

Revised April 16, 2019

## **SECTION 5 PERMIT AND DEVELOPMENT REVIEW REQUIREMENTS**

### **5.1 GENERAL PERMIT REQUIREMENTS**

#### **5.1.1 Permit Requirements**

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

- 5.1.1.1 The construction, alteration, enlargement, or moving of any building, structure, or sign.
- 5.1.1.2 An expansion of a nonconforming use or structure.
- 5.1.1.3 Conversion of an existing building from one use to another use.
- 5.1.1.4 The establishment of a new or expanded land use activity that is listed in the Land Use Table in Section 7 as requiring a permit or approval.
- 5.1.1.5 The installation of internal plumbing and/or a subsurface wastewater disposal system.
- 5.1.1.6 Any development within the regulated floodplain pursuant to this Ordinance.
- 5.1.1.7 Activities or development within the Shoreland Zone pursuant to this Ordinance that are listed in the Land Use Table in Section 7 as requiring a permit or approval.

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

#### **5.1.2 Permits Not Required**

Permits are not required for the following:

- 5.1.2.1 An “allowed” use as indicated in the Land Use Table in Section 7.
- 5.1.2.2 The normal repair and maintenance of any structure.

#### **5.1.3 Permits and Approvals Required Prior to Development**

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

#### **5.1.4 Permits Issued After Appropriate Review**

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

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

**5.1.5 Plumbing and Subsurface Wastewater Permits**

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

**5.1.6 Expiration of Permit or Approval**

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

**5.1.7 Permit Fees**

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

**5.1.8 General Permit Requirements**

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

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

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

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

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

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

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

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

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

## **5.2 DEVELOPMENT REVIEW REQUIREMENTS**

### **5.2.1 Purpose**

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

### **5.2.2 Classification of Projects for Review**

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

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

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

**5.2.2.2.1** Site Plan Review

**5.2.2.2.2** Planning Board Review

**5.2.2.2.3** Code Enforcement Officer Review

**5.2.2.2.4 Subdivision Review**

**5.2.2.2.5 Mobile Home Park Review**

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

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**5.2.2.3.1 Activities Subject to Site Plan Review**

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

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

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

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

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

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

**5.2.2.3.1.6** The construction of multi-family housing or a residential care facility with more than five (5) dwelling units or more than ten (10) beds if the facility does not have dwelling units; or

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

**5.2.2.3.1.8** Any activity in the watersheds of Adams Pond or Knickerbocker Lake that creates more than two thousand five hundred (2,500) square feet of gross floor area or five thousand (5,000) square feet of impervious surface or that disturbs more than ten thousand (10,000) square feet of land or that is subject to site plan review based on the requirements of the Water Reservoirs Protection, Water Reservoirs Protection – Route 27 or Watershed Protection Overlay Districts.

**5.2.2.3.2 Activities Subject to Planning Board Review**

Land use activities that are designated as Permitted with Review in the Land Use Table in Section 7 that do not meet the criteria for Site Plan Review and that meet any of the following criteria shall be reviewed in accordance with the General Review Procedures of Section 5.3 and the Planning Board Review procedures and approval criteria of Section 5.4. The proposed activity shall be combined with any other development or activity on the parcel in the previous five (5) years in determining if any of the criteria are met:

- 5.2.2.3.2.1** The modification of an existing nonresidential building to convert the use of the building to a multi-family dwelling with five (5) or fewer dwelling units; or
- 5.2.2.3.2.2** An expansion of an existing nonresidential building that increases the gross floor area of the building by more than two hundred fifty (250) square feet or more than ten percent (10%) of the pre-existing gross floor area whichever is greater but not more than five thousand (5,000) square feet; or
- 5.2.2.3.2.3** A change to a developed site that increases the amount of impervious surface by more than one thousand (1000) square feet or more than ten percent (10%) of the pre-existing impervious surface area whichever is greater but not more than twenty thousand (20,000) square feet; or
- 5.2.2.3.2.4** The construction of not more than twenty thousand (20,000) square feet of impervious surface; or
- 5.2.2.3.2.5** The construction of a non-residential building with not more than five thousand (5,000) square feet of gross floor area; or
- 5.2.2.3.2.6** The construction of multi-family housing or a residential care facility with five (5) or fewer dwelling units or ten (10) or fewer beds if the facility does not have dwelling units; or
- 5.2.2.3.2.7** Any activity that disturbs more than twenty thousand (20,000) square feet of land; or
- 5.2.2.3.2.8** Any activity subject to review that is located on a lot that abuts a lot that is used for a single-family or two-family dwelling as of the date the application is filed with the Code Enforcement Officer; or
- 5.2.2.3.2.9** Any activity in the watersheds of Adams Pond or Knickerbocker Lake that creates more five hundred (500) square feet of gross floor area or one thousand (1,000) square feet of impervious surface or that disturbs more than two thousand (2,000) square feet of land or that is subject to Planning Board review based on the requirements of the Water Reservoirs Protection or Watershed Protection Overlay Districts; or
- 5.2.2.3.2.10** The change of use of an existing building that does not increase the size of the building or the amount of impervious surface on the lot if the new use will increase the intensity of use of the property based on any one of the following:
  - 5.2.2.3.2.10.1** An increase in the number of peak hour vehicle trips based on the ITE Trip Generation Manual
  - 5.2.2.3.2.10.2** An increase in the amount of sewage generated based on the Maine State Plumbing Code
  - 5.2.2.3.2.10.3** Operation of the new use between 10:00 PM and 7:00 AM
  - 5.2.2.3.2.10.4** The installation of new exterior lighting, or
- 5.2.2.3.2.11** Any project involving the construction or installation of a permanent wharf or weir.

**5.2.2.4 Activities Subject to Code Enforcement Officer Review**

Land use activities that: 1) are designated as Code Enforcement Officer Review in the Land Use Table in Section 7, or 2) are designated as Permitted with Review in the Land Use Table in Section 7 and that do not meet the criteria for either Site Plan Review or Planning Board

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

**5.2.2.4.1.** In classifying projects for review, the Code Enforcement Officer may review the following:

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

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

**5.2.2.4.1.3** The change of use of an existing nonresidential building to another nonresidential use that is Permitted with Review that does not increase the size of the building or the amount of impervious surface on the lot and that does not trigger Planning Board Review under **5.2.2.3.2.10**; or

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

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

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

**5.2.2.4.2** If the Code Enforcement Officer determines that the complexity of the application or the need for the opportunity for public involvement in the review exists, he/she may classify the application as requiring Planning Board Review in accordance with **5.2.2.3.2**.

**5.2.2.5 Activities Subject to Subdivision Review**

Any proposal to divide land that creates a subdivision as defined in Section 2. shall be reviewed in accordance with the General Review Procedures of Section 5.3 and the Subdivision Review procedures and approval criteria of Section 5.6.

**5.2.2.6 Activities Subject to Mobile Home Park Review**

Any proposal to develop land that creates a mobile home park as defined in Section 2 shall be reviewed in accordance with the General Review Procedures of Section 5.3 and the Mobile Home Park Review procedures and approval criteria of Section 5.7.

**5.3 GENERAL REVIEW PROCEDURES APPLICABLE TO ALL APPLICATIONS**

**5.3.1 Optional Preapplication Planning Board Meeting** If the proposal will involve review by the Planning Board, the property owner or potential applicant may request to be placed on the

agenda for a Planning Board meeting for an informal discussion of the proposed activities, how those activities are treated by this ordinance, review of the applicable review requirements and the material that must be submitted, and the timing of the review process. This meeting is to informally discuss the proposal and applicable requirements and does not constitute a substantive review for the purposes of state law. No decisions about the proposal or binding commitments shall be made at this meeting.

**5.3.2 Mandatory Preapplication Activities** Land use activities that involve Site Plan Review, Planning Board Review or Subdivision Review by the Planning Board may be subject to preapplication requirements in addition to the required meeting with the Code Enforcement Officer that must be fulfilled prior to the submission of a formal application. The required preapplication activities are set forth the following sections.

**5.3.3 Application Submission** All applications for development review and permits shall be submitted to the Code Enforcement Officer. The application shall be in writing on forms provided by the Town and shall include the information required by the review procedures for the type of review being requested.

**5.3.3.1** The application shall be signed by the owner(s) of the property or their authorized representative certifying that the information contained in the application is complete and correct. If the person signing the application is not the owner of the property, the application must contain a form authorizing the person filing the application to act on the owner's behalf.

