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Zoning Ordinance
Of the
Town of Boothbay



Adopted _____, 2020

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Section 1. General Provisions

- 1.1 Title** This ordinance shall be known and may be cited as the “Zoning Ordinance of the Town of Boothbay” (hereinafter “Ordinance”).
- 1.2 Effective Date** This Ordinance shall be effective upon adoption by the Town Meeting and repeals and replaces the Zoning Ordinance of the Town of Boothbay adopted on November 7, 2007, as amended.
- 1.3 Purpose** The purpose of this Ordinance is to ensure that development and the use of the land and the resources of the Town of Boothbay are consistent with the 2015 Comprehensive Plan.
- 1.3.1** This Ordinance, by defining where specific uses and activities are permitted, the standards that must be met and how approval may be obtained, provides information so that property owners, potential property owners, and persons considering a development, subdivision or use can determine what will be allowed and what will be required for approval.
- 1.3.2** The Ordinance recognizes the rights of property owners to enjoy the use and occupancy of their property consistent with the orderly development of the Town of Boothbay and the rights of neighboring property owners. Nothing in this Ordinance shall limit or restrict the rights of a person to bring legal or equitable action to prevent or mitigate personal injury or property damage arising out of a nuisance or other condition resulting from the use or occupancy of property.
- 1.4 Conflict with Other Ordinances** Except as provided in Section 1.2 above, this Ordinance shall not be construed to repeal any other existing Town ordinances or regulations. Where a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or any other ordinance, regulation or statute, the more restrictive provision shall control unless otherwise specifically provided for in this Ordinance.
- 1.5 Validity and Severability** Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.
- 1.6 Availability** A certified copy of this Ordinance shall be filed with the Town Clerk and shall be accessible to any member of the public. Copies shall be available at the Town Office for use or for purchase at a reasonable cost. Notice of availability of this Ordinance shall be posted in the Town Office.
- 1.7 Changes and Amendments** This Ordinance may be amended by a majority vote of the legislative body of the Town at a duly called Town Meeting. Amendments to this Ordinance may be considered following petition, recommendation of the Planning Board or by majority action of the Board of Selectmen. Prior to requesting adoption, proposed amendments shall be submitted to a public hearing to be held by the

Planning Board in accordance with 30-A M.R.S. § 4352.¹ Copies of proposed amendments shall be posted and be made available in accordance with the Town of Boothbay Administrative Code.

1.7.1 Notice of proposed changes to the Ordinance shall be provided as set forth in 30-A M.R.S. § 4352 and 38 M.R.S. § 438-A.

1.7.2 Changes or amendments to the regulations for the use of land or structures in the portion of the Shoreland Overlay Zone subject to the state Mandatory Shoreland Zoning Act, including any structure built on, over or abutting a dock, wharf or pier, or other structure extending or located beyond the high-water line of areas affected by tidal action, a great pond, a stream, watershed tributary stream, outlet stream from any freshwater wetland or within a wetland, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the amendments, attested and signed by the Town Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on any amendment within 45 days of his or her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted within the 45 day period shall be governed by the terms of the amendment if such amendment is approved by the Commissioner.

1.8 Land Use Objectives The following land use objectives from the 2015 Comprehensive Plan are intended to guide the Town in the implementation of this Ordinance. These objectives provide a general policy framework for the specific Ordinance regulations.

1.8.1 Encourage the preservation of designated resource conservation areas to retain the natural resource and scenic values of these areas.

1.8.2. Preserve the rural nature of the designated rural areas of the community where there are large contiguous areas of undeveloped while accommodating traditional rural uses and small-scale nonresidential uses.

1.8.3. Encourage the preservation of significant open space throughout the community in accordance with a community-wide open space plan.

1.8.4. Encourage the development of a range of types and prices of housing to meet the needs of a diverse population.

1.8.5. Encourage the majority of new development to occur in designated growth areas, and to a lesser extent, in limited growth areas as identified in the Future Land Use Plan.

1.8.6. Carefully manage and limit use and development of land in the watersheds of Adams Pond and Knickerbocker Lakes and in the vicinity of the former water supply wells for East Boothbay to protect the sources of supply for the public water system.

1.8.7. Carefully manage development especially in coastal residential areas and in

¹ All Title, Chapter, and Section (“§”) references are to Maine Revised Statutes (M.R.S.), as may be amended from time to time.

former gravel pits to protect both the quality and quantity of the groundwater.

- 1.8.8.** Reinforce the role of the area surrounding the Common as the community and service center for the Town and encourage its evolution to a pedestrian focused New England-style town center with additional residential activity.
- 1.8.9.** Manage development in the Route 27 corridor to improve the visual environment of the corridor while accommodating good quality development and improving vehicular safety and flow in this area.
- 1.8.10.** Promote manufacturing and similar uses in the industrial park area.
- 1.8.11.** Maintain the scenic character of the northern end of the Route 27 corridor from Hardwick Road to the town line and the portion of the Route 96 corridor from the town line to East Boothbay village while allowing well planned development.
- 1.8.12.** Reinforce the character of East Boothbay as a mixed-use, marine village while accommodating limited expansion of traditional marine industries.
- 1.8.13.** Accommodate a wide range of traditional rural and small-scale nonresidential activities in identified rural areas while maintaining the rural, open character of these areas.
- 1.8.14.** Protect the ability of nonresidential uses that were established prior to the Town having zoning or that have been legally established to expand and modernize as the Town's land use regulations are updated.

Section 2. Definitions

2.1 Rules of Construction In this Ordinance, the terms or words listed below shall be interpreted as follows:

The word “person” includes a firm, association, organization, partnership, trust, company or corporation as well as an individual; the present tense includes the future tense; the singular includes the plural and the plural includes the singular; the word “used” or “occupied” includes the words “intended,” “designed,” or “arranged” to be “used” or “occupied”; and the word “lot” includes the words “plot” or “parcel”.

2.2 Definitions In this Ordinance, the terms listed below shall have the following meanings unless a contrary meaning is required by the context or is specifically prescribed. Words not defined in this section have their customary meanings as set forth in the most recent edition of: (1) Black’s Law Dictionary, or (2) Merriam-Webster’s Unabridged Dictionary. If there is uncertainty as to the meaning of any word or term used in this Ordinance, the Board of Appeals shall determine the meaning following the procedures for an administrative appeal. In determining if a use or activity conforms to a definition, the Code Enforcement Officer, Planning Board, or Board of Appeals may be guided by the North American Industry Classification System (NAICS) (most recent edition).

Abutter: The owner of a parcel or lot of abutting land as shown in the assessment records of the Town of Boothbay.

Abutting Land: Real estate that shares a common boundary, or portion of a boundary even if only at a point, with land on which a development or other regulated activity is proposed or land that is the subject of an official Town action or review. Land that is located directly across a road is considered to be abutting land for the purposes of this Ordinance.

Accessory Apartment: A small dwelling unit that meets the performance standards of Section 11.1 that is accessory to an owner-occupied single-family home.

Accessory Structure: A structure that is incidental and subordinate to the principal structure. A deck or similar extension of the Principal Structure or a garage attached to the Principal Structure by a roof or a common wall is considered part of the Principal Structure.

Accessory Use: A use that is incidental and subordinate to the principal use.

Adult-Use Marijuana Establishment: A marijuana cultivation facility, marijuana products manufacturing facility, a marijuana testing facility, or a marijuana store licensed by the State of Maine under Title 28-B M.R.S. Chapter 1.

Marijuana Cultivation Facility: A facility licensed by the State of Maine to purchase marijuana plants and seeds from other cultivation facilities; to cultivate, prepare and package adult use marijuana; to sell adult use marijuana to products manufacturing facilities, to marijuana stores and to other cultivation facilities; and to sell marijuana plants and seeds to other cultivation facilities and immature marijuana plants and seedlings to marijuana stores.

Marijuana Products Manufacturing Facility: A facility licensed by the State of Maine to purchase adult use marijuana from a cultivation facility or another products manufacturing facility; to manufacture, label and package adult use marijuana and adult use marijuana products; and to sell adult use marijuana and adult use marijuana products to marijuana stores and to other products manufacturing facilities.

Marijuana Store: A facility licensed by the State of Maine to purchase adult use marijuana, immature marijuana plants and seedlings from a cultivation facility, to purchase adult use marijuana and adult use marijuana products from a products manufacturing facility and to sell adult use marijuana, adult use marijuana products, immature marijuana plants and seedlings to consumers.

Marijuana Testing Facility: A facility licensed by the State of Maine to develop, research and test marijuana, marijuana products and other substances.

Aggrieved Party: An owner of land whose property is directly or indirectly affected by the granting or denial of a permit, approval or variance under this Ordinance; a person whose land abuts land for which a permit, approval or variance has been granted; or any other person or group of people who have suffered particularized injury as a result of the granting or denial of such permit, approval or variance.

Agricultural Packaging and Storage: Any or all steps of preparing agricultural products for sale or other distribution. This includes, but is not limited to, wrapping, boxing and storage.

Agricultural Product: Any of the following items:

- A. Fresh fruit, fresh produce or a fresh horticultural or agronomic commodity and products made from that fresh fruit, fresh produce or fresh horticultural or agronomic commodity;
- B. Trees and wreaths used for decorative purposes;
- C. Maple syrup; or
- D. A food product made from an animal raised for the purpose of providing food or from the products of that animal.

Agricultural Product Processing: The preparing for market or other commercial use of agricultural products.

Agriculture: The cultivation and tillage of the soil as a livelihood, including dairying; the raising of livestock, freshwater fish, fur-bearing animals or poultry; producing, cultivating, growing and harvesting fruit, produce or floricultural or horticultural commodities; or any practices on a farm that are incident to or in conjunction with these farming operations. Agriculture does not include animal breeding or care, kennels, or forest management and timber harvesting activities.

Alcoholic Beverage Production Establishment: A facility for the production, distribution and accessory retail sales of alcoholic beverages, including, but not limited, to beer and ale, wine, and distilled spirits, including facilities such as tasting and function rooms for the consumption of beverages produced on the premises.

Alteration: Any change in the use of a building or modification in construction or change in the structural members of a structure, such as bearing walls, columns, beams or girders.

Amusement Park: A commercial facility utilizing powered apparatus, such as Ferris wheels, water slides and similar devices.

Animal Breeding or Care: The keeping or raising of five (5) or more animals of the same kind over 6 months old for breeding, hunting, show, training, field trials and exhibition purposes. The standards for this use shall also apply to the boarding of horses. Short term boarding of cats and dogs shall be in accordance with standards for kennels. The keeping of cows, sheep and other hoofed or domesticated animals shall be in accordance with standards for agriculture. The raising of one litter of kittens or puppies within a 12-month period alone does not constitute animal breeding or care.

Applicant: An individual, firm, association, organization, partnership, trust, company or corporation submitting an application for land use activity.

Approving Authority: The Code Enforcement Officer, Planning Board or Board of Appeals as specified.

Aquaculture: The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species. Only the support facilities on land shall be subject to the requirements of this Ordinance.

Arterial: A road functionally classified by the Maine Department of Transportation as a major or minor arterial.

Automobile and Recreational Vehicle Sales & Service: Any building or premises where automobiles or other motor vehicles are sold or offered for sale and where repair and maintenance services are provided.

Automobile Graveyard: A yard, field or other area as defined in Title 30-A M.R.S. § 3752 used to store three (3) or more unregistered or uninspected motor vehicles , or parts of such vehicles (see Junkyard).

- A. Does not include any area used for temporary storage by an establishment or place of business that is primarily engaged in doing auto body repair work to make repairs to render a motor vehicle serviceable.
- B. Includes an area used for automobile dismantling, salvage and recycling operations (see Automobile Recycling Business).

Automobile Recycling Business: The business premises of a person who purchases or acquires salvage vehicles for the purpose of reselling the vehicles or component parts of the vehicles or rebuilding or repairing salvage vehicles for the purpose of resale or for selling the basic materials in the salvage vehicles as defined in Title 30-A M.R.S. § 3752 (see Junkyard).

Automobile Repair: A business for the repair of automobiles and other motor vehicles, including body shops.

Automobile Service Station: Any business or premises that sells gasoline or other vehicle fuels, oil and related products to the motoring public. This may include repairs, washing and lubrication, but shall not include bodywork, painting or dismantling.

Basal Area: The area of cross-section of a tree stem at Diameter at Breast Height (4½ feet above ground level) and inclusive of bark.

Basement: Any portion of a structure with a floor-to-ceiling height of six (6) feet or more and having more than fifty (50) percent of its volume below the existing ground level.

Bed and Breakfast: An establishment that provides overnight accommodations to transients in a maximum of eight (8) guest rooms, that has a residential character, and conforms to the performance standards of Section 11.4.

Billboard: See Sign, Billboard.

Boat Launching Facility: A facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

Botanical Garden: A facility that is owned by a public or private nonprofit entity that is primarily used for the display and conservation of plants, including related botanical education and research activities. A botanical garden may include the following types of facilities provided that such facilities are accessory to the primary function of the botanical garden: gardens, visitor centers, education facilities, research facilities, greenhouses, conservatories, plant maintenance and propagation facilities, trails, docks, concessions (including eating facilities and gift shops), meeting rooms, and parking and other transportation facilities.

Buffer for Water Supply Protection: An undeveloped land area with sufficient plant life to control storm water runoff and limit the export of phosphorus.

Buffer, Forest: A buffer that has a well distributed stand of trees with essentially complete canopy cover that has an undisturbed layer of duff covering the mineral soil.

Buffer, Meadow: A buffer that has a dense cover of grasses or a combination of grasses and shrubs or trees.

Buffer, Mixed Meadow and Forest: A buffer with a combination of forest and meadow buffer.

Buffer, Non-wooded: An area having a dense and complete cover of vegetation, including shrubs, trees, grass, and other plants.

Buffer, Visual: A visual screen consisting of conifers, deciduous trees and hedges, natural vegetation that is indigenous to the area, fences, walls, berms and mounds.

Buffer, Wooded: A naturally wooded area, including an undisturbed organic layer.

Buildable Lot Area: The specified portion of a lot where development is allowed. In determining such area of a lot, the following shall be excluded:

- A. The area included in the required setbacks;
- B. The area within coastal wetlands;

- C. Land that is situated below the high-water line of any great pond, stream, outlet stream or freshwater wetland;
- D. Areas with a sustained slope of greater than 15% over a contiguous area of more than one thousand (1,000) square feet;
- E. Land that is part of a right-of-way, or easement, including utility easements; and
- F. Land that is located within a Special Flood Hazard Area as depicted on the current version of the Flood Insurance Rate Map (FIRM) prepared by the Federal Emergency Management Agency unless the applicant shows proof through the submittal of materials prepared by a Registered Land Surveyor that show that the property in question lies at least two feet above the base flood elevation shown on the FIRM. The elevation of filled or manmade land shall not be considered.

Building: Any structure having a roof or partial roof supported by columns or walls used or intended to be used for the shelter or enclosure of people, animals or objects regardless of the materials of which it is constructed.

Building, Accessory: See Accessory Structure.

Building Inspector: The Building Inspector of the Town of Boothbay also referred to as the Code Enforcement Officer.

Building, Principal: See Structure, Principal.

Business Services: A business or organization, such as call centers, advertising services, and payroll services, that primarily provides services to other businesses or organizations rather than to consumers. A business service may provide incidental service to individual consumers.

Camp: A facility that provides a combination of programs and facilities primarily for the purpose of providing a supervised outdoor group experience with social, recreational, spiritual, and/or educational objectives for children as well as adults that is used for five (5) or more consecutive days during one or more seasons of the year.

Campground: Any area or tract of land to accommodate two or more parties in temporary living quarters, including, but not limited to, tents, recreational vehicles or other shelters. May include facilities for the disposal of human wastes from recreational vehicles not occupying a campsite.

Campsite: A designated parcel within a campground that is designed and posted as a site for occupancy by an individual, family unit or group using one recreational vehicle or tent.

Canopy, Tree: The more or less continuous cover formed by tree crowns in a wooded area.

Car Wash: An area of land or a structure with machine- or hand-operated facilities used principally for the cleaning, washing, polishing, or waxing of motor vehicles as a business.

Cemetery: A place for the interment of the remains of deceased people. Does not include family burial grounds that are allowed by 13 M.R.S. § 1142.

Changeable Display Sign: An on-premises sign created, designed, manufactured or modified in such a way that its message may be electronically, digitally or mechanically altered by the complete substitution or replacement of one display by another on each side.

Chimney: A stand-alone or enclosed flue, pipe or vent incorporated into a building to passively facilitate exhaust of gasses. Chimneys incorporating fans, blowers or similar equipment external to the building and chimneys that are not structurally part of the building subject to the structure height standards.

Church: A place of worship or religious activity, including administrative, educational and social activities that are accessory to the primary assembly use.

Club: An association of people organized for a common purpose but not including any group organized primarily to render a service that is customarily carried on as a business.

Coastal Wetland: All tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

Code Enforcement Officer: A person appointed by the Board of Selectmen to administer and enforce this Ordinance. Reference to the Code Enforcement Officer may be construed to include Building Inspector, Plumbing Inspector, Electrical Inspector and the like, where applicable.

Commercial Fishing Activities: Activities directly related to commercial fishing and those commercial activities commonly associated with or supportive of commercial fishing, such as sale of fuel; manufacture or sale of ice, bait and nets; and the sale, installation or repair of boats, engines and other equipment commonly used on boats. Only individuals and businesses providing these services to others for compensation shall be subject to the provisions of this Ordinance. The construction of boats as a principal occupation is a manufacturing use when determining where the use may be conducted, unless it conforms to the standards of home occupation, in which case it shall be treated as a home occupation in determining where the use may be conducted.

Commercial Use: The use of lands or structures, other than a home occupation, the intent and result of which activity is the production of income from the buying and selling of goods or services, exclusive of rental of residential buildings or dwelling units.

Communications Tower: Any structure used to facilitate broadcasting, receiving or sending and receiving information by electromagnetic waves except when used for private ham radio or satellite dish antenna.

Community Center: A building that provides a meeting place for local, non-profit community organizations on a regular basis, including accessory facilities for recreational or social activities.

Community Living Arrangement: A housing facility as defined by Title 30-A M.R.S. § 4357-A for eight (8) or fewer people with disabilities that is approved, authorized, certified or licensed by the State. A community living arrangement is deemed a one family use of property.

Conference/Convention Center: A facility with or without overnight accommodations that provides facilities for conventions and meetings and similar activities, including facilities for meals.

Conforming: A parcel, building, structure, use of land, or portion thereof, which complies with all the applicable provisions of this Ordinance.

Construction and Property Maintenance Services: A business or organization that provides construction and/or property maintenance services, including facilities for administrative activities, fabrication of materials related to the service and the inside and outside storage of material, equipment and vehicles related to the service provided. An office of a contractor or tradesman that involves only administrative and marketing activities and does not include the storage of materials, equipment or vehicles is a business and professional office.

Cooking or Eating Facilities: One or more of any of the following: oven; convection oven; stove; stove top; grill; microwave oven or similar appliance; 240 volt electrical outlet; gas line(s) to serve any cooking appliance; kitchen sink; cabinets commonly used for the storage of food, kitchen equipment and/or utensils; refrigerator in excess of 5 cubic feet; and/or dishwasher.

Cross-Sectional Area of a Stream Channel (Related only to Town regulated timber harvesting in the WRP and WPO Districts): The cross-sectional area of a stream or tributary stream channel is determined by multiplying the stream or tributary stream channel width by the average stream or tributary stream channel depth. The stream or tributary stream channel width is the straight line distance from the normal high-water line on one side of the channel to the normal high-water line on the opposite side of the channel. The average stream or tributary stream channel depth is the average of the vertical distances from a straight line between the normal high-water lines of the stream or tributary stream channel to the bottom of the channel.

