

December 9, 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.

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

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

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

11.1.3 The accessory apartment shall contain a maximum of eight hundred (800) square feet of living space.

11.1.3.1 For purposes of Section **11.1.3**, “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.

11.1.4 A lot must have a minimum of twenty thousand (20,000) square feet of area 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.

11.1.5 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 forty thousand (40,000) square feet or comply with the requirements of the State Minimum Lot Size law 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 ten (10) days of it being recorded. Failure to provide a copy of the HHE-200 form to the Code Enforcement Officer within ten (10) days of it being recorded shall void the approval of the accessory apartment.

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

11.1.7 Should the owner(s) of the principal structure be found in noncompliance with the standards contained in Section 11.1, the noncompliance shall be considered a violation of

this Ordinance.

11.1.8 An accessory apartment that complies with the requirements of Section 11.1 shall not be considered a principal structure when calculating the required minimum lot area per principal structure.

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

11.2 Agriculture/Farming

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

11.2.1.1 Activity associated with ongoing farm activities and which is not in conformance with the setback requirements of Section 11.2.1 may continue, provided that such grazing is conducted in accordance with a Soil and Water Conservation Plan.

11.2.2 Manure Disposal and Storage All storage, spreading or disposal of manure shall be accomplished in conformance with the Maine Nutrient Management Rules.

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

11.2.2.2 Manure shall not be stored or stockpiled within one hundred (100) feet of the shoreline of a great pond or within seventy-five (75) feet of any other shoreline.

11.2.3 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 where farming is a permitted use. 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.

11.2.3.1 A Soil and Water Conservation Plan shall be filed with the Code Enforcement Officer for tilling of soil of more than twenty thousand (20,000) square feet of surface area. Non-conformance with the provisions of said plan shall be a violation of this Ordinance.

11.2.3.1.1 A Soil and Water Conservation Plan shall be filed with the Code Enforcement Officer for any tilling of soil in the Resource Protection District

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

11.2.3.2 There shall be no new tilling of soil within one hundred (100) feet of the high-water line of a great pond and associated wetland; within seventy-five (75) feet of streams and coastal wetlands; nor within twenty-five (25) feet of outlet streams, tributary streams and freshwater wetlands.

11.2.3.2.1 Operations in existence on March 24, 1990 and not in conformance with this provision may be maintained.

11.3 Animal Breeding or Care

11.3.1 Animals and fowl shall be kept in such a manner as to not cause or create a public nuisance; not cause or create excessive air, water or land pollution; or that violates state, local, or humane laws or regulations.

11.3.1 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.

11.3.2 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.

11.4 Bed and Breakfast

11.4.1 A bed and breakfast shall conform to the following standards:

11.4.1.1 The building housing the bed and breakfast shall have a residential character.

11.4.1.2 The owner or manager of the bed and breakfast shall reside on the premises.

11.4.1.3 Food and beverage service shall be limited to overnight guests.

11.4.1.4 Food service shall not include dinners and shall be limited to breakfast, snacks, afternoon tea, and similar light food service.

11.4.1.5 Off-street parking shall be provided for guests and if the building is located within seventy-five (75) feet of the front property line, the guest parking shall not be located in the area between the front wall of the building and the street extending the full width of the lot.

11.4.1.6 A natural or landscaped buffer strip at least fifteen (15) feet in width shall be maintained between any guest parking area and the property line with any abutting lot in residential use.

11.5 Campgrounds The minimum requirements imposed under State licensing requirements and the following shall apply:

11.5.1 Each campsite shall be a minimum of five thousand (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.

11.5.2 The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of fifty (50) feet from all abutting residential properties, one hundred (100) feet from registered farmland, one hundred (100) feet from the shoreline of a great pond and associated wetlands, and seventy-five (75) feet from any other shoreline.

11.5.2.1 The setback requirement from registered farmland shall not apply to development or uses exempted in Title 7 M.R.S.A. §§ 52 & 56.

11.6 Camps A camp shall conform to the following requirements:

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

11.6.2The primary use of the camp shall be as a “day camp” in which attendees do not sleep over night at the facility.

11.6.3 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.

11.6.4 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.

11.6.5 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.

11.6.6 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.

11.7 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:

11.7.1 The Planning Board may allow storage of greater quantities if there is a demonstrated need for the additional volume of storage.

