

§ 170-21 Districts established.

For the purpose of this Land Use Code, the Town of Boothbay Harbor is divided into the following districts:

General Residential District

Special Residential District

Downtown Business District

~~Maritime/Water Dependent District~~ Limited Commercial/Maritime District

Working Waterfront District

General Business District

Resource Protection District

§ 170-22 Zoning Map.

The location and boundaries of the above districts are hereby established as shown on the map entitled "Zoning Map of the Town of Boothbay Harbor Zoning Map," dated 5-3-1999 May 4, 2019, filed with the Town Clerk, which map is hereby made part of this Land Use Code.^[1] Where uncertainty exists with respect to district boundaries as shown upon such map the following rules shall apply:...

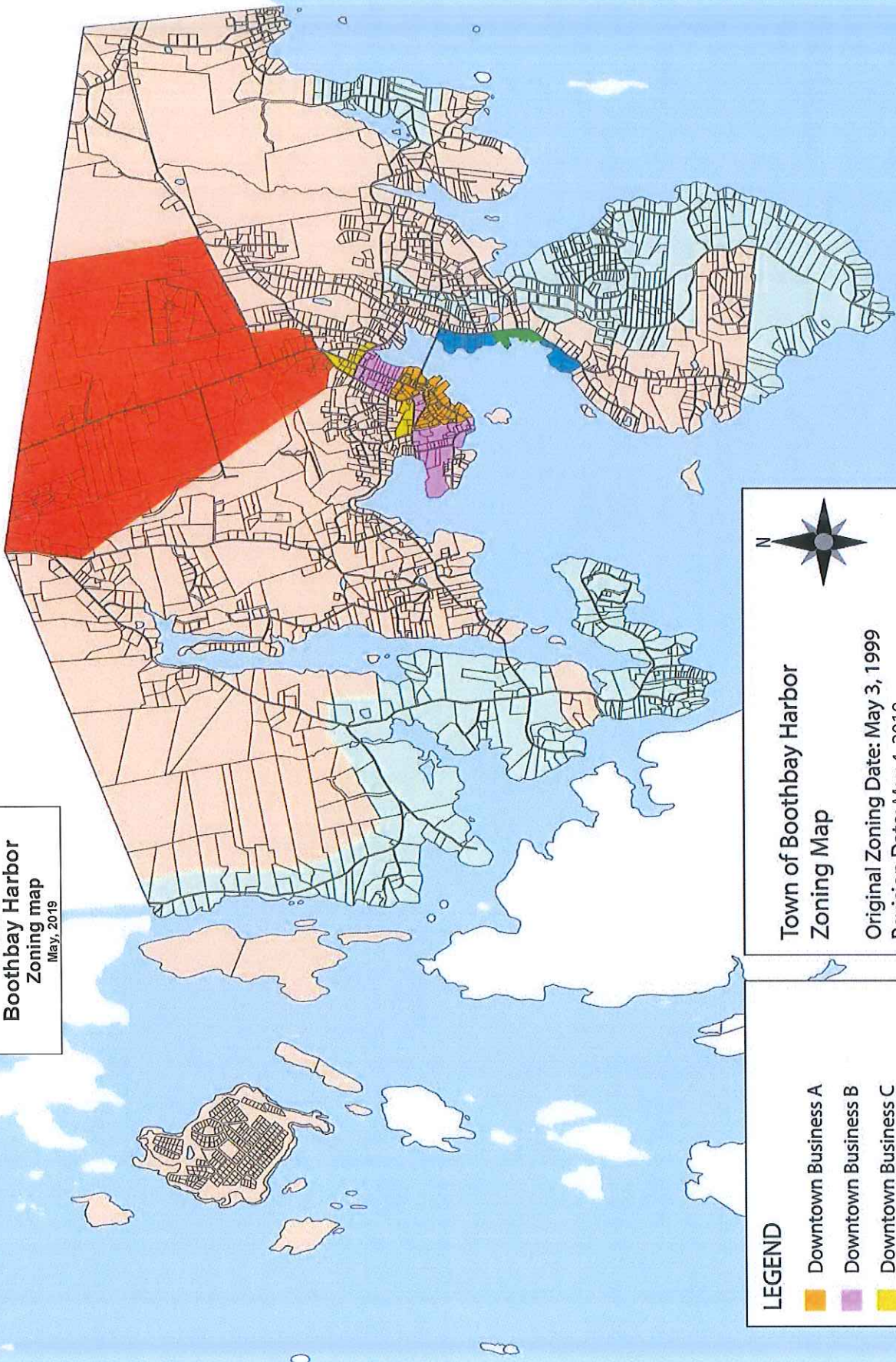
§ 170-25 Purpose of districts.

