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Land Use Amendments

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

15 CHAPTER 19

16 ZONING ORDINANCE

17 SEC. 19-1-3. DEFINITIONS

18
19 **Multifamily:** A building containing 2 or more dwelling units (excepting accessory
20 dwelling units), or a mixed use building containing 1 or more dwelling units. **(Effective**
21 **February 12, 2005)**
22

23 **Multiplex Housing:** Multiplex housing is housing containing two (2) or more attached
24 dwelling units, each of which has independent outside access. Multiple units may be
25 arranged in a variety of configurations including side by side and/or back to back. A
26 multiplex should have the look of large, closely spaced, single-family detached units with
27 the essential feature being the small number of units attached in one building. Each
28 individual building may contain no more than five (5) units with an average of not more
29 than four (4) units per building for the entire project, except that the maximum and
30 average number of units per building shall not apply in the Town Center District.
31 **(Revised effective December 10, 2003)**
32
33

34 SEC.19-5-3. PROCEDURES

35 A. Establishment and Notice of Meeting Date

36
37 Upon receipt of any notice of administrative, variance, or sewer appeal, application for
38 conditional use, or application for a setback reduction, the Code Enforcement Officer
39 shall forthwith notify the Chair of the Board, who shall establish the date of the meeting
40 at which the application will be considered based upon the submission deadlines for the
41 regular meetings of the Board. The Code Enforcement Officer shall give notice of such
42 public hearing in accordance with Sec. 16-2-1(b) 16-2-4(a)(7) of the Subdivision
43
44

1 Ordinance, except that a legal notice shall be published once in a newspaper. **(Effective**
2 **August 11, 1999)**

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4
5 **SEC. 19-6-1. RESIDENCE A DISTRICT (RA)**

6
7 **A. Purpose**

8
9 The Residence A District includes lands that are outside of the built-up areas of Cape
10 Elizabeth, lands to which public sewer lines are not expected to be extended in the near
11 future, and large tracts suitable for farming, woodland production, and wildlife habitat.
12 The purpose of this district is to allow residential development that is compatible with the
13 character, scenic value, and traditional uses of rural lands and that does not impose an
14 undue burden on the provision of municipal services.

15
16 **B. Permitted Uses**

17
18 2. *The following residential uses:*

- 19 a. Single family dwelling
- 20 b. Manufactured housing on an individual lot
- 21 c. Multiplex housing
- 22 d. Eldercare facility, subject to the provisions of Sec. 19-7-6, Eldercare Facility
- 23 Standards
- 24

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 5 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
(3) In subdivisions that conform to Sec. 19-7-2, Open Space Zoning	1 unit per 66,000 sq. ft. of net residential area
(4) In eldercare facilities	1 unit per 6,000 sq. ft. or 1 bed per 3,500 sq. ft. of net residential area, whichever is less
(5) Other housing	1 unit per 80,000 sq. ft. of gross lot area
MINIMUM SETBACKS	
(1) All uses unless otherwise specified	
(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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2 **(5) Open Space Zoning Subdivisions**

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(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	
(1) Eldercare facilities	5 acres

(2) <i>Wind energy systems</i>	20,000 sq. ft. (Effective October 8, 2008)
(3) <i>Other uses</i>	80,000 sq. ft.
MAXIMUM NUMBER OF DWELLING UNITS PER AREA	
(1) <i>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
(2) <i>Other uses</i>	1 unit per 80,000 sq. ft. of gross lot area
MINIMUM STREET FRONTAGE	
(1) <i>All uses</i>	125 ft.
MINIMUM SETBACKS	
(1) <i>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 valued scenery or wildlife habitat. The purpose of the district is to provide for areas of compact development that can foster cohesive neighborhoods that are close to community services.

B. Permitted Uses

2. The following residential uses:

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

E. Standards

2. The following Space and Bulk Standards shall apply:

MINIMUM LOT AREA	
<i>(1) Boat repair facility for commercial purposes</i>	200,000 sq. ft. (4.6 acres)
<i>(2) Multiplex housing</i>	5 3 acres
<i>(3) Eldercare facilities</i>	5 acres
<i>(4) Wind energy systems</i>	20,000 sq. ft. (Effective October 8, 2008)
<i>(5) Others</i>	20,000 sq. ft.

MAXIMUM NUMBER OF DWELLING UNITS PER AREA	
<i>(1) Multiplex housing</i>	1 unit per 15,000 sq. ft. of net residential area
<i>(2) In subdivisions</i>	1 unit per 20,000 sq. ft. of net residential area
<i>(3) In subdivisions that conform to Sec. 19-7-2, Open Space Zoning</i>	1 unit per 15,000 sq. ft. of net residential area
<i>(4) A single-family home on a lot that is not part of a subdivision</i>	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.
<i>(2) Multiplex housing and eldercare facilities</i>	
(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.