**5.3.3.2** The application shall include the appropriate application fee in such amount as the Board of Selectmen have established.

**5.3.4 Taxes** The Code Enforcement Officer shall accept an application only if he/she determines that all taxes and accounts payable to the Town are current:

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

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

**5.3.4.3** The requirement that all taxes and accounts be paid prior to making an application may be:

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

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

**5.3.5 Outstanding Violations** The Code Enforcement Officer shall accept an application only if

she/he finds that there is no outstanding notice of violation duly applicable to the applicant or to the property:

**5.3.5.1** This limitation shall not apply to a notice of violation issued by the Code Enforcement Officer if:

**5.3.5.1.1** The notice of violation has been appealed to the Board of Appeals within the required time period;

**5.3.5.1.2** The appeal is pending before the Board of Appeals or a reviewing court; or

**5.3.5.1.3** The application is making a good faith effort to comply with the decision of the Board of Appeals or a reviewing court.

**5.3.5.2** This limitation shall not apply to a notice of violation duly issued by any State or federal environmental agency relating to the property that is the subject of the application if:

**5.3.5.2.1** There is an appeal of the notice of violation pending before the State or federal environmental agency or a reviewing court; or

**5.3.5.2.2** The decision of the State or federal environmental agency or a reviewing court has not been fully complied with but no further action will be taken by the issuing agency.

**5.3.6 Completeness Review** The Code Enforcement Officer shall be responsible for reviewing all applications submitted for development review or permits to determine if the application meets the applicable submission requirements.

**5.3.6.1 Applications for Code Enforcement Officer Review** Within fourteen (14) days of receiving an application, the Code Enforcement Officer shall determine if the application is complete and notify the applicant in writing that the application is complete, or if the application is incomplete, the specified additional material needed to make the application complete. The applicant shall be responsible for submitting any incomplete information to the Code Enforcement Officer. The Code Enforcement Officer shall not process the application until he/she determines that the application is complete.

**5.3.6.2 Applications that Require Review by the Planning Board**

**5.3.6.2.1** Within fourteen (14) days of receiving an application for Site Plan Review, Planning Board Review, Subdivision Review or Mobile Home Park Review the Code Enforcement Officer shall review the application and tentatively determine if the application is complete. If the Code Enforcement Officer determines that the application is incomplete, he/she shall notify the applicant that the application is not complete and identify the specified additional material needed to make the application complete. The applicant shall be responsible for submitting any additional information to the Code Enforcement Officer. The Code Enforcement Officer shall repeat this process until she/he tentatively determines that the application is complete or that written waivers have been requested for any missing information.



**5.3.6.2.2** After determining that the application is complete, the Code Enforcement Officer shall place the application on the agenda of the next scheduled Planning Board meeting, subject to meeting all the public hearing notice and application submittal requirements.

**5.3.6.2.3** At the first meeting that the Planning Board considers the application, the Planning Board shall review the application for completeness and shall act on any requests for waivers of the submission requirements. If the Board finds that the information is incomplete or if the Board denies any waivers, the Board shall identify the additional information that the applicant must provide for the application to be considered complete. The Board shall not consider the merits of an application until it determines that the application is complete.

**5.3.6.3 Waivers of Submission Requirements** The Code Enforcement Officer or Planning Board may, for good cause shown and only upon the written request of an applicant specifically stating the reasons therefor, waive any of the application submission requirements set forth in Sections 5.3, 5.4., 5.5, 5.6, and 5.7 provided such waiver will not unduly restrict the review process. The Code Enforcement Officer or Planning Board may condition such a waiver on the applicant's compliance with alternative requirements. Good cause may include the Code Enforcement Officer's or Planning Board's finding that particular submissions are inapplicable, unnecessary, or inappropriate for a complete review. Notwithstanding the waiver of a submission requirement, the Code Enforcement Officer or Planning Board may, at any later point in the review process, rescind such waiver if it appears that the submission previously waived is necessary for an adequate review. A request for a submission previously waived shall not affect the pending status of an application.

**5.3.6.4 Information Required for All Applications** All applications for development review or permits must contain all of the following information:

**5.3.6.4.1** The name, mailing address, email address, and phone number of the owner of the property.

**5.3.6.4.2** The name, mailing address, email address, and phone number of the applicant if different than the owner of the property.

**5.3.6.4.3** The name, mailing address, email address, and phone number of all professionals involved in the preparation of the application and related plans and documents.

**5.3.6.4.4** The location of the property including the street address and Tax Map and Lot number(s).

**5.3.6.4.5** The land use district(s) within which the proposed activity is located. If the lot is located within more than one district, an accurate scaled map showing the location of the zoning district boundaries.

**5.3.6.4.6** Verification of the owner or applicant's right, title and interest in the property. If the person submitting the application is not the owner of the property, the

application must contain a form authorizing the person filing the application to act on the owner's behalf.

**5.3.6.4.7** A written description of the proposed development or construction activities for which approval is being sought. The description should set out the proposed use of the property, the size of proposed buildings and improvements, and the nature of all construction and development activities.

## **5.4 PLANNING BOARD REVIEW and SITE PLAN REVIEW PROCEDURES AND STANDARDS**

### **5.4.1 REVIEW AND APPROVAL AUTHORITY**

The Planning Board is authorized to review and act on all applications for Planning Board Review and Site Plan Review and this section. The Planning Board may act to approve, disapprove, or approve an application with conditions.

### **5.4.2 REVIEW PROCEDURES FOR APPLICATIONS REQUIRING PLANNING BOARD REVIEW**

Following the Code Enforcement Officer's tentative determination that the application is complete, the Planning Board shall begin its review of the application.

**5.4.2.1 Initial Consideration by the Planning Board** At the first meeting at which the application is considered, the Planning Board shall review the application material and formally determine whether or not the submission is complete. The Board shall also consider and act on any requests for waivers of the submission requirements. If the application is determined to be incomplete or requested waivers are not granted, the Board shall notify the applicant and Code Enforcement Officer in writing of this finding, shall specify the additional materials required to make the application complete and shall advise the applicant that the application will not be considered by the Board until the additional information is submitted to the Code Enforcement Officer. These steps shall be repeated until the application is found to be complete by the Planning Board. The timeframes for the processing of the application shall begin when the Board finds that the application is complete.

**5.4.2.2 On-Site Inspection** The Planning Board may hold an on-site inspection of the site to review the existing conditions, field verify the information submitted, and investigate the development proposal. The Board may conduct this visit either before or after the first meeting at which the application is considered. The Board may decide not to hold an on-site inspection when the site is snow covered. If an application is pending during a period when there is snow cover, the processing of the application may be suspended until the Board is able to conduct an on-site inspection. Written notice of the on-site inspection shall be provided to all parties.

**5.4.2.3 Planning Board Action** Within forty-five (45) days of determining that the application is complete, the Planning Board shall either hold a public hearing on the application or take

final action on the application if a public hearing is not held. If a public hearing is held, the Planning Board shall take final action on the application within forty-five (45) days of the public hearing. The Board shall act to deny, to approve, or to approve the application with conditions. The Board may impose such conditions as are deemed advisable to assure compliance with the standards of approval. All time limits provided for in this section may be extended by mutual agreement of the applicant and Planning Board.

In issuing its decision, the Planning Board shall make written findings of fact establishing that the activities set forth in the application do or do not meet the standards of approval and other requirements of the Town including any conditions of approval necessary to comply with the standards. The Board shall notify the applicant of the action of the Board, including the findings of fact, and any conditions of approval. This requirement can be met through the distribution of minutes of the meeting containing the findings of fact and decision of the Board.

**5.4.2.4 Public Hearing** The Planning Board shall hold a public hearing for an application for Planning Board Review. The hearing shall be noticed and advertised in accordance with the provisions of this section.

**5.4.2.5 Final Approval and Filing** Upon completion of the requirements of this Section and a vote of approval or approval with one or more conditions by the majority of the Planning Board, the application is approved and the site plan shall be signed by a majority of the members of the Board and filed with the Code Enforcement Officer.

#### **5.4.3 REVIEW PROCEDURES FOR APPLICATIONS REQUIRING SITE PLAN REVIEW**

**5.4.3.1 Two Step Review Process** Site Plan Review is a two-step process. Step One is the submission and review of a Site Inventory and Analysis. Upon the completion of the review of the Site Inventory and Analysis, the Planning Board will authorize the applicant to proceed to Step Two, the submission of a formal application and supporting documentation. The Town will not accept or process an application for Site Plan Review until a review of the Site Inventory and Analysis has been completed.