~~D. Maritime/Water Dependent District~~ Working Waterfront District The purpose of the ~~Maritime/Water Dependent~~ Working Waterfront District is to reserve a reasonable portion of the Boothbay Harbor waterfront for traditional water-dependent uses. The intention of this land use district is to protect traditional commercial water-dependent uses such as commercial fishing, boat building, marine service and repair, etc., from other competing but incompatible uses; to conserve points of public access to coastal waters; and to give preference in identified areas to commercial water-dependent uses over recreational and residential uses.

E. Limited Commercial/Maritime District . The purpose of the Limited Commercial/Maritime District is to reserve a reasonable portion of the Boothbay Harbor waterfront for the protection of traditional water-dependent uses such as bait suppliers, wholesale and retail lobster and fish markets, boat launching ramps, marine repair, marinas and similar marine activities; to allow development of new, compatible non-maritime uses such as hotels, restaurants, and similar uses, and the creation of new opportunities for public waterfront access and conservation of existing public physical and visual access to coastal waters.

Re-letter current paragraphs E,F, and G. to new F, G, and H.

**Town of Boothbay Harbor
Boothbay Harbor
Zoning map
May, 2019**



LEGEND

- Downtown Business A
- Downtown Business B
- Downtown Business C
- General Business
- Working Waterfront
- Limited Commercial/Maritime
- Special Residential
- General Residential

**Town of Boothbay Harbor
Zoning Map**

Original Zoning Date: May 3, 1999
Revision Date: May 4, 2019

0 0.25 0.5 0.75 1 Miles

Lincoln County Regional Planning Commission, 2014

**Town of Boothbay Harbor
Zoning Map**
Approved by:
Annual Town Meeting
Certified by attached signature.
Michelle Farnham, Town Clerk
Date: _____

§ 170-26 Description of districts.

D. The Limited Commercial/ Maritime/Water Dependent Districts

(1) The Maritime/Water Dependent District The Limited Commercial/Maritime District shall be described as all of the area included within the following perimeter: Beginning at the eastern end of the footbridge and continuing in an easterly direction along the footbridge rights-of-way until it intersects Atlantic Avenue; thence south along the center line of Atlantic Avenue to a point between Lot No. 30 and No. 32 of Tax Map No. 10 dated April 1, 2013; thence along said property line to the water; thence generally northerly direction along the water's edge to the point of beginning.

(2) Exemption: The Lots 19,20,21,22,22A, and 23 on the Town's Tax Map 16, dated April 1, 2013, are not included in the Limited Commercial/Maritime District.

Added 5-6-2002 by ATM Art. 20}

E. The Working Waterfront District

The Working Waterfront District shall be comprised of lots 19,20,21,22,22A and 23 on the Town's Tax Map 16, dated April 1, 2013.

Re-letter current paragraphs E, F, and G, to new F, G, and H.

§ 170-27 Schedule of uses.

A. Activity categories. Land uses permitted in the town's zoning districts, in conformance with the performance standards contained in Article IV, are shown in a matrix in § 170-27E. The various land uses contained in the matrix are organized into the following activity classifications:

- (1) Open Space.
- (2) Residential.
- (3) Commercial.
- (4) Industrial.
- (5) Institutional.
- (6) Miscellaneous.

B. Symbols used in Schedule of Uses. The following symbols contained in the Schedule of Uses have the following meanings:

(1) District symbols:

GR	General Residential District
SR	Special Residential District
DB	Downtown Business District
<u>MW</u>	<u>Maritime/Water Dependent District</u>
<u>WW</u>	<u>Working Waterfront District</u>
<u>LC/M</u>	<u>Limited Commercial/Maritime District</u>
GB	General Business District
RP	Resource Protection District

(2) Permit-required symbols:

[Amended 5-3-2008 by ATM Art. 80]

Y	Uses allowed without a permit
C	Uses requiring a building permit or other type of permit from the Code Enforcement Officer
P	Conditional uses and requiring site plan review approval from the Planning Board in accordance with the requirements of Article <u>Y</u> of this Land Use Code
^{1,2} , etc.	Numbers adjacent to letter symbols refer to notes at the end of the Schedule of Uses which contain additional requirements.
Blank	Not permitted

E. Schedule of Uses

Replace the existing Maritime/Water Dependant (MW) uses with the attached spreadsheet.

