

To: Boothbay Planning Board

The following is a start on Section 11 which establishes performance standards for specific uses. I took the current ordinance and removed topics that we have addressed elsewhere and have added other topics that we have discussed standards for. I need to go back through my notes to see if there are others but I filed stuff away when we moved and I need to dig it out.

November 25, 2019

SECTION 11 PERFORMANCE STANDARDS FOR SPECIFIC USES

The following Performance Standards apply to the following specific uses of land and structures within the Town of Boothbay.

3.10.1 Accessory Apartments One accessory apartment shall be permitted on a lot having a one or two family residential dwelling.

3.10.1.1 The owner(s) of the principal structure must reside in the principal structure or the accessory apartment.

3.10.1.2 The number of occupants of the accessory apartment is limited to two adults.

3.10.1.3 The accessory apartment shall contain up to a maximum of 800 square feet of living space.

3.10.1.3.1 For purposes of Section 3.10.1.3, “living space” means the total floor area designated for occupancy and exclusive use as an accessory apartment, expressed in square feet, measured from the apartment side of adjoining partitions and the exterior of outside walls.

3.10.1.4 A lot must have a minimum of 20,000 square feet, if connected to a municipal sewer district, to be eligible for the addition of an accessory apartment on the same lot as an existing dwelling unit. The applicant shall have the burden to establish the lot area. The Code Enforcement Office or Planning Board may require the lot area be established by a survey signed and sealed by a Maine licensed land surveyor.

3.10.1.5 In order for an accessory apartment to be added to a lot where wastewater is disposed of by other than connection to a municipal sewer district, the lot must have a minimum of 40,000 square feet or comply with the requirements of the State Minimum Lot Size law, 12 §§ 4807 – 4807-G for multiple unit housing, whichever is larger. The applicant shall have the burden to establish the lot area. The Code Enforcement Officer or Planning Board may require the lot area be established by a survey signed and sealed by a Maine licensed land surveyor. The wastewater disposal system on the property in question shall be functioning properly at the time of application. In addition, the applicant must submit a new HHE-200 form as documentation that the existing system can support the addition of an accessory apartment. The HHE-200 form, after review and approval by the Local Plumbing Inspector, shall be recorded by the applicant at the Lincoln County Registry of Deeds

at the same time that the Registration of Accessory Apartment form is recorded, with a copy of the HHE-200 form as recorded provided to the Code Enforcement Officer within 10 days it being recorded. Failure to provide a copy of the HHE-200 form to the Code Enforcement Officer within 10 days of it being recorded shall void the approval of the accessory apartment.

3.10.1.6 Two ways to enter/exit the accessory apartment shall be provided.

3.10.1.7 Should the owner(s) of the principal structure be found in non-compliance with the standards contained in Section 3.10.1, the non-compliance shall be considered a violation of this Ordinance.

3.10.1.8 An accessory apartment that complies with the requirements of Section 3.10.1 shall not be considered a principal structure when calculating lot area per principal structure.

3.10.1.9 In Shoreland Overlay Zone an accessory apartment shall be permitted only on one family residential dwelling lots.

3.10.2 Agriculture/Farming

3.10.2.1 Livestock Grazing New livestock grazing areas shall not be permitted within 100 feet of the high-water line of a great pond and associated wetlands; within 75 feet of other water bodies and coastal wetlands; nor within 25 feet of outlet streams, tributary streams and freshwater wetlands.

3.10.2.1.1 Activity associated with ongoing farm activities and which are not in conformance with the setback requirements of Section 3.10.2.1 may continue, provided that such grazing is conducted in accordance with a Soil and Water Conservation Plan.

3.10.2.2 Manure Disposal and Storage All spreading or disposal of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 §§ 4201 – 4209).

3.10.2.2.1 All manure storage areas shall be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.

3.10.2.2.2 Manure shall not be stored or stockpiled within 100 feet of the shoreline of a great pond or within 75 feet of any other shoreline.

3.10.2.3 Tilling of Soil The tilling of soils for the growing of fruits, vegetables, grains, or other products for human or animal consumption shall be allowed in any District in the Town. No tilling of land shall be done in a manner or left in such state as to promote soil erosion or to create or cause a water drainage problem or a public nuisance.

3.10.2.3.1 A Soil and Water Conservation Plan shall be filed with the Code Enforcement Officer for tilling of soil of more than 20,000 square feet of surface area. Non-conformance with the provisions of said plan shall be a violation of this Ordinance. [**Shoreland Overlay Zone**]

3.10.2.3.1.1 A Soil and Water Conservation Plan shall be filed with the Code

Enforcement Officer for any tilling of soil. **[Resource Protection Area]**

3.10.2.3.1.2 Assistance in preparing a soil and water conservation plan may be available through the local Soil and Water Conservation District office.