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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

2. The following Space and Bulk Standards shall apply:

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

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

A. Purpose

The Business A District is comprised of neighborhood business districts in which the business uses are geared to the needs of nearby residents rather than a large scale, regional destination center. The district requirements seek to promote (i) business vitality, (ii) pedestrian connectivity between the business district and the adjacent residential areas, (iii) a mix of commercial and housing uses, (iv) high quality design that

1 is pedestrian friendly, compatible with, and protects the integrity of the adjacent
2 residential neighborhood, and (v) an efficient use of the land within the district for
3 business uses. The Business A district regulations recognize that the BA District in the
4 Sore Road area and the BA District in the Ocean House Road area are individually
5 distinctive and may require different treatments, which are specified herein. **(Effective**
6 **July 8, 2009)**

7
8 **B. Permitted Uses**

9
10 **2. The following residential uses:**

- 11 a. Single family detached dwelling existing as of April 1, 2008 **(Effective**
- 12 **July 8, 2009)**
- 13 a. Multifamily dwelling units **(Effective July 8, 2009)**
- 14 b. Congregate housing, subject to the provisions of Sec. 19-7-6. Eldercare
- 15 Facility Standards **(Effective July 8, 2009)**
- 16 d. Rooming or boarding home
- 17
- 18

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

19
20 **SEC. 19-6-9. RESOURCE PROTECTION DISTRICTS**

21 (RP1-CW, RP1-CW Buffer Overlay, RP2-WP, and RP3-F)

22
23 **D. Prohibited Uses**

24
25 Uses shown as prohibited uses on Table 19-6-9 and any other use not specifically listed
26 as a permitted use or a use permitted with a resource protection permit shall be prohibited
27 in the RP1-CW, RP1-CW Buffer Overlay, RP2-WP, and RP3-F Districts.
28

1 **TABLE 19-6-9**
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Use, Activity, Structure	RP1-CW and RP1-CW Buffer Overlay	RP2-WP	RP3-F
36. Multi-unit residential	No	RPP	No

4
5 **SEC. 19-7-2. OPEN SPACE ZONING**

6
7 **A. Applicability**

8
9 **1. Residence B District**

10
11 The provisions of this section shall be mandatory for residential subdivisions in
12 the Residence B District. In addition, residential subdivisions in the Residence B
13 District must be served by public sewerage. No on-site sewage disposal is
14 permitted in this district. [SIMILAR REQUIREMENTS SHOULD ALSO BE
15 ADDED TO THE SEWER ORDINANCE]

16
17 **2. Other Districts**

18
19 In the Residence A District and Residence C District, the provisions of this
20 section shall be optional. In such districts, notwithstanding other provisions of
21 this Ordinance, the Planning Board in reviewing and approving proposed
22 residential subdivisions may modify provisions relating to space and bulk,
23 including but not limited to increasing setbacks, to permit innovative approaches
24 to housing and environmental design in accordance with the standards of this
25 Article. Such modifications of Space and Bulk Standards shall not be construed
26 as granting variances to relieve hardship. **(Revised effective December 10, 2003)**

27
28 **C. Dimensional Standards**

29
30 The average size of the individual lots shall be smaller than that required in the district in
31 which the cluster development is located and the balance of the required area shall be
32 reserved as open space. The lots and open space shall conform to the following Space
33 and Bulk Standards:

34
35 **1. Density**

36 The overall density of the subdivision shall not exceed the density requirements of
37 the district in which it is located as shown in the chart below. In the event that a
38 subdivision is located in more than one zoning district, the overall density of the
39 subdivision shall not exceed the combination of the density requirements of the
40 districts in which the subdivision is located. For example, if a subdivision has
41 660,000 square feet of net residential area in the RA District and 150,000 square

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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 20,000 sq. ft. of net residential area with public sewerage	1 unit per 60,000 sq. ft. of net residential area with on-site sewerage disposal 1 unit per 30,000 20,000 sq. 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

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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

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

11
 12 **D. Design Standards**

13
 14 In addition to other standards of this Ordinance and of the Town's Subdivision
 15 Ordinance, the following design standards shall apply to developments under this section.
 16

17 **1. Priorities for Location of Lots and Open Space**

18
 19 The Planning Board shall find that individual building lots or building locations
 20 are laid out to achieve the following objectives, as applicable. Where the
 21 Planning Board finds that objectives conflict, the objectives shall be achieved in
 22 the order listed:

- 23
 24 a. on soils suitable for subsurface wastewater disposal where on-site
 25 wastewater disposal is to be used
- 26
 27 b. in a manner that preserves as part of the required open space
 28 environmentally sensitive areas, such as wetlands, steep slopes (as
 29 included in the computation of net residential area), flood plains, wildlife
 30 habitat rated by the Maine Department of Inland Fisheries and Wildlife as
 31 high value, and unique natural features
- 32
 33 c. in a manner that preserves visual resources identified in An Assessment of
 34 the Visual Resources of Cape Elizabeth, Maine (February 19, 1989), a
 35 copy of which is on file with the Town Clerk
- 36
 37 d. in a manner that preserves or allows the establishment of a vegetated
 38 buffer to serve as an effective visual screen from adjacent properties
- 39
 40 e. in a manner that maximizes the amount of contiguous, usable area for
 41 agriculture or woodlot production, wildlife habitat and outdoor recreation
 42 included as part of the required open space. Narrow strips (less than fifty
 43 feet in width) shall not be included in the open space design unless they
 44 provide connectors to nearby public open space, wildlife corridors or links
 45 to neighborhoods that would benefit from use of the open space to be
 46 preserved. Long linear strips of open space parallel to the original parcel

1 property line do not provide high-quality public enjoyment of open space,
2 protect wildlife habitat or result in long-term protection of native
3 vegetation.

- 4
5 f. in a manner that each house lot has direct access to the open space without
6 having to cross another's house lot.
7

8 **2. Common Open Space**
9

- 10 a. The open space must be dedicated to the recreational amenity and
11 environmental enhancement of the development, must protect natural
12 resources, and must be recorded as such. For the purpose of these
13 provisions, open space means an area that:

- 14 (1) is not encumbered in any way by a principal structure;
15
16 (2) is not devoted to use as a roadway, road right-of-way, parking lot,
17 or sidewalk;
18
19 (3) is left in its natural or undisturbed state, except for cutting of trails
20 for walking or jogging, or is landscaped for ballfields, play fields,
21 picnic areas, or similar activities, unless the land will be managed
22 for forestry or used for agriculture;
23
24 (4) is capable of being used and enjoyed for the purpose of informal
25 and unstructured recreation and relaxation; and
26
27 (5) is legally and practicably accessible to all residents of lots in the
28 cluster development out of which the open space is taken.
29

- 30
31 b. The common open space shall be controlled by one (1) or more of the
32 following methods:

- 33 (1) dedication to the Town as public open space subject to acceptance
34 by the Town;
35
36 (2) common ownership by the owners of the units within the project
37 with a conservation easement granted to the Town, subject to
38 acceptance by the Town, or recognized conservation organization;
39
40 (3) common ownership by the owners of units within the project;
41
42 (4) transfer, with permanent restrictions, to a land trust or other
43 recognized conservation organization; and/or
44

1 (5) ownership by a private party for agricultural or other natural
2 resource use provided that permanent restrictions are in place to
3 provide for its continued use for this purpose.
4

5 c. Any subdivision proposed under this section shall specify the ownership,
6 use, management, and person responsible for maintenance of all common
7 areas and facilities. The Planning Board shall approve the arrangements
8 for the ownership, control, and maintenance of the common open space in
9 accordance with the standards of subsections a. and b. above as part of the
10 approval of a final subdivision plan. No changes in the use or
11 management of common open space not owned by the Town shall be
12 made without Planning Board approval and a note shall be provided on the
13 approved subdivision plan to this effect.
14

15 d. Any common open space or facility not retained by a private owner shall
16 be maintained by a developer or homeowners' association unless and until
17 it is transferred in its entirety to the Town or a recognized conservation
18 organization, and until the transfer actually is completed. The formation
19 and incorporation by the developer of a homeowners' association, if one is
20 proposed, shall be accomplished prior to final subdivision approval.
21 Covenants for mandatory membership in the association shall be approved
22 by the Planning Board and included in the deed restrictions for each lot or
23 unit. The association's documents shall specify that:
24

25 (1) The association shall have the responsibility of maintaining the
26 common open space and other private facilities dedicated to the
27 use in common by the development's residents;
28

29 (2) The association shall levy annual charges against all property
30 owners to defray the expenses, if any, connected with maintenance
31 of the common open spaces and facilities; and
32

33 (3) The developer shall maintain control of common open spaces and facilities and be
34 responsible for their maintenance until at least fifty-one percent (51%) of the
35 development's lots or units have been completed and sold, with evidence of such
36 completion and sales submitted to and approved by the Planning Board.
37

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

39 a. Residential

40 (1) Single Family Dwellings, 2 spaces per dwelling unit
41 including manufactured
42 housing
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44 (2) Two-Family Dwellings 2 spaces per dwelling unit
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(3) Multiplex housing or with multifamily dwellings	1.5 spaces per dwelling unit one bedroom, 1.75 spaces for unit with two bedrooms, and 2 spaces per unit with three or more bedrooms
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SEC. 19-7-11. MULTIPLE PRINCIPAL BUILDINGS ON A LOT

