

Chapter 2. Administration of Government

§ 2-5. Board of Selectmen.

- A. The administration of all fiscal and municipal affairs of Boothbay Harbor, except as otherwise herein provided, with particular reference to the town manager plan, shall be vested in the Board of Selectmen, consisting of five members. The Board of Selectmen shall exercise its powers in the manner herein provided and shall also serve as the Overseers of the Poor. The members of the Board of Selectmen shall constitute the municipal officers of the Town of Boothbay Harbor for all purposes required by law and, except as otherwise herein provided, shall have all the powers and authority given to the Board and perform all duties required of municipal officers of towns under the laws of this state. Members of the Board of Selectmen shall be elected at large by the qualified voters of the Town of Boothbay Harbor for terms of three years. At the first meeting following the Annual Town Meeting, the Board of Selectmen shall elect a Chairman and Vice Chairman among its members to serve one-year terms.
- B. Board to be custodian of land and property. The Board of Selectmen shall have the legal custody of all Town and public property, buildings, and lands.
- C. Compensation. Each member of the Board of Selectmen shall receive an annual compensation for his or her services. The Board of Selectmen by order shall fix the salaries of officials appointed by the Board of Selectmen, including the salary of the Town Manager for his or her services as such and for all other services rendered by him or her.
- D. Appointment of auditing agency or accountants. Prior to the end of each fiscal year, the Board of Selectmen shall designate a qualified public auditing agency or private accountant(s) who, as of the end of the fiscal year, shall make an independent audit of all accounts and other evidences of financial transactions of the Town. The auditing agency or accountants shall submit their report to the Board of Selectmen and the Town Manager. The accountants shall have no personal interest, direct or indirect, in the fiscal affairs of the Town or of any of its officers.

Chapter 73. Amusement Devices, Coin-Operated

§ 73-6. License required; fee.

It shall be unlawful for any person, firm, corporation or association to keep for public patronage or to permit or allow the operation of any coin-operated amusement device in or on any public premises or location under his or her or its charge, control or custody without having first obtained a license therefor from the Clerk of the Town of Boothbay Harbor. Said license shall be issued by the Clerk upon the payment to the Town Treasurer of the annual fee of twenty-five dollars (\$25.) for each machine located at said premises, and said license shall expire on June 30 of each year.

[1] *Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.*

Town of Boothbay Harbor, ME
Friday, March 25, 2022

Chapter 74. Amusements

§ 74-5. Fee.

[Amended 3-7-1983 by ATM Art. 53]
The fee for a special amusement permit shall be \$20.

Chapter 170. Land Use

Article II. Administration and Enforcement

§ 170-15. Revocation of permits.

- A. Stop-work order. Should the Code Enforcement Officer find that information supplied to obtain a building permit is in error or the work permitted has been exceeded, the Code Enforcement Officer shall issue a stop-work notice revoking the permit. This action shall be accomplished by means of a verbal notification to the applicant or working crew or by posting of a stop-work notice at the entrance to the site or attaching the notice to the structure itself. This action shall be followed up by a written notice of violation as required herein.
- B. Vested rights. Nonconforming use rights do not arise by the mere filing of a notice of intent to build, an application for a building permit or an application for required state permits and approvals. Such rights arise when actual substantial construction has begun or, in the case of pending applications, when the substantive review process to determine complete application commences. Such construction must be legal at the time it is commenced and the owner must be in possession of and in compliance with all validly issued permits, both state, federal and local.

Chapter 170. Land Use

Article II. Administration and Enforcement

§ 170-20. Enforcement.

- A. Notice of violations. If the Code Enforcement Officer shall find that any of the provisions of this Land Use Code are being violated, s/he shall notify by certified mail the person responsible for such violation, indicating the nature of the violation and the state/local regulations regarding fines, and order the action necessary to correct it. S/he shall order discontinuance of illegal use of land, buildings, structures, additions, alterations or structural changes thereto or discontinuance of any illegal activity.
- B. Legal action. When the above action does not result in the correction or abatement of the violation or nuisance condition, the municipal officers are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Land Use Code in the name of the municipality. The municipal officers or their authorized agent are hereby authorized to enter into an administrative consent agreement for the purpose of eliminating violations of this Land Use Code and recovering/ collecting fines due to the Town without court action.
- C. Fines. Any person being the owner or occupant of or having control or use of any building, structure or premises, including any business, corporation, organization or contractor, who violates a provision of this Land Use Code, shall be guilty of a civil offense, and upon conviction, shall be punished by a fine of not more than \$2,500 and not less than \$100 for each offense (Title 30-A, § 4452). Each day that such violation continues after notification shall constitute a separate offense. In the event that the Code Enforcement Officer gives a violator a specific period of time in which to correct such offense, the number of offenses shall be calculated from the date of original notification.

