

**Cape Elizabeth Town Council Workshop**  
**August 6, 2012**  
**6:00 p.m. Town Council Chambers, Town Hall**

1. Public Comment - 15 minutes (See policy below)
2. Short Term Rental Amendments

**Public Participation at Town Council Meetings**

After an item has been introduced, any person wishing to address the council shall signify a desire to speak by raising their hand or by approaching the lectern. When recognized by the chairman, the speaker shall give his or her name and address or name and local affiliation, if the affiliation is relevant, prior to making other comments. All remarks should be addressed to the Town Council. Comments shall be limited to three minutes per person; however, the time may be extended by majority vote of councilors present. For agenda items that are not formally advertised public hearings, the time for public comments is limited to 15 minutes per agenda item. This time may be extended by a majority of the Town Council. The chairman may decline to recognize any person who has already spoken on the same agenda item and may call on speakers in a manner so as to balance debate. Once the Council has begun its deliberations on an item, no person shall be permitted to address the Council on such item.

**Speaking at the meeting on topics not on the agenda at regular Council meetings**

Persons wishing to address the Council on an issue or concern local in nature not appearing on the agenda may do so at a regular Town Council meeting before the town manager's report and/or after the disposition of all items appearing on the agenda. Any person wishing to address the Council shall signify a desire to speak by raising their hand or by approaching the lectern. When recognized by the chairman, the speaker shall give his or her name and address or name and local affiliation if the local affiliation Council. Comments in each comment period shall be limited to three minutes per person and 15 minutes total; however, the time may be extended by majority vote of councilors present.

**Decorum**

Persons present at Council meetings shall not applaud or otherwise express approval or disapproval of any statements made or actions taken at such meeting. Persons at Council meetings may only address the Town Council after being recognized by the chairman.

Town Council Workshop  
August 6, 2012  
Meeting Outline

- Welcome from Town Council Chairman Sara Lennon

- Introduction

Town Councilor James Walsh

- Public Comment

- Review of information

1. Survey of Short Term Rental activity in Cape Elizabeth
2. Sample regulations in other communities
3. Recognize public correspondence/comments/staff comments
4. Review draft amendments

- Define the problem

The Town Council should come to consensus on “what is the problem.”

- Policy Questions

Please answer yes or no to the following questions:

1. Is it time for the Town Council to respond to the citizen request to review short term rentals made in September, 2011?
2. If yes to 1, do you want to make ordinance changes in how short term rentals are regulated?
3. If yes to 2, do you want to:
  - a. change the classification of short term rentals from single family to something else (Zoning Ordinance amendment)?
  - b. review standards for noise, rowdy behavior (Nuisance Ordinance)?

4. If yes to 3a, do you want to ban short term rentals in residential zones?
5. If no to 4, do you want to require that short term rentals obtain a permit?
6. Do you want to refer the Nuisance Ordinance to the Ordinance Committee?
7. If yes to 5, then discuss the draft amendments.

Location	Definition	Licensing	Fee	Tax	Limit on # of rentals	Maximum # of guests	Minimum rental period	Events	Grandfathering	Inspections	Wastewater	Parking	Life Safety	Signage	Zoning Districts	Contact Person	Current on \$	Guest record	Trash	Rental Agreement
Buncombe Cty, NC	Yes							silent					Y	Y	all	No	No			
Chicago, IL	Yes	Yes (2 yr)	\$500	3.5%		1 person/125 sq. ft.	1 day	silent	Yes				Y		some	Yes	Yes	Yes		
Falmouth, MA	Yes	Yes(yr)	\$15+\$.25/%.15			2 persons/bedroom over 100 sq. ft. +				Y										
Islamorada, FL	Yes	Yes (yr)	Yes			2 persons/bedroom	7 days	Yes	Yes			Y			some	Yes	Yes		Yes	
Key West, FL	Yes	Yes	\$125	Yes				silent	Yes			Y	Y	Y	some	Yes	No	Yes		Yes
Lakelure, NC	Yes	Yes	Yes	Yes		2 persons/bedroom +2 or 12		silent		Yes Y		Y	Y	Y	some	Yes	Yes		Y	Yes
Saco, ME	Yes	Yes	\$100/\$10		no more than 4 months/12		6 days						Y		some		Yes			Yes
Santa Cruz Cty, CA	Yes	Yes	Yes	Yes		2 persons/bedroom +2		Yes	Yes			Y	Y	Y	some	Yes	Yes		Y	Yes
Sonoma Cty, CA*	Yes	Yes	Yes	Yes		2 persons/bedroom +2		Yes		Y			Y	Y						
South Lake Tahoe, UT	Yes	Yes(yr)	Yes	10%	optional 2 rentals/year	2 persons/bedroom +4		No		Y		Y	Y	Y		Yes	Yes		Yes	Yes

DRAFT Inventory of Cape Elizabeth Short-term rentals												
Map/lot Address	Owner	Lot Size	Night	Rental \$/Wk	Stav Wk	Mon/Fail	Advertised Rental	# Sleep	Bedroom	Bathrm	Floor	
<b>Shoret Road North cluster</b>												
U02-51 880 Shore Rd	Chris and Laura Lynch	47,916			11,000		22	14	7		7,000+	
U05-23 950 Shore Rd	Earl Brown	8,700			1,800-2,200		30	6	3		3,000	
U04-178 3 Oakhurst Rd	Bronwyn Huffard	32,234			4,500		52	12	6		4,500	
U05-48 2 Keyes Ln	John Wiggins	9,324	450		3,150		47	10+	5		3,500	
U07-13 109 Delano Park	Robert Gips	42,353			8,500-10,500		52	8	4		4,500	
U07-11 110 Delano	Daniel Gacetta Jr.	23,654	Not available				11	5	3		2,300	
U08-14 12 Tides Edge Rd	Justin and Linda Strunk	76,230			3,900		35	11	7		2,500	
<b>Shore Rd North cluster Average</b>												
		<b>34,344</b>					<b>32.7</b>	<b>8.0</b>	<b>5.0</b>	<b>3.6</b>	<b>2,928.6</b>	
<b>Pond Cove cluster</b>												
U08-44 5 Seabarn Rd	Tracy Ginn	24,185			1,650	3,000-4,500	46	16	6		5,000	
U08-41 13 Lawson Rd	David Armstrong and Jean Ta	14,477			2,300-3,400	2,200	49	9	5		2,300	
U08-34 31 Lawson Rd	Lawson LLC/Caputo	24,506			2,000	4,000	42	10	4		3,500	
U09-4B 1122 Shore Rd	Steven Crockett	19,577			1,000-1,200	1,500	48	4	1		1	
U09-4B 1122 Shore Rd	Steven Crockett	19,577			1,800-3,000		47	8	3		2	
U09-4A 1120 Shore Rd	Est. of John Quirk	8,977	Not available				52	6	2		1,100	
<b>Pond Cove cluster Average</b>												
		<b>18,550</b>					<b>47.3</b>	<b>8.8</b>	<b>3.5</b>	<b>2.3</b>	<b>1,983.3</b>	
<b>Shore Rd South cluster</b>												
R02-3 12 Becky's Cove	Sandra Dunham Trust	12,000			1,500-2,000		52	6	3		1,500	
<b>Pebbles Cove cluster</b>												
R03-9T 6 Tucker Ln	Ed and Rachel Perry	21,819			750	1,800-2,600	51	14	5		2,000	
R03-9-Y 64 Long Point Ln	Angela Berry	26,034			1,500		49	4	2		1,200	
R03-9-X 30 Shipwreck Cove	Charles and Lydia Webber	18,154			2,000-2,500		22	6	3		1,800	
R03-9-B 49 Shipwreck Cove	William Gillan	52,051	Not available		2,500		52	8	4		3,000	
R03-9-U 6 Boathouse Ln	Joagnes Pasquarella	6,287										
R03-3A-38 Alewife Cove	Dennis J. Paustenbach Trust	17,252			7,000		51	10	5		2,600	
R03-18 117 Old Ocean House	June Eftestrand	43,560			1,300		39	6	2		2	
<b>Pebbles Cove cluster Average</b>												
		<b>26,451</b>					<b>44.0</b>	<b>8.0</b>	<b>3.5</b>	<b>2.5</b>	<b>1,766.7</b>	
<b>Mid-coast cluster</b>												
U12-62 4 Surfside	Est. of James Underwood	14,376	250-375		1,200-2,100	4,200	37	8	3+		2	1,200
U38-47 20 Running Tide	Buffett Coastal Trust	36,739	Y		2,500-4,100		36	12	5		2.5	3,000
<b>Mid-coast cluster Average</b>												
		<b>25,558</b>					<b>36.5</b>	<b>10</b>	<b>4</b>	<b>2.25</b>	<b>2,100.0</b>	
<b>Two Lights cluster</b>												
U16-33 13 Kettle Cove	Elizabeth Huebener	10,000			400	800-1,200	49	6	2		1,400	
R3-44C 64 Kettle Cove Rd	Longview LLC	20,503			2,400-5,496	2,500	52	6	3		2	1,800
U39-5-1 88 Two Lights Rd (fro Adrian Utschy/Elise Strong		90,169			800-1,495		14	8	2		2	
U39-5-1 88 Two Lights Rd (rea Adrian Utschy/Elise Strong		90,169			260	750	38	4	1+		1	800
U39-4-2 Two Lights Rd	Marshall and Suzanne Pillsbur	126,324					46	9	2+		1.5	
? Richmond Terrace					430	1,200-1,500	43	6	2		1	
? across Crescent Beach	apartment				1,650		unk	5	3		1	
? Crescent Beach												
<b>Two Lights cluster Average</b>												
		<b>67,433</b>					<b>39.9</b>	<b>8</b>	<b>3</b>	<b>2</b>	<b>3,467</b>	
<b>Charles Jordan Rd cluster</b>												
R09-7L 7 Odyssey Ln	Julie Hume Gordon	435,600			6,500-7,500		52	8	3		2.5	
R08-1-6:21 Lower River Road	Sprague Family/Blueberry Co	4,356,000			1,500-3,850		52	8	4		3	2,500
<b>Charles Jordan Rd cluster Average</b>												
		<b>2,395,800</b>					<b>52</b>	<b>8</b>	<b>3.5</b>	<b>2.8</b>	<b>1,250.0</b>	
<b>Inland cluster</b>												
U34-2-5:3 Shaw Farm Rd	Bowen and Claire Depke	84,506			unknown		35	10	4		2.5	3,500
U24-44 10 Clinton Rd	Winslow Pillsbury	174,240			1,200-1,900		52	8	4		2.5	2,700
R5-40-1 81 Wells Rd	Suzanne Gabriel	435,600	350-375				47	10	4+		2	1,800
<b>Inland cluster Average</b>												
		<b>231,448.7</b>					<b>44.7</b>	<b>9.3</b>	<b>2.7</b>	<b>2.3</b>	<b>2,666.7</b>	

DRAFT MEMORANDUM

TO: Cape Elizabeth Town Council  
FROM: Planning Board  
DATE: June 26, 2012  
SUBJECT: Short Term Rental Amendments

Introduction

In February, the Town Council forwarded draft amendments to the Zoning Ordinance to regulate short term rentals. The Planning Board held 5 workshops and 2 regular meetings, including one public hearing, on the subject. The Planning Board has made revisions to the original draft, which are further described as follows.

