



## TOWN OF CAPE ELIZABETH

Assessing/ Codes/Planning  
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### MEMORANDUM

TO: Cape Elizabeth Town Council  
FROM: Ordinance Committee  
DATE: September 24, 2012  
SUBJECT: Short Term Rental Zoning Amendments

Following a unanimous vote on September 20, 2012, the Ordinance Committee is pleased to recommend to the Town Council the attached Short Term Rental Zoning Amendments.

#### Ordinance Committee meetings

Review of short term rentals was forwarded by the Town Council to the Ordinance Committee in September, 2011. The Ordinance Committee met 7 times and forwarded a recommendation to the Town Council in January 2012. Following review by the Planning Board, the Ordinance Committee met an additional 2 times in September, 2012.

#### Public Comment

Members of the public attended all Ordinance Committee meetings and made comments regarding the evolving draft amendments. Over the course of the amendments review, the Ordinance Committee heard over 5 hours of public comment. The Ordinance Committee benefitted from information provided and suggestions made, in particular because both the landlord and the abutter perspectives were well represented. In addition to comments at meetings, the Ordinance Committee, as well as the Town Council and the Planning Board, received in the range of 100 emails and letters regarding short term rentals. Ordinance Committee members also individually visited neighborhoods where short term rentals are located.

#### Ordinance Committee recommendation

The Ordinance Committee reviewed the draft recommended by the Planning Board. In general, the Ordinance Committee found that the revisions made by the Planning Board added specificity and clarity to proposed regulations. The changes made by the Ordinance Committee

were largely policy adjustments, as detailed below, and general polishing of the text by Town Attorney Tom Leahy. Below is a summary of changes from the Planning Board recommendation:

<u>Page/line</u>	<u>Description</u>
1/39	The definition of short term rental guest has been augmented and clarified to state that anyone present on the property after 11:00 p.m. will be considered a tenant.
11/38	The short term rental parking requirement has been changed. In this section, the requirement for guest parking has been deleted. Elsewhere below, a cap of 4 parking spaces has been established.
12/16	The applicability section has been adjusted to make clear that the minimal rental period is 7 days. This does not prohibit a landlord or tenant for renting for less than 7 days, but the remaining days in a partial week rental would have to be days that the rental is vacant. The revised wording also avoids any interpretation that rentals cannot turn over on the same day or that there isn't time for cleaning between rentals.
14/32	The requirement that the landlord inform tenants about event rules has been changed to information on the maximum number of tenants and guests allowed. In addition, the landlord is required to provide tenants with a copy of the Miscellaneous Offenses Ordinance.
14/37	This section has been changed to reinstate the exemption from stiffer requirements for certain lots of less than 30,000 sq. ft. If you have a short term rental on a small lot, but you live next door or on the same lot, you are exempted from the cap on the number of tenants, number of guests and number of parking spaces. A maximum cap of 4 parking spaces has also been added for short term rental on lots of less than 30,000 sq. ft.
14/46	The Suspension and Revocation Section was added to respond to comments made by the Town Council at the August 6, 2012 workshop. It creates a clear "3-strikes" process for responding to problem short term rentals. The process is modeled after area disorderly house ordinances and requires revocation of a short term rental permit if 3 "substantiated complaints" occur in a 3-year period.



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.

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

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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 **B. Permitted Uses**

4 The following uses are permitted in the Residence A District:

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

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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

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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

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

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25 e. Timber harvesting

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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 Standard,

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

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

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46 **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 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:

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2 **1. The following resource-related uses:**  
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- 4 a. Any use permitted in Resource Protection 1-Critical Wetlands District, or in  
5 Resource Protection 2-Wetland Protection District, or in Resource Protection 3-  
6 Floodplain District, as shown on Table 19-6-9  
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

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

- 26 a. Home day care  
27 b. Farm and fish market, with a maximum floor area of two thousand (2,000) square  
28 feet for retail sales of products  
29 c. Golf Course Related Activities, excluding restaurants, clubhouses and meeting  
30 halls. **(Effective February 12, 2003)**  
31 d. Wind energy system **(Effective October 8, 2008)**  
32 e. Short Term Rental  
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34 **4. The following accessory uses:**  
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- 36 a. Accessory building, structure or use  
37 b. Outside athletic facility accessory to permitted use  
38 c. Home occupation  
39 d. The renting of not more than two (2) rooms within a single-family dwelling  
40 provided that there is no physical alteration of the building and no change in the  
41 external appearance of the structure.  
42 e. Amateur or governmental wireless telecommunication facility antenna **(Effective**  
43 **April 15, 2000)**  
44 f. Amateur or governmental wireless telecommunication facility tower **(Effective**  
45 **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**

**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 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:

**I. 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

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- 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,

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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

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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)

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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 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
  - 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

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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**

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**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)**

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**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**

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**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 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

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**ARTICLE VIII. PERFORMANCE STANDARDS**

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

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**a. Residential**

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- (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

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unit with two bedrooms, and 2 spaces per unit with three or more bedrooms

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(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

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b. Institutional

(1) Municipal Uses

1.25 spaces per employee plus 1 space per 150 sq. ft. of public assembly and meeting area

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(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

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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

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(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

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(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

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(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.)

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- (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

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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.

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**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 which, with any prior Short Term Rental, does not exceed in the aggregate fourteen (14) days in any calendar year. For the purpose of determining whether a permit is required, each rental shall be deemed for a period of not less than seven (7) days regardless if the actual number of days the property is occupied is less than seven (7) days. Further, a property owner may not enter into more than one Short Term Rental agreement for any consecutive seven day period.

**C. Review Procedure**

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 application 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 non-exclusive checklist of code requirements that the property owner shall demonstrate compliance with.

