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**Land Use Amendments
Zoning Ordinance**

CHAPTER 15

SEWER

Article I. Sewage Ordinance. [Originally adopted eff. 12/22/1971 under R.S.1964, T.30. §2151 & 4353; Amended eff. 3/15/1995; Amended eff. 6/7/1995, Amended eff. 12/10/2003 and Amended eff. 8/10/2007)

Section 15-1-4. Use of Public Sewers Required.

f. Lots Which Must Connect to the Public Sewer.

The owner of any house, building or other structure used for human occupancy, employment, recreational or other purpose which requires the disposal of sewage and which is located upon a lot eligible to connect to the public sewer as provided above, shall at the owner's expense connect its sewer facility directly to the public sewer, in accordance with the provisions of this ordinance, unless:

- (1) such house, building or other structure is located more than one hundred fifty (150) feet from the public sewer line; or
- (2) such house, building or other structure has as of the effective date of this ordinance disposed of its sewage by a private subsurface sewage disposal system, and such owner has filed with the local plumbing inspector a certification by an authorized soils evaluator that the private subsurface sewage disposal system is not malfunctioning. Such certification shall be presumed valid and accurate but shall not bind the Town or local plumbing inspector in regard to compliance with private sewage requirements set forth elsewhere in this ordinance, the State Plumbing Code, or as otherwise applicable.
- (3) such house, building, or other structure is located in the Town Center Zone as of June 7, 1995 and is in compliance with paragraph (2) above with regard to an existing private subsurface sewage disposal system. Connection to the public sewer shall not be required for a change of use or addition to an existing house, building or other structure located in the Town Center Zone, subject to compliance with the sewage requirements set forth elsewhere in this ordinance, the State Plumbing Code, or as otherwise applicable. [Amended Eff. 6/7/1995]

For the purpose of calculating the one hundred fifty (150) foot measurement set forth in Sub-paragraph 1 above, the measurement shall be made (i) from

1 the end of any stub provided by the Town, otherwise from the public sewer line, (ii) to a
2 point on the building foundation other than the foundation for any garage or other
3 attached accessory building unless it contains a toilet or sink, or contains other facilities
4 regularly generating sewage, (iii) by the shortest route passing through the property in
5 which the owner has the right to install, use and maintain a building sewer. [Added eff.
6 9/27/1978, Revised eff. 8/13/1986]

7
8 (4) Any subdivision lot located in the Residence B District and created
9 after [effective date of this ordinance] shall, at the owner’s expense connect its
10 sewer facility directly to the public sewer, in accordance with the provisions of
11 this ordinance and shall not be eligible for the exemptions provided in
12 paragraphs 1, 2, and 3 above.
13

14 **CHAPTER 19**

15 **ZONING ORDINANCE**

16
17 **SEC. 19-1-3. DEFINITIONS**

18 **Multifamily:** A building containing 2 or more dwelling units (excepting accessory
19 dwelling units), or a mixed use building containing 1 or more dwelling units. **(Effective**
20 **February 12, 2005)**

21
22 **Multiplex Housing:** Multiplex housing is housing containing two (2) or more attached
23 dwelling units, ~~each of which has independent outside access. Multiple units may be~~
24 ~~arranged in a variety of configurations including side by side and/or back to back. A~~
25 ~~multiplex should have the look of large, closely spaced, single family detached units with~~
26 ~~the essential feature being the small number of units attached in one building. Each~~
27 ~~individual building may contain no more than five (5) units with an average of not more~~
28 ~~than four (4) units per building for the entire project, except that the maximum and~~
29 ~~average number of units per building shall not apply in the Town Center District.~~
30 **(Revised effective December 10, 2003)**
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32

33
34 **SEC. 19-6-1. RESIDENCE A DISTRICT (RA)**

35 **A. Purpose**

36
37 The Residence A District includes lands that are outside of the built-up areas of Cape
38 Elizabeth, lands to which public sewer lines are not expected to be extended in the near
39 future, and large tracts suitable for farming, woodland production, and wildlife habitat.
40 The purpose of this district is to allow residential development that is compatible with the
41 character, scenic value, and traditional uses of rural lands and that does not impose an
42 undue burden on the provision of municipal services.
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1 **B. Permitted Uses**

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2. *The following residential uses:*

