

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**

2
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.

11
12 **SEC. 19-3-6. VIOLATIONS**

13
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.

22
23 **B. Enforcement Action**

24
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.

28
29 **C. Penalties**

30
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**

42
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
 - 13
 - 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
 - 18 c. Keeping of livestock, such as a horse, cow, pig, goat, sheep, or similar animal,
19 provided that such activity occurs only on a lot containing at least one hundred
20 thousand (100,000) square feet
 - 21
 - 22 d. Removal of topsoil, subject to the provisions of Sec. 19-8-5, Earth Materials
23 Removal Standards
 - 24
 - 25 e. Timber harvesting
 - 26

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

- 28
- 29 a. Single family dwelling
 - 30 b. Manufactured housing on an individual lot
 - 31 c. Multiplex housing
 - 32 d. Eldercare facility, subject to the provisions of Sec. 19-7-6, Eldercare Facility
33 Standard
 - 34

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

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

1
2 **4. The following accessory uses:**

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

15
16 **E. Standards**

17
18 **1. Performance standards**

- 19
20 a. The standards of performance of Articles VII and VIII shall be observed.
21 b. Standards relating to permitted and conditional uses in the Residence A District
22 include:

23
24 Sec. 19-7-5 Creation of an Accessory Dwelling Unit
25 Sec. 19-7-6 Eldercare Facility Standards
26 Sec. 19-8-5 Earth Materials Removal Standards
27 Sec. 19-8-7 Great Pond Watershed Performance Standards
28 Sec. 19-8-8 Home Day Care and Day Care Facility Standards
29 Sec. 19-8-9 Boat Repair Facility Standards
30 Sec. 19-8-14 Short Term Rental Standards

31
32 **SEC. 19-6-2. RESIDENCE B DISTRICT (RB)**

33
34 **A. Purpose**

35
36 The Residence B District is differentiated from the Residence A District in that subdivisions in
37 Residence B are required to be laid out according to the principles of open space zoning, as
38 described in Sec. 19-7-2, Open Space Zoning. The Residence B District includes lands outside
39 of the built-up parts of Town where the Comprehensive Plan indicates growth can and should be
40 accommodated as a result of soils suitable for individual or common septic systems or the
41 extension of public sewer lines. The purpose of this district is to allow a significant portion of
42 the Town's anticipated residential growth to occur in these areas, in a manner that preserves the
43 character of rural lands, promotes healthy neighborhoods, offers flexibility in design, and
44 minimizes the costs of municipal services.

45
46 **B. Permitted Uses**

1
2 The following uses are permitted in the Residence B District:
3

4 **1. *The following resource-related uses:***
5

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

19 **2. *The following residential uses:***
20

- 21 a. Single family dwelling
- 22 b. Manufactured housing on an individual lot
- 23 c. Multiplex housing
- 24 d. Eldercare facility, subject to the provisions of Sec. 19-7-6, Eldercare Facility
25 Standards
26

27 **3. *The following nonresidential uses:***
28

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

36 **4. *The following accessory uses:***
37

- 38 a. Accessory building, structure or use
- 39 b. Outside athletic facility accessory to permitted use
- 40 c. Home occupation
- 41 d. The renting of not more than two (2) rooms within a single-family dwelling
42 provided that there is no physical alteration of the building and no change in the
43 external appearance of the structure.
- 44 e. Amateur or governmental wireless telecommunication facility antenna **(Effective**
45 **April 15, 2000)**

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

7

8 **E. Standards**

9

10 **I. Performance standards**

- 11
- 12 a. The standards of performance of Articles VII and VIII shall be observed.
- 13 b. Standards relating to permitted and conditional uses in the Residence B District
- 14 include:
- 15
- 16 Sec. 19-7-5 Creation of an Accessory Dwelling Unit
- 17 Sec. 19-7-6 Eldercare Facility Standards
- 18 Sec. 19-8-5 Earth Materials Removal Standards
- 19 Sec. 19-8-8 Home Day Care and Day Care Facility Standards
- 20 Sec. 19-8-14 Short Term Rental Standards
- 21

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

23

24 **A. Purpose**

25

26 The Residence C District includes lands that are within the built-up areas of Cape Elizabeth, are

27 sewered or can be easily served by public sewer, are identified in the Comprehensive Plan as part

28 of the Town's growth areas, are not presently in agricultural or woodland uses, and are not

29 considered to be valuable, large-scale open space with valued scenery or wildlife habitat. The

30 purpose of the district is to provide for areas of compact development that can foster cohesive

31 neighborhoods that are close to community services.