Chapter 170. Land Use

Article III. Zoning Districts

§ 170-28. Schedule of Dimensional Requirements.

[Amended 8-6-2001 by STM Art. 2; 5-6-2002 by ATM Art. 20; 5-2-2005 by ATM Art. 78; 6-13-2007 by STM Art. 22; 6-13-2007 by STM Art. 24; 5-2-2009 by ATM Art. 90; 5-8-2010 by ATM Art. 69; 5-6-2011 by ATM Art. 28; 5-3-2013 by ATM Art. 31; 5-3-2013 by ATM Art. 32; 5-5-2018 by ATM Art. 25; 5-3-2019 by ATM Art. 3]

		GR	SR	DB	WW and LC/M	GB	RP
	Minimum Land Area per Dwelling Unit or Use (square feet)						
	With Town water and sewer ^{H, K}	10,000	10,000	Residential 10,000 All other 2,000	10,000	Residential 10,000 All other 40,000	4 acres
	With Town water unsewered	20,000	20,000			Residential 20,000 All other 40,000	4 acres
	No Town water, unsewered	Multi- family 20,000 All other 40,000	40,000			Multi- family 20,000 All other 40,000	4 acres

		GR	SR	DB	WW and LC/M	GB	RP
Minimum Street Frontage (feet)		50	50	50	50	50	100
Minimum Setbacks from Center Line of Public Road or Center of Right-of- Way 25 Feet in Width or Greater							
	With Town water and sewer ^H	30	30				
	With Town water, unsewered	60	60				
Minimum Land Area per Dwelling Unit or Use (square feet)							
	No Town water, unsewered	60	60				
	Residential			30 ^A	30 ^A	S. of 27/96 30 ^B N. of 27/96 300 ^B	
	Com- mercial			25 ^A	25 ^A	60 ^{A,B}	
	All other			30 ^A	25 ^A	60 ^A	

		GR	SR	DB	WW and LC/M	GB	RP
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Chapter 170. Land Use

Article V. Site Plan Review

§ 170-66. Site plan review application.

A. Procedure.

- (1) The application and all required documentation shall be submitted to the Town at least 21 days prior to the Board meeting at which the applicant wishes to be heard. If a preapplication conference was held, the site plan shall generally conform to the layout shown on the sketch plan plus any recommendations made by the Board.
- (2) The application shall be accompanied by a fee for site plan review as established in a Town fee schedule, revised from time to time by the Board of Selectmen and payable to the Town of Boothbay Harbor, Maine, with a note indicating the specific purpose of the fee. The application shall not be placed on the agenda for a Board meeting until such fee has been paid. In addition, if the Planning Board determines that professional review of the site plan application is required, the applicant shall deposit into escrow an additional fee in an amount determined by the Board to cover the cost of such review. The Planning Board shall not schedule any further review of the application until such professional review fee is paid. When 75% of the escrow has been disbursed, review of the application shall cease until the applicant replenishes the escrow in an amount to be determined by the Board. Any part of this escrow payment in excess of the final costs for review shall be returned to the owner or the owner's agent.
- (3) The Code Enforcement Officer shall initially review the application and determine whether it is complete or not. If the application is found to be incomplete, the Code Enforcement Officer shall, within 10 days, notify the applicant in writing of the information needed to complete the application. Upon the applicant's submission of such additional information and upon the Code Enforcement Officer's determination that the application is complete, the Code Enforcement Officer shall forward the application and supporting documents to the members of the Planning Board and place the project on the agenda of the next regular Board meeting, occurring not less than 14 days after the application was determined to be complete.