- a. Single family dwelling
- b. Manufactured housing on an individual lot
- c. Multiplex housing
- d. Eldercare facility, subject to the provisions of Sec. 19-7-6, Eldercare Facility Standards

MINIMUM LOT AREA	
<i>(1) Boat repair facility for commercial purposes</i>	200,000 sq. ft. (4.6 acres)
<i>(2) Multiplex housing</i>	10 <u>5</u> acres
<i>(3) Eldercare facilities</i>	10 acres
<i>(4) Golf Course (Effective February 12, 2003)</i>	150 acres <i>(Effective February 12, 2003)</i>
<i>(5) Wind energy systems (Effective. October 8, 2008)</i>	20,000sq. ft.
<i>(6) Other uses</i>	80,000 sq. ft.
MAXIMUM NUMBER OF DWELLING UNITS PER AREA	
<i>(1) Multiplex housing</i>	1 unit per 66,000 sq. ft. of net residential area
<i>(2) In subdivisions</i>	1 unit per 80,000 sq. ft. of net residential area
<i>(3) In subdivisions that conform to Sec. 19-7-2, Open Space Zoning</i>	1 unit per 66,000 sq. ft. of net residential area
<i>(4) In eldercare facilities</i>	1 unit per 6,000 sq. ft. or 1 bed per 3,500 sq. ft. of net residential area, whichever is less
<i>(5) Other housing</i>	1 unit per 80,000 sq. ft. of gross lot area
MINIMUM SETBACKS	
<i>(1) All uses unless otherwise specified</i>	
(a) Side yard setback	30 ft.

	The side yard setback may be reduced in accordance with Sec. 19-4-3.A.2, Developed Nonconforming Lots. (Effective August 11, 1999)
(b) Rear yard setback	30 ft. The rear yard setback may be reduced in accordance with Sec. 19-4-3.A.2, Developed Nonconforming Lots. (Effective August 11, 1999)
© Front yard setback	The front yard setbacks set forth below may be reduced, only on roads which are not classified arterial, to the average setback of the two principal structures fronting on the same road in closest proximity to the site of the proposed structure, but any structure must be at least 20 feet from the right-of-way.
- Arterial street	50 ft.
- Collector, rural connector, and feeder streets	40 ft.
- Local and private streets	30 ft.
(2) Multiplex housing and eldercare facilities	
(a) From property line	75 ft.

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(5) Open Space Zoning Subdivisions
(See Sec. 19-7-2)

- (a) Side yard setback 20 ft.
- (b) Rear yard setback 20 ft.
- (c) Front yard setback 20 ft.

SEC. 19-6-2. RESIDENCE B DISTRICT (RB)

A. Purpose

The Residence B District is differentiated from the Residence A District in that subdivisions in Residence B are required to be laid out according to the principles of open space zoning, as described in Sec. 19-7-2, Open Space Zoning. The Residence B

District includes lands outside of the built-up parts of Town where the Comprehensive Plan indicates growth can and should be accommodated as a result of soils suitable for individual or common septic systems or the extension of public sewer lines. The purpose of this district is to allow a significant portion of the Town’s anticipated residential growth to occur in these areas, in a manner that preserves the character of rural lands, promotes healthy neighborhoods, offers flexibility in design, and minimizes the costs of municipal services.

B. Permitted Uses

2. The following residential uses:

- a. Single family dwelling
- b. Manufactured housing on an individual lot
- c. Multiplex housing
- d. Eldercare facility, subject to the provisions of Sec. 19-7-6, Eldercare Facility Standards

E. Standards

2. The following Space and Bulk Standards shall apply:

- a. Lots that are part of residential subdivisions approved by the Planning Board after June 4, 1997, shall comply with the terms of Sec. 19-7-2, Open Space Zoning, except that subdivisions for which completed applications have been submitted to the Planning Board prior to June 4, 1997, shall be subject to the regulations in effect at the time of their submission.

MINIMUM LOT AREA	
<i>(1) Eldercare facilities</i>	5 acres
<i>(2) Wind energy systems</i>	20,000 sq. ft. (Effective October 8, 2008)
<i>(3) Other uses</i>	80,000 sq. ft.
MAXIMUM NUMBER OF DWELLING UNITS PER AREA	
<i>(1) In eldercare facilities</i>	1 unit per 3,500 sq. ft. or 1 bed per 2,500 sq. ft. of net residential area, whichever is less
<i>(2) Other uses</i>	1 unit per 80,000 sq. ft. of gross lot area
MINIMUM STREET FRONTAGE	
<i>(1) All uses</i>	125 ft.