3.10.2.3.2 There shall be no new tilling of soil within 100 feet of the high-water line of a great pond and associated wetland; within 75 feet of streams and coastal wetlands; nor within 25 feet of outlet streams, tributary streams and freshwater wetlands. **[Shoreland Overlay Zone]**

3.10.2.3.2.1 Operations in existence on March 24, 1990 and not in conformance with this provision may be maintained. *{DEP § 15 N(4)}*

3.10.3 Animal Breeding or Care The keeping or raising of fewer than 5 animals or fowl over 6 months old shall be allowed in all Districts of the Town; provided, however, it shall be unlawful to keep animals or fowl in such a manner as to cause or create a public nuisance; cause or create excessive air, water or land pollution; or keep them in any manner or condition that violates state, local, or humane laws or regulations. The raising of such animals or fowl shall be done in such yards or buildings that are necessary to contain or confine their respective kind.

3.10.3.1 The keeping or raising of 5 or more animals or fowl over 6 months old shall be allowed as specified in the Land Use Table.

3.10.3.2 No person shall erect, occupy, or use any building or portion thereof or any other facility for a commercial purposes unless all waste storage areas produce no discharge of effluent or contaminated storm water. **[Resource Protection Area, Watershed Overlay Zone]**

Bed and Breakfast

3.10.4 Campgrounds The minimum requirements imposed under State licensing requirements and the following shall apply: *{DEP § 15(D)}*

3.10.4.1 Each campsite shall be a minimum of 5,000 square feet of land that shall not include roads and driveways. Land below the upland edge of a wetland, and land below the high-water line of a great pond or stream shall not be included in calculating land area per site.

3.10.4.2 The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of 50 feet from all abutting residential properties, 100 feet from registered farmland, 100 feet from the shoreline of a great pond and associated wetlands, and 75 feet from any other shoreline. *{7 §§ 52 & 56}*

3.10.4.2.1 The setback requirement from registered farmland shall not apply to development or uses exempted in 7 §§ 52 & 56.

PERFORMANCE STANDARDS FOR CAMPS

1. The camp shall be licensed by the State of Maine.

2. The primary use of the camp shall be as a “day camp” in which attendees do not sleep over night at the facility.
3. The camp may provide “sleep over” facilities and programs for children provided that these are accessory and subordinate to its role as a day camp.
4. The camp may be used for adult programs and activities provided that such use is accessory and subordinate to its role in serving attendees less than eighteen (18) years of age. Attendees at adult programs and activities may sleep at the facility but such use shall be limited to not more than seven (7) consecutive nights.
5. Sleeping and living facilities may be provided for the staff of the camp but may be occupied only during periods when program attendees are present or when training, maintenance, or similar activities are occurring.
6. The camp may be used for community activities and recreational programs as well as special events including activities that involve occasional overnight stays of less than five (5) consecutive nights.

conforming use provided the Planning Board determines that the proposed use has no greater adverse impact on the subject and adjacent properties and resources or on great ponds, streams, outlet streams, tributary streams or wetlands than the former use. *{DEP §§ 12 C(4) & D(3)}*

3.10.5.1 In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, floodplain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses. *{DEP § 12 C(4)}*

3.10.5.2 No existing structures built on, over, or abutting a pier, dock, wharf, or other structure extending beyond the high-water line of a great pond, stream, outlet stream or within a wetland shall be converted to residential dwelling units; *{DEP § 15 C(7)}*
[Shoreland Overlay Zone]

3.10.5.3 The Town shall rigorously enforce the Department of Health and Human Services *Rules For Conversion Of Seasonal Dwelling Units into Year-Round Residences in the Shoreland Zone* with respect to proof of adequate wastewater disposal prior to the conversion of a seasonal dwelling to year-round use. *{144A CMR 242}* **[Shoreland Overlay Zone]**

3.10.6 Chemical and Petroleum Product Storage The storage of gasoline, petroleum, or kerosene products or by-products in excess of the amount normally associated with a use, such as individual household use, farming, commercial fishing and maritime activities, and restaurants, is prohibited:

3.10.6.1 The Planning Board may allow storage of greater quantities if there is a demonstrated need and the requirements of Section 3.6.2 for approval of a Conditional Use are met.

3.10.6.2 No chemical, herbicide, pesticide, fertilizer, gasoline, petroleum, or kerosene products or by-products in excess of the amount normally associated with a use shall be stored within 150 feet from any high-water line or upland edge of a wetland.

3.10.9 Docks, Piers, Wharves, Bridges

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3.10.10 Essential Services

3.10.10.1 A public utility, water district, sanitary district or a utility company of any kind may not install services to any new structure nor to any lot or dwelling unit in a subdivision, unless written authorization attesting to the validity and currency of all local permits required under Section 3 or any previous ordinance have been issued by the appropriate Town officials or other written arrangements have been made between the Town officials and the utility. *{30-A § 4406(3), 38 § 444 and DEP § 16 G}*

3.10.10.1.1 If a public utility, water district, sanitary district or a utility company of any kind has installed services to a lot or dwelling unit in a subdivision in accordance with Section 3.10.10.1, a subsequent public utility, water district, sanitary district or utility company of any kind may install services to the lot or dwelling unit in a subdivision without first receiving written authorization pursuant to Section 3.10.10.1. *{30-A § 4406(3) and 38 § 444}*

3.10.10.2 Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors. *{DEP § 15 L(1)}*

3.10.10.3 The repair or replacement of existing essential services does not require Code Enforcement Officer or Planning Board approval if no new construction is proposed. *{DEP § 15 L(3)}*

3.10.10.4 The installation of essential services, other than road-side distribution lines, is not allowed except to provide services to a permitted use within these locations, or except where the applicant demonstrates to the Planning Board that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including adverse visual impacts. *{DEP § 15 L(2)}* **[Resource Protection Area, Stream Protection Area]**

3.10.11 Home Occupations

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3.10.11.1 General The Town shall permit residents to operate small businesses and services on their property provided:

3.10.11.1.1 The business activity is incidental to the use of the property as a residence;

3.10.11.1.1.1 Accessory apartments; one family, two family and multifamily dwellings; lodging houses; and retirement facilities are residential uses.