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

SEC. 19-8-3. RESOURCE PROTECTION PERFORMANCE STANDARDS

All activities in the Resource Protection Districts shall comply with the following performance standards as applicable:

A. Resource Protection Permit Procedures

1. Review

c. The Planning Board in its review of an application may require a "peer review" by a professional engineer, a botanist or other relevant expert. The cost of all such reviews, including the cost of review by the Town Engineer, shall be taken from the application's Review Escrow Account. If a Review Escrow Account has not been established pursuant to the provisions of other ordinances governing an aspect of the applicant's proposed activity, the Planning Board shall be authorized to require an applicant for a Resource Protection permit to establish a Review Escrow Account under the terms of Sec. 16-2-1(c) 16-2-4 (a)(1) of the Subdivision Ordinance. Any funds not disbursed from the Review Escrow Account shall be promptly returned to the applicant upon final disposition of his or her application.

SEC. 19-8-5. EARTH MATERIALS REMOVAL STANDARDS

C. Permit Procedures (Amended effective February 14, 2002)

3. The Planning Board in its review of an application may require a "peer review" by a professional engineer or other relevant expert. The cost of all such review, including the cost of review by the Town Engineer, shall be

1 taken from the application’s Review Escrow Account. If a Review Escrow
2 Account has not been established pursuant to the provisions of other
3 ordinances governing an aspect of the applicant’s proposed activity, the
4 Planning Board shall be authorized to require an applicant for an earth
5 materials permit to establish a Review Escrow Account under the terms of
6 Sec. 16-2-4 (a)(1) 16-2-1(c) of the Subdivision Ordinance. Any funds not
7 disbursed from the Review Escrow Account shall be promptly returned to the
8 applicant upon final disposition of his or her application.
9

10 4. Within thirty-five (35) days following the public hearing, or such longer
11 period as may be mutually agreeable to the Planning Board and the applicant,
12 the Planning Board shall render its decision to approve, to approve with
13 conditions or to disapprove in writing, specifying the reasons therefore.
14 Notwithstanding other provisions of this Ordinance, the applicant, or any
15 property owner entitled to notice of the public hearing, who is aggrieved by a
16 decision of the Planning Board under this ordinance, may appeal to the
17 Superior Court as provided by the Maine Rules of Civil Procedure.
18

19 5. The Planning Board may require the applicant furnish to the Town, before the
20 issuance of a permit, a performance guarantee in accordance with Section 16-
21 2-6(c)16-2-4(c)(7)(A) of the Subdivision Ordinance. The amount and the
22 conditions shall be consistent with the purposes of this Ordinance and shall
23 secure the proper performance of the alteration work. The amount shall be
24 based upon the estimated cost of completing or correcting any work necessary
25 to satisfy the conditions of the permit and the criteria of this Ordinance plus
26 the estimated costs of preventing or correcting any damage to the subject or
27 other property which the Planning Board considers probable or of sufficient
28 gravity to justify the expected expense of such guarantee.
29

30 **SEC. 19-8-12. TOWER AND ANTENNA PERFORMANCE**
31 **STANDARDS (Effective April 15, 2000)**

32
33 **2. Performance Standards**
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35 j. Performance Guarantee. No building permit may be issued until the
36 applicant has provided a performance guarantee to the town in accordance
37 with Sec. 16-2-6(c)16-2-4(c)(7)(a), Subdivision Ordinance.
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39 **ARTICLE IX. SITE PLAN REVIEW**

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41 **SEC. 19-9-4. REVIEW PROCEDURES**

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43 **B. Application Review Procedures**
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- 1 **I.** After an application has been submitted with the requisite fees, including
2 establishment of a Review Escrow Account under the terms of Sec. 16-2-1(c)16-
3 2-4 (a) (1) of the Subdivision Ordinance, and after any required Zoning Board of
4 Appeals approval has been obtained, the Town Planner shall issue a dated receipt
5 to the applicant.
6
- 7 **2.** Upon certification by the Planning Board that an application is complete, the
8 Planning Board, at its discretion, may hold a public hearing. If the Planning
9 Board determines to hold a public hearing, it shall hold the hearing within thirty-
10 five (35) days of the date that the application is deemed complete and shall
11 provide public notice in accordance with Sec. 16-2-1(b)16-2-4 (a)(7) of the
12 Subdivision Ordinance.
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- 14 **3.** The Planning Board, at its discretion, may require that a performance guarantee
15 be established with the Town for the cost of site improvements. Each
16 performance guarantee shall comply with Sec. 16-2-6(c)16-2-4 (c)(6) and (7)(A)
17 of the Subdivision Ordinance. An inspection fee shall be paid in accordance with
18 Sec. 16-2-6(d).16-2-6 (a).
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