Notes to Schedule of Uses:

15 new residential uses are limited to upper floor locations above commercial uses and shall be considered a separate use.

17 first requires Selectboard approval under the Wharves and Weirs act.

18Functionally water-dependent uses and uses accessory to such water dependent uses only

Schedule of Uses

	Limited Commercial	Working Waterfront	Limited Commercial	Working Waterfront
Open Space Uses				
Structures accessory to allowed uses	C	C	N/A	N/A
Earthmoving activities of less than 100 cubic yards but greater than 10 cubic yards	C	P	N/A	N/A
Earthmoving activities of more than 100 cubic yards	P	P	P	N/A
Outdoor conservation and recreational uses not operated for profit	P	N/A	P	N/A
Forest management, except timber harvesting	Y	Y	P	N/A
Roads, driveways and parking areas	Y	Y-18	C	N/A
Nonresidential	P	P	C	N/A
Fire prevention activities	Y	Y	C	N/A
Water-Oriented Uses				
Accessory uses or structures	C	C	P	N/A
Aquaculture uses. No processing or storage	C	C	N/A	N/A
Aquaculture products, processing, warehousing, retail and wholesale sales	P	P	P	N/A
Boat building and repair, commercial operations	P	C	P	N/A
Boathouses*	C	P	P	N/A
Breakwaters and causeways	P	P	N/A	N/A
Marinas	P	P	N/A	N/A
Marina expansion	P	P	N/A	N/A
Piers, docks and wharves	C ¹⁷	C ¹⁷	N/A	N/A
Seafood products, processing, warehousing, retail and wholesale sales	P	P	N/A	N/A
Tour or charter boat operations	C	C	C	N/A
Residential Uses				
Accessory structures	C	C	N/A	N/A
Residential association uses or structures	P	N/A	C	N/A
Boarding houses	C	N/A	C	N/A
Dwellings	P ¹⁵	N/A	C	N/A
Home occupations	C	N/A	P	N/A
Manufactured Housing exclusive of mobile homes (modular)	P ¹⁵	N/A	N/A	N/A
Multifamily dwellings	N/A	N/A	C	N/A
Single-family dwellings	P ¹⁵	N/A	N/A	N/A
Commercial Uses				
Accessory uses and structures	C	P	C	C
Auction barns	N/A	N/A	C	N/A
Automobile sales	N/A	N/A	C	N/A
Banks and financial institutions	P	N/A	C	P
Bed and breakfasts	P	N/A	P	P
Commercial farms, gardens, nurseries and greenhouses	N/A	N/A	C	C
Commercial gymsnasiums, fitness centers	P	N/A	C	C
Funeral homes				
Gasoline services stations				
Laundromats, dry cleaning				
Micro-breweries				
Hotels, hotels inns				
Neighborhood grocery stores				
Outdoor recreational uses operated for profit				
Parking areas/jobs				
Parking facilities				
Professional offices				
Recreation facilities (indoor)				
Resort areas				
Restaurants				
Retail establishments				
Service establishments				
Theaters				
Veterinary clinics				
Wholesale establishments				
Wireless communications facilities				
Industrial Uses				
Accessory uses and structures				
Light industry				
Institutional and Public Uses				
Accessory structures				
Churches				
Community service organizations				
Health clinics (do not include marijuana or methadone clinics or dispensaries)				
Hospice				
Hospital				
Municipal, county, state and federal uses and structures not otherwise listed				
Nursing homes				
Public recreation				
Social and fraternal organizations				
Yacht clubs (private and non-profit)				
Other Uses				
Public utilities, uses and buildings				
Public utility lines and substations				

Permit-required symbols:
 [Amended 5-3-2008 by ATM Art. 80]
 Y: Uses allowed without a permit
 C: Uses requiring a building permit or other type of permit from the Code Enforcement Officer
 P: Conditional Uses and requiring site plan review approval from the Planning Board in accordance with the requirements of Article V of this Land Use Code
 1, 2, etc.: Numbers adjacent to letter symbols refer to notes at the end of the Schedule of Uses which contain additional requirements.
 N/A: Not allowed
 *: Boothouses that are having more than 50% of the structure repaired are not allowed

Approved by Planning Board 1/9/2019
 Amended by BOS: 1/29/2019 (removed home occupations from Working Waterfront)

Amended by DEP 1/29/19 (removed restaurants, churches, professional uses, parking areas/jobs, outdoor recreation areas operated for profit, and outdoor conservation and recreation uses not operated for profit). Added #18 footnote to "Roads, driveways and parking areas"

§170-28 Schedule of Dimensional Requirements

Replace MW with WW & LC/M at all table headings

§ 170-41 Height of building.