- (4) Abutting property owners shall be notified by mail of a pending application by the Town. This notice shall indicate the time, date and place that the Planning Board will consider the application.
- (5) The applicant, or a duly authorized representative, shall attend the designated meeting of the Planning Board to present the site plan application. Failure to attend this meeting shall result in a delay of the Board's action on the application until the next regularly scheduled meeting which the applicant or authorized representative attends. The applicant or authorized representative shall also attend any public hearing on the application to address questions of the Board and the public. If the applicant or representative fails to attend the public hearing, the Planning Board may either postpone the public hearing to a later date, in which case the applicant shall be required to pay all costs associated with rescheduling the hearing, or proceed with the public hearing in the applicant's absence and close the record at the conclusion of the public hearing, in which case the Planning Board may decide to cancel the application and end any further input from the applicant.
- (6) The Planning Board shall review the application and determine whether it is complete or if the application requires any specific additional material to meet this criteria.
- (7) If the application is determined to be complete, the Board shall then deem the application to be pending and determine whether or not to schedule the application for a public hearing. If a hearing is scheduled, it must be held within 30 days of acceptance of the application. Notice of the time, place, and date of such hearing shall be sent not less than 10 days before the hearing to the applicant and to owners of property within 250 feet of the properties involved. Property owners shall be those listed in the most recent tax records of the Town of Boothbay Harbor. Notice shall also be published at least twice in newspapers in general circulation for the Town of Boothbay Harbor, the first date of which shall be at least 14 days prior to the public hearing. Failure to receive notice shall not invalidate the public hearing held.
- (8) Within 60 days of receipt of a completed site plan review application or within 30 days of a public hearing, the Board shall take action to give final approval, with or without modifications, or disapproval of such application. The reason for any modification required or the grounds for disapproval shall be stated in the records of the Board, with a copy provided to the applicant. The time period may be extended by written request resulting in mutual agreement between the Board and the applicant.
- (9) Site plan review approval shall expire after a period of three years after the date of approval if substantial development has not begun or after a period of five years after the date of approval if development is not complete. A statement to this effect must appear on all approved plans.
- (10) Prior to making any change, modification, or revision to any aspect of a development approved by the Board pursuant to this chapter, the plan must be resubmitted to the Board for its review and approval of the proposed modifications. A public hearing may be held as prescribed in § **170-66A(7)**.

Chapter 170. Land Use

Article IX. Subdivision Review

§ 170-104. Subdivision applications.

A. Preapplication.

(1) Procedure.

- (a) The subdivider shall submit for informal discussion a sketch plan and other data relative to the proposed subdivision which may be of assistance to the Planning Board in making its determination.
- (b) The sketch plan shall be submitted to the Board at least 21 days prior to the first Board meeting of the month during which the subdivider wishes to be heard. Ten copies of the sketch plan shall be submitted.
- (c) The Code Enforcement Officer shall determine whether the sketch plan application is complete and shall not schedule the application for Planning Board review until it is found complete and any applicable fees are paid.
- (d) At said meeting, the Board and the subdivider shall arrange for a joint inspection of the site with the Board.
- (e) Within five days after the next regularly scheduled Planning Board meeting following the preliminary site inspection, the Board shall inform the subdivider in writing that the plans and data as submitted or as modified do or do not meet the objectives of these standards. Specific suggestions, in writing, to be incorporated by the applicant in the applicant's subsequent submissions shall be made where deemed necessary.
- (f) The applicant shall be limited to one preapplication meeting and one clarification meeting with the Planning Board prior to the submission of an application for a major or minor subdivision.

(2) Submissions.

- (a) The sketch plan shall show, in simple sketch form, neatly done and to scale the proposed layout of streets, lots and other features in relation to existing conditions. The sketch plan shall include the information listed below.

[1] Boundary lines.

- [2] Easements: location, width, and purpose.
 - [3] Streets on and adjacent to the tract: name and right-of-way width and location.
 - [4] Walks, curbs, gutters, culverts and other known and located underground structures within the tract and immediately adjacent thereto.
 - [5] Existing utilities on and adjacent to the tract.
 - [a] Location of all proposed and existing sewers and water mains.
 - [b] Location of fire hydrants, electric and telephone poles.
 - [c] Streetlights.
 - [d] If proposed and/or existing water mains or sewers are not on or adjacent to the tract, indicate the distance to and size of nearest ones.
 - [6] Soil test data adequate to show that the subsurface soil conditions on the tract will accommodate the proposed development.
 - [7] Type of land use on and adjacent to the tract.
 - [8] Proposed name of the subdivision or identifying title. This name shall not duplicate or closely resemble the name of a subdivision already existing or proposed in the Town.
 - [9] The date, North point, graphic map scale, name and address of the record owner and subdivider, and the names of adjoining property owners.
- (b) General subdivision information shall describe or outline the existing conditions of the site and the proposed development as necessary to supplement the drawing required above. This information shall include:
- [1] Data on existing covenants.
 - [2] A medium-intensity standard soil survey.
 - [3] Available community facilities and utilities.
 - [4] Information describing the subdivision proposal such as:
 - [a] Number of residential lots;
 - [b] Typical lot width and depth;
 - [c] Playgrounds, park areas, open lands and other public areas;
 - [d] Proposed protective covenants; and
 - [e] Proposed utilities and street improvements.
 - [5] The name, address and phone number of the owner of the property and the applicant, if different, and the street address, map and lot of the property to be subdivided.

