPMENT STANDARDS (SG)**

Uses in the SG District must conform to the following standards in addition to the Space and Bulk Standards:

**7.5.7.4.1** New residential lots that are within two hundred feet of the R-O-W of Route 27 must have minimum developable area and developable area per dwelling unit of sixty (60,000) square feet. To compensate for the additional size of these lots, lots created out of the same parent parcel or that are part of the same subdivision and more than two hundred (200) feet from Route 27 can be as small as thirty thousand (30,000) square feet as long as the average lot area for all lots created out of the parent parcel or in the subdivision is at least forty thousand (40,000) square feet.

**7.5.7.4.2** Any new nonresidential use with frontage on Route 27 or Route 96 must establish and maintain a landscaped buffer strip at least fifty (50) feet in width along the Route 27/96 frontage. The buffer strip shall meet the requirements of \_\_\_\_\_.

**7.5.7.4.3** Uses identified in 7.6 Table of Land Uses by Note 10 shall comply with the following additional standards:

**7.5.7.4.3.1** All buildings, structures, parking lots, storage areas/facilities and similar improvements shall be located a minimum of one hundred fifty (150) from the centerline of Routes 27 or 96.

**7.5.7.4.3.2** The Planning Board may allow buildings, structures, parking lots, storage areas/facilities or similar improvements to be located closer to Route 27 or Route 196 if it finds that the shape or topography of the lot, existing vegetation, or the presence of existing or proposed building will effectively buffer these improvements from Route 27 or Route 96.

**7.5.7.4.3.3** All improvements shall be located on the lot to minimize their visibility from Route 27 or Route 96.

**7.5.7.4.3.4** If any improvements are or will be visible from Route 27 or Route 96, a natural or landscaped buffer meeting the requirements of \_\_\_\_\_ shall be established and maintained.

**7.5.7.4.4** Lots in a residential subdivision approved after the date of adoption of this section must have their required lot frontage on a road other than Route 27 or Route 96 unless the Planning Board determines that this is not feasible given the size, shape or physical characteristics of the parcel being subdivided.

**7.5.7.4.5** The minimum side setback for nonresidential uses is thirty (30) feet. If the lot used for nonresidential purposes abuts a lot in residential use, a vegetated buffer strip at least twenty (20) feet in width meeting the requirements of Section \_\_\_\_ shall be established or maintained adjacent to all residential structures.

**7.5.7.4.6** The maximum building height for a nonresidential or mixed-use building may exceed thirty-four (34) feet up to a maximum of forty-five (45) feet if all of the following are met:

**7.5.7.4.6.1** The increased height of the building is approved in writing by the Fire Chief; and

**7.5.7.4.6.2** The area of the building above thirty-four (34) feet is not habitable space; and

**7.5.7.4.6.3** The building will setback from all side and rear property lines a minimum of forty-five (45) feet.

#### **7.5.7.5 PERFORMANCE STANDARDS FOR SPECIFIC USES (SG)**

Section 11 Performance Standards for Specific Uses establishes additional requirements for a group of specific uses. If any of those uses are proposed, the activity must comply with those standards in addition to the standards of this section.

#### **7.5.7.6 OTHER PERFORMANCE STANDARDS (SG)**

In addition to the standards of this section, activities must also comply with the applicable standards of the General Performance Standards of Section 8, the Environmental Performance Standards of Section 9, and the Good Neighbor Performance Standards of Section 10.

#### **7.5.7.7 SHORELAND OVERLAY DISTRICT (SG)**

A portion of the SG District is subject to the additional requirements of the Shoreland Overlay District.



## 7.5.8 Rural Mixed-Use District (RMU)

### 7.5.8.1 PURPOSE (RMU)

The Rural Mixed-Use District is intended to manage development so that the portions of Boothbay that are away from the coast and the major roads remain primarily open, rural areas with limited development. Small-scale rural and nonresidential enterprises are allowed in these areas over time but are done in a way that maintains the rural landscape.

### 7.5.8.2 ALLOWED USES (RMU)

The uses allowed in the Rural Mixed-Use (RMU) District are shown in the Table of Land Uses in Section 7.6. If the use is allowed in the district, the table also indicates if a review is required for the use. If review is required, the procedures and standards for each type of review are set out in Section 5. A portion of the RMU District is located within the watersheds of Adams Pond and the Knickerbocker Lakes and is therefore subject to the provisions of the Watershed Protection Overlay (WPO) District. These provisions modify the allowed uses shown in the Table of Land Uses.

### 7.5.8.3 SPACE AND BULK STANDARDS (RMU)

<b>7.5.8.3.1</b>	Minimum developable lot area	Residential-30,000 SF Nonresidential - See 7.5.8.3.1
<b>7.5.8.3.2</b>	Minimum net developable lot area per dwelling unit	25,000 SF
<b>7.5.8.3.3</b>	Minimum lot width	125 feet
<b>7.5.8.3.4</b>	Minimum road setback	State - 75 feet Town – 60 feet Private way – 8 feet from the closest edge of the R-O-W
<b>7.5.8.3.5</b>	Maximum road setback	None
<b>7.5.8.3.6</b>	Minimum side property line setback	Residential - 20 feet Nonresidential -See 7.5.8.4.3
<b>7.5.8.3.7</b>	Minimum rear property line setback	Residential - 20 feet Nonresidential -See 7.5.8.4.3
<b>7.5.8.3.8</b>	Maximum building height	34 feet
<b>7.5.8.3.9</b>	Maximum impervious surface area	30%
<b>7.5.8.3.10</b>	Minimum shoreland setback	Great ponds & associated wetlands – 100 feet Other resources – 75 feet

<b>7.5.8.3.11</b>	Minimum shoreland frontage - tidal	Residential – 150 feet Nonresidential – 200 feet
<b>7.5.8.3.12</b>	Minimum shoreland frontage – non-tidal	Residential – 200 feet Nonresidential – 300 feet

#### **7.5.8.4 ZONE SPECIFIC DEVELOPMENT STANDARDS (RMU)**

Uses in the RMU District must conform to the following standards in addition to the Space and Bulk Standards:

**7.5.8.4.1** A lot that is used for a nonresidential use must have a minimum developable area of twenty thousand (20,000) square feet and conform to the maximum building area requirement of 7.5.8.4.2.

**7.5.8.4.2** The gross floor area of all buildings used for nonresidential purposes shall be less than ten percent (10%) of the developable lot area of the lot on which it is located.

**7.5.8.4.3** The side and rear setbacks for buildings used for nonresidential purposes shall be determined by the height of the tallest nonresidential building located within one hundred (100) feet of the property line as follows:

**7.5.8.4.3.1** If the tallest building is less than twenty (20) feet high, the minimum side and rear setbacks are forty (40) feet

**7.5.8.4.3.1** If the tallest building is less than twenty-five (25) feet high, the minimum side and rear setbacks are fifty (50) feet

**7.5.8.4.3.1** If the tallest building is less than thirty (30) feet high, the minimum side and rear setbacks are sixty (60) feet

**7.5.8.4.3.1** If the tallest building is less than thirty-four (34) feet high, the minimum side and rear setbacks are seventy (70) feet

**7.5.8.4.4** The total number of vehicle trips per day in association with a nonresidential use shall not exceed one hundred (100). Trips by vehicles with six (6) or more wheels shall not exceed ten (10) trips per day.

#### **7.5.8.5 PERFORMANCE STANDARDS FOR SPECIFIC USES (RMU)**

Section 11 Performance Standards for Specific Uses establishes additional requirements for a group of specific uses. If any of those uses are proposed, the activity must comply with those standards in addition to the standards of this section.

#### **7.5.8.6 OTHER PERFORMANCE STANDARDS (RMU)**

In addition to the standards of this section, activities must also comply with the applicable standards of the General Performance Standards of Section 8, the Environmental Performance Standards of Section 9, and the Good Neighbor Performance Standards of Section 10.

#### **7.5.8.7 SHORELAND OVERLAY DISTRICT (RMU)**

A portion of the RMU District is subject to the additional requirements of the Shoreland Overlay District.

## 7.5.9 Commercial Corridor District (CC)

### 7.5.9.1 PURPOSE (CC)

The Commercial Corridor District is intended to allow this portion of the Route 27 corridor to continue to develop as a commercial center including larger-scale commercial uses that are not appropriate in other portions of the Route 27 corridor. Over time, the visual environment of this portion of the corridor improves as do provisions for access and stormwater management.

### 7.5.9.2 ALLOWED USES (CC)

The uses allowed in the Commercial Corridor (CC) District are shown in the Table of Land Uses in Section 7.6. If the use is allowed in the district, the table also indicates if a review is required for the use. If review is required, the procedures and standards for each type of review are set out in Section 5. A portion of the CC District is located within the watershed of Adams Pond and is therefore subject to the provisions of the Watershed Protection Overlay (WPO) District. These provisions modify the allowed uses shown in the Table of Land Uses.

### 7.5.9.3 SPACE AND BULK STANDARDS (CC)

<b>7.5.9.3.1</b>	Minimum developable lot area	40,000 SF
<b>7.5.9.3.2</b>	Minimum net developable lot area per dwelling unit	40,000 SF
<b>7.5.9.3.3</b>	Minimum lot width	100 feet
<b>7.5.9.3.4</b>	Minimum road setback	State - 75 feet Town – 60 feet Private way – 8 feet from the closest edge of the R-O-W
<b>7.5.9.3.5</b>	Maximum road setback	None
<b>7.5.9.3.6</b>	Minimum side property line setback	20 feet
<b>7.5.9.3.7</b>	Minimum rear property line setback	20 feet
<b>7.5.9.3.8</b>	Maximum building height	50 feet for any portion of the building that meets all setback requirements 34 feet for any portion of the building that does not meet all setback requirements
<b>7.5.9.3.9</b>	Maximum impervious surface area	60%

### 7.5.9.4 ZONE SPECIFIC DEVELOPMENT STANDARDS (CC)

Uses in the CC District must conform to the following standards in addition to the Space and Bulk Standards:

**7.5.9.4.1** Any new use or development or any activity that expands the gross floor area of an existing building by more than fifty percent (50%) shall establish a landscaped buffer strip along the property line with any public street. The buffer strip shall be a minimum of ten (10) feet in width and shall meet the requirements of \_\_\_\_\_.

**7.5.9.4.1** Any non-residential building or use that is on a lot that abuts a lot that is located in a residential or mixed-use district shall maintain a landscaped buffer strip along that property line in accordance with the provisions of \_\_\_\_\_. The width of the buffer strip shall be determined by the height of the principal structure closest to the property line. For buildings with a height of twenty (20) feet or less, the width of the buffer strip shall be twenty (20) feet. For buildings taller than twenty (20) feet, the width of the buffer strip shall be the equivalent of the height of the building.

#### **7.5.9.5 PERFORMANCE STANDARDS FOR SPECIFIC USES (CC)**

Section 11 Performance Standards for Specific Uses establishes additional requirements for a group of specific uses. If any of those uses are proposed, the activity must comply with those standards in addition to the standards of this section.

#### **7.5.9.6 OTHER PERFORMANCE STANDARDS (CC)**

In addition to the standards of this section, activities must also comply with the applicable standards of the General Performance Standards of Section 8, the Environmental Performance Standards of Section 9, and the Good Neighbor Performance Standards of Section 10.

**7.5.10 Manufacturing/Business District (MB)**

**7.5.10.1 PURPOSE (MB)**

The Manufacturing/Business District is intended to allow the area in and around the current industrial park to continue to develop as a location for a wide range of nonresidential uses. Over time, the type of businesses located in this area evolves into businesses that provide well-paying jobs while expanding the Town’s tax base.

**7.5.10.2 ALLOWED USES (MB)**

The uses allowed in the Manufacturing/Business (MB) District are shown in the Table of Land Uses in Section 7.6. If the use is allowed in the district, the table also indicates if a review is required for the use. If review is required, the procedures and standards for each type of review are set out in Section 5.

**7.5.10.3 SPACE AND BULK STANDARDS (MB)**

<b>7.5.10.3.1</b>	Minimum developable lot area	20,000 SF with year-round public water and public sewer otherwise 40,000 SF
<b>7.5.10.3.2</b>	Minimum net developable lot area per dwelling unit	NA
<b>7.5.10.3.3</b>	Minimum lot width	100 feet
<b>7.5.10.3.4</b>	Minimum road setback	State – 75 feet Town – 8 feet from the edge of the R-O-W of the Industrial Park Road otherwise 33 feet for other Town roads Private way – 8 feet from the closest edge of the R-O-W
<b>7.5.10.3.5</b>	Maximum road setback	None
<b>7.5.10.3.6</b>	Minimum side property line setback	10 feet
<b>7.5.10.3.7</b>	Minimum rear property line setback	10 feet
<b>7.5.10.3.8</b>	Maximum building height	The maximum height of all structures and accessory support equipment shall be 50 feet provided that the building or structure conforms to all setback requirements otherwise 34 feet. This limitation shall

		not apply to antennas, chimneys and communication towers.
<b>7.5.10.3.9</b>	Maximum impervious surface area	100%

**7.5.10.4 ZONE SPECIFIC DEVELOPMENT STANDARDS (MB)**

Uses in the MB District must conform to the following standards in addition to the Space and Bulk Standards:

**7.5.10.4.1** Buffers - Any non-residential building or use that is on a lot that abuts a lot that is located in a residential or mixed-use district shall maintain a landscaped buffer strip at least forty (40) feet in width along that property line in accordance with the provisions of \_\_\_\_.

**7.5.10.4.2** Educational Facilities - Educational Facilities shall be limited to vocational training.

**7.5.10.4.3** Function Rooms - Function Rooms where the use includes the participation of persons other than the owner, employees or customers shall be permitted only as an accessory use.

**7.5.10.4.4** Access to Residential Lots - Access to residential lots shall not be permitted via Industrial Park Road.

**7.5.10.4.5** Sex Related Businesses - Sex Related Businesses shall be located at least one thousand (1,000) feet from Route 27 and Pension Ridge Road.

**7.5.10.4.6** Existing Sewage Disposal Facilities - Existing properties using subsurface wastewater disposal facilities within the MB District shall be connected to a public sewer when the current sewage disposal system fails if the sewer is located within two hundred (200) feet of the lot.

**7.5.10.4.6** Sewage Disposal for New Buildings - New buildings in the MB District shall connect to the public sewer system if the sewer is located within two hundred (200) feet of the lot.

**7.5.10.4.7** Temporary Business Housing - The Planning Board may approve the construction of a dwelling unit as an accessory use for short term housing.

Temporary Business Housing shall meet the following standards:

- A. The owners, employees, contractors, and customers of the principal use are the only persons authorized to use the dwelling unit;
- B. Occupancy shall only occur in connection with a project currently being worked on or during negotiations for a future project;
- C. Occupancy per use shall be for a maximum of one year or the duration of the project whichever is longer;
- D. The number of occupants is limited to two adults;
- E. Only one dwelling unit shall be permitted on a lot;
- F. The dwelling unit shall not be in a separate structure; and
- G. Two ways to enter/exit the dwelling unit shall be provided.

**7.5.10.5 PERFORMANCE STANDARDS FOR SPECIFIC USES (MB)**

Section 11 Performance Standards for Specific Uses establishes additional requirements for a group of specific uses. If any of those uses are proposed, the activity must comply with those standards in addition to the standards of this section.

**7.5.10.6 OTHER PERFORMANCE STANDARDS (MB)**

In addition to the standards of this section, activities must also comply with the applicable standards of the General Performance Standards of Section 8, the Environmental Performance Standards of Section 9, and the Good Neighbor Performance Standards of Section 10.



## 7.5.11 Marine Commercial District (MC)

### 7.5.11.1 PURPOSE (MC)

The Maritime Commercial District continues to support a variety of marine activities that serve as an employment center for the community. As needed, the marine-related uses expand especially along the waterfront south of School Street where the topography allows for this growth without encroaching on the village. If expansion occurs, development is carried out in a manner that effectively buffers it from the adjacent neighborhood.

### 7.5.11.2 ALLOWED USES (MC)

The uses allowed in the Marine Commercial (MC) District are shown in the Table of Land Uses in Section 7.6. If the use is allowed in the district, the table also indicates if a review is required for the use. If review is required, the procedures and standards for each type of review are set out in Section 5.

### 7.5.11.3 SPACE AND BULK STANDARDS (MC)

<b>7.5.11.3.1</b>	Minimum developable lot area	Marine and functionally water dependent uses – none Other uses – 20,000 SF
<b>7.5.11.3.2</b>	Minimum net developable lot area per dwelling unit	30,000 SF
<b>7.5.11.3.3</b>	Minimum lot width	50 feet
<b>7.5.11.3.4</b>	Minimum road setback	State – 25 feet except from Route 96 (see 7.5.11.4.3) Town – 25 feet
<b>7.5.11.3.5</b>	Maximum road setback	See 7.5.11.4.3
<b>7.5.11.3.6</b>	Minimum side property line setback	10 feet (See 7.5.11.4.1 and 7.5.11.4.2)
<b>7.5.11.3.7</b>	Minimum rear property line setback	20 feet (See 7.5.11.4.1 and 7.5.11.4.2)
<b>7.5.11.3.8</b>	Maximum building height	See 7.5.11.4.4
<b>7.5.11.3.9</b>	Maximum impervious surface area	Marine and functionally water dependent use – 70% Other uses – 30%
<b>7.5.11.3.10</b>	Minimum shoreland setback	Marine related activities – None Other activities – 25

		feet
<b>7.5.11.3.11</b>	Minimum shoreland frontage - tidal	Residential – 150 feet Nonresidential – 100 feet
<b>7.5.11.3.12</b>	Minimum shoreland frontage – non-tidal	Residential – 150 feet Nonresidential – 200 feet

#### **7.5.11.4 ZONE SPECIFIC DEVELOPMENT STANDARDS (MC)**

Uses in the MC District must conform to the following standards in addition to the Space and Bulk Standards:

**7.5.11.4.1** Any new non-residential building or use including parking or any expansion of an existing nonresidential building or use that increases the gross floor area or impervious surface area by more than fifty percent (50 %) that is on a lot that abuts a lot that is located in a residential or mixed-use district shall maintain a landscaped buffer strip at least forty (40) feet in width along that property line in accordance with the provisions of \_\_\_\_\_. The Planning Board may reduce the width of the buffer strip for uses that do not have significant impacts on adjacent properties.

**7.5.11.4.2** Any new or expanded marine use, or any new non-residential building or use including parking, or any expansion of an existing nonresidential building or use that increases the gross floor area or impervious surface area by more than fifty percent (50 %) that is on a lot that abuts a lot within the district that is used for residential purposes shall maintain a landscaped buffer strip at least twenty (20) feet in width along that property line in accordance with the provisions of \_\_\_\_\_. The Planning Board may reduce the width of the buffer strip for uses that do not have significant impacts on adjacent properties.

**7.5.11.4.3** New buildings or modifications to existing buildings located on lots that front on Route 96 that increase the gross floor area by more than fifty percent (50%) shall be sited to maintain the established pattern of setbacks and height existing on the same side of the street for up to three lots in either direction to the extent feasible with the reasonable use of the site. This requirement shall not apply to marina or maritime activities that require a location close to the shoreline.

**7.5.11.4.4** The maximum height of any structure or portion of a structure located within one hundred (100) feet of the centerline of Route 96 shall be limited to thirty-four (34) feet. The maximum height of structures or portions of structures located more than one hundred (100) feet from the centerline of Route 96 shall be limited to thirty-four (34) feet except for structures used for maritime related businesses. The maximum height for any manufacturing facility for a maritime related business, where access to the water is an operational necessity, shall be seventy-five (75) feet. The maximum height for other maritime related businesses shall be fifty (50) feet. The above height limitations do not apply to chimneys, antennas, and communications towers. Equipment specifically associated with an

allowed use may be allowed to exceed the above height limitation with Planning Board approval.

**7.5.11.4.5 Temporary Business Housing** - The Planning Board may approve the construction of one or more dwelling unit as an accessory use for short term housing. Temporary Business Housing shall meet the following standards:

- A. The owners, employees, contractors, and customers of the principal business use are the only persons authorized to use the dwelling units;
- B. Occupancy shall only occur in connection with a project currently being worked on or during negotiations for a future project;
- C. Occupancy per use shall be for a maximum of the duration of the project; and
- D. Two ways to enter/exit each dwelling unit shall be provided.

**7.5.11.5 PERFORMANCE STANDARDS FOR SPECIFIC USES (MC)**

Section 11 Performance Standards for Specific Uses establishes additional requirements for a group of specific uses. If any of those uses are proposed, the activity must comply with those standards in addition to the standards of this section.

**7.5.11.6 OTHER PERFORMANCE STANDARDS (MC)**

In addition to the standards of this section, activities must also comply with the applicable standards of the General Performance Standards of Section 8, the Environmental Performance Standards of Section 9, and the Good Neighbor Performance Standards of Section 10.

**7.5.11.7 SHORELAND OVERLAY DISTRICT (MC)**

A portion of the MC District is subject to the additional requirements of the Shoreland Overlay District.