11.7.2 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 one hundred fifty (150) feet from any high-water line or upland edge of a wetland.

11.8 Cluster Development

11.8.1 Purpose The purpose of cluster development is to provide permissive, voluntary and alternative zoning provisions that will help to preserve or provide desirable open space, tree cover, recreation areas and scenic vistas.

11.8.2 Procedures for Review The Planning Board shall follow the procedures for Subdivision Review.

11.8.2.1 Application In addition to the information required for Subdivision approval, an application for a cluster development shall include:

11.8.2.1.1 A site plan, including, but not limited to, recreational facilities and landscaping plans with open spaces and existing and proposed trees and other vegetation.

11.8.2.1.2 Information regarding land use designations; surrounding land uses; project design team; development schedule; type, size, number and estimated selling price of units; and density calculation.

11.8.2.1.3 Information regarding the following:

11.8.2.1.3.1 The extent to which the plan departs from the regulations of this and all other Ordinances otherwise applicable to the subject property, and the

reasons why such departures are deemed to be in the public interest;

11.8.2.1.3.2 The nature and extent of the common open space in the project, the reliability of the proposals for maintenance and conservation of the common open space, and the adequacy of the amount and function of the open space in terms of the densities and dwelling types proposed in the plan;

11.8.2.1.3.3 The manner in which said plan makes adequate provision for public services, provides adequate control over vehicular traffic, and furthers the amenities of light and air, recreation, and visual enjoyment;

11.8.2.1.3.4 The relationship, beneficial or adverse, of the proposed development upon the physical environment and the neighborhood in which it is proposed to be established; and

11.8.2.1.3.5 Whenever applicable, documents indicating compliance and approval of mandated State statutes or other laws shall be obtained and submitted as part of the application.

11.8.3 Requirements for Approval The Planning Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the review criteria of Section 5.5__ and the following are met:

11.8.3.1 The development is designed to produce an environment of stable and desirable character, consistent with the intent and purpose of the cluster development regulations to promote public health, safety, and general welfare, and is in harmony with its surrounding neighborhood.

11.8.3.2 Property in the vicinity of the area, included in the plan, will not be adversely affected.

11.8.3.3 The property would be used for purposes and in a manner permitted in the existing district except for lot area and location of buildings.

11.8.3.4 The location, size, nature, and topography of the open areas make them suitable for use as common areas for park, recreational purposes, and buffer areas between groups of home sites.

11.8.4 Standards In addition to the standards for Subdivision approval in Section 5.5, the following standards shall apply:

11.8.4.1 Dimensional Standards

11.8.4.1.1 Area of Development Within the Residential and Coastal Residential Districts and the Rural Mixed-Use District, the minimum area of the cluster development shall be ten (10) acres. If public water and sewer are to be used the minimum area shall be a multiple of three (3) times the minimum lot area for the applicable district.

11.8.4.1.2 Lot Area The minimum area of a lot-of-record within the development shall be at least twenty thousand (20,000) square feet. In cluster developments with individual lot areas of twenty thousand (20,000) square feet, all dwelling units shall be connected to a common water supply and distribution system, either public or private, and a public sewer system or a central collection and treatment system.

11.8.4.1.2.1 In the Shoreland Overlay District the minimum lot area per dwelling unit shall be 30,000 square feet adjacent to tidal areas and 40,000 square feet next to non-tidal areas.

11.8.4.1.3 Developable Area The Maximum Developable Area as specified for the District, shall be applied to the cluster development as a whole; however, the lot coverage for any individual lot shall not exceed fifty (50) percent

11.8.4.1.3.1 The lot coverage shall not exceed twenty (20) percent of the portion of the lot located within the Shoreland Overlay District.

11.8.4.1.3.2 The Maximum Developable Area shall be calculated separately for each District if a lot is in more than one District.

11.8.4.1.4 Shore Frontage The minimum shore frontage per dwelling unit shall be one hundred fifty (150) feet adjacent to tidal areas and two hundred (200) feet next to non-tidal areas.

11.8.4.1.5 The overall dimensional requirements per dwelling unit, including shore frontage and lot area, shall not be reduced by variance.