Planning Board Revisions

Highlighted below are the major changes recommended by the Planning Board to the draft Short Term Rental amendments:

<u>Page/Line</u>	<u>Description</u>
1/36	The Short Term rental definition has been revised to refer to the "use" of a dwelling instead of a "dwelling." The definition specifically excludes motels, and now also hotels and bed and breakfasts.
3/38	In the residential zoning districts, short term rentals are a permitted use, however they have been moved from the "residential uses" category to the "nonresidential uses" category.
12/40	The parking requirement for short-term rental has been moved from the "residential" category to the "commercial" category, which is where the parking requirement for Bed and Breakfasts is located. The parking requirement has been changed from 1 parking space per 4 tenants to 1 parking space per 2 tenants, <i>plus 1 parking space per 2 guests.</i>
13/23	A new Applicability section has been added. This section has a provision that exempts people who rent their home for no

more than 14 days a year from getting a permit. It also establishes a minimum rental period of 7 days.

14/1 During the years when the Code Enforcement Officer does not inspect the Short Term Rental, the language has been changed from the applicant certifying compliance with code requirements to the applicant certifying that there have not been any material changes since the last inspection.

14/40 The section requiring code compliance has been made much more detailed. The Planning Board is recommending that Short Term Rentals provide smoke alarms, carbon monoxide alarms, portable fire extinguishers and lighting for emergency egress. The fire extinguishers and emergency egress lighting is a standard that single family dwellings do not have to comply with, but is a standard that boarding homes, hotels and motels must comply with.

The Planning Board spent some time researching both the International Residential Code (IRC), which applies to 1 and 2 family homes, and the International Building Code (IBC) which applies to everything else. The IRC does not have any requirements for short-term rentals. It does make an exception and create additional requirements for day care homes, where IBC requirements are applied. This exception suggests that, if the Town of Cape Elizabeth wants to reach into the IBC for additional requirements for short-term rentals, there is some precedent for that approach. The Planning Board is recommending supplementing the IRC with IBC requirements for short term rentals.

The Planning Board was sensitive to balancing life safety concerns with cost impacts on property owners. For this reason, the Planning Board reviewed how the proposed building code requirements would apply to a home. The attached plan shows the anticipated smoke alarm and carbon monoxide detector requirements. Further, the Planning Board sought an estimate from a local electrician for the cost to install same, which is estimated at a little over \$1,000.00 dollars. This cost does not include adding 1 fire extinguisher and battery operated lighting, costs of which are basically the purchase of the item. A copy of backup materials is attached.

The Planning Board felt strongly that these life safety code requirements were warranted for short term rentals because tenants were staying in a home less familiar than their own home and could easily be disoriented during an emergency.

15/8 The Planning Board has added a requirement that a building evacuation plan must be prominently posted.

15/43 The Planning Board has added to the Rental Agreement Addendum good neighbor guidelines.

15/45 The exemption from additional standards for short term rentals operated by the abutter has been deleted.

16/2 The Planning Board has adjusted the limit on rental intensity by decreasing the total number of tenants from 12 to 8 and changing the guest limit from one half of the tenant number to 8 for lots up to 30,000 sq. ft. in size. For lots greater than 30,000 sq. ft., a guest limit of 15 is proposed.

The Planning Board has also deleted the stand-alone enforcement provision in the Short Term Rental Standards. They are recommending that the Zoning Ordinance Enforcement Provisions, which appear on page of this amendment package, applies to the whole Zoning Ordinance. No separate section is needed.

### Conclusion

After listening and reading a lot of public input, the Planning Board votes unanimously to recommend the Short Term Rental amendments to the Town Council for adoption. All Planning Board members made compromises to arrive at this consensus recommendation. The Planning Board also recommends that the Nuisance Ordinance be reviewed.

In accordance with the recently adopted Town Council/Planning Board communication strategy, a member of the Planning Board will attend the Town Council meeting to answer questions about this recommendation. Further, a Planning Board member will attend the first meeting of the Ordinance Committee where the short term rental amendments are reviewed.





CHAPTER 19

ZONING ORDINANCE

SEC. 19-1-3. DEFINITIONS

**Dwelling:** A building containing one (1) or more dwelling units and used for human habitation.

**Dwelling Unit:** A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one (1) family at a time, and containing cooking, sleeping, and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units. (Effective October 15, 2009)

**Bed and Breakfast:** A use that must be operated in conjunction with the use of a dwelling as a primary residence and that (1) provides up to nine (9) furnished bedrooms for rent to guests for 1 or more nights and having a total length of stay not to exceed 14 consecutive days, (2) is operated by the family or person residing permanently in the home; and (3) may serve 1 or more meals to guests only. (Effective March 9, 2009)

**Homestay:** A use that is accessory and incidental to the primary use of a dwelling as a residence and that (1) provides one or two furnished bedrooms for rent to guests for 1 or more nights; (2) is operated by the family or person residing permanently in the home; (3) may serve 1 or more meals to guests only, and (4) provides all parking on-site. A maximum of one homestay is allowed per multifamily building. (Effective March 9, 2009)

**Hotel:** A building used primarily for occupancy of individuals who are lodged with or without meals, having ten (10) or more guest rooms, and intended to be rented principally to transients on a short-term basis.

**Motel:** A building or group of attached or detached buildings containing guest rooms or dwelling units, most of which have separate outside entrances and adjacent parking spaces and are intended to be rented principally to transients on a short-term basis.

**Short Term Rental:** The use of a dwelling offered for rent for transient occupancy by tenants for a tenancy of less than 30 days, excluding motels, hotels and bed and breakfasts.

**Short Term Rental Guest:** A visitor of a Short Term Rental tenant who will not be sleeping overnight on the property.

**Tenant:** An occupant of land or premises who occupies, uses, and enjoys real property for a fixed time, usually through a lease arrangement with the property owner or with the owner's consent. When applied to a Short Term Rental, anyone sleeping overnight shall be considered a tenant.

SEC. 19-3-1. CODE ENFORCEMENT OFFICER

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The Code Enforcement Officer of the Town shall interpret and enforce the provisions of this Ordinance and shall require compliance with its requirements and restrictions. The Code Enforcement Officer shall adopt procedures to facilitate the handling of all matters and questions arising hereunder within the scope of the Code Enforcement Officer's authority and duties. Any decision of the Code Enforcement Officer denying a permit shall be in writing, a copy of which shall be given to the applicant. Appeals from decisions of the Code Enforcement Officer shall be to the Zoning Board of Appeals in accordance with the provisions of Sec. 19-5-2.A, Administrative Appeals.

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**SEC. 19-3-6. VIOLATIONS**

**A. Notice**

If, upon investigation, the Code Enforcement Officer determines that activities are or have occurred that are in violation of this Ordinance or any permits or approvals granted for a project, the Code Enforcement Officer shall give written notice to the owner and/or occupant of the premises. The notice shall specify the nature of the violation, actions necessary to abate the violation, and the time frame within which these actions shall occur. In addition, the notice shall advise the party of the right to appeal the Code Enforcement Officer's decision and/or to seek a variance from the Zoning Board of Appeals, if appropriate.

**B. Enforcement Action**

If, after such notice and demand, the violation has not been abated within the time provided, the Code Enforcement Officer and/or the Town Council shall institute appropriate action in the name of the Town to prevent, correct, restrain, or abate the violation(s) of this Ordinance.

**C. Penalties**

Any owner or occupant of, or any person or entity having control or the use of, or any person or entity engaged in the construction, alteration or repair of or receiving a permit for, any building or land or part thereof, found to violate any of the provisions of this Ordinance, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punishable as provided in 30-A, M.R.S.A. §4452, except as otherwise provided by State law. Each day such violation is permitted to exist after written notification thereof by the Code Enforcement Officer shall constitute a separate offense.

**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

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municipal services.

**B. Permitted Uses**

The following uses are permitted in the Residence A District:

**1. The following resource-related uses:**

- a. Any use permitted in Resource Protection 1-Critical Wetlands District, or in Resource Protection 2-Wetland Protection District, or in Resource Protection 3-Floodplain District, as shown on Table 19-6-9
- b. Agriculture, provided that no animal or fowl shall be raised for commercial purposes on any lot containing less than one hundred thousand (100,000) square feet
- c. Keeping of livestock, such as a horse, cow, pig, goat, sheep, or similar animal, provided that such activity occurs only on a lot containing at least one hundred thousand (100,000) square feet
- d. Removal of topsoil, subject to the provisions of Sec. 19-8-5, Earth Materials Removal Standards
- e. Timber harvesting

**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 Standard

**3. The following nonresidential uses:**

- a. Home day care
- b. Farm and fish market, with a maximum floor area of two thousand (2,000) square feet for retail sales of products
- c. Boat repair facility, subject to the provisions of Sec. 19-8-9, Boat Repair Facility Standards
- d. Golf Course and Golf Course Related Activities (Effective February 12, 2003)
- e. Wind energy system (Effective October 8, 2008)
- f. Bed and Breakfast, where the operator of the Bed and Breakfast owns the structure and maintains it as his/her primary residence (Effective March 9, 2009)
- g. Short Term Rental

**4. The following accessory uses:**

- a. Accessory building, structure or use
- b. Outside athletic facility accessory to permitted use
- c. Home occupation
- d. Homestay (Effective March 9, 2009)

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- 1 e. Amateur or governmental wireless telecommunication facility antenna (Effective
- 2 April 15, 2000).
- 3 f. Amateur or governmental wireless telecommunication facility tower (Effective
- 4 April 15, 2000).
- 5 g. Commercial wireless telecommunication service antenna which is attached to an
- 6 alternative tower structure in a manner which conceals the presence of an antenna.
- 7 (Effective April 15, 2000).
- 8 h. Agriculture related use (Effective June 10, 2010).