Day: For enforcement purposes, a day is any portion of a twenty-four (24) hour period commencing at midnight.

Day Care Facility: Any location in which an individual, business or organization maintains or otherwise carries out for consideration, a regular program that provides care and protection for three (3) to twelve (12) children under the age of thirteen (13) for any part of a day. A day care facility includes a state licensed nursery school with twelve (12) or fewer participants in each session.

Day Care Center: Any location in which an individual, business or organization maintains or otherwise carries out for consideration, a regular program that provides care and protection for more than twelve (12) children under the age of thirteen (13) for any part of a day. A day care center includes a state licensed nursery school with more than twelve (12) participants in any session.

DBH (Related only to Town regulated timber harvesting in the WRP and WPO Districts): The diameter of a standing tree measured four and one half (4½) feet from ground level.

Deck: A structure attached or adjacent to a building elevated above the surface of the ground that does not have a permanent roof but may have a railing, awning or other covering.

De minimis: Trifling; minimal. So insignificant that it may be overlooked in deciding an issue.

De novo Review: A review that looks at the substantive issues afresh, undertakes its own credibility determinations, evaluates the evidence presented, and draws its own conclusions.

Density, Housing: The number of dwelling units per unit of land.

Developable Lot Area: The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and minus areas beneath roads serving more than two lots.

Developed Area: In determining the developed area of a lot, the following areas shall be included:

- A. The foot-print of buildings on the ground or the first floor square footage, whichever is greater.
- B. Within the Buildable Area:
 1. Driveways and parking areas.
 2. Impervious and non-vegetated areas, including, but not limited to, walkways and patios.

Areas created using waffle pavers and other semi-impervious surfaces shall be considered non-vegetated surfaces, even if the surface is covered by grass or other similar vegetation.

3. Naturally occurring impervious area, such as ledge outcrops, shall not be included in developed area.

Development: The alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

Dimensional Requirements: Numerical standards, including, but not limited to, setback, lot area, frontage and height.

Disability: Any incapacitation, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services.

Disability Variance: A variance granted by the Board of Appeals in accordance with Section 12.5.3.

Discharge: Discharge includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, disposing, emptying or dumping onto the land or into the water or ambient air.

Disruption of Shoreline Integrity (Related only to Town regulated timber harvesting in the WRP and WPO Districts): The alteration of the physical shape, properties, or condition of a shoreline at any location by timber harvesting and related activities. A shoreline where shoreline integrity has been disrupted is recognized by compacted, scarified and/or rutted soil, an abnormal channel or shoreline cross-section, and in the case of flowing waters, a profile and character altered from natural conditions.

Distance: The horizontal or vertical separation of two points.

District: Shall mean zoning district when used to indicate one of the areas into which the Town is separated for land use regulation.

Docks, Piers, Wharves, Bridges and Other Structures and Uses Extending Over or Beyond the High-Water Line or Within a Wetland – Temporary: Structures that remain in or over the water for less than 7 months in any period of 12 months.

Docks, Piers, Wharves, Bridges and Other Structures and Uses Extending Over or Beyond the High-Water Line or Within a Wetland – Permanent: Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

Drainage System: One or more artificial ditches, tile drains, or similar devices that collect surface runoff or ground water and convey it to a point of discharge.

Driveway: A vehicular access-way serving no more than two lots or two dwelling units.

Duplex: See Dwelling, Two Family.

Dwelling, Multifamily: A building or portion thereof containing 3 or more dwelling units that are entirely separated except for access to the outside or to a common basement.

Dwelling, One Family: A detached building or Mobile Home designed or intended to be used exclusively for residential occupancy by one family only and containing only one dwelling unit. A one-family dwelling may include an accessory apartment. This term does not exclude home occupations that conform to the standards set forth in Section 11.10.

Dwelling, Townhouse: A multifamily dwelling containing not more than six (6) dwelling units in which the dwelling units are arranged side-by-side so that each dwelling unit has a direct entrance to the outside and no dwelling unit is located so that it is under or over another dwelling unit.

Dwelling, Two Family: A detached building where not more than two dwelling units are entirely separated by vertical walls or horizontal floors, unpierced except for access to the outside or to a common basement.

Dwelling in a Mixed-Use Building: A dwelling unit that is located in a building that contains nonresidential uses (not including home occupations or home businesses).

Dwelling Unit: One or more rooms physically arranged so as to create an independent housekeeping establishment for occupancy by one family with separate toilets and facilities for bathing, cooking or eating, and sleeping exclusively for the use of the family. The term shall include mobile homes and rental units that contain cooking or eating, sleeping, and toilet facilities regardless of the time-period rented or occupied.

Educational Facility: Any public, private, or parochial, profit or non-profit school for students of any age.

Emergency Operations: Operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property and livestock from the threat of destruction or injury.

Employee Housing: A residential facility that provides housing for employees of local businesses. The accommodations may be in dwelling units, suites or dormitories.

Essential Services: Gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal wastewater lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

Expansion of a Structure: *See* Structure Expansion.

Expansion of Use: The addition of one or more months to a use's operating season; or the use of more floor area of a structure or ground area devoted to a particular use.

Family: One or more individuals living together as a single housekeeping unit and occupying a single dwelling unit. A family is not a group occupying a boarding, lodging or rooming house or a hotel/motel.

Farm Stand: A structure used to display and store agricultural products or from which they are sold. A farm stand does not include mobile vendors.

Farming: *See* agriculture.

Farmland: Any tract or tracts of land used for commercial farming:

- A. That consists of 5 or more contiguous acres;
- B. That has produced a gross income averaging no less than 300 dollars per acre for three 3 or more of the previous 6 calendar years; and

That includes only the land on which the crop is produced.

Farmland does not include land used for woodlots, Christmas tree production, homes, farm buildings, roads, pastures, lawns or any area covered with noncrop-vegetation that borders abutting land.

Fill: Sand, gravel, earth or other natural materials of any composition whatsoever placed or deposited by humans.

Financial Institution: Banks, savings and loan associations, and credit unions.

Firewood Processing: The commercial storage, sawing, chipping, splitting, compacting and related activities associated with producing of combustible wood products for sale. Firewood processing for one's personal use and associated incidental sale is an accessory use to the principle residential use.

Fisheries: The process or occupation of taking fish or other sea products.

Flea Market/Tent Sale: The sale of items normally associated with yard sales where the sale occurs more than seven (7) consecutive days or more than four (4) times in a calendar year.

Flood Fringe: That portion of the floodplain outside the floodway.

Floodplain: The land that has been or may be hereafter covered by floodwater during the regional flood. The floodplain includes the floodway and flood fringe.

Floodway: The channel of a water course and the adjacent land areas that must be reserved in order to discharge the 100 year flood without cumulatively increasing the water surface elevation by more than one (1) foot in height.

Floor Area: The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls.

Footprint: The entire area of ground covered by the structure(s) on a lot, including, but not limited to, cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.

Forest Management Activities (Related only to Town regulated timber harvesting in the WRP and WPO Districts): Timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.

Forest Management Plan (Related only to Town regulated timber harvesting in the WRP and WPO Districts): A site-specific document signed by a professional forester outlining proposed activities to ensure compliance with performance standards and regeneration requirements established pursuant to this Ordinance.

Forest Stand (Related only to Town regulated timber harvesting in the WRP and WPO Districts): A contiguous group of trees sufficiently uniform in age class distribution, composition, and structure, and growing on a site of sufficiently uniform quality, to be a distinguishable unit.

Forested Wetland: A freshwater wetland dominated by woody vegetation that is six (6) meters (about twenty 20 feet) tall or taller.

Forester, Professional (Related only to Town regulated timber harvesting in the WRP and WPO Districts): A forester licensed under Title 32 M.R.S. Chapter 76.

Foundation: The supporting substructure of a building or other structure, including, but not limited to, basements, slabs, frostwalls, or other base consisting of concrete, block, brick, wood or similar material.

Freshwater Wetland: Freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

Of ten (10) or more contiguous acres; or of less than ten (10) contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of ten (10) acres; and

Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

Frontage: The length of a straight line measured between the intersections of the side lot lines and a public or private way, right-of-way or a shoreline.

Functionally Water-Dependent Uses: Those uses that require, for their primary purpose, location on submerged lands or require direct access to, or location in, coastal or inland waters and that cannot be located away from these waters. The uses include, but are not limited to, commercial and recreational fishing and boating facilities, finfish and shellfish processing; fish-related storage and retail and wholesale fish marketing facilities; waterfront dock and port facilities; shipyards and boat building facilities; marinas; navigation aids; basins and channel, shoreline structures necessary for erosion control purposes; industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that cannot reasonably be located or operated at an inland site; and uses that primarily provide general public access to coastal or inland waters. Recreational boat storage buildings are not considered to be a functionally water-dependent use.

Funeral Home: An establishment that provides for the preparation of deceased People for burial and/or cremation and the holding of services related thereto. A funeral home does not include a crematory.

Gambling: Any activity so defined by state or local regulation except fund raising activities conducted by churches, places of worship, veterans, service and nonprofit organizations and state lotteries.

Garage Sale: See Yard Sale.

Great Pond: Any inland body of water which in a natural state has a surface area in excess of ten (10) acres and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres. An artificially formed or increased inland body of water completely surrounded by land held by a single owner is not subject to the regulations for great ponds.

Great Pond Classified GPA: Any great pond classified GPA, pursuant to 38 M.R.S. § 465-A. This classification includes some, but not all impoundments of rivers that are defined as great ponds.

Ground Cover: Small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

Harvest Area (Related only to Town regulated timber harvesting in the WRP and WPO Districts): The area where timber harvesting and related activities, including the cutting of trees, skidding, yarding, and associated road construction take place. The area affected by a harvest encompasses the area within the outer boundaries of these activities, excepting unharvested areas greater than ten (10) acres within the area affected by a harvest

Hazardous Material/Matter: Substances identified under 38 M.R.S. § 1319 that present a present or potential danger to the people of the State or to its natural environment when deposited on land or discharged on or into waters of the State or ambient air.

Hazard Tree: A tree with a structural defect, combination of defects, or disease resulting in a structural defect that under the normal range of environmental conditions at the site exhibits a high probability of failure and loss of a major structural component of the tree in a manner that will strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as, but not limited to: hurricanes; hurricane-force winds; tornados; microbursts; or significant ice storm events. Hazard trees also include those trees that pose a serious and imminent risk to bank stability. A target is the area where personal injury or property damage could occur if the tree or a portion of the tree fails. Targets include roads, driveways, parking areas, structures, campsites, and any other developed area where people frequently gather and linger.

Height of a Structure: *See* Structure Height.

High-Water Line (Non-Tidal Waters): That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the great pond during the period of normal high-water are considered part of the great pond. (Same as Normal High-Water Line)

Highest Annual Tide: The maximum extent of tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service.

Home Business: Any activity preformed for pecuniary gain in a dwelling unit, or other structure accessory to a dwelling unit, or directed from a dwelling unit by one or more residents of that dwelling unit, that conforms to all requirements of Section 11.10.

Home Occupation: Occupations including, but not limited to, computer/fax/typewriter worker, investor advice and service, tele-communicator, and dressmaker, that are conducted solely by occupants of the dwelling, have minimal customer traffic and use

no process or equipment that could alter the residential character of the property or adversely affect neighboring property owners.

Hospital: A facility that provides in-patient care under the supervision of a medical professional. A hospital may include out-patient medical treatment and accommodations for short-term stays and may include provisions for longer-term rehabilitation of patients but shall not provide nursing home or extended care services.

Hotel/Motel: A facility that provides transient housing that is not a bed and breakfast or an inn.

Increase in Nonconformity of a Structure: Any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity, such as reduction in lot line or shoreline setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity.

Individual Private Campsite: An area of land which is not associated with a campground, but which is developed for repeated camping by one group only, not to exceed 10 individuals and which involves site improvements which may include, but not be limited to, a gravel pad, parking area, fire place, or tent platform.

Indoor Theater: A building where an audience may view movies or live performances of plays, music, dance and similar presentations.

Industrial: The assembling, fabrication, finishing, manufacturing, packaging or processing of goods other than agricultural products, or the extraction of minerals.

Inn: An establishment that provides overnight accommodations to transients in a maximum of fifteen (15) guest rooms and conforms to the performance standards of Section 11.12.

Institutional: A non-profit or quasi-public use, or institution, such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purposes.

Junkyard: Except as this term may otherwise be defined by State law in 30-A M.R.S. § 3752, a junkyard shall mean any activity that meets the definition of Automobile Graveyards or Automobile Recycling Business or any yard, field or other area used to store:

- A. Discarded, worn-out or junked plumbing, heating supplies, household appliances and furniture;
- B. Discarded, scrap and junked lumber; and
- C. Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and all scrap iron, steel and other scrap ferrous or nonferrous material.

Kennel: A commercial establishment for the boarding of household pets for not more than thirty (30) days.

Kiosk: A small non-residential structure for educational, scientific, or nature interpretation purposes.

Laboratory, Research Facility: A commercial or nonprofit facility that undertakes research in the social, natural or marine sciences or that conducts testing of a professional or technical nature. Such a facility may include housing for employees or seasonal workers.

Landfill: Disposal of trash and garbage by burying it under layers of earth.

Large Scale Developments: Development regulated by Title 38 M.R.S. Subchapter 1, Article 6, Site Location of Development.

Laundromat: A commercial establishment for the washing and drying of personal clothes and household goods in machines located on the premises, including related services, such as wash/dry/fold, dry cleaning, alterations, and rental of formal wear or similar clothing.

Library: An establishment that provides for the enlightenment of the community through the provision of information to the public, including activities such as the lending of books, printed materials, and electronic media, educational programs, and electronic access to information.

Limited Use – Very Small-Scale: A use that occupies a maximum of five hundred (500) square feet of floor area in a building and that has a maximum of three (3) off-street parking spaces to serve the use.

Limited Use – Small-Scale: A use that occupies a maximum of one thousand (1,000) square feet of floor area in a building and that has a maximum of five (5) off-street parking spaces to serve the use.

Limited Use – Medium-Scale: A use that occupies a maximum of two thousand (2,000) square feet of floor area in a building and that has a maximum of ten (10) off-street parking spaces to serve the use and that has a maximum of ten thousand (10,000) square feet of impervious surface associated with the use.

Limited Use – Larger-Scale: A use that occupies a maximum of four thousand (4,000) square feet of floor area in a building and that has a maximum of twenty (20) off-street parking spaces to serve the use and that has a maximum of twenty thousand (20,000) square feet of impervious surface associated with the use.

Limited Use – Very Large-Scale: A use that occupies a maximum of ten thousand (10,000) square feet of floor area in a building and that has a maximum of fifty (50) off-street parking spaces to serve the use and that has a maximum of fifty thousand (50,000) square feet of impervious surface associated with the use.

Local Ordinance or Regulation: Any municipal ordinance or regulation, portion of an ordinance or regulation, or amendments thereto, adopted by the Town of Boothbay.

Lodging House: A house where lodgings are rented, but does not include:

- A. A house where lodgings are rented to fewer than five (5) lodgers;
- B. The dormitories of charitable, educational or philanthropic institutions; or

C. The emergency use of private dwelling houses at the time of conventions or similar public gatherings.

The term lodger does not include people within the second degree of kindred to the person operating the lodging house.

Logo: A symbol or design used by a business as a means of identifying its products or services.

Lot: An area of land in single ownership, or single lease-hold, regardless of the dates or sources of acquisition thereof and regardless of the buildings and uses existing thereon, having definite boundaries established by recorded plan or deed.

Lot Coverage: The areas included in the definition of developed area within the entire lot.

Lot Depth: The average distance between the front lot line and the rear lot line of a lot measured within the lot boundaries.

Lot Lines: A property boundary line other than a shoreline of any parcel held in single or separate ownership: Except that where any portion of the property boundary line extends into or beyond a public way, the property line shall be deemed to be the public way right-of-way line. When a lot is adjacent to the ocean and does not extend beyond the Highest Annual Tide (HAT) line, the HAT line shall be considered a lot line for determining lot area and lot coverage.

Lot of Record: A lot that exists as shown on a subdivision plan approved by the Planning Board or a deed as shown or described in the records of the Lincoln County Registry of Deeds.

Lot Width: The average distance between the side lot lines of a lot measured within the lot boundaries.

Manufacturing: The making of goods and articles by hand or machinery, including assembly, fabrication, finishing, packaging and processing.

Marina: A business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair, indoor and outdoor storage of boats and marine equipment, bait and tackle shops and marine fuel service facilities.

Maritime Activities: The repair, loading and unloading of boats, chandlery and other activities designed and intended to facilitate maritime trade. Only individuals and businesses providing these services to others for compensation shall be subject to the provisions of this Ordinance. The construction of boats as a principal occupation is a manufacturing use when determining where the use may be conducted, unless it conforms to the standards of home occupation, in which case it shall be treated as a home occupation in determining where the use may be conducted. The storage of boats is a storage facility use when determining where the use may be conducted.

Market Value: The estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

Medical Facility: An establishment that is not part of a professional office that provides out-patient medical treatment and care, such as an urgent care facility, x-ray or scanning facility, medical laboratory, physical therapy facility, or dispensary. A medical facility does not include facilities involving adult use marijuana as defined by state law.

Mineral Exploration: Hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition. Excludes test pits for wells and wastewater disposal systems.

Mineral Extraction: Any operation that removes within any twelve (12) month period more than 100 cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and transports the removed product from the lot on which the extraction site is located.

Miniature Golf: A novelty golf game usually played with a putter on a course having tunnels, bridges, sharp corners and other obstacles around, over or under which the ball must be guided.

Minimum Lot Width: The closest distance between the side lot lines of a lot. When only two lot lines extend into the Shoreland Overlay Zone, both lot lines shall be considered to be side lot lines.

Mobile Home: A residential dwelling unit as defined in 10 M.R.S. § 9081.

Mobile Home Park: A parcel of land under unified ownership approved by the Town of Boothbay for the placement of three (3) or more manufactured homes.

Mobile Home Park Lot: The area of land on which an individual home is situated within a mobile home park and which is reserved for use by the occupants of that home.

Multi-Unit Residential: A residential structure containing three (3) or more residential dwelling units.

Municipal Services: Shall include all providers used in connection with the provision of services to the general public. These include, but are not limited to, water and sewer.

Museum: A facility or establishment dedicated to the acquisition, conservation, study, exhibition and educational interpretation of objects having artistic, historic, cultural, natural, or scientific value, but not including uses in which the primary purpose of the establishment is the sale of objects to the public.

Native: Indigenous to the local forests.

Neighborhood Store: A retail store of less than one thousand six hundred (1,600) square feet of selling space serving the residents in the immediate vicinity with items commonly found in a grocery or drug store for use off premise but not including the sale of gasoline.

Noise: A sound of any kind, especially when loud, confused, or indistinct.

Nonconforming Condition: A nonconforming lot, structure or use which is allowed solely because it was in lawful existence prior to the adoption of this update of the Zoning Ordinance on November 3, 2020 or any subsequent amendment to this ordinance.

Nonconforming Lot: A single lot of record which does not meet the area, frontage, or width requirements of the district in which it is located and which was in lawful existence prior to the adoption of this update of the Zoning Ordinance on November 3, 2020 or any subsequent amendment to this ordinance..

Nonconforming Structure: A structure which does not meet any one or more of the following dimensional requirements; setback, height, or lot coverage or footprint, but which is allowed solely because it was in lawful existence prior to the adoption of this update of the Zoning Ordinance on November 3, 2020 or any subsequent amendment to this ordinance..

Nonconforming Use: Use of buildings, structures, premises, land or parts thereof which is not allowed in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence prior to the adoption of this update of the Zoning Ordinance on November 3, 2020 or any subsequent amendment to this ordinance.

