

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.

1 **SEC. 19-3-1. CODE ENFORCEMENT OFFICER**

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

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

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14 **A. Notice**

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

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23 **B. Enforcement Action**

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

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29 **C. Penalties**

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31 Any owner or occupant of, or any person or entity having control or the use of, or any person or
32 entity engaged in the construction, alteration or repair of or receiving a permit for, any building
33 or land or part thereof, found to violate any of the provisions of this Ordinance, shall be guilty of
34 a misdemeanor, and upon conviction thereof, shall be punishable as provided in 30-A, M.R.S.A.
35 §4452, except as otherwise provided by State law. Each day such violation is permitted to exist
36 after written notification thereof by the Code Enforcement Officer shall constitute a separate
37 offense.

38
39 **SEC. 19-6-1. RESIDENCE A DISTRICT (RA)**

40
41 **A. Purpose**

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43 The Residence A District includes lands that are outside of the built-up areas of Cape Elizabeth,
44 lands to which public sewer lines are not expected to be extended in the near future, and large
45 tracts suitable for farming, woodland production, and wildlife habitat. The purpose of this
46 district is to allow residential development that is compatible with the character, scenic value,

1 and traditional uses of rural lands and that does not impose an undue burden on the provision of
2 municipal services.

3
4 **B. Permitted Uses**

5
6 The following uses are permitted in the Residence A District:

7
8 **1. The following resource-related uses:**

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

- 25
26 a. Single family dwelling
27 b. Manufactured housing on an individual lot
28 c. Multiplex housing
29 d. Eldercare facility, subject to the provisions of Sec. 19-7-6, Eldercare Facility Standard
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31 **3. The following nonresidential uses:**

- 32
33 a. Home day care
34 b. Farm and fish market, with a maximum floor area of two thousand (2,000) square feet
35 for retail sales of products
36 c. Boat repair facility, subject to the provisions of Sec. 19-8-9, Boat Repair Facility
37 Standards
38 d. Golf Course and Golf Course Related Activities (**Effective February 12, 2003**)
39 e. Wind energy system (**Effective October 8, 2008**)
40 f. Bed and Breakfast, where the operator of the Bed and Breakfast owns the structure and
41 maintains it as his/her primary residence (**Effective March 9, 2009**)
42 g. Short Term Rental
43

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

- 45 a. Accessory building, structure or use
46 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 A 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. 19-8-7 Great Pond Watershed Performance 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

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

A. Purpose

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

B. Permitted Uses

The following uses are permitted in the Residence B District:

1. The following resource-related uses:

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- 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 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)**

1 h. Agriculture related use (**Effective June 10, 2010**)

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3 **E. Standards**

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5 **1. Performance standards**

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7 a. The standards of performance of Articles VII and VIII shall be observed.

8 b. Standards relating to permitted and conditional uses in the Residence B District
9 include:

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11 Sec. 19-7-5 Creation of an Accessory Dwelling Unit

12 Sec. 19-7-6 Eldercare Facility Standards

13 Sec. 19-8-5 Earth Materials Removal Standards

14 Sec. 19-8-8 Home Day Care and Day Care Facility Standards

15 Sec. 19-8-14 Short Term Rental Standards

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

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19 **A. Purpose**

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21 The Residence C District includes lands that are within the built-up areas of Cape Elizabeth, are
22 sewered or can be easily served by public sewer, are identified in the Comprehensive Plan as part
23 of the Town’s growth areas, are not presently in agricultural or woodland uses, and are not
24 considered to be valuable, large-scale open space with valued scenery or wildlife habitat. The
25 purpose of the district is to provide for areas of compact development that can foster cohesive
26 neighborhoods that are close to community services.