B. Unless otherwise specified, the maximum height of a building shall be as follows: 35 feet or 2 1/2 stories, whichever is less.

(1) In the General Business District (commonly known as "the meadow)", the maximum building height shall be 35 feet or 2 1/2 stories, whichever is less.

(2) In all other districts, the maximum height of a building shall be 30 feet or 2 1/2 stories, whichever is less.

(3) (1) Structures within the Shoreland Zoning District must cross reference the height standards specific to those structures within the district.

(4) (2) Exceptions: television or radio towers, church spires, belfries, monuments, water and fire towers, water standpipes, cooling towers, cupolas, chimneys, elevator bulkheads, smokestacks, flagpoles, grain silos and windmills or other structures necessary for essential services.

§ 170-69 Site Plan Review Standards

M. Shoreland Relationship

(3) For a proposed development within the Limited Commercial/Maritime District that will consist of reconstruction or redevelopment of an existing principal non-residential structure in excess of 3,000 square feet of floor area or construction of a new principal non-residential structure in excess of 3,000 square feet of floor area, and is not a functionally water dependent use, the following view corridor standards shall apply.

(a) Unobstructed view corridors from Atlantic Avenue to the harbor shall be created or maintained. As used in this subsection M(3), a view corridor means a strip of land leading from Atlantic Avenue in a straight line to the waterfront, or the line of the lot nearest to the waterfront, and having the specified minimum width for its entire length.

(b) Any view corridor shall be exclusive of any required side setbacks (meaning that areas within a required setback shall not be included as part of a view corridor) and shall be a minimum of 20 feet in width.

(c) Surface parking of vehicles no taller than 6 feet 6 inches may be located within these designated view corridors for a maximum of 30 days. Except for such vehicles, no

vegetation, structure, equipment, or personal property of any kind greater than 4 feet in height, may be located in the view corridor.

(d) One view corridor shall be required for every 100 feet of frontage on Atlantic Avenue. Two or more view corridors may be located adjacent to one another or they may be in separate locations on the lot.

(e) No view corridor shall be created or maintained so as to cause a violation of § 170-101.10(P)(4), except that if § 170-101.10(P)(4) or any other applicable law, ordinance, or regulation would prevent the removal of trees or other vegetation from a view corridor, which such removal would be required from the view corridor, then the Planning Board may issue a special exception permit allowing such trees or other vegetation not to be removed from the view corridor, provided that the Planning Board determines that (i) the landowner has made reasonable efforts to obtain permission to remove such trees or other vegetation, but has been unsuccessful, (ii) the view corridor cannot practicably be relocated so as to render the removal of such trees or other vegetation unnecessary, and (iii) the failure to remove such trees or other vegetation does not substantially interfere with the intended purpose of the view corridor to provide views of the harbor.

§170.82. Nonconforming uses.

C. Change of use. An existing nonconforming use may be changed to another nonconforming use, provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in this article.

- (1) Conversion from one business to another. A change from one type of nonconforming business to another shall be permitted, provided that the creation of any additional parking demands as required by the parking standards are met upon approval.
- (2) Conversion from commercial to multifamily. The conversion of commercial structures to multifamily dwellings shall be prohibited.
- (3) Changes within 75 feet of the high-water mark and over the water. Within 75 feet of the high-water mark and over the water, the following shall be prohibited:
 - (a) The conversion of an existing structure to a motel or hotel of any size.
 - (b) The expansion of a nonconforming use.
 - (c) The projection of second floor overhangs into required setbacks.