3.10.11.1.2 The business or service does not alter the residential character of the building or property, and is carried on primarily within the home or an accessory building;

3.10.11.1.3 Any item sold is a product of the owner's labor (e.g., manufactured, produced, created, grown, or caught);

3.10.11.1.4 There shall be provisions made to protect neighboring property owners from adverse impact from traffic, parking, hazardous materials, pollution, and electrical or electronic interference; and

3.10.11.1.5 The water supply is adequate.

3.10.11.2 Standards The standards for accessory uses do not apply to Home Occupations. The following standards shall apply:

3.10.11.2.1 Emissions The location and vertical height of all exhaust fans, vents, chimneys, or any other sources discharging or emitting smoke, fumes, gases, vapors, odors, scents or aromas shall be shown on plans submitted with an application, with a description of the source materials.

3.10.11.2.2 Employees There shall be no more than three employees or subcontractors other than members of the family.

3.10.11.2.2.1 There shall not be more than two employees other than members of the family. *{DEP § 17}* [Shoreland Overlay Zone]

3.10.11.2.3 Hazardous Materials The use shall not produce, use, manufacture or store hazardous materials; except that storage of hazardous materials shall be allowed in amounts that would be commonly found in an average household.

3.10.11.2.4 Lighting Lights shall be a maximum of 20 feet in height and shall be shielded so that the source of illumination is not visible at the lot lines.

3.10.11.2.5 Noise

3.10.11.2.5.1 Excessive noise at unreasonable hours shall be required to be muffled so as not to be objectionable due to intermittence, beat frequency, shrillness or volume.

3.10.11.2.5.2 The maximum permissible sound pressure level of any continuous, regular or frequent source of sound produced by any activity regulated by Section 3 shall be as established by the time period and type of District listed below. Sound pressure levels shall be measured at all lot lines, at a height of at least 4 feet above the ground surface.

3.10.11.2.5.2.1 Sound from any source regulated by Section 3 shall not exceed the following limits at the property line of said source:

Sound Pressure Level Limits Measured in dBA's

(Applicable Hours: 9 p.m. – 7 a.m.):

Maritime Commercial, C1, C2 and C3 Districts

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All other areas

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3.10.11.2.5.2.2 Where the emitting and receiving premises are in different Districts, the limits governing the stricter District shall apply to any regulated noise entering that District.

3.10.11.2.5.2.3 The levels specified may be exceeded by 10 dBA for a single period, no longer than 15 minutes in any one day.

3.10.11.2.6 Outdoor Storage Any outdoor storage and any business or service not conducted entirely within a structure shall be screened to protect neighboring property owners.

3.10.11.2.6.1 In locations where potential health or safety hazards may arise, such as rubbish storage or collection areas, a solid wooden fence, 6 feet in height is required to deter children and animals from entering the premises.

3.10.11.2.7 Sign There shall be no more than one unlighted exterior sign, not to exceed 4 square feet.

3.10.11.2.8 Size The total space on a lot used for the home occupation shall not exceed 30% of the gross floor area of the principal building if located in the building nor 75% of the gross floor area of the principal building if located in an accessory structure.

3.10.11.2.9 Waste Disposal The applicant shall provide for the disposal of all solid and liquid wastes on a timely basis and in an environmentally safe manner. The Planning Board shall consider the impact of particular industrial or chemical wastes or by-products upon the Town's disposal method or disposal area in terms of volume, flammability or toxicity and may require the applicant to dispose of such wastes elsewhere in conformance with all applicable state and federal regulations. The Planning Board may require the applicant to specify the amount and exact nature of all industrial or chemical wastes to be generated by the proposed operation.

3.10.11.3 Home occupations shall not be permitted within a mobile home park except those conducted by occupants entirely within a mobile home with no direct customer contact within the park.

3.10.11.4 Approval Home Occupations of a "homemaker" or "office" nature shall be allowed in all residential uses and shall require a permit from the Code Enforcement Officer. All other Home Occupations, including home day care, shall only be allowed with one family residential uses and shall require Planning Board approval.

3.10.12 Individual Private Campsites Individual private campsites not associated with campgrounds are allowed on one family residential properties provided that the following conditions are met: *{DEP § 15(E)}*

3.10.12.1 One campsite per lot existing on March 24, 1990, or 30,000 square feet of lot area within the Shoreland Overlay Zone, whichever is less.

3.10.12.2 Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back 100 feet from the shoreline of a great pond and 75 feet from any other shoreline.