Non-Native Invasive Species of Vegetation: Species of vegetation listed by the Maine Department of Agriculture, Conservation and Forestry as being invasive in Maine ecosystems and not native to Maine ecosystems.

Normal Maintenance and Repair: General activities which do not involve structural alterations or structural repairs to the structure. These activities may include activities such as but not limited to the replacement of windows, doors, siding, roof decking/sheathing, and decking.

Office, Business and Professional: The place of business of doctors, lawyers, accountants, financial advisors, architects, surveyors, real estate and insurance businesses, psychiatrists, counselors, and the like or in which a business conducts its administrative, financial or clerical operations. This definition includes banks and other financial services, government offices and offices of providers of municipal services.

Open Space Development: A form of development that allows a subdivision design in which individual lot sizes and setbacks are reduced in exchange for the creation of common open space and recreation areas, the preservation of environmentally sensitive areas, agriculture and silviculture and the reduction in the size of road and utility systems.

Outlet Stream: Any perennial or intermittent stream, as shown on the most recent highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map, that flows from a freshwater wetland.

Parcel: See Tract or Parcel of Land.

Parish House: A building accessory to a place of worship used primarily by the worshipers. Does not include residential uses.

Parking Area: An open area, other than a street or other public way, used for the parking of motor vehicles and available for public or private use, whether for a fee or as a service or privilege for clients, customers, suppliers or residents.

Parking Facility: Any land or any interest in land, structure or portions of structures, and improvements on land or structures intended for the off-street parking of motor vehicles by the public as the principal use of the lot or structure. Any such structure may be either single or multi-level and either at, above or below the surface. This term also includes:

- A. Facilities incident to the operation of those properties for the parking of motor vehicles, including, without limitation, ancillary waiting rooms, lockers, space for concessions, stores and offices, terminal facilities for trucks and buses, facilities for servicing motor vehicles and for the sale of gasoline, oil and other accessories, and all facilities appurtenant to these incident operations; and
- B. All property, rights, easements and interests relating to the facility that are considered necessary for the construction or operation of the facility.

Parks and Recreation: Non-commercially operated recreational facilities open to the general public, including, but not limited to, playgrounds, parks, monuments, green strips, open space, mini-parks, athletic fields, boat launching ramps, piers and docks, picnic grounds, swimming pools, along with any necessary accessory facilities, rest rooms, bath houses, and the maintenance of such land and facilities. The term shall not include campgrounds, or commercial amusement and recreational facilities.

Patio: A level area adjacent to a dwelling unit constructed of stone, cement or other material located at ground level, with no railing or other structure above the level of the ground. The term shall not include driveways or sidewalks/walkways.

Permitted Use: Any use allowed in a zoning district or a portion thereof and subject to the restrictions applicable to that district.

Person: An individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

Personal Services: A business or organization, such as barbers, stylists, manicurists, counselors and therapists that provides services directly to an individual consumer at the place of operation of the business or organization. Personal services can include the incidental retail sale of products and goods that are related to the service provided.

Piers, docks, wharves, bridges and other structures and uses extended over or beyond the normal high-water line or within a wetland:

Temporary: Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

Permanent: Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

Pond: Any inland body of water that is not a great pond, stream, outlet stream or tributary stream. An artificially formed inland body of water completely surrounded by land held by one owner is not subject to the regulations for ponds.

Principal Structure: A structure other than one which is used for purposes wholly incidental or accessory to the use of another structure or use on the same lot.

Principal Use: A use which is the main use on the same lot.

Printing: An establishment that provides duplicating services using photocopy, blueprint, or offset printing equipment, including collating of booklets and reports.

Private Way: A way privately owned and maintained over which the owner may restrict use or passage.

Prohibited Use: A use that is not allowed in a zoning district or a portion thereof.

Public Easement: An easement held by a municipality for purposes of public access to land or water not otherwise connected to a public way, and includes all rights enjoyed by the public with respect to private ways created by statute prior to May 4, 1982. "Private ways" created pursuant to 23 M.R.S. §§ 3001 and 3004 prior to May 4, 1982 are public easements.

Public Facility: Any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a government body or public entity.

Public Utility: Any person, firm, corporation, municipal department, board or commission authorized to furnish gas, steam, electricity, waste disposal, communication facilities, transportation or water to the public.

Public Way: A way owned or maintained by the State, or a municipality, over which the general public has a right to pass.

Real Estate: Land and structures attached to it.

Recent Floodplain Soils: The following soil series as described and identified by the National Cooperative Soil Survey:

Alluvial	Charles	Cornish	Fryeburg	Hadley	Limerick
Lovewell	Medomak	Ondawa	Podunk	Rumney	Saco
Suncook	Sunday	Winooski			

Recreational Facility: A place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat-launching facilities.

Recreational Facility – Indoor: Any commercial indoor recreational use, including, but not limited to, video arcades, pool halls, bowling alleys, pinball arcades, gyms, health clubs and swimming pools. Does not include Indoor Theaters.

Recreational Facility – Outdoor: Any commercial outdoor recreational use, including, but not limited to, golf courses, tennis courts, riding stables, swimming pools, or ice

skating rinks, but not including campgrounds, drive-in theaters, race tracks, water slides or miniature golf.

Recreational Vehicle: A vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more people, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

Recycling Operation (Recycling Center): A facility in which recoverable resources, such as vegetation, newspapers, glassware, plastics and metal cans, are collected, stored, flattened, crushed, bundled or processed for shipment.

Replacement System: A subsurface wastewater disposal system intended to replace:

An existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure; or

Any existing overboard wastewater discharge.

Residential Care Facility: A facility that provides long-term housing for adult residents and handicapped or other individuals who need ongoing residential care together with a program of supportive services for the residents. A facility may also provide medical supervision and care. A residential care facility includes, but is not limited to, facilities that are commonly referred to as assisted living, boarding care, congregate housing, Alzheimer's or memory care, nursing homes, long-term care, skilled-nursing care, and rehabilitation facilities. Facilities that provide housing but that do not provide a program of supportive services are not residential care facilities.

Residential Use: Accessory apartments; one family, two family and multifamily dwellings; lodging houses; and retirement facilities. This term includes home occupations that conform to the standards set forth in Section 11.10.

Residual Basal Area (Related only to Town regulated timber harvesting in the WRP and WPO Districts): The average of the basal area of trees remaining on a harvested site.

Residual Stand (Related only to Town regulated timber harvesting in the WRP and WPO Districts): A stand of trees remaining in the forest following timber harvesting and related activities

Restaurant: An establishment whose principal business is to prepare food to be served to and consumed by the public, and where drinks may be served as accessory to the principal use. Includes tea rooms.

Re-Subdivision: The further division or relocation of lot lines of any lot or lots within any subdivision previously made and approved or recorded according to law, or the alteration of any streets or the establishment of any new streets with any subdivision previously made and approved or recorded according to law. Does not include conveyance so as to combine existing lots by deed or other instrument.

Retail Business: A business establishment engaged in the sale, rental, or lease of goods to the ultimate consumer for direct use or consumption and not for resale.

Retail Fuel Distributor: A business establishment engaged in the sale of products for the heating of homes or for cooking to the ultimate consumer for direct use or consumption and not for resale.

Right-of-Way: All public or private roads and streets, state and federal highways, private ways, public easements, and public land reservations for the purpose of public access, including utility rights-of-way.

Riprap: Rocks, irregularly shaped, and at least 6 inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes not to exceed two (2) units horizontal to one (1) unit vertical or less.

River: A free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of twenty-five (25) square miles to its mouth. Standards for coastal wetland apply to land abutting the Cross, Damariscotta and Sheepscot Rivers.

Road: A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles. This definition does not include a driveway as defined.

Roadside Stand: A structure used to display and store products or from which they are sold. Does not include Farm Stand.

Roof Sign: See Sign, Roof.

Salt Marsh: Areas of coastal wetland (most often along coastal bays) that support salt tolerant species, and where at average high tide during the growing season, the soil is irregularly inundated by tidal waters. The predominant species is saltmarsh cordgrass (*Spartina alterniflora*). More open areas often support widgeon grass, eelgrass, and Sago pondweed

Salt Meadow: Areas of a coastal wetland that support salt tolerant plant species bordering the landward side of salt marshes or open coastal water, where the soil is saturated during the growing season but which is rarely inundated by tidal water. Indigenous plant species include salt meadow cordgrass (*Spartina patens*) and black rush; common threesquare occurs in fresher areas.

Sapling: A tree species that is less than two (2) inches in diameter at four and one half (4½) feet above ground level.

Sawmill: A site where trees, logs and other wood pieces are processed by cutting or chipping.

Seasonal Dwelling: A dwelling which existed on December 31, 1981, and which was not used as a principal or year-round residence during the period from 1977 to 1981.

Evidence of use as a principal or year-round residence includes, but is not limited to:

- A. The listing of that dwelling as an occupant's legal residence for the purpose of:
 1. Voting.
 2. Filing a state tax return.
 3. Automobile registration; and

- B. The occupancy of that dwelling for a period exceeding seven (7) months in any calendar year.

Seedling: A young tree species that is less than four and one half (4½) feet in height above ground level.

Septic System: See Subsurface Wastewater Disposal System.

Service Drop: Any utility line extension which does not cross or run beneath any portion of a great pond, stream, and outlet stream or beneath a wetland provided that:

- A. In the case of electric service:
 - 1. The placement of wires or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
 - 2. The total length of the extension is less than one thousand (1,000) feet.
- B. In the case of cable and telephone service:
 - 1. The extension, regardless of length, will be made by the installation of optical fiber, cable, or wires to existing utility poles, or
 - 2. The extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

Setback: The required distance:

- A. Between any regulated structure, object or use and any other regulated structure, object or use; and
- B. Between any regulated structure, object or use and any physically or legally occurring entity, including, but not limited to, lot lines, roads and the high-water line of a great pond, stream, outlet stream, tributary stream or upland edge of a wetland.

Sex Related Businesses: Any business offering, selling or displaying sex or sexual related objects. Includes, but is not limited to, pornographic shops, adult book, video or movie stores, massage parlors, strip-tease clubs, and topless bars or restaurants.

Shopping Center: Any concentration of two or more retail stores or service establishments under one ownership or management containing a total of twenty-five thousand (25,000) square feet or more of floor area in all buildings.

Shore Frontage: The length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

Sign: Any structure, display, logo, device or representation which is designed or used to advertise or call attention to anything, person, business, activity or place and is visible from any public way. It does not include the flag, pennant or insignia of any nation, state or town that is displayed separately from any other message or graphic. Whenever dimensions of a sign are specified, they shall include frames.

Sign, Billboard: A structure designed, intended or used for advertising a product, property, business, entertainment, service, amusement or the like which is not located

on the lot where the business or matter advertised is available or occurs. An off-premise Official Business Directional Sign allowed under state regulations is not considered a billboard.

Sign, Roof: A sign located upon or over a roof of a structure.

Sign, Temporary: A sign or advertising display designed, intended to be displayed or displayed for a period of not more than thirty (30) days.

Sign, Wall: A sign that is attached parallel to the exterior surface of a structure.

Signs, Multiple: A group of signs clustered together in a single structure or compositional unit.

Single Family Dwelling: See Dwelling, One Family.

Skid Road or Skid Trail (Related to Town regulated timber harvesting in the WRP and WPO Districts): A route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

Slash (Related to Town regulated timber harvesting in the WRP and WPO Districts): The residue, e.g., treetops and branches, left on the ground after a timber harvest.

Sludge: Non-hazardous solid, semisolid or liquid waste generated from a municipal, commercial or industrial wastewater treatment plant, water supply treatment plant or wet process air pollution control facility or any other waste having similar characteristics and effect. The term does not include industrial discharges that are point sources subject to permits under the federal Clean Water Act, 33 U.S.C. § 1342, as may be amended from time to time.

Small Engine and Lawn/Garden Equipment Repair & Sales: Any building or premises where small engines and/or equipment powered by small engines are sold or offered for sale or where they are repaired or maintained. A small engine is an engine that typically powers equipment, including, but not limited to, lawn mowers, garden tractors, chain saws, weed trimmers and tillers.

Start of Construction or Operation:

- A. For a permit or approval involving the construction of a structure with a foundation, start of construction means the completion of the structure's foundation and a cap for water tightness.
- B. For a permit or approval involving a structure without a foundation or a permit or approval not involving a structure, start of construction means the completion of at least twenty-five (25) percent of the cost of the work for which the permit or approval has been secured.
- C. In the case of a subdivision, start of construction means the completion of at least twenty-five (25) percent of the cost of the proposed improvements within the subdivision, including, without limitation, site work, road installation, and utility installation; provided that if the subdivision consists of individual lots to be sold or leased, the cost to construct structures on the lots shall not be included in the cost of the proposed improvements.

Storm-Damaged Tree: A tree that has been uprooted, blown down, is lying on the ground, or that remains standing and is damaged beyond the point of recovery as the result of a storm event.

Stream: A free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition, highest resolution version of a the national hydrography dataset available from the United States Geological Survey 7.5 minute series topographic on the website of the United States Geological Survey or the national map, or if not available, a 15 minute series topographic map, to the point where the body of water/stream becomes a river or flows to where the stream meets a portion of another water body or wetland within the Shoreland Overlay District. When a stream meets the portion of a water body or wetland within the Shoreland Overlay District and a channel forms downstream of the water body or wetland as an outlet, that channel is also a stream.

Street: See Road.

Storage Facility/Structure: A commercial structure or area for the storage of items by the public, including, but not limited to, personal property, boats and other water craft.

Structure: Anything temporarily or permanently located, built, constructed or erected for the support, shelter or enclosure of people, animals, goods or property of any kind, together with or anything constructed or erected with a fixed location on or in the ground, exclusive of fences, and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes. Structure does not include fences; poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors; subsurface waste water disposal systems as defined in 30-A M.R.S. § 4201(5); geothermal heat exchange wells as defined in 32 M.R.S. § 4700-E(3-C); or wells or water wells as defined in 32 M.R.S. § 4700-E(8).

Structure Expansion: An increase in the floor area, height or volume of a structure, including all extensions, including, but not limited to, attached decks, garages, porches and greenhouses.

Structure Height: The vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area.

Structure Volume: The volume of all living areas of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

Subdivision: This term shall be the same as defined in Title 30-A M.R.S. §§ 4401(4) & 4402. For the current definition, see the Code Enforcement Officer.

Subsurface Wastewater Disposal System: Any system designed to dispose of waste or wastewater on or beneath the surface of the earth; including, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes;

does not include any discharge system licensed under 38 M.R.S. § 414, any surface waste water disposal system, or any municipal waste water treatment system.

Sustained Slope: A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

Temporary or Temporary Use: Any period of time or use not to exceed thirty (30) consecutive days, except as applies to piers and other structures and uses extending over or beyond the high-water line or within a wetland.

Temporary Business Housing: A dwelling unit provided as a convenience for the owners, employees, contractors, and customers of a business.

Terminal for Bulk Oil and Gas: A premises where oil and gas products used for domestic or commercial heating, cooking and similar purposes are stored and from which they are distributed to the ultimate consumers or to retail or wholesale business. Does not include oil and gas products used for manufacturing or industrial purposes or for fueling of boats in a marina.

Tidal Water: All waters affected by tidal action during the highest annual tide.

Timber Harvesting (Related only to Town regulated timber harvesting in the WRP and WPO Districts): The cutting and removal of timber for the primary purpose of selling or processing forest products. "Timber harvesting" does not include the cutting or removal of vegetation when associated with any other land use activities.

Tract or Parcel of Land: All contiguous land in the same ownership provided that lands located on opposite sides of a public or private road are considered each a separate tract or parcel of land unless the road was established by the owner of the land on both sides of the road after September 22, 1971.

Transportation Terminal: A place for taking-on or discharging of passengers.

Tree: A woody perennial plant with a well-defined trunk(s) at least two (2) inches in diameter at four and one half (4½) feet above the ground, with a more or less definite crown, and reaching a height of at least ten (10) feet at maturity.

Tributary Stream: A channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity. This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the Shoreland Overlay District.

Trucking Distribution Terminal (Truck Terminal): A building or area in which items brought in by truck are sorted or stored before reshipment. The terminal facility may include storage areas for trucks, and buildings or areas for the repair of trucks associated with the terminal.

Upland Edge of a Wetland: The boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and spring highest annual tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) feet) tall or taller.

Use: The purpose for which land or a structure is arranged, designed or intended, or for which either land or a structure is maintained or occupied. This includes, but is not limited to, activities on the land such as clearing of vegetation and timber harvesting.

Variance: Permission to depart from the literal requirements of a development or use regulation of this Ordinance upon approval of the Board of Appeals.

Vegetation: All live trees, shrubs, and other plants, including, without limitation, trees both over and under four (4) inches in diameter, measured at four and one half (4½) feet above ground level.

Velocity Zone: An area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

Veterinary Hospital (or Clinic): A building used for the diagnosis, care and treatment of ailing or injured animals that may include overnight accommodations. The overnight boarding of healthy animals shall be considered a kennel.

Volume of a Structure: *See* Structure Volume.

Waiver: Permission to depart from the literal requirements of a development or use regulation of this Ordinance upon approval of the Planning Board.

Wall Sign: *See* Signs, Wall.

Warehousing: The storage, deposit, or stocking of merchandise or commodities in a structure or room, or on the premise, but not including boats or other marine-related equipment and gear.

Waste: The by-products resulting from a process other than the products for which the process is implemented. This includes, but is not limited to; saw dust, welding rods, animal dung, uneaten food and other household waste, grass clippings, tree limbs and other vegetation, building and construction debris, and wastewater. The term excludes sludge.

Waste Transfer Facility: A building or area in which waste is sorted, processed or stored for reshipment. *See* Recycling Operations.

Water Body: Any great pond, river or stream.

Water Crossing: Any project extending from one bank to the opposite bank of a stream, outlet stream, tributary stream or wetland whether under, through, or over the water or wetland. Such projects include, but may not be limited to, roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these

crossings. This definition includes crossings for timber harvesting equipment and related activities.

Watershed Tributary Stream: A channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically to Adams Pond or Knickerbocker Lake.

Wetland: A freshwater or coastal wetland.

Wind Turbine: A structure for the generation of energy through the rotation of blades or vanes moved by the movement of air.

Wholesale Business: A business establishment engaged in the bulk sale of goods or materials, not manufactured or processed on the premises.

Windfirm (Related to Town regulated timber harvesting in the WRP and WPO Districts): The ability of a forest stand to withstand strong winds and resist windthrow, wind rocking, and major breakage.

Wood Processing: The processing of wood by cutting, planing, compressing, splitting, gluing and veneer production except for firewood processing.

Woody Vegetation: Live trees or woody, non-herbaceous shrubs.

Yard: An unoccupied space, open to the sky, on the same lot with a structure.

Yard Sale: See Town of Boothbay Administrative Code.

Section 3. General Administrative and Enforcement Provisions

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

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

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

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

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

3.3. Responsibilities

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

3.3.1.1 Any request for development or use classified as requiring Code Enforcement Officer review and approval in accordance with Section 5.2.2.2, and

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

3.3.2 Planning Board

3.3.2.1 The Town shall maintain a Planning Board in accordance with the provisions of State law and the Town of Boothbay Administrative Code.

3.3.2.2 The Planning Board shall be the reviewing authority of all applications for development, subdivision and use classified as requiring Planning Board review and approval in accordance with Section 5.2.2.2.