9

10 **E. Standards**

11

12 **1. Performance standards**

- 13
- 14 a. The standards of performance of Articles VII and VIII shall be observed.
- 15 b. Standards relating to permitted and conditional uses in the Residence A District
- 16 include:
- 17
- 18     Sec. 19-7-5 Creation of an Accessory Dwelling Unit
- 19     Sec. 19-7-6 Eldercare Facility Standards
- 20     Sec. 19-8-5 Earth Materials Removal Standards
- 21     Sec. 19-8-7 Great Pond Watershed Performance Standards
- 22     Sec. 19-8-8 Home Day Care and Day Care Facility Standards
- 23     Sec. 19-8-9 Boat Repair Facility Standards
- 24     Sec. 19-8-14 Short Term Rental Standards

25

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

27

28 **A. Purpose**

29

30 The Residence B District is differentiated from the Residence A District in that subdivisions in

31 Residence B are required to be laid out according to the principles of open space zoning, as

32 described in Sec. 19-7-2, Open Space Zoning. The Residence B District includes lands outside

33 of the built-up parts of Town where the Comprehensive Plan indicates growth can and should be

34 accommodated as a result of soils suitable for individual or common septic systems or the

35 extension of public sewer lines. The purpose of this district is to allow a significant portion of

36 the Town's anticipated residential growth to occur in these areas, in a manner that preserves the

37 character of rural lands, promotes healthy neighborhoods, offers flexibility in design, and

38 minimizes the costs of municipal services.

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40 **B. Permitted Uses**

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42 The following uses are permitted in the Residence B District:

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44 **1. The following resource-related uses:**

- 45 a. Any use permitted in Resource Protection I-Critical Wetlands District, or in
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- Resource Protection 2-Wetland Protection District, or in Resource Protection 3-Floodplain District, as shown on Table 19-6-9
- b. Agriculture, provided that no animal or fowl shall be raised for commercial purposes on any lot containing less than one hundred thousand (100,000) square feet
- c. Keeping of livestock, such as a horse, cow, pig, goat, sheep, or similar animal, provided that such activity occurs only on a lot containing at least one hundred thousand (100,000) square feet
- d. Removal of topsoil, subject to the provisions of Sec. 19-8-5, Earth Materials Removal Standards
- e. Timber harvesting

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

3. *The following nonresidential uses:*

- a. Home day care
- b. Farm and fish market, with a maximum floor area of two thousand (2,000) square feet for retail sales of products
- c. Golf Course Related Activities, excluding restaurants, clubhouses and meeting halls. (Effective February 12, 2003)
- d. Wind energy system (Effective October 8, 2008)
- e. Short Term Rental

4. *The following accessory uses:*

- a. Accessory building, structure or use
- b. Outside athletic facility accessory to permitted use
- c. Home occupation
- d. The renting of not more than two (2) rooms within a single-family dwelling provided that there is no physical alteration of the building and no change in the external appearance of the structure.
- e. Amateur or governmental wireless telecommunication facility antenna (Effective April 15, 2000)
- f. Amateur or governmental wireless telecommunication facility tower (Effective April 15, 2000)
- g. Commercial wireless telecommunication service antenna which is attached to an alternative tower structure in a manner which conceals the presence of an antenna. (Effective April 15, 2000)
- h. Agriculture related use (Effective June 10, 2010)

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**E. Standards**

**I. Performance standards**

- a. The standards of performance of Articles VII and VIII shall be observed.
- b. Standards relating to permitted and conditional uses in the Residence B District include;

- Sec. 19-7-5 Creation of an Accessory Dwelling Unit
- Sec. 19-7-6 Eldercare Facility Standards
- Sec. 19-8-5 Earth Materials Removal Standards
- Sec. 19-8-8 Home Day Care and Day Care Facility Standards
- Sec. 19-8-14 Short Term Rental Standards

**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 sewered 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**

The following uses are permitted in the Residence C District:

**1. The following resource-related uses:**

- a. Any use listed in Resource Protection 1-Critical Wetlands District, or in Resource Protection 2-Wetland Protection District, or in Resource Protection 3-Floodplain District, as shown on Table 19-6-9.
- b. Agriculture, provided that no animal or fowl shall be raised for commercial purposes on any lot containing less than one hundred thousand (100,000) square feet.
- c. Keeping of livestock, such as a horse, cow, pig, goat, sheep, or similar animal, provided that such activity occurs only on a lot containing at least one hundred thousand (100,000) square feet.
- d. Removal of topsoil, subject to the provisions of Sec. 19-8-5, Earth Materials Removal Standards.
- e. Timber harvesting.

**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

3. The following nonresidential uses:

- a. Home day care
- b. Farm and fish market, with a maximum floor area of two thousand (2,000) square feet for retail sales of products
- c. Boat repair facility, subject to the provisions of Sec. 19-8-9, Boat Repair Facility Standards
- d. Wind energy system (Effective October 8, 2008)
- e. Bed and Breakfast, where the operator of the Bed and Breakfast owns the structure and maintains it as his/her primary residence (Effective March 9, 2009)
- f. Short Term Rental

4. The following accessory uses:

- a. Accessory building, structure or use
- b. Outside athletic facility accessory to permitted use
- c. Home occupation
- d. Homestay (Effective March 9, 2009)
- e. Amateur or governmental wireless telecommunication facility antenna (Effective April 15, 2000)
- f. Amateur or governmental wireless telecommunication facility tower (Effective April 15, 2000)
- g. Commercial wireless telecommunication service antenna which is attached to an alternative tower structure in a manner which conceals the presence of an antenna. (Effective April 15, 2000)
- h. Agriculture related use (Effective June 10, 2010)

E. Standards

1. Performance Standards

- a. The standards of performance of Articles VII and VIII shall be observed.
- b. Standards relating to permitted and conditional uses in the Residence C District include:
  - Sec. 19-7-5 Creation of an Accessory Dwelling Unit
  - Sec. 19-7-6 Eldercare Facility Standards
  - Sec. 19-7-7 Manufactured Housing Parks
  - Sec. 19-8-5 Earth Materials Removal Standards

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- Sec. 19-8-8 Home Day Care and Day Care Facility Standards
- Sec. 19-8-9 Boat Repair Facility Standards
- Sec. 19-8-14 Short Term Rental Standards

**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**

The following uses are permitted in the Town Center District:

**3. The following nonresidential uses:**

- a. Banking, professional, and business office
- b. Personal service
- c. Village retail shop
- d. Veterinarian office not including the boarding of animals but allowing presurgical and/or postsurgical care.
- e. Medical clinic
- f. Restaurant including delicatessen, ice cream parlor, and sit down restaurant with a maximum of seventy-five (75) seats.
- g. Gas station with not more than two (2) fueling islands with each island having not more than four (4) "fueling points" from no more than two (2) gas dispensers. A car wash is allowed only if accessory to a service station and if each car wash bay's ingress and egress are not visible from a street.
- h. Repair garage
- i. Institutional use including, but not limited to, church, government use, and school use
- j. Day care facility
- k. Cottage industry manufacturing
- l. Wind energy system (Effective October 8, 2008)

m. Short Term Rental

**D. Standards**

**1. Performance Standards**

- a. The standards of performance of Articles VII and VIII shall be observed.
- b. Standards relating to permitted uses in the Town Center District include:

- Sec. 19-7-6 Eldercare Facility Standards
- Sec. 19-8-14 Short Term Rental Standards

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

**B. Permitted Uses**

The following uses are permitted in the Business District A:

**3. The following nonresidential uses:**

- a. Banking, professional, and business office
- b. Personal Service
- c. Village retail shop
- d. Veterinarian office not including the boarding of animals but allowing pre-surgical and/or postsurgical care. **(Effective July 8, 2009)**
- e. Medical clinic **(Effective July 8, 2009)**
- f. Restaurant including delicatessen, ice cream parlor, and sit down restaurant **(Effective July 8, 2009)**
- g. Gas station **(Effective July 8, 2009)**
- h. Repair garage **(Effective July 8, 2009)**
- i. Institutional use including, but not limited to, church, government use, and school use **(Effective July 8, 2009)**

- j. Day Care facility (Effective July 8, 2009)
- k. Cottage industry manufacturing (Effective July 8, 2009)
- l. Bed and Breakfast (Effective July 8, 2009)
- m. Boat repair Facility (in the Ocean House Road Business A District only), subject to the provisions of Sec. 19-8-9, Boat Repair Facility Standards (Effective July 8, 2009)
- n. Wind energy system (Effective October 8, 2008)
- o. Short Term Rental

**D. Standards**

**1. Performance Standards**

- a. The standards of performance of Articles VII and VIII shall be observed.
- b. Standards relating to permitted and conditional uses in the Business A District include:
  - Sec. 19-7-5 Creation of an Accessory Dwelling Unit
  - Sec. 19-7-6 Eldercare Facility Standards
  - Sec. 19-7-7 Earth Materials Removal Standards
  - Sec. 19-8-8 Home Day Care and Day Care Facility Standards
  - Sec. 19-8-9 Boat Repair Facility Standards
  - Sec. 19-8-14 Short Term Rental Standards

**ARTICLE VIII. PERFORMANCE STANDARDS**

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

**a. Residential**

- (1) Single Family Dwellings, 2 spaces per dwelling unit including manufactured housing
- (2) Two-Family Dwellings 2 spaces per dwelling unit
- (3) Multiplex housing or multifamily dwellings 1.5 spaces per dwelling unit with one bedroom, 1.75 spaces for unit with two bedrooms, and 2 spaces per unit with three or more bedrooms
- (4) Home Businesses 2 spaces in addition to required parking for residence (This requirement may be reduced by the Zoning Board of Appeals.)