##### **5.4.3.2 Step One – Site Inventory and Analysis**

Following the Code Enforcement Officer's tentative determination that the Site Inventory and Analysis submission is complete, the Planning Board shall begin its review of the application.

**5.4.3.2.1 Consideration of the Site Inventory and Analysis by the Planning Board** At the first meeting at which the Site Inventory and Analysis is considered, the Planning Board shall review the material and formally determine whether or not the submission is complete. The Board shall also consider and act on any requests for waivers of the submission requirements. If the submission is determined to be incomplete or requested waivers are not granted, the Board shall notify the applicant and Code Enforcement Officer in writing of this finding, shall specify the additional materials required to make the Site Inventory and Analysis submission complete and shall advise the applicant that the project will not be considered by the Board until the additional information is submitted to the Code Enforcement Officer. These steps shall be repeated until the

application is found to be complete by the Planning Board. The timeframes for the processing of the site inventory and analysis shall begin when the board finds that the submission is complete.

**5.4.3.2.1 Review of the Site Inventory and Analysis** The Planning Board review of the Site Inventory and Analysis shall be informational and shall not result in any formal approval or disapproval of the project by the Planning Board. The Board shall review the submission to determine if the information provides a clear understanding of the lot's characteristics and its potential for use and development. The outcome of the review process shall be a determination by the Board of the issues and constraints that must be addressed in the formal site plan review application. The Board shall also act on any requests for waivers from the application submission requirements.

As part of the review of the Site Inventory and Analysis, the Planning Board may hold an on-site inspection of the site to review the existing conditions, field verify the information submitted and investigate the development proposal. The Board may conduct this visit either before or after the first meeting at which the Site Inventory and Analysis is considered. The Board may decide not to hold an on-site inspection when the site is snow covered. If a review is pending during a period when there is snow cover, the Planning Board may suspend consideration of the submission until the Board is able to conduct an on-site inspection. Written notice of the on-site inspection shall be provided to all parties. Within forty-five (45) days of the finding that the Site Inventory and Analysis submission is complete, the Board shall complete its review of the submission, notify the applicant in writing of the outcome of its review, and, if appropriate, authorize the submission of the formal application.

#### **5.4.3.2 Step Two – Review of the Application**

Following the completion of the review of the Site Inventory and Analysis by the Planning Board and the Code Enforcement Officer's tentative determination that the formal application submission is complete, the Planning Board shall begin its review of the application.

**5.4.3.2.1 Initial Consideration of the Application by the Planning Board** At the first meeting at which the application is considered, the Planning Board shall review the application material and formally determine whether or not the submission is complete. If the application is determined to be incomplete, the Board shall notify the applicant and Code Enforcement Officer in writing of this finding, shall specify the additional materials required to make the application complete and shall advise the applicant that the application will not be considered by the Board until the additional information is submitted to the Code Enforcement Officer. These steps shall be repeated until the application is found to be complete by the Planning Board. The Board shall also consider and act on any requests for waivers of the submission requirements.

**5.4.3.2.2 On-Site Inspection** The Planning Board may hold an on-site inspection of the site to review the existing conditions, field verify the information submitted, and investigate the development proposal. The Board may conduct this visit either before or after the

first meeting at which the application is considered. The Board may decide not to hold an on-site inspection when the site is snow covered. If an application is pending during a period when there is snow cover, the processing of the application may be suspended until the Board is able to conduct an on-site inspection. Written notice of the on-site inspection shall be provided to all parties.

**5.4.3.2.3 Public Hearing** The Planning Board shall hold a public hearing on the application within forty-five (45) days of determining that the application is complete. The hearing shall be noticed and advertised in accordance with the provisions of this section.

**5.4.3.2.4 Planning Board Action** The Planning Board shall take final action on the application within forty-five (45) days of determining that the application is complete if a public hearing is not held on the application or within forty-five (45) days of the public hearing if one is held. The Board shall act to deny, to approve, or to approve the application with conditions. The Board may impose such conditions as are deemed advisable to assure compliance with the standards of approval. All time limits provided for in this section may be extended by mutual agreement of the applicant and Planning Board.

In issuing its decision, the Planning Board shall make written findings of fact establishing that the activities set forth in the application do or do not meet the standards of approval and other requirements of the Town including any conditions of approval necessary to comply with the standards. The Board shall notify the applicant and all parties who requested to be notified of the action of the Board, including the findings of fact, and any conditions of approval. This requirement can be met through the distribution of minutes of the meeting containing the findings of fact and decision of the Board.

**5.4.3.2.5 Final Approval and Filing** Upon completion of the requirements of this section and a vote of approval or approval with one or more conditions by the Planning Board, the application is approved and the site plan shall be signed by a majority of the members of the Board and filed with the Code Enforcement Officer. In addition, a signed decisions document setting forth the findings of fact including any conditions of approval shall be recorded in the Lincoln County Registry of Deeds within sixty (60) days of the vote to approve the plan and evidence of such filing provided to the Code Enforcement Officer. Any plan for which a decision document is not filed within sixty (60) days of the date upon which such plan is approved and signed by the Board shall become null and void. Prior to the expiration of the sixty (60) day period, the Planning Board, by vote, may extend the filing period for good cause.

#### **5.4.4 FEES**

**5.4.4.1 Application Fee** An application for Planning Board Review or Site Plan Review must be accompanied by an application fee. This fee is intended to cover the cost of the Town's

administrative processing of the application, including notification, advertising, mailings, and similar costs. The fee shall not be refundable. This application fee shall be paid to the Code Enforcement Officer prior to consideration of the application, and evidence of payment of the fee shall be included with the application.

**5.4.4.2 Site Inventory and Analysis Review Fee** The submission of a Site Inventory and Analysis must be accompanied by a site inventory and analysis review fee. This fee is intended to cover the cost of the Town's administrative processing of the submission. The fee shall not be refundable. This fee shall be paid to the Code Enforcement Officer, and evidence of payment of the fee shall be included with the submission.

**5.4.4.3 Technical Review Fee** In addition to the application fee, the applicant for Planning Board Review or Site Plan Review may also be required to pay a technical review fee to defray the Town's legal and technical costs of the application review. The Planning Board shall review the complexity of the application and the need for outside assistance to review the application and determine if a technical review fee is required. This determination shall occur at the meeting at which the board determines if the application is complete. If the board determines that outside assistance is needed, the board with the assistance of the CEO shall determine the estimated cost of the review services and the amount of the technical review fee. This fee must be paid to the Code Enforcement Officer prior to the Town retaining the review assistance and shall be deposited in the Development Review Trust Account, which shall be separate and distinct from all other municipal accounts. The Planning Board may suspend processing of the application and the related time frames for action if the technical review fee is not paid in a timely manner that will allow the Board's review to be completed within the establish time limits.

The technical review fee may be used by the Planning Board at its discretion to pay reasonable costs incurred by the Town, which relate directly to the review of the application pursuant to the review criteria. Such services may include, but need not be limited to, consulting, engineering or other professional fees, attorney fees, and appraisal fees. The municipality shall provide the applicant, upon written request, with an accounting of his or her account and shall refund all of the remaining monies, including accrued interest, in the account after the payment by the Town of all costs related to the review. Such payment of remaining monies shall be made no later than sixty (60) days after the approval of the application, denial of the application, or approval with condition of the application. Such refund shall be accompanied by a final accounting of expenditures from the fund. The monies in such fund shall not be used by the Board for any enforcement purposes nor shall the applicant be liable for costs incurred by or costs of services contracted for by the Board which exceeds the amount deposited to the trust account unless the applicant has agreed to pay the additional costs prior to their being incurred and the agreement is documented in the project file.

**5.4.4.4 Establishment of Fees** The Board of Selectmen may, from time to time and after consultation with the Board, establish the appropriate application fees and site inventory and analysis review fees following posting of the proposed schedule of fees and public hearing.

## 5.4.5 SUBMISSION REQUIREMENTS

**5.4.4.1 Applicability** The requirements of this section apply to applications for Planning Board Review and Site Plan Review. Projects or activities that are classified as requiring Site Plan Review must provide, as part of step one of the review process, the information set forth in **5.4.4.2.2 Contents of the Site Inventory and Analysis Submission**. As part of step two of the review process for Site Plan Review, applications must also include the additional information set forth **5.4.4.2.3 Additional Information to be Provided as Part of the Formal Application for Site Plan Review**.