### 7.5.13 Water Reservoirs Protection – Route 27 District (WRP-27)

#### 7.5.13.1 PURPOSE (WRP-27)

The Water Reservoirs Protection – Route 27 District includes the area on the easterly side of Route 27 that is within five hundred (500) feet of the high water line of Adams Pond or the upland boundary of associated wetlands. The goal of the district is to provide additional protection of nearshore areas to ensure the preservation of both the quality and quantity of the public water supply. The district standards limit development in this area to environmentally compatible uses while allowing for the development of new, small-scale uses and the reuse or redevelopment of existing developed lots provided that the activities meet the performance standards designed to reduce any potential negative impacts on watershed resources.

#### 7.5.13.2 ALLOWED USES (WRP-27)

The uses allowed in the Water Reservoirs Protection – Route 27 (WRP-27) District are shown in the Table of Land Uses in Section 7.6. If the use is allowed in the district, the table also indicates if a review is required for the use. If review is required, the procedures and standards for each type of review are set out in Section 5.

#### 7.5.13.3 SPACE AND BULK STANDARDS (WRP-27)

<b>7.5.13.3.1</b>	Minimum developable lot area	2 acres except for lots existing as of April 1, 2019
<b>7.5.13.3.2</b>	Minimum net developable lot area per dwelling unit	2 acres
<b>7.5.13.3.3</b>	Minimum lot width	150 feet
<b>7.5.13.3.4</b>	Minimum road setback	State - 50 feet Town – 33 feet Private way – 8 feet from the closest edge of the R-O-W
<b>7.5.13.3.5</b>	Maximum road setback	None
<b>7.5.13.3.6</b>	Minimum side property line setback	20 feet
<b>7.5.13.3.7</b>	Minimum rear property line setback	20 feet
<b>7.5.13.3.8</b>	Maximum building height	34 feet.
<b>7.5.13.3.9</b>	Maximum impervious surface area	20% of lot area or as approved by Planning Board in accordance with 7.5.13.4.3
<b>7.5.13.3.10</b>	Maximum area of lot that can be developed	20%; for existing lots less than one acre the PB may allow a greater percentage in accordance with

		7.5.13.4.3
<b>7.5.13.3.11</b>	Minimum shoreland setback	100 feet (See 7.5.13.4.1)
<b>7.5.13.3.12</b>	Minimum shoreland frontage	NA

**7.5.13.4 ZONE SPECIFIC DEVELOPMENT STANDARDS (WRP-27)**

Uses in the WRP-27 District must conform to the following standards in addition to the Space and Bulk Standards:

**7.5.13.4.1 Shoreland Setback:** The minimum shoreland setback requirement of 7.5.13.3.13 shall not apply to functionally water dependent fixtures owned and operated by a public utility which by functional necessity must be located closer to the water than the minimum setback otherwise allows. Functionally water-dependent fixtures include, but are not limited to, pumping stations, pumps, vaults, and hydrants and structures housing the same.

**7.5.13.4.2 Roads and Driveways:** New roads and driveways are prohibited except to provide access to permitted uses within the WRP-27 District. Construction of a new road or driveway must be approved by the Planning Board and must comply with the standards of **7.5.17.4.4** of the Shoreland Overlay District. The Planning Board shall approve such construction only if it determines that the road or driveway will be set back as far as feasible from all shorelines and will be located and designed to minimize the amount of clearing necessary.

**7.5.13.4.3 Maintenance or Increase of Impervious Surface Area:**

**7.5.13.4.3.1** Notwithstanding the provisions of **7.5.13.3**, the Planning Board shall allow the amount of impervious surface that exists as of the date of adoption of this ordinance that exceeds the applicable limitation to be maintained and to be improved provided the site conforms to the requirements of the WRP-27 District to the extent reasonable. Improvement of existing impervious surface may include the reconfiguration of the location of the impervious surface provided that the total impervious surface area is not increased.

**7.5.13.4.3.2** Notwithstanding the provisions of **7.5.13.3**, the Planning Board shall allow the amount of impervious surface on a lot existing as of April 1, 2019 with an area of less than one acre to exceed the twenty percent (20%) limitation if the Planning Board finds that there is no reasonable use of the property with the twenty percent (20%) limitation, the property shall be either connected to the public sewer system or served by a subsurface wastewater disposal system that conforms to the requirement of the state subsurface sewage disposal rules in effect at the time of the improvement; and a stormwater management plan meeting the requirements of **XX** has or will be implemented. The goal of the Planning Board in allowing such an increase is to minimize the amount of impervious surface and developed area within the WRPD-27 to the maximum extent feasible. In determining what is a reasonable use of the lot, the Planning Board shall consider site plan alternatives, the size of the lot, the slope of the land, the potential for soil

erosion, the location of structures on the property relative to streams and water courses, the use of low impact development best management practices in site development and stormwater management, and the presence of an adequate natural vegetative buffer between developed areas and waterways. The Planning Board shall not authorize an expansion of impermeable surface area of existing uses in the Water Reservoirs Protection – Route 27 District if the total impervious surface area of all lot areas located in the WRPD-27 is greater than twenty percent (20%).

**7.5.13.4.4 Subsurface Wastewater Disposal Systems:** New or replacement subsurface wastewater disposal system shall conform to the following additional requirements:

**7.5.13.4.4.1** No substances other than domestic wastewater shall be discharged to any subsurface waste water disposal system or any other means of on-site sewage disposal.

**7.5.13.4.4.2** Not more than one thousand (1000) gallons per day of sewage shall be discharged to any new subsurface wastewater disposal system.

**7.5.13.4.4.3** If a lot is served by an existing subsurface wastewater disposal system that:

- a. is more than twenty-five (25) years old or is of unknown age and the system is located within one hundred (100) feet of the high water line of Adams Pond or the upland edge of any wetland associated with Adams Pond, or
- b. is less than twenty-five (25) years old and the system is located within fifty (50) feet of Adams Pond or the upland edge of any wetland associated with Adams Pond,

the property owner shall enter into a septic system maintenance agreement with the Town as a condition of receiving any Town permits or approvals for modifications or expansions to the principal building(s) on the lot. The maintenance agreement shall set forth a schedule for the periodic pumping of the septic tank and maintenance of the system based upon the typical occupancy of the property and shall be approved by the Plumbing Inspector. The property owner shall be responsible for maintaining written records of the required maintenance and shall provide the records to the Plumbing Inspector upon request.

**7.5.13.4.5 Storage of Heating Oil:** The following additional performance standards apply to the storage of heating oil:

**7.5.13.4.5.1** All new heating oil tanks shall be located a minimum of one hundred fifty (150) feet from the high water line of Adams Pond or the upland edge of any wetland associated with Adams Pond and seventy-five (75) feet from any mapped watershed tributary stream. If the size, shape or physical conditions of the lot make it unreasonable to meet these setbacks, the Code Enforcement Officer may, after consultation with the Boothbay Region Water District, allow the tank to be located closer to the resource provided that all components of the system are

located as far from the resource as possible given the physical limitations of the lot.

**7.5.13.4.5.2** Any existing single-walled steel heating oil tank that is determined by the CEO to be more than fifteen (15) years old shall be tested once a year using an ultrasonic inspection test (TankSure or similar) and the results of the test provided to the CEO and the Boothbay Region Water District. If the testing company, based on the test results, recommends the repair or replacement of the storage tank, the owner of the tank shall repair or replace the tank within one hundred eighty (180 days) of the determination.

**7.5.13.4.6 Storage of Petroleum or Hazardous Liquids:** The storage of petroleum products or other hazardous liquids that are a potential threat to the quality of the public water supply shall occur on an impervious surface. If the storage is more than fifty-five gallons of any material, the storage shall be located within secondary containment with the capacity to hold one hundred percent (100%) of the amount of the stored material.

**7.5.13.4.7 Use of Fertilizer:** Fertilizer use within one hundred (100) feet of the high water line of Adams Pond and the upland edge of any wetland associated with Adams Pond and any mapped tributary stream shall be limited to manure or fertilizers containing slow-release nitrogen and zero phosphorous. This limitation shall not apply where there is a naturally vegetated buffer strip adjacent to the resource that meets the water supply buffer requirements and is at least fifty (50) feet in width.

**7.5.13.4.8 Use of Pesticides:** The following additional performance standards apply to the use of pesticides:

**7.5.13.4.8.1** Pesticide use within one hundred (100) feet of the high water line of Adams Pond and the upland edge of any wetland associated with Adams Pond and any mapped tributary stream shall be limited to applications in which the pesticide(s) is injected directly in the plant or adjacent soil. Broadcast application or spraying within this area is not permitted unless specifically approved in writing by the CEO and is limited to hand powered methods.

**7.5.13.4.8.2** The standards of the Maine Pesticides Control Board that apply within fifty (50) feet of a water resource shall apply within one hundred (100) feet of the high water line of Adams Pond and the upland edge of any wetland associated with Adams Pond and any mapped tributary stream.

**7.5.13.4.9 Reuse or Redevelopment of an Existing Developed Lot:** The limits on the size and intensity of a use set forth in the Table of Land Uses shall not apply to the reuse or expansion of a building existing as of the date of the adoption of this provision or to the redevelopment of a lot that was improved with one or more buildings and/or structures as of the date of adoption of this provision provided that all the following requirements are met:

**7.5.13.4.9.1** The total amount of impervious surface area located within the WRP-27 District after the improvement shall be equal to or less than the total impervious surface area existing as of the date of adoption of this provision;

**7.5.13.4.9.2** The property shall be either connected to the public sewer system or served by a subsurface wastewater disposal system that conforms to the requirement of the state subsurface sewage disposal rules in effect at the time of the improvement; and

**7.5.13.4.9.3** A stormwater management plan meeting the requirements of **XX** has or will be implemented.

**7.5.13.4.10 Snow Dumping:** No snow removed from a property located outside of the WRP-27 District shall be dumped on a lot located within the WRP-27 District.

**7.5.13.4.11 Steep Slopes:** New development is not permitted on sites with sustained slopes in excess of twenty percent (20%) if the lot is vacant with no principal structure.

#### **7.5.13.5 PERFORMANCE STANDARDS FOR SPECIFIC USES (WRP-27)**

Section 11 Performance Standards for Specific Uses establishes additional requirements for a group of specific uses. If any of those uses are proposed, the activity must comply with those standards in addition to the standards of this section.

#### **7.5.13.6 OTHER PERFORMANCE STANDARDS (WRP-27)**

Activities within the WRP-27 District are subject to the provisions of the Shoreland Overlay (SO) District. Activities must also comply with the applicable standards of the General Performance Standards of Section 8, the Environmental Performance Standards of Section 9, and the Good Neighbor Performance Standards of Section 10 in addition to the standards of this section.

#### **7.5.13.7 SHORELAND OVERLAY DISTRICT (WRP-27)**

The WRP-27 District is subject to the additional requirements of the Shoreland Overlay District.



## 7.5.14 Water Reservoirs Protection District (WRP)

### 7.5.14.1 PURPOSE (WRP)

The Water Reservoirs Protection District includes the area within five hundred feet of the high water line of Adams Pond (portion of Tax Map U-19) and Knickerbocker Lakes (portion of Tax Map R-4), the pond to the west of Adams Pond (portion of Tax Map R-4) and Knickerbocker Lake Marsh (portion of Tax Map R-4) excluding the area included in the WPR-27 District on the east side of Adams Pond. The goal of the district is to provide additional protection of nearshore areas to ensure the preservation of both the quality and quantity of the public water supply. The district standards limit development in this area to environmentally compatible uses.

### 7.5.14.2 ALLOWED USES (WRP)

The uses allowed in the Water Reservoirs Protection (WRP) District are shown in the Table of Land Uses in Section 7.6. If the use is allowed in the district, the table also indicates if a review is required for the use. If review is required, the procedures and standards for each type of review are set out in Section 5.

### 7.5.14.3 SPACE AND BULK STANDARDS (WRP)

<b>7.5.14.3.1</b>	Minimum developable lot area	4 acres w/o public sewer, 2 acres w/public sewer, except for lots existing as of April 1, 2019
<b>7.5.14.3.2</b>	Minimum net developable lot area per dwelling unit	4 acres w/o public sewer, 2 acres w/ public sewer
<b>7.5.14.3.3</b>	Minimum lot width	150 feet
<b>7.5.14.3.4</b>	Minimum road setback	State - 50 feet Town – 33 feet Private way – 8 feet from the closest edge of the R-O-W
<b>7.5.14.3.5</b>	Maximum road setback	None
<b>7.5.14.3.6</b>	Minimum side property line setback	20 feet
<b>7.5.14.3.7</b>	Minimum rear property line setback	20 feet
<b>7.5.14.3.8</b>	Maximum building height	34 feet
<b>7.5.14.3.9</b>	Maximum impervious surface area	20% of lot area or as approved by Planning Board in accordance with 7.5.14.4.3
<b>7.5.14.3.10</b>	Maximum area of lot that can be developed	20%; for existing lots less than one acre the PB may allow a greater percentage in

		accordance with 7.5.14.4.3
<b>7.5.14.3.11</b>	Minimum shoreland setback	100 feet (see 7.5.14.4.1
<b>7.5.14.3.12</b>	Minimum shoreland frontage	200 feet

#### **7.5.14.4 ZONE SPECIFIC DEVELOPMENT STANDARDS (WRP)**

Uses in the WRP District must conform to the following standards in addition to the Space and Bulk Standards:

**7.5.14.4.1 Shoreland Setback:** The minimum shoreland setback requirement of **7.5.14.3.12** shall not apply to functionally water dependent fixtures owned and operated by a public utility which by functional necessity must be located closer to the water than the minimum setback otherwise allows. Functionally water-dependent fixtures include, but are not limited to, pumping stations, pumps, vaults, and hydrants and structures housing the same.

**7.5.14.4.2 Roads and Driveways:** New roads and driveways are prohibited except to provide access to permitted uses within the WRP District. Construction of a new road or driveway must be approved by the Planning Board and must comply with the standards of **7.5.17.4.4** of the Shoreland Overlay District. The Planning Board shall approve such construction only if it determines that the road or driveway will be set back as far as feasible from all shorelines and will be located and designed to minimize the amount of clearing necessary.

#### **7.5.14.4.3 Maintenance or Increase of Impervious Surface Area:**

**7.5.14.4.3.1** Notwithstanding the provisions of **7.5.14.3**, the Planning Board shall allow the amount of impervious surface that exists as of the date of adoption of this ordinance that exceeds the applicable limitation to be maintained and to be improved provided the site conforms to the requirements of the WRP District to the extent reasonable. Improvement of existing impervious surface may include the reconfiguration of the location of the impervious surface provided that the total impervious surface area is not increased.

**7.5.14.4.3.2** Notwithstanding the provisions of **7.5.13.3**, the Planning Board shall allow the amount of impervious surface on a lot existing as of April 1, 2019 with an area of less than one acre to exceed the twenty percent (20%) limitation if the Planning Board finds that there is no reasonable use of the property with the twenty percent (20%) limitation, the property shall be either connected to the public sewer system or served by a subsurface wastewater disposal system that conforms to the requirement of the state subsurface sewage disposal rules in effect at the time of the improvement; and a stormwater management plan meeting the requirements **of XX** has or will be implemented. The goal of the Planning Board in allowing such an increase is to minimize the amount of impervious surface and developed area within the WRP District to the maximum extent feasible. In determining what is a reasonable use of the lot, the Planning Board shall consider site plan alternatives, the size of the lot, the slope of the land, the potential for soil

erosion, the location of structures on the property relative to streams and water courses, the use of low impact development best management practices in site development and stormwater management, and the presence of an adequate natural vegetative buffer between developed areas and waterways. The Planning Board shall not authorize an expansion of impermeable surface area of existing uses in the Water Reservoirs Protection District if the total impervious surface area of all lot areas located in the WRP District is greater than twenty percent (20%).

**7.5.14.4.5 Subsurface Wastewater Disposal Systems:** New or replacement subsurface wastewater disposal system shall conform to the following additional requirements:

**7.5.14.4.5.1** No substances other than domestic wastewater shall be discharged to any subsurface waste water disposal system or any other means of on-site sewage disposal.

**7.5.14.4.5.2** Not more than one thousand (1000) gallons per day of sewage shall be discharged to any new subsurface wastewater disposal system.

**7.5.14.4.5.3** If a lot is served by an existing subsurface wastewater disposal system that:

- a. is more than twenty-five (25) years old or is of unknown age and the system is located within one hundred (100) feet of the high water line of Adams Pond or Knickerbocker Lakes or the upland edge of any wetland associated with Adams Pond or Knickerbocker Lakes, or
- b. is less than twenty-five (25) years old and the system is located within fifty (50) feet of Adams Pond or Knickerbocker Lakes or the upland edge of any wetland associated with Adams Pond or Knickerbocker Lakes,

the property owner shall enter into a septic system maintenance agreement with the Town as a condition of receiving any Town permits or approvals for modifications or expansions to the principal building(s) on the lot. The maintenance agreement shall set forth a schedule for the periodic pumping of the septic tank and maintenance of the system based upon the typical occupancy of the property and shall be approved by the Plumbing Inspector. The property owner shall be responsible for maintaining written records of the required maintenance and shall provide the records to the Plumbing Inspector upon request.

**7.5.14.4.6 Storage of Heating Oil:** The following additional performance standards apply to the storage of heating oil:

**7.5.13.4.6.1** All new heating oil tanks shall be located a minimum of one hundred fifty (150) feet from the high water line of Adams Pond or Knickerbocker Lakes or the upland edge of any wetland associated with Adams Pond or Knickerbocker Lakes and seventy-five (75) feet from any mapped watershed tributary stream. If the size, shape or physical conditions of the lot make it unreasonable to meet these setbacks, the Code Enforcement Officer may, after consultation with the Boothbay Region Water District, allow the tank to be located closer to the

resource provided that all components of the system are located as far from the resource as possible given the physical limitations of the lot.

**7.5.14.4.6.2** Any existing single-walled steel heating oil tank that is determined by the CEO to be more than fifteen (15) years old shall be tested once a year using an ultrasonic inspection test (TankSure or similar) and the results of the test provided to the CEO and the Boothbay Region Water District. If the testing company, based on the test results, recommends the repair or replacement of the storage tank, the owner of the tank shall repair or replace the tank within one hundred eighty (180 days) of the determination.

**7.5.14.4.7 Storage of Petroleum or Hazardous Liquids:** The storage of petroleum products or other hazardous liquids that are a potential threat to the quality of the public water supply shall occur on an impervious surface. If the storage is more than fifty-five gallons of any material, the storage shall be located within secondary containment with the capacity to hold one hundred percent (100%) of the amount of the stored material.

**7.5.14.4.8 Use of Fertilizer:** Fertilizer use within one hundred (100) feet of the high water line of Adams Pond or Knickerbocker Lakes and the upland edge of any wetland associated with Adams Pond Lakes or Knickerbocker Lakes and any mapped tributary stream shall be limited to manure or fertilizers containing slow-release nitrogen and zero phosphorous. This limitation shall not apply where there is a naturally vegetated buffer strip adjacent to the resource that meets the water supply buffer requirements and is at least fifty (50) feet in width.

**7.5.14.4.9 Use of Pesticides:** The following additional performance standards apply to the use of pesticides:

**7.5.14.4.9.1** Pesticide use within one hundred (100) feet of the high water line of Adams Pond or Knickerbocker Lakes and the upland edge of any wetland associated with Adams Pond or Knickerbocker Lakes and any mapped tributary stream shall be limited to applications in which the pesticide(s) is injected directly in the plant or adjacent soil. Broadcast application or spraying within this area is not permitted unless specifically approved in writing by the CEO and is limited to hand powered methods.

**7.5.14.4.9.2** The standards of the Maine Pesticides Control Board that apply within fifty (50) feet of a water resource shall apply within one hundred (100) feet of the high water line of Adams Pond or Knickerbocker Lakes and the upland edge of any wetland associated with Adams Pond or Knickerbocker Lakes and any mapped tributary stream.

**7.5.14.4.10 Snow Dumping:** No snow removed from a property located outside of the WRP District shall be dumped on a lot located within the WRP District.

**7.5.14.4.11 Steep Slopes:** New development is not permitted on sites with sustained slopes in excess of twenty percent (20%) if the lot is vacant with no principal structure.

**7.5.14.4.12 Timber Harvesting:** Timber Harvesting is subject to the standards for timber harvesting in the Watershed Protection Overlay (WPO) District and the following additional more restrictive standards:

**7.5.14.4.12.1** Timber harvesting and related activities shall be conducted such that slash or debris is not left below the normal high-water line of any water body or watershed tributary stream, or the upland edge of a wetland.

**7.5.14.4.12.1.1** No accumulation of slash shall be left within fifty (50) feet, horizontal distance, of the normal high-water line of a waterbody or watershed tributary stream, or the upland edge of a wetland; and

**7.5.14.4.12.1.2** Between fifty (50) feet and two hundred fifty (250) feet, horizontal distance, of the normal high-water line of a waterbody or watershed tributary stream, or the upland edge of a wetland, all slash larger than 3 inches in diameter must be disposed of in such a manner that no part thereof extends more than 4 feet above the ground.