MINIMUM SETBACKS	
<i>(1) All uses unless otherwise specified</i>	
(a) Side yard setback	30 ft. The side yard setback may be reduced in accordance with Sec. 19-4-3.A.2, Developed Nonconforming Lots. (Effective August 11, 1999)
(b) Rear yard setback	30 ft. The rear yard setback may be reduced in accordance with Sec. 19-4-3.A.2, Developed Nonconforming Lots. (Effective August 11, 1999)
(c) Front yard setback	The front yard setbacks set forth below may be reduced, only on roads which are not classified arterial, to the average setback of the two principal structures fronting on the same road in closest proximity to the site of the proposed structure, but any structure must be at least 20 feet from the right-of-way.
- Arterial street	50 ft.
- Collector, rural connector, and feeder streets	40 ft.
- Local and private streets	30 ft.
(d) Limit on parking within the front yard	A nonresidential use shall not locate its required off-street parking within the front yard setback
<i>(2) Multiplex housing and eldercare facilities</i>	
(a) From property line	75 ft.

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SEC. 19-6-3. RESIDENCE C DISTRICT (RC)

A. Purpose

The Residence C District includes lands that are within the built-up areas of Cape Elizabeth, are sewerred or can be easily served by public sewer, are identified in the Comprehensive Plan as part of the Town’s growth areas, are not presently in agricultural or woodland uses, and are not considered to be valuable, large-scale open space with

1 valued scenery or wildlife habitat. The purpose of the district is to provide for areas of
2 compact development that can foster cohesive neighborhoods that are close to
3 community services.

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5 **B. Permitted Uses**

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7 **2. The following residential uses:**

- 8 a. Single family dwelling
- 9 b. Manufactured housing on an individual lot
- 10 c. Manufactured housing park, subject to the provisions of Sec. 19-7-7,
11 Manufactured Housing Parks
- 12 d. Multiplex housing
- 13 e. Eldercare facility, subject to the provisions of Sec. 19-7-6, Eldercare
14 Facility Standards
- 15 f. Rooming or boarding home

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17
18 **E. Standards**

19
20 **2. The following Space and Bulk Standards shall apply:**

MINIMUM LOT AREA	
(1) Boat repair facility for commercial purposes	200,000 sq. ft. (4.6 acres)
(2) Multiplex housing	5-3 acres
(3) Eldercare facilities	5 acres
(4) Wind energy systems	20,000 sq. ft. (Effective October 8, 2008)
(5) Others	20,000 sq. ft.
MAXIMUM NUMBER OF DWELLING UNITS PER AREA	
(1) Multiplex housing	1 unit per 15,000 sq. ft. of net residential area
(2) In subdivisions	1 unit per 20,000 sq. ft. of net residential area
(3) In subdivisions that conform to Sec. 19-7-2, Open Space Zoning	1 unit per 15,000 sq. ft. of net residential area
(4) A single-family home on a lot that is not part of a subdivision	1 unit per 20,000 sq. ft. of gross lot area

<i>(5) In eldercare facilities</i>	1 unit per 2,500 sq. ft. or 1 bed per 2,100 sq. ft. of net residential area (Effective May 9, 2007)
<i>(6) Rooming or boarding home</i>	1 bed per 5,000 sq. ft. of gross lot area
<i>(7) Other housing</i>	1 unit per 20,000 sq. ft. of gross lot area
MAXIMUM NUMBER OF BED AND BREAKFAST ROOMS	
<i>Bed and Breakfast Guest Room</i>	1 room per 5,000 sq. ft of gross lot area
MINIMUM STREET FRONTAGE	
<i>(1) Bed and Breakfast</i>	100 ft. on Shore Road or Route 77
<i>(2) All uses</i>	100 ft.
MINIMUM SETBACKS	
<i>(1) All uses unless otherwise specified</i>	
(a) Side yard setback	20 ft. The side yard setback may be reduced in accordance with Sec. 19-4-3.A.2, Developed Nonconforming Lots. (Effective August 11, 1999)
(b) Rear yard setback	20 ft. The rear yard setback may be reduced in accordance with Sec. 19-4-3.A.2, Developed Nonconforming Lots. (Effective August 11, 1999)
(c) Front yard setback	The front yard setbacks set forth below may be reduced, only on roads which are not classified arterial, to the average setback of the two principal structures fronting on the same road in closest proximity to the site of the proposed structure, but any structure must be at least 20 feet from the right-of-way.
- Arterial street	40 ft.
- Collector and rural connector streets	40 ft.
- Feeder street	30 ft.