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

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

3.3.3.1.1 A decision of the Planning Board relative to a subdivision application can only be appealed to Superior Court.

3.4 Enforcement

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

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

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

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

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

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

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

3.5. Planning Board Organization

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

3.5.1.1 Quorum Three (3) voting members of the Planning Board shall constitute a quorum.

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

3.6. Board of Appeals Organization

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

3.6.1.1 Quorum Three (3) voting members of the Board of Appeals shall constitute a quorum.

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

Section 4. Permit and Approval Requirements

- 4.1. Authorization Required** No person shall engage in any development, subdivision, or use requiring either a permit or approval from the Code Enforcement Officer, Planning Board or Board of Appeals, as applicable; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use without first obtaining the required permit or approval. The following sections outline the permits and/or approvals required for various activities.
- 4.2 Code Enforcement Officer Permits and Approvals** The Code Enforcement Officer shall be the reviewing authority and shall approve, approve with conditions or deny:
- 4.2.1.** Any request for development or use classified in accordance with the provisions of Section 5.2.2.2 as requiring Code Enforcement Officer review and approval;
 - 4.2.2** Any request for development or use that is not specifically the responsibility of the Planning Board or the Board of Appeals; and
 - 4.2.3** Any other activity where the approval of the Code Enforcement Officer is required by this Ordinance.
- 4.3 Planning Board Approvals** The Planning Board shall be the reviewing authority and shall approve, approve with conditions or deny:
- 4.3.1.** Any request for development or use classified in accordance with the provisions of Section 5.2.2.2 as requiring subdivision review and approval;
 - 4.3.2.** Any request for development or use classified in accordance with the provisions of Section 5.2.2.2 as requiring mobile home park review and approval;
 - 4.3.3.** Any request for development or use classified in accordance with the provisions of Section 5.2.2.2 as requiring site plan review and approval;
 - 4.3.4.** Any request for development or use classified in accordance with the provisions of Section 5.2.2.2 as requiring Planning Board review and approval;
 - 4.3.5** The construction of any new driveways or roads in the RP District, WRP District or WRP-27 District even if no other Planning Board approval is required;
 - 4.3.6.** The installation of a permanent dock on non-tidal waters (see Section 7.5.17.4.1.7);
 - 4.3.7** The removal of vegetation in the SO District to stabilize a shoreline (see Section 7.5.17.4.1.10); and
 - 4.3.8** Any other activity where the approval of the Planning Board is required by this Ordinance.
- 4.4 Coordination of Multiple Approvals** When a project or development activity requires that the applicant obtained Town approvals from more than one entity, the following rules shall guide the coordination of the review and approval process:

4.4.1 If the activity requires a variance or other approval from the Board of Appeals, the Planning Board and/or the Code Enforcement Officer shall not approve the activity or issue any permits for the activity until the Board of Appeals has granted the variance or other approval.

4.4.2 If the activity requires the approval of the Planning Board, the Code Enforcement Officer shall not approve the activity or issue any permits for the activity until the Planning Board has granted the approval.

4.4.3 If the activity requires multiple permits or approvals from the same entity, the entity may consider the applications for the permits or approvals concurrently.

4.5 Conformance with Conditions of Approval If the Planning Board or Board of Appeals imposes conditions of approval on the approval of an application or the granting of a variance, the Code Enforcement Officer shall be responsible for assuring that the conditions are met. The Code Enforcement Officer may either require that a condition of approval is satisfied prior to the issues of a permit for the activity or may include stipulations or conditions in the permit to assure compliance.

4.6 Coordination with State and/or Federal Approvals If an activity requires an approval or permit from a state or federal agency, no approval by the Planning Board shall occur unless the applicant has obtained the necessary state or federal approval or permit or the approval of the application by the Planning Board is conditioned upon the applicant obtaining the necessary state or federal approval. If the approval by the Planning Board is conditioned on approval by a state or federal agency, the approval by the state or federal agency must be for the specific activities and improvements approved by the Planning Board; if any other agency imposes any more stringent conditions on the applicant or if the any other agency's conditions of approval in any way impact the Planning Board's substantive review criteria, the applicant is required to return to the Portland Planning Board for review and approval of an amended approval. The Code Enforcement Officer shall not issue a permit for the activity until all necessary state and/or federal permits and approvals have been obtained.

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 Overlay District pursuant to this Ordinance that are listed in the Land Use Table in Section 7 as requiring a permit or approval.

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 Section 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 Minor Development 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 wastewater 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 (2) 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; a person with right, title, or interest in the property; or a duly authorized agent of the property owner, 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 his/her 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 Minor Development 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:

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 Site Plan Review procedures and approval criteria of Section 5.4. The proposed activity shall be combined with any other development or activity on the parcel in the previous five (5) years in determining if any of the criteria are met:

5.2.2.3.1.1 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 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 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; or

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 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 Minor Development 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 Minor Development 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 floor area of the building by more than two hundred fifty (250) square feet or more than ten (10) percent of the pre-existing 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 (10) percent 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 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 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 Minor Development 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 p.m. and 7:00 a.m.;
 - 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 Minor Development 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 Minor Development Review under Section 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 floor area of the building by more than two hundred fifty (250) square feet or ten (10) percent of the pre-existing 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 (1,000) square feet or ten (10) percent 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 Minor Development 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, s/he may classify the application as requiring Minor Development Review in accordance with Section 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, Minor Development Review, Subdivision Review or Mobile Home Park 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 in 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 has established.

5.3.4 Taxes The Code Enforcement Officer shall accept an application only if s/he 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 s/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 s/he 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, Minor Development 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, s/he 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 s/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 Planning Board finds that the information is incomplete or if the Planning Board denies any waivers, the Planning Board shall identify the additional information that the applicant must provide for the application to be considered complete. The Planning 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.

5.3.6.5 Public Notice of Planning Board Reviews The following notice procedures apply to the Planning Board's consideration of Minor Development Reviews, Site Plan Reviews, Subdivision Reviews and Mobile Home Park Reviews. All meetings to consider these reviews shall be public meetings notice of which shall be provided as follows:

- 5.3.6.5.1 The Code Enforcement Officer shall notify the following by U. S. Postal Service first class mail of the first meeting of the Planning Board at which an application will be considered:
 - 5.3.6.5.1.1 The applicant and the owner of the property where a development or use is proposed;
 - 5.3.6.5.1.2 Owners as listed by the Boothbay Tax Assessor of property within 100 feet of any property line of a proposed development or use;
 - 5.3.6.5.1.3 The Boothbay Region Water District if a proposed land use project is within the Well Head Protection District or the Watershed Protection Overlay Zone;
 - 5.3.6.5.1.4 The Boothbay Harbor or Edgecomb Town Clerk and Planning Board if the proposed development or use abuts or includes any portion of said municipalities.
- 5.3.6.5.2 The notification shall be at least seven (7) days before the first Planning Board meeting at which the application is considered and include:
 - 5.3.6.5.2.1 The date, time and place of the first public hearing on the

application, and

5.3.6.5.2.2 The location and a general description of the proposed development or use.

5.3.6.5.3 The Code Enforcement Office or Planning Board may determine that additional property owners should be made aware of the proposed development or use. The applicant shall reimburse the Town for the expense of these additional notifications.

5.3.6.5.4 Failure to receive notification of a public meeting shall not necessitate another public meeting nor invalidate any action taken by the Planning Board.

5.3.6.5.5 The Code Enforcement Officer shall publish a notice of the date, time and place of the first meeting to be held on an application at least two times in the Boothbay Register. The first publication of the notice shall be at least seven (7) days before the meeting. In addition, the notice shall be posted in a public place in Boothbay. The notice shall include the location and a general description of the development or use.

5.3.7 Reconsideration of Planning Board Actions

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

5.4 Minor Development 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 Minor Development Review and Site Plan Review. The Planning Board may act to approve, disapprove, or approve an application with conditions.

5.4.2 Review Procedures for Applications Requiring Minor Development 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 Planning 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 Planning 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 Planning 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 Planning 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 Planning Board may conduct this visit either before or after the first meeting at which the application is considered. The Planning 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 Planning 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 hold a public hearing on the application. The Planning Board shall take final action on the application within thirty (30) days of the conclusion of the public hearing at which all requested information has been provided, and during which all verbal and written submissions for and against the proposed development or use have been heard. The Planning Board shall act to deny, to approve, or to approve the application with conditions. The Planning 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 Planning Board shall notify the applicant in writing of the action of the Planning Board, including the findings of fact, and any conditions of approval. This requirement shall be met through the distribution of a Notice of Decision signed by the Chair of the Planning Board containing the findings of fact and decision of the Planning Board.

5.4.2.4 Public Hearing The Planning Board shall hold a public hearing for an application for Minor Development Review. The hearing shall be noticed and advertised in accordance with the provisions of Section 5.3.6.5.

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 Planning Board, the application is approved and the site plan shall be signed by a majority of the members of the Planning Board and filed with the Code Enforcement Officer. In addition, the signed Notice of Decision 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 contemporaneously 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 Planning 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.

5.4.3 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 submission. The review of the Site Inventory and Analysis shall occur at a regular meeting of the Planning Board and shall be an agenda item. Notice of the submission shall be provided in accordance with Section 5.3.6.5.

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 Planning 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 Planning 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 Planning Board until the additional information is submitted to the Code Enforcement Officer. These steps shall be repeated until the submission is found to be complete by the Planning Board. The timeframes for the processing of the site inventory and analysis shall begin when the Planning Board finds that the submission is complete.

5.4.3.2.1 Review of the Site Inventory and Analysis The Planning Board's 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 Planning 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 Planning Board of the issues and constraints that must be addressed in the formal Site Plan Review application. The Planning Board shall also act on any requests for waivers from the 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 Planning Board may conduct this visit either before or after the first meeting at which the Site Inventory and Analysis is considered. The Planning 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 Planning Board is able to conduct an on-site inspection. Written notice of the on-site inspection shall be provided to all parties.

Within sixty (60) days of the finding that the Site Inventory and Analysis submission is complete, the Planning 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. All time limits provided for in this section may be extended by mutual agreement of the applicant and Planning Board.

5.4.3.3 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.

5.4.3.3.1 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 Planning 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 Planning 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 Planning Board shall also consider and act on any requests for waivers of the submission requirements.

5.4.3.3.2 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 Planning Board may conduct this visit either before or after the first meeting at which the application is considered. The Planning 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 Planning Board is able to conduct an on-site inspection. Written notice of the on-site inspection shall be provided to all parties.

5.4.3.3.3 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 Section 5.3.6.5.

5.4.3.3.4 Planning Board Action The Planning Board shall take final action on the application within thirty (30) days of the conclusion of the public hearing at which all requested information has been provided, and during which all verbal and written submissions for and against the proposed development or use have been heard. The Planning Board shall act to deny, to approve, or to approve the application with conditions. The Planning 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 Planning Board shall notify the applicant in writing of the action of the Planning Board, including the findings of fact, and any conditions of approval. This requirement shall be met through the distribution of a Notice of Decision signed by the Chair of the Planning Board containing the findings of fact and decision of the Planning Board.

5.4.3.3.5 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 Planning Board and filed with the Code Enforcement Officer. In addition, the signed Notice of Decision 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 contemporaneously 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 Planning 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

The applicant for development review by the Planning Board shall be responsible for

paying the following fees to the Town for the Town's costs for reviewing the application.

5.4.4.1 Application Fee An application for Minor Development 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 and site inventory and analysis review fee, the applicant for Minor Development 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 review of the formal application or the site inventory and analysis. The Planning Board shall review the complexity of the application or submission and the need for outside assistance to review the application or submission and determine if a technical review fee is required. This determination shall occur at the meeting at which the Planning Board determines if the submission is complete. If the Planning Board determines that outside assistance is needed, the Planning Board, with the assistance of the Code Enforcement Officer, 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 submission and the related time frames for action if the technical review fee is not paid in a timely manner that will allow the Planning Board's review to be completed within the establish time limits.

If the initial fee proves to be insufficient to meet the Town's professional review costs, the Planning Board may assess an additional fee(s) to cover such professional review costs. Any excess amount deposited with the Town in advance shall be promptly refunded to the applicant after final action on the application. The results of the consultation or peer review for which such fees are assessed shall be available for public review, but such results shall be deemed to have been made solely for the benefit of the Town and shall remain its property. Such fees shall be assessed for the privilege of review and shall be payable without regard to consultation or peer review results or the outcome of the application. No building permit or certificate of compliance may be issued nor subdivision plat released until all fees assessed hereunder

have been paid in full.

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 submission or 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 Town 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 Planning Board for any enforcement purposes nor shall the applicant be liable for costs incurred by or costs of services contracted for by the Planning 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 Planning Board, establish the appropriate application fees, site inventory and analysis review, and technical review fees following posting of the proposed schedule of fees and public hearing.

5.4.5 Submission Requirements

5.4.5.1 Applicability The requirements of this section apply to applications for Minor Development 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 Section 5.4.5.2.2 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 in Section 5.4.5.2.3 (Additional Information to be Provided as Part of the Formal Application for Site Plan Review).

5.4.5.2 Site Inventory and Analysis Submission Requirements for Site Plan Review Step One of projects requiring Site Plan Review is the submission of a Site Inventory and Analysis.

5.4.5.2.1 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.

5.4.5.2.2 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 Section 5.3.6.4:

5.4.5.2.2.1 Four (4) 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:

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

5.4.5.2.2.1.2 The boundaries of the lot;

5.4.5.2.2.1.3 The relationship of the lot to the surrounding area;

5.4.5.2.2.1.4 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);

5.4.5.2.2.1.5 The major natural features of the lot and within one thousand (1,000) feet of the lot, including wetlands, streams, ponds, floodplains, groundwater aquifers, farmland, 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.

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

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

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

5.4.5.2.2.1.9 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.

5.4.5.2.2.2 Four (4) 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, farmland, 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, access, traffic, etc.); and which areas are well suited to the proposed use.

5.4.5.2.2.3 Ten (10) copies of 11" x 17" reductions of the site inventory plan required by Section 5.4.5.2.2.1 and site analysis plan required by Section 5.4.5.2.2.2 and 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.

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

5.4.5.3 Application Submission Requirements for Both Minor Development Review and Site Plan Review

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

5.4.5.3.1 Four (4) sets of one or more maps or drawings and ten (10) copies of written materials containing the information listed below. 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. The written materials together with 11" x 17" reductions of all maps must be contained in a bound or stapled report:

5.4.5.3.1.1 The following general information:

5.4.5.3.1.1.1 The names and addresses of all abutters.

5.4.5.3.1.1.2 A sketch map showing general location of the lot within the Town based upon a reduction of the tax maps, including the name of the road on which the lot is located.

5.4.5.3.1.1.3 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.

5.4.5.3.1.2 The following information about the existing conditions on the lot or portion of the lot proposed for use or development:

5.4.5.3.1.2.1 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.

- 5.4.5.3.1.2.2** 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.
- 5.4.5.3.1.2.3** The location of all required building setbacks, yards, and buffers.
- 5.4.5.3.1.2.4** 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.
- 5.4.5.3.1.2.5** The location, names, and present widths of existing public and/or private roads and rights-of-way within or adjacent to the proposed development.
- 5.4.5.3.1.2.6** The location, dimensions, and ground floor elevation of all existing buildings on the lot.
- 5.4.5.3.1.2.7** The location and dimensions of existing driveways, parking and loading areas, walkways, and sidewalks on or immediately adjacent to the lot.
- 5.4.5.3.1.2.8** The location of intersecting roads or driveways within two hundred (200) feet of the lot.
- 5.4.5.3.1.2.9** The location of open water, drainage courses, wetlands, significant vernal pools, stone walls, graveyards, fences, stands of trees, farmland, 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.
- 5.4.5.3.1.2.10** The direction of existing surface water drainage across the site.
- 5.4.5.3.1.2.11** The location, front view, dimensions, and means of lighting of existing signs.
- 5.4.5.3.1.2.12** The location and dimensions of any existing easements and copies of existing covenants or deed restrictions.

- 5.4.5.3.1.2.13 The location of the nearest fire hydrant, dry hydrant or other water supply for fire protection.
- 5.4.5.3.1.3 The following information about the proposed use and development activity:
 - 5.4.5.3.1.3.1 The location, dimensions, and ground floor elevation of all proposed buildings or building expansion proposed on the lot.
 - 5.4.5.3.1.3.2 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.
 - 5.4.5.3.1.3.3 The direction of proposed surface water drainage across the site, and from the site, with an assessment of impacts on downstream properties.
 - 5.4.5.3.1.3.4 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.
 - 5.4.5.3.1.3.5 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.
 - 5.4.5.3.1.3.6 Proposed landscaping and buffering.
 - 5.4.5.3.1.3.7 The location, front view, materials, and dimensions of proposed signs.
 - 5.4.5.3.1.3.8 The location and type of exterior lighting.
 - 5.4.5.3.1.3.9 The location of all utilities, including fire protection systems.
 - 5.4.5.3.1.3.10 An estimate of the peak hour and daily traffic to be generated by the project.
 - 5.4.5.3.1.3.11 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.
- 5.4.5.3.2 **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".

5.4.5.4 Additional Submission Requirements for Applications for Site Plan Review

In addition to the information required for all applications as set forth in Section 5.4.5.3, an application for Site Plan Review must contain the following additional information.

- 5.4.5.4.1** A narrative and/or plan describing how the proposed development plan relates to the site inventory and analysis.
- 5.4.5.4.2** 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.
- 5.4.5.4.3** A stormwater drainage plan and erosion control plan/program documenting conformance with the stormwater management and erosion control performance standards of Sections 9.3 and 9.4.
- 5.4.5.4.4** 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.
- 5.4.5.4.5** 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.
- 5.4.5.4.6** 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 have an Average Annual Daily Traffic (AADT) of 200 trips.
- 5.4.5.4.7** 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 Minor Development 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 Planning 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 Planning 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 Planning 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;
or

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 Town.

5.4.6.2 Vehicular Access into the Site

5.4.6.2.1 Basic Standard

Vehicular access to and from the development must be safe. Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.

5.4.6.2.2 Additional Standards

5.4.6.2.2.1 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, as determined by the Planning Board.

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

5.4.6.2.2.3 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.

5.4.6.2.2.4 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.

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

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

5.4.6.2.2.6.1 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.

5.4.6.2.2.6.2 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.

5.4.6.3 Accessway Location and Spacing

5.4.6.3.1 Basic Standard

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

5.4.6.3.1.1 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.

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

5.4.6.4 Natural Features

5.4.6.4 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 (20) percent 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.

5.4.6.5 Shoreland Relationship

5.4.6.5.1 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.

5.4.6.6 Floodplain Management

5.4.6.6.1 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.

5.4.6.7 Historic and Archeological Resources

5.4.6.7.1 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.

5.4.6.8 Utilization of the Site

5.4.6.8.1 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 (20) 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.

5.4.6.9 Building Placement

5.4.6.9.1 Basic Standards

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

5.4.6.9.1.2 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.

5.4.6.9.1.3 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.

5.4.6.10 Internal Vehicular Circulation

5.4.6.10.1 Basic Standard

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

5.4.6.10.2 Additional Standards

5.4.6.10.2.1 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.

5.4.6.10.2.2 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).

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

5.4.6.10.2.4 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.

5.4.6.11 Parking Layout and Design

5.4.6.11.1 Basic Standards

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

5.4.6.11.1.2 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.

5.4.6.11.1.3 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 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.

5.4.6.11.1.4 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.

5.4.6.12 Pedestrian Access and Sidewalks

5.4.6.12.1 Basic Standard

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

5.4.6.12.2 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 sidewalks, if they exist or are planned in the vicinity of the project.

5.4.6.13 Landscaping and Buffering

5.4.6.13.1 Basic Standard

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

5.4.6.14 Stormwater Management

5.4.6.14.1 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 Section 9.3.

5.4.6.15 Erosion Control

5.4.6.15.1 Basic Standards

5.4.6.15.1.1 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.

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

5.4.6.16 Groundwater Protection

5.4.6.16.1 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.