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- (5) Eldercare facilities 1.25 spaces per unit or 1 space per 4 beds plus 1 space per employee
- b. Institutional
  - (1) Municipal Uses 1.25 spaces per employee plus 1 space per 150 sq. ft. of public assembly and meeting area
  - (2) Places of Public Assembly, such as: Theaters/Cinemas/Auditoriums/Stadiums/Sports Arenas/Churches and Synagogues/Gymnasiums 1 space per 4 seats plus 1 space per 2 employees
  - (3) Schools:
    - Grades K-8 1 space per classroom plus 1 space for each employee plus parking in accordance with the places of public assembly for the largest assembly space
    - Secondary 8 spaces per classroom plus parking in accordance with the places of public assembly for the largest assembly space
    - Post Secondary 1 space for each 2 students plus 1 space for each employee plus parking in accordance with the places of public assembly for the largest assembly space
    - Nursery Schools and safe off-Day Care Facilities 1 space per employee plus a street area for vehicle pickup and drop-off of students/children
    - Schools not listed above: 1 space per each 2 students at capacity plus 1 space for each employee plus parking in accordance with the places of public assembly for the largest assembly space
- c. Commercial
  - (1) Retail sales 3 spaces per use or 3 spaces per

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- 1,000 sq. ft. (or 1 space per 333 sq. ft. or portions thereof) plus 1 space per employee, whichever is greater
- (2) Gas and/or Service Station; Auto Repair Garage 25 space per fuel pump plus 1 space per employee plus 4 spaces per service bay
- (For gas stations involving other uses [e.g., gas pumps with convenience stores], the minimum number of required parking spaces shall be the total of the requirements for each use, plus the standards listed above).
- (3) Banks 4 spaces per use or 3 spaces per 1,000 sq.ft. (or 1 space per 333 sq.ft. or portions thereof), whichever is greater
- (4) Personal Services and Business Services 3 spaces per use or 4 spaces per 1,000 sq.ft. (or 1 space per 250 sq.ft. or portions thereof), whichever is greater
- (5) Business and Professional Offices (non-medical) 3 spaces per use or 4 spaces per 1,000 sq.ft. (or 1 space per 250 sq.ft. or portions thereof), whichever is greater
- (6) Professional Office (medical) 5 spaces per 1,000 sq. ft. (or 1 space per 200 sq. ft. or portions thereof)
- (7) Restaurants/Eating Places 1 space per 4 patrons at capacity plus 1 space per employee
- (Measurement of standing and seating capacity shall be based upon the latest adopted edition of the BOCA National Building Code and NFPA 101, whichever is more stringent.)
- (8) Motels, Hotels, Inns 1 space per guest room plus 1 space per employee plus 4 spaces per 1,000 sq.ft. (or 1 space per 250 sq.ft. or portions thereof) of public assembly area
- (9) Bed and Breakfasts and Homestays (Effective March 9, 2009) 2 spaces plus 1 space per guest room

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(10) Veterinary Clinics 4 spaces/doctor plus 1 space/other employee

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(11) Farm and Fish Markets 3 spaces per use or 3 spaces per 1,000 sq. ft. (or 1 space per 333 sq. ft. or portions thereof. (Effective June 10, 2010)

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(12) Short Term Rental 1 space per 2 tenants plus 1 space per 2 guests, with a minimum of 2 spaces

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d. Industrial 1 space per employee

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e. Golf Courses 4 spaces per hole plus parking for any assembly, restaurant, or retail space in accordance with the appropriate requirements

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f. Other Uses As determined by the Planning Board based upon the ITE Parking Generation Manual or data of actual parking demand of similar uses

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**SEC. 19-8-14. SHORT TERM RENTAL STANDARDS**

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**A. Purpose**

Cape Elizabeth residents prize the peace and quiet of their residential neighborhoods. Some property owners have capitalized on the desirability of their neighborhood by renting out their property, especially during the summer months and holidays. Neighborhood residents are concerned that short-term rentals take on the character of a business operating in a residential neighborhood. The purpose of this section is to balance the desire of property owners to rent their properties to short-term tenants and the desire of residents to preserve the peaceful quiet and enjoyment of their residential neighborhoods.

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**B. Applicability**

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A Short Term Rental is permitted only after the issuance of a Short Term Rental Permit. Notwithstanding the preceding sentence, a permit is not required for a Short Term Rental that does not exceed in the aggregate 14 days in any calendar year. A Short Term Rental of less than seven days is not permitted.

**C. Review Procedure**

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- 1. The Code Enforcement Officer shall have the authority to issue a Short Term Rental Permit.
- 2. The Code Enforcement Officer shall provide a Short-Term Rental Form to be completed by the applicant and submitted to the Code Enforcement Officer accompanied by the Short Term Rental permit fee as established by the Town Council. The form shall include a checklist of code requirements that the owner shall demonstrate compliance with.
- 3. The Code Enforcement Officer shall determine if the form has been completely filled out and require that any missing information be provided before any permit is issued.
- 4. The first time that a Short Term Rental Permit is submitted for a property, no permit shall be issued until the Code Enforcement Officer has inspected the proposed Short Term Rental for compliance with the Short Term Rental Standards. Thereafter, renewal of a Short Term Rental Permit shall include inspection by the Code Enforcement Officer of the Short Term Rental no less than once every five years. When the Code Enforcement Officer does not conduct an inspection, the Short Term Rental Owner shall certify that there have been no material changes since the last inspection by the Code Enforcement Officer. Any third party inspection information submitted with the completed form shall be conducted within the preceding 12 months for which the permit is issued.
- 5. The Code Enforcement Officer shall review the permit application for compliance with the Short Term Rental Standards.
- 6. If the Code Enforcement Officer determines that the proposed Short Term Rental complies with the Short Term Rental Standards, a Short Term Rental permit shall be issued. A permit shall be valid for one (1) year from date of issue. The permit may be subject to suspension by the Code Enforcement Officer if the Short Term Rental becomes noncompliant with the Short Term Rental Standards.
- D. Submission Requirements.** The Short Term Rental permit application shall include the following:
  - 1. Location. The street address and map/lot number of the short-term rental shall be provided. If the Short Term Rental is not located on a public road, the form shall include directions to the Short Term Rental from a public road.
  - 2. Contact Person. The name of the owner of the Short Term Rental and contact information, including address and telephone number shall be included on the application form. In addition, if someone other than the owner is acting as the local contact person, contact information for that person shall also be provided. If the contact person changes seasonally, the application form shall include the time period and the contact person during the year.
  - 3. Availability. The registration form shall include when, during the calendar year, the Short-Term Rental will be available for rental. If this changes, the owner shall notify the Code

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1 Enforcement Officer.

2  
3 4. All information needed to demonstrate compliance with the standards listed in Subsection  
4 D below.

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5  
6 E. Standards. The Code Enforcement Officer shall issue a Short Term Rental permit if the  
7 following standards are met:

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8  
9 1. Code compliance. Applicants for Short Term Rental Permits for dwelling units for which  
10 the IRC is the governing code in Cape Elizabeth shall comply with the following building  
11 code sections;

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- 12 a. IRC Section R 314, Smoke Alarms;
- 13 b. IRC Section R 315, Carbon Monoxide alarms;
- 14 c. IBC Section 906, Portable Fire Extinguishers. The building shall be considered to be  
15 an R-1 Occupancy (Boarding House) for the purpose of determining the type and location  
16 of portable fire extinguishers.
- 17 d. IBC Section 1006.2, 1006.3 and 1006.4, Means of Egress Illumination.

18  
19 The applicant shall provide floor plans of the dwelling unit that shows the location of the  
20 alarms, fire extinguisher(s) and emergency lighting.

21  
22 2. Building Evacuation Plan. A building evacuation plan shall be prominently posted in the  
23 Short Term Rental during the rental period.

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24  
25 3. Sanitary waste disposal. The short-term rental owner shall submit information  
26 demonstrating that adequate sanitary waste disposal is available in compliance with the  
27 Town of Cape Elizabeth Subsurface Wastewater Disposal Ordinance, as determined by  
28 the Code Enforcement Officer.

29  
30 The information shall include the total number of bedrooms included in the short-term  
31 rental, any additional sleeping space, and the total number of tenants that the short-term  
32 rental accommodates. The total number of tenants used to determine adequacy of sanitary  
33 waste disposal shall not be less than the total number of tenants that the property is  
34 advertised to accommodate. For the purpose of evaluating the adequacy of a subsurface  
35 disposal system, every 2 tenants shall be equivalent to 1 bedroom.

36  
37 4. Parking. The application shall include a depiction of how parking will be provided on the  
38 same lot, and/or include a written agreement for off-site parking at a specified location, to  
39 comply with the Off-Street Parking Standards, Sec. 19-7-8. Garage parking spaces not  
40 allowed for tenant use shall not be used to meet the Short Term Rental parking  
41 requirement. No bus shall be parked at the Short-Term rental.

42  
43 5. Rental Agreement Addendum. The Short Term Rental permit application shall be  
44 submitted with an addendum to be attached to the Tenant Rental Agreement that shall be  
45 provided to all tenant groups. The Town shall not be responsible for enforcement of the  
46 rental agreement or addendum. The rental agreement addendum shall include the



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1 following:

- 2 a. Contact person.
- 3 b. Emergency responder contact information
- 4 c. Building evacuation plan.
- 5 d. Maximum number of tenants and guests.
- 6 e. Parking arrangements, including a prohibition against tenants and guests parking
- 7 in a manner that impedes access by emergency vehicles to the Short Term rental
- 8 or any other dwelling in the neighborhood.
- 9 f. Event rules, as determined by the Short-Term Rental Owner.
- 10 g. Good neighbor guidelines.

11 6. Limit on rental intensity. In addition to any other limitations in this ordinance, the

12 following limits on the number of tenants and guests at a Short Term Rental shall apply.

13

- 14 a. Lots of 30,000 sq. ft. or less in size. Where a Short Term Rental is located on a lot
- 15 that is 30,000 sq. ft. or less in size, the Short Term Rental shall not have more
- 16 than 2 tenants per bedroom, shall not include non-bedroom sleeping areas, and
- 17 shall not to exceed a maximum of 8 tenants. The number of guests at the Short
- 18 Term Rental at any one time shall be limited to eight.

- 19 b. Lots of more than 30,000 sq. ft. in size. Where a Short Term Rental is located on
- 20 a lot that is greater than 30,000 sq. ft. in size, the number of guests at the Short
- 21 Term Rental at any one time shall be limited to fifteen.

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CHAPTER 19

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ZONING ORDINANCE

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SEC. 19-1-3. DEFINITIONS

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**Dwelling:** A building containing one (1) or more dwelling units and used for human habitation.

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**Short Term Rental:** A dwelling that is available for rent for transient occupancy by tenants for a period of less than 30 days, excluding motels.

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**Short Term Rental Guest:** A visitor of a Short Term Rental tenant who will not be sleeping overnight on the property.

**Tenant:** An occupant of land or premises who occupies, uses, and enjoys real property for a fixed time, usually through a lease arrangement with the property owner and with the owner's consent. When applied to a Short Term Rental, anyone sleeping overnight shall be considered a tenant.

SEC. 19-3-1. CODE ENFORCEMENT OFFICER

The Code Enforcement Officer of the Town shall interpret and enforce the provisions of this Ordinance and shall require compliance with its requirements and restrictions. The Code Enforcement Officer shall adopt procedures to facilitate the handling of all matters and questions arising hereunder within the scope of the Code Enforcement Officer's authority and duties. Any decision of the Code Enforcement Officer denying a permit shall be in writing, a copy of which shall be given to the applicant. Appeals from decisions of the Code Enforcement Officer shall be to the Zoning Board of Appeals in accordance with the provisions of Sec. 19-5-2.A, Administrative Appeals.