11.8.4.2 Supplemental Standards

11.8.4.2.1 Number of Units The maximum number of dwelling units for a cluster development shall not exceed the number of units allowed resulting from dividing the total area of the zoning lot devoted to cluster development, by the minimum size of the subdivision lot permitted in the applicable District.

11.8.4.2.1.1 A density bonus may be granted for the preservation of open space, designs and site plans that would increase buffering, designs that reduce environmental impact, and for the provision of affordable housing. In no case shall the density bonus allow an increase in excess of ten (10) percent of the number of dwelling units normally allowed.

11.8.4.2.2 Open Space The open space shall be dedicated to the recreational amenity and environmental enhancement of the development, must protect natural resources, and shall be recorded as such. For purposes of these provisions, open space means an area that:

11.8.4.2.2.1 Is not encumbered in any way by a principal structure;

11.8.4.2.2.2 Is not devoted to use as a roadway, road right-of-way, parking lot, or sidewalk;

11.8.4.2.2.3 Is left in its natural or undisturbed state if wooded, except for cutting of trails for walking or jogging, or if not wooded at the time of development, is landscaped for ball fields, play fields, picnic areas, or similar activities;

11.8.4.2.2.4 Is capable of being used and enjoyed for the purpose of informal and unstructured recreation and relaxation; and

11.8.4.2.2.5 Is on the same lot and is legally and practicably accessible to all residents of lots in the cluster development out of which the open space is taken.

11.9 Essential Services

11.9.1 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.

11.9.1.1 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 **11.9.1**, 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 **11.9.1**.

11.9.2 Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.

11.9.3 The repair or replacement of existing essential services does not require Code Enforcement Officer or Planning Board approval if no new construction is proposed.

11.9.4 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.

11.10 Home Occupations and Home Businesses

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

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

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

11.10.1.1.2 Home Occupations shall be permitted in any residential unit.

11.10.1.1.3 Home Businesses shall be permitted only in single-family homes with approval of the Planning Board

11.10.1.2 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;

11.10.1.3 Any item sold shall be a product of the owner's labor (e.g., manufactured, produced, created, grown, or caught) or otherwise produced on the premises;

11.10.1.4 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

11.10.1.5 The water supply shall be adequate.

11.10.2 Standards The standards for accessory uses do not apply to Home Occupations

and Home Businesses. The following standards shall apply:

11.10.2.1 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.

11.10.2.2 Employees Home Businesses shall be limited to no more than three (3) employees or subcontractors other than members of the family. Home Occupations shall be limited to members of the family and shall not have employees who are not members of the family.

11.10.2.2.1 In the Shoreland Overlay District Home Businesses shall not have more than two employees other than members of the family.

11.10.2.3 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.

11.10.2.4 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.

11.10.2.5 Noise

11.10.2.5.1 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.

11.10.2.5.2 The maximum permissible sound pressure level of any continuous, regular or frequent source of sound shall conform to the requirements of **10.4.**

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

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

11.10.2.7 Sign There shall be no more than one unlighted exterior sign, not to exceed four (4) square feet.

11.10.2.8 Size The total space on a lot used for the Home Business or Home Occupation shall not exceed thirty (30) percent of the gross floor area of the principal building if located in the building nor seventy-five (75) percent of the gross floor area of the principal building if located in an accessory structure.

11.10.2.9 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.

11.10.3 Home Businesses and 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.

11.11 Individual Private Campsites Individual private campsites not associated with campgrounds are allowed on one family residential properties provided that the following conditions are met:

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

11.11.2 Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet from the shoreline of a great pond and seventy-five (75) feet from any other shoreline.

11.11.3 Only one recreational vehicle shall be allowed on a campsite.

11.11.4 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.

11.11.5 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.

11.11.6 When a recreation vehicle, tent or similar shelter is occupied on a site for more than one hundred twenty (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

11.11.7 In the Resource Protection District the clearing of vegetation shall be limited to one thousand (1,000) square feet.

11.12 Inns An inn shall conform to the following standards:

11.12.1 Food and beverage service shall be limited to overnight guests

11.12.2 Food service may include dinner as well as breakfast, lunch, snacks, afternoon tea, and similar light food service

11.12.3 Off-street parking shall be provided for guests and if the building is located within seventy-five (75) feet of the front property line, the guest parking shall not be located in the area between the front wall of the building and the street extending the full width of the lot

11.12.4 A natural or landscaped buffer strip at least fifteen (15) feet in width shall be maintained between any guest parking area and the property line with any abutting lot in residential use.