- Local and private streets	20 ft.
(2) Multiplex housing and eldercare facilities	
(a) From property line	75 ft.

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(5) Open Space Zoning Subdivisions
(See Sec. 19-7-2)

- (a) Side yard setback 15 ft.
- (b) Rear yard setback 15 ft.
- (c) Front yard setback 20 ft.

SEC. 19-6-4. TOWN CENTER DISTRICT (TC)

A. Purpose

The purpose of this district is to encourage an identifiable Town Center that includes a village feeling, mixed retail and residential uses to serve residents, an environment inviting to pedestrians, a common meeting place, visual cohesiveness and enrichment and linkages to the Town's open space and nearby school campus. The Town Center District boundaries reflect the prevalence of public buildings and commercial uses and the historic compactness of development. The Town Center District requirements are tailored to the unique characteristics of the Cape Elizabeth Town Center.

In the center of the Town Center District, there exists a unique compactness of development exemplified by smaller lot sizes and existing structures with compatible space and bulk massing and architectural features. This area shall be designated the Town Center Core Subdistrict. All the requirements of the Town Center District shall apply in the core subdistrict, except where standards specific to the Town Center Core Subdistrict are established.

B. Permitted Uses

2. The following residential uses:

- a. Single family dwelling
- b. Bed and breakfast
- c. Multifamily dwelling unit
- d. Congregate housing, subject to the provisions of Sec. 19-7-6, Eldercare Facility Standards
- e. Rooming or boarding home

D. Standards

1 2. *The following Space and Bulk Standards shall apply:*
 2

MINIMUM LOT AREA	
<i>(1a) Single family dwelling unit</i>	80,000 sq. ft.
<i>(1b) Single family dwelling unit in the Town Center Core Subdistrict</i>	10,000 sq. ft.
<i>(2) Multifamily dwelling unit</i>	7,500 sq. ft.
<i>(3) Wind energy systems</i>	20,000 sq. ft (Effective October 8, 2008)
<i>(4) Other uses</i>	None
MAXIMUM NUMBER OF DWELLING UNITS PER AREA	
<i>(1) Multifamily housing in a mixed use building</i>	1 unit per 3,000 sq. ft. of gross lot area
<i>(2) Rooming or boarding home</i>	1 bed per 5,000 sq. ft. of gross lot area

3
 4 **SEC. 19-6-5. BUSINESS DISTRICT A (BA)**

5
 6 **A. Purpose**

7
 8 The Business A District is comprised of neighborhood business districts in which the
 9 business uses are geared to the needs of nearby residents rather than a large scale,
 10 regional destination center. The district requirements seek to promote (i) business
 11 vitality, (ii) pedestrian connectivity between the business district and the adjacent
 12 residential areas, (iii) a mix of commercial and housing uses, (iv) high quality design that
 13 is pedestrian friendly, compatible with, and protects the integrity of the adjacent
 14 residential neighborhood, and (v) an efficient use of the land within the district for
 15 business uses. The Business A district regulations recognize that the BA District in the
 16 Sore Road area and the BA District in the Ocean House Road area are individually
 17 distinctive and may require different treatments, which are specified herein. **(Effective**
 18 **July 8, 2009)**

19
 20 **B. Permitted Uses**

21
 22 2. *The following residential uses:*

- 23
 24 a. Single family detached dwelling existing as of April 1, 2008 **(Effective**
 25 **July 8, 2009)**
 26 a. Multifamily dwelling units **(Effective July 8, 2009)**

- 1 b. Congregate housing, subject to the provisions of Sec. 19-7-6. Eldercare
- 2 Facility Standards **(Effective July 8, 2009)**
- 3 d. Rooming or boarding home
- 4