**7.5.14.4.12.2** Timber harvesting and related activities must leave adequate tree cover and shall be conducted so that a well-distributed stand of trees is retained, in accordance with the following:

**7.5.14.4.12.2.1** Harvesting of no more than forty (40) percent of the total volume on each acre of trees 4.5 inches DBH or greater in any ten (10) year period is allowed. Volume may be considered to be equivalent to basal area;

**7.5.14.4.12.2.2** A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,

**7.5.14.4.12.2.3** Within seventy-five (75) feet, horizontal distance, of the normal high-water line of streams, watershed tributary streams and great ponds, and within seventy-five (75) feet, horizontal distance, of the upland edge of a freshwater wetland, there must be no cleared openings in the forest canopy. At distances greater than seventy (75) feet, horizontal distance, of the normal high-water line of a great pond, stream, watershed tributary stream, or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings in the forest canopy greater than fourteen thousand (14,000) square feet in the forest canopy. Where such openings exceed ten thousand (10,000) square feet, they must be at least two hundred (200) feet, horizontal distance, apart. Such cleared openings will be included in the calculation of total volume removal. Volume may be considered equivalent to basal area.

#### **7.5.14.5 PERFORMANCE STANDARDS FOR SPECIFIC USES (WRP)**

Section 11 Performance Standards for Specific Uses establishes additional requirements for a group of specific uses. If any of those uses are proposed, the activity must comply with those standards in addition to the standards of this section.

**7.5.14.6 OTHER PERFORMANCE STANDARDS (WRP)**

Activities within the WRP District are subject to the provisions of the Shoreland Overlay (SO) District. Activities must also comply with the applicable standards of the General Performance Standards of Section 8, the Environmental Performance Standards of Section 9, and the Good Neighbor Performance Standards of Section 10 in addition to the standards of this section.

**7.5.14.7 SHORELAND OVERLAY DISTRICT (WRP)**

The WRP District is subject to the additional requirements of the Shoreland Overlay District.

### 7.5.15 Wellhead Protection District (WP)

#### 7.5.15.1 PURPOSE (WP)

The Wellhead Protection (WP) District includes the area surrounding the former public water supply wells for the East Boothbay Water District that are now owned by the Boothbay Regional Water District as a backup source of water supply. The standards of the WP District are intended to assure that this area remains primarily undeveloped and that any new development is limited to uses and activities that will not create a threat of contamination or a significant reduction of the available groundwater.

#### 7.5.15.2 ALLOWED USES (WP)

The uses allowed in the Wellhead Protection (WP) District are shown in the Table of Land Uses in Section 7.6. If the use is allowed in the district, the table also indicates if a review is required for the use. If review is required, the procedures and standards for each type of review are set out in Section 5.

#### 7.5.15.3 SPACE AND BULK STANDARDS (WP)

7.5.15.3.1	Minimum developable lot area	80,000 square feet
7.5.15.3.2	Minimum net developable lot area per dwelling unit	80,000 square feet
7.5.15.3.3	Minimum lot width	150 feet
7.5.15.3.4	Minimum road setback	State - 50 feet Town – 33 feet Private way – 8 feet from the closest edge of the R-O-W
7.5.15.3.5	Maximum road setback	None
7.5.15.3.6	Minimum side property line setback	20 feet
7.5.15.3.7	Minimum rear property line setback	20 feet
7.5.15.3.8	Maximum building height	34 feet
7.5.15.3.9	Maximum impervious surface area	20% of lot area
7.5.15.3.10	Maximum area of lot that can be developed	20% of lot area
7.5.15.3.11	Minimum shoreland setback	75 feet
7.5.15.3.12	Minimum shoreland frontage	200 feet

#### 7.5.15.4 ZONE SPECIFIC DEVELOPMENT STANDARDS (WP)

Uses in the WP District must conform to the following standards in addition to the Space and Bulk Standards:

**7.5.15.4.1 Roads and Driveways:** New roads and driveways are prohibited except to provide access to permitted uses within the WP District. Construction of a new road or driveway must be approved by the Planning Board. The Planning Board shall approve such construction only if it determines that the road or driveway will be set back as far as feasible from the wellheads and will be located and designed to minimize the amount of clearing necessary.

**7.5.15.4.2 Subsurface Wastewater Disposal Systems:** New or replacement subsurface wastewater disposal system shall conform to the following additional requirements:

**7.5.15.4.2.1** No substances other than domestic wastewater shall be discharged to any subsurface waste water disposal system or any other means of on-site sewage disposal.

**7.5.15.4.2.2** Not more than one thousand (1000) gallons per day of sewage shall be discharged to any new subsurface wastewater disposal system.

**7.5.15.4.3 Use of Fertilizer:** Fertilizer use within the WP District shall be limited to manure or fertilizers containing slow-release nitrogen and zero phosphorous.

**7.5.15.4.4 Use of Pesticides:** The use of pesticides within the WP District shall conform to the standards of the Maine Pesticides Control Board that apply to a wellhead protection district.

**7.5.15.5 PERFORMANCE STANDARDS FOR SPECIFIC USES (WP)**

Section 11 Performance Standards for Specific Uses establishes additional requirements for a group of specific uses. If any of those uses are proposed, the activity must comply with those standards in addition to the standards of this section.

**7.5.15.6 OTHER PERFORMANCE STANDARDS (WP)**

In addition to the standards of this section, activities must also comply with the applicable standards of the General Performance Standards of Section 8, the Environmental Performance Standards of Section 9, and the Good Neighbor Performance Standards of Section 10.

**7.5.15.7 SHORELAND OVERLAY DISTRICT (WP)**

A portion of the WP District is subject to the additional requirements of the Shoreland Overlay District.



## 7.5.16 Resource Protection District (RP)

### 7.5.16.1 PURPOSE (RP)

The Resource Protection (RP) District is intended to preserve areas with significant natural resource value in a predominantly undeveloped condition while allowing limited use of these areas that is consistent with their natural resource value. These uses include activities such as farming and forestry along with low-intensity recreational uses. The RP District includes the following areas:

- Areas within two hundred fifty (250) feet of the upland edge of freshwater wetlands, salt marshes, and wetlands associated with great ponds that are rated “moderate” or “high” value waterfowl and wading bird habitat,
- The area within two hundred fifty (250) feet of the upland edge of coastal wetlands associated with Cross River (portions of Tax Maps R-2, R-3, R-5, and R-6), Wiley Pond (portion of Tax Map R-3), and Big Meadow (portion of Tax Maps R-7 and R-8),
- The area within the two hundred fifty (250) feet of the upland edges of coastal wetlands on Big Huckleberry Island, Damariscove Island, Fisherman’s Island, Fort Island, Green Island, Inner Ram Island, Little Huckleberry Island, Miles Island, Outer Heron Island, Perch Island, Pumpkin Island, Ram Island, Tibbetts Island, and White Islands #5 and #6,
- Areas of two or more contiguous acres with sustained slopes of 20% or greater, and
- Areas of two or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland and which are not surficially connected to a pond, stream or tributary stream during the period of normal high water.

### 7.5.16.2 ALLOWED USES (RP)

The uses allowed in the Resource Protection (RP) District are shown in the Table of Land Uses in Section 7.6. If the use is allowed in the district, the table also indicates if a review is required for the use. If review is required, the procedures and standards for each type of review are set out in Section 5.

### 7.5.16.3 SPACE AND BULK STANDARDS (RP)

<b>7.5.16.3.1</b>	Minimum developable lot area	80,000 square feet
<b>7.5.16.3.2</b>	Minimum net developable lot area per dwelling unit	80,000 square feet
<b>7.5.16.3.3</b>	Minimum lot width	150 feet
<b>7.5.16.3.4</b>	Minimum road setback	State - 50 feet Town – 33 feet Private way – 8 feet from the closest edge of the R-O-W
<b>7.5.16.3.5</b>	Maximum road setback	None
<b>7.5.16.3.6</b>	Minimum side property line setback	20 feet

<b>7.5.16.3.7</b>	Minimum rear property line setback	20 feet
<b>7.5.16.3.8</b>	Maximum building height	34 feet
<b>7.5.16.3.9</b>	Maximum impervious surface area	20% of lot area
<b>7.5.16.3.10</b>	Maximum area of lot that can be developed	20% of lot area
<b>7.5.16.3.11</b>	Minimum shoreland setback	75 feet
<b>7.5.16.3.12</b>	Minimum shoreland frontage	200 feet

**7.5.16.4 ZONE SPECIFIC DEVELOPMENT STANDARDS (RP)**

Uses in the RP District must conform to the following standards in addition to the Space and Bulk Standards:

**7.4.16.4.1 Shoreland Performance Standards:** All activities within the RP District are subject to the standards of the Shoreland Overlay District.

**7.4.16.4.2 One Family Dwellings:** New one family dwellings are permitted in the RP District only in accordance with the provisions of XXX.

**7.5.16.5 PERFORMANCE STANDARDS FOR SPECIFIC USES (RP)**

Section 11 Performance Standards for Specific Uses establishes additional requirements for a group of specific uses. If any of those uses are proposed, the activity must comply with those standards in addition to the standards of this section.

**7.5.16.6 OTHER PERFORMANCE STANDARDS (RP)**

In addition to the standards of this section, activities must also comply with the applicable standards of the General Performance Standards of Section 8, the Environmental Performance Standards of Section 9, and the Good Neighbor Performance Standards of Section 10.

## **7.5.17 Shoreland Overlay District (SO)**

### **7.5.17.1 PURPOSE (SO)**

The Shoreland Overlay District is intended to assure that land use activities and development in close proximity to water bodies and wetlands including the entire areas within the WRP-27 and WRP Districts and areas within seventy-five (75) feet of mapped tributary streams are carried out in a manner that protects the quality of those resources. To this end, the standards of the district apply an additional set of performance standards to these activities and development.

### **7.5.17.2 ALLOWED USES (SO)**

The uses, review requirements and size and intensity limitations for the underlying zoning districts shall apply unless the use is specifically prohibited by the following provisions.

### **7.5.17.3 SPACE AND BULK STANDARDS (SO)**

The space and bulk standards of the underlying zoning district shall apply to land use activities and development within that district.

### **7.5.17.4 ZONE SPECIFIC DEVELOPMENT STANDARDS (SO)**

Land use activities and development within the Shoreland Overlay (SO) District shall conform to the following additional standards unless the standards of the underlying zoning district and/or the performance standards of Sections 8, 9, 10, and 11 are more restrictive:

#### **7.5.17.4.1 Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland, and Shoreline Stabilization**

**7.5.17.4.1.1** No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage required for the district in which it is located, a second structure may be allowed and may remain as long as the lot is not further divided.

**7.5.17.4.1.2** Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.

**7.5.17.4.1.3** The location shall not interfere with existing developed or natural beach areas.

**7.5.17.4.1.4** The facility shall be located so as to minimize adverse effects on fisheries.

**7.5.17.4.1.5** The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six feet for non-commercial uses.

**7.5.17.4.1.6** No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.

**7.5.17.4.1.7** New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the *Natural Resources Protection Act*.

**7.5.17.4.1.8** No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.

**7.5.17.4.1.9** Except for structures that are part of Maritime Activities, Marinas, or functionally water-dependent uses, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

**7.5.17.4.1.10** Vegetation may be removed in excess of the standards in **7.5.17.4.6** of this ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Planning Board. Construction equipment must access the shoreline by barge when feasible as determined by the Planning Board.

**7.5.17.4.1.10.1** When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than 12 feet in width. When the stabilization project is complete the construction equipment accessway must be restored.

**7.5.17.4.1.10.2** Revegetation must occur in accordance with **7.5.17.4.8**.

**7.5.17.4.2 Prohibited Commercial and Industrial Uses.** The following new commercial and industrial uses are prohibited within the SO District adjacent to great ponds classified GPA and streams which flow to great ponds classified GPA:

**7.5.17.4.2.1** Auto washing facilities

**7.5.17.4.2.2** Auto or other vehicle service and/or repair operations, including body shops

**7.5.17.4.2.3** Chemical and bacteriological laboratories

**7.5.17.4.2.4** Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms

**7.5.17.4.2.5** Commercial painting, wood preserving, and furniture stripping

**7.5.17.4.2.6** Dry cleaning establishments

**7.5.17.4.2.7** Electronic circuit assembly

**7.5.17.4.2.8** Laundromats, unless connected to a sanitary sewer

**7.5.17.4.2.9** Metal plating, finishing, or polishing

**7.5.17.4.2.10** Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas

**7.5.17.4.2.11** Photographic processing

**7.5.17.4.2.12** Printing

**7.5.17.4.3 Parking Areas.** Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located, except that parking areas that serve Maritime Activities, Marinas, or functionally water-dependent uses, shall be set back at least twenty-five (25) feet, horizontal distance, from the shoreline. The setback requirement for parking areas serving public boat launching facilities shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.

**7.5.17.4.4 Roads and Driveways.** The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features within the SO District unless there are more restrictive requirements in the underlying district or the performance standards of Sections 8, 9, 10 and 11.

**7.5.17.4.4.1** Roads and driveways shall be set back at least one-hundred (100) feet, horizontal distance, from the normal high-water line of Adams Pond, Knickerbocker Lakes or any great pond classified GPA and seventy-five (75) feet, horizontal distance from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

**7.5.17.4.4.1.1** On slopes of greater than twenty (20) percent the road and/or driveway setback shall be increased by ten (10) feet, horizontal distance, for each five (5) percent increase in slope above twenty (20) percent.

**7.5.17.4.4.1.2** Section **7.5.17.4.4.1** does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of **7.5.17.4.4.1** except for that portion of the road or driveway necessary for direct access to the structure.

**7.5.17.4.4.1.2** Existing public roads may be expanded within the legal road right of way regardless of their setback from a water body, tributary stream or wetland.

**7.5.17.4.4.1.3** New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.

**7.5.17.4.4.1.4** Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for the erosion and sedimentation control performance standard.

**7.5.17.4.4.1.5** Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.

**7.5.17.4.4.1.6** In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

**7.5.17.4.4.1.7** Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:

**7.5.17.4.4.1.7.1** Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road or driveway at intervals no greater than indicated in the following table:

<b>Grade (Percent)</b>	<b>Spacing (Feet)</b>
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21 +	40

**7.5.17.4.4.1.7.2** Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.

**7.5.17.4.4.1.7.3** On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.

**7.5.17.4.4.1.7.4** Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.

**7.5.17.4.4.1.8** 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

**7.5.17.4.5 Septic Waste Disposal.** All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following: a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and b) a holding tank is not allowed for a first-time residential use in the SO District.

**7.5.17.4.6 Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting**

**7.5.17.4.6.1** In a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove hazard trees.

Elsewhere, in any Resource Protection District the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

**7.5.17.4.6.2** Except in areas as described in **7.5.17.4.6.1**, above, within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a Adams Pond, Knickerbocker Lakes or any great pond classified GPA or within a strip extending seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

**7.5.17.4.6.2.1** There shall be no cleared opening greater than two hundred fifty (250) square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a single footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed for accessing the shoreline provided that a cleared line of sight to the water through the buffer strip is not created.

**7.5.17.4.6.2.2** Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of this section, a "well-distributed stand of trees" adjacent to Adams Pond, Knickerbocker Lakes or any great pond classified GPA shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.

<b>Diameter of Tree at 4-1/2 feet Above Ground Level (inches)</b>	<b>Points</b>
2 - < 4 in.	1
4 – <8 in.	2
8-< 12 in.	4
12 in. or greater	8

Adjacent to other water bodies, tributary streams, and wetlands, a "well-distributed stand of trees" is defined as maintaining a minimum rating score of 16 per 25-foot by 50-foot rectangular area.

The following shall govern in applying this point system:

**7.5.17.4.6.2.2.1** The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;

**7.5.17.4.6.2.2.2** Each successive plot must be adjacent to, but not overlap a previous plot;

**7.5.17.4.6.2.2.3** Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;



**7.5.17.4.6.2.2.4** Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by its Ordinance;

**7.5.17.4.6.2.2.5** Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of **7.5.17.4.6.2.2** “other natural vegetation” is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot. Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten (10) year period.

**7.5.17.4.6.2.3** In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in **7.5.17.4.6.2**.

**7.5.17.4.6.2.4** Pruning of tree branches, on the bottom 1/3 of the tree is allowed.

**7.5.17.4.6.2.5** In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, dead or hazard trees results in the creation of cleared openings, these openings shall be replanted with native tree species, unless existing new tree growth is present.

**7.5.17.4.6.2.6** In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities, including associated construction and related equipment operation, within or outside the shoreline buffer, must comply with the requirements of **7.5.17.4.6.2**.

**7.5.17.4.6.3** At distances greater than one hundred (100) feet, horizontal distance, from Adams Pond, Knickerbocker Lakes or any a great pond classified GPA and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. This provision applies to the portion of a lot within the shoreland zone, including the buffer area, but shall not apply to the Boothbay Village Mixed-Use District, Commercial Corridor District or Marine Commercial District.

**7.5.17.4.6.4** Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.

**7.5.17.4.6.5** Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of **7.5.17.4.6**.

**7.5.17.4.7 Exemptions to Clearing and Vegetation Removal Requirements** The following activities are exempt from the clearing and vegetation removal standards set forth in **7.5.17.4.6**, provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:

**7.5.17.4.7.1** The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of **7.5.17.4.6** apply;

**7.5.17.4.7.2** The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements are not applicable;

**7.5.17.4.7.3** The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;

**7.5.17.4.7.4** The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all agricultural performance standards of **11.1** are complied with;

**7.5.17.4.7.5** The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in the Boothbay Village Mixed-Use District, Commercial Corridor District or Marine Commercial District or other equivalent zoning district approved by the Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S.A section 343-E, and that is located along:

**7.5.17.4.7.5.1** A coastal wetland; or

**7.5.17.4.7.5.2** A river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A section 465-A.

**7.5.17.4.7.6** The removal of non-native invasive vegetation species, provided the following minimum requirements are met:

**7.5.17.4.7.6.1** If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;

**7.5.17.4.7.6.2** Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and

**7.5.17.4.7.6.3** If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.

**7.5.17.4.7.7** The removal of vegetation associated with emergency response activities conducted by the Department, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.

**7.5.17.4.8 Revegetation Requirements** When revegetation is required in response to violations of the vegetation standards set forth in **7.5.17.4.6**, to address the removal of non- native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements.

**7.5.17.4.8.1** The property owner must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.

**7.5.17.4.8.2** Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed:

**7.5.17.4.8.3** If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.

**7.5.17.4.8.4** Revegetation activities must meet the following requirements for trees and saplings:

- (a) All trees and saplings removed must be replaced with native noninvasive species;
- (b) Replacement vegetation must at a minimum consist of saplings;
- (c) If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;
- (d) No one species shall make up 50% or more of the number of trees and saplings planted;
- (e) If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and
- (f) A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) years period.

**7.5.17.4.8.5** Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:

**7.5.17.4.8.5.1** All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;

**7.5.17.4.8.5.2** Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;

**7.5.17.4.8.5.3** If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;

**7.5.17.4.8.5.4** No one species shall make up 50% or more of the number of planted woody vegetation plants; and

**7.5.17.4.8.5.5** Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years

**7.5.17.4.8.6** Revegetation activities must meet the following requirements for ground vegetation and ground cover:

**7.5.17.4.8.6.1** All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;

**7.5.17.4.8.6.2** Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and

**7.5.17.4.8.6.3** Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.

#### **7.5.17.4.9 Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal**

**7.5.17.4.9.1** Hazard trees in the Shoreland Overlay District may be removed without a permit after consultation with the Code Enforcement Officer (CEO) if the following requirements are met:

**7.5.17.4.9.1.1** Within the shoreline buffer established in **7.5.17.4.6**, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four (4) feet in height, and be no less than two (2) inches in diameter. Stumps may not be removed.

**7.5.17.4.9.1.2** Outside of the shoreline buffer established in **7.5.17.4.6**, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.

**7.5.17.4.9.1.3** The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.

**7.5.17.4.9.1.4** The CEO may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.

**7.5.17.4.9.1.5** The CEO may require more than a one-for-one replacement for hazard trees removed that exceed eight (8) inches in diameter measured at four and one half (4.5) feet above the ground level.

**7.5.17.4.9.2** Storm-damaged trees in the Shoreland Overlay District may be removed without a permit after consultation with the CEO if the following requirements are met:

**7.5.17.4.9.2.1** Within the shoreline buffer established in **7.5.17.4.6**, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:

- (i) The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;
- (ii) Stumps from the storm-damaged trees may not be removed;
- (iii) Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and
- (iv) If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every eighty (80) square feet of lost canopy.

**7.5.17.4.9.2.2** Outside of the shoreline buffer established in **7.5.17.4.6**, if the removal of storm damaged trees exceeds 40% of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above the ground level in any ten (10) year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.

#### **7.5.17.4.10 Timber Harvesting**

~~All~~ **T**imber harvesting within the SO District is regulated by the Maine Bureau of Forestry shall conform to the following standards.