(4) ~~(d) Maritime/Water Dependent District Limited Commercial/Maritime and Working Waterfront District conversion. Within 75 feet of the high water mark and over the water, the following shall be prohibited:~~

~~(a) The conversion of a dwelling to nonpermitted commercial uses shall be prohibited.~~

~~(b) The conversion of an existing commercial structure to a motel or hotel of any size or to multifamily dwellings shall be prohibited.~~

~~(e) The conversion of an existing permitted use to a nonpermitted uses shall be prohibited.”~~

§ 170-101.4 Official Shoreland Zoning Map; districts.

A. Official Shoreland Zoning Map. The areas to which this article is applicable are hereby divided into the following districts as shown on the Official Shoreland Zoning Map(s) which is (are) made a part of this article:^[1]

Resource Protection District

Special Residential District/Limited Residential

General Residential District/Limited Commercial

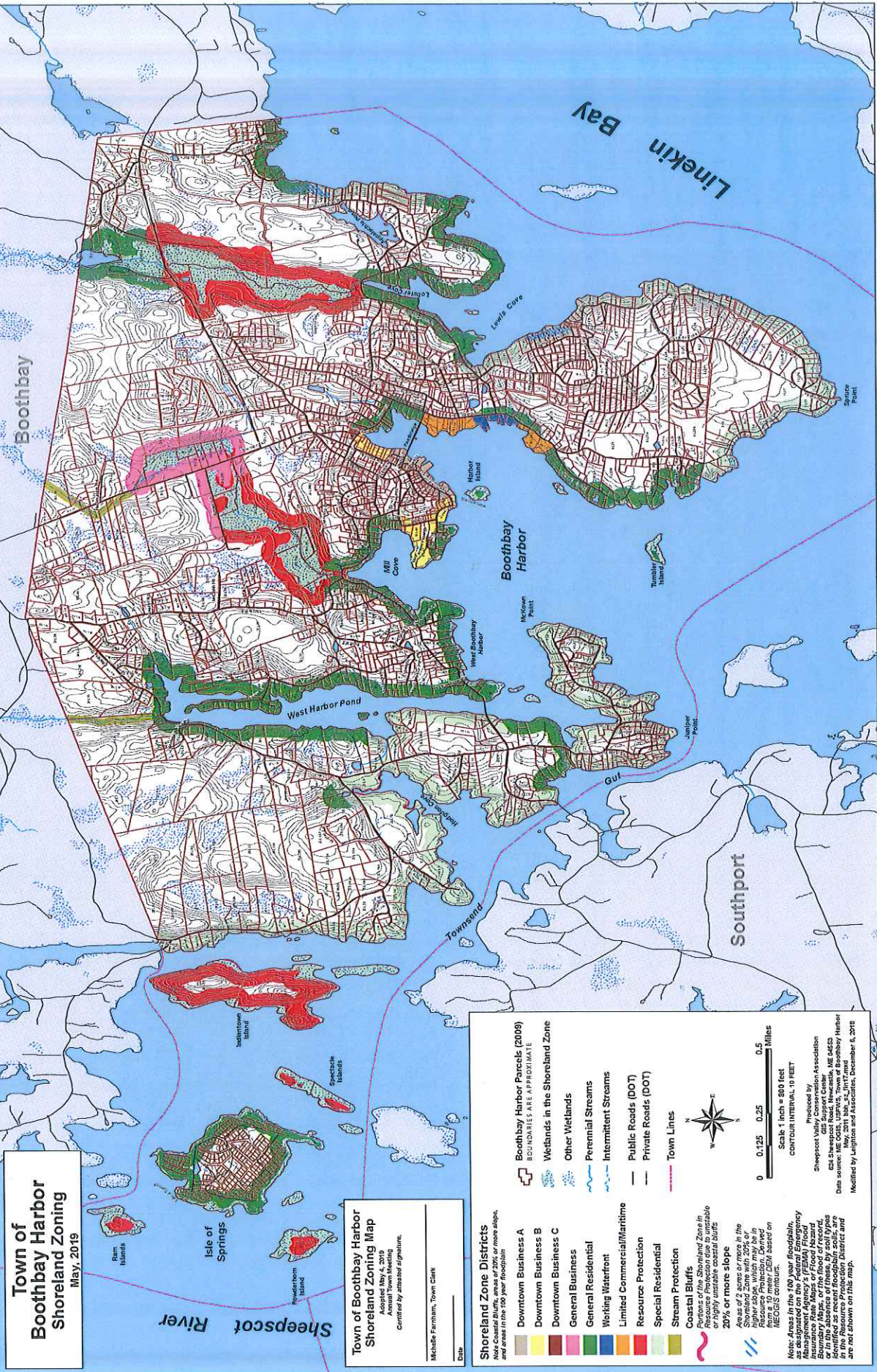
Downtown Business District

General Business District/General Development

Limited Commercial/ Maritime District

Maritime Water Dependent District Working Waterfront District/
Commercial Fisheries/Maritime Activities