- 3.10.12.3** Only one recreational vehicle shall be allowed on a campsite.
- 3.10.12.4** Recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure(s) except canopies shall be attached to the recreational vehicle.
- 3.10.12.5** A written wastewater disposal plan describing the proposed method and location of wastewater disposal shall be required for each campsite and shall be approved by the Town Plumbing Inspector. Where disposal is off site, written authorization from the receiving facility or land owner is required.
- 3.10.12.6** When a recreation vehicle, tent or similar shelter is occupied on a site for more than 120 days per year, all requirements for residential buildings shall be met, including the installation of a subsurface wastewater disposal system in compliance with the *Maine Subsurface Wastewater Disposal Rules* unless the site is served by public wastewater facilities. *{Department of Health and Human Services 10-144 CMR 241 and DEP § 16 E(6)}*
- 3.10.12.7** The clearing of vegetation shall be limited to 1,000 square feet. *{DEP § 15 E(4)}* **[Resource Protection Area]**

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3.10.13 Junkyards

- 3.10.13.1 Application** In addition to the requirements of Section 3.5.2, all applications shall include:
- A. Name and address of junkyard operator if different from the landowner;
 - B. Identity by list and definition the materials to be stored; and
 - C. A plot plan of the storage area proposed to be used including size; height of screening fences; setbacks from property lines, public roadways, and residences on neighboring properties.
- 3.10.13.2 Standards** The Planning Board shall review each application for a new or expanded junkyard and approve or deny the application based on the ability of the applicant to meet the criteria for a Conditional Use Permit and the following:
- 3.10.13.2.1** All junkyards shall be set back 100 feet from the edge of the public road surface, 75 feet from all side and rear lot lines, and 150 feet from all shorelines, 300 feet from any public building, public park, public playground, public bathing beach, school, church or cemetery, and 300 feet from any well that serves as a public or private water supply (except any well that only serves the junkyard or the owner or operator's residence).
- 3.10.13.2.2** If a junkyard is located within 1,000 feet of any highway incorporated in both the Interstate System and Primary System or within 600 feet of any other roadways and adjoining properties, it shall be screened by means of well constructed and properly maintained fencing, plantings, or natural and man-made landscaping to a minimum height of 6 feet, but in all cases sufficient to accomplish complete screening of the junkyard from ordinary view;
- 3.10.13.2.3** Ability to conform to state and federal hazardous waste regulations in

regards to handling and storage of materials, including, without limitation, 30-A § 3754-A(5);

3.10.13.2.4 Requirements as established in the *Maine Subsurface Wastewater Management Rules* regarding the discharge of fluids into ground and surface waters; and {*Department of Health and Human Services 10-144 CMR 241 and DEP § 16 E(6)*}

3.10.13.2.5 Ability to provide adequate means of fire safety as determined by inspection by the Town Fire Chief or State Fire Marshal.

Kennels

3.10.14 Mineral Exploration and Extraction Mineral exploration and extraction shall conform to the Erosion and Sedimentation Control standards of Section 3.11.7 and the Storm Water Runoff standards of Section 3.11.19.

3.10.14.1 Mineral Exploration Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods that create minimal disturbance of ground surface that shall not exceed 100 square feet. All excavations, including test pits and holes shall be immediately capped, refilled or secured by other equally effective measures, so as to restore disturbed areas and to protect the public health and safety. {*DEP § 15 M*}

3.10.14.2 Mineral Extraction The following provisions apply to any mineral extraction activity:

3.10.14.2.1 Expansions of gravel pits in existence on November 7, 1989 shall meet the standards contained herein and shall require approval by the Planning Board.

3.10.14.2.1.1 For the purposes of Section 3.10.14.2.1, an expansion is defined as an enlargement of the excavated pit perimeter.

3.10.14.2.2 Setbacks

3.10.14.2.2.1 Property Line Extraction operations (sandpits, etc.) shall not be permitted within 50 feet of any property line. {*DEP § 15 M(2)*}

3.10.14.2.2.2 No part of any extraction operation, including drainage and runoff control features, shall be permitted within 100 feet of the shoreline of a great pond or within 75 feet of any other shoreline. {*DEP § 15 M(2)*} [**Shoreland Overlay Zone**]

3.10.14.2.3 Standards

3.10.14.2.3.1 A reclamation plan shall be filed with and approved by the Planning Board before an approval is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 3.10.14.2.3.5. {*DEP § 15 M(1)*}

3.10.14.2.3.2 Mineral extraction shall not expose more than 4 surface acres of soil in total at any one point in time. When this limit has been reached, extraction in new areas shall not begin until the formerly excavated area has been reclaimed in accordance with the reclamation plan required herein such that

no more than 4 surface acres are exposed at any one time.

3.10.14.2.3.3 The average slope of any cut bank shall not exceed 4 feet vertical to 1 foot horizontal. The owner of the gravel pit is responsible for maintaining this condition.