~~**7.5.17.4.10.1 Shoreline integrity and sedimentation.** Persons conducting timber harvesting and related activities must take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the~~

~~disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands occurs, such conditions must be corrected.~~

~~**7.5.17.4.10.2 Slash treatment.** Timber harvesting and related activities shall be conducted such that slash or debris is not left below the normal high water line of any water body or tributary stream, or the upland edge of a wetland. This section does not apply to minor, incidental amounts of slash that result from timber harvesting and related activities otherwise conducted in compliance with this section.~~

~~**7.5.17.4.10.2.1** Slash actively used to protect soil from disturbance by equipment or to stabilize exposed soil, may be left in place, provided that no part thereof extends more than four (4) feet above the ground.~~

~~**7.5.17.4.10.2.2** Adjacent to great ponds and wetlands:~~

~~**7.5.17.4.10.2.2.1** No accumulation of slash shall be left within fifty (50) feet, horizontal distance, of the normal high water line or upland edge of a wetland; and~~

~~**7.5.17.4.10.2.2.2** Between fifty (50) feet and two hundred fifty (250) feet, horizontal distance, of the normal high water line or upland edge of a wetland, all slash larger than three (3) inches in diameter must be disposed of in such a manner that no part thereof extends more than four (4) feet above the ground.~~

~~**7.5.17.4.10.3 Tree Cover.** Timber harvesting and related activities must leave adequate tree cover and shall be conducted so that a well-distributed stand of trees is retained. This requirement may be satisfied by following one of the following three options:~~

~~**7.5.17.4.10.3.1 Option 1 (40% volume removal),** as follows:~~

~~**7.5.17.4.10.3.1.1** Harvesting of no more than forty (40) percent of the total volume on each acre of trees 4.5 inches DBH or greater in any ten (10)-year period is allowed. Volume may be considered to be equivalent to basal area;~~

~~**7.5.17.4.10.3.1.2** A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,~~

~~**7.5.17.4.10.3.1.3** Within seventy-five (75) feet, horizontal distance, of the normal high water line of streams and great ponds, and within seventy-five (75) feet, horizontal distance, of the upland edge of a freshwater or coastal wetlands, there must be no cleared openings. At distances greater than seventy five (75)~~

~~feet, horizontal distance, of the normal high-water line of a great pond or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than fourteen thousand (14,000) square feet in the forest canopy. Where such openings exceed ten thousand (10,000) square feet, they must be at least one hundred (100) feet, horizontal distance, apart. Such cleared openings will be included in the calculation of total volume removal. Volume may be considered equivalent to basal area.~~

**7.5.17.4.10.3.2 Option 2 (60 square foot basal area retention),** as follows:

~~**7.5.17.4.10.3.2.1** The residual stand must contain an average basal area of at least 60 square feet per acre of woody vegetation greater than or equal to 1.0 inch DBH, of which forty (40) square feet per acre must be greater than or equal to 4.5 inches DBH;~~

~~**7.5.17.4.10.3.2.2** A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,~~

~~**7.5.17.4.10.3.2.3** Within seventy five (75) feet, horizontal distance, of the normal high-water line of water bodies and within seventy five (75) feet, horizontal distance, of the upland edge of wetlands, there must be no cleared openings. At distances greater than seventy five (75) feet, horizontal distance, of the normal high-water line of a great pond or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than fourteen thousand (14,000) square feet in the forest canopy. Where such openings exceed ten thousand (10,000) square feet, they must be at least one hundred (100) feet, horizontal distance, apart. Such cleared openings will be included in the calculation of the average basal area. Volume may be considered equivalent to basal area.~~

**7.5.17.4.10.3.3 Option 3 (Outcome based),** which requires: An alternative method proposed in an application, signed by a Licensed Forester or certified wildlife professional, submitted by the landowner or designated agent to the State of Maine Department of Conservation's Bureau of Forestry (Bureau) for review and approval, which provides equal or better protection of the shoreland area than this rule.

Landowners must designate on the Forest Operations Notification form required by 12 M.R.S.A. chapter 805, subchapter 5 which option they choose to use. If landowners choose Option 1 or Option 2, compliance will be determined solely on the criteria for the option chosen. If landowners choose Option 3, timber harvesting and related activities may not begin until the Bureau has approved the alternative method.

The Bureau may verify that adequate tree cover and a well-distributed stand of trees is retained through a field procedure that uses sample plots that are located randomly or systematically to provide a fair representation of the harvest area.



**7.5.17.4.10.4 Skid trails, yards, and equipment operation.** This requirement applies to the construction, maintenance, and use of skid trails and yards in the SO District.

**7.5.17.4.10.4.1** Equipment used in timber harvesting and related activities shall not use river, stream or tributary stream channels as travel routes except when surface waters are frozen and snow covered, and the activity will not result in any ground disturbance.

**7.5.17.4.10.4.2** Skid trails and yards must be designed and constructed to prevent sediment and concentrated water runoff from entering a water body, tributary stream, or wetland. Upon termination of their use, skid trails and yards must be stabilized.

#### **7.5.17.4.10.4.3 Setbacks**

**7.5.17.4.10.4.3.1** Equipment must be operated to avoid the exposure of mineral soil within twenty-five (25) feet, horizontal distance, of any water body, tributary stream, or wetland. On slopes of ten (10) percent or greater, the setback for equipment operation must be increased by twenty (20) feet, horizontal distance, plus an additional ten (10) feet, horizontal distance, for each five (5) percent increase in slope above ten (10) percent. Where slopes fall away from the resource, no increase in the 25-foot setback is required.

**7.5.17.4.10.4.3.2** Where such setbacks are impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

**7.5.17.4.10.5 Land Management Roads.** Land management roads, including approaches to crossings of water bodies, tributary stream channels, and freshwater wetlands, ditches and other related structures, must be designed, constructed, and maintained to prevent sediment and concentrated water runoff from directly entering the water body, tributary stream or wetland. Surface water on or adjacent to water crossing approaches must be diverted through vegetative filter strips to avoid sedimentation of the watercourse or wetland. Because roadside ditches may not extend to the resource being crossed, vegetative filter strips must be established in accordance with the setback requirements in **7.5.17.4.10.7** of this section.

**7.5.17.4.10.5.1** Land management roads and associated ditches, excavation, and fill must be set back at least:

**7.5.17.4.10.5.1.1** One hundred (100) feet, horizontal distance, from the normal high-water line of a great pond or freshwater or coastal wetland;

**7.5.17.4.10.5.1.2** Fifty (50) feet, horizontal distance, from the normal high-water line of streams; and

~~7.5.17.4.10.5.1.3 Twenty-five (25) feet, horizontal distance, from the normal high-water line of tributary streams~~

~~7.5.17.4.10.5.2 The minimum one hundred (100) foot setback specified in 7.5.17.4.10.5.1.1 above may be reduced to no less than fifty (50) feet, horizontal distance, and the fifty (50) foot setback specified in 7.5.17.4.10.5.1.2 above may be reduced to no less than twenty-five (25) feet, horizontal distance, if, prior to construction, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.~~

~~7.5.17.4.10.5.3 On slopes of ten (10) percent or greater, the land management road setback must be increased by at least twenty (20) feet, horizontal distance, plus an additional ten (10) feet, horizontal distance, for each five (5) percent increase in slope above ten (10) percent.~~

~~7.5.17.4.10.5.4 New land management roads are not allowed within a Resource Protection District, unless, prior to construction, the landowner or the landowner's designated agent makes a clear demonstration to the Planning Board's satisfaction that no reasonable alternative route exists outside the shoreland zone, and that the new road must be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.~~

~~7.5.17.4.10.5.5 Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with roads must be maintained on a regular basis to assure effective functioning. Drainage structures shall deliver a dispersed flow of water into an unscarified filter strip no less than the width indicated in the setback requirements in 7.5.17.4.10.7. Where such a filter strip is impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream, or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.~~

~~**7.5.17.4.10.5.6 Road closeout and discontinuance.** Maintenance of the water control installations required in 7.5.17.4.10.5.5 must continue until use of the road is discontinued and the road is put to bed by effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to avoid surface water flowing over or under the water bar, and extending a~~

sufficient distance beyond the traveled way so that water does not reenter the road surface.

**7.5.17.4.10.5.7 Upgrading existing roads.** Extension or enlargement of presently existing roads must conform to the provisions of **7.5.17.4.10**. Any nonconforming existing road may continue to exist and to be maintained, as long as the nonconforming conditions are not made more nonconforming.

**7.5.17.4.10.5.8 Exception.** Extension or enlargement of presently existing roads need not conform to the setback requirements of **7.5.17.4.10.5** if, prior to extension or enlargement, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

**7.5.17.4.10.5.9 Additional measures.** In addition to the foregoing minimum requirements, persons undertaking construction and maintenance of roads and river, stream and tributary stream crossings must take reasonable measures to avoid sedimentation of surface waters.

**7.5.17.4.10.6 Crossings of waterbodies.** Crossings of streams and tributary streams must allow for fish passage at all times of the year, must not impound water, and must allow for the maintenance of normal flows.

**7.5.17.4.10.6.1 Determination of flow.** Provided they are properly applied and used for the circumstances for which they are designed, methods including but not limited to the following are acceptable as a means of calculating the ten (10) year and twenty-five (25) year frequency water flows and thereby determining water crossing sizes as required in **7.5.17.4.10**: The United States Geological Survey (USGS) Methods; specifically: Hodgkins, G. 1999. Estimating the Magnitude of Peak Flows for Streams in Maine for Selected Recurrence Intervals. U.S. Geological Survey. Water Resources Investigations Report 99-4008. 45 pp.

**7.5.17.4.10.6.2 Upgrading existing water crossings.** Extension or enlargement of presently existing water crossings must conform to the provisions of Section **7.5.17.4.10**. Any nonconforming existing water crossing may continue to exist and be maintained, as long as the nonconforming conditions are not made more nonconforming; however, any maintenance or repair work done below the normal high-water line must conform to the provisions of **7.5.17.4.10**.

~~**7.5.17.4.10.6.3 Other Agency Permits.** Any timber harvesting and related activities involving the design, construction, and maintenance of crossings on waterbodies other than a stream or tributary stream may require a permit from the Land Use Regulation Commission, the Department of Environmental Protection, or the US Army Corps of Engineers.~~

~~**7.5.17.4.10.6.4** Any timber harvesting and related activities involving the design, construction, and maintenance of crossings of freshwater wetlands identified by the Department of Inland Fisheries and Wildlife as essential wildlife habitat require prior consultation with the Department of Inland Fisheries and Wildlife.~~

~~**7.5.17.4.10.6.5 Notice to Bureau of Forestry.** Written notice of all water crossing construction maintenance, alteration and replacement activities in shoreland areas must be given to the Bureau prior to the commencement of such activities. Such notice must contain all information required by the Bureau, including:~~

~~**7.5.17.4.10.6.5.1** a map showing the location of all proposed permanent crossings;~~

~~**7.5.17.4.10.6.5.2** the GPS location of all proposed permanent crossings;~~

~~**7.5.17.4.10.6.5.3** for any temporary or permanent crossing that requires a permit from state or federal agencies, a copy of the approved permit or permits; and~~

~~**7.5.17.4.10.6.5.4** a statement signed by the responsible party that all temporary and permanent crossings will be constructed, maintained, and closed out in accordance with the requirements of this Section.~~

~~**7.5.17.4.10.6.6 Water crossing standards.** All crossings of rivers require a bridge or culvert sized according to the requirements of **7.5.17.4.10.6.7**. Streams and tributary streams may be crossed using temporary structures that are not bridges or culverts provided:~~

~~**7.5.17.4.10.6.6.1** concentrated water runoff does not enter the stream or tributary stream;~~

~~**7.5.17.4.10.6.6.2** sedimentation of surface waters is reasonably avoided;~~

~~**7.5.17.4.10.6.6.3** there is no substantial disturbance of the bank, or stream or tributary stream channel;~~

~~**7.5.17.4.10.6.6.4** fish passage is not impeded; and,~~

~~**7.5.17.4.10.6.6.5** water flow is not unreasonably impeded.~~

~~Subject to 7.5.17.4.10.6.6.1 through 7.5.17.4.10.6.6.5 above, skid trail crossings of streams and tributary streams when channels of such streams and tributary streams are frozen and snow covered or are composed of a hard surface which will not be eroded or otherwise damaged are not required to use permanent or temporary structures.~~

~~**7.5.17.4.10.6.7 Bridge and Culvert Sizing.** For crossings of stream and tributary stream channels with a bridge or culvert, the following requirements apply:~~

~~**7.5.17.4.10.6.7.1** Bridges and culverts must be installed and maintained to provide an opening sufficient in size and structure to accommodate twenty-five (25) year frequency water flows or with a cross-sectional area at least equal to three (3) times the cross-sectional area of the river, stream, or tributary stream channel.~~

~~**7.5.17.4.10.6.7.2** Temporary bridge and culvert sizes may be smaller than provided in 7.5.17.4.10.6.7.1 if techniques are effectively employed such that in the event of culvert or bridge failure, the natural course of water flow is maintained and sedimentation of the water body or tributary stream is avoided. Such crossing structures must be at least as wide as the channel and placed above the normal high water line. Techniques may include, but are not limited to, the effective use of any, a combination of, or all of the following:~~

- ~~1. use of temporary skidder bridges;~~
- ~~2. removing culverts prior to the onset of frozen ground conditions;~~
- ~~3. using water bars in conjunction with culverts;~~
- ~~4. using road dips in conjunction with culverts.~~

~~**7.5.17.4.10.6.7.3** Culverts utilized in stream and tributary stream crossings must:~~

- ~~1. be installed at or below river, stream or tributary stream bed elevation;~~
- ~~2. be seated on firm ground;~~
- ~~3. have soil compacted at least halfway up the side of the culvert;~~
- ~~4. be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater; and~~
- ~~5. have a headwall at the inlet end which is adequately stabilized by riprap or other suitable means to reasonably avoid erosion of material around the culvert.~~

~~**7.5.17.4.10.6.7.4** River, stream and tributary stream crossings allowed under 7.5.17.4, but located in flood hazard areas (i.e. A zones) as identified on a community's Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM), must be designed and constructed under the stricter standards~~

contained in that community's National Flood Insurance Program (NFIP). For example, a water crossing may be required to pass a 100-year flood event.

~~**7.5.17.4.10.6.7.5 Exception.** Skid trail crossings of tributary streams within shoreland areas and wetlands adjacent to such streams may be undertaken in a manner not in conformity with the requirements of the foregoing subsections provided persons conducting such activities take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands occurs, such conditions must be corrected.~~

~~**7.5.17.4.10.6.8 Skid trail closeout.** Upon completion of timber harvesting and related activities, or upon the expiration of a Forest Operations Notification, whichever is earlier, the following requirements apply:~~

~~**7.5.17.4.10.6.8.1** Bridges and culverts installed for river, stream and tributary stream crossings by skid trails must either be removed and areas of exposed soil stabilized, or upgraded to comply with the closeout standards for land management roads in **7.5.17.4.10.6.9** below.~~

~~**7.5.17.4.10.6.8.2** Water crossing structures that are not bridges or culverts must either be removed immediately following timber harvesting and related activities, or, if frozen into the river, stream or tributary stream bed or bank, as soon as practical after snowmelt.~~

~~**7.5.17.4.10.6.8.3** Stream and tributary stream channels, banks and approaches to crossings of water bodies and tributary streams must be immediately stabilized on completion of harvest, or if the ground is frozen and/or snow-covered, as soon as practical after snowmelt. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.~~

~~**7.5.17.4.10.6.9 Land management road closeout.** Maintenance of the water control features must continue until use of the road is discontinued and the road is put to bed by taking the following actions:~~

~~**7.5.17.4.10.6.9.1** Effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to reasonably avoid surface water flowing over or under the water bar, and extending sufficient distance beyond the traveled way so that water does not reenter the road surface.~~

~~7.5.17.4.10.6.9.2~~ Water crossing structures must be appropriately sized or dismantled and removed in a manner that reasonably avoids sedimentation of the water body or tributary stream.

~~7.5.17.4.10.6.9.3~~ Any bridge or water crossing culvert in roads to be discontinued shall satisfy one of the following requirements:

- ~~(7) 7.5.17.4.10.6.9.3.1~~ it shall be designed to provide an opening sufficient in size and structure to accommodate twenty five (25) year frequency water flows;
- ~~(8) 7.5.17.4.10.6.9.3.2~~ it shall be designed to provide an opening with a cross-sectional area at least 3½ times the cross-sectional area of the river, stream or tributary stream channel; or
- ~~(9) 7.5.17.4.10.6.9.3.3~~ it shall be dismantled and removed in a fashion to reasonably avoid sedimentation of the river, stream or tributary stream.

~~(10) —~~

~~(11) ——— 7.5.17.4.10.7~~ Slope Table

Filter strips, skid trail setbacks, and land management road setbacks must be maintained as specified in 7.5.17.4, but in no case shall be less than shown in the following table:

<del>Average slope of land between exposed mineral soil and the shoreline (percent)</del>	<del>Width of strip between exposed mineral soil and shoreline (feet along surface of the ground)</del>
<del>0</del>	<del>25</del>
<del>10</del>	<del>45</del>
<del>20</del>	<del>65</del>
<del>30</del>	<del>85</del>
<del>40</del>	<del>105</del>
<del>50</del>	<del>125</del>
<del>60</del>	<del>145</del>
<del>70</del>	<del>165</del>

~~7.5.17.4.10.8 Definitions.~~ Unless otherwise provided herein, this section incorporates by reference the definitions contained in the Maine Forest Service Rules Chapter 20, “Forest Regeneration and Clearcutting Standards”, and Chapter 21, “Statewide Standards for Timber Harvesting and Related Activities in Shoreland Areas”.

## **7.5.18 Watershed Protection Overlay District (WPO)**

### **7.5.18.1 PURPOSE (WPO)**

The Watershed Protection Overlay District is intended to assure that the land use activities and development in the watersheds of Adams Pond and Knickerbocker Lakes preserve the quality and quantity of the public water supply by modifying the allowed uses and development standards in the underlying zoning districts and by imposing additional performance standards that apply throughout the watersheds.

### **7.5.18.2 ALLOWED USES (WPO)**

The uses, review requirements and size limitations for the underlying zoning districts shall apply unless the use, review requirement or size limitation for a specific use in a specific zoning district are modified by the following provisions. If service by the public sewer system is required by the underlying district standards, that requirement is not modified by these provisions. The zoning districts within which each limitation applies are shown in parenthesis:

**7.5.18.2.1** The following uses are not allowed in the WPO District even if they are allowed in the underlying district:

- Commercial Fishing Activities (R,BVMU,RMU,CC,MB)
- Mineral Extraction (RMU,CC,MB)
- Mobile Home Park (R,RMU)
- Adult-Use Marijuana Establishments (CC,MB)
- Amusement Park (CC)
- Auto, Rec. Vehicle Sales & Service (RMU)
- Automobile Repair (RMU,MB)
- Automobile Service Station
- Bus Terminal (CC)
- Campground (R,RMU,CC)
- Car Wash
- Conference/Convention Center (R, BVF,BVMU,CC)
- Hotel/Motel (BVF,BVMU,CC)
- Indoor Theater (BVC,BVF,BVMU,CC)
- Junkyard
- Kennel (RMU,CC)
- Laundromat (BVC,BVF,BVMU,CC)
- Marina (RMU)
- Maritime Activities (R,RMU,CC,MB)
- Parking Facility (BVC,BVF,BVMU,CC,MB)
- Recreational Facility – Indoor (R, BVC,BVF,BVMU,CC)
- Recreational Facility – Outdoor (R,BVF,BVMU,RMU,CC)
- Retail Fuel Distributor (MB)
- Shopping Center (CC)
- Small Engine Repair & Sales (RMU,CC,MB)
- Manufacturing (BVMU,RMU,MB)



- Recycling Operations (BVMU,MB)
- Sawmill (RMU,MB)
- Terminal for Bulk Oil and Gas (CC,MB)
- Trucking Distribution Terminal (MB)
- Warehousing (BVMU,RMU,MB)
- Waste Disposal/Landfill (BVF)
- Waste Transfer Facility (BVF)
- Wholesale Business (RMU,CC,MB)
- Wood Processing (RMU,MB)
- Cemetery (R,BVC,BVF,BVMU,RMU,CC)

**7.5.18.2.2** The following uses are allowed in the WPO District with review but only if connected to the public sewer system:

- Adult Day Care Facility (R,BVC,BVF,BVMU,RMU,CC)
- Dwelling, Multifamily (R,BVC,BVF,BVMU,RMU,CC)
- Dwelling, Townhouse (R,BVC,BVF,BVMU,RMU,CC)
- Dwelling Unit in a Mixed-Use Building (R,BVC,BVF,BVMU,RMU,CC)
- Employee Housing (R,BVC,BVF,BVMU,RMU,CC,MB)
- Lodging House (R,BVC,BVF,BVMU,CC)
- Residential Care Facility (R,RMU)
- Bed & Breakfast (R,BVC,BVF,BVMU,CC)
- Day Care Facility (R,BVC,BVF,BVMU,RMU,CC,MB)
- Day Care Center (R,BVC,BVF,BVMU,RMU,CC,MB)
- Inn (BVC,BVF,BVMU,RMU,CC)

**7.5.18.2.3** The following uses are allowed in the WPO District with review but only if connected to the public sewer system subject to the limits for small-scale limited uses:

- Agricultural Packaging and Storage (R,BVF,BVMU,RMU,CC,MB)
- Agricultural Product Processing (R,BVF,BVMU,RMU,CC,MB)
- Restaurant (R)

**7.5.18.2.4** The following uses are allowed in the WPO District with review but only if connected to the public sewer system subject to the limits for medium-scale limited uses:

- Aquaculture (Land support for) (R,BVMU,RMU,CC,MB)
- Funeral Home (BVF,BVMU,CC)
- Laboratory, Research Facility (BVC,BVF,BVMU,RMU,CC,MB)
- Medical Facilities (BVC,BVF,BVMU,CC)
- Restaurant (BVC,BVF,BVMU,CC,MB)
- Retail Business (BVC,BVF,BVMU,CC,MB)
- Veterinary Hospital (BVF,BVMU,RMU,CC)
- Church, Parish House, Place of Worship (R,BVC,BVF,BVMU,RMU,CC)
- Community Center, Club (R,BVC,BVF,BVMU,CC,)

- Educational Facility other than the Coastal Maine Botanical Garden which is subject to a consent decree with the Town (R,BVC,BVF,BVMU,CC)
- Library (R,BVC,BVF,BVMU,CC)
- Museum (R,BVC,BVF,BVMU,CC)
- Public Facility (R,BVC,BVF,BVMU,RMU,CC,MB)

**7.5.18.2.5** The following uses are allowed in the WPO District with review subject to the limits for small-scale limited uses:

- Roadside Stand (BVC,BVF,BVMU,RMU,CC)
- Sex Related Business (MB)

**7.5.18.2.6** The following uses are allowed in the WPO District with review subject to the limits for medium-scale limited uses:

- Neighborhood Store (BVC,BVF,BVMU,CC)
- Offices; Business, Professional (BVC,BVF,BVMU,RMU,CC)
- Service Business (BVC,BVF,BVMU,RMU,CC,MB)
- Storage Facility/Structure (BVMU,RMU,MB)
- Firewood Processing (RMU,CC,MB)

**7.5.18.2.7** The following uses are allowed in the WPO District with review by the CEO:

- Agriculture/Farming (R,BVC,BVF,BVMU,RMU,CC,MB)
- Animal Breeding or Care (R,CC,MB)
- Clearing of Vegetation (R,BVC,BVF,BVMU,RMU,CC,MB)
- Forest Management Activities (R,BVC,BVF,BVMU,RMU,CC,MB)

**7.5.18.3 SPACE AND BULK STANDARDS (WPO)**

The space and bulk standards of the underlying zoning district shall apply to land use activities and development within that district except as modified by this section:

**7.5.18.3.1** The maximum impervious surface area in the following zoning districts shall be limited as follows:

- |                 |                            |
|-----------------|----------------------------|
| • R District    | Twenty percent (20%)       |
| • BVC District  | Fifty percent (50%)        |
| • BVF District  | Forty percent (40%)        |
| • BVMU District | Forty percent (40%)        |
| • CC District   | Sixty percent (60%)        |
| • MB District   | Seventy-five percent (75%) |

**7.5.18.4 ZONE SPECIFIC DEVELOPMENT STANDARDS (WPO)**

Land use activities and development within the Watershed Protection Overlay (WPO) District shall conform to the following additional standards unless the standards of the underlying zoning district are more restrictive:

**7.5.18.4.1 Subsurface Wastewater Disposal Systems:** Subsurface wastewater disposal systems shall conform to the following additional requirements:

**7.5.18.4.1.1** Any activity involving the construction of a new building that has plumbing or the expansion or change of use of an existing building that increases the design sewage flow based on the Maine Subsurface Wastewater Disposal Rules that is located on a lot that is within three hundred (300) feet of a public sewer shall connect to the public sewer.

**7.5.18.4.1.2** Any existing building or use that is served by a subsurface wastewater disposal system that needs to be replaced and which is located on a lot that is within three hundred (300) feet of a public sewer shall connect to the public sewer.

**7.5.18.4.1.3** If the use of an existing building served by a subsurface wastewater disposal system changes from one type of use to another or if the design sewage flow based on the Maine Subsurface Wastewater Disposal Rules increases, the sewage disposal system shall conform the requirements of the Maine Subsurface Wastewater Disposal Rules. If the property is served by a sewage disposal system that does not conform to the current state rules, the system must be brought into conformance with the applicable state rules.

**7.5.18.4.1.4** The treatment tank(s) and disposal field(s) of any new or replacement subsurface wastewater disposal system shall be located a minimum of two hundred (200) feet from the high water line of Adams Pond or Knickerbocker Lakes and the upland edge of any wetland associated with Adams Pond or Knickerbocker Lakes and a minimum of one hundred and fifty (150) feet from any mapped tributary stream. If the size, shape or physical conditions of the lot make it unreasonable to meet these setbacks, the CEO may, after consultation with the Boothbay Region Water District, allow the facilities to be located closer to the resource provided that all components of the system are located as far from the resource as possible given the physical limitations of the lot.

**7.5.18.4.1.5** Prior to the start of construction of a new or replacement subsurface wastewater disposal system, the system installer shall provide the CEO/Plumbing Inspector with at least three (3) business days notice of the date and time at which work on the system will begin to allow the CEO to inspect the site prior to construction and to monitor the installation of the system.

**7.5.18.4.1.6** Any holding tank installed as part of a sewage disposal system shall conform to the state's Subsurface Wastewater Disposal Rules.

**7.5.18.4.2 Storage of Heating Oil:** The storage of heating oil shall conform to the following requirements:

**7.5.18.4.2.1** The Code Enforcement Officer and the Boothbay Regional Water District shall be notified at least three (3) business days prior to the installation or replacement of any heating oil tank. In emergency situations involving the

replacement of a leaking or failed tank, the CEO shall be notified prior to the installation of the replacement tank.

**7.5.18.4.2.2** Any heating oil tank or interconnected system of oil tanks is limited to a maximum capacity of one thousand three hundred twenty (1,320) gallons unless the owner of the tank(s) has a Spill Retention, Control, and Countermeasures (SRCC) Plan that has been approved by the Maine DEP or the U.S. EPA and the approved plan is on file with the CEO and the Boothbay Fire Department.

**7.5.18.4.2.3** All new or replacement heating oil tanks shall be double-walled or secondary containment tanks approved by the Maine DEP for use in a wellhead protection district unless the CEO determines that the physical characteristics of an existing structure do not allow the installation of a tank meeting these requirements.

**7.5.18.4.2.4** Any new or existing heating oil tank that is located outside of a building or structure must comply with the regulations of Maine Fuel Board for protection against snow and ice damage and must be located on a support system meeting the state requirements.

**7.5.18.4.3 Water Supply Buffers:** Any land use activity or development that creates more than one thousand (1000) square feet of impervious surface area in any five (5) year period shall conform to the water supply buffer requirements of XXX.

**7.5.18.4.4 Chlorides Management Plan:** Any nonresidential development or subdivision that creates more than five thousand (5,000) square feet of impervious surface in any five (5) year period shall submit a chlorides management plan meeting the requirements of XXX as part of the application for the approval of the activity.

**7.5.18.4.5 Open Space Subdivisions:** Any residential subdivision or modification to an existing residential subdivision that creates five (5) or more lots in any five (5) year period shall be designed and developed as an “Open Space Subdivision” in accordance with the standards of XXX.

**7.5.18.4.6 Timber Harvesting:** Timber harvesting within the WPO District is subject to regulation by the Town in accordance with the following standards.

**7.5.18.4.6.1 Shoreline integrity and sedimentation.** Persons conducting timber harvesting and related activities must avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of water body and watershed tributary stream banks, water body and watershed tributary stream channels, shorelines, and soil lying within water bodies, watershed tributary streams and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of water body and watershed tributary stream banks, water body and watershed tributary stream channels, shorelines, and soil lying within water bodies, watershed tributary streams and wetlands occurs, such conditions must be immediately corrected.

**7.5.18.4.6.2 Slash treatment.** Timber harvesting and related activities shall be conducted such that slash or debris is not left below the normal high-water line of any water body or watershed tributary stream, or the upland edge of a wetland. This section

does not apply to minor, incidental amounts of slash that result from timber harvesting and related activities otherwise conducted in compliance with this section.

7.5.18.4.6.2.1 Slash actively used to protect soil from disturbance by equipment or to stabilize exposed soil, may be left in place, provided that no part thereof extends more than 4 feet above the ground.

7.5.18.4.6.3 Timber harvesting and related activities must leave adequate tree cover and shall be conducted so that a well-distributed stand of trees is retained, in accordance with the following:

7.5.18.4.6.3.1 Harvesting of no more than fifty (50) percent of the total volume on each acre of trees 4.5 inches DBH or greater in any ten (10) year period is allowed. Volume may be considered to be equivalent to basal area. The Planning Board may allow harvesting to exceed this limitation upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and it adequately protects water quality;

7.5.18.4.6.3.2 Timber harvesting and related activities must not create single cleared openings in the forest canopy greater than one (1) acre. Where such openings exceed thirty thousand (30,000) square feet, they must be at least one hundred (100) feet, horizontal distance, apart; and,

7.5.18.4.6.3.3 Harvesting openings in the forest canopy shall not cumulatively exceed twenty-five (25) percent of the forest canopy cover on the lot in any 10-year period.

7.5.18.4.6.4 Skid trails, yards, and equipment operation. This requirement applies to the construction, maintenance, and use of skid trails and yards.

7.5.18.4.6.4.1 Equipment used in timber harvesting and related activities shall not use stream or watershed tributary stream channels as travel routes.

7.5.18.4.6.4.2 Skid trails and landing yards must be designed and constructed to prevent sediment and concentrated water runoff from entering a water body, watershed tributary stream, or wetland. Upon termination of their use, skid trails and landing yards must be stabilized with the construction of water bars, and by seeding and applying hay, straw, or erosion control mulch, as necessary to prevent sediment and concentrated water flow.

7.5.18.4.6.4.3 Skid trails must be located on soils that can support skidding equipment and skidding of trees must cease when rains or thaws make soils unable to support equipment. Skid trails must not be located on slopes/grades steeper than twenty (20) percent except when the ground is frozen or when the application of tree branches or other erosion control measures is sufficient for preventing runoff and erosion.

7.5.18.4.6.4.4 Setbacks

7.5.18.4.6.4.1 Equipment must be operated to avoid the exposure of mineral soil within seventy-five (75) feet, horizontal distance, of any water body, watershed tributary stream, or wetland. On slopes of ten (10) percent or greater, the setback for equipment operation must be increased by twenty (20) feet, horizontal distance, plus an additional ten (10) feet, horizontal distance, for each five (5) percent increase in slope above ten (10) percent. Where slopes fall away from the resource, no increase in the 25-foot setback is required.

7.5.18.4.6.4.2 Landing yards must be located a minimum of one hundred (100) feet, horizontal distance, from any water body, watershed tributary stream, or freshwater wetland, unless no other reasonable alternative exists, as determined by the Planning Board and upon clear showing by the licensed professional forester that appropriate techniques will be used to prevent sedimentation of the water body, watershed tributary stream, or freshwater wetland.

7.5.18.4.6.5 Land Management Roads. Land management roads, including approaches to crossings of water bodies, watershed tributary stream channels, and freshwater wetlands, ditches and other related structures, must be designed, constructed, and maintained to prevent sediment and concentrated water runoff from directly entering the water body, watershed tributary stream or wetland. Surface water on or adjacent to water crossing approaches must be diverted through vegetative filter strips to avoid sedimentation of the watercourse or wetland. Because roadside ditches may not extend to the resource being crossed, vegetative filter strips must be retained or established for the full width of the minimum setback requirement as specified below.

7.5.18.4.6.5.1 Land management roads and associated ditches, excavation, and fill must be set back at least:

7.5.18.4.6.5.1.1 Two hundred (200) feet, horizontal distance, from the normal high-water line of a great pond;

7.5.18.4.6.5.1.2 One hundred (100) feet, horizontal distance, from the normal high-water line of streams, watershed tributary streams, and freshwater wetlands;

7.5.18.4.6.5.2 The minimum two hundred (200) foot setback specified in Section 7.5.18.4.6.5.2.1 above may be reduced to no less than one hundred (100) feet, horizontal distance, and the one hundred (100) foot setback specified in Section 7.5.18.4.6.5.2.2 above may be reduced to no less than twenty-five (25) feet, horizontal distance, if, prior to construction, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, watershed tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts

placed to avoid sedimentation of the water body, watershed tributary stream or wetland. Such techniques must prevent any concentrated runoff into the vegetated buffer and the water body, watershed tributary stream, or wetland.

**7.5.18.4.6.5.3** On slopes of ten (10) percent or greater, the land management road setback must be increased by at least twenty (20) feet, horizontal distance, plus an additional ten (10) feet, horizontal distance, for each five (5) percent increase in slope above ten (10) percent.

**7.5.18.4.6.5.4** Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with roads must be maintained on a regular basis to assure effective functioning. Drainage structures shall deliver a dispersed flow of water into an unscarified filter strip no less than the width indicated in the setback requirements in 7.5.18.4.6.7. Where such a filter strip is impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, watershed tributary stream, or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, watershed tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be immediately corrected.

**7.5.18.4.6.5.5 Road closeout and discontinuance.** Maintenance of the water control installations required in 7.5.18.4.6.5.4 must continue until use of the road is discontinued and the road is put to bed by effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to avoid surface water flowing over or under the water bar, and extending a sufficient distance beyond the traveled way so that water does not reenter the road surface.

**7.5.18.4.6.5.6 Upgrading existing roads.** Extension or enlargement of presently existing roads must conform to the provisions of this section. Any nonconforming existing road may continue to exist and to be maintained, as long as the nonconforming conditions are not made more nonconforming.

**7.5.18.4.6.5.7 Exception.** Extension or enlargement of presently existing roads need not conform to the setback requirements of 7.5.18.4.6.5.1 if, prior to extension or enlargement, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, watershed tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, watershed tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be immediately corrected.

**7.5.18.4.6.5.8 Additional measures.** In addition to the foregoing minimum requirements, persons undertaking construction and maintenance of roads and stream and watershed tributary stream crossings must avoid sedimentation of surface waters.

**7.5.18.4.6.7 Crossings of waterbodies.** Crossings of streams and watershed tributary streams must allow for fish passage at all times of the year, must not impound water, and must allow for the maintenance of normal flows.

**7.5.18.4.6.7.1 Determination of flow.** Provided they are properly applied and used for the circumstances for which they are designed, methods including but not limited to the following are acceptable as a means of calculating the ten (10) year and twenty-five (25) year frequency water flows and thereby determining water crossing sizes as required in this section: The United States Geological Survey (USGS) Methods; specifically: Hodgkins, G. 1999. Estimating the Magnitude of Peak Flows for Streams in Maine for Selected Recurrence Intervals. U.S. Geological Survey. Water Resources Investigations Report 99-4008. 45 pp.

**7.5.18.4.6.7.2 Upgrading existing water crossings.** Extension, replacement or enlargement of presently existing water crossings must conform to the provisions of this section. Any nonconforming existing water crossing may continue to exist and be maintained, as long as the nonconforming conditions are not made more nonconforming; however, any maintenance or repair work done below the normal high-water line must conform to the provisions of this section.

**7.5.18.4.6.7.3 Other Agency Permits.** Any timber harvesting and related activities involving the design, construction, and maintenance of crossings on waterbodies other than a stream or watershed tributary stream may require a permit from the Department of Environmental Protection, or the US Army Corps of Engineers. Written notice of all water crossing construction, maintenance, alteration and replacement activities must be given to the Bureau of Forestry prior to the commencement of such activities. Such notice must contain all information as specified in sub-section **7.5.18.4.6.7.5** below.

**7.5.18.4.6.7.4** Any timber harvesting and related activities involving the design, construction, and maintenance of crossings of freshwater wetlands identified by the Department of Inland Fisheries and Wildlife as essential wildlife habitat require prior consultation with the Department of Inland Fisheries and Wildlife.

**7.5.18.4.6.7.5** For each water crossing construction, maintenance, alteration and replacement activity, the applicant will provide the following information to the Code Enforcement Officer prior to the commencement of such activities:

**7.5.18.4.6.7.5.1** a map showing the location of all proposed permanent crossings;



7.5.18.4.6.7.5.2 the GPS location of all proposed permanent crossings;

7.5.18.4.6.7.5.3 for any temporary or permanent crossing that requires a permit from state or federal agencies, a copy of the approved permit or permits; and

7.5.18.4.6.7.5.4 a statement signed by the responsible party that all temporary and permanent crossings will be constructed, maintained, and closed out in accordance with the requirements of this Section.

**7.5.18.4.6.7.6 Water crossing standards.** All crossings of streams and watershed tributary streams may be constructed using temporary portable bridge structures, or a bridge or culvert for a land management road, or by a sufficient temporary placement of slash within watershed tributary streams, provided:

7.5.18.4.6.7.6.1 concentrated water runoff does not enter the stream or watershed tributary stream;

7.5.18.4.6.7.6.2 sedimentation of surface waters is avoided;

7.5.18.4.6.7.6.3 there is no substantial disturbance of the bank, or stream or watershed tributary stream channel;

7.5.18.4.6.7.6.4 fish passage is not impeded; and-

7.5.18.4.6.7.6.5 portable bridges are sized according to the requirements of 7.5.18.4.6.7.7, below, so that water flow is not unreasonably impeded.

Subject to 7.5.18.4.6.7.6.1-5 above, skid trail crossings of streams and watershed tributary streams when channels of such streams and watershed tributary streams are frozen and snow-covered or are composed of a hard surface which will not be eroded or otherwise damaged are not required to use permanent or temporary structures. Removal of temporary slash crossings must occur immediately upon cessation of use of the crossing.

**7.5.18.4.6.7.7 Bridge and Culvert Sizing.** For crossings of stream and watershed tributary stream channels with a bridge or culvert, the following requirements apply:

7.5.18.4.6.7.7.1 Bridges and culverts must be installed and maintained to provide an opening sufficient in size and structure to accommodate twenty-five (25) year frequency water flows or with a cross-sectional area at least equal to three (3) times the cross-sectional area of the stream, or watershed tributary stream channel.

7.5.18.4.6.7.7.2 Temporary bridge and culvert sizes may be smaller than provided in 7.5.18.4.6.7.7.1 if techniques are effectively employed such that

in the event of culvert or bridge failure, the natural course of water flow is maintained and sedimentation of the stream or watershed tributary stream is avoided. Such crossing structures must be at least as wide as the channel and placed above the normal high-water line. Techniques may include, but are not limited to, the effective use of temporary skidder bridges or other temporary bridging structures.

7.5.18.4.6.7.7.3 Culverts utilized in stream and watershed tributary stream crossings of land management roads must:

7.5.18.4.6.7.7.3.1 Be installed at or below stream or tributary stream bed elevation;

7.5.18.4.6.7.7.3.2 Be seated on firm ground;

7.5.18.4.6.7.7.3.3 Have soil compacted at least halfway up the side of the culvert;

7.5.18.4.6.7.7.3.4 Be covered by soil to a minimum depth of 1 foot or according to the manufacturer's specifications, whichever is greater, and

7.5.18.4.6.7.7.3.5 Have a headwall at the inlet end which is adequately stabilized by riprap or other suitable means to reasonably avoid erosion of material around the culvert.

7.5.18.4.6.7.7.4 Stream and watershed tributary stream crossings allowed under this section, but located in flood hazard areas (i.e. A zones) as identified on a community's Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM), must be designed and constructed under the stricter standards contained in that community's National Flood Insurance Program (NFIP). For example, a water crossing may be required to pass a 100-year flood event.

7.5.18.4.6.7.8 Skid trail closeout. Upon completion of timber harvesting and related activities, or upon the expiration of a Forest Operations Notification, whichever is earlier, the following requirements apply:

7.5.18.4.6.7.8.1 Bridges installed for stream and watershed tributary stream crossings by skid trails must either be removed and areas of exposed soil stabilized, or upgraded to comply with the closeout standards for land management roads in 7.5.18.4.6.7.9 below.

7.5.18.4.6.7.8.2 Stream and watershed tributary stream channels, banks and approaches to crossings of water bodies and watershed tributary streams that were unexpectedly disturbed while crossing must be immediately stabilized

on completion of harvest, or if the ground is frozen and/or snow-covered, as soon as practical after snowmelt.

**7.5.18.4.6.7.9 Land management road closeout.** Maintenance of the water control features must continue until use of the road is discontinued and the road is put to bed by taking the following actions:

**7.5.18.4.6.7.9.1** Effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to reasonably avoid surface water flowing over or under the water bar, and extending sufficient distance beyond the traveled way so that water does not reenter the road surface.

**7.5.18.4.6.7.9.2** Water crossing structures must be appropriately sized or dismantled and removed in a manner that avoids sedimentation of the stream or watershed tributary stream.

**7.5.18.4.6.7.9.3** Any bridge or water crossing culvert in roads to be discontinued shall satisfy one of the following requirements:

**7.5.18.4.6.7.9.3.1** it shall be designed to provide an opening sufficient in size and structure to accommodate twenty-five (25) year frequency water flows;

**7.5.18.4.6.7.9.3.2** it shall be designed to provide an opening with a cross-sectional area at least 3½ times the cross-sectional area of the stream or watershed tributary stream channel; or

**7.5.18.4.6.7.9.3.3** it shall be dismantled and removed in a fashion to avoid sedimentation of the stream or watershed tributary stream.