MINIMUM LOT AREA	
<i>(1) Single family dwelling unit</i> i. adjacent to the RA District ii. adjacent to the RC District	80,000 sq. ft. 20,000 sq. ft. (Effective July 8, 2009)
<i>(2) Multifamily dwelling unit</i>	15,000 sq. ft.
<i>(3) Wind energy systems</i>	20,000sq. ft (Effective October 8, 2008)
<i>(4) Other uses</i>	None
MAXIMUM NUMBER OF DWELLING UNITS PER AREA	
<i>(1) Multifamily housing in a mixed use building or multiplex housing</i>	1 unit per 7,500 sq. ft. of net residential area (Effective July 8, 2009)
<i>(2) Rooming or boarding home</i>	1 bed per 5,000 sq. ft. of gross lot area

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6 **SEC. 19-6-9. RESOURCE PROTECTION DISTRICTS**
 7 (RP1-CW, RP1-CW Buffer Overlay, RP2-WP, and RP3-F)

8

9 **D. Prohibited Uses**

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11 Uses shown as prohibited uses on Table 19-6-9 and any other use not specifically listed

12 as a permitted use or a use permitted with a resource protection permit shall be prohibited

13 in the RP1-CW, RP1-CW Buffer Overlay, RP2-WP, and RP3-F Districts.

14

15 **TABLE 19-6-9**

Use, Activity, Structure	RP1-CW and RP1-CW Buffer Overlay	RP2-WP	RP3-F
36. Multi-unit residential	No	RPP	No

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17

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19 **SEC. 19-7-2. OPEN SPACE ZONING**

20

21 **A. Applicability**

22

23 **1. Residence B District**

The provisions of this section shall be mandatory for residential subdivisions in the Residence B District

2. *Other Districts*

In the Residence A District and Residence C District, the provisions of this section shall be optional. In such districts, notwithstanding other provisions of this Ordinance, the Planning Board in reviewing and approving proposed residential subdivisions may modify provisions relating to space and bulk, including but not limited to increasing setbacks, to permit innovative approaches to housing and environmental design in accordance with the standards of this Article. Such modifications of Space and Bulk Standards shall not be construed as granting variances to relieve hardship. (Revised effective December 10, 2003)

C. **Dimensional Standards**

The average size of the individual lots shall be smaller than that required in the district in which the cluster development is located and the balance of the required area shall be reserved as open space. The lots and open space shall conform to the following Space and Bulk Standards:

1. *Density*

The overall density of the subdivision shall not exceed the density requirements of the district in which it is located as shown in the chart below. In the event that a subdivision is located in more than one zoning district, the overall density of the subdivision shall not exceed the combination of the density requirements of the districts in which the subdivision is located. For example, if a subdivision has 660,000 square feet of net residential area in the RA District and 150,000 square feet in the RC District (with public sewerage) then the overall density shall not exceed 20 units. (Effective February 12, 2003)

District	Maximum Density of Residential Development	
	Single Family	Multiplex
RA	1 unit per 66,000 sq. ft. of net residential area	1 unit per 66,000 sq. ft. of net residential area
RB	1 unit per 60,000 sq. ft. of net residential area with on-site sewerage disposal 1 unit per 30,000 <u>20,000</u> sq. ft.	1 unit per 60,000 sq. ft. of net residential area with on-site sewerage disposal 1 unit per 30,000 <u>20,000</u> sq.

	of net residential area with public sewerage	ft. of net residential area with public sewerage
RC	1 unit per 15,000 sq. ft. of net residential area	1 unit per 15,000 sq. ft. of net residential area

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2. Minimum Lot Size

Each lot within the subdivision shall contain at least the following area:

Minimum Lot Size		
	With On-site Sewage Disposal	With Public Sewerage
RA	30,000 sq. ft. of net residential area	30,000 sq. ft. of net residential area
RB	20,000 sq. ft. of net residential area	10,000 sq. ft. of net residential area
RC	NA	7,500 sq. ft. of net residential area

3. Average Lot Size

Lots and/or dwelling units shall be laid out so that the average lot size is not more than sixty percent (60%) of the maximum density set forth in Sec. 19-7-2.C.1 above in the RA and RC Districts and not more than fifty percent (50%) of the maximum density in the RB District.