3.10.14.2.3.4 Mineral deposits shall not be removed or excavated within 2 feet of the seasonal high water table.

3.10.14.2.3.5 Within 12 months following the completion of extraction operations at any extraction site, ground levels and grades shall be established in accordance with the following: *{DEP § 15 M(4)}*

3.10.14.2.3.5.1 All debris, stumps, and similar material shall be removed for disposal in an approved location or buried on site. Only materials generated on site may be buried or covered on site;

3.10.14.2.3.5.1.1 The State of Maine Solid Wastewater Laws, 38 § 1310, and Chapter 404 of the Department of Environmental Protection's regulations may contain other applicable provisions regarding disposal of such materials.

3.10.14.2.3.5.2 The final grade slope shall be 2 1/2 feet horizontal to 1 foot vertical or flatter; and

3.10.14.2.3.5.3 Topsoil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.

3.10.14.2.3.5.4 Extraction operations shall be deemed complete when less than 100 cubic yards of materials are removed in any consecutive 12 month period.

3.10.14.2.4 In keeping with the purposes of the Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources. *{DEP § 15 M(5)}*

3.10.15 Mobile Homes Any mobile home meeting the U.S. Department of Housing and Urban Development construction standards shall be considered a one family dwelling and allowed to be located in the Town under the same terms as any other one family dwelling. This shall include, but not be limited to, compliance with the minimum lot area and setback standards. *{30-A § 4358(2)}*

3.10.16 Mobile Home Parks

3.10.16.1 Standards Mobile home parks shall conform to the standards of 30-A § 4538 and the following:

3.10.16.1.1 Access The park shall have at least one paved road with unobstructed access to a public street or highway with a pavement width of not less than 16 feet for 1 to 5 lots, 18 feet for 6 to 9 lots and 20 feet for 10 or more lots. The right-of-way shall extend 8 feet beyond each side of the paved road.

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3.10.16.1.2 Individual Mobile Home Lots Each individual mobile home lot shall be provided with:

- A. A continuing and potable supply of safe and sanitary water capable of furnishing a minimum of 125 gallons per day per mobile home lot;
- B. An adequate wastewater disposal means; and
- C. An adequate electrical power service of at least 100 amp capacity supplying at least 110 volts. All electrical outlets shall be weatherproof. No power line shall be permitted to lie on the ground or to be suspended less than 12 feet above the ground.

3.10.16.1.3 Location The park shall be located on a well-drained site properly graded to insure rapid drainage and freedom from stagnant pools of water. The park shall not be located on land that is exposed to chronic nuisances such as noise, smoke, fumes and odors.

3.10.16.1.4 Motor Vehicle Parking Space A vehicle parking space of 10 feet by 20 feet shall be provided in every mobile home park for each individual mobile home space in addition to the minimum mobile home space requirement. Such spaces shall have a well-drained stabilized or paved surface, maintained in good repair.

3.10.16.1.5 Parking of Mobile Homes The mobile home park shall be laid out so that each mobile home shall be separated in all directions at least 30 feet from any adjacent mobile home. Setback requirements from adjoining lots not part of the mobile home park shall apply to each individual mobile home lot.

3.10.16.1.6 Playground Area Not less than 100 square feet of play space for each individual mobile home lot shall be provided and restricted in every mobile home park exclusively to playground use. Such spaces shall be protected from streets and parking areas, and shall have a well-drained stabilized or paved surface, maintained in good repair.

3.10.16.1.7 Refuse and Garbage Disposal The storage, collection, and disposal of refuse in the mobile home park shall not create health hazards, rodent harborage, insect-breeding areas, accident hazards or air pollution. All refuse or garbage shall be stored in fly-tight, watertight, and rodent-proof containers, which shall be provided in sufficient number and capacity to prevent any refuse from overflowing. Satisfactory container racks or holders shall be provided for each mobile home space. The mobile home park owner or operator will be responsible for the removal of garbage and refuse from such containers.

3.10.16.1.8 Service Streets The park shall be provided with service streets designed and constructed in accordance with the standards of Section 3.11.13 for roads with well-drained, stabilized or paved surfaces maintained in good repair and well-lighted at night with a light intensity at the center of roadway of no less than 2 foot candles. The pavement width shall not be less than 16 feet. Where parallel parking is permitted on one side of the street only, the total width of such street shall not be less than 26 feet. Where parking is permitted on both sides of the street, the total width of such street shall be not less than 32 feet.

3.10.16.1.9 Service Area Not less than 150 square feet of laundry drying space shall be provided in every mobile home park for each 4 individual mobile home lots. Such laundry drying spaces shall not be located between the street and the mobile homes or between the individual motor homes. The laundry drying space shall be so located as to be as inconspicuous as feasible from the adjacent numbered routes and city streets. Such spaces shall have a well-drained stabilized or paved surface, maintained in good repair.

3.10.16.1.10 Size of Sites Each individual mobile home lot shall be not less than 50 feet wide and 75 feet deep exclusive of parking and laundry area. The bounds of each space shall be clearly marked, and the space shall be well-surfaced or seeded to provide adequate drainage beneath and adjacent to any mobile home parked thereon.

3.10.16.2 Mobile Home Storage No mobile home shall be stored or used for commercial purposes, within a mobile home park.

3.10.16.2.1 Home occupations of a homemaker or office character conducted by occupants entirely within a mobile home with no direct customer contact are allowed.