If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be immediately corrected.

**7.5.18.4.6.7 Point Source Pollution Control.** Harvesting operations must not unnecessarily release pollutants associated with petroleum use and human waste disposal. The following provisions apply to all timber harvesting operations within the Water Reservoirs Protection District and the Watershed Protection Overlay Zone:

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**7.5.18.4.6.7.1 Petroleum Products:** All equipment must be inspected for leaks prior to arrival and for the duration of their use. Inspections must be performed on all hydraulic components, fuel tanks and lines, engine, transmission and axles. Trucks, forwarders, skidders and other equipment that carry petroleum products must have a sufficient number of petroleum sorbent pads to contain a 10-gallon spill per machine on-site.

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All petroleum products that are not in machine storage are stored in safe durable containers and removed from the operation site at the completion of each day. Petroleum storage is only allowed in tanks designed, manufactured, inspected, and certified for commercial use. No refueling or equipment servicing is allowed within 200 feet of a great pond, or within 100 feet of a stream, watershed tributary stream, or freshwater wetland.

**7.5.18.4.6.8 Definitions.** Unless otherwise provided herein, this section incorporates by reference the definitions contained in the Maine Forest Service Rules Chapter 20, “Forest Regeneration and Clearcutting Standards”, and Chapter 21, “Statewide Standards for Timber Harvesting and Related Activities in Shoreland Areas”.

~~If the harvesting is located within the portion of the WPO District that is overlain by the Shoreland Overlay (SO) District, the activity is subject to the requirements and standards for timber harvesting set forth in 7.5.17.4. If the harvesting is located within the portion of the WPO District that is not overlain by the SO District, the following standards shall apply:~~

~~**7.5.18.4.6.1** Any property owner proposing to undertake a timber harvesting operation of more than two (2) acres must submit a Forest Harvesting Plan prepared by a Maine licensed forester to the CEO for review and approval. The plan must clearly outline the Best Management Practices (BMPs), from the current publication Best Management Practices for Forestry—Protecting Maine’s Water Quality, Maine Forest Service, 2017, that will be used to reduce the impacts of the timber harvest on Adams Pond and/or Knickerbocker Lakes.~~

~~**7.5.18.4.6.2** The CEO will consult with the Boothbay Region Water District during the review of the harvesting plan prior to issuing a timber harvest permit.~~

~~**7.5.18.4.6.3** The design, construction and maintenance of roads as part of the harvesting operation shall conform to the following standards:~~

~~**7.5.18.4.6.3.1** Land management roads, including approaches to crossings of stream channels and freshwater wetlands, ditches and other related structures, must be designed, constructed, and maintained to prevent sediment and concentrated water runoff from directly entering the water body. Surface water on or adjacent to crossing approaches must be diverted through vegetative filter strips to avoid sedimentation of any watercourse.~~

~~**7.5.18.4.6.3.2** Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with roads must be maintained on a regular basis to assure effective functioning.~~

~~**7.5.18.4.6.3.3** Maintenance of the water control installations required above must continue until use of the road is discontinued and the road is put to bed by effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to avoid surface water flowing over or under the water bar, and extending sufficient distance beyond the traveled way so that water does not reenter the road surface.~~

~~7.5.18.4.6.4 Timber harvest activities must adhere to the BMPs set forth in the approved timber harvesting plan.~~

#### **7.5.19 Bigelow Laboratory District (BL)**

The Bigelow Laboratory District is a contract zone established by the Town on May 24, 2006. The details of the district including the allowed uses and development standards are set forth in the Bigelow Laboratory for Ocean Sciences – Contract Zoning Agreement and subsequent addendums to the agreement all of which are part of this ordinance. The agreement is contained in the Appendix to this ordinance.

## 7.6 Table of Land Uses

The following table establishes the uses that are allowed in each zoning district. For each use, its status in a particular zone is indicated by one of the following designations:

- N means the use is not allowed in that zone
- Y means that the use is allowed and does not need a permit
- C means that the use is allowed and that it needs review and approval by the Code Enforcement Officer in accordance with Section 6
- PR means that the use is allowed and that it needs review and approval. Based on the criteria set out in Section 5 and the specifics of a project, the review could be Site Plan Review, Planning Board Review, or Code Enforcement Officer Review
- SD means that the use requires review and approval by the Planning Board under the standards for subdivisions
- MH means the use requires review and approval by the Planning Board under the standards for mobile home parks
- NA means not applicable

If a use is not specifically listed in the Table of Land Uses and the Planning Board determines that it is substantially similar to and compatible with a use that is listed in the Table of Land Uses it shall be regulated in the same manner as such use.

The Watershed Protection Overlay (WPO) District is an overlay district that modifies the uses allowed in the districts or portions of districts covered by the overlay. The WPO district overlays all or a portion of the following districts:

- R
- BVC
- BVF
- BVMU
- RMU
- CC
- MB
- WRP-27
- WRP

The modifications to the allowed uses set forth in the following table are listed in **7.5.18**. The modifications to the allowed uses listed in **7.5.18** supersede the indications in the following table.

### Legend

The column headings in the table identify the various land use districts using the following abbreviations:

- **Residential Districts**
  - R Residential District
  - R-C Coastal Residential District
- **Mixed Use Districts**
  - BVC Boothbay Village Center District
  - BVF Boothbay Village Fringe District
  - BVMU Boothbay Village Mixed-Use District
  - EBV East Boothbay Village District
  - SG Scenic Gateway District
  - RMU Rural Mixed-Use District
- **Commercial – Industrial Districts**
  - CC Commercial Corridor District
  - MB Manufacturing/Business District
  - MC Marine Commercial District
- **Natural Resource Districts**
  - RP Resource Protection District
  - WRP Water Reservoirs Protection District
  - WP Wellhead Protection District

USE/ACTIVITY - DISTRICT	R	R-C	BVC	BVF	BVMU	EBV	SG	RMU	CC	MB	MC	WRP-27	WRP	WP	RP
<b>RURAL - RESOURCE - AGRICULTURAL USES</b>															
Agricultural Packaging and Storage	PR <sup>1</sup>	N	N	PR	PR <sup>6</sup>	N	PR <sup>10</sup>	PR	PR	C	PR	N	N	N	N
Agricultural Product Processing	PR <sup>1</sup>	N	N	PR	PR <sup>6</sup>	N	PR <sup>10</sup>	PR	PR	C	PR	N	N	N	N
Agriculture/Farming	PR	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N	Y
Animal Breeding or Care	PR <sup>3</sup>	N	N	N	N	PR	PR	C	C	C	N	N	N	N	N
Farm Stand	C <sup>1</sup>	C <sup>1</sup>	C	C	C	C <sup>1</sup>	C <sup>2</sup>	C	C	C	C	C <sup>1</sup>	C <sup>1</sup>	N	C
Aquaculture (Land support for)	PR <sup>4</sup>	PR <sup>4</sup>	N	N	PR	PR <sup>4</sup>	PR <sup>10</sup>	PR	PR	C	PR	N	N	PR	PR
Commercial Fishing Activities	PR	PR	N	N	PR	C	C	C	C	C	C	N	N	N	PR
Firewood Processing	N	N	N	N	N	N	PR <sup>10</sup>	PR	PR	PR	N	N	N	N	N
Mineral Extraction	N	N	N	N	N	N	PR <sup>10</sup>	PR	PR	PR	N	N	N	N	N
Timber Harvesting <sup>20</sup>	<del>NAC</del>	<del>NAC</del>	<del>NAN</del>	<del>NAC</del>	<del>NAC</del>	<del>NAN</del>	<del>NAC</del>	<del>NAC</del>	<del>NAC</del>	<del>NAC</del>	<del>NAN</del>	<del>NAPR</del>	PR	<del>NAPR</del>	<del>NAPR</del>
<b>RESIDENTIAL USES</b>															
Accessory Apartment	C	C	C	C	C	C	C	C	C	N	C	C	C	C	C
Dwelling, Multifamily	PR	PR	PR	PR	PR <sup>6</sup>	PR	PR <sup>10</sup>	PR	PR <sup>6</sup>	N	N	N	N	N	N
Dwelling, One Family	C	C	C	C	C	C	C	C	C	N	N	C	C	C	PR <sup>15</sup>



<b>USE/ACTIVITY - DISTRICT</b>	<b>R</b>	<b>R-C</b>	<b>BVC</b>	<b>BVF</b>	<b>BVMU</b>	<b>EBV</b>	<b>SG</b>	<b>RMU</b>	<b>CC</b>	<b>MB</b>	<b>MC</b>	<b>WRP-27</b>	<b>WRP</b>	<b>WP</b>	<b>RP</b>
Dwelling, Two Family	C	C	C	C	C	C	C	C	C	N	N	N	N	C	N
Dwelling, Townhouse	PR	PR	PR	PR	PR <sup>6</sup>	PR	PR <sup>10</sup>	PR	PR <sup>6</sup>	N	N	N	N	N	N
Dwelling Unit in a Mixed-Use Building	PR	PR	PR	PR	PR <sup>6</sup>	PR	PR	PR	PR <sup>6</sup>	N	PR	PR	N	N	N
Employee Housing	PR	PR	PR <sup>3</sup>	PR <sup>3</sup>	PR <sup>6</sup>	PR	PR	PR	PR	PR	PR	PR <sup>3,13</sup>	PR <sup>3,13</sup>	PR <sup>3</sup>	N
Lodging House	PR	PR	PR <sup>3</sup>	PR <sup>3</sup>	PR <sup>3,6</sup>	PR <sup>3</sup>	N	N	PR <sup>6</sup>	N	PR	N	N	PR <sup>3</sup>	N
Mobile Home Park	MH	N	N	N	N	N	MH	MH	N	N	N	N	N	N	N
Residential Care Facility	PR <sup>3</sup>	N	PR <sup>6</sup>	PR <sup>6</sup>	PR <sup>6</sup>	PR <sup>3</sup>	PR <sup>4</sup>	PR <sup>4</sup>	PR <sup>6</sup>	N	N	PR <sup>3,6,12</sup>	N	N	N
Temporary Business Housing	N	N	N	N	N	N	N	N	PR	PR	PR	N	N	N	N
<b>COMMERCIAL USES</b>															
Adult-Use Marijuana Establishments	N	N	N	N	N	N	N	N	N	PR	N	N	N	N	N
Amusement Park	N	N	N	N	N	N	N	N	PR	N	N	N	N	N	N
Alcoholic Beverage Production Establishment	N	N	N	PR	PR <sup>3,6</sup>	N	N	PR	PR	PR	N	N	N	N	N
Auto, Rec. Vehicle Sales & Service	N	N	N	N	N	N	N	PR	PR	N	N	N	N	N	N
Automobile Repair	N	N	N	N	N	N	N	PR	PR	C	N	N	N	N	N
Automobile Service Station	N	N	N	N	N	N	N	N	PR	N	N	N	N	N	N
Bed & Breakfast	PR	PR	PR	PR	PR <sup>6</sup>	PR	PR	PR	PR	N	PR	PR <sup>3,12</sup>	N	PR	N

<b>USE/ACTIVITY/DIS TRICT</b>	<b>R</b>	<b>R-C</b>	<b>BVC</b>	<b>BVF</b>	<b>BVMU</b>	<b>EBV</b>	<b>SG</b>	<b>RMU</b>	<b>CC</b>	<b>MB</b>	<b>MC</b>	<b>WRP-27</b>	<b>WRP</b>	<b>WP</b>	<b>RP</b>
Business Services	N	N	PR	PR	PR	PR <sup>4,11</sup>	PR	PR	PR	C	PR <sup>17</sup>	PR	N	N	N
Campground	PR	N	N	N	N	N	PR <sup>10</sup>	PR	PR	N	N	N	N	N	N
Car Wash	N	N	N	N	N	N	N	N	PR <sup>18</sup>	N	N	N	N	N	N
Conference/Convention Center	PR <sup>5</sup>	PR <sup>5</sup>	N	PR	PR <sup>6</sup>	N	N	N	PR	N	N	N	N	N	N
Construction and Property Management Services	N	N	N	PR	PR	N	PR <sup>10</sup>	PR	PR	C	N	N	N	N	N
Day Care Facility (3-12 children)	PR	PR	PR	C	C	C	C	C	C	C	C	PR <sup>6,12</sup>	N	N	N
Day Care Center (> 12 children)	N	N	N	C <sup>6</sup>	C	C	C	C	C	C <sup>9</sup>	C	N	N	N	N
Flea Market/Tent Sale	N	N	C <sup>8</sup>	N	N	N	N	PR	PR	N	N	N	N	N	N
Funeral Home	N	N	N	PR <sup>6</sup>	PR <sup>6</sup>	N	N	N	PR	N	N	N	N	N	N
Gambling	N	N	N	N	N	N	N	N	N	PR	N	N	N	N	N
Home Occupation	C	C	C	C	C	C	C	C	C	N	C	C	C	C	C
Home Business	PR	PR	PR	PR	PR	PR	PR	PR	PR	N	PR	PR <sup>2</sup>	PR <sup>1</sup>	PR <sup>1</sup>	N
Hotel/Motel	N	N	N	PR	PR <sup>6</sup>	N	N	N	PR	N	PR	N	N	N	N
Indoor Theater	N	N	PR	PR	PR <sup>6</sup>	N	N	N	PR	N	N	N	N	N	N
Inn	N	N	PR	PR	PR <sup>6</sup>	PR	PR	<u>PR</u>	<u>PR</u>	<u>N</u>	<u>N</u>	N	N	N	N
Junkyard	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N

<b>USE/ACTIVITY - DISTRICT</b>	<b>R</b>	<b>R-C</b>	<b>BVC</b>	<b>BVF</b>	<b>BVMU</b>	<b>EBV</b>	<b>SG</b>	<b>RMU</b>	<b>CC</b>	<b>MB</b>	<b>MC</b>	<b>WRP-27</b>	<b>WRP</b>	<b>WP</b>	<b>RP</b>
Kennel	N	N	N	N	N	N	PR <sup>10</sup>	PR	PR	N	N	N	N	N	N
Laboratory, Research Facility	N	N	PR <sup>2</sup>	PR	PR <sup>6</sup>	PR	PR <sup>10</sup>	PR	PR	C	PR	N	N	N	N
Laundromat	N	N	PR <sup>2</sup>	PR	PR <sup>6</sup>	N	N	N	PR	N	N	N	N	N	N
Marina	N	PR	N	N	N	PR	N	PR	N	N	PR	N	N	N	N
Maritime Activities	PR	PR	N	N	N	PR	PR <sup>10</sup>	PR	PR	C	PR	N	N	N	N
Medical Facilities	N	N	PR	PR	PR <sup>6</sup>	PR	N	N	PR	N	PR	PR <sup>2,6,12</sup>	N	N	N
Neighborhood Store	PR <sup>1</sup>	PR <sup>1</sup>	PR	PR	PR	PR	PR	N	PR	N	PR	PR <sup>2,12</sup>	N	N	N
Offices; Business, Professional	PR <sup>2</sup>	PR <sup>2</sup>	PR	PR	PR	PR	PR	PR	PR	C	PR	PR <sup>2,12</sup>	N	N	N
Parking Facility	N	N	PR	PR	PR	PR	N	N	PR	C	PR	N	N	N	N
Personal Services	PR <sup>2</sup>	N	PR	PR	PR	PR <sup>3,11</sup>	PR <sup>4</sup>	PR	PR	N	PR <sup>3,17</sup>	PR	N	N	N
Recreational Facility - Indoor	PR <sup>2</sup>	N	PR	PR	PR <sup>6</sup>	N	PR <sup>10</sup>	N	PR	N	N	N	N	N	N
Recreational Facility - Outdoor	PR <sup>2</sup>	N	N	PR	PR	N	PR <sup>10</sup>	PR	PR	N	N	N	N	N	PR <sup>2</sup>
Restaurant	PR <sup>2</sup>	N	PR	PR	PR <sup>6</sup>	PR <sup>4,11</sup>	PR	N	PR	PR	PR <sup>2</sup>	PR <sup>2,12</sup>	N	N	N
Retail Business	N	N	PR	PR	PR	PR <sup>3,11</sup>	PR	N	PR	PR	PR <sup>2</sup>	PR <sup>2,12</sup>	N	N	N
Retail Fuel Distributor	N	N	N	N	N	N	N	N	N	PR	N	N	N	N	N
Roadside Stand	C <sup>1</sup>	C <sup>1</sup>	C	C	C	C <sup>1</sup>	C <sup>2</sup>	C	C	N	C	C <sup>1</sup>	C <sup>1</sup>	C	C

<b>USE/ACTIVITY - DISTRICT</b>	<b>R</b>	<b>R-C</b>	<b>BVC</b>	<b>BVF</b>	<b>BVMU</b>	<b>EBV</b>	<b>SG</b>	<b>RMU</b>	<b>CC</b>	<b>MB</b>	<b>MC</b>	<b>WRP-27</b>	<b>WRP</b>	<b>WP</b>	<b>RP</b>
Sex Related Business	N	N	N	N	N	N	N	N	N	Y	N	N	N	N	N
Shopping Center	N	N	N	N	N	N	N	N	PR	N	N	N	N	N	N
Small Engine & Lawn/Garden Equipment Repair & Sales	N	N	N	N	N	N	PR <sup>10</sup>	PR	PR	C	N	N	N	N	N
Storage Facility/Structure	N	N	N	N	PR	N	PR <sup>7,10</sup>	PR	N	C	N	N	N	N	N
Transportation Terminal	N	N	N	N	N	N	N	N	PR	N	N	N	N	N	N
Veterinary Hospital	N	N	N	PR	PR <sup>6</sup>	N	PR	PR	PR	N	N	N	N	N	N
<b>INDUSTRIAL – MANUFACTURING – DISTRIBUTION USES</b>															
Communications Tower	PR	PR	N	PR	PR	N	PR	PR	PR	PR	PR	PR	PR	N	PR
Manufacturing	N	N	N	N	PR <sup>6</sup>	N	PR <sup>10</sup>	PR	N	C	PR	N	N	N	N
Recycling Operations	N	N	N	N	PR <sup>3,6</sup>	N	N	N	N	C	N	N	N	N	N
Sawmill	N	N	N	N	N	N	PR <sup>10</sup>	PR	N	C	N	N	N	N	N
Terminal for Bulk Oil and Gas	N	N	N	N	N	N	N	N	PR	PR	N	N	N	N	N
Trucking Distribution Terminal	N	N	N	N	N	N	N	N	N	C	N	N	N	N	N
Warehousing	N	N	N	N	PR <sup>6</sup>	N	PR <sup>10</sup>	PR	N	C	PR	N	N	N	N
Waste Transfer Facility	N	N	N	PR	N	N	N	N	N	N	N	N	N	N	N

<b>USE/ACTIVITY - DISTRICT</b>	<b>R</b>	<b>R-C</b>	<b>BVC</b>	<b>BVF</b>	<b>BVMU</b>	<b>EBV</b>	<b>SG</b>	<b>RMU</b>	<b>CC</b>	<b>MB</b>	<b>MC</b>	<b>WRP-27</b>	<b>WRP</b>	<b>WP</b>	<b>RP</b>
Wholesale Business	N	N	N	N	N	N	PR <sup>10</sup>	PR	PR <sup>7</sup>	C	N	N	N	N	N
Wood Processing	N	N	N	N	N	N	PR <sup>10</sup>	PR	N	C	N	N	N	N	N
<b>INSTITUTIONAL USES</b>															
Botanical Garden	PR <sup>19</sup>	N	N	N	N	N	N	N	N	N	N	N	PR <sup>21</sup>	N	N
Cemetery	PR	N	Y	Y	Y	Y	Y	Y	PR	N	PR	N	N	N	PR
Church, Parish House, Place of Worship	PR	PR	PR	PR	PR <sup>6</sup>	PR	PR	PR	PR	N	PR	N	N	PR	N
Community Center, Club	PR	PR	PR	PR	PR <sup>6</sup>	PR	PR	N	PR	N	N	N	N	N	N
Educational Facility	PR <sup>3,16</sup>	PR <sup>2</sup>	PR	PR	PR <sup>6</sup>	PR <sup>3</sup>	PR	N	PR	PR	PR <sup>17</sup>	N	N	PR	PB <sup>1</sup>
Library	PR <sup>3</sup>	N	PR	PR	PR <sup>6</sup>	PR	N	N	PR	N	N	N	N	N	N
Museum	PR <sup>3</sup>	N	PR	PR	PR <sup>6</sup>	PR	N	N	PR	N	N	N	N	N	PR <sup>1</sup>
Public Facility	PR	PR	PR	PR	PR <sup>6</sup>	PR	PR	PR	PR	PR	PR	PR <sup>2,14</sup>	PR <sup>2,14</sup>	PR	PR <sup>2</sup>
Camp	PR	PR	N	N	N	N	PR	PR	N	N	N	N	PR	N	N
Clearing of Vegetation	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	C	C	C	Y
Dock - Temporary	PR	PR	NA	NA	NA	PR	PR	PR	NA	NA	PR	N	PR	PR	PR
Dock - Permanent	PR	PR	NA	NA	NA	PR	PR	PR	NA	NA	PR	N	PR	N	PR
Earth Moving/Filling <50 cubic yards	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C