### 5.4.4.2 Site Inventory and Analysis Submission Requirements

**5.4.4.2.1 Purpose of the Site Inventory and Analysis** The Site Inventory and Analysis is intended to provide both the applicant and the Planning Board and staff with a better understanding of the site and the opportunities and constraints imposed on its use by both the natural and built environment. It is anticipated that this analysis will result in a development plan that reflects the conditions of the lot and that the areas most suitable for the proposed use will be utilized while those that are not suitable or present significant constraints will be avoided to the maximum extent possible. Therefore, the submission requirements provide that the applicant submit basic information about the lot and an analysis of that information.

**5.4.4.2.2 Contents of the Site Inventory and Analysis Submission**. The Site Inventory and Analysis submission must contain, at a minimum, the following information in addition to the general information required by **5.3.6.4**:

**5.4.4.2.2.1** Ten (10) copies of an accurate scale inventory plan of the lot or the portion of the lot proposed for use or development at a scale of not more than one hundred (100) feet to the inch showing as a minimum:

**5.4.4.2.2.1.1** The name of the development, north arrow, date and scale;

**5.4.4.2.2.1.2** The boundaries of the lot;

**5.4.4.2.2.1.3** The relationship of the lot to the surrounding area;

**5.4.4.2.2.1.4** The topography of the lot at an appropriate contour interval depending on the nature of the use and character of the lot (in many instances, submittal of the U.S.G.S. 10' contours will be adequate);

**5.4.4.2.2.1.5** The major natural features of the lot and within one thousand (1,000) feet of the lot, including wetlands, streams, ponds, floodplains, groundwater aquifers, significant wildlife habitats and fisheries or other important natural features (if none, so state). This information may be based on available, published sources unless the Planning Board determines that field determination is needed to allow review of the opportunities and constraints of the lot.

**5.4.4.2.2.1.6** Existing buildings, structures, or other improvements on the lot (if none, so state);

**5.4.4.2.2.1.7** Existing restrictions or easements on the lot (if none, so state);

**5.4.4.2.2.1.8** The location and size of existing utilities or improvements servicing the lot (if none, so state);

**5.4.4.2.2.1.9** A class B high intensity soil survey if any portion of the lot is located in a resource protection district or mapped wetland, otherwise a class D medium intensity soil survey.

**5.4.4.2.2.2** Ten (10) copies of a site analysis plan at the same scale as the inventory plan (see above) highlighting the opportunities and constraints of the site. This plan should enable the Planning Board to determine: which portions of the lot are unsuitable for development or use; which portions of the lot are unsuitable for on-site sewage disposal if public sewerage is not available; which areas of the lot have development limitations (steep slopes, flat, soil constraints, wetlands, aquifers, wildlife habitat, fisheries, scenic vistas, floodplains, drainage, etc.) which must be addressed in the development plan; which areas may be subject to off-site conflicts or concerns (i.e., noise, lighting, traffic, etc.); and which areas are well suited to the proposed use.

**5.4.4.2.2.3** Ten (10) copies of a narrative describing the existing conditions of the lot, the proposed use and the constraints or opportunities created by the site. This submission should include any traffic studies, utility studies, market studies or other preliminary work that will assist the Planning Board in understanding the site and the proposed use.

**5.4.4.2.2.4** Any requests for waivers from the submission requirements for the formal Site Plan Review application.

### **5.4.4.3 Application Submission Requirements**

All applications for Planning Board Review or Site Plan Review must contain the following exhibits and information in addition to the general information set out in **5.3.6.4**, unless specifically waived by the Planning Board:

**5.4.4.3.1** Ten (10) copies of written materials plus ten (10) sets of one or more maps or drawings containing the information listed below. The written materials must be contained in a bound or stapled report. The maps or drawings must be at a scale sufficient to allow review of the items listed under approval criteria, but in no case shall they be more than one hundred (100) feet to the inch for that portion of the tract of land being proposed for development:

**5.4.4.3.1.1** The following general information:



- 5.4.4.3.1.1.2** The names and addresses of all abutters.
- 5.4.4.3.1.1.3** A sketch map showing general location of the lot within the municipality based upon a reduction of the tax maps including the name of the road on which the lot is located.
- 5.4.4.3.1.1.4** The boundaries of all contiguous property under the total or partial control of the owner and/or applicant regardless of whether all or part is being developed at this time.
- 5.4.4.3.1.2** The following information about the existing conditions on the lot or portion of the lot proposed for use or development:
- 5.4.4.3.1.2.1** Zoning classification(s), including overlay districts, of the property and the location of zoning district boundaries if the property is located in two (2) or more zoning districts or abuts a different district.
- 5.4.4.3.1.2.2** The bearings and length of all property lines of the property to be developed and the source of this information. The Planning Board may waive this requirement for a boundary survey when sufficient information is available to establish, on the ground, all property boundaries.
- 5.4.4.3.1.2.3** The location of all required building setbacks, yards, and buffers.
- 5.4.4.3.1.2.4** The location and size of any existing sewer and water mains, culverts and drains, on-site sewage disposal systems, wells, underground tanks or installations, and power and telephone lines and poles on the property to be developed and on abutting roads or land that may serve the development and an assessment of their adequacy and condition to meet the needs of the proposed use. Appropriate elevations must be provided as necessary to determine the direction of surface water flow.
- 5.4.4.3.1.2.5** The location, names, and present widths of existing public and/or private roads and rights-of-way within or adjacent to the proposed development.
- 5.4.4.3.1.2.6** The location, dimensions, and ground floor elevation of all existing buildings on the lot.
- 5.4.4.3.1.2.7** The location and dimensions of existing driveways, parking and loading areas, walkways, and sidewalks on or immediately adjacent to the lot.
- 5.4.4.3.1.2.8** The location of intersecting roads or driveways within two hundred (200) feet of the lot.
- 5.4.4.3.1.2.9** The location of open water, drainage courses, wetlands, significant

vernal pools, stonewalls, graveyards, fences, stands of trees, and other important or unique natural areas and site features, including but not limited to, floodplains, deer wintering areas, significant wildlife habitats, fisheries, habitat for rare and endangered plants and animals, unique natural communities and natural areas, sand and gravel aquifers, and historic and/or archaeological resources, together with a description of such features. This information may be based on available, published sources unless the Planning Board determines that field determination is needed to allow review of the proposal.

**5.4.4.3.1.2.10** The direction of existing surface water drainage across the site.

**5.4.4.3.1.2.11** The location, front view, dimensions, and means of lighting of existing signs.

**5.4.4.3.1.2.12** The location and dimensions of any existing easements and copies of existing covenants or deed restrictions.

**5.4.4.3.1.2.13** The location of the nearest fire hydrant, dry hydrant or other water supply for fire protection.

**5.4.4.3.1.3** The following information about the proposed use and development activity:

**5.4.4.3.1.3.1** The location, dimensions, and ground floor elevation of all proposed buildings or building expansion proposed on the lot.

**5.4.4.3.1.3.2** Estimated demand for water supply and sewage disposal, together with the location and dimensions of all provisions for water supply and wastewater disposal, and evidence of their adequacy for the proposed use, including soils test pit data if on-site sewage disposal is proposed.

**5.4.4.3.1.3.3** The direction of proposed surface water drainage across the site, and from the site, with an assessment of impacts on downstream properties.

**5.4.4.3.1.3.4** Provisions for handling all solid wastes, including hazardous and special wastes, and the location and proposed screening of any on-site collection or storage facilities.

**5.4.4.3.1.3.5** The location, dimensions, and materials to be used in the construction of proposed driveways, parking and loading areas, and walkways and any changes in traffic flow onto or off-site.

**5.4.4.3.1.3.6** Proposed landscaping and buffering.

**5.4.4.3.1.3.7** The location, front view, materials, and dimensions of proposed signs.

**5.4.4.3.1.3.8** The location and type of exterior lighting.

**5.4.4.3.1.3.9** The location of all utilities, including fire protection systems.

**5.4.4.3.1.3.10** An estimate of the peak hour and daily traffic to be generated by the project.

**5.4.4.3.1.3.11** Stormwater calculations, erosion and sedimentation control measures, and water quality and/or phosphorous export management provisions, if the project requires a stormwater permit from the Maine Department of Environmental Protection or if the Planning Board determines that such information is necessary based upon the scale of the project or the existing conditions in the vicinity of the project. If the Planning Board requires any of this information, it shall conform to the requirements for Site Plan Review.