3.10.17 One Family Residences The Planning Board may waive the structure setback requirements and approve the construction of a one family residential dwelling provided that applicant demonstrates that all of the following conditions are met: {38 § 439-A(7) and DEP § 16 E} [**Resource Protection Area**]

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3.10.17.1 There is no location on the property, other than a location within the Area, where the dwelling can be built;

3.10.17.2 The lot on which the dwelling is proposed is undeveloped and was established and recorded in the Lincoln County Registry of Deeds before November 7, 1989;

3.10.17.3 All proposed buildings, wastewater disposal systems and other improvements are:

- A. Located on natural ground slopes of less than 20%;
- B. Located outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Insurance Rate Maps;
- C. Elevated, including basements, at least one foot above the 100 year floodplain elevation; and
- D. Otherwise in compliance with any applicable municipal floodplain ordinance. {38 § 439-A(7)}

3.10.17.3.1 If the floodway is not shown on the Flood Insurance Rate Maps, it is deemed to be one-half the width of the 100-year floodplain. {38 § 439-A(7)}

3.10.17.4 Size The total ground-floor area, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be reduced by variance.

3.10.17.5 All structures, except functionally water-dependent structures, are set back from the all shorelines as far as feasible, but not less than 75 feet. In determining what

is feasible, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the floodplain and its proximity to moderate-value and high-value wetlands rated by the Department of Inland Fisheries and Wildlife.

3.10.18 Public Facilities

3.10.18.1 Parking areas serving public boat launching facilities shall be setback no less than 50 feet from the shoreline if the Planning Board finds that no other reasonable alternative exists further from the shoreline. *{DEP § 15 G(1)}* [**Shoreland Overlay Zone**]

3.10.18.2 Picnic areas, public wells and drinking water springs and water supply intake points shall be set back 100 feet from registered farmland. *{7 §§ 52 & 56}*

3.10.18.2.1 The setback requirement from registered farmland shall not apply to developments or uses exempted in 7 §§ 52 & 56.

3.10.18.3 The restrictions on clearing of vegetation in Section 3.11.3.2 shall not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary. *{DEP § 15 P(2)}*

3.10.19 Stairway for Shoreline Access No dimensional requirement of this Ordinance shall apply to a single stairway or similar structure to provide shoreline access in areas of steep slopes or unstable soils, provided; that the structure is limited to a maximum of 4 feet in width; that the structure does not extend below or over the high-water line of a great pond, stream, outlet stream or the upland edge of a wetland unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 § 480-C; and that the applicant demonstrates that no reasonable access alternative exists on the property. *{DEP § 15 B(6)}* [**Shoreland Overlay Zone**]

3.10.20 Storage Shed On a non-conforming lot of record on which only a residential building exists, and where it is not feasible to place an accessory structure meeting the required shoreline setbacks, the Code Enforcement Officer may issue a permit to place one accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed 80 square feet in area or 8 feet in height, and shall be located as far from the shoreline as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to a shoreline than the principal structure. *{DEP § 15 B(1)(d)}*

3.10.22 Wind turbines may be placed on lots with at least 40,000 square feet and shall be placed on the lot so that the distance from any lot line shall be at least two times the maximum height.

3.10.22.1 Wind turbines up to 60 feet in height measured to the maximum height of the rotating blades are an allowed use in all Zoning Districts.

3.10.22.2 Wind turbines greater than allowed in Section 3.10.22.1 shall be allowed as a Conditional Use in all Zoning Districts. The height measured to the maximum height of the rotating blades shall not be greater than three times the length of a rotating

blade above the tree line adjacent to the turbine.

3.10.22.3 The Planning Board may grant waivers to the height and setback standards.

3.10.23 Communications towers

3.10.23.1 Priority of locations. New communications towers must be located according to the order of priorities as listed below. The applicant shall demonstrate that a facility of a higher priority cannot reasonably accommodate the applicant's proposed facility.

- (1) Colocation on an existing communications tower or other existing structure (*e.g.*, water tower).
- (2) A new facility on public or private property in the Industrial Park, Maritime Commercial or Bigelow Laboratory Contract Zone Districts.
- (3) A new facility on public or private property in the C1, C2 or C3 Districts.
- (4) A new facility on public or private property in the General Residential (outside of the Bigelow Laboratory Contract Zone District), Special Residential, Water Reservoirs Protection or Well Head Protection Districts.
- (5) A new facility on public or private property in the Village District.

3.10.23.2 Height.

3.10.23.2.1 Within the General Residential (outside of the Bigelow Laboratory Contract Zone District), Special Residential, Water Reservoirs Protection, Well Head Protection Districts and Village Districts, the standard height limit for a new communications tower shall be 130 feet as measured from the base of the tower to the highest point of the tower, including any attached receiving or transmitting antennas and devices. The Planning Board may allow the standard height limit to be exceeded by up to an additional 20 feet, to a maximum of 150 feet, if the increase in height enables the collocation of additional antennas that otherwise could not be accommodated on the tower and results in no material increase in the visual impacts of the tower as determined by the Planning Board. The Planning Board may also require the height of a tower be reduced down by as much as 20 feet, to a maximum of 110 feet if the Planning Board finds through review that reducing the tower height most effectively screen and mitigate the visual impacts of the tower from surrounding properties, abutters, roadways and public spaces. When considering a reduction in the maximum tower height, the Planning Board shall ensure that such a reduction still accommodates the collocation requirements of Section 3.10.23.8.