4. Open Space

At least forty percent (40%) of the gross acreage shall remain as open space outside of the lots and not otherwise assigned to individual dwelling units, except in the RB District, where at least forty-five (45%) of the gross acreage shall remain as open space outside of the lots and not otherwise assigned to individual dwelling units. At least one third of this required open space shall be land that is usable as determined by applying the criteria of the net residential area definition. [For example, if a parcel consists of one hundred twenty (120) acres, at least forty-eight (48) acres shall be kept as open space. Of this forty-eight (48) acres, at least sixteen (16) acres shall be usable applying the criteria of the net residential area definition.]

D. Design Standards

In addition to other standards of this Ordinance and of the Town's Subdivision Ordinance, the following design standards shall apply to developments under this section.

1. Priorities for Location of Lots and Open Space

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The Planning Board shall find that individual building lots or building locations are laid out to achieve the following objectives, as applicable. Where the Planning Board finds that objectives conflict, the objectives shall be achieved in the order listed:

- a. on soils suitable for subsurface wastewater disposal where on-site wastewater disposal is to be used
- b. in a manner that preserves as part of the required open space environmentally sensitive areas, such as wetlands, steep slopes (as included in the computation of net residential area), flood plains, wildlife habitat rated by the Maine Department of Inland Fisheries and Wildlife as high value, and unique natural features
- c. in a manner that preserves visual resources identified in An Assessment of the Visual Resources of Cape Elizabeth, Maine (February 19, 1989), a copy of which is on file with the Town Clerk
- ~~d. in a manner that preserves or allows the establishment of a vegetated buffer to serve as an effective visual screen from adjacent properties~~
- e. in a manner that maximizes the amount of contiguous, usable area for agriculture or woodlot production, wildlife habitat and outdoor recreation included as part of the required open space. Narrow strips (less than fifty feet) shall not included in the open space design unless they provide connectors to nearby public open space, wildlife corridors or links to neighborhoods that would benefit from use of the open space to be preserved. Long linear strips of open space parallel to the original parcel property line do not provide high-quality public enjoyment of open space, protect wildlife habitat or result in long-term protection of native vegetation.
- f. in a manner that each house lot has direct access to the open space without having to cross another's house lot.

2. Common Open Space

- a. The open space must be dedicated to the recreational amenity and environmental enhancement of the development, must protect natural resources, and must be recorded as such. For the purpose of these provisions, open space means an area that:
 - (1) is not encumbered in any way by a principal structure;

1 and incorporation by the developer of a homeowners' association, if one is
2 proposed, shall be accomplished prior to final subdivision approval.
3 Covenants for mandatory membership in the association shall be approved
4 by the Planning Board and included in the deed restrictions for each lot or
5 unit. The association's documents shall specify that:
6

7 (1) The association shall have the responsibility of maintaining the
8 common open space and other private facilities dedicated to the
9 use in common by the development's residents;

10 (2) The association shall levy annual charges against all property
11 owners to defray the expenses, if any, connected with maintenance
12 of the common open spaces and facilities; and
13

14 (3) The developer shall maintain control of common open spaces and facilities and be
15 responsible for their maintenance until at least fifty-one percent (51%) of the
16 development's lots or units have been completed and sold, with evidence of such
17 completion and sales submitted to and approved by the Planning Board.
18

19
20 **SEC. 19-7-8. OFF-STREET PARKING (Revised effective May 12, 2002)**

21
22 a. Residential

23
24 (1) Single Family Dwellings, 2 spaces per dwelling unit
25 including manufactured
26 housing

27
28 (2) Two-Family Dwellings 2 spaces per dwelling unit
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31 (3) Multiplex housing or 1.5 spaces per dwelling unit with
32 multifamily dwellings one bedroom, 1.75 spaces for
33 unit with two bedrooms, and
34 2 spaces per unit with three
35 or more bedrooms
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37 **SEC. 19-7-11. MULTIPLE PRINCIPAL BUILDINGS ON A LOT**

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39 If more than one (1) principal building is located on a lot, the lot size and location
40 of each building shall be such that a separate lot conforming to the provisions of
41 this Ordinance could be created for each building. The potential creation of a
42 separate lot shall be demonstrated by submitting a plan to the Code Enforcement
43 Officer showing how the land could be divided to create conforming lots.
44