5.4.6.16.2 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 contained in the Maine Rules Relating to Drinking Water. If existing water quality contains contaminants in excess of the secondary drinking water standards in the Maine Rules Relating to Drinking Water, that fact shall be disclosed in a note on the plan.

5.4.6.17 Water Supply

5.4.6.17.1 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 two hundred (200) 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.

5.4.6.18 Sewage Disposal

5.4.6.18.1 Basic Standards

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

5.4.6.18.1.2 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.

5.4.6.18.1.3 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.

5.4.6.18.1.4 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.

5.4.6.19 Utilities

5.4.6.19.1 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.

5.4.6.20 Solid Waste Management

5.4.6.20.1 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.

5.4.6.21 Storage of Materials

5.4.6.21.1 Basic Standards

5.4.6.21.1.1 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.

5.4.6.21.1.2 Where an area for the outside storage of construction or earth materials or equipment or similar items as part of a commercial or industrial use 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 Section 10.1 or located on a portion of the property that is not seen from a residential or institutional use or a public road.

5.4.6.21.1.3 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 Section 10.1.

5.4.6.22 Other Performance Standards

5.4.6.22.1 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.

5.4.6.23 Capacity of the Applicant

5.4.6.23.1 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

5.5.1 Review and Approval Authority

The Code Enforcement Officer is authorized to review and act on all applications for Code Enforcement Officer Review. The Code Enforcement Officer may act to approve, disapprove, or approve an application with conditions.

5.5.2 Review Procedures for Applications Requiring Code Enforcement Officer Review

Following the Code Enforcement Officer's determination that the application is

complete, the Code Enforcement Officer shall begin his/her review of the application.

5.5.2.1 On-Site Inspection The Code Enforcement Officer may hold an on-site inspection of the site to review the existing conditions, field verify the information submitted, and investigate the development proposal.

5.5.2.2 Code Enforcement Officer Action Within thirty (30) days of determining that the application is complete, the Code Enforcement Officer shall take final action on the application. The Code Enforcement Officer shall act to deny, to approve, or to approve the application with conditions. The Code Enforcement Officer 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 Code Enforcement Officer.

In issuing its decision, the Code Enforcement Officer shall make a written determination 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 Code Enforcement Officer shall notify the applicant in writing of its decision.

5.5.2.3 Notice If the application is for an activity that is located within the Watershed Protection Overlay (WPO) District or proposes to be serviced by the public water system, the Code Enforcement Officer shall notify the Boothbay Region Water District of the pending application. If the application is for an activity that is located within two hundred (200) feet of a public sewer or proposes to be serviced by the public sewer system, the Code Enforcement Officer shall notify the Boothbay Harbor Sewer District.

5.5.2.4 Final Approval and Filing Upon completion of the requirements of this section and approval or approval with one or more conditions by the Code Enforcement Officer, the application is approved and shall be filed in the office of the Code Enforcement Officer.

5.5.3 Fees

The applicant for development review by the Code Enforcement Officer shall be responsible for paying the following fees to the Town for the Town's costs for reviewing the application.

5.5.3.1 Application Fee An application for Code Enforcement Officer 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. 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.

5.5.3.2 Technical Review Fee In addition to the application fee, the applicant for Code Enforcement Officer Review may also be required to pay a technical review fee to defray the Town's legal and technical costs of the review of the application. The Code Enforcement Officer shall review the complexity of

the application or submission and the need for outside assistance to review the application and determine if a technical review fee should be required. If the Code Enforcement Officer recommends that a technical review fee be required, s/he shall make that recommendation to the Town Manager. If the Town Manger determines that outside assistance is needed, the Town Manager with the assistance of the Code Enforcement Officer 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 Code Enforcement Officer may suspend processing of the submission and the related time frames for action if the technical review fee is not paid in a timely manner that will allow the review to be completed within the establish time limits.

If the initial fee proves to be insufficient to meet the Town's professional review costs, the Planning Board may assess an additional fee(s) to cover such professional review costs. Any excess amount deposited with the Town in advance shall be promptly refunded to the applicant after final action on the application. The results of the consultation or peer review for which such fees are assessed shall be available for public review, but such results shall be deemed to have been made solely for the benefit of the Town and shall remain its property. Such fees shall be assessed for the privilege of review and shall be payable without regard to consultation or peer review results or the outcome of the application. No building permit or certificate of compliance may be issued nor subdivision plat released until all fees assessed hereunder have been paid in full.

The technical review fee may be used by the Code Enforcement Officer 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 Town 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 for any enforcement purposes nor shall the applicant be liable for costs incurred by or costs of services contracted for by the Town 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.

5.5.3.3 Establishment of Fees The Board of Selectmen may from time to time establish the appropriate application fees and technical review fees following

posting of the proposed schedule of fees and public hearing.

5.5.4 Submission Requirements

5.5.4.1 Applicability The requirements of this section apply to applications for Code Enforcement Officer Review.

5.5.4.2 Application Submission Requirements for Code Enforcement Officer Review

All applications for Code Enforcement Officer Review must contain two (2) copies of written materials plus two (2) sets of one or more maps or drawings containing the information listed in addition to the general information set out in Section 5.3.6.4, unless specifically waived by the Code Enforcement Officer. 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:

5.5.4.2.1 The following information about the existing conditions on the lot or portion of the lot proposed for use or development:

5.5.4.2.1.1 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.

5.5.4.2.1.2 The bearings and length of all property lines of the property to be developed and the source of this information. The Code Enforcement Officer may waive this requirement for a boundary survey when sufficient information is available to establish, on the ground, all property boundaries.

5.5.4.2.1.3 The location of all required building setbacks, yards, and buffers.

5.5.4.2.1.4 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.

5.5.4.2.1.5 The location, names, and present widths of existing public and/or private roads and rights-of-way within or adjacent to the proposed development.

5.5.4.2.1.6 The location, dimensions, and ground floor elevation of all existing buildings on the lot.

5.5.4.2.1.7 The location and dimensions of existing driveways, parking and loading areas, walkways, and sidewalks on or immediately

adjacent to the lot.

5.5.4.2.1.8 The location of intersecting roads or driveways within two hundred (200) feet of the lot.

5.5.4.2.1.9 The location of open water, drainage courses, wetlands, significant vernal pools, stonewalls, graveyards, fences, stands of trees, farmland, 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.

5.5.4.1.1.10 The direction of existing surface water drainage across the site.

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

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

5.5.4.1.2 The following information about the proposed use and development activity:

5.5.4.1.2.1 The location, dimensions, and ground floor elevation of all proposed buildings or building expansion.

5.5.4.1.2.2 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.

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

5.5.4.1.2.4 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.

5.5.4.1.2.5 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.

5.5.4.1.2.6 Proposed landscaping and buffering.

5.5.4.1.2.7 The location, front view, materials, and dimensions of proposed signs if any new or modified signs are proposed.

- 5.5.4.1.2.8** The location and type of exterior lighting if any new or modified exterior lighting is proposed.
- 5.5.4.1.2.9** The location of all utilities, including fire protection systems.
- 5.5.4.1.2.10** An estimate of the peak hour and daily traffic to be generated by the project.
- 5.5.4.1.2.11** A stormwater drainage and erosion control plan/program documenting conformance with the stormwater management and erosion control performance standards of Sections 9.3 and 9.4 if the Code Enforcement Officer determines that such information is necessary based upon the scale of the project or the existing conditions in the vicinity of the project or if the project is located within the Watershed Protection Overlay (WPO) District.

5.5.5 Approval Standards

The Code Enforcement Officer shall use the criteria of Section 5.4.6 in reviewing applications. These standards 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 Code Enforcement Officer. The Code Enforcement Officer may waive conformance with an individual standard if s/he finds that the standard is not applicable to the project due to the scale of the project or its location in the Town. In evaluating compliance with these criteria, the Code Enforcement Officer shall consider the applicable performance standards of Sections 8, 9, 10 and 11.

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, s/he 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 Planning 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 Section 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 Section 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

5.6.4.1 Submission of Minor Subdivision Plan Application to the Code Enforcement Officer. Upon completion of the Planning Board's review of the Site Inventory and Analysis, the applicant shall prepare and submit a preliminary plan application for a major subdivision to the Code Enforcement Officer. The application must include the subdivision plan and supporting documentation that meets the submission requirements for a preliminary plan

for major subdivision as set forth in Section 5.6.5. The Code Enforcement Officer shall provide the applicant with a dated, written receipt for the application submission.

5.6.4.2 Provisional Review of Application by the Code Enforcement Officer.

The Code Enforcement Officer shall review the application for completeness within ten (10) business days of receipt. The Code Enforcement Officer shall provisionally determine that the application is complete only if all of the required information for preliminary plans for a major subdivision set forth in Section 5.6.5 has been submitted or the Planning Board has approved waivers for any required information not provided as part of the Site Inventory and Analysis review. Upon the completion of the application review, the Code Enforcement Officer shall notify the applicant in writing as to whether or not the application is deemed to be provisionally complete. If the application is provisionally complete, the Code Enforcement Officer shall forward the application to the Planning Board and shall schedule it for the next available Planning Board meeting in accordance with the established scheduling procedures for consideration by the Planning Board. The Code Enforcement Officer shall notify abutting property owners of the pending application in accordance with Section 5.3.6.5. The Code Enforcement Officer shall also hand deliver or mail written notice of the pending application to the Town Manager, Fire Chief, Superintendent of the Boothbay Region Water District, Superintendent of the Boothbay Harbor Sewer District, and other interested parties.

If the Code Enforcement Officer finds that the application is not complete, s/he shall notify the applicant in writing of the additional material that needs to be submitted by the applicant for the application to be provisionally complete and to be considered by the Planning Board. Upon the receipt of additional information, the Code Enforcement Officer shall conduct another completeness review. This process shall be repeated, if necessary, until the Code Enforcement Officer finds that the application is provisionally complete.

5.6.4.3 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 Planning 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 Planning 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 Planning 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 Planning Board finds that the application is complete.

5.6.4.4 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 Planning Board may conduct this visit either before or after the first meeting at which the application is considered. The Planning 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 Planning Board is able to conduct an on-site inspection. Written notice of the on-site inspection shall be provided to all parties in accordance with the provisions of Section 5.3.6.5.

5.6.4.5 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 Section 5.3.6.5.

5.6.4.6 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 Planning Board shall take final action on said application within thirty (30) days of the public hearing. The Planning Board shall act to deny, to approve, or to approve the application with conditions. The Planning 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 Planning 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 Planning Board shall notify the applicant of the action of the Planning Board in writing within five (5) business days of the meeting, including the findings of fact, and any conditions of approval.

5.6.4.7 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 Planning Board, the applicant shall submit two paper copies of the subdivision plan to the Code Enforcement Officer in a format acceptable to the Lincoln County Registry of Deeds, one to be recorded at the Lincoln County 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 paper copies 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 Planning 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 contemporaneously 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 Planning 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 Planning Board and endorsed in writing on the plan, unless the revised final plan is first submitted and the Planning Board approves any modifications. The Planning Board shall make findings that the revised plan meets the criteria of 30-A M.R.S. § 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 Planning Board shall institute proceedings to have the plan stricken from the records of the Lincoln County Registry of Deeds.

5.6.4.8 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 from the Planning Board 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 Planning Board shall have a notice placed in the Lincoln County Registry of Deeds to that effect.

5.6.4.9 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 Town of any street, easement, stormwater facility or other open space shown on such plan.

5.6.4.10 Revisions to Approved Plans

5.6.4.10.1 Procedure An application for a revision to a previously approved plan shall be submitted to the Code Enforcement Officer. The Code Enforcement Officer shall review the application and determine the procedure to be used in revising the plan. Minor changes that do not alter lot lines or the essential nature of the proposal or affect the approval criteria may be approved by the Code Enforcement Officer by written endorsement of the changes on the approved plan. If the revision requires the approval of the Planning Board, the Code Enforcement Officer shall place the application on the agenda of the Planning Board in accordance with the procedures for a Minor Subdivision, unless the change qualifies as a major

subdivision.

5.6.4.10.2 Submissions The applicant shall submit a copy of the approved plan as well as four (4) paper copies of the proposed revisions in a format acceptable to the Lincoln County Registry of Deeds together with ten (10) 11" x 17" reductions of the revised subdivision plan. The application shall also include the appropriate supporting information to allow the Planning Board to make a determination that the proposed revisions meet the standards of these regulations and the criteria of the statute. The revised plan shall indicate that it is the revision of a previously approved and recorded plan and shall show the title of the subdivision and the book and page or cabinet and sheet on which the original plan is recorded at the Lincoln County Registry of Deeds.

5.6.4.10.3 Scope of Review The Planning Board's scope of review shall be limited to those portions of the plan which are proposed to be changed.

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 Planning Board to locate the subdivision within the Town. 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 four (4) paper copies in a format acceptable to the Lincoln County Registry of Deeds 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 Planning Board. In addition, ten (10) copies of the

plan(s) reduced to a size of eleven (11) by seventeen (17) inches shall be included in the bound report.

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 Town, and the Assessor's map and lotnumbers.

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.

5.6.5.6.6 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.

5.6.5.6.7 A copy of any deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.

5.6.5.6.8 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.

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

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

5.6.5.6.11 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 Town's Flood Insurance Rate Map, shall be delineated on the plan.

5.6.5.6.12 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.

- 5.6.5.6.13** Contour lines at the interval specified by the Code Enforcement Officer showing elevations in relation to mean sea level.
- 5.6.5.6.14** The location and size of existing and proposed sewers, water mains, culverts, and drainageways on or adjacent to the property to be subdivided.
- 5.6.5.6.15** 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.
- 5.6.5.6.16** An indication of the type of sewage disposal to be used in the subdivision:
 - 5.6.5.6.16.1** 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.
 - 5.6.5.6.16.2** 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.
- 5.6.5.6.17** An indication of the type of water supply system(s) to be used in the subdivision.
 - 5.6.5.6.17.1** 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.
 - 5.6.5.6.17.2** 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.
- 5.6.5.6.18** The width and location of any roads, public improvements or open space shown in the Comprehensive Plan, if any, within the subdivision.

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

5.6.5.6.20 All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the Town 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 Town, written evidence that the Board of Selectmen is satisfied with the legal sufficiency of the written offer to convey title shall be included.

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

5.6.5.7 The Planning 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. § 4404 are met:

5.6.5.7.1 A hydrogeologic assessment prepared by a certified geologist or registered professional engineer experienced in hydrogeology. The Planning 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 one hundred thousand (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, open space developments in which the average density is less than one dwelling unit per one hundred thousand (100,000) square feet but the density of the developed portion is in excess of one dwelling unit per eighty thousand (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 (or later edition), and the stormwater performance standards of Section 9.3.

5.6.5.7.4 An erosion and sedimentation control plan prepared in accordance with “Maine Erosion and Sedimentation Control Best Management Practices” published by the Maine Department of Environmental Protection, October 2016 (or later edition), and the erosion and sedimentation control performance standards of Section 9.4.

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 Planning Board finds that the information is not required to determine compliance with the approval standards and criteria.

5.6.6 Review Procedures for Applications for Major Subdivision Review

5.6.6.1 Three Step Review Process. The review process for a major subdivision is a three 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 preliminary application and supporting documentation. The Town will not accept or process an application for preliminary plan review of a major subdivision until a review of the Site Inventory and Analysis has been completed. Following the approval of the preliminary plan, the Planning Board will authorize the applicant to submit the final plan, Step Three in the process.

5.6.6.2 Step One – Site Inventory and Analysis.

5.6.6.2.1 Submission of the Site Inventory and Analysis to the Code Enforcement Officer. The applicant shall prepare and submit a Site Inventory and Analysis and supporting documentation to the Code Enforcement Officer. The materials must meet the submission requirements set forth in Section 5.6.6. The Code Enforcement Officer shall provide the applicant with a dated, written receipt for the submission.

5.6.6.2.2 Provisional Review of the Site Inventory and Analysis by the Code Enforcement Officer. The Code Enforcement Officer shall review the submission for completeness within ten (10) business days of receipt. The Code Enforcement Officer shall provisionally determine that the submission is complete only if all of the required information set forth in Section 5.6.6 has been submitted or the applicant has requested waivers for any required information not provided and provided information documenting the basis for the waiver request(s). Upon the completion of the review, the Code Enforcement Officer shall notify the applicant in writing

as to whether or not the submission is deemed to be provisionally complete. If the submission is provisionally complete, the Code Enforcement Officer shall forward the Site Inventory and Analysis to the Planning Board and shall schedule it for the next available Planning Board meeting in accordance with the established scheduling procedures for consideration by the Planning Board. The Code Enforcement Officer shall provide notice of the pending project in accordance with the provisions of Section 5.3.6.5 of this Ordinance. The Code Enforcement Officer shall also hand deliver or mail written notice of the site inventory and analysis submission to the Town Manager, Fire Chief, Superintendent of the Boothbay Region Water District, Superintendent of the Boothbay Harbor Sewer District, and other interested parties.

If the Code Enforcement Officer finds that the submission is not complete, s/he shall notify the applicant in writing of the additional material that needs to be submitted by the applicant for the Site Inventory and Analysis to be provisionally complete and to be considered by the Planning Board. Upon the receipt of additional information, the Code Enforcement Officer shall conduct another completeness review. This process shall be repeated, if necessary, until the Code Enforcement Officer finds that the submission is provisionally complete.

5.6.6.2.3 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 Planning 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 Planning Board shall notify the applicant and Code Enforcement Officer in writing of this finding within five (5) business days of the meeting, 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 Planning Board until the additional information is submitted to the Code Enforcement Officer. These steps shall be repeated until the submission is found to be complete by the Planning Board. The timeframes for the processing of the site inventory and analysis shall begin when the Planning Board finds that the submission is complete.

5.6.6.2.4 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 Planning Board shall review the submission to determine if the information provides a clear understanding of the lot's characteristics and its potential for subdivision and development. The outcome of the review process shall be a determination by the Planning Board of the issues and constraints that must be addressed in the formal subdivision application. The Planning 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 Planning Board may conduct this visit either before or after the first meeting at which the application is considered. The Planning Board may postpone the on-site inspection when the site is snow covered and the Planning Board determines that snow cover makes a reasonable assessment of site conditions impossible. If an application is pending during a period when a site walk is delayed due to snow cover, the processing of the application may be suspended until the Planning Board is able to conduct an on-site inspection. Written notice of the on-site inspection shall be provided.

Within sixty (60) days of the finding that the site inventory and analysis submission is complete, the Planning 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. All time limits provided for in this section may be extended by mutual agreement of the applicant and the Planning Board.

5.6.6.3 Step Two – Submission of the Preliminary Plan

5.6.6.3.1 Submission of Preliminary Plan Application to the Code

Enforcement Officer. Upon completion of the Planning Board's review of the Site Inventory and Analysis, the applicant shall prepare and submit a preliminary plan application for a major subdivision to the Code Enforcement Officer. The application must include the subdivision plan and supporting documentation that meets the submission requirements for a preliminary plan for major subdivision as set forth in Section 5.6.7. The Code Enforcement Officer shall provide the applicant with a dated, written receipt for the application submission.

5.6.6.3.2 Provisional Review of Application by the Code Enforcement

Officer. The Code Enforcement Officer shall review the application for completeness within ten (10) business days of receipt. The Code Enforcement Officer shall provisionally determine that the application is complete only if all of the required information for preliminary plans for a major subdivision set forth in Section 5.6.7 has been submitted or the Planning Board has approved waivers for any required information not provided as part of the Site Inventory and Analysis review. Upon the completion of the application review, the Code Enforcement Officer shall notify the applicant in writing as to whether or not the application is deemed to be provisionally complete. If the application is provisionally complete, the Code Enforcement Officer shall forward the application to the Planning Board and shall schedule it for the next available Planning Board meeting in accordance with the established scheduling procedures for consideration by the Planning Board. The Code Enforcement Officer shall notify

abutting property owners of the pending application in accordance with Section 5.3.6.5. The Code Enforcement Officer shall also hand deliver or mail written notice of the pending application to the Town Manager, Fire Chief, Superintendent of the Boothbay Region Water District, Superintendent of the Boothbay Harbor Sewer District, and other interested parties.