32

33 **B. Permitted Uses**

34

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

36

37 **I. The following resource-related uses:**

- 38
- 39 a. Any use listed in Resource Protection 1-Critical Wetlands District, or in Resource
- 40 Protection 2-Wetland Protection District, or in Resource Protection 3-Floodplain
- 41 District, as shown on Table 19-6-9
- 42 b. Agriculture, provided that no animal or fowl shall be raised for commercial
- 43 purposes on any lot containing less than one hundred thousand (100,000) square
- 44 feet

- 1 c. Keeping of livestock, such as a horse, cow, pig, goat, sheep, or similar animal,
2 provided that such activity occurs only on a lot containing at least one hundred
3 thousand (100,000) square feet
- 4 d. Removal of topsoil, subject to the provisions of Sec. 19-8-5, Earth Materials
5 Removal Standards
- 6 e. Timber harvesting

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

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

17
18 **3. *The following nonresidential uses:***

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

29
30 **4. *The following accessory uses:***

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

44
45 **E. Standards**

46

1 ***1. Performance Standards***
2

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

- 6
7 Sec. 19-7-5 Creation of an Accessory Dwelling Unit
8 Sec. 19-7-6 Eldercare Facility Standards
9 Sec. 19-7-7 Manufactured Housing Parks
10 Sec. 19-8-5 Earth Materials Removal Standards
11 Sec. 19-8-8 Home Day Care and Day Care Facility Standards
12 Sec. 19-8-9 Boat Repair Facility Standards
13 Sec. 19-8-14 Short Term Rental Standards
14

15 **SEC. 19-6-4. TOWN CENTER DISTRICT (TC)**
16

17 **A. Purpose**
18

19 The purpose of this district is to encourage an identifiable Town Center that includes a village
20 feeling, mixed retail and residential uses to serve residents, an environment inviting to
21 pedestrians, a common meeting place, visual cohesiveness and enrichment and linkages to the
22 Town's open space and nearby school campus. The Town Center District boundaries reflect the
23 prevalence of public buildings and commercial uses and the historic compactness of
24 development. The Town Center District requirements are tailored to the unique characteristics of
25 the Cape Elizabeth Town Center.
26

27 In the center of the Town Center District, there exists a unique compactness of development
28 exemplified by smaller lot sizes and existing structures with compatible space and bulk massing
29 and architectural features. This area shall be designated the Town Center Core Subdistrict. All
30 the requirements of the Town Center District shall apply in the core subdistrict, except where
31 standards specific to the Town Center Core Subdistrict are established.
32

33 **B. Permitted Uses**
34

35 The following uses are permitted in the Town Center District:
36

37 ***3. The following nonresidential uses:***
38

- 39 a. Banking, professional, and business office
40 b. Personal service
41 c. Village retail shop
42 d. Veterinarian office not including the boarding of animals but allowing presurgical
43 and/or postsurgical care.
44 e. Medical clinic
45 f. Restaurant including delicatessen, ice cream parlor, and sit down restaurant with a
46 maximum of seventy-five (75) seats.

- 1 g. Gas station with not more than two (2) fueling islands with each island having not
- 2 more than four (4) "fueling points" from no more than two (2) gas dispensers. A
- 3 car wash is allowed only if accessory to a service station and if each car wash
- 4 bay's ingress and egress are not visible from a street.
- 5 h. Repair garage
- 6 i. Institutional use including, but not limited to, church, government use, and school
- 7 use
- 8 j. Day care facility
- 9 k. Cottage industry manufacturing
- 10 l. Wind energy system (**Effective October 8, 2008**)
- 11 m. Short Term Rental