3. The Code Enforcement Officer shall determine if the form has been properly completed 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 property for compliance with the Short Term Rental Standards and compliance with building code requirements. Thereafter, renewal of a Short Term Rental permit shall require inspection by the Code Enforcement Officer of the Short Term Rental property no less than once every five years. When the Code Enforcement Officer does not conduct an annual 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 have been conducted within the twelve months prior to the permit being 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 application 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 issuance. The permit may be subject to suspension by the Code Enforcement Officer if the Short Term Rental property becomes noncompliant with the Short Term Rental Standards, and may be revoked as provided in 19-8-14(F).

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

1. **Location.** The street address and map/lot number of the Short Term Rental property. If the property is not located on a public road, the form shall include directions to the property from a public road.

2. **Contact Person.** The name of the owner of the Short Term Rental property and contact information, including address and telephone number. 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 there will be different contact persons for different time periods during the year, the form shall include the applicable contact person for each time period.

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.

4. All information needed to demonstrate compliance with the standards listed in Subsection E below.

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

1. **Code compliance.** An applicant's property shall, without limitation, comply with the following building code sections of the International Residential Code ("IRC") and the International Building Code ("IBC");

a. IRC Section R 314, Smoke Alarms;

b. IRC Section R 315, Carbon Monoxide Alarms;

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

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

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

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

3. **Sanitary waste disposal.** The applicant 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, or that the property is served by public sewer.

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The information shall include the total number of bedrooms included in the property, any additional sleeping space, and the total number of tenants that the property accommodates. 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 two tenants shall be equivalent to one bedroom.

4. Parking. The applicant shall include a depiction of how parking will be provided on the same lot, and/or include a written agreement for off-site parking at a specified location, 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 shall be parked at the Short Term Rental property during any rental period.

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

- a. Contact person;
  - b. Emergency responder contact information;
  - c. Building evacuation plan;
  - d. Maximum number of tenants and guests;
  - e. Parking arrangements, including a prohibition of tenants and guests parking in a manner that impedes access by emergency vehicles to the property or any other dwelling in the neighborhood;
  - f. Maximum number of tenants and guests allowed at the property.
- Good neighbor guidelines. Copy of the Miscellaneous Offenses Ordinance

6. Limit on rental intensity. If a Short Term Rental property is operated on a lot of 30,000-sq. ft. or less in size and property owner is not either living on an abutting lot or in a separate dwelling in the same lot, the Short Term Rental permit shall not allow more than two tenants per bedroom, shall not allow use of non-bedroom areas for sleeping, and shall not allow occupancy by more than eight tenants at any time. The number of Short Term Rental Guests shall be limited to eight at any time. On site parking shall be limited to four parking spaces.

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

In addition to the provisions of Sec. 19-3-6, Violations, a permit for a Short Term Rental may be suspended or revoked if the Code Enforcement Officer determines that one or more substantiated complaints regarding Short Term Rentals of a property have been made in a three year period.

1. Complaint. Any individual or town official may file and/or initiate a complaint against a Short Term Rental permit holder. If the Police Department or the Code Enforcement

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Officer receive a complaint, they shall visit the property. The Police Department shall generate a report of the facts its officers have observed upon a visit, and statements made to them regarding the Short Term Rental. The Police Department shall then forward the report to the Code Enforcement Officer.

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When the Code Enforcement Officer receives a report from the Police Department, or the Code Enforcement Officer has responded to a complaint or independently investigated, the Code Enforcement Officer shall inspect the property and shall collect information related to the complaint, including notifying the property owner and requesting information regarding the complaint. Within five days of receiving a Police Report or complaint, the Code Enforcement Officer shall determine if the complaint is substantiated. A complaint is substantiated when the Code Enforcement Officer concludes that one or more violations of the Short Term Rental provisions has occurred.

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2. First Substantiated Complaint. Once the Code Enforcement Officer has made a finding of a substantiated complaint, the Code Enforcement Officer shall notify the property owner in writing. The notification shall require the property owner to meet with the Code Enforcement Officer within five (5) business days from the date of the written notification, or such other time as is agreed upon by the Code Enforcement Officer, to identify ways in which the violation(s) will be corrected. The owner will agree to take all necessary measures to correct the violation(s), which measures shall be memorialized in a written agreement at the conclusion of the meeting and shall be fully implemented within one (1) week of said meeting unless another date is agreed to by the Code Enforcement Officer. Failure of the property owner to enter into such an agreement at the conclusion of the meeting will be deemed a second violation of the Short Term Rental provisions. In addition, the Code Enforcement Officer may suspend the Short Term Rental permit for a term not to exceed thirty days.

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3. Second Substantiated Complaint. Once the Code Enforcement Officer has made a finding of two (2) substantiated complaints, the Code Enforcement Officer shall notify the property owner in writing that the Short Term Rental permit shall be suspended for a period of not less than thirty days nor more than one hundred twenty days.

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The notification shall require the property owner to meet with the Code Enforcement Officer within five (5) business days from the date of the written notification, or such other time as is agreed upon by the Code Enforcement Officer, to identify ways in which the violation(s) will be corrected. The owner will agree to take all necessary measures to correct the violation(s), which measures shall be memorialized in a written agreement at the conclusion of the meeting and shall be fully implemented within one (1) week of said meeting unless another date is agreed to by the Code Enforcement Officer. Failure of the property owner to enter into such an agreement at the conclusion of the meeting will be deemed a violation of the Short Term Rental provisions.

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4. Third Substantiated Complaint. Once the Code Enforcement Officer has made a finding of three substantiated complaints, the Code Enforcement Officer shall notify the property owner in writing that the Short Term Rental permit has been revoked for one calendar year.

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

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