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

The following uses are permitted in the Residence A District:

1 *1. The following resource-related uses:*

- 2
- 3 a. Any use permitted in Resource Protection 1-Critical Wetlands District, or in
- 4 Resource Protection 2-Wetland Protection District, or in Resource Protection 3-
- 5 Floodplain District, as shown on Table 19-6-9
- 6
- 7 b. Agriculture, provided that no animal or fowl shall be raised for commercial
- 8 purposes on any lot containing less than one hundred thousand (100,000) square
- 9 feet
- 10 c. Keeping of livestock, such as a horse, cow, pig, goat, sheep, or similar animal,
- 11 provided that such activity occurs only on a lot containing at least one hundred
- 12 thousand (100,000) square feet
- 13 d. Removal of topsoil, subject to the provisions of Sec. 19-8-5, Earth Materials
- 14 Removal Standards
- 15 e. Timber harvesting
- 16

17 *2. The following residential uses:*

- 18
- 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 e. Short Term Rental
- 25

26 *3. The following nonresidential uses:*

- 27
- 28 a. Home day care
- 29 b. Farm and fish market, with a maximum floor area of two thousand (2,000) square feet
- 30 for retail sales of products
- 31 c. Boat repair facility, subject to the provisions of Sec. 19-8-9, Boat Repair Facility
- 32 Standards
- 33 d. Golf Course and Golf Course Related Activities (**Effective February 12, 2003**)
- 34 e. Wind energy system (**Effective October 8, 2008**)
- 35 f. Bed and Breakfast, where the operator of the Bed and Breakfast owns the structure and
- 36 maintains it as his/her primary residence (**Effective March 9, 2009**)
- 37

38 *4. The following accessory uses:*

- 39 a. Accessory building, structure or use
- 40 b. Outside athletic facility accessory to permitted use
- 41 c. Home occupation
- 42 d. Homestay (**Effective March 9, 2009**)
- 43 e. Amateur or governmental wireless telecommunication facility antenna (**Effective**
- 44 April 15, 2000)
- 45 f. Amateur or governmental wireless telecommunication facility tower (**Effective**
- 46 April 15, 2000)

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- 1 | g. Commercial wireless telecommunication service antenna which is attached to an  
2 | alternative tower structure in a manner which conceals the presence of an antenna.  
3 | **(Effective April 15, 2000)**  
4 | h. Agriculture related use **(Effective June 10, 2010)**  
5 |

### 6 | **C. Conditional Uses**

7 |  
8 | The following uses may be permitted only upon approval by the Zoning Board as a conditional  
9 | use, in accordance with Sec. 19-5-5, Conditional Use Permits:  
10 |

#### 11 |

#### 12 | *1. The following resource-related uses:*

- 13 |
- 14 | a. Extraction of sand, gravel, rock and similar earth materials, except topsoil (see  
15 | permitted uses), subject to the provisions of Sec. 19-8-5, Earth Materials Removal  
16 | Standards  
17 |

#### 18 | *2. The following nonresidential uses:*

- 19 |
- 20 | a. Cemetery
  - 21 | b. Day care facility
  - 22 | c. Fraternal or social institution
  - 23 | d. Institution of an educational, religious, or philanthropic nature, including school,  
24 | hospital, church, municipal use, or similar facility
  - 25 | e. Playground or park  
26 |

#### 27 | *3. The following accessory uses:*

- 28 |
- 29 | a. Home business
  - 30 | b. Accessory dwelling unit  
31 |

### 32 | **D. Prohibited Uses**

33 |

34 | All uses not specifically allowed as permitted uses or conditional uses are prohibited within this  
35 | district.  
36 |

### 37 | **E. Standards**

#### 38 |

#### 39 | *1. Performance standards*

- 40 |
- 41 | a. The standards of performance of Articles VII and VIII shall be observed.
  - 42 | b. Standards relating to permitted and conditional uses in the Residence A District  
43 | include:  
44 |

- 45 |           Sec. 19-7-5   Creation of an Accessory Dwelling Unit  
46 |           Sec. 19-7-6   Eldercare Facility Standards

- 1           Sec. 19-8-5   Earth Materials Removal Standards  
 2           Sec. 19-8-7   Great Pond Watershed Performance Standards  
 3           Sec. 19-8-8   Home Day Care and Day Care Facility Standards  
 4           Sec. 19-8-9   Boat Repair Facility Standards  
 5           Sec. 19-8-14   Short Term Rental Standards

6  
7  
8   2. The following Space and Bulk Standards shall apply:  
9

<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 acres
<i>(3) Eldercare facilities</i>	10 acres
<i>(4) Golf Course (Effective February 12, 2003)</i>	150 acres (Effective February 12, 2003)
<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
<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
<b>MAXIMUM NUMBER OF BED AND BREAKFAST ROOMS (Effective March 9, 2009)</b>	
<i>Bed and Breakfast Guest Room (Effective March 9, 2009)</i>	1 room per 20,000 sq. ft. of gross lot area

<b>MINIMUM STREET FRONTAGE</b>	
<i>(1) Bed and Breakfast</i>	125 ft. on Shore Road or Route 77
<i>(2) All uses</i>	125 ft.
<b>MINIMUM SETBACKS</b>	
<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. <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.
<i>(2) Multiplex housing and eldercare facilities</i>	
(a) From property line	75 ft.
<i>(3) Accessory structures with floor area not greater than 100 square feet and a height not greater than 8-1/2 feet from average grade</i>	
(a) Side yard setback	10 ft.
(b) Rear yard setback	5 ft.

<i>(4) Reserved (Effective June 10, 2010)</i>	
<i>(5) Antennas extending from 15' to 25' measured from the highest point of the alternative tower structure</i>	
(a) Property line setback	125% of the distance from the ground to the top of the antenna <b>(Effective April 15, 2000)</b>
<i>(6) Towers which are freestanding, and towers which are attached or braced against a structure and exceed 15' in height measured from the highest point of the roof of the structure</i>	
(a) Property line setback	125% of the distance from the ground to the top of the antenna <b>(Effective April 15, 2000)</b>
(b) Front yard setback	125% of the distance from the ground to the top of the antenna or the distance from the street right of way to the front of the existing structure plus 5', whichever is more <b>(Effective April 15, 2000)</b>
<i>(7) Open Space Zoning Subdivisions (See Sec. 19-7-2)</i>	
(a) Side yard setback	20 ft.
(b) Rear yard setback	20 ft.
(c) Front yard setback	20 ft.
<i>(8) Deck with a height of less than ten (10) feet above average grade</i>	
(a) Side yard setback	15 ft.
(b) Rear yard setback	15 ft.
<i>(9) Accessory building having less than one hundred fifty (150) square feet of floor area</i>	
(a) Side yard setback	15 ft.

(b) Rear yard setback	15 ft.
<i>(10) Outdoor recreational facilities such as swimming pools, tennis courts, and basketball courts that are accessory to a single family residential use</i>	
(a) Side yard setback	15 ft.
(b) Rear yard setback	15 ft. <b>(Effective December 10, 2003)</b>
<i>(11) Wind energy system</i>	110% of the distance from the ground to the center of the turbine <b>(Effective October 8, 2008)</b>
<i>(12) Antenna attached to a structure</i>	25' measured from the highest point of the roof of the structure <b>(Effective April 15, 2000)</b>
<i>(13) Freestanding amateur or governmental wireless telecommunication tower</i>	50' measured from average original grade <b>(Effective April 15, 2000)</b>
<b>MAXIMUM WIND ENERGY SYSTEM HEIGHT (Effective October 8, 2008)</b>	
<i>(1) All uses to center of turbine</i>	100'
<b>MINIMUM LOT WIDTH (Effective August 11, 1999)</b>	
<i>(1) All uses</i>	40 ft.
<b>MAXIMUM BUILDING FOOTPRINT</b>	
<i>(1) All uses</i>	None, except nonconforming lots shall comply with the building footprint standards contained in Sec. 19-4-3, Nonconformity Outside of Shoreland and Resource Protection Areas.
<b>MAXIMUM BUILDING HEIGHT</b>	
<i>(1) All uses</i>	35 ft.



1  
2 **F. Site Plan Review**  
3

4 The following uses and activities shall be subject to site plan review by the Planning Board,  
5 according to the terms of Article IX, Site Plan Review, prior to issuance of any building permit,  
6 plumbing permit, or other permit:  
7

- 8 1. Multiplex housing and eldercare facilities
  - 9 2. Nonresidential uses listed in Sec. 19-6-1.B.3, except home day cares, which shall not  
10 require site plan review (**Effective August 11, 1999**)
  - 11 3. Nonresidential uses listed Sec. 19-6-1.C.2
  - 12 4. Any other use or activity listed in Sec. 19-9-2, Applicability, as requiring site plan review
- 13

14 **SEC. 19-6-2. RESIDENCE B DISTRICT (RB)**  
15

16 **A. Purpose**  
17

18 The Residence B District is differentiated from the Residence A District in that subdivisions in  
19 Residence B are required to be laid out according to the principles of open space zoning, as  
20 described in Sec. 19-7-2, Open Space Zoning. The Residence B District includes lands outside  
21 of the built-up parts of Town where the Comprehensive Plan indicates growth can and should be  
22 accommodated as a result of soils suitable for individual or common septic systems or the  
23 extension of public sewer lines. The purpose of this district is to allow a significant portion of  
24 the Town's anticipated residential growth to occur in these areas, in a manner that preserves the  
25 character of rural lands, promotes healthy neighborhoods, offers flexibility in design, and  
26 minimizes the costs of municipal services.  
27

28 **B. Permitted Uses**  
29

30 The following uses are permitted in the Residence B District:

31 **1. The following resource-related uses:**  
32

- 33 a. Any use permitted in Resource Protection 1-Critical Wetlands District, or in  
34 Resource Protection 2-Wetland Protection District, or in Resource Protection 3-  
35 Floodplain District, as shown on Table 19-6-9
  - 36 b. Agriculture, provided that no animal or fowl shall be raised for commercial  
37 purposes on any lot containing less than one hundred thousand (100,000) square  
38 feet
  - 39 c. Keeping of livestock, such as a horse, cow, pig, goat, sheep, or similar animal,  
40 provided that such activity occurs only on a lot containing at least one hundred  
41 thousand (100,000) square feet
  - 42 d. Removal of topsoil, subject to the provisions of Sec. 19-8-5, Earth Materials  
43 Removal Standards
  - 44 e. Timber harvesting
- 45