**5.4.4.3.2 Approval Block** Space must be provided on the plan drawing for the signatures of the Planning Board and the date, together with the following words, "Approved: Town of Boothbay Planning Board".

#### **5.4.4.4 ADDITIONAL SUBMISSION REQUIREMENTS FOR APPLICATIONS FOR SITE PLAN REVIEW**

In addition to the information required for all applications as set forth in 5.4.4.3, an application for Site Plan Review must contain the following additional information.

**5.4.4.4.1** A narrative and/or plan describing how the proposed development plan relates to the site inventory and analysis.

**5.4.4.4.2** A grading plan showing the existing and proposed topography of the lot at two (2) foot contour intervals or such other interval as the Planning Board may determine.

**5.4.4.4.3** A stormwater drainage and erosion control plan/program documenting conformance with the stormwater management and erosion control performance standards of \_\_\_\_\_ and \_\_\_\_\_.

**5.4.4.4.4** A utility plan showing, in addition to provisions for water supply and wastewater disposal, the location and nature of electrical, communication, and any other utility services to be installed on the lot.

**5.4.4.4.5** A planting schedule keyed to the site plan indicating the general varieties and sizes of trees, shrubs, and other vegetation to be planted on the lot, as well as information pertaining to provisions that will be made to retain and protect existing trees, shrubs, and other vegetation.

**5.4.4.4.6** A traffic impact analysis demonstrating the impact of the proposed project on

the capacity, level of service and safety of adjacent streets if the project will generate more than fifty (50) peak hour trip ends or more have an Average Annual Daily Traffic (AADT) of 200 trips.

**5.4.4.4.7** Written statements from the Boothbay Region Water District as to the adequacy of the water supply in terms of quantity and pressure for both domestic and fire flows, and the Boothbay Harbor Sewer District as to the capacity of the sewer system to accommodate additional wastewater if public water or sewerage will be utilized.

#### **5.4.6 APPROVAL STANDARDS**

The following criteria shall be used by the Planning Board in reviewing applications for Planning Board Review and Site Plan Review and shall serve as minimum requirements for approval of the application. All applications must demonstrate compliance with each of the basic standards unless conformance with a specific standard is waived by the Planning Board. The Planning Board may waive conformance with an individual standard by formal vote only if the board finds that the standard is not applicable to the project due to the scale of the project or its location in the Town. Applications for Site Plan Review must also demonstrate compliance with the additional standards. In evaluating compliance with these criteria, the Planning Board shall consider the applicable performance standards of Sections 8, 9, 10 and 11. The Board may also consider innovative or non-traditional approaches and technologies as long as the intent of the criteria is met. In all instances, the burden of proof shall be on the applicant who must produce evidence sufficient to warrant a finding that all applicable criteria have been met.

##### **5.4.6.1 Adequacy of the Road System Providing Vehicular Access to the Site**

###### **5.4.6.1.1 Basic Standard**

Vehicular access to the lot must be on streets or roads which have adequate capacity to safely and efficiently accommodate the additional traffic generated by the development considering the number of trips that will be generated by the project together with any traffic from adjacent uses that will pass through the site and the existing capacity of the streets or roads and the accident history of the roads and intersections.

###### **5.4.6.1.2 Additional Standards**

For developments which generate fifty (50) or more peak hour trip ends based on

the latest edition of the Trip Generation Manual of the Institute of Traffic Engineers, intersections on major access routes to the site within one (1) mile of any entrance road which are functioning at a Level of Service of D or better prior to the development must function at a minimum at Level of Service D after development. If any such intersection is functioning at a Level of Service E or lower prior to the development, the project must not reduce the current level of service. This requirement may be waived by the Planning Board if the project is located within a growth area designated in the Town's adopted Comprehensive Plan and the Board determines that the project will not have an unnecessary adverse impact on traffic flow or safety.

A development not meeting this requirement may be approved if the applicant demonstrates that:

**5.4.6.1.2.1** A public agency has committed funds to construct the improvements necessary to bring the level of access to this standard,

**5.4.6.1.2.2** The applicant will assume financial responsibility for the improvements necessary to bring the level of service to this standard and will assure the completion of the improvements with a financial guarantee acceptable to the municipality, or

**5.4.6.1.2.3** The applicant will pay an impact fee that will be used to bring the level of access to this standard.

#### **5.4.6.1.2 Vehicular Access into the Site**

##### **5.4.6.1.2.1 Basic Standard**

Vehicular access to and from the development must be safe and convenient.

##### **5.4.6.1.2.2 Additional Standards**

**5.4.6.1.2.2.1** Any driveway or proposed road must be designed so as to provide the minimum sight distance required according to the Maine Department of Transportation standards, to the maximum extent feasible.

**5.4.6.1.2.2.2** Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.

**5.4.6.1.2.2.3** The grade of any proposed drive or street must be not more than  $\pm 3\%$  for a minimum of two (2) car lengths, or forty (40) feet, from the intersection.

**5.4.6.1.2.2.4** The intersection of any access/egress drive or proposed street must function: (1) at a Level of Service of D following development if the project will generate one thousand (1,000) or more vehicle trips per twenty-four (24) hour period; or (2) at a level which will allow safe access into and out of the project if less than one thousand (1,000) trips are generated.

**5.4.6.1.2.2.5** Where a lot has frontage on two (2) or more roads, the primary access to and egress from the lot must be provided from the road where there is less potential for traffic congestion and for traffic and pedestrians hazards. Access from other roads may be allowed if it is safe and does not promote shortcutting through the site.

**5.4.6.1.2.2.6** Where it is necessary to safeguard against hazards to traffic and/or pedestrians and/or to avoid traffic congestion, the applicant shall be responsible for providing turning lanes, traffic directional islands, and traffic controls.

**5.4.6.1.2.2.7** Accessways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any road.

**5.4.6.1.2.2.8** The following criteria shall be used to limit the number of driveways serving a proposed project:

**5.4.6.1.2.2.8.1** No use which generates less than one hundred (100) vehicle trips per day shall have more than one (1) two (2) way driveway onto a single street or road. Such driveway must be no greater than thirty (30) feet wide.

**5.4.6.1.2.2.8.2** No use which generates one hundred (100) or more vehicle trips per day shall have more than two (2) points of entry from and two (2) points of egress to a single street or road. The combined width of all accessways must not exceed sixty (60) feet.

### **5.4.6.1.3 Accessway Location and Spacing**

#### **5.4.6.1.3.1 Basic Standard**

Accessways into or out of the lot must meet the following standards:

**5.4.6.1.3.1.1** Private entrances/exits must be located at least fifty (50) feet from the closest unsignalized intersection and one hundred fifty (150) feet from the closest signalized intersection, as measured from the point of tangency for the corner to the point of tangency for the accessway. This requirement may be reduced if the shape of the lot does not allow conformance with this standard.

**5.4.6.1.3.1.2** Private accessways in or out of a development must be separated by a minimum of seventy-five (75) feet where possible.

### **5.4.6.1.4 Natural Features**

#### **5.4.6.1.4 Basic Standard**

The landscape must be preserved in its natural state insofar as practical by minimizing tree removal, disturbance and compaction of soil, and by retaining existing vegetation. Extensive grading and filling must be avoided as far as possible. Projects that propose cuts or fills that change the topography over more than twenty percent (20%) of the lot area or cutting or filling that changes the grade more than ten (10) feet in any location on the lot must demonstrate that there is no practical alternative to the proposed cuts and/or fills including redesign of the proposed development and that the amount and depths of the cuts and fills

is the minimum necessary to reasonably develop the lot.

#### **5.4.6.1.5 Shoreland Relationship**

##### **5.4.6.1.5.1 Basic Standards**

The development must conform to the requirements of the Shoreland Overlay District and the Watershed Protection Districts and not adversely affect the water quality or shoreline of any adjacent waterbody.

#### **5.4.6.1.6 Floodplain Management**

##### **5.4.6.1.6.1 Basic Standard**

If any portion of the lot is located within a special flood hazard area as identified by the Federal Emergency Management Agency, all use and development of that portion of the lot must be consistent with the Town's floodplain management provisions.