12
13 **D. Standards**

14
15 **1. Performance Standards**

- 16
- 17 a. The standards of performance of Articles VII and VIII shall be observed.
- 18
- 19 b. Standards relating to permitted uses in the Town Center District include:
- 20
- 21 Sec. 19-7-6 Eldercare Facility Standards
- 22 Sec. 19-8-14 Short Term Rental Standards
- 23

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

25
26 **A. Purpose**

27
28 The Business A District is comprised of neighborhood business districts in which the business
29 uses are geared to the needs of nearby residents rather than a large scale, regional destination
30 center. The district requirements seek to promote (i) business vitality, (ii) pedestrian
31 connectivity between the business district and the adjacent residential areas, (iii) a mix of
32 commercial and housing uses, (iv) high quality design that is pedestrian friendly, compatible
33 with, and protects the integrity of the adjacent residential neighborhood, and (v) an efficient use
34 of the land within the district for business uses. The Business A district regulations recognize
35 that the BA District in the Shore Road area and the BA District in the Ocean House Road area
36 are individually distinctive and may require different treatments, which are specified herein.
37 (**Effective July 8, 2009**)

38
39 **B. Permitted Uses**

40
41 The following uses are permitted in the Business District A:

42
43 **3. The following nonresidential uses:**

- 44
- 45 a. Banking, professional, and business office
- 46 b. Personal Service

- 1 c. Village retail shop
- 2 d. Veterinarian office not including the boarding of animals but allowing pre-
- 3 surgical and/or postsurgical care. **(Effective July 8, 2009)**
- 4 e. Medical clinic **(Effective July 8, 2009)**
- 5 f. Restaurant including delicatessen, ice cream parlor, and sit down restaurant
- 6 **(Effective July 8, 2009)**
- 7 g. Gas station **(Effective July 8, 2009)**
- 8 h. Repair garage **(Effective July 8, 2009)**
- 9 i. Institutional use including, but not limited to, church, government use, and school
- 10 use **(Effective July 8, 2009)**
- 11 j. Day Care facility **(Effective July 8, 2009)**
- 12 k. Cottage industry manufacturing **(Effective July 8, 2009)**
- 13 l. Bed and Breakfast **(Effective July 8, 2009)**
- 14 m. Boat repair Facility (in the Ocean House Road Business A District only), subject
- 15 to the provisions of Sec. 19-8-9, Boat Repair Facility Standards **(Effective July 8,**
- 16 **2009)**
- 17 n. Wind energy system **(Effective October 8, 2008)**
- 18 o. Short Term Rental

19
20 **D. Standards**

21
22 **1. Performance Standards**

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

33
34 **ARTICLE VIII. PERFORMANCE STANDARDS**

35
36 **SEC. 19-7-8. OFF-STREET PARKING (Effective May 12, 2002)**

- 37
- 38 a. Residential
- 39
- 40 (1) Single Family Dwellings, 2 spaces per dwelling unit
- 41 including manufactured
- 42 housing
- 43
- 44 (2) Two-Family Dwellings 2 spaces per dwelling unit
- 45

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- (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.)

- (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

- 1 Nursery Schools and 1 space per employee plus a
2 safe off-
3 Day Care Facilities street area for vehicle pickup and
4 drop-off of students/children
5
6 Schools not listed above: 1 space per each 2 students at capacity plus 1 space for
7 each employee plus parking in accordance with the places of public assembly for
8 the largest assembly space
9
10 c. Commercial
11
12 (1) Retail sales 3 spaces per use or 3 spaces per
13 1,000 sq. ft. (or 1 space per 333 sq.
14 ft. or portions thereof) plus 1 space
15 per employee, whichever is greater
16
17 (2) Gas and/or Service .25 space per fuel pump plus 1 space
18 Station; Auto Repair Garage per employee plus 4 spaces per
19 service bay
20
21 (For gas stations involving other uses [e.g., gas pumps with convenience stores],
22 the minimum number of required parking spaces shall be the total of the
23 requirements for each use, plus the standards listed above).
24
25 (3) Banks 4 spaces per use or 3 spaces per
26 1,000 sq.ft. (or 1 space per 333 sq.ft.
27 or portions thereof), whichever is
28 greater
29
30 (4) Personal Services and 3 spaces per use or 4 spaces
31 Business Services per 1,000 sq.ft. (or 1 space per 250
32 sq.ft. or portions thereof), whichever
33 is greater
34
35 (5) Business and Professional 3 spaces per use or 4 spaces per
36 Offices (non-medical) per 1,000 sq.ft. (or 1 space per 250
37 sq.ft. or portions thereof), whichever
38 is greater
39
40 (6) Professional 5 spaces per 1,000 sq. ft. (or 1 space
41 Office (medical) per 200 sq. ft. or portions thereof)
42
43 (7) Restaurants/Eating Places 1 space per 4 patrons at capacity plus
44 1 space per employee
45