<b>USE/ACTIVITY - DISTRICT</b>	<b>R</b>	<b>R-C</b>	<b>BVC</b>	<b>BVF</b>	<b>BVMU</b>	<b>EBV</b>	<b>SG</b>	<b>RMU</b>	<b>CC</b>	<b>MB</b>	<b>MC</b>	<b>WRP-27</b>	<b>WRP</b>	<b>WP</b>	<b>RP</b>
Earth Moving/Filling >50 yards	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR
Essential Services	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Forest Management Activities	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	NA	C	C	C	C
Mineral Exploration	N	N	N	N	N	N	Y	Y	Y	Y	NA	N	N	N	N
Individual Private Campsite	C	C	N	N	N	N	Y <sup>10</sup>	Y	N	N	N	N	N	N	C
Sign	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Wharf/Pier	PR	PR	NA	NA	NA	PR	PR	PR	NA	NA	PR	N	PR	NA	PR
Wind Turbines - Up to 60 feet in height	PR	PR	PR	PR	PR	PR	PR	PR	PR	C	PR	PR	PR	N	PR
Wind Turbines - Over 60 feet in height	N	N	N	PR	N	N	PR <sup>10</sup>	PR	PR	PR	PR	PR	PR	N	N
Use similar to uses “permitted with CEO Review” – C <sup>19</sup>	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Use similar to uses “permitted with review” – PR <sup>19</sup>	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR

### Notes to the Table of Land Uses:

1. Only very small-scale limited uses with less than 500 SF of gross floor area (see definition for additional requirements)
2. Only very small and small-scale limited uses with less than 1,000 SF of gross floor area (see definition for additional requirements)
3. Only very small, small and medium-scale limited uses with less than 2,000 SF of gross floor area (see definition for additional requirements)
4. Only very small, small, medium and larger-scale limited uses with less than 4,000 SF of gross floor area (see definition for additional requirements)
5. Only as an accessory to an existing nonconforming hotel/motel
6. Allowed only if served by the public sewer system
7. All storage shall occur completely inside of a building
8. Allowed only on the Town Common in accordance with the provisions of the Administrative Code
9. Allowed only as an accessory use to an allowed use
10. Allowed only if the use and development conforms to the Zone Specific Development Standards of **7.5.7.4**
11. Only on lots that front on Ocean Point Road or School Street
12. The size and intensity limits shall not apply to the reuse or expansion of an existing building or to the redevelopment of a lot containing one or more buildings as of the date of adoption of this section provided that the reuse, expansion or redevelopment meets the standards of **X.X.X**
13. Allowed as reuse of an existing building only if served by the public sewer system or a subsurface wastewater disposal system meeting current state requirements as of the date of reuse
14. The size and intensity limits do not apply to facilities owned or operated by the Town of Boothbay, the Boothbay Regional Water District or the Boothbay Harbor Sewer District
15. Allowed only in accordance with the performance standards for single-family homes in the RP District.
16. Allowed only if marine related
17. Allowed only if served by the public sewer system and the year-round public water system
18. In determining if a use is similar to an allowed use, the CEO or Planning Board as applicable shall consider the following factors: size and appearance, potential impact on abutting properties, scale of operations, traffic, environmental impacts, and the purpose of the district
19. All uses, facilities and activities of the Coastal Maine Botanical Garden shall comply with the April 24, 2018 Consent Decree between the Coastal Maine Botanical Garden and the Town of Boothbay
20. ~~The Town of Boothbay only regulates Timber Harvesting within the WRP and WPO Districts. SO District is subject to the standards of 7.5.17.4. Timber Harvesting within the WPO District is subject to the standards of 7.5.18.4.6. Timber Harvesting that is not~~

~~located within either the SO District or WPO District is not subject to regulation by the Town but may be regulated by the Maine Forest Service.~~

21. The only allowed botanical garden is the Coastal Maine Botanical Garden and all uses, facilities and activities of the Coastal Maine Botanical Garden shall comply with the April 24, 2018 Consent Decree between the Coastal Maine Botanical Garden and the Town of Boothbay



## Appendix

### **BIGELOW LABORATORY FOR OCEAN SCIENCES CONTRACT ZONING AGREEMENT**

This Agreement dated as of MAY 24, 2006, by and between **THE INHABITANTS OF THE TOWN OF BOOTHBAY**, a municipal corporation existing under the laws of the State of Maine, located in the County of Lincoln and State of Maine (the "Town") with a mailing address of 1011 Wiscasset Road, P.O. Box 106, Boothbay, Maine 04537-0106, and **BIGELOW LABORATORY FOR OCEAN SCIENCES**, a Maine non-profit corporation located in the County of Lincoln and State of Maine ("Bigelow") with a mailing address of P.O. Box 475, West Boothbay Harbor, Maine 04575-0475.

WHEREAS, Bigelow owns a certain lot or parcel of real estate located on Ocean Point Road and Green Landing Road in Boothbay, Maine, fronting on Farnham Cove, consisting of approximately 64 acres, described in a deed dated June 30, 2003 and recorded at the Lincoln County Registry of Deeds in Book 3090, Page 184 and a second deed dated August 27, 2003 and recorded at said Registry in Book 3173, Page 278 and a third undated deed recorded at said Registry in Book 3173, Page 287 and a fourth deed dated August 27, 2003 recorded at said Registry in Book 3173, Page 289 and generally being shown on the Assessor's Tax Map R-8 as Lot 30 (the "Property");

WHEREAS, the Property is currently located in the General Residential ("GR") zoning district and the Shoreland Overlay Zone ("SOZ") under the Zoning Ordinance of the Town of Boothbay ("Zoning Ordinance");

WHEREAS, the GR zoning district presently allows as permitted uses, or conditional uses, various uses, including educational facilities, hotels/motels, maritime activities, professional offices, museums, libraries and laboratory research facilities but not a marine research and educational facility;

WHEREAS, Bigelow wishes to develop the Property as a state-of-the-art Marine Research and Educational Facility with a laboratory and research center for the study of marine and oceanic sciences, a dormitory and cottage-style housing for students and visiting scholars, a retreat and conference center and a dock and other water-dependent structures on the Property, along with an access drive, internal circulation drives, parking lots, loading and service areas, storage facilities, and related infrastructure improvements to the Property ("the Project");

WHEREAS, the Zoning Ordinance does not currently recognize a Marine Research and Educational Facility as a defined use;

WHEREAS, Bigelow has requested a rezoning of the Property to permit a Marine Research and Educational Facility;

WHEREAS, the size, location, configuration, topography, and deep-water access of this site permit a level of buffering, landscaping, and site design that will be appropriate for a Marine Research and Educational Facility, provided the operation is restricted to the sketch plan proposed by Bigelow and further provided that the restrictions of this Agreement are observed;

WHEREAS, the Property contains existing trails across the Property that will be preserved and/or relocated in substantially the same quality and quantity as currently exists on the Property;

WHEREAS, Bigelow will concentrate development into only certain areas of the site plus roadways totaling approximately 14 acres, thereby preserving approximately 50 acres of the 64 acre site in its natural state, which provides a unique amount and quality of vegetative buffering;

WHEREAS, the Project serves the Town's policy of preserving the aesthetic quality of the community by encouraging buffers for new developments and protecting scenic vistas as set forth in Volume I, Section II(A)(2)(f) of the Comprehensive Plan

WHEREAS, the Project serves the Town's policy of promoting the study of marine or oceanographic sciences in appropriate areas of Town as set forth in Volume I, Section II(B)(2.1)(d) of the Comprehensive Plan;

WHEREAS, the Project serves the Town's policy of providing suitable areas within the Town for the development of low-intensity institutional activity such as marine research facilities in the GR zoning district as set forth in Volume I, Section II(B)(2.2) of the Comprehensive Plan;

WHEREAS, the Project serves the Town's policy of supporting the marine resources industry in the Town and the region by studying marine and oceanographic sciences as set forth in Volume I, Section II(C)(2)(c) of the Comprehensive Plan;

WHEREAS, the Project serves the Town's policy of encouraging the conservation of open spaces as set forth in Volume I, Section II(D)(2)(f) of the Comprehensive Plan;

WHEREAS, the Project serves the Town's policy of promoting the study of marine or oceanographic sciences as set forth in Volume I, Section II(E)(2)(i) of the Comprehensive Plan;

WHEREAS, the Project serves the Town's policy of ensuring that future development activities contribute financially to meet the increased demands on municipal services as set forth in Volume I, Section II(G)(2)(b) of the Comprehensive Plan;

WHEREAS, the Project serves the Town's policy of supporting the use of private recreational and cultural facilities that are available to all residents of the Town as set forth in Volume I, Section II(H)(2)(D) of the Comprehensive Plan;

WHEREAS, all of the required public hearings have been duly noticed and conducted in accordance with Maine law;

WHEREAS, the Planning Board, pursuant to Section VI(D) of the Zoning Ordinance and 30-A M.R.S.A. § 4352(8), and after notice and hearing and due deliberation thereon, recommended the rezoning of the Property as aforesaid;

WHEREAS, the Town, acting by and through Town Meeting, is authorized to approve contract zoning agreements pursuant to Section VI(D) of the Zoning Ordinance and the provisions of 30-A M.R.S.A. § 4352(8); and

WHEREAS, the Town, acting by and through Town Meeting, therefore, has determined that said rezoning would be, and is, pursuant to and consistent with the Town's local growth management program and Comprehensive Plan adopted pursuant to 30-A M.R.S.A. § 4321 *et seq.* and consistent with the existing and permitted uses within the original zoning district classifications and has authorized the execution of this Agreement and amendment of the Zoning Ordinance accordingly.

NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The Town hereby amends the Zoning Map of the Town of Boothbay, by adopting the zoning map change amendment shown on **Exhibit A**.
2. The Property shall be developed substantially in accordance with the sketch plan shown on **Exhibit B** (including the layout of the buildings, pedestrian and vehicular circulation plan, open space and landscaping); provided, however, that the Project shall be subject to site plan review and approval by the Planning Board and, if required by law, subdivision review and approval by the Planning Board. Any site plan review applications shall be consistent with the sketch plan attached as Exhibit B and the application and approval requirements contained in Section XII (site plan) of the Zoning Ordinance, as may be amended from time to time. The Planning Board may permit deviations from the sketch plan, as long as the deviations are consistent with the purposes of this Agreement and as otherwise allowed by law.

3. The Town shall not issue Bigelow any building permits for the project until Bigelow has received all required federal, State and local permits. Any part of this Agreement related to activity in the SOZ is subject to review and approval of the Commissioner of the Maine Department of Environmental Protection pursuant to Section II(C) of the Zoning Ordinance, as may be amended from time to time.

4. Bigelow is authorized to create a Marine Research and Educational Facility, as defined herein, at the Property. For purposes of this Agreement, a Marine Research and Educational Facility means a comprehensive laboratory and related facilities that can accommodate the following activities and facilities: scientific research; educational programs; laboratory work and related product development and enhancement; residential housing for students, visiting scholars and other persons related to the Marine Research and Educational Facility; conference and retreat facilities for employees, students, visitors and other persons related to the Marine Research and Educational Facility; offices and maintenance facilities to support the Marine Research and Educational Facility; a dock and other water-dependent structures; and other supporting and accessory uses, which shall be secondary and incidental to the above-listed uses, including, without limitation, passive recreational activity.

5. Phase I is planned to consist of the following:

- (a) a main laboratory building, the building foot print of which shall not exceed 47,000 square feet;
- (b) marine operations buildings, the total building foot print of which shall not exceed 13,500 square feet;
- (c) visiting scientist housing consisting of 6 two-bedroom cottages and 2 three-bedroom cottages arranged in duplexes, the total building foot print of which shall not to exceed 21,920 square feet, along with storage sheds/carports for the cottages, the total building footprint of which shall not exceed 2,800 square feet; and
- (d) maintenance garage buildings, the total building foot print of which shall not exceed 1,500 square feet.

Phase II may include the following:

- (a) a collaborative research center, which may be attached to and a part of the main building, the building foot print of which shall not exceed 12,500 square feet;
- (b) an addition to the main laboratory building for office space (and not included as part of the collaborative research center), the building foot print of which shall not exceed 5,000 square feet;
- (c) a retreat center, the building foot print of which shall not exceed 4,500 square feet;

- (d) additional visiting scientist housing consisting of 6 two-bedroom cottages and 2 three-bedroom cottages arranged in duplexes, the total building foot print of which shall not to exceed 21,920 square feet, along with storage sheds/carports for the cottages, the total building footprint of which shall not exceed 2,800 square feet; and
- (e) a dormitory building, the building foot print of which shall not exceed 5,950 square feet.

Phase III may include the following:

- (a) future program development buildings, the total building foot print of which shall not to exceed 10,050 square feet.

These three phases constitute the entire Project that Bigelow intends to construct. While it is Bigelow's intent to construct all three phases, the ultimate phasing and speed of construction of the Project is dependent upon Bigelow's ability to raise and receive funds. Portions of the phases may be pushed up or pushed back into other phases of the development. The size and timing may change depending on the availability of funding for the various phases of the Project.

6. Construction and use of the facility shall be subject to the following conditions:

(a) Permitted Uses: The use allowed or permitted on the Property shall be limited to a Marine Research and Educational Facility as defined in Paragraph 4.

(b) Building Height: The maximum height of the main building shall be 65 feet; the height of the main building shall be the vertical distance measured from the average ground elevation at any point adjacent to the foundation, i.e., the underlying base, substructure, or support of a building, to the highest point of the roof, excluding antennas and chimneys, using predevelopment grades if fill has been added and using post-development grades if soil has been removed.

(c) Setbacks: Because the marine operations buildings are functionally water dependent structures, they shall be permitted a zero foot setback from the upland edge of the coastal wetland of Famham Cove.

(d) Building Footprint: The maximum allowable building total foot print for the buildings shall be 149,440 square feet.

(e) Frontage/Lot Width: No minimum road frontage shall apply to the Property, although Bigelow shall maintain sufficient road frontage on both Route 96 (Ocean Point Road) and Green Landing Road as to provide adequate sight distances for vehicular access to the Property. The minimum lot width for

the Property shall be at least 1,000 feet as measured by the average horizontal distance between the side lot lines of the lot that run perpendicular to the shore frontage of the lot on Farnham Cove.

(f) Landscaping: The Property shall be landscaped to enhance the general appearance of the Project from surrounding properties as determined by the Planning Board at the time of site plan approval. The landscaping shall be maintained by Bigelow or its successors in interest. After the date of approval of this Agreement, there shall be no significant amount of removal of existing trees or other vegetation except as indicated in an approved site plan or as otherwise approved by the applicable Town authority.

(g) Sewer and Water: The facility will be served by public water and on-site waste disposal systems.

(h) Utilities: All utilities for the main laboratory building and its contiguous buildings shall be installed underground unless to do so would be unreasonably expensive or impractical in the field; all utilities for all other buildings may be located underground. Any and all utilities, transformer boxes, substations, pumping stations and meters shall be located and designed so as not to be unsightly or hazardous to the general public.

(i) Parking: The Project shall provide sufficient parking to meet the needs of the facility, as determined by the Planning Board at the time of site plan approval.

(j) Site Access: Except as may be reasonably necessary during construction, the principal vehicular access point to the Property shall be located off of Route 96 (Ocean Point Road). Access to the Property via Green Landing Road shall be for emergency vehicles only; Bigelow shall maintain a locked gate at the Property's intersection with Green Landing Road, with keys or access codes made available to emergency personnel. The Board of Selectmen shall adopt any necessary and appropriate parking regulations relating to the intersection of the Bigelow access drive and Green Landing Road.

(k) Fire Protection: The Project shall provide a loop in the waterline located in Green Landing Road so that there is no dead end in the water line system. A minimum of three (3) hydrants shall be located on the Property in such locations as approved by the Boothbay Fire Chief or his designee. The Project shall provide a fire lane around the entire perimeter of the main building and sufficient fire lanes and turnarounds on the site, all as approved by the Boothbay Fire Chief, to ensure that fire apparatus can adequately access all buildings on the Property. All buildings shall contain sprinklers as approved by the Boothbay Fire Chief or his designee.

(1) Open Space: Bigelow shall be responsible for improving and maintaining the public walking trails and the open space as shown on the sketch) plan and as may be amended by a site plan approved by the Planning Board. Prior to the issuance of a Certificate of Occupancy, Bigelow shall deed to the Town a public recreational easement on and over the walking trails shown on a site plan approved by the Planning Board. Bigelow reserves the right to restrict the use of said easement to passive recreational activity and to prohibit the public's use of vehicles of any kind on said easement, which includes all motorized vehicles and mechanical vehicles, including but not limited to bicycles, rollerblades, skates, skateboards, carts, wagons, carriages or similar wheeled vehicles, except that wheelchairs or similar vehicles designed to accommodate disabled individuals are allowed if necessary for a disabled individual to use the easement. Bigelow also reserves the right to restrict use of said easement to certain hours and to restrict the use of amplified sound within said easement. The parties agree that any duty of care for use of the easement is governed by 14 M.R.S.A. § 159-A *et seq.* Due to the limited residential nature of the Marine Research and Educational Facility use (as well the open space and public access provided for hereunder), the Project shall not be considered a large scale use under the Zoning Ordinance, as may be amended from time to time.

(m) Site Plan: The property subject to this Agreement shall be developed and used only in accordance with a site plan approved by the Planning Board. That site plan may be amended from time to time pursuant to the provisions of the Zoning Ordinance. Any site plan amendment that involves any change to the definition of a Marine Research and Educational Facility or an increase in the maximum allowable footprint of the buildings will require an amendment to this Agreement.

(n) Timing of Construction: Bigelow's construction of the Project and its various phases is wholly dependent upon its ability to raise funds for this Project. However, once Bigelow is issued a building permit for any aspect of the Project, it shall have two (2) years from the date of issuance of said building permit to complete the work authorized by the building permit.

7. As part of the Agreement, the Board of Selectmen may, but is not obligated to, require a bond, escrow agreement, irrevocable letter of credit, or other surety in such amount as is approved by the Board of Selectmen as being reasonably necessary to ensure compliance with the conditions or restrictions required by the rezoning and, where necessary to ensure continued compliance, may require such surety to remain in effect after occupancy of the rezoned property. Such surety shall be posted before issuance of any building permit.

8. Bigelow shall provide advance notice in writing to the Town and on its website and in *The Boothbay Register* (or any successor newspaper of general circulation in the Town) of the dates of arrival and departure of any research or other seagoing vessel larger than 60 feet in length that may be visiting and/or docking at the Property.

9. Bigelow shall provide, subject to availability, public meeting space to Town administrative boards and committees at no charge to the Town; provided, however, that, at Bigelow's option, the Town shall be responsible for set up and clean up. Bigelow agrees to meet annually with the Town to review operations and issues.

10. (a) If the Property is hereafter determined to be or made subject to Maine property taxation, the Property shall be assessed and taxed in accordance with Maine law.

(b) If the Property is hereafter determined to be or made exempt from Maine property taxation or if Bigelow becomes entitled for any reason whatever to pay less than 100% of the property tax rate imposed on other property owners in the Town, Bigelow shall nevertheless pay to the Town, semiannually or on whatever basis real and personal property taxes are hereafter generally due in the Town, commencing with the 1st day of April following the issuance of the first Certificate of Occupancy relating to the Project, an amount as specified herein (the "PILOT amount"). The PILOT amount payable by Bigelow initially shall be equal to \$15,000 for the first July 1 - June 30 fiscal year (hereinafter the "Base Year") after issuance of the first Certificate of Occupancy relating to the Project. At the beginning of each fiscal year after the Base Year (each such date hereinafter called an "increase date"), the PILOT amount payable by Bigelow for that year shall be adjusted, effective for the fiscal year commencing on each such increase date to an amount equal to the greater of (i) the prior year's PILOT amount; (ii) an annual PILOT amount that bears the same proportion the annual PILOT amount in effect during the calendar month immediately preceding such increase date as the Consumer Price Index All Urban Consumers, U.S. City Average, All Items, Base Period 1982-84=100 (Not Seasonally Adjusted) as published by the Bureau of Labor Statistics of the United States Department of Labor (hereinafter the "CPI Index") published for December of that fiscal year bears to such CPI Index as in effect for December of the preceding fiscal year; or (iii) the prior year's PILOT amount times the percentage increase in the Town's municipal budget (not including the school budget or county assessment) of that fiscal year from the prior fiscal year's municipal budget plus the prior year's PILOT amount. In the event that the United States Bureau of Labor Statistics shall discontinue the issuance of such CPI Index or change such CPI Index or not publish said CPI Index for the month in question, a reasonable conversion factor shall be applied or a reasonable equivalent substitute or successor index shall be used as determined by the Town for the computations set forth herein. Bigelow shall receive a dollar for dollar credit off any payment under this subparagraph for any property taxes or service charges otherwise imposed by law and paid by Bigelow with respect to the Property.