#### **5.4.6.1.7 Historic and Archeological Resources**

##### **5.4.6.1.7.1 Basic Standards**

If any portion of the lot has been identified as containing historic or archaeological resources, the development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

#### **5.4.6.1.8 Utilization of the Site**

##### **5.4.6.1.8.1 Basic Standard**

The plan for the development must reflect the natural capabilities of the site to support development. If a Site Inventory and Analysis was prepared, the plan must be consistent with that analysis. Buildings, lots, and support facilities must be located in those portions of the lot that have the most suitable conditions for development. Environmentally sensitive areas, including but not limited to, wetlands, vernal pools, tributary streams, steep slopes greater than twenty-five (25) percent, floodplains, significant wildlife habitats, fisheries, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, and sand and gravel aquifers must be maintained and preserved to the maximum extent. Natural drainage areas must also be preserved to the maximum extent reasonable. The development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

#### **5.4.6.1.9 Building Placement**

##### **5.4.6.1.9.1 Basic Standards**

**5.4.6.1.9.1.1** The site design must avoid creating a building surrounded by a parking lot.

**5.4.6.1.9.1.2** Where two or more buildings are proposed, the buildings should be grouped and linked with sidewalks; tree planting should be used to provide shade and break up the scale of the site.

**5.4.6.1.9.1.3** Parking areas must be separated from the building by a minimum of five (5) feet unless the Planning Board determines that such a separation is not needed due to the characteristics of the site or the proposed use. Plantings should be provided along the building edge, particularly where building facades consist of long or unbroken walls.

#### **5.4.6.1.10 Internal Vehicular Circulation**

##### **5.4.6.1.10.1 Basic Standard**

The layout of the lot must provide for the safe movement of passenger, service, and emergency vehicles through the site.

##### **5.4.6.1.10.2 Additional Standards**

**5.4.6.1.10.2.1** Nonresidential projects that will be served by delivery vehicles must provide a clear route for such vehicles with appropriate geometric design to allow turning and backing for a minimum of WB-40 (wheelbase) vehicles.

**5.4.6.1.10.2.2** Clear routes of access must be provided and maintained for emergency vehicles to and around buildings and must be posted with appropriate signage (fire lane - no parking).

**5.4.6.1.10.2.3** The layout and design of parking areas must provide for safe and convenient circulation of vehicles throughout the lot.

**5.4.6.1.10.2.4** All roadways must be designed to harmonize with the topographic and natural features of the lot insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation during construction. The road network must provide for vehicular, pedestrian, and cyclist safety, all season emergency access, snow storage, and delivery and collection services.

#### **5.4.6.1.11 Parking Layout and Design**

##### **5.4.6.1.11.1 Basic Standards**

**5.4.6.1.11.1.1** Off-street parking must be provided in accordance with Section 8.1.

**5.4.6.1.11.1.2** All parking spaces, access drives, and impervious surfaces must be located at least five (5) feet from any side or rear lot line, except where standards for buffer yards require a greater distance. No parking spaces shall be located



within five (5) feet of the front property line. Parking lots on adjoining lots may be connected by accessways not exceeding twenty-four (24) feet in width.

**5.4.6.1.11.1.3** Parking areas for nonresidential uses must be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles. Double stack parking may be permitted for resident parking in conjunction with residential uses if both spaces in the stack are assigned to the occupants of the same dwelling unit.

**5.4.6.1.11.1.4** Provisions must be made to restrict the "overhang" of parked vehicles when it might restrict traffic flow on adjacent roads, restrict pedestrian or bicycle movement, or damage landscape materials.

#### **5.4.6.1.12 Pedestrian Access and Sidewalks**

##### **5.4.6.1.12.1 Basic Standard**

The site plan must provide for safe pedestrian movement within the development.

##### **5.4.6.1.12.2 Additional Standards**

The site plan shall provide for pedestrian facilities that are appropriate for the type and scale of development. These facilities must connect the major building entrances/exits with parking areas and with existing sidewalks, if they exist or are planned in the vicinity of the project.

#### **5.4.6.1.13 Landscaping and Buffering**

##### **5.4.6.1.13.1 Basic Standard**

Landscaping must be provided as part of site design and buffering must be installed when required by **10.1**. The landscaping must use landscape materials to integrate the various elements on site, preserve and enhance the particular identity of the lot, and create a pleasing site character.

#### **5.4.6.1.14 Stormwater Management**

##### **5.4.6.1.14 Basic Standard**

Adequate provisions must be made for the collection and disposal of all stormwater that runs off proposed streets, parking areas, roofs, and other surfaces, through a stormwater drainage system and maintenance plan that utilizes Low Impact Development techniques. The provisions for stormwater management must conform to the requirements of **9.3**.

#### **5.4.6.1.15 Erosion Control**

##### **5.4.6.1.15.1 Basic Standards**

**5.4.6.1.15.1.1** All building, site, and roadway designs and layouts must harmonize with existing topography and conserve desirable natural surroundings to the fullest

extent possible, such that filling, excavation and earth moving activity is kept to a minimum. Parking lots on sloped sites must be terraced to avoid undue cut and fill, and/or the need for retaining walls. Natural vegetation must be preserved and protected wherever possible.

**5.4.6.1.15.1.2** Soil erosion and sedimentation of watercourses and water bodies must be minimized by an active program meeting the requirements of **9.4** and the Department of Environmental Protection's Maine Erosion and Sediment Control Best Management Practices.

#### **5.4.6.1.16 Groundwater Protection**

##### **5.4.6.1.16.1 Basic Standard**

The proposed site development and use must not adversely impact either the quality or quantity of groundwater available to abutting properties or to public water supply systems.

##### **5.4.6.1.16.2 Additional Standard**

Applicants whose projects involve on-site water supply or sewage disposal systems with a capacity of two thousand (2,000) gallons per day or greater must demonstrate that the groundwater at the property line will comply, following development, with the standards for safe drinking water as established by the State of Maine.

#### **5.4.6.1.16 Water Supply**

##### **5.4.6.1.16.1 Basic Standard**

The development must be provided with a system of water supply that provides each use with an adequate supply of water. If the lot is to be served by a public water supply or if it can be reasonably served by a public water supply, the development must be connected to the public system. Any lot that is within three hundred (300) feet as measured along the road of an existing public water main shall be deemed to be able to be served by the public water supply unless the applicant demonstrates that the public supply is inadequate or is prohibitively costly. If the project will be served by public water, the applicant must secure and submit a written statement from the Boothbay Region Water District that the proposed water supply system conforms with its design and construction standards, will not result in an undue burden on the source or distribution system, and will be installed in a manner adequate to provide needed domestic and fire protection flows.

#### **5.4.6.1.17 Sewage Disposal**

##### **5.4.6.1.17.1 Basic Standards**

**5.4.6.1.17.1.1** The development must be provided with a method of disposing of sewage which is in compliance with the State Plumbing Code.

**5.4.6.1.17.1.2** All sanitary sewage from new or expanded uses must be discharged into a public sewage collection and treatment system when such facilities are currently available or can reasonably be made available at the lot line and have adequate capacity to handle the projected waste generation.

**5.4.6.1.17.1.3** When two (2) or more lots or buildings in different ownership share the use of a common subsurface wastewater disposal system, the system must be owned and maintained in common by an owners' association. Covenants in the deeds for each lot must require mandatory membership in the association and provide for adequate funding of the association to assure proper maintenance of the system.

**5.4.6.1.17.1.4** Industrial or commercial wastewater may be discharged to public sewers in such quantities and/or of such quality as to be compatible with sewage treatment operations. Such wastes may require pretreatment at the industrial or commercial site in order to render them amenable to public treatment processes. Pretreatment includes, but is not limited to, screening, grinding, sedimentation, pH adjustment, surface skimming, chemical oxidation and reduction and dilution. The pretreatment standards shall be determined by the Boothbay Harbor Sewer District.

#### **5.4.6.1.18 Utilities**

##### **5.4.6.1.18.1 Basic Standard**

The development must be provided with electrical, telephone, and communication service adequate to meet the anticipated use of the project. New utility lines and facilities must be screened from view to the extent feasible. If the service in the street or on adjoining lots is underground, the new service must be placed underground.

#### **5.4.6.1.18 Solid Waste Management**

##### **5.4.6.1.18.1 Basic Standard**

The proposed development must provide for adequate disposal of solid wastes. All solid waste must be disposed of at a licensed disposal facility having adequate capacity to accept the project's wastes.