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28 **B. Permitted Uses**

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

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

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34 a. Any use listed in Resource Protection 1-Critical Wetlands District, or in Resource
35 Protection 2-Wetland Protection District, or in Resource Protection 3-Floodplain
36 District, as shown on Table 19-6-9

37 b. Agriculture, provided that no animal or fowl shall be raised for commercial
38 purposes on any lot containing less than one hundred thousand (100,000) square
39 feet

40 c. Keeping of livestock, such as a horse, cow, pig, goat, sheep, or similar animal,
41 provided that such activity occurs only on a lot containing at least one hundred
42 thousand (100,000) square feet

43 d. Removal of topsoil, subject to the provisions of Sec. 19-8-5, Earth Materials
44 Removal Standards

45 e. Timber harvesting

46

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

- 1 Sec. 19-7-6 Eldercare Facility Standards
- 2 Sec. 19-7-7 Manufactured Housing Parks
- 3 Sec. 19-8-5 Earth Materials Removal Standards
- 4 Sec. 19-8-8 Home Day Care and Day Care Facility Standards
- 5 Sec. 19-8-9 Boat Repair Facility Standards
- 6 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

- 1 j. Day care facility
- 2 k. Cottage industry manufacturing
- 3 l. Wind energy system **(Effective October 8, 2008)**
- 4 m. Short Term Rental

D. Standards

1. Performance Standards

- 10 a. The standards of performance of Articles VII and VIII shall be observed.
- 11 b. Standards relating to permitted uses in the Town Center District include:
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- 13
- 14 Sec. 19-7-6 Eldercare Facility Standards
- 15 Sec. 19-8-14 Short Term Rental Standards
- 16

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:

- 38 a. Banking, professional, and business office
- 39 b. Personal Service
- 40 c. Village retail shop
- 41 d. Veterinarian office not including the boarding of animals but allowing pre-
- 42 surgical and/or postsurgical care. **(Effective July 8, 2009)**
- 43 e. Medical clinic **(Effective July 8, 2009)**
- 44 f. Restaurant including delicatessen, ice cream parlor, and sit down restaurant
- 45 **(Effective July 8, 2009)**
- 46 g. Gas station **(Effective July 8, 2009)**

- 1 h. Repair garage (**Effective July 8, 2009**)
- 2 i. Institutional use including, but not limited to, church, government use, and school
- 3 use (**Effective July 8, 2009**)
- 4 j. Day Care facility (**Effective July 8, 2009**)
- 5 k. Cottage industry manufacturing (**Effective July 8, 2009**)
- 6 l. Bed and Breakfast (**Effective July 8, 2009**)
- 7 m. Boat repair Facility (in the Ocean House Road Business A District only), subject
- 8 to the provisions of Sec. 19-8-9, Boat Repair Facility Standards (**Effective July 8,**
- 9 **2009**)
- 10 n. Wind energy system (**Effective October 8, 2008**)
- 11 o. Short Term Rental

D. Standards

1. Performance Standards

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

ARTICLE VIII. PERFORMANCE STANDARDS

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

- 31 a. Residential
- 32
- 33 (1) Single Family Dwellings, 2 spaces per dwelling unit
- 34 including manufactured
- 35 housing
- 36
- 37 (2) Two-Family Dwellings 2 spaces per dwelling unit
- 38
- 39 (3) Multiplex housing or 1.5 spaces per dwelling unit with
- 40 multifamily dwellings one bedroom, 1.75 spaces for
- 41 unit with two bedrooms, and 2
- 42 spaces per unit with three or
- 43 more bedrooms
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- 45 (4) Home Businesses 2 spaces in addition to
- 46 required parking for residence (This

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requirement may be reduced by the Zoning Board of Appeals.)

(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- 1 space per employee plus a
Day Care Facilities 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 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

1	(9)	Bed and Breakfasts and Homestays (Effective March 9, 2009)	2 spaces plus 1 space per guest room
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3	(10)	Veterinary Clinics	4 spaces/doctor plus 1 space/other employee
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5	(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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13		<u>(12) Short Term Rental</u>	<u>1 space per 2 tenants plus 1 space per</u>
14			<u>2 guests, with a minimum of 2</u>
15			<u>spaces</u>
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17	d.	Industrial	1 space per employee
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19	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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24	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

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.

B. Applicability

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

1 seven days is not permitted.

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3 **C. Review Procedure**

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5 1. The Code Enforcement Officer shall have the authority to issue a Short Term Rental
6 Permit.