Stream Protection District



Town of Boothbay Harbor Shoreland Zoning
May, 2019

Town of Boothbay Harbor Shoreland Zoning Map
Adopted May 4, 2019
Certified by attached signature,
Michelle Ferriman, Town Clerk

Shoreland Zone Districts
and areas in the 500 year floodplain
with more slope.

- Downtown Business A
- Downtown Business B
- Downtown Business C
- General Business
- General Residential
- Working Waterfront
- Limited Commercial/Maritime
- Resource Protection
- Special Residential
- Stream Protection
- Coastal Bluffs

Portions of the Shoreland Zone in Resource Protection and Stream Protection areas with a slope of 20% or more slope.

Areas of 2 acres or more in the Shoreland Zone with 20% or higher slope, which may be used for a building, shall be subject to a 10 meter CEW based on NEDGIS contours.

Note: Areas in the 100 year floodplain, Resource Protection, Stream Protection, and Coastal Bluffs areas are not shown on this map.

Produced by
Sheepscoot Valley Conservation Association
624 Sheepscoot Road, Newcastles, ME 04623
Data source: ME DOTS, Lugsport, Town of Boothbay Harbor
Modified by Luginion and Associates, December 6, 2018

BOOTHBAY HARBOR PARCELS (2009) BOUNDARIES ARE APPROXIMATE

Wetlands in the Shoreland Zone

- Other Wetlands
- Perennial Streams
- Intermittent Streams
- Public Roads (DOT)
- Private Roads (DOT)
- Town Lines

Scale 1 inch = 800 feet
CONTOUR INTERVAL 10 FEET

0 0.125 0.25 0.5 Miles

North Arrow

§ 170-101.8 Establishment of districts.

A. Resource Protection District. The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the Shoreland Zone, exclusive of the Stream Protection District, except that areas which are currently developed and areas which meet the criteria for the Limited Commercial/ Maritime, General Business, General Development I, or Working Waterfront Commercial Fisheries/Maritime Activities Districts need not be included within the Resource Protection District.

B. Special/~~Limited~~ Residential District. The Limited Special Residential District includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection District, or Stream Protection District, and areas which are used less intensively than those in the Limited Commercial/Maritime District, the General Development General Business District, or the Commercial Fisheries/Maritime Activities Working Waterfront District.

The Commercial Fisheries Limited Commercial/Maritime Activities District and Working Waterfront District includes areas where the existing predominant pattern of development is consistent with the allowed uses for this district as indicated in the Table of Land Uses, § 170-101.9, and other areas which are suitable for functionally water-dependent uses, taking into consideration such factors as:

- (1) Shelter from prevailing winds and waves;
- (2) Slope of the land within 250 feet, horizontal distance, of the shoreline;
- (3) Depth of the water within 150 feet, horizontal distance, of the shoreline;
- (4) Available support facilities, including utilities and transportation facilities; and
- (5) Compatibility with adjacent upland uses.

§ 170-101.10 Land use standards.

A. Minimum Lot Standards

	Minimum Lot Area (sq. ft.)	Minimum Shore Frontage (ft.)
(1)		
(a) Residential per dwelling unit		
(i) Within the Shoreland Zone Adjacent to Tidal Areas	30,000	150
(ii) Within the Shoreland Zone Adjacent to Non-Tidal Areas	40,000	200
(b) Governmental, Institutional, Commercial or Industrial per principal structure		
(i) Within the Shoreland Zone Adjacent to Tidal Areas, Exclusive of Those Areas Zoned for Commercial Fisheries and Maritime Activities	40,000	200
(ii) Within the Shoreland Zone Adjacent to Tidal Areas Zoned for Commercial Fisheries and Maritime Activities	NONE	NONE
(iii) Within the Shoreland Zone Adjacent to Non-tidal Areas	60,000	300
(c) Public and Private Recreational Facilities		
(i) Within the Shoreland Zone Adjacent to Tidal and Non-Tidal Areas	40,000	200
(2) Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.		
(3) Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.		