#### **5.4.6.1.18 Storage of Materials**

##### **5.4.6.1.18.1 Basic Standards**

**5.4.6.1.18.1.1** Exposed nonresidential storage areas, exposed machinery, and areas used for the storage or collection of discarded automobiles, auto parts, metals or other articles of salvage or refuse must have sufficient setbacks and screening (such as a stockade fence or a dense evergreen hedge) to provide a visual buffer sufficient to minimize their impact on abutting residential uses and users of public roads.

**5.4.6.1.18.1.2** All dumpsters or similar large collection receptacles for trash or other wastes must be located on level surfaces which are paved or graveled. Where a dumpster or receptacle is located in a yard which abuts a residential or institutional use or a public road, it must be screened by fencing or landscaping in accordance with **10.1**.

#### **5.4.6.1.19 Other Performance Standards**

##### **5.4.6.1.19.1 Basic Standard**

In addition to the requirements of this section, a development must conform to all applicable performance standards of Section 8 General performance Standards, Section 9 Environmental Performance Standards, Section 10 Good Neighbor Performance Standards and Section 11 Performance Standards for Specific Uses. In addition a development must conform to any district specific performance standards for the districts including overlay districts within which it is located.

#### **5.4.6.1.20 Capacity of the Applicant**

##### **5.4.6.1.20.1 Basic Standard**

The applicant must demonstrate the financial and technical capacity to carry out the project in accordance with this ordinance and the approved plan and the ability to provide the financial guarantees provided for in this section.

### **5.5 CODE ENFORCEMENT OFFICER REVIEW PROCEDURES AND STANDARDS**

#### **5.6 SUBDIVISION REVIEW PROCEDURES AND STANDARDS**

##### **5.6.1 REVIEW AND APPROVAL AUTHORITY**

The Planning Board is authorized to review and act on all applications for Subdivision Review. The Planning Board may act to approve, disapprove, or approve an application with conditions.

##### **5.6.2 CLASSIFICATION OF A SUBDIVISION**

The Code Enforcement Officer shall be responsible for provisionally classifying a project as a minor subdivision or a major subdivision. This process will occur in conjunction with the preapplication conference. Within ten (10) business days of the preapplication conference and site inspection, the Code Enforcement Officer shall tentatively classify the subdivision as a minor subdivision or a major subdivision. When the Code Enforcement Officer provisionally classifies a project as a minor or major subdivision, he/she shall notify both the applicant and the Chair of the Planning Board in writing of the classification and the basis for determination. At the first meeting of the Planning Board at which the application is discussed, the Planning Board shall review the Code Enforcement Officer's determination as to the classification of the

subdivision and may either confirm or revise the classification based upon the information contained in the formal submission and advise the applicant of this determination. If the Planning Board revises the classification of a project, the processing of the application shall proceed under the revised classification at that meeting and any subsequent meetings of the board. If the Planning Board reclassifies a project as a major subdivision, processing of the application shall be suspended until the applicant has provided all of the information required for a major subdivision.

Projects and activities subject to subdivision review are classified as minor subdivisions or major subdivisions based upon the criteria of this section. Projects that are classified as minor subdivisions are subject to a simplified application and review process while major projects are required to provide more information about the activity and its impacts and are subject to a more extensive review process.

**5.6.2.1** Any activity that meets the threshold requirements for Subdivision Review that will result in the creation of four (4) or fewer lots or dwelling units shall be classified as a Minor Subdivision and shall be subject to the procedures and standards for minor subdivisions except as provided for in **5.6.2.3** below.

**5.6.2.2** Any activity that meets the threshold requirements for Subdivision Review that will result in the creation of five (5) or more lots or dwelling units shall be classified as a Major Subdivision and shall be subject to the procedures and standards for major subdivisions.

**5.6.2.3** If a minor subdivision has been approved in the preceding five (5) years, any amendment to the approved subdivision or any re-subdivision of land that was part of the approved subdivision shall be classified as a major subdivision if the total number of lots created in any five (5) year period will be five (5) or more.

**5.6.2.4** An amendment to a previously approved and recorded subdivision shall be classified as a Minor Subdivision unless the revised subdivision will result in the creation of five (5) or more lots or is classified as a major subdivision based on **5.6.2.3** above.

### **5.6.3 CONTOUR INTERVAL**

Within ten (10) business days of the tentative classification of the project by the Code Enforcement Officer, the Code Enforcement Officer shall inform the applicant in writing of the required contour interval on the preliminary plan, or final plan in the case of a minor subdivision. The applicant may appeal the Code Enforcement Officer's determination to the Planning Board by filing a written request with the Code Enforcement Officer. This request will be considered by the Planning Board at the next meeting at which the application is considered.

### **5.6.4 REVIEW PROCEDURES FOR APPLICATIONS FOR MINOR SUBDIVISION REVIEW**

Following the Code Enforcement Officer's tentative determination that the application is complete, the Planning Board shall begin its review of the application.

**5.6.4.1 Initial Consideration by the Planning Board** At the first meeting at which the application is considered, the Planning Board shall review the application material and formally determine whether or not the submission is complete. The Board shall also consider and act on any requests for waivers of the submission requirements. If the application is determined to be incomplete or requested waivers are not granted, the Board shall notify the applicant and Code Enforcement Officer in writing of this finding, shall specify the additional materials required to make the application complete and shall advise the applicant that the application will not be considered by the Board until the additional information is submitted to the Code Enforcement Officer. These steps shall be repeated until the application is found to be complete by the Planning Board. The timeframes for the processing of the application shall begin when the Board finds that the application is complete.

**5.6.4.2 On-Site Inspection** The Planning Board may hold an on-site inspection of the site to review the existing conditions, field verify the information submitted, and investigate the development proposal. The Board may conduct this visit either before or after the first meeting at which the application is considered. The Board may decide not to hold an on-site inspection when the site is snow covered. If an application is pending during a period when there is snow cover, the processing of the application may be suspended until the Board is able to conduct an on-site inspection. Written notice of the on-site inspection shall be provided to all parties.

**5.6.4.3 Public Hearing** The Planning Board shall hold a public hearing on an application for approval of a minor subdivision. The hearing shall be noticed and advertised in accordance with the provisions of this ordinance.

**5.6.4.4 Planning Board Action.** Within forty-five (45) days of determining that the application is complete, the Planning Board shall hold a public hearing on the application. The Board shall take final action on said application within thirty (30) days of the public hearing. The Board shall act to deny, to approve, or to approve the application with conditions. The Board may impose such conditions as are deemed advisable to assure compliance with the standards of approval. All time limits provided for in this section may be extended by mutual agreement of the applicant and Planning Board.

If any portion of subdivision is within a Special Flood Hazard Area, the Board shall impose a condition of approval that structures on any lot having a portion of its land within a Special Flood Hazard Area must be constructed in accordance with the floodplain management provisions of the Town.

In issuing its decision, the Planning Board shall make written findings of fact establishing that the activities set forth in the application do or do not meet the standards of approval and other requirements of the Town including any conditions of approval necessary to comply with the standards. The Board shall notify the applicant of the action of the Board in writing within five (5) business days of the meeting, including the findings of fact, and any conditions of approval.

**5.6.4.5 Final Approval and Filing** Upon completion of the requirements of this Section and a vote of approval or approval with one or more conditions by the majority of the

Planning Board, the application is approved. Subsequent to the approval by the Board, the applicant shall submit two reproducible, stable-based transparencies of the subdivision plan to the Code Enforcement Officer, one to be recorded at the Registry of Deeds, the other to be filed at the municipal office. The plan shall contain any conditions of approval imposed by the Planning Board. The reproducible transparencies shall be embossed and printed with the seal of the individual responsible for preparation of the plan. The approved subdivision plan shall be signed by a majority of the members of the Board and filed with the Code Enforcement Officer. In addition, a signed subdivision plan and decisions document setting forth the findings of fact including any conditions of approval shall be recorded by the applicant in the Lincoln County Registry of Deeds within sixty (60) days of the vote to approve the plan and evidence of such filing provided to the Code Enforcement Officer. Any subdivision for which a plan and decision document is not filed within sixty (60) days of the date upon which such plan is approved and signed by the Board shall become null and void. Prior to the expiration of the sixty (60) day period, the Planning Board, by vote, may extend the filing period for good cause.

No changes, erasures, modifications, or revisions shall be made in any final plan after approval has been given by the Board and endorsed in writing on the plan, unless the revised final plan is first submitted and the Planning Board approves any modifications. The Board shall make findings that the revised plan meets the criteria of 30-A M.R.S.A. § 4404 and the standards of these regulations. In the event that a plan is recorded without complying with this requirement, it shall be considered null and void and the Board shall institute proceedings to have the plan stricken from the records of the Registry of Deeds.