If the Code Enforcement Officer finds that the application is not complete, s/he shall notify the applicant in writing of the additional material that needs to be submitted by the applicant for the application to be provisionally complete and to be considered by the Planning Board. Upon the receipt of additional information, the Code Enforcement Officer shall conduct another completeness review. This process shall be repeated, if necessary, until the Code Enforcement Officer finds that the application is provisionally complete.

5.6.6.3.3 Initial Consideration of the Application by the Planning Board.

At the first meeting at which the preliminary plan 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 Planning Board shall notify the applicant and Code Enforcement Officer in writing of this finding within five (5) business days of the meeting, 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 Planning 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.

5.6.6.3.4 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 Planning Board may conduct this visit either before or after the first meeting at which the application is considered. The Planning Board may postpone the on-site inspection when the site is snow covered and the Planning Board determines that snow cover makes a reasonable assessment of site conditions impossible. If an application is pending during a period when a site walk is delayed due to snow cover, the processing of the application may be suspended until the Planning Board is able to conduct an on-site inspection. Written notice of the on-site inspection shall be provided in accordance with the provisions of Section 5.3.6.5.

5.6.6.3.5 Public Hearing. The Planning Board shall hold a public hearing on an application for a major subdivision within forty-five (45) days of determining that the application is complete. The public hearing shall be noticed and advertised in accordance with the provisions of Section 5.3.6.5.

5.6.6.3.6 Planning Board Action. The Planning Board shall take action on

the preliminary plan application within thirty (30) days of the conclusion of the public hearing at which all requested information has been provided, and during which all verbal and written submissions for and against the application have been heard. The Planning Board shall indicate any changes to the preliminary plan that will need to be incorporated into the final plan to meet the approval criteria or questions that will need to be addressed in the final plan submission. All time limits provided for in this section may be extended by mutual agreement of the applicant and Planning Board.

The Planning Board shall notify the applicant and all parties who requested to be notified of the action of the Planning Board with respect to the preliminary plan in writing within five (5) business days of the meeting.

5.6.6.4 Step Three – Submission of the Final Plan

5.6.6.4.1 Submission of Final Plan Application to the Code Enforcement Officer. Upon completion of the review of the preliminary plan, the applicant shall prepare and submit a final plan application for a major subdivision to the Code Enforcement Officer. The application must include the subdivision plan and supporting documentation that meets the submission requirements for a final plan for major subdivision as set forth in Section 5.6.8. The Code Enforcement Officer shall provide the applicant with a dated, written receipt for the application submission.

5.6.6.4.2 Provisional Review of Application by the Code Enforcement Officer. The Code Enforcement Officer shall review the application for completeness within ten (10) business days of receipt. The Code Enforcement Officer shall provisionally determine that the application is complete only if all of the required information for final plans for a major subdivision set forth in Section 5.6.8 has been submitted or the Planning Board has approved waivers for any required information not provided. Upon the completion of the application review, the Code Enforcement Officer shall notify the applicant in writing as to whether or not the application is deemed to be provisionally complete. If the application is provisionally complete, the Code Enforcement Officer shall forward the application to the Planning Board and shall schedule it for the next available Planning Board meeting in accordance with the established scheduling procedures for consideration by the Planning Board. The Code Enforcement Officer shall notify abutting property owners of the pending application in accordance with Section 5.3.6.5. The Code Enforcement Officer shall also hand deliver or mail written notice of the pending application to the Town Manager, Fire Chief, Superintendent of the Boothbay Region Water District, Superintendent of the Boothbay Harbor Sewer District, and other interested parties.

If the Code Enforcement Officer finds that the application is not complete, s/he shall notify the applicant in writing of the additional

material that needs to be submitted by the applicant for the application to be provisionally complete and to be considered by the Planning Board. Upon the receipt of additional information, the Code Enforcement Officer shall conduct another completeness review. This process shall be repeated, if necessary, until the Code Enforcement Officer finds that the application is provisionally complete.

5.6.6.4.3 Initial Consideration of the Application by the Planning Board.

At the first meeting at which the final plan 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 Planning Board shall notify the applicant and Code Enforcement Officer in writing of this finding within five (5) business days of the meeting, 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 Planning 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.

5.6.6.4.4 Planning Board Action. The Planning Board shall take action on the final plan application within sixty (60) days of determining that the application is complete. 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 Planning Board shall notify the applicant and all parties who requested to be notified of the action of the Planning Board in writing within five (5) business days of the meeting, including the findings of fact, and any conditions of approval.

If any portion of subdivision is within a Special Flood Hazard Area, the Planning 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's Floodplain Management Ordinance.

5.6.6.4.5 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 Planning Board, the applicant shall submit two paper copies of the subdivision plan in a format acceptable to the Lincoln County Registry of Deeds to the Code Enforcement Officer, one to be recorded at the Lincoln County 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 paper copies 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 Planning 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 contemporaneously provided to the Code Enforcement Officer. Any plan 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 Planning 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 Planning Board and endorsed in writing on the plan, unless the revised final plan is first submitted and the Planning Board approves any modifications. The Planning Board shall make findings that the revised plan meets the criteria of 30-A M.R.S. § 4404. In the event that a plan is recorded without complying with this requirement, it shall be considered null and void and the Planning Board shall institute proceedings to have the plan stricken from the records of the Lincoln County Registry of Deeds.

5.6.6.4.6 Initiation of Construction. Failure to initiate significant construction of the subdivision, such as the construction of roads or the installation of utilities, 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 from the Planning Board 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 Planning Board shall have a notice placed in the Lincoln County Registry of Deeds to that effect.

5.6.6.4.7 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 Town of any street, easement, or other open space shown on such plan.

5.6.6.4.8 Revisions to Approved Plans

5.6.6.4.8.1 Procedure An application for a revision to a previously approved subdivision plan shall be submitted to the Code Enforcement Officer. The Code Enforcement Officer shall review the application and determine the procedure to be used in revising the plan. Minor changes that do not alter lot lines or the essential nature of the proposal or affect the approval criteria may be approved by the Code

Enforcement Officer by written endorsement of the changes on the approved plan. If the revision requires the approval of the Planning Board, the Code Enforcement Officer shall place the application on the agenda of the Planning Board in accordance with the procedures for a Minor Subdivision unless the change qualifies as a major subdivision.

5.6.6.4.8.2 Submissions The applicant shall submit a copy of the approved plan as well as four (4) paper copies meeting the requirements of the Lincoln County Registry of Deeds together with ten (10) 11" x 17" reductions of the revised subdivision plan. The application shall also include the appropriate supporting information to allow the Planning Board to make a determination that the proposed revisions meet the standards of these regulations and the criteria of the statute. The revised plan shall indicate that it is the revision of a previously approved and recorded plan and shall show the title of the subdivision and the book and page or cabinet and sheet on which the original plan is recorded at the Lincoln County Registry of Deeds.

5.6.6.4.8.3 Scope of Review The scope of the Planning Board's review shall be limited to those portions of the plan which are proposed to be changed.

5.6.7 Site Inventory and Analysis Submission Requirements

5.6.7.1 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.

5.6.7.2 Contents of the Site Inventory and Analysis Submission. The site inventory and analysis submission must contain, at a minimum, the following information:

5.6.7.2.1 The names, addresses, and phone numbers of the record owner and the applicant.

5.6.7.2.2 The names and addresses of all consultants working on the project.

5.6.7.2.3 Evidence of right, title, or interest in the property.

5.6.7.2.4 Evidence of payment of the site inventory and analysis fee.

5.6.7.2.5 Four (4) copies of an accurate scale inventory plan of the lot or the portion of the lot proposed for subdivision at a scale of not more than one hundred (100) feet to the inch showing as a minimum:

5.6.7.2.5.1 The name of the development, north arrow, date and scale.

5.6.7.2.5.2 The boundaries of the lot.

5.6.7.2.5.3 The relationship of the lot to the surrounding area.

5.6.7.2.5.4 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);

5.6.7.2.5.5 The major natural features of the lot and within five hundred (500) feet of the lot, including coastal and freshwater wetlands, vernal pools, streams, ponds, floodplains, groundwater aquifers, farmland, 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.

5.6.7.2.5.6 Existing buildings, structures, or other improvements on the lot (if none, so state).

5.6.7.2.5.7 Existing restrictions or easements on the lot (if none, so state).

5.6.7.2.5.8 The location and size of existing utilities or improvements servicing the lot (if none, so state).

5.6.7.2.5.9 A Class D medium intensity soil survey.

5.6.7.2.6 Four (4) copies of a site analysis plan at the same scale as the inventory plan (see Section 5.6.7.2.5 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, farmland, 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.

5.6.7.2.7 Ten (10) copies of 11" x 17" reductions of the site inventory plan required by Section 5.6.7.2.5 and the site analysis plan required by Section 5.6.7.2.6 and 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.

5.6.7.2.8 Any requests for waivers from the submission requirements for the preliminary plan review application.

5.6.8 Preliminary Plan Submission Requirements for a Major Subdivision

The preliminary plan application for a major subdivision shall consist of the

following items:

- 5.6.8.1** A fully executed and signed copy of the application for preliminary major subdivision review (provided by the Town).
- 5.6.8.2** A location map drawn at a size adequate to show the relationship of the proposed subdivision to the adjacent properties and to allow the Planning Board to locate the subdivision within the Town. The location map shall show:
 - 5.6.8.2.1** Existing subdivisions in the proximity of the proposed subdivision.
 - 5.6.8.2.2** Locations and names of existing and proposed streets.
 - 5.6.8.2.3** Boundaries and designations of zoning districts.
 - 5.6.8.2.4** An outline of the proposed subdivision and any remaining portion of the owner's property if the preliminary plan submitted covers only a portion of the owner's entire contiguous holding.
- 5.6.8.3** The required application and development review fees.
- 5.6.8.4** A list of abutters and the owners of any other parcel entitled to receive public notice together with their mailing addresses.
- 5.6.8.5** The preliminary subdivision plan and supporting documentation consisting of four (4) paper 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 24" by 36" 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. In addition, ten (10) copies of the plan(s) reduced to a size of 11" by 17" shall be provided.
- 5.6.8.6** The preliminary plan and supporting documentation shall include at least the following information. The Planning Board may require additional information to be submitted where it finds necessary in order to determine whether the criteria of 30-A M.R.S. § 4404 are met.
 - 5.6.8.6.1** Proposed name of the subdivision and the name of the Town in which it is located, plus the Assessor's map and lot numbers.
 - 5.6.8.6.2** The names and addresses of the record owner, applicant, and individual or company who or which prepared the plan and adjoining property owners.
 - 5.6.8.6.3** The date the plan was prepared, north point, and graphic map scale.
 - 5.6.8.6.4** The zoning district in which the proposed subdivision is located and the location of any zoning boundaries affecting the subdivision.
 - 5.6.8.6.5** Evidence of right, title or interest in the property.
 - 5.6.8.6.6** 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.

- 5.6.8.6.7** A copy of any deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
- 5.6.8.6.8** 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.
- 5.6.8.6.9** The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, and other essential existing physical features.
- 5.6.8.6.10** A Class D medium-intensity soil survey unless the Planning Board determines that a Class B high-intensity survey is needed as a result of the Site Inventory and Analysis.
- 5.6.8.6.11** The location of all rivers, streams and brooks, coastal and freshwater wetlands, vernal pools and farmland within or adjacent to the proposed subdivision.
- 5.6.8.6.12** 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 Town's Flood Insurance Rate Map, shall be delineated on the plan.
- 5.6.8.6.13** 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 unique 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.
- 5.6.8.6.14** Contour lines at the interval specified by the Code Enforcement Officer, showing elevations in relation to mean sea level.
- 5.6.8.6.15** The location and size of existing and proposed sewers, water mains, culverts, and drainageways on or adjacent to the property to be subdivided.
- 5.6.8.6.16** The location, names, and present widths of existing roads, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision.
- 5.6.8.6.17** The location and width of all proposed streets, including a typical cross section of the streets and sidewalks and a preliminary center-line profile.
- 5.6.8.6.18** The proposed lot lines with approximate dimensions and lot areas.
- 5.6.8.6.19** An indication of the type of sewage disposal to be used in the subdivision.

- 5.6.8.6.19.1** 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.
- 5.6.8.6.19.2** When sewage disposal is to be accomplished by subsurface wastewater disposal systems, test pit analyses, prepared by a licensed site evaluator or certified soil scientist, 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.
- 5.6.8.6.20** An indication of the type of water supply system(s) to be used in the subdivision.
- 5.6.8.6.20.1** 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 capacity 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 Fire Chief stating approval of the location of fire hydrants, if any, and a written statement from the District approving the design of the extension shall be submitted.
- 5.6.8.6.20.2** 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.
- 5.6.8.6.21** Provisions for the collection and management of stormwater in the form of a preliminary drainage plan.
- 5.6.8.6.22** The width and location of any streets, public improvements or open space shown upon the Official Map and the Comprehensive Plan, if any, within the subdivision.
- 5.6.8.6.23** The location of any open space to be preserved and a description of proposed ownership, improvement and management.
- 5.6.8.6.24** All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
- 5.6.8.7** The Planning 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 preliminary plan is likely to result in a final plan that meets the criteria of 30-A M.R.S. § 4404:
- 5.6.8.7.1** A Class B high-intensity soil survey prepared by a certified soil scientist if the Site Inventory and Analysis identified the need for more detailed soils information. This soils survey may be for only a portion of the site.
- 5.6.8.7.2** A hydrogeologic assessment prepared by a certified geologist or registered professional engineer experienced in hydrogeology.

The Planning Board may require a hydrogeologic assessment when the subdivision is not served by public sewer and:

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

5.6.8.7.2.2 The subdivision has an average density of more than one dwelling unit per one hundred thousand (100,000) square feet; or

5.6.8.7.2.3 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, open space developments in which the average density is less than one dwelling unit per one hundred thousand (100,000) square feet but the density of the developed portion is in excess of one dwelling unit per eighty thousand (80,000) square feet, or the use of shared or common subsurface wastewater disposal systems.

5.6.8.7.3 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.

5.6.8.7.4 A traffic impact analysis. The Planning Board may require an analysis for projects involving forty (40) or more parking spaces or projected to generate more than four hundred (400) vehicle trips per day based upon the ITE Trip Generation Manual. The traffic impact analysis shall be prepared by a registered professional engineer with experience in traffic engineering. The analysis shall indicate the expected average daily vehicular trips, peak hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets which may be affected, and recommended improvements to maintain the desired level of service on the affected streets.

5.6.9 Final Plan Submission Requirements for a Major Subdivision

5.6.9.1 Within twelve (12) months after the approval of the preliminary plan, the applicant shall submit an application for approval of the final plan. If the application for the final plan is not submitted within twelve (12) months after preliminary plan approval, the Planning Board shall require resubmission of the preliminary plan, except as stipulated below. The final plan shall approximate the layout shown on the preliminary plan, plus any changes required by the Planning Board. If an applicant cannot submit the final plan within twelve (12) months, the applicant may request an extension. Such a request for an extension to the filing deadline shall be submitted, in writing, to the Code Enforcement Officer prior to the expiration of the filing period. In considering the request for an extension, the Planning Board shall make

findings that the applicant has made due progress in preparation of the final plan and in pursuing approval of the plans before other agencies and that municipal ordinances or regulations which may impact on the proposed development have not been amended.

5.6.9.2 Prior to submittal of the final plan application, the following approvals shall be obtained in writing, where applicable, and submitted with the application:

5.6.9.2.1 Maine Department of Environmental Protection, under the Site Location of Development Act.

5.6.9.2.2 Maine Department of Environmental Protection, under the Natural Resources Protection Act or if a stormwater management permit or a wastewater discharge license is needed.

5.6.9.2.3 Maine Department of Human Services, if the applicant proposes to provide a public or community watersystem.

5.6.9.2.4 Maine Department of Human Services, if an engineered subsurface wastewater disposal system(s) is to be utilized.

5.6.9.2.5 United States Army Corps of Engineers, if a permit under § 404 of the Clean Water Act is required.

5.6.9.3 The final plan application shall consist of the following items:

5.6.9.3.1 A fully executed and signed copy of the application for final major subdivision review (form provided by the Town).

5.6.9.3.2 The required application and development review fees.

5.6.9.3.3 A performance guarantee in accordance assuring the construction of all street, utilities, and other improvements proposed as part of the final subdivision plan.

5.6.9.3.4 The final subdivision plan and supporting documentation consisting of four (4) paper 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 24" by 36" 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 Planning Board. In addition, ten (10) copies of the plan(s) reduced to a size of 11" by 17" shall be provided.

5.6.9.4 The final subdivision plan and supporting documentation shall include at least the following information:

5.6.9.4.1 Proposed name of the subdivision and the name of the Town in which it is located, plus the Assessor's map and lot numbers.

5.6.9.4.2 The names and addresses of the record owner, applicant, and individual or company who or which prepared the plan.

- 5.6.9.4.3** The date the plan was prepared, North point, and graphic map scale.
- 5.6.9.4.4** The location of any zoning boundaries affecting the subdivision.
- 5.6.9.4.5** If different than those submitted with the preliminary plan, a copy of any proposed deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
- 5.6.9.4.6** The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, and other essential existing physical features.
- 5.6.9.4.7** The boundaries of any flood hazard areas and the one-hundred-year flood elevation as depicted on the Town's Flood Insurance Rate Map shall be delineated on the plan.
- 5.6.9.4.8** An indication of the type of sewage disposal to be used in the subdivision. When sewage disposal is to be accomplished by connection to the public sewerage system, a written statement from the Boothbay Harbor Sewer District shall be submitted indicating that the District has reviewed and approved the sewerage design.
- 5.6.9.4.9** An indication of the type of water supply system(s) to be used in the subdivision. When water is to be supplied by the Boothbay Region Water District, a written statement from the District shall be submitted indicating that the District has reviewed and approved the water system design together with a written statement from the Fire Chief approving all hydrant locations or other fire protection measures deemed necessary.
- 5.6.9.4.10** The location and size of existing and proposed sewers, water mains, culverts, and drainageways on or adjacent to the property to be subdivided.
- 5.6.9.4.11** The location, names, and present widths of existing and proposed streets, highways, easements, buildings, 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. The location, bearing and length of street lines, lot lines and parcel boundary lines shall be certified by a registered land surveyor. The original reproducible plan shall be embossed and printed with the seal of the registered land surveyor and be signed by that individual.
- 5.6.9.4.12** All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the Town of all public ways and 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 developer or lot owners are to be maintained shall be submitted. If proposed streets and/or open spaces or other land is to be offered to the Town, written evidence that the Board of Selectmen is satisfied with the legal sufficiency of the written offer to convey title shall be included.

5.6.9.4.13 Road plans meeting the requirements of the Town.

5.6.9.4.14 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 (or later edition) and the stormwater management performance standards of Section 9.3. The Planning Board may not waive submission of the stormwater management plan unless the proposed subdivision will not involve grading which changes drainage patterns, and the addition of impervious surfaces, such as roofs and driveways, is less than 5% of the area of the subdivision.

5.6.9.4.15 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 (or later edition), and the erosion and sedimentation control performance standards of Section 9.4. The Planning Board may not waive submission of the erosion and sedimentation control plan unless the proposed subdivision will not involve grading which changes drainage patterns, and the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.

5.6.9.4.16 If the subdivision requires a stormwater permit from the Maine Department of Environmental Protection, a copy of the DEP application with all supporting materials and the permit shall be provided.