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

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

1 neighborhood. The purpose of this section is to balance the desire of property owners to rent
2 their properties to short-term tenants and the desire of residents to preserve the peaceful quiet
3 and enjoyment of their residential neighborhoods.

4
5 **B. Applicability**

6
7 A Short Term Rental is permitted only after the issuance of a Short Term Rental Ppermit.
8 Notwithstanding the preceding sentence, a permit is not required for a Short Term Rental
9 ~~that~~which, with any prior Short Term Rental, does not exceed in the aggregate fourteen ~~14~~
10 in any calendar year. ~~A Short Term Rental of less than seven days is not permitted. The~~
11 ~~minimum length of stay shall not be construed to prevent allowance for the time necessary to~~
12 ~~prepare the Short Term Rental for a new tenant after the prior tenant leaves.~~A property owner
13 may not enter into more than one Short Term Rental agreement for any consecutive seven day
14 period.

15
16 **C. Review Procedure**

17
18 1. The Code Enforcement Officer shall have the authority to issue a Short Term Rental
19 Ppermit.

20
21 2. The Code Enforcement Officer shall provide a Short- Term Rental Formapplication to be
22 completed by the applicant and submitted to the Code Enforcement Officer accompanied by the
23 Short Term Rental permit fee as established by the Town Council. The form shall include a non-
24 exclusive checklist of code requirements that the property owner shall demonstrate compliance
25 with.

26
27 3. The Code Enforcement Officer shall determine if the form has been completelyproperly
28 completed filled out and require that any missing information be provided before any permit is
29 issued.

30
31 4. The first time that a Short Term Rental Ppermit is submitted for a property, no permit
32 shall be issued until the Code Enforcement Officer has inspected the proposed Short Term Rental
33 property for compliance with the Short Term Rental Standards and compliance with building
34 code requirements. Thereafter, renewal of a Short Term Rental Ppermit shall includerequire
35 inspection by the Code Enforcement Officer of the Short Term Rental property no less than once
36 every five years. When the Code Enforcement Officer does not conduct an annual inspection, the
37 Short Term Rental Owner shall certify that there have been no material changes since the last
38 inspection by the Code Enforcement Officer. Any third party inspection information submitted
39 with the completed form shall behave been conducted within the preceding 12twelve months for
40 which prior to the permit isbeing issued.

41
42 5. The Code Enforcement Officer shall review the permit application for compliance with
43 the Short Term Rental Standards.

44
45 6. If the Code Enforcement Officer determines that the proposed Short Term Rental
46 application complies with the Short Term Rental Standards, a Short Term Rental permit shall be

1 issued. A permit shall be valid for one (1) year from date of issuance. The permit may be subject
2 to suspension by the Code Enforcement Officer if the Short Term Rental property becomes
3 noncompliant with the Short Term Rental Standards, and may be revoked as provided in 19-8-
4 14(F).

5
6 **D. Submission Requirements.** The Short Term Rental permit application shall include the
7 following information:

- 8
9 1. Location. The street address and map/lot number of the Short-Term Rental
10 property shall be provided. If the Short Term Rental property is not located on a public
11 road, the form shall include directions to the Short Term Rental property from a public
12 road.
13
14 2. Contact Person. The name of the owner of the Short Term Rental property and contact
15 information, including address and telephone number shall be included on the application
16 form. In addition, if someone other than the owner is acting as the local contact person,
17 contact information for that person shall also be provided. If there will be different
18 contact persons for different time periods during the year, the contact person changes
19 seasonally, the application form shall include the time period and the applicable contact
20 person for each time period during the year.
21
22 3. Availability. The registration form shall include when, during the calendar year, the Short
23 Term Rental will be available for rental. If this changes, the owner shall notify the Code
24 Enforcement Officer.
25
26 4. All information needed to demonstrate compliance with the standards listed in Subsection
27 DE below.