**5.6.4.6 Initiation of Construction** Failure to initiate construction of the subdivision within five years of the date of approval and signing of the plan shall render the plan null and void unless the applicant has requested in writing and received an extension and has provided for the continuation of any performance guarantees for the period of the extension prior to the expiration of the five-year period. Upon determining that a subdivision's approval has expired under this subsection, the Board shall have a notice placed in the Registry of Deeds to that effect.

**5.6.4.7 Municipal Acceptance of Land or Facilities** The approval by the Planning Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, stormwater facility or other open space shown on such plan.

## **5.6.5 MINOR SUBDIVISION SUBMISSIONS**

The final plan application for approval of a minor subdivision shall consist of the following items:

**5.6.5.1** A fully executed and signed copy of the application for minor subdivision review (provided by the Town).

**5.6.5.2** A location map drawn at a size adequate to show the relationship of the proposed subdivision to the adjacent properties and to allow the Board to locate the subdivision within the municipality. The location map shall show:

- 5.6.5.2.1** Existing subdivisions in the proximity of the proposed subdivision.
- 5.6.5.2.2** Locations and names of existing and proposed streets.
- 5.6.5.2.3** Boundaries and designations of zoning districts.
- 5.6.5.2.4** An outline of the proposed subdivision and any remaining portion of the owner's property if the final plan submitted covers only a portion of the owner's entire contiguous holding.
- 5.6.5.3** The required application and development review fees.
- 5.6.5.4** A list of abutters and the owners of any other parcel entitled to receive public notice together with their mailing addresses.
- 5.6.5.5** The subdivision plan and supporting documentation consisting of ten (10) copies of one or more maps or drawings drawn to a scale of not more than one hundred (100) feet to the inch and ten (10) copies of supporting documentation bound in a single report. Plans shall be no larger than twenty-four (24) by thirty-six (36) inches in size and shall have a margin of two inches outside of the border lines on the left side for binding and a one-inch margin outside the border along the remaining sides. Space shall be provided for endorsement by the Board. In addition, one copy of the plan(s) reduced to a size of eleven (11) by seventeen (17) inches shall be provided.
- 5.6.5.6** The subdivision plan and supporting documentation shall include at least the following information:
  - 5.6.5.6.1** Proposed name of the subdivision or identifying title, the name of the municipality, and the Assessor's map and lot numbers.
  - 5.6.5.6.2** The names and addresses of the record owner, applicant, and individual or company who or which prepared the plan and adjoining property owners.
  - 5.6.5.6.3** The date the plan was prepared, north point, and graphic map scale.
  - 5.6.5.6.4** The zoning district including overlay districts in which the proposed subdivision is located and the location of any zoning boundaries affecting the subdivision.
  - 5.6.5.6.5** Evidence of right, title, or interest in the property.
  - 5.6.5.6.7** A copy of the most recently recorded deed for the parcel and a copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
  - 5.6.5.6.8** A copy of any deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
  - 5.6.5.6.9** A standard boundary survey of the parcel meeting the standards of Chapter 90 Standards of Practice of the rules of the Maine Board of Licensure for Professional



Land Surveyors, giving complete descriptive data by bearings and distances, made and certified by a registered land surveyor. The corners of the parcel shall be located on the ground and marked by monuments. The plan shall indicate the type of monument found or to be set at each lot corner.

**5.6.5.6.10** The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, and other essential existing physical features.

**5.6.5.6.11** The location of all rivers, streams and brooks, coastal and freshwater wetlands, and vernal pools within or adjacent to the proposed subdivision.

**5.6.5.6.12** If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the one-hundred-year flood elevation, as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.

**5.6.5.6.13** Areas within or adjacent to the proposed subdivision which have been identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife. If any portion of the subdivision is located within an area designated as a critical natural area by the Maine Natural Areas Program, the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.

**5.6.5.6.14** Contour lines at the interval specified by the Code Enforcement Officer showing elevations in relation to mean sea level.

**5.6.5.6.15** The location and size of existing and proposed sewers, water mains, culverts, and drainageways on or adjacent to the property to be subdivided.

**5.6.5.6.16** The location, names, and present widths of existing roads and highways and existing and proposed easements, building lines, parks and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established. In order to facilitate the addition of the subdivision into the municipal property records, this information shall also be submitted electronically in a format compatible with the Assessor's records.

**5.6.5.6.17** An indication of the type of sewage disposal to be used in the subdivision:

**5.6.5.6.17.1** When sewage disposal is to be accomplished by connection to the public sewer, a written statement from the Boothbay Harbor Sewer District, stating that the District has the capacity to collect and treat the wastewater, shall be provided.

**5.6.5.6.17.2** When sewage disposal is to be accomplished by subsurface wastewater disposal systems, test pit analyses, prepared by a licensed site evaluator, shall be provided. Test pit logs for all test pits shall be provided. The location of all test pits

dug on the site shall be shown on the subdivision plan or on a map at the same scale as the subdivision plan.

**5.6.5.6.18** An indication of the type of water supply system(s) to be used in the subdivision.

**5.6.5.6.18.1** When water is to be supplied by public water supply, a written statement from the Boothbay Region Water District shall be submitted indicating that there is sufficient supply and pressure for the subdivision and that the District approves the plans for extensions where necessary. Where the District's supply line is to be extended, a written statement from the District approving the design of the extension shall be submitted.

**5.6.5.6.18.2** When water is to be supplied by private wells, evidence of adequate groundwater supply and quality shall be submitted by a well driller or a hydrogeologist familiar with the area.

**5.6.5.6.19** The width and location of any roads, public improvements or open space shown in the Comprehensive Plan, if any, within the subdivision.

**5.6.5.6.20** The location of any open space to be preserved and a description of proposed improvements and its management.

**5.6.5.6.21** All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the municipality of all public open spaces shown on the plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the applicant or lot owners are to be maintained, shall be submitted. If open space or other land is to be offered to the municipality, written evidence that the Board of Selectmen is satisfied with the legal sufficiency of the written offer to convey title shall be included.

**5.6.5.6.22** The location and method of disposal for land clearing and construction debris.

**5.6.5.7** The Board may require additional information, including but not limited to the following, to be submitted where it finds it necessary in order to determine whether the criteria of 30-A M.R.S.A. § 4404 are met:

**5.6.5.7.1** A hydrogeologic assessment prepared by a certified geologist or registered professional engineer experienced in hydrogeology. The Board may require a hydrogeologic assessment when the subdivision is not served by public sewer and:

**5.6.5.7.1.1** Any part of the subdivision is located over a mapped sand and gravel aquifer;

**5.6.5.7.1.2** The subdivision has an average density of more than one dwelling unit per 100,000 square feet; or

**5.6.5.7.1.3** In other cases where site considerations or development design indicates greater potential of adverse impacts on groundwater quality, such as extensive areas of shallow to bedrock soils, cluster developments in which the average

density is less than one dwelling unit per 100,000 square feet but the density of the developed portion is in excess of one dwelling unit per 80,000 square feet, or the use of shared or common subsurface wastewater disposal systems.

**5.6.5.7.2** An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used shall be taken from the most recent edition of the Trip Generation Manual published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if the applicant demonstrates that these sources better reflect local conditions.

**5.6.5.7.3** A stormwater management plan prepared by a registered professional engineer in accordance with "Maine Stormwater Best Management Practices Manual" published by the Maine Department of Environmental Protection, March 2016, and the stormwater performance standards of \_\_\_\_\_.

**5.6.5.7.4** An erosion and sedimentation control plan prepared in accordance with "Maine Erosion and Sedimentation Control Best Management Practices" published the Maine Department of Environmental Protection, October 2016, and the erosion and sedimentation control performance standards of \_\_\_\_\_.

**5.6.5.7.5** Street plans meeting the requirements of the Town if the subdivision will involve the construction or extension of a road. The Planning Board may determine the extent of the plans needed based on the scale and type of improvement.

**5.6.5.8** The Planning Board may waive any of the submission requirements including the additional submission requirements based upon a written request of the applicant. Such request must be made at the time of the initial review of the application for minor developments. A waiver of any submission requirement may be granted only if the Board finds that the information is not required to determine compliance with the approval standards and criteria.

## **5.7 MOBILE HOME PARK REVIEW PROCEDURES AND STANDARDS**