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

12
13 3. The Code Enforcement Officer shall determine if the form has been completely filled out
14 and require that any missing information be provided before any permit is issued.

15
16 4. The first time that a Short Term Rental Permit is submitted for a property, no permit shall
17 be issued until the Code Enforcement Officer has inspected the proposed Short Term Rental for
18 compliance with the Short Term Rental Standards. Thereafter, renewal of a Short Term Rental
19 Permit shall include inspection by the Code Enforcement Officer of the Short Term Rental no
20 less than once every five years. When the Code Enforcement Officer does not conduct an
21 inspection, the Short Term Rental Owner shall certify that there have been no material changes
22 since the last inspection by the Code Enforcement Officer. Any third party inspection
23 information submitted with the completed form shall be conducted within the preceding 12
24 months for which the permit is issued.

25
26 5. The Code Enforcement Officer shall review the permit application for compliance with
27 the Short Term Rental Standards.

28
29 6. If the Code Enforcement Officer determines that the proposed Short Term Rental
30 complies with the Short Term Rental Standards, a Short Term Rental permit shall be issued. A
31 permit shall be valid for one (1) year from date of issue. The permit may be subject to suspension
32 by the Code Enforcement Officer if the Short Term Rental becomes noncompliant with the Short
33 Term Rental Standards.

34
35 **D. Submission Requirements.** The Short Term Rental permit application shall include the
36 following:

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

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

1 during the year.

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

6
7 4. All information needed to demonstrate compliance with the standards listed in Subsection
8 D below.

9
10 **E. Standards.** The Code Enforcement Officer shall issue a Short Term Rental permit if the
11 following standards are met:

12
13 1. Code compliance. Applicants for Short Term Rental Permits for dwelling units for which
14 the IRC is the governing code in Cape Elizabeth shall comply with the following building
15 code sections:

16
17 a. IRC Section R 314, Smoke Alarms;

18 b. IRC Section R 315, Carbon Monoxide alarms;

19 c. IBC Section 906, Portable Fire Extinguishers. The building shall be considered to be
20 an R-1 Occupancy (Boarding House) for the purpose of determining the type and location
21 of portable fire extinguishers.

22 d. IBC Section 1006.2, 1006.3 and 1006.4, Means of Egress Illumination.

23
24 The applicant shall provide floor plans of the dwelling unit that shows the location of the
25 alarms, fire extinguisher(s) and emergency lighting.

26
27 2. Building Evacuation Plan. A building evacuation plan shall be prominently posted in the
28 Short Term Rental during the rental period.

29
30 3. Sanitary waste disposal. The short-term rental owner shall submit information
31 demonstrating that adequate sanitary waste disposal is available in compliance with the
32 Town of Cape Elizabeth Subsurface Wastewater Disposal Ordinance, as determined by
33 the Code Enforcement Officer.

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

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

1
2 5. Rental Agreement Addendum. The Short Term Rental permit application shall be
3 submitted with an addendum to be attached to the Tenant Rental Agreement that shall be
4 provided to all tenant groups. The Town shall not be responsible for enforcement of the
5 rental agreement or addendum. The rental agreement addendum shall include the
6 following:

- 7
- 8 a. Contact person.
- 9 b. Emergency responder contact information
- 10 c. Building evacuation plan.
- 11 d. Maximum number of tenants and guests.
- 12 e. Parking arrangements, including a prohibition against tenants and guests parking
13 in a manner that impedes access by emergency vehicles to the Short Term rental
14 or any other dwelling in the neighborhood.
- 15 f. Event rules, as determined by the Short-Term Rental Owner.
- 16 g. Good neighbor guidelines.
- 17

18 6. Limit on rental intensity. In addition to any other limitations in this ordinance, the
19 following limits on the number of tenants and guests at a Short Term Rental shall apply.