Chapter 170. Land Use

Article X. Appeals

§ 170-108. Board of Appeals.

- A. Establishment and composition. The Board of Selectmen shall make appointments to a Board of Appeals as specified in 30-A M.R.S.A. § 2691, or as amended. The Board of Appeals shall consist of five members and two alternate members, each of whom shall be a resident of Boothbay Harbor. The terms of office shall be three years, except that the initial term of the second alternate member appointed shall be for two years only. A vacancy in the office of a member shall be filled for the unexpired term only. No business of the Board shall be transacted under this article unless three members are present. Any member of the Board may be removed for cause by the Selectmen upon written charges and after public hearing. The members of the Board of Appeals shall receive no compensation for their services. The Board shall select a Chairman and Secretary from its own membership and shall adopt from time to time such rules and regulations as it may deem necessary to carry out the duties conferred on it by this article. Members may be eligible for appointment for no more than two consecutive terms, after which one year must elapse before reappointment. The Chairman shall designate which alternate member shall serve in place of the absent member who shall function as a full voting member of the Board for that meeting.
- B. Minutes of proceedings. The Board of Appeals shall keep minutes and a recording of its proceedings, recording the vote of each member upon each matter coming before the Board for the vote and indicating the absence or failure to vote, as the case may be, of any member. The minutes of the Board's proceedings and all correspondence required by this article to be made by the Board shall be a public record.
- C. Conflicts of interest. Members of the Board of Selectmen, Planning Board members and the Code Enforcement Officer or any of their spouses shall not simultaneously serve on the Board of Appeals. Any questions of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority of the members except the member who is being challenged.
- D. Power and duties.
- (1) Appeals shall be from decisions of the Code Enforcement Officer to the Board of Appeals except that, for site plan review and subdivision review, the appeal shall be from the decision of the Planning Board to the Board of Appeals. For any variance granted from the requirements of the shoreland zoning regulations,^[1] the Department of Environmental Protection shall be notified within 14 days of the decision. Any appeal denied by the Board of Appeals may be appealed to the Superior Court in accordance with Maine State Rules of Civil Procedures, Rule 80B.
[Amended 5-8-2010 by ATM Art. 73]
^[1] *Editor's Note: See Art. VIII of this chapter.*
- (2) The Board of Appeals shall have the following powers and duties:
- (a) Administrative appeals shall be an appellate hearing. If new facts or evidence are available, the matter shall be referred back to the Planning Board or Code Enforcement Officer for a new decision based on the additional information. Administrative appeals: to hear and decide where it is alleged there is an error on any order, requirement, decision or determination made by the Code Enforcement Officer or by the Planning Board. The action or inaction of the Code Enforcement Officer or Planning Board may be modified or reversed by majority vote of those present and voting. This may include enforcement actions.
[Amended 5-3-2008 by ATM Art. 88]

Chapter 170. Land Use

Article X. Appeals

§ 170-109. Appeals procedure.

A. Filing of appeal.

- (1) In all cases, a party aggrieved by a decision of the Code Enforcement Officer and/or the Planning Board shall file an appeals request within 30 days of the action complained of.
- (2) The request for appeal shall be filed with the Code Enforcement Officer.
- (3) The appeal filed must include:
 - (a) A concise written statement indicating what relief is requested, and why it should be granted, and what Article of this Land Use Code is involved.
 - (b) A sketch drawn to scale showing lot lines, location of existing and proposed buildings and structures, contours at realistic intervals, and other physical features of the lot pertinent to the relief sought.
 - (c) The names and addresses of abutting property owners.
- (4) Additional information deemed necessary by the Board of Appeals to make a fair and equitable decision shall be supplied by the applicant upon request.
- (5) The application must be signed by the applicant.
- (6) All variances and administrative appeals by an aggrieved party shall be accompanied by a fee payable to the Town of Boothbay Harbor as established by the Boothbay Harbor Board of Selectmen.

B. Notification.

- (1) Notification of Town officials. The Code Enforcement Officer shall notify the Board of Appeals and the