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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.  
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15 **CHAPTER 19**

16 **ZONING ORDINANCE**

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19 **SEC. 19-1-3. DEFINITIONS**  
20

21 **Multifamily:** A building containing 2 or more dwelling units (excepting accessory  
22 dwelling units), or a mixed use building containing 1 or more dwelling units. **(Effective**  
23 **February 12, 2005)**  
24

25 **Multiplex Housing:** Multiplex housing is housing containing two (2) or more attached  
26 dwelling units, each of which has independent outside access. Multiple units may be  
27 arranged in a variety of configurations including side by side and/or back to back. A  
28 multiplex should have the look of large, closely spaced, single-family detached units with  
29 the essential feature being the small number of units attached in one building. Each  
30 individual building may contain no more than five (5) units with an average of not more  
31 than four (4) units per building for the entire project, except that the maximum and  
32 average number of units per building shall not apply in the Town Center District.  
33 **(Revised effective December 10, 2003)**  
34

35 **SEC.19-5-3. PROCEDURES**  
36

37 **A. Establishment and Notice of Meeting Date**  
38

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

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

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

**A. Purpose**

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

<b>MINIMUM LOT AREA</b>	
<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.
<b>MAXIMUM NUMBER OF DWELLING UNITS PER AREA</b>	
<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
<b>(3) In subdivisions that conform to Sec. 19-7-2, Open Space Zoning</b>	1 unit per 66,000 sq. ft. of net residential area
<b>(4) In eldercare facilities</b>	1 unit per 6,000 sq. ft. or 1 bed per 3,500 sq. ft. of net residential area, whichever is less
<b>(5) Other housing</b>	1 unit per 80,000 sq. ft. of gross lot area
<b>MINIMUM SETBACKS</b>	
<b>(1) All uses unless otherwise specified</b>	
(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. <b>(Effective August 11, 1999)</b>
(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. <b>(Effective August 11, 1999)</b>
© 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.
<b>(2) Multiplex housing and eldercare facilities</b>	
(a) From property line	75 ft.

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**(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.

<b>MINIMUM LOT AREA</b>	
<i>(1) Eldercare facilities</i>	5 acres

(2) <i>Wind energy systems</i>	20,000 sq. ft. <b>(Effective October 8, 2008)</b>
(3) <i>Other uses</i>	80,000 sq. ft.
<b>MAXIMUM NUMBER OF DWELLING UNITS PER AREA</b>	
(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
<b>MINIMUM STREET FRONTAGE</b>	
(1) <i>All uses</i>	125 ft.
<b>MINIMUM SETBACKS</b>	
(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. <b>(Effective August 11, 1999)</b>
(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. <b>(Effective August 11, 1999)</b>
(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
<b><i>(2) Multiplex housing and eldercare facilities</i></b>	
(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:**

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

<b>MAXIMUM NUMBER OF DWELLING UNITS PER AREA</b>	
<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 <b>(Effective May 9, 2007)</b>
<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
<b>MAXIMUM NUMBER OF BED AND BREAKFAST ROOMS</b>	
<i>Bed and Breakfast Guest Room</i>	1 room per 5,000 sq. ft of gross lot area
<b>MINIMUM STREET FRONTAGE</b>	
<i>(1) Bed and Breakfast</i>	100 ft. on Shore Road or Route 77
<i>(2) All uses</i>	100 ft.
<b>MINIMUM SETBACKS</b>	
<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. <b>(Effective August 11, 1999)</b>
(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. <b>(Effective August 11, 1999)</b>
(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.
<b><i>(2) Multiplex housing and eldercare facilities</i></b>	
(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:**

<b>MINIMUM LOT AREA</b>	
<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 <b>(Effective October 8, 2008)</b>
<i>(4) Other uses</i>	None
<b>MAXIMUM NUMBER OF DWELLING UNITS PER AREA</b>	
<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

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

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

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

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23 **D. Prohibited Uses**

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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**

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7       **A. Applicability**

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9       **1. Residence B District**

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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]

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17       **2. Other Districts**

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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**

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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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45 (2) Two-Family Dwellings 2 spaces per dwelling unit  
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(3) with	Multiplex housing or  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 toe disapprove in writing, specifying the reasons therefore.  
14 Notwithstanding other provisions of this Ordnance, 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**  
34

- 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.  
38

39 **ARTICLE IX. SITE PLAN REVIEW**

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

42  
43 **B. Application Review Procedures**  
44

- 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.  
13
- 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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