5.6.9.4.17 The width and location of any streets or public improvements or open space shown upon the Official Map and the Comprehensive Plan, if any, within the subdivision.

5.6.9.4.18 A list of construction items, with cost estimates, that will be completed by the applicant prior to the sale of lots and evidence that the applicant has financial commitments or resources to cover these costs.

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

5.6.9.4.20 The location of all freshwater wetlands and farmland on the parcel.

5.6.10 Statutory Review Criteria

State law establishes the criteria that the Planning Board must use in reviewing and approving subdivisions. When reviewing any application for either a minor or major subdivision, the Planning Board must find that the criteria as found in 30-A M.R.S. § 4404 have been met. The State law sets out the following criteria as of 2020 but the Planning Board shall use the current state requirements as they may be amended from time to time even if the revised criteria have not been incorporated into the Town ordinance. In addition to these state criteria, the Planning Board must find that the subdivision will conform to the applicable provisions of Section 8 (General Performance Standards), Section 9 (Environmental Performance Standards), and Section 10 (Good Neighbor Performance Standards).

Before granting approval of a subdivision, the Planning Board must find that the proposed project:

- 5.6.10.1 Pollution** Will not result in undue water or air pollution. In making this determination, it shall at least consider:
 - 5.6.10.1.1** The elevation of the land above sea level and its relation to the flood plains;
 - 5.6.10.1.2** The nature of soils and subsoils and their ability to adequately support waste disposal;
 - 5.6.10.1.3** The slope of the land and its effect on effluents;
 - 5.6.10.1.4** The availability of streams for disposal of effluents; and
 - 5.6.10.1.5** The applicable State and local health and water resources rules and regulations;
- 5.6.10.2 Sufficient Water** Has sufficient water available for the reasonably foreseeable needs of the subdivision;
- 5.6.10.3 Municipal Water Supply** Will not cause an unreasonable burden on an existing water supply, if one is to be used;
- 5.6.10.4 Erosion** Will not cause unreasonable soil erosion or reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results;
- 5.6.10.5 Traffic** Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway, located outside the urban compact area of an urban compact municipality as defined by 23 M.R.S. § 754, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to 23 M.R.S. § 704 and any rules adopted under that section;
- 5.6.10.6 Sewage Disposal** Will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized;
- 5.6.10.7 Municipal Solid Waste Disposal** Will not cause an unreasonable burden on the Town's ability to dispose of solid waste if municipal services are to be utilized;
- 5.6.10.8 Aesthetic, Cultural and Natural Values** Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the Town, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;
- 5.6.10.9 Conformity With Local Ordinances and Plans** Is in conformance with a duly adopted subdivision regulation or ordinance, comprehensive plan,

development plan or land use plan, if any. In making this determination, the Planning Board may interpret these ordinances and plans;

- 5.6.10.10 Financial and Technical Capacity** The subdivider has adequate financial and technical capacity to meet the standards of this section;
- 5.6.10.11 Surface Waters; Outstanding River Segments** Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38 M.R.S. Chapter 3, subchapter I, article 2-B, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water.
- 5.6.10.12 Ground Water** Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water;
- 5.6.10.13 Flood Areas** Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the applicant shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision or project plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;
- 5.6.10.14 Freshwater Wetlands** All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district;
- 5.6.10.15 Farmland** All farmland within the proposed subdivision has been identified on maps submitted as part of the application. Any mapping of farmland may be done with the help of the local soil and water conservation district;
- 5.6.10.16 River, Stream or Brook** Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in 38 M.R.S. § 480-B (9);
- 5.6.10.17 Storm Water** The proposed subdivision will provide for adequate storm water management;
- 5.6.10.18 Spaghetti-Lots Prohibited** If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in 38 M.R.S. § 480- B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1;
- 5.6.10.19 Lake Phosphorus Concentration** The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed

subdivision;

5.6.10.20 Impact on Adjoining Municipality For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located; and

5.6.10.21 Lands Subject to Liquidation Harvesting Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to 12 M.R.S. § 8869(14). If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the Planning Board must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. The Planning Board may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred, or the Planning Board may accept a determination certified by a forester licensed pursuant to Title 32 M.R.S. Chapter 76. If the Bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. If the Bureau notifies the Planning Board that it will not provide assistance, the Planning Board may require a subdivision applicant to provide a determination certified by a licensed forester. For the purposes of this subsection, “liquidation harvesting” has the same meaning as in 12 M.R.S. § 8868(6), and “parcel” means a contiguous area within one municipality, township or plantation owned by one person or a group of persons in common or joint ownership.

5.7 Mobile Home Park Review Procedures and Standards

5.7.1 Review and Approval Authority

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

5.7.2 Classification of an Application

A mobile home park is a subdivision that is developed in accordance with the performance standards for mobile home parks set forth in Section 11.17. The Code Enforcement Officer shall be responsible for provisionally classifying a proposed mobile home park 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 proposed mobile home park as a minor subdivision or a major subdivision. When the Code Enforcement Officer provisionally classifies a project as a minor or major subdivision, s/he 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 Planning 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.

Mobile home parks 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.

5.7.2.1 Any application for mobile home park 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 Section 5.7.2.3 below.

5.7.2.2 Any application for mobile home park 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.

5.7.2.3 If a mobile home park has been approved in the preceding five (5) years, any amendment to the approved plan 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.

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

5.7.3 Review Procedures for Applications for Mobile Home Park Review

5.7.3.1 Applications for mobile home park review that are classified as minor subdivisions shall be reviewed in accordance with the provisions of Section 5.6.4.

5.7.3.2 Applications for mobile home park review that are classified as major subdivisions shall be reviewed in accordance with the provisions of Section 5.6.6.

5.7.4 Submission Requirements for Applications for Mobile Home Park Review

5.7.4.1 Applications for mobile home park review that are classified as minor subdivisions shall provide the information set forth in Section 5.6.5. The application shall demonstrate compliance with the performance standards for mobile home parks in Section 11.17. The submission requirements of Section 5.6.5 are modified as follows:

5.7.4.1.1 The subdivision plan shall show the lots on which the manufactured housing units will be located. All lots shall conform to the minimum requirements set forth in the performance standards for mobile home parks in Section 11.17 rather than the requirements for the land use district within which it is located.

5.7.4.1.2 If the mobile home park will contain any private roads, the road plans required by Section 5.6.5.7.5 shall show the roads designed and constructed in accordance with the performance standards for mobile home parks in Section 11.17 rather than the Town road standards.

5.7.4.1.3 The application shall contain evidence that the applicant has obtained a license for a Manufactured Housing Community from the Maine Manufactured Housing Board.

5.7.4.2 Applications for mobile home park review that are classified as major subdivisions shall provide the information set forth in Section 5.6.5 and any additional information required by the Planning Board in accordance with Section 5.6.7. The application shall demonstrate compliance with the performance standards for mobile home parks in Section 11.17. The submission requirements of Section 5.6.5 are modified as follows:

5.7.4.2.1 The subdivision plan shall show the lots on which the manufactured housing units will be located. All lots shall conform to the minimum requirements set forth in the performance standards for mobile home parks in Section 11.17 rather than the requirements for the land use district within which it is located.

5.7.4.2.2 If the mobile home park will contain any private roads, the road plans required by Section 5.6.9.4.13 shall show the roads designed and constructed in accordance with the performance standards for mobile home parks in Section 11.17 rather than the Town road standards.

5.7.4.2.3 The application shall contain evidence that the applicant has obtained a license for a Manufactured Housing Community from the Maine Manufactured Housing Board.

5.7.5 Approval Standards for Applications for Mobile Home Park Review

In reviewing applications for Mobile Home Park review the Planning Board shall use the statutory review criteria for subdivisions set forth in Section 5.6.10, including the performance standards for mobile home parks in Section 11.17.

Section 6 Nonconforming Situations

6.1 Purpose

It is the intent of this Section to promote land use conformities, except that nonconforming conditions that lawfully existed before November 3, 2020 or amendments thereto shall be allowed to continue, subject to the requirements set forth in this Section. Except as otherwise provided in this Section, a nonconforming condition shall not be permitted to become more nonconforming.

6.2 General Provisions

- 6.2.1** The use of land, buildings or structures lawful as of November 3, 2020 or subsequent amendment of this Ordinance may continue although such use does not conform to the provisions of this Ordinance.
- 6.2.2** Nonconforming buildings, structures, lots, and uses may be transferred and the new owner may continue the nonconforming building, structure, lot or use subject to the provisions of this Ordinance.
- 6.2.3** This Ordinance allows the normal upkeep and maintenance of nonconforming uses and structures, including repairs or renovations that do not involve the expansion of the nonconforming use or structure and such other changes in a nonconforming use or structure as federal, state or local building and safety codes may require.
- 6.2.4** Nothing in this Ordinance shall prevent the strengthening or restoring to safe condition any part of any building or structure declared unsafe by the Code Enforcement Officer.

6.3 Nonconforming Uses

- 6.3.1** A nonconforming use which is discontinued for a period of two (2) years may not be resumed. The Planning Board may grant a one (1) year extension of this time limit upon written request of the property owner. After such discontinuation, the use of land, buildings or structures shall thereafter conform to the provisions of this Ordinance.
- 6.3.2** Whenever a nonconforming use is superseded by a permitted use of a structure, or structure and land in combination, the land and structure shall thereafter conform to the provisions of this Ordinance and the nonconforming use may not thereafter be resumed.
- 6.3.3** Any nonconforming use, except nonconforming uses in the Shoreland Overlay District and the Resource Protection District, may be expanded by a total of no more than twenty-five (25) percent of the size or area in nonconforming use. A legally existing commercial or industrial use as of November 3, 2020 that is made nonconforming by the adoption of this Section may be expanded in accordance with the provisions of Section **6.3.5**.
- 6.3.4** An existing nonconforming use may be changed to another nonconforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, including water dependent uses in the district,

than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 6.3.4.1.

6.3.4.1 In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects of the change in use on public health and safety, traffic, noise, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

6.3.5 A legally existing commercial or industrial use as of November 3, 2020 except uses located in the Shoreland Overlay District or Resource Protection District that is made nonconforming by the adoption of this Section may be expanded by more than twenty-five (25) percent in accordance with the following provisions:

6.3.5.1 The total floor area of all structures on the lot may be increased by not more than fifty (50) percent of the floor area existing on November 3, 2020.

6.3.5.2 The total impervious surface area on the lot may be increased by not more than fifty (50) percent of the impervious surface area existing on November 3, 2020.

6.3.5.3 If the lot on which the nonconforming use is located is in a residential district or abuts the boundary of an adjacent residential district, a residential buffer strip not less than twenty (20) feet in width and meeting the requirements of Section 10.1.2 shall be established along any property line that abuts a lot with an existing residential use.

6.3.5.4 If the lot on which the nonconforming use is located is in a mixed-use district or abuts the boundary of an adjacent mixed-use district, a residential buffer strip not less than ten (10) feet in width and meeting the requirements of Section 10.1.2 shall be established along any property line that abuts a lot with an existing residential use.

6.4 Nonconforming Lots of Record

6.4.1 A structure or dwelling may be erected on any single nonconforming lot of record existing as of November 3, 2020 or amendment of this Ordinance, provided that such lot shall not be contiguous with any other lot in the same ownership; and shall meet all other provisions of this Ordinance except for lot area, lot width, and shore frontage. Any variance relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the Board of Appeals.

6.4.2 If two (2) or more contiguous lots of record are in single or joint ownership as of November 3, 2020, or since adoption or amendment of this Ordinance, and if any of these lots do not individually meet the dimensional requirements of this Ordinance, and if one or more of the lots are vacant or contain no principal structure, the lots shall be combined to the extent necessary to meet the

dimensional requirements. This provision shall not apply to lots in approved subdivisions created after September 22, 1971.

6.4.3 If two (2) or more contiguous lots of record are in single or joint ownership as of November 3, 2020, and if all or part of the lots do not meet the requirements of this Ordinance and if a principal structure exists on each lot, the nonconforming lots may be conveyed separately or together. Any such lots located within the Shoreland Overlay District or Resource Protection District may be conveyed separately only if the lots comply with the State Minimum Lot Size Law (12 M.R.S. §§ 4807-A-4807-D) and the State of Maine Subsurface Wastewater Disposal Rules.

6.4.4 If two (2) or more principal structures exist on a single lot of record as of November 3, 2020, each may be sold on a separate lot. When such lots are divided, each lot shall be as conforming as possible to the dimensional requirements of this Ordinance and shall meet the laws and rules referenced in Section 6.4.3.

6.4.5 A nonconforming lot of record in existence as of November 3, 2020 the effective date of this Ordinance shall not be divided so as to create further nonconformity.

6.5 Nonconforming Structures not Located in the Shoreland Overlay District or Resource Protection District

6.5.1 Any nonconforming structure may be expanded in conformance with the provisions of this Ordinance and the following:

6.5.1.1 A nonconforming building may be expanded to the side, rear or front of the property if the proposed expansion is no closer than the existing building setback and is a minimum of five (5) feet from the property boundary line.

6.5.1.2 The construction or enlargement of a foundation beneath an existing nonconforming building shall not be considered an expansion of the building provided that the new foundation does not extend beyond the exterior dimensions of the building.

6.5.2 Any nonconforming structure may be replaced within two (2) years when such structure is removed, damaged, or destroyed regardless of the cause. The Planning Board may grant a one (1) year extension of this time limit upon written request of the property owner. Any structure not replaced within this limit shall conform to the provisions of this Ordinance.

6.5.3 A nonconforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board. In making this determination, the Planning Board shall use the criteria set forth in 6.6.3.2. In no case shall a structure be relocated in a manner that causes the structure to be more nonconforming.

6.6 Nonconforming Structures Located in a Shoreland Overlay District or Resource Protection District

6.6.1 General

6.6.1.1 A nonconforming structure may be added to or expanded after obtaining a permit in the same manner as a permit for a new structure, if such addition or expansion does not increase the nonconformity of the structure and is in conformance with the provisions of this Section.

6.6.1.2 No structure which is less than the required setback from the normal high-water line of a water body, tributary stream or upland edge of a wetland shall be expanded toward the water body, tributary stream or wetland.

6.6.2 Expansion

6.6.2.1 Expansion of any portion of a structure within twenty-five (25) feet of the normal high-water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or wetland setback requirement. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream, or wetland setback requirement.

6.6.2.2 Notwithstanding Section 6.6.2.1 above, if a legally existing nonconforming principal structure is entirely located less than twenty-five (25) feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable municipal land use standards are met.

6.6.2.2.1 The maximum total footprint for the principal structure may not be expanded to a size greater than eight hundred (800) square feet or thirty (30) percent larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than fifteen (15) feet or the height of the existing structure, whichever is greater.

6.6.2.3 All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as other applicable municipal land use standards are met.

6.6.2.3.1 For structures located less than seventy-five (75) feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than one thousand (1,000) square feet or thirty (30) percent larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than twenty (20) feet or the height of the existing structure, whichever is greater.

6.6.2.3.2 For structures located less than one hundred (100) feet from the normal high-water line of Adams Pond or Knickerbocker Lakes, the

maximum combined total footprint for all structures may not be expanded to a size greater than one thousand five hundred (1,500) square feet or thirty (30) percent larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than twenty-five (25) feet or the height of the existing structure, whichever is greater. Any portion of those structures located less than seventy-five (75) feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Sections 6.6.2.2.1 or 6.6.2.3.1, above.

6.6.2.3.3 In addition to the limitations in Sections 6.6.2.3.1 and 6.6.2.3.2, for structures that are legally nonconforming due to their location within the Resource Protection District when located at less than two hundred fifty (250) feet from the normal high-water line of a water body or the upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than one thousand five hundred (1,500) square feet or thirty (30) percent larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than twenty-five (25) feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than seventy-five (75) feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Sections 6.6.2.2.1 or 6.6.2.3.1, above.

6.6.2.3.4 An approved plan for expansion of a nonconforming structure must be recorded by the applicant with the Lincoln County Registry of Deeds, within ninety (90) days of approval. The recorded plan must show the existing and proposed footprint of the nonconforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the Shoreland Overlay District boundary and evidence of approval by the municipal review authority.

6.6.2.4 Foundations. Whenever a new, enlarged, or replacement foundation is constructed under a nonconforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 6.6.3 Relocation, below.

6.6.3 Relocation

6.6.3.1 A nonconforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board and provided that the applicant demonstrates that the present subsurface wastewater disposal meets the requirements of State law and Subsurface Wastewater Disposal Rules, or that a new system can be installed in compliance with the law and said Rules. In

no case shall a structure be relocated in a manner that causes the structure to be more nonconforming.

6.6.3.2 In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic systems and other on-site soils suitable for septic systems and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation in accordance with Section 7.5.17.4.8. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

6.6.3.2.1 Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five (5) trees are planted, no one species of tree shall make up more than fifty (50) percent of the number of trees planted. Replanted trees must be planted no further from the water or wetland than the trees that were removed.

6.6.3.2.2 Other woody and herbaceous vegetation, and ground cover, that is removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be re-established within the setback area. The vegetation and/or ground cover must consist of native vegetation and/or ground cover similar to what was disturbed, destroyed or removed.

6.6.3.2.3 Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation, which may consist of grasses, shrubs, trees or a combination thereof.

6.6.4 Destruction, Reconstruction or Replacement

6.6.4.1 Any nonconforming structure which is located less than the required setback from the normal high-water line of a water body or upland edge of a wetland, and which is removed, damaged or destroyed, regardless of the cause, by more than fifty (50) percent of the market value of the structure before such damage, destruction, or removal as determined by the Planning Board, may be reconstructed or replaced provided that a permit is obtained within two (2) years of the date of said damage, destruction or removal and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board in accordance with the purpose of this Ordinance. The Planning Board may grant a one (1) year extension of the time limit for obtaining a permit upon written request of the property owner. In no case shall a structure be reconstructed or replaced to

increase its nonconformity. If the reconstructed or replacement structure is located less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 6.6.2 as determined by the nonconforming footprint of the reconstructed or replaced structure at its new location. If the total footprint of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 6.6.3.

- 6.6.4.2** Any nonconforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by fifty (50) percent or less of the market value or damaged or destroyed by fifty (50) percent or less of the market value of the structure as determined by the Planning Board, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained within two (2) years of such damage, destruction, or removal, if the nonconforming footprint after the repair or reconstruction is no greater than the floor area or volume before the removal, damage or destruction. The Planning Board may grant a one (1) year extension of this time limit upon written request of the property owner.
- 6.6.4.3** In determining whether the building reconstruction or replacement meets the water setback to the greatest practical extent, the Planning Board shall consider in addition to the criteria in Section 6.6.3, the physical condition and type of foundation present, if any.

Section 7 Zoning Districts, Zoning Maps, and Standards

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

7.1 Establishment of Districts

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

7.1.1 Residential Districts

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

7.1.1.1 Residential District (R)

7.1.1.2 Coastal Residential District (R-C)

7.1.2 Mixed Use Districts

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

7.1.2.1 Boothbay Village Center District (BVC)

7.1.2.2 Boothbay Village Fringe District (BVF)

7.1.2.3 Boothbay Village Mixed-Use District (BVMU)

7.1.2.4 East Boothbay Village District (EBV)

7.1.2.4 Scenic Gateway District (SG)

7.1.2.5 Rural Mixed-Use District (RMU)

7.1.3 Commercial – Industrial Districts

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

7.1.3.1 Commercial Corridor District (CC)

7.1.3.2 Manufacturing/Business District (MB)

7.1.3.3 Marine Commercial District (MC)

7.1.4 Natural Resource Districts

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

7.1.4.1 Water Reservoirs Protection District – Route 27 (WRP-27)

7.1.4.2 Water Reservoirs Protection District (WRP)

7.1.4.3 Wellhead Protection District (WP)

7.1.4.4 Resource Protection District (RP)

7.1.5 Overlay Districts

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

7.1.5.1 Shoreland Overlay District (SO)

7.1.5.2 Watershed Protection Overlay District (WPO)

7.1.6 Contract Zones

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

7.1.6.1 Bigelow Laboratory Contract Zone (BL)

7.2 Location of Districts – Zoning Maps

The various land use or zoning districts are located and bounded as shown on the Official Zoning Map, entitled “Official Zoning Map of the Town of Boothbay, Maine” dated November 3, 2020, and the Official Shoreland Zoning Map entitled “Official Shoreland Zoning Map of the Town of Boothbay, Maine” dated November 3, 2020 as these maps may be amended from time to time, and on file in the office of the Town Clerk, certified to be true and correct by the attested or conformed signature of the Town Clerk. Additional printed copies of said maps are also available in the Code Enforcement Office. Said maps is hereby incorporated in and made a part of this Ordinance.