28
29 **E. Standards.** The Code Enforcement Officer shall issue a Short Term Rental permit upon
30 the applicant satisfying the above requirements if the following standards are met:

- 31
32 1. Code compliance. An Applicant's property for Short Term Rental Permits for dwelling
33 units for which the IRC is the governing code in Cape Elizabeth shall, without limitation,
34 comply with the following building code sections of the International Residential Code
35 ("IRC") and the International Building Code ("BC"):
36
37 a. IRC Section R 314, Smoke Alarms;
38 b. IRC Section R 315, Carbon Monoxide Alarms;
39 c. IBC Section 906, Portable Fire Extinguishers. The building shall be considered to be
40 an R-1 Occupancy (Boarding House) for the purpose of determining the type and location
41 of portable fire extinguishers;
42 d. IBC Section 1006.2, 1006.3 and 1006.4, Means of Egress Illumination.

43
44 The applicant shall provide floor plans of the dwelling unit that shows the location of the
45 alarms, fire extinguisher(s) and emergency lighting.
46

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

3
4 3. Sanitary waste disposal. The short-term rental owner applicant shall submit information
5 demonstrating that adequate sanitary waste disposal is available in compliance with the
6 Town of Cape Elizabeth Subsurface Wastewater Disposal Ordinance, as determined by
7 the Code Enforcement Officer, or that the property is served by public sewer.

8
9 The information shall include the total number of bedrooms included in the
10 property short-term rental, any additional sleeping space, and the total number of tenants
11 that the short-term rental property accommodates. The total number of tenants used to
12 determine adequacy of sanitary waste disposal shall not be less than the total number of
13 tenants that the property is advertised to accommodate. For the purpose of evaluating the
14 adequacy of a subsurface disposal system, every two tenants shall be equivalent to 1
15 bedroom.

16
17 4. Parking. The applicant shall include a depiction of how parking will be provided on
18 the same lot, and/or include a written agreement for off-site parking at a specified
19 location, to comply with the Off-Street Parking Standards, Sec. 19-7-8. Garage parking
20 spaces not allowed for tenant use shall not be used to meet the Short Term Rental parking
21 requirement. No bus shall be parked at the Short- Term Rental property during any
22 rental period.

23
24 5. Rental Agreement Addendum. The Short Term Rental permit application shall be
25 submitted with an addendum to be attached to the Tenant Short Term Rental
26 Agreement between owner and tenant that shall be provided to all tenants groups. The
27 Town shall not be responsible for enforcement of the rental agreement or addendum. The
28 rental agreement addendum shall include the following:

- 29
30 a. Contact person.
31 b. Emergency responder contact information.
32 c. Building evacuation plan.:
33 d. Maximum number of tenants and guests.:
34 e. Parking arrangements, including a prohibition against of tenants and guests
35 parking in a manner that impedes access by emergency vehicles to the Short Term
36 rental property or any other dwelling in the neighborhood.:
37 f. Maximum number of tenants and guests allowed at the Short Term
38 Rental property.
39 g. Good neighbor guidelines
40 h. Copy of the Miscellaneous Offenses Ordinance

41
42 6. Limit on rental intensity. If a Short Term Rental property is operated on a lot of 30,000
43 sq. ft. or less in size and Short Term Rental property owner is not either living on an
44 abutting lot or in a separate dwelling in the same lot, the Short Term Rental permit shall
45 not have allow more than two tenants per bedroom, shall not include allow use of non-
46 bedroom sleeping areas for sleeping, and shall not exceed a maximum of 8 allow

1 occupancy by more than eight tenants at any time. The number of Short Term Rental
2 gGuests at the Short Term Rental at any one time shall be limited to eight at any time. On
3 site parking shall be limited to 4-four parking spaces.
4