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

- 1
- 2 a. Single family dwelling
- 3 b. Manufactured housing on an individual lot
- 4 c. Multiplex housing
- 5 d. Eldercare facility, subject to the provisions of Sec. 19-7-6, Eldercare Facility
- 6 Standards
- 7 e. Short Term Rental
- 8

9 **3. *The following nonresidential uses:***

- 10 a. Home day care
- 11 b. Farm and fish market, with a maximum floor area of two thousand (2,000) square
- 12 feet for retail sales of products
- 13 c. Golf Course Related Activities, excluding restaurants, clubhouses and meeting
- 14 halls. **(Effective February 12, 2003)**
- 15 d. Wind energy system **(Effective October 8, 2008)**
- 16

17 **4. *The following accessory uses:***

- 18
- 19 a. Accessory building, structure or use
- 20 b. Outside athletic facility accessory to permitted use
- 21 c. Home occupation
- 22 d. The renting of not more than two (2) rooms within a single-family dwelling
- 23 provided that there is no physical alteration of the building and no change in the
- 24 external appearance of the structure.
- 25 e. Amateur or governmental wireless telecommunication facility antenna **(Effective**
- 26 **April 15, 2000)**
- 27 f. Amateur or governmental wireless telecommunication facility tower **(Effective**
- 28 **April 15, 2000)**
- 29 g. Commercial wireless telecommunication service antenna which is attached to an
- 30 alternative tower structure in a manner which conceals the presence of an antenna.
- 31 **(Effective April 15, 2000)**
- 32 h. Agriculture related use **(Effective June 10, 2010)**
- 33

34 **C. Conditional Uses**

35

36 The following uses may be permitted only upon approval by the Zoning Board as a conditional

37 use, in accordance with Sec. 19-5-5, Conditional Use Permits:

38

39 **1. *The following resource-related uses:***

- 40
- 41 a. Extraction of sand, gravel, rock and similar earth materials, except topsoil (see
- 42 permitted uses), subject to the provisions of Sec. 19-8-5, Earth Materials Removal
- 43 Standards
- 44

45 **2. *The following nonresidential uses:***

46

- 1 a. Cemetery
- 2 b. Day care facility
- 3 c. Fraternal or social institution
- 4 d. Institution of an educational, religious, or philanthropic nature, including school,  
5 hospital, church, municipal use, or similar facility
- 6 e. Playground or park

7  
8 **3. *The following accessory uses:***

- 9
- 10 a. Home business
- 11 b. Accessory dwelling unit

12  
13 **D. Prohibited Uses**

14  
15 All uses not specifically allowed as permitted uses or conditional uses are prohibited within this  
16 district.

17  
18 **E. Standards**

19  
20 **1. *Performance standards***

- 21
- 22 a. The standards of performance of Articles VII and VIII shall be observed.
- 23 b. Standards relating to permitted and conditional uses in the Residence B District  
24 include:

- 25
- 26 Sec. 19-7-5 Creation of an Accessory Dwelling Unit
- 27 Sec. 19-7-6 Eldercare Facility Standards
- 28 Sec. 19-8-5 Earth Materials Removal Standards
- 29 Sec. 19-8-8 Home Day Care and Day Care Facility Standards
- 30 Sec. 19-8-14 Short Term Rental Standards

31  
32 **2. *The following Space and Bulk Standards shall apply:***

- 33
- 34 a. Lots that are part of residential subdivisions approved by the Planning Board after  
35 June 4, 1997, shall comply with the terms of Sec. 19-7-2, Open Space Zoning,  
36 except that subdivisions for which completed applications have been submitted to  
37 the Planning Board prior to June 4, 1997, shall be subject to the regulations in  
38 effect at the time of their submission.
- 39
- 40 b. For all other lots, the following Space and Bulk Standards shall apply:
- 41

MINIMUM LOT AREA	
<i>(1) Eldercare facilities</i>	5 acres
<i>(2) Wind energy systems</i>	20,000 sq. ft.

	<b>(Effective October 8, 2008)</b>
<i>(3) Other uses</i>	80,000 sq. ft.
<b>MAXIMUM NUMBER OF DWELLING UNITS PER AREA</b>	
<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
<b>MINIMUM STREET FRONTAGE</b>	
<i>(1) All uses</i>	125 ft.
<b>MINIMUM SETBACKS</b>	
<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. <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
<i>(2) Multiplex housing and eldercare facilities</i>	
(a) From property line	75 ft.
<i>(3) Accessory structures with floor area not greater than 100 square feet and a height not greater than 8-1/2 feet from average grade</i>	
(b) Rear yard setback	5 ft.
<i>(4) Reserved (Effective June 10, 2010)</i>	
<i>(5) Antennas extending from 15' to 25' measured from the highest point of the alternative tower structure</i>	
(a) Property line setback	125% of the distance from the ground to the top of the antenna <b>(Effective April 15, 2000)</b>
<i>(6) Towers which are freestanding, and towers which are attached or braced against a structure and exceed 15' in height measured from the highest point of the roof of the structure</i>	
(a) Property line setback	125% of the distance from the ground to the top of the antenna <b>(Effective April 15, 2000)</b>
(b) Front yard setback	125% of the distance from the ground to the top of the antenna or the distance from the street right of way to the front of the existing structure plus 5', whichever is more <b>(Effective April 15, 2000)</b>
<i>(7) Deck with a height of less than ten (10) feet above average grade</i>	
(a) Side yard setback	15 ft.
(b) Rear yard setback	15 ft.
<i>(8) Accessory building having less than one hundred fifty (150) square feet of floor area</i>	

(a) Side yard setback	15 ft.
(b) Rear yard setback	15 ft.
(9) <i>Outdoor recreational facilities such as swimming pools, tennis courts, and basketball courts that are accessory to a single family residential use</i>	
(a) Side yard setback	15 ft.
(b) Rear yard setback	15 ft.
(10) <i>Wind energy system</i>	(Effective. 12/10/03) 110% of the distance from the ground to the center of the turbine (Effective October 8, 2008)
<b>MAXIMUM TELECOMMUNICATION HEIGHT</b>	
(1) <i>Antenna attached to a structure</i>	25' measured from the highest point of the roof of the structure (Effective April 15, 2000)
(2) <i>Amateur or governmental tower attached or braced against a structure</i>	25' measured from the highest point of the roof of the structure (Effective April 15, 2000)
(3) <i>Freestanding amateur or governmental wireless telecommunication tower</i>	50' measured from average original grade (Effective April 15, 2000)
<b>MAXIMUM WIND ENERGY SYSTEM HEIGHT (Effective October 8, 2008)</b>	
(1) <i>All uses to center of turbine</i>	100'
<b>MINIMUM LOT WIDTH (Effective August 11, 1999)</b>	
(1) <i>All uses</i>	40 ft.
<b>MAXIMUM BUILDING FOOTPRINT</b>	
(1) <i>All uses</i>	None, except nonconforming lots shall comply with the building footprint standards contained in Sec. 19-4-3
<b>MAXIMUM BUILDING HEIGHT</b>	

<i>(1) All uses</i>	35 ft.
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**F. Site Plan Review**

The following uses and activities shall be subject to site plan review by the Planning Board, according to the terms of Article IX, Site Plan Review, prior to issuance of any building permit, plumbing permit, or other permit:

1. Multiplex housing and eldercare facilities
2. Nonresidential uses listed in Sec. 19-6-2.B.3, except home day cares, which shall not require site plan review
3. Nonresidential uses listed in Sec. 19-6-2.C.2
4. Any other use or activity listed in Sec. 19-9-2, Applicability, as requiring site plan review

**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**

The following uses are permitted in the Residence C District:

*1. The following resource-related uses:*

- a. Any use listed in Resource Protection 1-Critical Wetlands District, or in Resource Protection 2-Wetland Protection District, or in Resource Protection 3-Floodplain District, as shown on Table 19-6-9
- b. Agriculture, provided that no animal or fowl shall be raised for commercial purposes on any lot containing less than one hundred thousand (100,000) square feet
- c. Keeping of livestock, such as a horse, cow, pig, goat, sheep, or similar animal, provided that such activity occurs only on a lot containing at least one hundred thousand (100,000) square feet
- d. Removal of topsoil, subject to the provisions of Sec. 19-8-5, Earth Materials

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1 Removal Standards  
2 e. Timber harvesting

3  
4 2. *The following residential uses:*

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

14  
15 3. *The following nonresidential uses:*

- 16 a. Home day care
- 17 b. Farm and fish market, with a maximum floor area of two thousand (2,000) square  
18 feet for retail sales of products
- 19 c. Boat repair facility, subject to the provisions of Sec. 19-8-9, Boat Repair Facility  
20 Standards
- 21 d. Wind energy system (**Effective October 8, 2008**)
- 22 e. Bed and Breakfast, where the operator of the Bed and Breakfast owns the  
23 structure and maintains it as his/her primary residence (**Effective March 9, 2009**)

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26 4. *The following accessory uses:*

- 27 a. Accessory building, structure or use
- 28 b. Outside athletic facility accessory to permitted use
- 29 c. Home occupation
- 30 d. Homestay (**Effective March 9, 2009**)
- 31 e. Amateur or governmental wireless telecommunication facility antenna (**Effective**  
32 **April 15, 2000**)
- 33 f. Amateur or governmental wireless telecommunication facility tower (**Effective**  
34 **April 15, 2000**)
- 35 g. Commercial wireless telecommunication service antenna which is attached to an  
36 alternative tower structure in a manner which conceals the presence of an antenna.  
37 (**Effective April 15, 2000**)
- 38 h. Agriculture related use (**Effective June 10, 2010**)

39  
40  
41 C. **Conditional Uses**

42  
43 The following uses may be permitted only upon approval by the Zoning Board as a conditional  
44 use, in accordance with Sec. 19-5-5, Conditional Use Permits:

45  
46 1. *The following resource-related uses:*



- 1  
2 a. Extraction of sand, gravel, rock and similar earth materials, except topsoil (see  
3 permitted uses), subject to the provisions of Sec. 19-8-5, Earth Materials Removal  
4 Standards  
5

6 **2. The following nonresidential uses:**  
7

- 8 a. Cemetery  
9 b. Day care facility  
10 c. Fraternal or social institution  
11 d. Institution of an educational, religious, or philanthropic nature, including school,  
12 hospital, church, municipal use, or similar facility  
13 e. Playground or park  
14

15 **3. The following accessory uses:**  
16

- 17 a. Home business  
18 b. Accessory dwelling unit  
19

20 **D. Prohibited Uses**  
21

22 All uses not specifically allowed as permitted uses or conditional uses are prohibited within this  
23 district.  
24