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

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

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

7.2.4 The scale of the maps shall determine distances not specifically indicated on the Official Zoning Map and Official Shoreland Zoning Map.

7.2.5 Where any textual description of a zoning district is in conflict with the Official Zoning Map or Official Shoreland Zoning Map as to the boundaries of a zoning district, the boundary as shown on the official zoning maps shall be used except for zoning district boundaries that are based on natural resources in which case the provisions of 7.4 apply. However where the textual description of an overlay zone is in conflict with the Official Zoning Map or Official Shoreland Zoning Map as to the location of the overlay district, the boundary in the textual description shall be used.

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

7.3 Uncertainty as to the of Location of Boundaries

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

7.4 Boundaries Based on Natural Resources

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

7.5 District Standards

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

7.5.1 Residential District (R)

7.5.1.1 PURPOSE (R)

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

7.5.1.2 ALLOWED USES (R)

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

7.5.1.3 SPACE AND BULK STANDARDS (R)

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

7.5.1.4 ZONE SPECIFIC DEVELOPMENT STANDARDS (R)

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

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

7.5.1.5 PERFORMANCE STANDARDS FOR SPECIFIC USES (R)

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

7.5.1.6 OTHER PERFORMANCE STANDARDS (R)

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

7.5.1.7 SHORELAND OVERLAY DISTRICT (R)

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

7.5.2 Coastal Residential District (R-C)

7.5.2.1 PURPOSE (R-C)

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

7.5.2.2 ALLOWED USES (R-C)

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

7.5.2.3 SPACE AND BULK STANDARDS (R-C)

7.5.2.3.1	Minimum developable lot area	Existing lots of record and new residential lots that are not part of a subdivision that are used for a single-family home – 60,000 SF All other lots and uses – see 7.5.2.4.1 and 7.5.2.4.2
7.5.2.3.2	Minimum net developable lot area per dwelling unit	Existing lots of record and new residential lots that are not part of a subdivision that are used for a single-family home– 60,000 SF All other lots and uses– see 7.5.2.4.1 and 7.5.2.4.2
7.5.2.3.3	Minimum lot width	150 feet
7.5.2.3.4	Minimum road setback	State - 50 feet Town – 33 feet Private way – 8 feet from the closest edge of the R-O-W
7.5.2.3.5	Maximum road setback	None
7.5.2.3.6	Minimum side property line setback	20 feet
7.5.2.3.7	Minimum rear property line setback	20 feet
7.5.2.3.8	Maximum building height	34 feet
7.5.2.3.9	Maximum impervious surface area	20%
7.5.2.3.10	Minimum shoreland setback	Great ponds & associated wetlands – 100 feet Other resources – 75 feet

7.5.2.3.11	Minimum shoreland frontage - tidal	Residential – 150 feet Nonresidential – 200 feet
7.5.2.3.12	Minimum shoreland frontage – non-tidal	Residential – 200 feet Nonresidential – 300 feet

7.5.2.4 ZONE SPECIFIC DEVELOPMENT STANDARDS (R-C)

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

7.5.2.4.1 Except for single-family homes on existing lots of record or new residential lots that are not part of a subdivision, single-family homes on lots in subdivisions approved after November 3, 2020 and all new or expanded two-family dwellings, multifamily dwellings, or other residential or nonresidential uses that use an on-site water supply for any portion of the year must be located on a lot that has a minimum of thirty thousand (30,000) square feet of net developable lot area for every one hundred (100) gallons per day of sewage flow based on the State of Maine Subsurface Wastewater Disposal Rules.

7.5.2.4.2 Except for single-family homes on existing lots of record or new residential lots that are not part of a subdivision, single-family homes on lots in subdivisions approved after November 3, 2020 and all new or expanded two-family dwellings or multifamily dwellings or other residential or nonresidential uses that use public water year-round must be located on a lot that has a minimum of forty thousand (40,000) square feet of net developable lot area and a minimum of forty thousand (40,000) square feet of net developable lot area per dwelling unit.

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

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

7.5.2.4.5 An existing building or use that is located on a lot with less than sixty thousand (60,000) square feet of developable lot area that uses an on-site water supply for any portion of the year cannot be altered in a manner that increases its potential groundwater use. This determination shall be based on the design sewage flows set forth in the State of Maine

Subsurface Wastewater Disposal Rules. In assessing the potential use of groundwater, the Code Enforcement Officer or Planning Board may take into account changes that will reduce the existing use of groundwater.

7.5.2.5 PERFORMANCE STANDARDS FOR SPECIFIC USES (R-C)

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

7.5.2.6 OTHER PERFORMANCE STANDARDS (R-C)

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

7.5.2.7 SHORELAND OVERLAY DISTRICT (R-C)

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

7.5.3 Boothbay Village Center District (BVC)

7.5.3.1 PURPOSE (BVC)

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

7.5.3.2 ALLOWED USES (BVC)

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

7.5.3.3 SPACE AND BULK STANDARDS (BVC)

7.5.3.3.1	Minimum developable lot area	Residential – 20,000 SF or 6,000 SF with public sewer and year-round public water – Nonresidential – 10,000 SF
7.5.3.3.2	Minimum net developable lot area per dwelling unit	20,000 SF or 6,000 SF with public sewer and year-round public water
7.5.3.3.3	Minimum lot width	Residential– 100 feet or 60 feet with public sewer and year-round public water Nonresidential – 75 feet
7.5.3.3.4	Minimum road setback	State - 50 feet Town – 33 feet Private way – 8 feet from the closest edge of the R-O-W
7.5.3.3.5	Maximum road setback	The minimum road setback plus 25 feet
7.5.3.3.6	Minimum side property line setback	10 feet
7.5.3.3.7	Minimum rear property line setback	20 feet
7.5.3.3.8	Maximum building height	34 feet
7.5.3.3.9	Maximum impervious surface area	60%

7.5.3.4 ZONE SPECIFIC DEVELOPMENT STANDARDS (BVC)

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

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

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

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

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

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

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

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

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

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

7.5.3.5 PERFORMANCE STANDARDS FOR SPECIFIC USES (BVC)

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

7.5.3.6 OTHER PERFORMANCE STANDARDS (BVC)

In addition to the standards of this section, activities must also comply with the applicable standards of the General Performance Standards of Section 8, the

Environmental Performance Standards of Section 9, and the Good Neighbor Performance Standards of Section 10.

7.5.4 Boothbay Village Fringe District (BVF)

7.5.4.1 PURPOSE (BVF)

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

7.5.4.2 ALLOWED USES (BVF)

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

7.5.4.3 SPACE AND BULK STANDARDS (BVF)

7.5.4.3.1	Minimum developable lot area	Residential – 20,000 SF or 4,000 SF with public sewer and year-round public water – Nonresidential – 10,000 SF
7.5.4.3.2	Minimum net developable lot area per dwelling unit	20,000 SF or 4,000 SF with public sewer and year-round public water
7.5.4.3.3	Minimum lot width	Residential – 100 feet or 60 feet with public sewer and year-round public water Nonresidential – 100 feet
7.5.4.3.4	Minimum road setback	State - 50 feet Town – 33 feet Private way – 8 feet from the closest edge of the R-O-W
7.5.4.3.5	Maximum road setback	None
7.5.4.3.6	Minimum side property line setback	10 feet
7.5.4.3.7	Minimum rear property line setback	20 feet
7.5.4.3.8	Maximum building height	34 feet except 44 feet for structures located on Country Club Road within two hundred fifty (250) feet of Route 27
7.5.4.3.9	Maximum impervious surface area	50%

7.5.4.4 ZONE SPECIFIC DEVELOPMENT STANDARDS (BVF)

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

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

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

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

7.5.4.4.4 Residential subdivisions and developments with multiunit housing should be developed as planned developments.

7.5.4.4.5 Any new nonresidential use with frontage on Country Club Road must establish and maintain a vegetated buffer strip at least fifteen (15) feet in width along the Country Club Road frontage. The buffer strip shall meet the requirements of Section 10.1.1.

7.5.4.5 PERFORMANCE STANDARDS FOR SPECIFIC USES (BVF)

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

7.5.4.6 OTHER PERFORMANCE STANDARDS (BVF)

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

7.5.5 Boothbay Village Mixed-Use District (BVMU)

7.5.5.1 PURPOSE (BVMU)

The Boothbay Village Mixed-Use District is intended to allow the portion of the Route 27 corridor on the northerly approach to the Boothbay Village Center to evolve into an attractive gateway to the Village Center while it continues to be an area with a mix of uses, including auto-orientated uses that are not appropriate in the Village Center. Over time, uses that involve the handling or

storage of petroleum or other chemicals are phased out, and the visual environment of this portion of the corridor improves as do provisions for access and stormwater management. Since much of this area has access to the public sewer system and is served by year-round public water, a variety of higher density housing is allowed in master planned residential developments potentially increasing the range of housing options available in Boothbay.

7.5.5.2 ALLOWED USES (BVMU)

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

7.5.5.3 SPACE AND BULK STANDARDS (BVMU)

7.5.5.3.1	Minimum developable lot area	Residential – 40,000 SF or 10,000 SF as part of a master planned development in accordance with Sec. 7.5.5.4.1 – Nonresidential – 20,000 SF or 10,000 SF with public sewer and year-round public water
7.5.5.3.2	Minimum net developable lot area per dwelling unit	40,000 SF or 10,000 SF as part of a master planned development in accordance with Sec. 7.5.5.4.1
7.5.5.3.3	Minimum lot width	100 feet
7.5.5.3.4	Minimum road setback	State - 50 feet Town – 33 feet Private way – 8 feet from the closest edge of the R-O-W
7.5.5.3.5	Maximum road setback	None

7.5.5.3.6	Minimum side property line setback	10 feet
7.5.5.3.7	Minimum rear property line setback	20 feet
7.5.5.3.8	Maximum building height	34 feet
7.5.5.3.9	Maximum impervious surface area	20% for residential uses that are not part of a master planned development in accordance with Sec. 7.5.5.4.1 – 40% for nonresidential uses and residential uses that are part of a master planned development in accordance with Sec. 7.5.5.4.1

7.5.5.4 ZONE SPECIFIC DEVELOPMENT STANDARDS (BVMU)

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

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

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

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

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

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

7.5.5.4.1.5 The development shall be designed and constructed to limit the export of phosphorous from the area included in the master plan and any new or upgraded roads outside of the area included in the master plan. Phosphorous export shall be limited to the maximum allocation per acre

established for Adams Pond in Appendix C Per Acre Phosphorous Allocations for Selected Maine Lakes in Volume II Phosphorous Control Manual of the Maine Stormwater Management Design Manual. The calculation of phosphorous export shall be done in accordance with the procedures for determining phosphorous export in lake watersheds established by the Maine Department of Environmental Protection in the Volume II of the Stormwater Management Design Manual.

- 7.5.5.4.1.6** The project will include a stormwater facility maintenance plan establishing a schedule for the regular inspection of all active stormwater BMPs within the development and for the maintenance and repair of the BMPs to assure that they function as designed.
- 7.5.5.4.1.7** If any portion of the site is proposed to be left as open space to meet the phosphorous export limit, the development approval shall include permanent restrictions on the future use and development of this open space.
- 7.5.5.4.2** A dwelling unit in a master planned development with one bedroom in a two-family or multifamily dwelling or in a mixed use building that is served by public sewer and year-round public water shall be allowed at a density of one dwelling unit per five thousand (5,000) square feet of net developable lot area as long as the dwelling unit has less than eight hundred (800) square feet of floor area.
- 7.5.5.4.3** Any multifamily residential unit or nonresidential use that is served by a subsurface wastewater disposal system shall be limited to a maximum sewage flow of three hundred (300) gallons per day based on the design sewage flows set forth in the State of Maine rules for subsurface wastewater sewage disposal systems.
- 7.5.5.4.4** Any new nonresidential use with frontage on Route 27 must establish and maintain a landscaped buffer strip at least ten (10) feet in width along the Route 27 frontage. The buffer strip shall meet the requirements of Section **10.1.1**.
- 7.5.5.4.5** Parking for nonresidential uses must be located to the side or rear of the principal building unless the Planning Board finds that this is not a reasonable requirement given the size, shape or physical characteristics of the site. If the Planning Board allows parking in front of the principal building, it must be designed to prevent the need to back into the road.
- 7.5.5.4.6** Notwithstanding the allowed uses listed in the Table of Land Uses in Section 7.6, no new uses shall be permitted in the district that handle or store commercial volumes of materials that have the potential for contaminating the groundwater, including fuels, chemicals, or solvents. For the purpose of this provision, commercial volume shall mean a volume greater than that normally stored or used on a similar sized premise for routine building operation and maintenance.

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

7.5.5.5 PERFORMANCE STANDARDS FOR SPECIFIC USES (BVMU)

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

7.5.5.6 OTHER PERFORMANCE STANDARDS (BVMU)

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

7.5.5.7 SHORELAND OVERLAY DISTRICT (BVMU)

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

7.5.6 East Boothbay Village District (EBV)

7.5.6.1 PURPOSE (EBV)

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

7.5.6.2 ALLOWED USES (EBV)

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

7.5.6.3 SPACE AND BULK STANDARDS (EBV)

7.5.6.3.1	Minimum developable lot area	Residential - 20,000 SF Nonresidential - 20,000 SF
7.5.6.3.2	Minimum net developable lot area per dwelling unit	20,000 SF – See 7.5.6.4.1
7.5.6.3.3	Minimum lot width	50 feet
7.5.6.3.4	Minimum road setback	10 feet from property line
7.5.6.3.5	Maximum road setback	See 7.5.6.4.2
7.5.6.3.6	Minimum side property line setback	10 feet
7.5.6.3.7	Minimum rear property line setback	20 feet
7.5.6.3.8	Maximum building height	34 feet – the maximum height

		for marine-related uses may be up to 45 feet in accordance with Sec. 7.5.6.4.8.
7.5.6.3.9	Maximum impervious surface area	40%
7.5.6.3.10	Minimum shoreland setback	Great ponds & associated wetlands – 100 feet Other resources – 50 feet
7.5.6.3.11	Minimum shoreland frontage - tidal	Residential – 100 feet Nonresidential – 100 feet
7.5.6.3.12	Minimum shoreland frontage – non-tidal	Residential – 100 feet Nonresidential – 100 feet

7.5.6.4 ZONE SPECIFIC DEVELOPMENT STANDARDS (EBV)

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

7.5.6.4.1 Buildings in existence as of November 3, 2020 may fully utilize the habitable floor area of the building existing as of that date for residential uses or a mixed of residential and commercial uses without needing to meet the minimum lot area requirements of Section 7.5.6.3.1 and Section 7.5.6.3.2 provided that the sewage disposal system conforms to state requirements for the proposed occupancy. In addition the use must meet the parking requirements.

7.5.6.4.2 New buildings or modifications to existing buildings that increase the floor area by more than fifty (50) percent shall be sited to maintain the established pattern of setbacks existing on the same side of the street for up to three (3) lots in either direction to the extent feasible with the reasonable use of the site.

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

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

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

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

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

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

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

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

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

7.5.6.5 PERFORMANCE STANDARDS FOR SPECIFIC USES (EBV)

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

7.5.6.6 OTHER PERFORMANCE STANDARDS (EBV)

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

7.5.6.7 SHORELAND OVERLAY DISTRICT (EBV)

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

7.5.7 Scenic Gateway District (SG)

7.5.7.1 PURPOSE (SG)

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

7.5.7.2 ALLOWED USES (SG)

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

7.5.7.3 SPACE AND BULK STANDARDS (SG)

7.5.7.3.1	Minimum developable lot area	Residential - 40,000 SF – See 7.5.7.4.1 Nonresidential - 80,000 SF –
7.5.7.3.2	Minimum net developable lot area per dwelling unit	40,000 SF – See 7.5.7.4.1
7.5.7.3.3	Minimum lot width	State – 200 feet Other – 100 feet
7.5.7.3.4	Minimum road setback	State - 75 feet Town – 33 feet Private way – 8 feet from the closest

		edge of the R-O-W
7.5.7.3.5	Maximum road setback	None
7.5.7.3.6	Minimum side property line setback	Residential - 20 feet Nonresidential 30 feet – See 7.5.7.4.4
7.5.7.3.7	Minimum rear property line setback	20 feet
7.5.7.3.8	Maximum building height	34 feet – The maximum height for nonresidential or mixed-use buildings may be up to 45 feet in accordance with Sec. 7.5.7.4.5.
7.5.7.3.9	Maximum impervious surface area	30%
7.5.7.3.10	Minimum shoreland setback	Great ponds & associated wetlands – 100 feet Other resources – 75 feet
7.5.7.3.11	Minimum shoreland frontage - tidal	Residential – 150 feet Nonresidential – 200 feet
7.5.7.3.12	Minimum shoreland frontage – non-tidal	Residential – 200 feet Nonresidential – 300 feet

7.5.7.4 ZONE SPECIFIC DEVELOPMENT STANDARDS (SG)

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

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

7.5.7.4.2 Any new nonresidential use with frontage on Route 27 or Route 96 must establish and maintain a landscaped buffer strip at least fifty (50) feet in width along the Route 27/96 frontage. The buffer strip shall meet the requirements of Section 10.1.1.

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

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

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

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

7.5.7.4.3.4 If any improvements are or will be visible from Route 27 or Route 96, a natural or landscaped buffer meeting the requirements of 10.1.1 shall be established and maintained.

7.5.7.4.4 Lots in a residential subdivision approved after November 3, 2020 must have their required lot frontage on a road other than Route 27 or Route 96 unless the Planning Board determines that this is not feasible given the size, shape or physical characteristics of the parcel being subdivided.

7.5.7.4.5 The minimum side setback for nonresidential uses is thirty (30) feet. If the lot used for nonresidential purposes abuts a lot in residential use, a vegetated buffer strip at least twenty (20) feet in width meeting the requirements of Section 10.1.2 shall be established or maintained adjacent to all residential structures.

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

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

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

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

7.5.7.5 PERFORMANCE STANDARDS FOR SPECIFIC USES (SG)

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

7.5.7.6 OTHER PERFORMANCE STANDARDS (SG)

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

7.5.7.7 SHORELAND OVERLAY DISTRICT (SG)

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

7.5.8 Rural Mixed-Use District (RMU)

7.5.8.1 PURPOSE (RMU)

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

7.5.8.2 ALLOWED USES (RMU)

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

7.5.8.3 SPACE AND BULK STANDARDS (RMU)

7.5.8.3.1	Minimum developable lot area	Residential-30,000 SF Nonresidential - See 7.5.8.3.1
7.5.8.3.2	Minimum net developable lot area per dwelling unit	25,000 SF
7.5.8.3.3	Minimum lot width	125 feet
7.5.8.3.4	Minimum road setback	State - 75 feet Town – 60 feet Private way – 8 feet from the closest