3.10.23.2.2 Within the Industrial Park, Maritime Commercial, C1, C2, C3 and Bigelow Laboratory Contract Zone Districts, the height limit for a new communications tower or the expansion of an existing communications tower

shall be 200 feet as measured from the base of the tower to the highest point of the tower, including any attached receiving or transmitting antennas and devices. The Planning Board may require the height of a tower be reduced down by as much as 20 feet, to a maximum of 180 feet if the Planning Board finds through review that reducing the tower height would materially reduce the visual impacts of the tower from surrounding properties, abutters, roadways and public spaces, including to avoid the need for FAA lighting.

3.10.23.3 Setbacks. A new or expanded communications tower must comply with the setback requirements for the zoning district in which it is located, or be setback one hundred twenty-five percent (125%) of its height from all property lines, whichever is greater. This setback requirement may be satisfied by including areas outside the property boundaries if secured by a recorded easement. The following exceptions apply:

- (1) The setback may be reduced by the Planning Board upon a showing by the applicant that the tower is designed to collapse in a manner that will not harm other property. The Planning Board cannot reduce the setback by more than 60% of tower height.
- (2) An antenna is exempt from the setback requirement if it extends no more than five (5) feet horizontally from the edge of the structure to which it is attached, and it does not encroach upon an abutting property.

3.10.23.4 Buffering. All communications towers shall be surrounded by a buffer of dense tree growth and vegetation that screens the facility and minimizes its visual impact from abutting properties, roadways and public spaces. If the majority of the site is heavily vegetated with mature tree growth and effectively screens the facility, the Planning Board may require the existing vegetation to be preserved, and supplemented with new plantings where necessary, except for the minimum amount of clearing necessary to install the facility and provide access and utilities. If heavy vegetation and mature tree growth are not present to effectively screen the facility on one or more property lines or from surrounding roadways or public spaces, the Planning Board has the authority to require the tower to be sited in an alternative location on the property that exhibits an adequate buffer or screening that screens the facility and minimizes its visual impact from abutting properties, roadways and public spaces. The Planning Board has the authority to require the landscape buffer be protected by a landscape easement specifying that the trees within the buffer not be removed or topped, unless the trees are dead or dying. This landscape easement may include a distance equivalent to 150% of the total tower height, be within the carrier's lease, and/or apply to buffering and vegetation on other areas of the site that provide effective screening.

3.10.23.5 Visual Impact Analysis. In order to review and assess the suitability of the proposed buffering of a tower, the optimal tower setback from adjacent property lines, the proposed color, style and height of the tower, and the tower's overall visual impacts and effects, the Planning Board may require photo simulations and a line of sight profile

of the tower within the landscape from a variety of perspectives, including surrounding roadways, abutting properties, public spaces, designated scenic resources as identified in the Comprehensive Plan, and from archaeological and historic resources including, but not limited to, the National Register of Historic Places. (The analysis of impact on historical and archaeological resources shall meet the requirements of the Maine State Historic Preservation Officer in his/her review capacity for the FCC.) The Planning Board may require other simulations of the tower height and location within the landscape using a balloon test or similar method typical in the industry. To assess the extent of the structure's actual visibility within the landscape, float a brightly colored balloon, or collection of balloons, at the height of the tower or other tall structure and check each previously identified area of concern. The applicant may be required to provide an assessment via ARC GIS (ESRI software). Using the visual impact analysis, the Planning Board has the authority to mitigate and minimize the visual impact of a tower by: specifying the required setback and location, requiring changes and/or enhancements to the buffering, and regulating the tower height and style.

3.10.23.6 Tower style. Tower types shall be limited to monopole-style towers painted in a sky tone above the top of surrounding trees and in an earth tone below tree-top level or stealth towers exhibiting concealed antennas or camouflaging treatment, such as monopine towers, as determined by the Planning Board.

3.10.23.7 Lighting. Towers and attached antennas and devices shall not be artificially lighted, unless required by the FAA or other federal or state agency. If lighting for such equipment is required, the Planning Board may review the available lighting alternatives and require the design that would cause the least impact to surrounding properties and views. All other lights installed at the facility shall be mounted less than 12 feet above ground level, located and shielded to minimize light pollution, and illuminated only as necessary for work or safety at the facility.

3.10.23.8 Colocation. All new communications towers shall be designed and constructed to accommodate the colocation of additional antennas, equipment and facilities on the tower and site. To meet this standard the applicant, owner and all other tower users shall allow other commercial wireless telecommunication service providers using functionally compatible technology to collocate; shall provide a mechanism for the construction and maintenance of collocated antennas and infrastructure; and shall provide for reasonable sharing of costs in accordance with industry standards. To ensure colocation and prevent the need for additional new towers within the same coverage area, the Planning Board may require an existing or new tower to be increased in height up to the maximum height allowed and/or make other accommodations in order to provide for colocation. When designing a tower and site for colocation the facility should be designed to accommodate the inclusion of at least three additional telecommunication service providers and shall have the structural integrity to accommodate these additional antennas and/or an expansion in height of the tower. The Planning Board may waive the requirement for colocation or the number of additional providers to be collocated, but only after the Planning Board reviews and

determines with satisfactory evidence that technical constraints prohibit colocation.