Amounts payable under this subparagraph shall be in lieu of real estate and personal property taxes and in lieu of service charges, including any service charges that may be imposed under 36 M.R.S.A. § 652(1)(L) or any similar or successor law with respect to the Property for each applicable year. Such amounts shall be due and payable in the same proportions and on the same dates and shall be subject to the same interest charges, as applicable under law for non-payment of real and personal property taxes. In the event Bigelow shall fail to pay such amounts when due, the Town shall have all rights otherwise available to it under law including, without limitation, the right to file a civil action for collection of the same (the exclusive venue for which shall be Maine Superior Court (Lincoln County)), and Bigelow agrees to pay all costs of suit and collection including reasonable attorney's fees.

11. The provisions of this Agreement shall be deemed restrictions on the use of the Property except as this Agreement may be amended by future written agreement between the Town, acting through its legislative body, and Bigelow or its successors-in-interest without need for approval of any other party except as otherwise provided by law.

12. The provisions of this Agreement shall operate as an “overlay” zone with respect to the area shown on **Exhibit A**, and except as otherwise set forth in the aforesaid conditions, all other requirements of the underlying GR zoning district and SOZ shall apply.

13. The restrictions, provisions and conditions of this Agreement are an essential part of the rezoning, shall run with the Property, shall bind Bigelow, its successors-in-interest and assigns of said Property or any part thereof, and shall inure to the benefit of and be enforceable by the Town and its Code Enforcement Officer.

14. Except as expressly modified herein, the use and occupancy of the Property shall be governed by and comply with the provisions of the Zoning Ordinance and any applicable amendments thereto or replacement thereof.

15. The Town shall have the power to enforce all conditions and restrictions of this Agreement, both through an enforcement action pursuant to Section IV(I) of the Zoning Ordinance, as may be amended from time to time, and through legal action for specific performance of this Agreement. In the event that Bigelow or its successors or assigns fail to develop the project in accordance with this Agreement, or in the event of any other breach hereof, and such failure or breach continues for a period of thirty (30) days after written notice of such failure or breach from the Town to Bigelow, its successors and assigns, or in the event such failure or breach cannot reasonably be remedied or cured within such thirty (30) day period, if Bigelow, its successors or assigns, fails to commence a cure or to remedy such failure or breach within said thirty (30) day period and thereafter fails to diligently prosecute such cure or remedy to

completion in a reasonable time, then this Agreement may be terminated by vote of its legislative body. In that event, the Property may then be used only for such uses as otherwise allowed by law.

John P. Anderson

WITNESS

John P. Anderson

WITNESS

John P. Anderson

WITNESS

Bonnie D. Lewis

WITNESS

Eric Hodgdon  
WITNESS Bonnie D. Lewis

**INHABITANTS OF THE  
TOWN OF BOOTHBAY**

Charles R. Cunningham

Chairman, Board of Selectmen  
Charles R. Cunningham

Don E. Harris

Vice Chairman, Board of Selectmen

Alan E. Woods

Selectman

Eric Hodgdon

Selectman

Eric Hodgdon

Selectman

**BIGELOW LABORATORY  
FOR OCEAN SCIENCES**

John P. Anderson

WITNESS

By: Louis E. Sage

Louis E. Sage

Its President, duly authorized

STATE OF MAINE  
Lincoln, ss.

May 24, 2006

Personally appeared the above named Charles R. Cunningham, Chairman of the Board of Selectmen, and swore the foregoing instrument to be his free act and deed and the free act and deed of the Inhabitants of the Town of Boothbay.

Before me,

Tracey Hodgdon Hysch  
Notary Public/Attorney at Law  
Tracey Hodgdon Hysch, Notary Public  
State of Maine  
My Commission Expires 10/30/2006  
Print Name

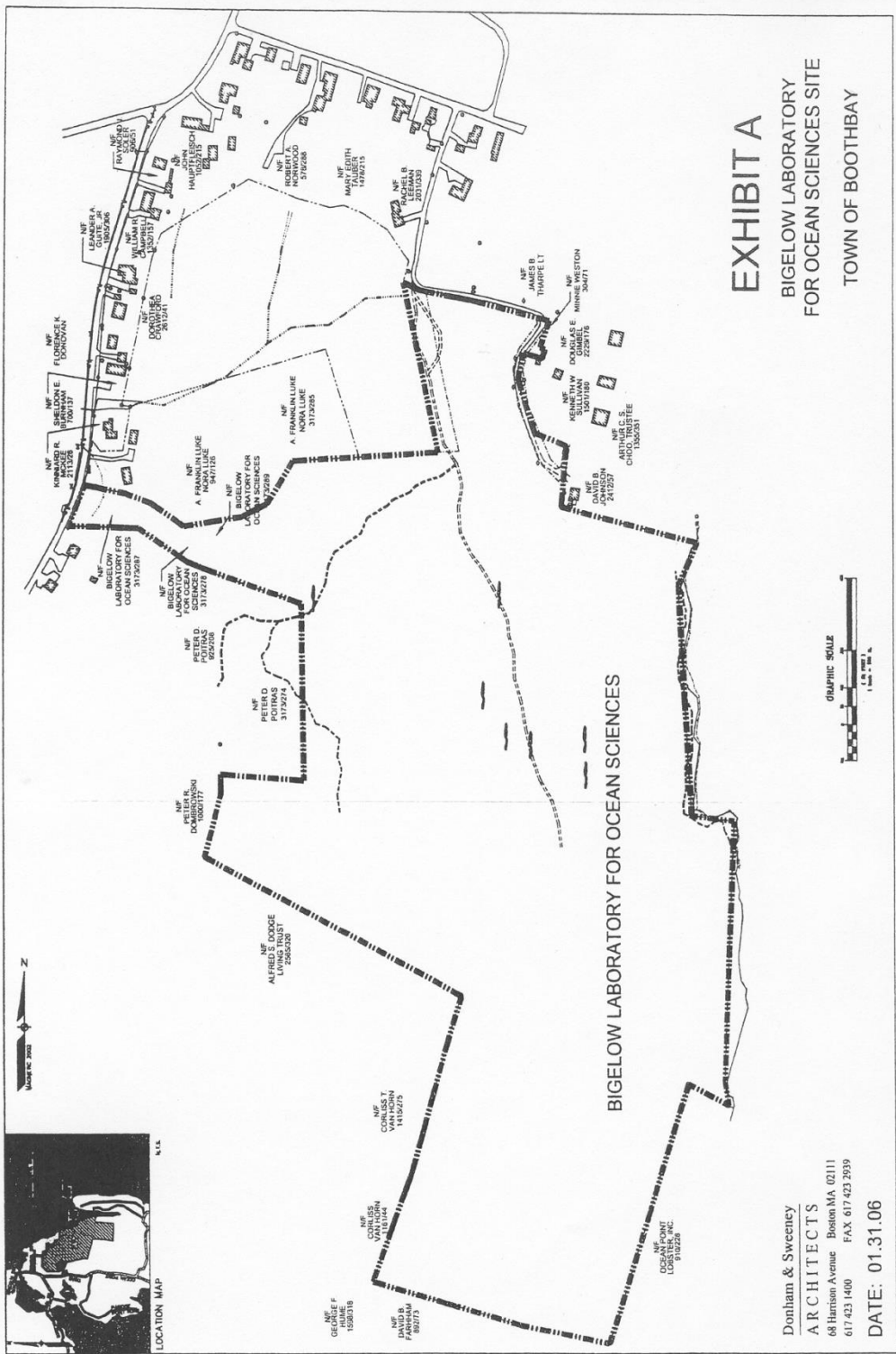
STATE OF MAINE  
COUNTY OF Lincoln, ss.

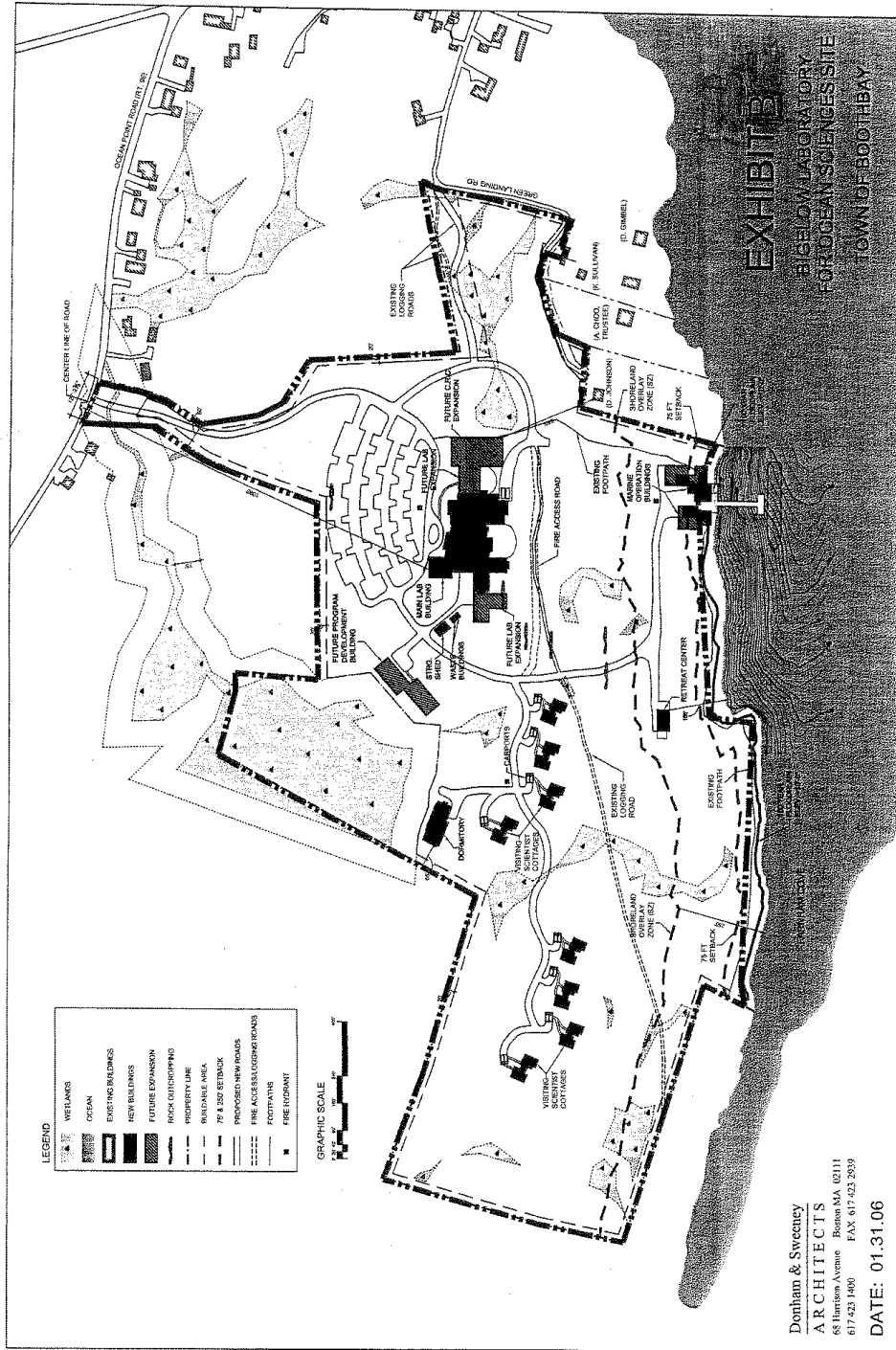
May 24, 2006

Personally appeared before me the above-named Louis E. Sage in his capacity as President of Bigelow Laboratory for Ocean Sciences and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of Bigelow Laboratory for Ocean Sciences.

Before me,

Tracey Hodgdon Hysch  
Notary Public/Attorney at Law  
Tracey Hodgdon Hysch, Notary Public  
State of Maine  
My Commission Expires 10/30/2006  
Print Name





**FIRST AMENDMENT TO BIGELOW LABORATORY FOR OCEAN SCIENCES  
CONTRACT ZONING AGREEMENT**

This First Amendment to Bigelow Laboratory For Ocean Sciences Contract Zoning Agreement is made and entered into as of the 24<sup>th</sup> day of May, 2010, which shall be attached to the Bigelow Laboratory for Ocean Sciences Contract Zoning Agreement dated May 24, 2006 by and between the **INHABITANTS OF THE TOWN OF BOOTHBAY**, a municipal corporation existing under the laws of the State of Maine and located in Boothbay, County of Lincoln, State of Maine and having a mailing address of P.O. Box 106, Boothbay, ME 04537-0106 (the “Town”), and **BIGELOW LABORATORY FOR OCEAN SCIENCES**, a Maine non-profit corporation located in the County of Lincoln and State of Maine (“Bigelow”) with a mailing address of P.O. Box 475, West Boothbay Harbor, Maine 04575-0475.

WHEREAS, the Town and Bigelow are parties to a contract zone agreement dated May 24, 2006 (the “CZA”); and

WHEREAS, the parties desire to amend certain provisions of the CZA in order to take into consideration recent changes in Bigelow’s project plans.

NOW, THEREFORE, in consideration of the mutual conditions and covenants contained herein, the parties agree as follows:

**A.** Insert a new recital clause after the fifth recital clause of the CZA (which provides “WHEREAS, the Zoning Ordinance does not currently recognize . . .”) as follows:

WHEREAS, the Zoning Ordinance does not currently allow commercial docks, piers and wharves to exceed 12 feet in width;

**B.** The first sentence of Paragraph 2 of the CZA shall be amended by adding the phrase “dated February 3, 2010” after the first reference to Exhibit B as follows:

The Property shall be developed substantially in accordance with the sketch plan shown on **Exhibit B** dated February 3, 2010 (including the layout of the buildings, pedestrian and vehicular circulation plan, open space and landscaping); provided, however, that the Project shall be subject to site plan review and approval by the Planning Board and, if required by law, subdivision review and approval by the Planning Board.

**C.** The second sentence of Paragraph 2 of the CZA shall be amended by updating the Zoning Ordinance citation as follows:

Any site plan review applications shall be consistent with the sketch plan attached as Exhibit B and the application and approval requirements contained in Section 3 (Development and Use) of the Zoning Ordinance, as may be amended from time to time.

**D.** The second sentence of Paragraph 3 of the CZA shall be amended by updating the Zoning Ordinance citation as follows:

Any part of this Agreement related to activity in the SOZ is subject to review and approval of the Commissioner of the Maine Department of Environmental Protection pursuant to Section 2.4.1.1 of the Zoning Ordinance, as may be amended from time to time.

**E.** Paragraph 5 of the CZA shall be amended by replacing the paragraph in its entirety with the following:

5. The sketch plan shown on Exhibit B constitutes the entire Project that Bigelow intends to construct. While it is Bigelow's intent to construct all aspects of the educational and research campus as expeditiously as possible, the ultimate phasing, timing, and speed of construction of the Project is dependent upon Bigelow's ability to raise and receive funds.

The first phase of construction is planned to include the following:

- (a) A research and office building, which will be the first component of the main laboratory and research building, and its accessory structures (including, without limitation, a chiller/generator enclosure).
- (b) The access road from Ocean Point Road, the gated emergency access drive off Green Landing Road, wire utilities, treatment facility for sanitary waste, water line interconnection.

The remaining buildings and site work for the Project, which will be built in project components as funding becomes available, may include the following:

- (aa) Three additional wings of the main laboratory and research building, the total building footprint (including any footprint constructed under subparagraph (a) above) of which shall not exceed 50,000 square feet.
- (bb) A marine operations building at the head of the pier, the total building footprint of which shall not exceed 5,000 square feet.

- (cc) A seawater teaching laboratory and classroom building in the vicinity of the pier, set back a minimum of 75' from the mean high water line, the total building footprint of which shall not exceed 8,500 square feet.
- (dd) A conference/education center and administrative office building, which may be attached to the main laboratory and research building, the total building footprint of which shall not exceed 10,000 square feet.
- (ee) Visiting scientist housing consisting of 3 two-bedroom cottages and 3 three-bedroom cottages arranged in duplexes, the total building footprint of which shall not exceed 21,920 square feet, along with storage sheds/carports for the cottages, the total building footprint of which shall not exceed 2,800 square feet.
- (ff) A separate collaborative teaching and research center, the total building footprint of which shall not exceed 12,500 square feet.
- (gg) A dormitory building, the total building footprint of which shall not exceed 5,950 square feet.
- (hh) A boat storage and maintenance building, the total building footprint of which shall not exceed 5,000 square feet.
- (ii) **Future program buildings**, the total building footprint of which shall not bring the Project total to a footprint greater than 149,440 square feet.
- (jj) A research vessel pier to service ocean-going research vessels as well as smaller boats that are used by Bigelow as part of its program activities.
- (kk) All remaining site work, which may include parking lots, stormwater management facilities, an access road to the shorefront facilities, pedestrian trails and outdoor use areas.

**F.** Paragraph 6(c) of the CZA shall be amended by replacing the paragraph in its entirety with the following:

(c) Setbacks: Because the marine operations buildings is a functionally water dependent structure, it shall be permitted a zero foot setback from the upland edge of the coastal wetland of Farnham Cove and shall be permitted to encroach into said coastal wetland.

**G.** Paragraph 6(i) of the CZA shall be amended by adding a new second sentence as follows:

A minimum of two parking spaces shall be provided for and designated as public parking for recreational trail use purposes.



**H.** Paragraph 6(j) of the CZA shall be amended by adding the word “emergency” between the words “Bigelow” and “access” in the last sentence as follows:

The Board of Selectmen shall adopt any necessary and appropriate parking regulations relating to the intersection of the Bigelow emergency access drive and Green Landing Road.

**I.** The first sentence of Paragraph 6(k) of the CZA shall be amended by replacing the first sentence in its entirety with the following:

(k) **Fire Protection:** The Project shall provide a loop feed in the waterline located in Green Landing Road or a comparable connection that ties into the water line in School Street so that there is no dead end in the water line system.

**J.** Insert a new, additional sentence immediately after the second sentence of Paragraph 6(l) of the CZA as follows:

The easement deed into the Town will include a provision that allows Bigelow to subsequently relocate the public recreational easement, with the consent of the Town, through an amended easement deed recorded at the Lincoln County Registry of Deeds.

**K.** Paragraph 6(n) of the CZA shall be amended by replacing the paragraph in its entirety with the following:

(n) **Timing of Construction:** Bigelow’s construction of the Project and its various components is wholly dependent upon its ability to raise funds for this Project. However, once Bigelow is issued a building permit for any aspect of the Project, it shall have two (2) years from the date of issuance of said building permit to complete the work authorized by the building permit. One six (6) month extension of this time limit may be authorized by the Code Enforcement Officer, in writing, upon good cause shown by Bigelow, following the Code Enforcement Officer’s consultation with the Planning Board about the extension request at a public meeting.

**L.** Add a new Paragraph 6(o) as follows:

(o) **Pier Width:** Because the fixed pier requires access for truck-mounted cranes to load and off-load mobile scientific laboratories, the maximum allowable width of the permanent access way between the shoreline and the pier shall not exceed 24’, and the maximum width of the fixed pier (narrowest

dimension) shall not exceed 40'.

**M.** Replace Exhibit B of the CZA dated January 31, 2006 with Exhibit B dated February 3, 2010.

**N.** All provisions of the CZA are incorporated into this Amendment and are hereby modified or amended to conform to this Amendment but in all other respects are to be and shall continue in full force and effect.

**INHABITANTS OF  
TOWN OF BOOTHBAY**

**THE**

\_\_\_\_\_  
\_\_\_\_\_/s/  
WITNESS  
Selectmen

\_\_\_\_\_  
Chairman, Board of

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\_\_\_\_\_/s/  
WITNESS  
Board of Selectmen

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Vice Chairman,

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**BIGELOW LABORATORY  
FOR OCEAN SCIENCES**

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\_\_\_\_\_  
WITNESS

Directly, duly authorized

By: \_\_\_\_\_

Graham Shimmiel  
Its Executive

STATE OF MAINE

Lincoln, ss.

\_\_\_\_\_, 2010

Personally appeared the above named \_\_\_\_\_, Chairman of the Board of Selectmen, and swore the foregoing instrument to be his free act and deed and the free act and deed of the Inhabitants of the Town of Boothbay.

Before me,

\_\_\_\_\_/s/\_\_\_\_\_  
\_\_\_\_\_

Notary Public/Attorney at Law

\_\_\_\_\_

Print Name

STATE OF MAINE

Lincoln, ss.

\_\_\_\_\_, 2010

Personally appeared the above named Graham Shimmiel in his capacity as Executive Director of Bigelow Laboratory for Ocean Sciences and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of the Inhabitants of Bigelow Laboratory for Ocean Sciences.

Before me,

\_\_\_\_\_/s/\_\_\_\_\_  
\_\_\_\_\_

Notary Public/Attorney at Law

\_\_\_\_\_

Print Name

## PUNCH LIST

- Review how height is measured
- Definition of developable lot area
- Definition of impervious surface area
- Treatment of timber harvesting
- Housing for seasonal workers
- Review definition of service businesses
- How to treat mobile food trucks, etc.
- Review definitions of junkyards and recycling facilities
- Where does the YMCA fit
- Treatment of accessory uses