- 20
- 21 a. Lots of 30,000 sq. ft. or less in size. Where a Short Term Rental is located on a lot
22 that is 30,000 sq. ft. or less in size, the Short Term Rental shall not have more
23 than 2 tenants per bedroom, shall not include non-bedroom sleeping areas, and
24 shall not to exceed a maximum of 8 tenants. The number of guests at the Short
25 Term Rental at any one time shall be limited to eight.
- 26
- 27 b. Lots of more than 30,000 sq. ft. in size. Where a Short Term Rental is located on
28 a lot that is greater than 30,000 sq. ft. in size, the number of guests at the Short
29 Term Rental at any one time shall be limited to fifteen.
- 30

31 **F. Suspension and Revocation of permit.**

32

33 In addition to the provisions of Sec. 19-3-6, Violations, a permit for a short term rental may be
34 suspended or revoked if the Code Enforcement Officer determines that 1 or more short term
35 rental substantiated complaints have been made.

36

37 1. Complaint. Any individual or town official may file and/or initiate a complaint against a
38 short term rental permit holder. If the Police Department or the Code Enforcement
39 Officer receive a complaint, they shall visit the property. The Police Department shall
40 generate a report of the facts they have observed and statements made to them for any
41 visit to a short term rental. The Police Department shall then forward the report to the
42 Code Enforcement Officer.

43

44 When the Code Enforcement Officer receives a report from the Police Department, or the
45 Code Enforcement Officer has responded to a complaint or independently investigated,
46 the Code Enforcement Officer shall inspect the short term rental and shall collect

1 information related to the complaint, including notifying the short term rental owner and
2 requesting information regarding the complaint. Within five days of receiving a Police
3 Report or complaint, the Code Enforcement Officer shall determine if the complaint is
4 substantiated. A complaint is substantiated when the complaint review conducted by the
5 Code Enforcement Officer concludes that one or more violations of the short term rental
6 provisions, Sec. 19-8-14, has occurred.

7
8 2. First Substantiated Complaint. Once the Code Enforcement Officer has made a finding of
9 a substantiated complaint, the Code Enforcement Officer shall notify the short term rental
10 owner in writing. The notification shall require the short term rental owner to meet with
11 the Code Enforcement Officer within five (5) business days from the date of the written
12 notification, or such other time as is agreed upon by the Code Enforcement Officer, to
13 identify ways in which the violation(s) will be corrected. The owner will agree to take all
14 necessary measures to correct the violation(s), which measures shall be memorialized in a
15 written agreement at the conclusion of the meeting and shall be implemented within one
16 (1) week of said meeting unless another date is agreed to by the Code Enforcement
17 Officer. Failure of the short term rental owner to enter into such an agreement at the
18 conclusion of the meeting will be deemed a violation of the short term rental provisions.
19 In addition, the Code Enforcement Officer may suspend the short term rental permit for a
20 term not to exceed 30 days.

21
22 3. Second Substantiated Complaint. Once the Code Enforcement Officer has made a finding
23 for two (2) substantiated complaints, the Code Enforcement Officer shall notify the short
24 term rental owner in writing that the short term rental permit shall be suspended for a
25 period of not less than 30 days nor more than 120 days.

26
27 The notification shall require the short term rental owner to meet with the Code
28 Enforcement Officer within five (5) business days from the date of the written
29 notification, or such other time as is agreed upon by the Code Enforcement Officer, to
30 identify ways in which the violation(s) will be corrected. The owner will agree to take all
31 necessary measures to correct the violation(s), which measures shall be memorialized in a
32 written agreement at the conclusion of the meeting and shall be implemented within one
33 (1) week of said meeting unless another date is agreed to by the Code Enforcement
34 Officer. Failure of the short term rental owner to enter into such an agreement at the
35 conclusion of the meeting will be deemed a violation of the short term rental provisions.

36
37 4. Third Substantiated Complaint. Once the Code Enforcement Officer has made a finding
38 for (3) substantiated complaints, the Code Enforcement Officer shall notify the short term
39 rental owner in writing that the short term rental permit has been revoked.

40
41 5. Appeal. An appeal to the Zoning Board of Appeals as an Administrative Appeal, Sec. 19-
42 5-2 (A) may be taken by any person aggrieved by the determination of the Code
43 Enforcement Officer.