25 **E. Standards**  
26

27 **1. Performance Standards**  
28

- 29 a. The standards of performance of Articles VII and VIII shall be observed.  
30 b. Standards relating to permitted and conditional uses in the Residence C District  
31 include:  
32

- 33 Sec. 19-7-5 Creation of an Accessory Dwelling Unit  
34 Sec. 19-7-6 Eldercare Facility Standards  
35 Sec. 19-7-7 Manufactured Housing Parks  
36 Sec. 19-8-5 Earth Materials Removal Standards  
37 Sec. 19-8-8 Home Day Care and Day Care Facility Standards  
38 Sec. 19-8-9 Boat Repair Facility Standards  
39 Sec. 19-8-14 Short Term Rental Standards  
40  
41

**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 acres

(3) <i>Eldercare facilities</i>	5 acres
(4) <i>Wind energy systems</i>	20,000 sq. ft. (Effective October 8, 2008)
(5) <i>Others</i>	20,000 sq. ft.
<b>MAXIMUM NUMBER OF DWELLING UNITS PER AREA</b>	
(1) <i>Multiplex housing</i>	1 unit per 15,000 sq. ft. of net residential area
(2) <i>In subdivisions</i>	1 unit per 20,000 sq. ft. of net residential area
(3) <i>In subdivisions that conform to Sec. 19-7-2, Open Space Zoning</i>	1 unit per 15,000 sq. ft. of net residential area
(4) <i>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
(5) <i>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)
(6) <i>Rooming or boarding home</i>	1 bed per 5,000 sq. ft. of gross lot area
(7) <i>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>	
(1) <i>Bed and Breakfast</i>	100 ft. on Shore Road or Route 77
(2) <i>All uses</i>	100 ft.
<b>MINIMUM SETBACKS</b>	
(1) <i>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,

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	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.
<b>(2) Multiplex housing and eldercare facilities</b>	
(a) From property line	75 ft.
<b>(3) Accessory structures with floor area not greater than 100 square feet and a height not greater than 8-1/2 feet from average grade</b>	
(a) Side yard setback	10 ft.
(b) Rear yard setback	5 ft.
<b>(4) Reserved (Effective June 10, 2010)</b>	
<b>(5) Antennas extending from 15' to 25' measured from the highest point of the alternative tower structure</b>	
(a) Property line setback	125% of the distance from the ground to the top of the antenna (Effective April 15, 2000)
<b>(6) Towers which are freestanding, and towers which are attached or braced against a structure and exceed 15' in height measured from the highest point of the roof of the structure</b>	
(a) Property line setback	125% of the distance from

	the ground to the top of the antenna <b>(Effective April 15, 2000)</b>
(b) Front yard setback	125% of the distance from the ground to the top of the antenna or the distance from the street right of way to the front of the existing structure plus 5', whichever is more <b>(Effective April 15, 2000)</b>
<b>(7) Open Space Zoning Subdivisions (See Sec. 19-7-2)</b>	
(a) Side yard setback	15 ft.
(b) Rear yard setback	15 ft.
(c) Front yard setback	20 ft.
<b>(8) Deck with a height of less than ten (10) feet above average grade</b>	
(a) Side yard setback	10 ft.
(b) Rear yard setback	10 ft.
<b>(9) Accessory building having less than one hundred fifty (150) square feet of floor area</b>	
(a) Side yard setback	10 ft.
(b) Rear yard setback	10 ft.
<b>(10) Outdoor recreational facilities such as swimming pools, tennis courts, and basketball courts that are accessory to a single family residential use</b>	
(a) Side yard setback	10 ft.
(b) Rear yard setback	10 ft. <b>(Effective December 10, 2003)</b>
<b>(11) Wind energy system</b>	110% of the distance from the ground to the center of the turbine

<b>(Effective October 8, 2008)</b>	
<b>MAXIMUM TELECOMMUNICATION HEIGHT</b>	
<i>(1) Antenna attached to a structure</i>	25' measured from the highest point of the roof of the structure <b>(Effective April 15, 2000)</b>
<i>(2) Amateur or governmental tower attached or braced against a structure</i>	25' measured from the highest point of the roof of the structure <b>(Effective April 15, 2000)</b>
<b>MAXIMUM WIND ENERGY SYSTEM HEIGHT (Effective October 8, 2008)</b>	
<i>(1) All uses to center of turbine</i>	100'
<b>MINIMUM LOT WIDTH (Effective August 11, 1999)</b>	
<i>(1) All uses</i>	40 ft.
<b>MAXIMUM BUILDING FOOTPRINT</b>	
<i>(1) All uses</i>	None, except nonconforming lots shall comply with the building coverage standards contained in Sec. 19-4-3
<b>MAXIMUM BUILDING HEIGHT</b>	
<i>(1) All uses</i>	35 ft.

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**F. Site Plan Review**

The following uses and activities shall be subject to site plan review by the Planning Board, according to the terms of Article IX, Site Plan Review, prior to issuance of any building permit, plumbing permit, or other permit:

1. Multiplex housing, eldercare facilities, and boarding care facilities
2. Nonresidential uses listed in Sec. 19-6-3.B.3, except home day cares, which shall not require site plan review
3. Nonresidential uses listed in Sec. 19-6-3.C.2
4. Any other use or activity listed in Sec. 19-9-2, Applicability, as requiring site plan review

**ARTICLE VIII. PERFORMANCE STANDARDS**

**19-7-8. OFF-STREET PARKING (Effective May 12, 2002)**

**A. Applicability**

Off-street parking shall be provided for all new construction, expansions, and changes of use in accordance with the requirements and standards found in this section.

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2 **B. Minimum Requirements for Off-Street Parking**  
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4 Off-street parking shall be considered an accessory use when required or provided to serve any  
5 legal use located in any zone except as set forth in the following sections. An off-street parking  
6 space shall be a minimum of nine (9) feet wide by eighteen (18) feet long, may be open or  
7 covered. The Planning Board may allow up to twenty percent (20%) of the parking requirement  
8 to be met with "compact car" spaces that are a minimum of eight (8) feet wide by sixteen (16)  
9 feet long provided that such spaces shall be clearly marked as "compact car parking." Each  
10 parking space must be sited to allow access and exit without obstruction. Handicapped parking  
11 shall be provided in compliance with the Americans with Disabilities Act and applicable State  
12 requirements. In order to determine compliance with this section, the owner or applicant shall  
13 submit a plan showing the physical layout of all required off-street parking areas. Any change in  
14 the evidence or conditions upon which the plan is approved shall nullify such approval.  
15

- 16 *I.* Parking shall be provided on the lot occupied by the use for which the parking is  
17 required, or on an adjacent lot owned or controlled by such use. In addition, uses located  
18 within the Town Center, BA or BB District may provide all or part of the required off-  
19 street parking through any of the following:  
20
- 21 a. Private off-street parking located on another lot that is located within one mile of  
22 the subject lot and that is controlled by long-term written lease or ownership by  
23 the applicant.  
24
  - 25 b. Off-street parking shared with other uses (consistent with paragraph 2 below)  
26 located within one mile of the subject lot, provided that the Planning Board finds  
27 that there is adequate parking capacity to meet the parking requirements of all  
28 uses sharing the parking due to variation in the time of parking demand and that  
29 the shared parking is available to the applicant through a written lease or other  
30 enforceable agreement.  
31

32 Where parking is proposed elsewhere on an existing parking lot which has received Site Plan  
33 approval, the Planning Board shall approve or deny the off site parking after considering the  
34 adequacy of the parking and traffic impacts. Where parking is proposed elsewhere on an  
35 existing parking lot which has not received Site Plan approval, the Planning Board shall approve  
36 or deny the off site parking after reviewing the lot for compliance with the following Site Plan  
37 Standards in Sec. 19-9-5: (B) Traffic Access and Parking, (M) Exterior Lighting, and (N)  
38 Landscaping and Buffering.  
39

- 40 *2.* Where multiple use of a lot occurs or where the use involves more than one activity (i.e.,  
41 an ice cream shop that includes a gift shop), off-street parking shall be provided for each  
42 use in accordance with this section. Where the applicant can demonstrate and document  
43 nonconflicting periods of use, shared use of parking spaces may be permitted by the  
44 Planning Board.  
45
- 46 *3.* Travel and queuing aisles associated with off-street parking, drive-in facilities and motor

1 vehicle fuel pumps shall be provided and shall not interfere with the use of or be part of  
 2 the required off-street parking.

3  
 4 Parking stalls and aisle layout shall conform to the following standards.

5 6 7 8	Parking Angle	Stall Width	Skew Width	Stall Depth	Aisle Width
9					
10					
11					
12					
13	90°	9'-0"		18'-0"	24'-0" two way
14	60°	8'-6"	10'-6"	18'-0"	16'-0" one way only
15	45°	8'-6"	12'-9"	17'-6"	12'-0" one way only
16	30°	8'-6"	17'-0"	17'-0"	12'-0" one way only

17  
 18 4. The following minimum number of spaces, rounded up to the nearest whole number,  
 19 shall be provided and maintained for each use on a lot, including each use within all  
 20 buildings. The Planning Board may reduce by up to thirty percent (30%) the required  
 21 parking for the reuse of a building existing as of June 4, 1997. In granting such a  
 22 reduction, the Planning Board must find that:

- 23
- 24 a. the reduction will not create or aggravate parking problems in the neighborhood,  
 25 and
- 26
- 27 b. the required number of spaces cannot be reasonably accommodated on the lot.
- 28

29 *The maximum number of employees scheduled during peak demand/shift shall be used in*  
 30 *calculating the number of required parking spaces when employee is referenced in the list below.*  
 31 *The floor area of the structure as defined in Sec. 19-1-3 shall be used in calculating the number*  
 32 *of required parking spaces, unless otherwise noted.*

33	a. Residential	
34	(1) Single Family Dwellings,	2 spaces per dwelling unit
35		including manufactured
36		housing
37	(1a) Short Term Rental	1 space per 4 tenants, with a
38		<u>minimum of 2 spaces</u>
39	(2) Two-Family Dwellings	2 spaces per dwelling unit
40		
41		
42		
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45		