3.10.23.9 Noise. Noise generated should not exceed limits permitted under local ordinance (per zoning district). Testing of generators, at separate times, shall be limited to between 8 am and 5 pm, Monday – Friday.

3.10.23.10 Advertising. No advertising or signage is permitted on communications towers or any attached transmitting and receiving antennas or devices.

3.10.23.11 Coverage. As part of any proposal, the applicant shall submit a radio frequency coverage analysis showing existing or planned wireless facilities within ten (10) miles of the proposed location. Maps shall be supplied that indicate on street and in building coverage for both existing/planned sites and the proposed location. The coverage analysis for the proposed location must show all available optional antenna heights if it is a co-location or all possible antenna heights starting at a minimum of 90 feet if it is a new facility. The coverage analysis must use each current licensed frequency band by the applicant. An applicant shall demonstrate that there is inadequate coverage for the area covered by the application.

3.10.23.12 Structural Standards. New communications towers shall meet all applicable requirements of federal and state regulations and shall be designed and installed in accordance with the standards of the Electronic Industries Association / Telecommunications Industries Association (EIA/TIA) Structural Standards for Steel Antenna Towers and Antenna Supporting Structures.

3.10.23.13 Emergency Access. A new communications tower must install a knox box on the compound entrance and shall provide the Town and its Fire Department with sets of keys to the knox box in order to allow emergency access to the facility by emergency vehicles and personnel.

3.10.23.14 Fencing. A new communications tower must be fenced to discourage trespass on the facility and to discourage climbing on any structure by trespassers.

3.10.23.15 Existing towers. Communications towers existing before May 2, 2015 that do not comply with these performance standards or with the use or dimensional requirements of the zoning district in which they are located may continue to be used subject to the nonconformity provisions of this Ordinance. The addition, removal or relocation of transmitting or receiving devices on such towers does not constitute the expansion or enlargement of the nonconforming use and does not require Planning Board review, provided the total height of the communications tower, including attached

devices, is not increased.

3.10.23.16 Abandonment. A communications tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The CEO shall notify the owner of an abandoned facility in writing and order the removal of the facility within ninety (90) days of receipt of the written notice. The owner of the facility shall have thirty (30) days from the receipt of the notice to demonstrate to the CEO that the facility has not been abandoned. If the owner fails to show that the facility is in active operation, the owner shall have sixty (60) days to remove the facility. If the facility is not removed within this time period, the Town may remove the facility at the owner's expense. The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of roads, and reestablishment of vegetation.

Prior to the commencement of any construction, the applicant shall provide the Town with a performance bond or letter of credit in an amount sufficient to cover the cost of removal of the facility if it is abandoned as set forth above, including all site reclamation costs deemed necessary to return the site to its pre-construction condition, such as the removal of any road and reestablishment of vegetation. The applicant shall maintain such bond or replacement bond/letter of credit in place throughout the time period that the communications tower is in existence. The performance bond or letter of credit or any replacement performance bond/letter of credit shall be subject to the prior approval of the Town Attorney. The amount of the performance bond or letter of credit or any replacement performance bond/letter of credit shall be increased by 15% on the first of January every five years. The owner of the facility may apply to the Planning Board for release of the surety when the facility and related equipment are removed to the satisfaction of the Planning Board.

3.10.23.17 Shoreland zoning. Communications towers shall not be allowed within the Shoreland Overlay Zone. However, land within the Shoreland Overlay Zone may be counted toward the setback requirements provided that the siting of the communications tower is outside the Shoreland Overlay Zone.

3.10.23.18 Standard conditions of approval. The following standard conditions of approval shall be a part of any approval issued by the Planning Board. Where necessary to ensure that an approved project meets the criteria of this ordinance, the Planning Board may impose additional conditions of approval. Reference to the conditions of approval shall be clearly noted on the final approved plan, and shall include:

1. The owner agrees to allow shared use of the tower if another applicant agrees to pay reasonable charges for co-location. The owner of the communications tower and his or her successors and assigns agree to:

- a. respond in a timely, comprehensive manner to a request for information from a potential co-location applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
 - b. negotiate in good faith for shared use of the communications tower by third parties;
 - c. allow shared use of the communications tower if an applicant agrees in writing to pay reasonable charges for co-location; and
 - d. require no more than a reasonable charge for shared use of the communications tower, based on community rates and generally accepted accounting principles. This charge may include, but is not limited to, a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction and maintenance, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the life span of the useful life of the communications tower.
2. The proposed facility will comply with all FCC standards for radio frequency emissions. Upon request by the Town, the applicant shall certify such compliance.
 3. Upon request, the applicant shall provide the Town with a list of tenants of the facility.