5 **F. Suspension and Revocation of permit.**
6

7 In addition to the provisions of Sec. 19-3-6, Violations, a permit for a sShort tTerm rRental may
8 be suspended or revoked if the Code Enforcement Officer determines that ~~one~~ or more short
9 term rental-substantiated complaints regarding Short Term Rentals of a property have been made
10 in a 3three year period.
11

12 1. Complaint. Any individual or town official may file and/or initiate a complaint against a
13 sShort tTerm rRental permit holder. If the Police Department or the Code Enforcement
14 Officer receive a complaint, they shall visit the property. The Police Department shall
15 generate a report of the facts ~~they~~its officers have observed ~~and~~upon a visit, and
16 statements made to them ~~for any visit to a~~regarding the sShort tTerm rRental. The Police
17 Department shall then forward the report to the Code Enforcement Officer.
18

19 When the Code Enforcement Officer receives a report from the Police Department, or the
20 Code Enforcement Officer has responded to a complaint or independently investigated,
21 the Code Enforcement Officer shall inspect the ~~short term rental~~property and shall
22 collect information related to the complaint, including notifying the ~~short term rental~~
23 property owner and requesting information regarding the complaint. Within five days of
24 receiving a Police Report or complaint, the Code Enforcement Officer shall determine if
25 the complaint is substantiated. A complaint is substantiated when the ~~complaint review~~
26 ~~conducted by the~~Code Enforcement Officer concludes that one or more violations of the
27 sShort tTerm rRental provisions, ~~Sec. 19-8-14~~, has occurred.
28

29 2. First Substantiated Complaint. Once the Code Enforcement Officer has made a finding of
30 a substantiated complaint, the Code Enforcement Officer shall notify the ~~short term rental~~
31 property owner in writing. The notification shall require the ~~short term rental~~property
32 owner to meet with the Code Enforcement Officer within five (5) business days from the
33 date of the written notification, or such other time as is agreed upon by the Code
34 Enforcement Officer, to identify ways in which the violation(s) will be corrected. The
35 owner will agree to take all necessary measures to correct the violation(s), which
36 measures shall be memorialized in a written agreement at the conclusion of the meeting
37 and shall be fully implemented within one (1) week of said meeting unless another date is
38 agreed to by the Code Enforcement Officer. Failure of the ~~short term rental~~property
39 owner to enter into such an agreement at the conclusion of the meeting will be deemed a
40 second violation of the sShort tTerm rRental provisions. In addition, the Code
41 Enforcement Officer may suspend the sShort tTerm rRental permit for a term not to
42 exceed 30thirty days.
43

44 3. Second Substantiated Complaint. Once the Code Enforcement Officer has made a finding
45 ~~for~~of two (2) substantiated complaints, the Code Enforcement Officer shall notify the
46 ~~short term rental~~property owner in writing that the sShort tTerm rRental permit shall be

1 suspended for a period of not less than ~~30~~thirty days nor more than ~~120~~one hundred
2 ~~twenty~~ days.

3
4 The notification shall require the ~~short term rental property~~ owner to meet with the Code
5 Enforcement Officer within five (5) business days from the date of the written
6 notification, or such other time as is agreed upon by the Code Enforcement Officer, to
7 identify ways in which the violation(s) will be corrected. The owner will agree to take all
8 necessary measures to correct the violation(s), which measures shall be memorialized in a
9 written agreement at the conclusion of the meeting and shall be fully implemented within
10 one (1) week of said meeting unless another date is agreed to by the Code Enforcement
11 Officer. Failure of the ~~short term rental property~~ owner to enter into such an agreement at
12 the conclusion of the meeting will be deemed a violation of the ~~sShort tTerm rRental~~
13 ~~provisions~~.

14
15 4. Third Substantiated Complaint. Once the Code Enforcement Officer has made a finding
16 for ~~(3)~~of three substantiated complaints, the Code Enforcement Officer shall notify the
17 ~~short term rental property~~ owner in writing that the ~~sShort tTerm rRental~~ permit has been
18 revoked for one calendar year.

19
20 5. Appeal. An appeal to the Zoning Board of Appeals as an Administrative Appeal, ~~Sec. 19-~~
21 ~~5-2 (A)~~ may be taken by any person aggrieved by ~~thea~~ determination of the Code
22 Enforcement Officer pursuant to Section 19-5-2 (A).