11.13 Junkyards

11.13.1 Application In addition to the requirements of 5.4, all applications shall include:

11.13.1.1 Name and address of junkyard operator if different from the landowner;

11.13.1.2 Identity by list and definition the materials to be stored; and

11.13.1.3 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.

11.13.2 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 approval standards of Section 5 and the following:

11.13.2.1 All junkyards shall be set back one hundred (100) feet from the edge of the public road surface, seventy-five (75) feet from all side and rear lot lines, one hundred fifty (150) feet from all shorelines, three hundred (300) feet from any public building, public park, public playground, public bathing beach, school, church or cemetery, and three hundred (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).

11.13.2.2 If a junkyard is located within six hundred (600) feet of any roadway 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 six (6) feet, but in all cases sufficient to accomplish complete screening of the junkyard from ordinary view;

11.13.2.3 The ability to conform to state and federal hazardous waste regulations in regards to handling and storage of materials, including, without limitation,

11.13.2.4 Requirements as established in the *Maine Subsurface Wastewater Management Rules* regarding the discharge of fluids into ground and surface waters; and

11.13.2.5 The ability to provide adequate means of fire safety as determined by inspection by the Town Fire Chief or State Fire Marshal.

11.14 Kennels

11.15 Mineral Exploration and Extraction Mineral exploration and extraction shall conform to the Erosion and Sedimentation Control standards of Section 9.4 and the Storm Water standards of Section 9.3.

11.15.1 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 one hundred (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.

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

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

11.15.2.1.1 For the purposes of Section 11.15.2.1, an expansion is defined as an

enlargement of the excavated pit perimeter.

11.15.2.2 Setbacks

11.15.2.2.1 Property Line Extraction operations (sandpits, etc.) shall not be permitted within fifty (50) feet of any property line.

11.15.2.2.2 No part of any extraction operation, including drainage and runoff control features, in the Shoreland Overlay District shall be permitted within one hundred (100) feet of the shoreline of a great pond or within seventy-five (75) feet of any other shoreline.

11.15.2.3 Standards

11.15.2.3.1 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 11.15.2.3.5.

11.15.2.3.2 Mineral extraction shall not expose more than four (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 four (4) surface acres are exposed at any one time.

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

11.15.2.3.4 Mineral deposits shall not be removed or excavated within two (2) feet of the seasonal high water table.

11.15.2.3.5 Within twelve (12) months following the completion of extraction operations at any extraction site, ground levels and grades shall be established in accordance with the following:

11.15.2.3.5.1 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;

11.15.2.3.5.1.1 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.

11.15.2.3.5.2 The final grade slope shall be two and a half (2.5) feet horizontal to one (1) foot vertical or flatter; and

11.15.2.3.5.3 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.

11.15.2.3.5.4 Extraction operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period.

11.15.2.4 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.

11.16 Mobile Homes and Modular Housing Any mobile home meeting the U.S. Department of Housing and Urban Development construction standards or any modular home constructed in accordance with state standards for modular homes 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.

11.17 Mobile Home Parks

11.17.1 Standards Mobile home parks shall conform to the standards of 30-A § 4358 and the following:

11.17.1.1 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 ~~twenty-three (23) feet in width extend 8 feet beyond each side of the paved road.~~

11.17.1.2 Individual Mobile Home Lots ~~The minimum size of individual mobile home lots shall conform to the standards of 30-A § 4358.~~ 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.

11.17.1.3 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.

11.17.1.4 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.

11.17.1.5 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.

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11.17.1.6 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.

11.17.1.7 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.

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

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

11.18 One Family Residences in the RP District The Planning Board may waive the structure setback requirements and approve the construction of a one family residential dwelling in the Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

Commented [M3]: Should we move this to the RP District provisions – currently a reference to this section

11.18.1 There is no location on the property, other than a location within the Resource Protection District, where the dwelling can be built;

11.18.2 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;

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

11.18.3.1 Located on natural ground slopes of less than twenty (20) percent;

11.18.3.2 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;

11.18.3.3 Elevated, including basements, at least one foot above the 100-year floodplain elevation; and

11.18.3.4 Otherwise in compliance with any applicable municipal floodplain ordinance.

11.18.3.4.1 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.