1	(3) Multiplex housing or	1.5 spaces per dwelling unit
2	with multifamily dwellings	one bedroom, 1.75
3	spaces for	unit with two
4	bedrooms, and 2	spaces per unit with three or
5		more bedrooms
6		
7		
8	(4) Home Businesses	2 spaces in addition to
9		required
10		parking for residence (This
11		requirement may be reduced by the
12		Zoning Board of Appeals.)
13		
14	(5) Eldercare facilities	1.25 spaces per unit or 1 space
15	per 4 beds plus 1 space	per employee
16		
17	b. Institutional	
18		
19	(1) Municipal Uses	1.25 spaces per employee plus 1
20	space per 150 sq. ft. of	public assembly and meeting
21		area
22		
23	(2) Places of Public Assembly,	1 space per 4 seats plus 1
24	space	
25	such as; Theaters/Cinemas/	per 2 employees
26	Auditoriums/Stadiums/	
27	Sports Arenas/Churches and	
28	Synagogues/Gymnasiums	
29		
30	(3) Schools:	
31		
32	Grades K-8	1 space per classroom plus 1 space
33		for each employee plus parking
34		in accordance with the places of public
35		assembly for the largest assembly
36		space
37		
38	Secondary	8 spaces per classroom plus parking
39		in accordance with the places of
40		public assembly for the largest
41		assembly space
42		
43	Post Secondary	1 space for each 2 students plus 1
44		space for each employee plus
45		parking in accordance with the
46		places of public assembly for the

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	largest assembly space
Nursery Schools and safe off- Day Care Facilities	1 space per employee plus a street area for vehicle pickup and drop-off of students/children

Schools not listed above: 1 space per each 2 students at capacity plus 1 space for each employee plus parking in accordance with the places of public assembly for the largest assembly space

c. Commercial

- (1) Retail sales 1,000 sq. ft. (or 1 space per 333 sq. ft. or portions thereof) plus 1 space per employee, whichever is greater
- (2) Gas and/or Service Station; Auto Repair Garage service bay .25 space per fuel pump plus 1 space per employee plus 4 spaces per service bay

(For gas stations involving other uses [e.g., gas pumps with convenience stores], the minimum number of required parking spaces shall be the total of the requirements for each use, plus the standards listed above).

- (3) Banks 4 spaces per use or 3 spaces per 1,000 sq.ft. (or 1 space per 333 sq.ft. or portions thereof), whichever is greater
- (4) Personal Services and Business Services 3 spaces per use or 4 spaces per 1,000 sq.ft. (or 1 space per 250 sq.ft. or portions thereof), whichever is greater
- (5) Business and Professional Offices (non-medical) 3 spaces per use or 4 spaces per 1,000 sq.ft. (or 1 space per 250 sq.ft. or portions thereof), whichever is greater
- (6) Professional Office (medical) 5 spaces per 1,000 sq. ft. (or 1 space per 200 sq. ft. or portions thereof)

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- (7) Restaurants/Eating Places 1 space per 4 patrons at capacity plus 1 space per employee

(Measurement of standing and seating capacity shall be based upon the latest adopted edition of the BOCA National Building Code and NFPA 101, whichever is more stringent.)

- (8) Motels, Hotels, Inns 1 space per guest room plus 1 space per employee plus 4 spaces per 1,000 sq.ft. (or 1 space per 250 sq.ft. or portions thereof) of public assembly area

- (9) Bed and Breakfasts and Homestays (Effective March 9, 2009) 2 spaces plus 1 space per guest room

- (10) Veterinary Clinics 4 spaces/doctor plus 1 space/other employee

- (11) Farm and Fish Markets 3 spaces per use or 3 spaces per 1,000 sq. ft. (or 1 space per 333 sq. ft. or portions thereof. (Effective June 10, 2010)

- d. Industrial 1 space per employee

- e. Golf Courses 4 spaces per hole plus parking for any assembly, restaurant, or retail space in accordance with the appropriate requirements

- f. Other Uses As determined by the Planning Board based upon the ITE Parking Generation Manual or data of actual parking demand of similar uses

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**C. Off-Street Parking Design Standards**

The following design standards shall apply to all new and expanded off-street parking areas:

1. Parking areas for uses other than single and two-family dwellings shall be designed so that vehicles will not back out into a street.
2. Parking areas shall not inhibit emergency vehicle access to any building or structure.

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- 3. Parking areas shall be separated from the front of all buildings by a landscaped area at least five (5) feet wide where parking is allowed in the yard area.
- 4. Wheel stops/curbs shall be placed where needed to prevent encroachment into walkways, landscaped areas, circulation aisles, streets and structures.
- 5. Parking spaces and travel aisles shall be clearly delineated in parking lots.
- 6. All parking areas shall be designed to adequately control drainage. In furtherance of this standard, drainage calculations used shall reflect a paved condition and all parking areas shall be constructed with base material which can withstand normally expected vehicle loading and winter maintenance.
- 7. If parking spaces are provided for self-parking by employees or visitors or both, accessible spaces meeting ADA requirements shall be provided in each parking area in conformance with the following:

Total Parking in Lot	Required Minimum Number of Accessible Spaces
1	1
26	2
51	3
76	4
101	5
151	6
201	7
301	8
401	9
501	2 percent of total
1001 and over	20 plus 1 for each 100 over 1000

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- 8. Parking facilities within the Town Center District shall comply with the Standards of Sec. 19-6-4.D.3.g., Landscaping and Site Development.

**SEC. 19-8-14. SHORT TERM RENTAL STANDARDS**

**A. Purpose**

Cape Elizabeth residents prize the peace and quiet of their single family neighborhoods. Some property owners have capitalized on the desirability of their neighborhood by renting out their property to transient tenants, especially during the summer months

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1 and holidays. Neighborhood residents are concerned that these short-term rentals take  
2 on the character of a business operating in a residential neighborhood. The purpose of  
3 this section is to balance the desire of property owners to rent their properties to short-  
4 term tenants and the desire of residents to preserve the peaceful quiet and enjoyment of  
5 their single family neighborhoods.

6  
7 **B. Review Procedure**

8  
9 1. Any property owner who wants to operate a Short Term Rental must first obtain  
10 a Short Term Rental Permit from the Code Enforcement Officer.

11  
12 2. The Code Enforcement Officer shall provide a Short-Term Rental Form to be  
13 completed by the applicant and submitted to the Code Enforcement Officer  
14 accompanied by the Short Term Rental permit fee as established by the Town Council.  
15 The form shall include a checklist of code requirements that the owner shall  
16 demonstrate compliance with.

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17  
18 3. The Code Enforcement Officer shall determine if the form has been completely  
19 filled out and require that any missing information be provided before any permit is  
20 issued.

21  
22 4. The first time that a Short Term Rental Permit is submitted for a property, no  
23 permit shall be issued until the Code Enforcement Officer has inspected the proposed  
24 Short Term Rental for compliance with the Short Term Rental Standards. Thereafter,  
25 renewal of a Short Term Rental Permit shall include inspection by the Code  
26 Enforcement Officer of the Short Term Rental no less than once every five years. When  
27 the Code Enforcement Officer does not conduct an inspection, the Short Term Rental  
28 Owner shall certify that the Short Term Rental is in compliance with code requirements.  
29 Any third party inspection information submitted with the completed form shall be  
30 conducted in the calendar year for which the permit is issued.

31  
32 5. Code Enforcement Officer shall review the permit application for compliance  
33 with the Short Term Rental Standards.

34  
35 6. If the Code Enforcement Officer determines that the proposed Short Term Rental  
36 complies with the Short Term Rental Standards, a Short Term Rental permit shall be  
37 issued. A permit shall be valid for one (1) year from date of issue. The permit may be  
38 subject to suspension by the Code Enforcement Officer if the Short Term Rental  
39 becomes noncompliant with the Short Term Rental Standards.

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40  
41 **C. Submission Requirements.** The Short Term Rental permit application shall  
42 include the following:

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1. Location. The street address and map/lot number of the short-term rental shall be provided. If the Short Term Rental is not located on a public road, the form shall include directions to the Short Term Rental from a public road.

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2. Contact Person. The name of the owner of the Short Term Rental and contact information, including address and telephone number shall be included on the registration form. In addition, if someone other than the owner is acting as the local contact person, contact information for that person should also be provided. If the contact person changes seasonally, the registration form shall include the time period and the contact person during the year.

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3. Availability. The registration form shall include when, during the calendar year, the Short Term Rental will be available for rental. If this changes, the owner shall notify the Code Enforcement Officer.

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D. Standards. The Code Enforcement Officer shall issue a Short Term Rental permit if the following standards are met:

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1. Code compliance. The Short Term Rental permit application shall include written confirmation by the Code Enforcement Officer that the Short Term Rental is in compliance with all applicable codes.

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For Short Term Rentals operating on a lot that is less than 30,000 sq. ft. and where the Short Term Rental property owner is not living on the same lot or on a lot abutting the Short Term Rental during the period of rental, the following additional standards shall be met:

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2. Limit on rental intensity. The Short Term Rental shall not accommodate more than 12 tenants at any one time. The number of guests shall not be more than one-half the total number of tenants.

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3. Sanitary waste disposal. The short-term rental owner shall submit information demonstrating that adequate sanitary waste disposal is available in compliance with the Town of Cape Elizabeth Subsurface Wastewater Disposal Ordinance, as determined by the Code Enforcement Officer.

The information shall include the total number of bedrooms included in the short-term rental, any additional sleeping space, and the total number of tenants that the short-term rental accommodates. If the short-term rental is publicly advertised, the total number of tenants used to determine adequacy of sanitary waste disposal shall not be less than the total number of tenants that the property is advertised to accommodate. For the purpose of evaluating the adequacy of a subsurface disposal system, every 2 tenants shall be equivalent to 1 bedroom.

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4. Parking. The application shall include a depiction of how parking will be

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provided on the same lot, and/or include a written agreement for off-site parking at a specified location, at the Short Term Rental to comply with the Off-Street Parking Standards, Sec. 19-7-8. Garage parking spaces not allowed for tenant use shall not be used to meet the Short Term Rental parking requirement. No bus parking or recreational vehicles shall be parked at the Short-Term rental.

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5. Rental Agreement Addendum. The Short Term Rental permit application shall be submitted with an addendum to be attached to the Tenant Rental Agreement that shall be provided to all tenant groups. The Town shall not be responsible for enforcement of the rental agreement or addendum. The rental agreement addendum shall include the following:

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a. Contact person.

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b. Emergency responder contact information and building evacuation plan.

c. Maximum number of tenants and guests.

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d. Parking arrangements, including a prohibition against tenants and guests parking in a manner that impedes access by emergency vehicles to the Short Term rental or any other dwelling in the neighborhood.

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e. Event rules, as determined by the Short-Term Rental Owner.

E. Enforcement. Violation of the Short Term Rental permit provisions shall be subject to the provisions of 30-A M.R.S.A. Sec. 4452.

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