- (4) The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.
- (5) Except as provided for in Note 1, if more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.

B. Principal and accessory structures.

(1) All new principal and accessory structures shall be set back at least 100 feet, horizontal distance, from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, and 75 feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, except that in the Downtown Business I District ~~and in the Commercial Fisheries/Maritime Activities District~~ there shall be no minimum setback. In the Limited Commercial/Maritime and Working Waterfront Districts there shall be no minimum setback for functionally water-dependent uses and a 75 foot setback for residential and other non-residential structures. In the Resource Protection District, the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district, in which case the setback requirements specified above shall apply. In addition:

(2) Principal or accessory structures and expansions of existing structures, which are permitted in the Resource Protection, Special Residential District, General Residential District, and Stream Protection District, shall not exceed ~~30~~ 35 feet in height or 2 1/2 stories, whichever is less. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.

(4) The total footprint area of all structures, parking lots and other nonvegetated surfaces, within the Shoreland Zone shall not exceed 20% of the lot or a portion thereof, located within the Shoreland Zone, including land area previously developed, except in the Downtown Business District adjacent to tidal waters and rivers that do not flow to great ponds classified GPA, and in the Working Waterfront District ~~Maritime Water-Dependent District~~, where lot coverage shall not exceed 70%.

C. Piers, docks, wharves, bridges and other structures and uses extending over or below the normal high-water line of a water body or within a wetland.

(8) Except in the General Business District districts and Limited Commercial/Maritime and Working Waterfront District ~~Commercial Fisheries/Maritime Activities District~~, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed 20 feet in height above the pier, wharf, dock or other structure.

(G) Parking areas.

(1) Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located, except that in the Working Waterfront District Maritime Water Dependent District, parking areas shall be set back at least 25 feet, horizontal distance, from the shoreline. The setback requirement for parking areas serving public boat-launching facilities, in districts other than the General Business District and Working Waterfront District Maritime Water Dependent District, shall be no less than 50 feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.

P. Clearing or removal of vegetation for activities other than timber harvesting.

(4) Cleared openings.

(a) In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, 25% of the lot area within the Shoreland Zone or 10,000 square feet, whichever is greater, including land previously cleared. This provision shall not apply to the General Business District, or the Limited Commercial/Maritime District, or the Working Waterfront District, Maritime Water Dependent District.

§ 170-101.11 Administration

D. Procedure for Administering Permits

(3) After the submission of a complete application to the Planning Board, the Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

(g) Will not adversely affect existing commercial fishing or maritime activities in the Limited Commercial/Maritime District or Working Waterfront District, Maritime Water Dependent District;

§ 170-101.12 Definitions.

As used in this article, the following terms shall have the meanings indicated:

HEIGHT OF A STRUCTURE

The vertical distance between the mean finish grade or the mean original grade, whichever is lowest in elevation, at the structure, and the highest point of the roof. Excluded are, chimneys, steeples, antennas (not antenna dishes or Antenna towers) and similar appurtenances which have no floor area. Cross-reference Chapter 170, § 170-113, for additional standards.

The height of a building shall be measured from the mean original grade or the mean finish grade, whichever is lower in height. As used herein, the mean original grade is the average elevation of the ground at the downhill side of the structure where it is to be constructed before any grading or other alteration. The mean finish grade shall be the average of the finish ground at the downhill side of the structure after the construction and grading is complete.

§170-113 Definitions

HALF STORY - The space under a sloping roof which has the line of intersection of the roof decking and wall face not more than three feet above the top floor level, and in which space not more than 1/2 of the floor area is finished off for use. ~~A half story containing independent apartments or living quarters shall be counted as a full story.~~

§146-5.G is amended to read as follows:

Cluster signs. The use of cluster signs will be limited to the Meadow Business District, Downtown Business Districts, and the Limited Commercial/Maritime and Working Waterfront Districts ~~Maritime/Water Dependent District~~ and when there is more than one business on a lot or in a single building. These signs will be or are limited to one location sign per business and one business or identification sign per business, double-sided allowed. The total area of all business signs in the group may not exceed the total sign area for the district the sign is located in. The landlord will be responsible for allocating sign area or space among the tenants. The layout of the individual signs shall be neat and uniform in size, design and color.

§170 Attachment 7 Table 1 is amended to replace references to Marine/Water Dependent District with Limited Commercial/Maritime and Working Waterfront Districts and references to MW with LC/M and WW