11.18.4 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.

11.18.5 All structures, except functionally water-dependent structures, are set back from all shorelines as far as feasible, but not less than seventy-five (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.

11.19 Public Facilities

11.19.1 Parking areas serving public boat launching facilities shall be setback no less than fifty (50) feet from the shoreline if the Planning Board finds that no other reasonable alternative exists further from the shoreline.

11.19.2 Picnic areas, public wells and drinking water springs and water supply intake points shall be set back one hundred (100) feet from registered farmland.

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

11.19.3 The restrictions on clearing of vegetation the Shoreland overlay District 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.

11.20 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 four (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, and that the applicant demonstrates that no reasonable access alternative exists on the property.

11.21 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 eighty (80) square feet in area or eight (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.

11.22 Wind turbines may be placed on lots with at least forty thousand (40,000) square feet in accordance with the Table of Land Uses in 7.6 and shall be placed on the lot so that the distance from any lot line shall be at least two times the maximum height.

11.22.1 The height of the turbine shall be measured to the maximum height of the rotating blades.

11.22.2 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.

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

11.23 Communications towers

11.23.1 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.

11.23.1.1 Colocation on an existing communications tower or other existing structure (e.g., water tower).

11.23.1.2 A new facility on public or private property in the Manufacturing/Business District (MB), Marine Commercial District (MC) or Bigelow Laboratory Contract Zone Districts.

11.23.1.3 A new facility on public or private property in the Commercial Corridor District (CC), Rural Mixed-Use District (RMU), or Scenic Gateway District (SG).

11.23.1.4 A new facility on public or private property in the Boothbay Village Mixed-Use District (BVMU), Residential District (R), Coastal Residential District (R-C), Water Reservoirs Protection Districts (WRP or WRP-27) or Well Head Protection Districts.

11.23.1.5 A new facility on public or private property in the Boothbay Village Center District (BVC), Boothbay Village Fringe District (BVF), or East Boothbay Village District (EBV).

11.23.2 Height

11.23.2.1 Within the Residential, Coastal Residential, Water Reservoirs Protection, Village Mixed-Use, Well Head Protection, Boothbay Village Center, Boothbay Village Fringe, or East Boothbay Village Districts, the standard height limit for a new communications tower shall be one hundred thirty (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 twenty (20) feet, to a maximum of one hundred fifty (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 twenty (20) feet, to a maximum of one hundred ten (110) feet if the Planning Board finds through review that reducing the tower height most effectively screens and mitigates 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 11.23.8.

11.23.2.2 Within the Manufacturing/Business, Marine Commercial, Commercial Corridor, Rural Mixed-Use, or Scenic Gateway Districts and the Bigelow Laboratory Contract Zone Districts, the height limit for a new communications tower or the expansion of an existing communications tower shall be two hundred (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 twenty (20) feet, to a maximum of one hundred eighty (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.

11.23.3 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 (125) percent 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 sixty (60) percent 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.

11.23.4 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 one hundred fifty (150) percent 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.

11.23.5 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.

11.23.6 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 mono-pine towers, as determined by the Planning Board.

11.23.7 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 twelve (12) feet above ground level, located and shielded to minimize light pollution, and illuminated only as necessary for work or safety at the facility.

11.23.8 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.

11.23.9 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.

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

11.23.11 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 ninety (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.

- 11.23.12 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.
- 11.23.13 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.
- 11.23.14 Fencing** A new communications tower must be fenced to discourage trespass on the facility and to discourage climbing on any structure by trespassers.
- 11.23.15 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.
- 11.23.16 Abandonment** A communications tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The Code Enforcement Officer 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 Code Enforcement Officer 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.
- 11.23.17 Removal** 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.

11.23.18 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.

11.23.19 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:

11.23.19.1 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:

11.23.19.1.1 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;

11.23.19.1.2 negotiate in good faith for shared use of the communications tower by third parties;

11.23.19.1.3 allow shared use of the communications tower if an applicant agrees in writing to pay reasonable charges for co-location; and

11.23.19.1.4 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.

11.23.19.2 The proposed facility will comply with all FCC standards for radio frequency emissions. Upon request by the Town, the applicant shall certify such compliance.

11.23.19.3 Upon request, the applicant shall provide the Town with a list of tenants of the facility.