

ARTICLE 2  
Terminology

§ 240-2.2. Definitions.

BODY OF WATER — The phrase "body of water" includes the following:

- A. TIDAL WATER — All waters affected by tidal action during the highest astronomical tide and below the upland edge of the coastal wetland as defined by this chapter, including the Kennebunk River.
- B. POND — An inland impoundment of water, natural or man-made, which collects and stores surface water.
- C. STREAM — A free-flowing body of water from the outlet of a great pond or the confluence of two perennial streams as depicted on the most recent highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map edition of a United States Geological Survey 7.5 minute series topographic map to the point where the body of water becomes a river or flows to another body of water or wetland within the shoreland area. Streams with floodplains, as indicated by the FEMA Flood Insurance Rate Maps for the Town of Kennebunkport, shall be defined as streams for the purposes of this chapter along any sections of their length that are located within the limits of the one-hundred-year floodplain and outside of the Shoreland Zone. When a stream meets the shoreland zone of a water body or wetland and a channel forms downstream of the water body or wetland as an outlet, that channel is also a stream.

BUILDING HEIGHT (WITHIN SHORELAND ZONING/AREA OF SPECIAL FLOOD HAZARD) — With respect to existing principal or accessory structures, including legally existing nonconforming structures, located within an area of special flood hazard within or outside the Shoreland Zone that have been or are proposed to be relocated, reconstructed, replaced or elevated to be consistent with the minimum elevation required by a local floodplain management ordinance, the vertical distance between the bottom of the sill of the structure ~~to~~ and the highest point of the structure, excluding chimneys, steeples, antennas and similar appurtenances that have no floor area.

With respect to new principal or accessory structures and ~~to~~ existing principal or accessory structures other than those described in the paragraph above, including legally existing nonconforming structures, the vertical distance between the mean original grade at the downhill side of the structure, prior to construction, and the highest point of the structure, excluding chimneys, steeples, antennas and similar appurtenances that have no floor area.

BUREAU OF FORESTRY- State of Maine Department of Agriculture, Conservation, and Forestry, Bureau of Forestry.

COASTAL WETLAND — all tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest astronomical tide level for

the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes All areas below the highest astronomical tide level are coastal wetlands. These areas may consist of rocky ledges, sand and cobble beaches, mud flats, etc., in addition to salt marshes and salt meadows. All tidal and subtidal lands, and any other adjacent lands below an elevation of seven feet above mean sea level, utilizing the National Geodetic Vertical Datum (NGVD) of 1929. Coastal wetlands may include portions of coastal sand dunes, and may consist of rocky ledges, sand and cobble beaches, mud flats, etc., in addition to salt marshes and salt meadows.

COOKING FACILITY – An area used within a building for the purposes of refrigeration, preparation of, heating, broiling or baking food. For the purposes of defining a dwelling unit, permanent provisions for a cooking facility shall mean appliances that are permanently fixed to or not easily removed from ~~or permanently fixed to~~ the building and shall not include plug-in countertop appliances.

DWELLING UNIT — One or more habitable rooms arranged, designed or intended to be used, or used as ~~a complete housekeeping unit for~~ a complete independent living facility for one or more persons, ~~one or more individuals living together as a family with~~ providing independent living facilities, including permanent provisions for living, cooking, sleeping, bathing and ~~sanitary facilities~~ sanitation. Recreational vehicles are not residential dwelling units. Within any Shoreland Zone, the term "dwelling unit" shall include seasonal rental units which meet the above definition, regardless of the time period rented.

FOOTPRINT - the entire area of ground covered by the structure(s) on a lot, including but not limited to cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.

FRONTAGE, SHORE — the length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline. ~~The horizontal distance, measured in a straight line, between the intersections of the side lot lines of a lot with the shoreline at the normal high water mark.~~

FUNCTIONALLY WATER-DEPENDENT USES — Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and that cannot be located away from these waters. The uses include, but are not limited to, commercial and recreational fishing and boating facilities, ~~excluding recreational boat storage buildings,~~ finfish and shellfish processing, fish storage and retail and wholesale facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, shoreline structures necessary for erosion control purposes ~~retaining walls~~, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that cannot reasonably be located or operated at an inland site, and uses which primarily provide general public access to coastal or inland waters. Recreational boat storage buildings are not considered to be a functionally water-dependent use.

INDIVIDUAL PRIVATE CAMPSITE - an area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which

involves site improvements which may include but not be limited to a gravel pad, parking area, fire place, or tent platform.

KITCHEN/KITCHENETTE – A kitchen is defined as an area used for the preparation and/or cooking of food with amenities including but not limited to countertop, cabinets, sink, refrigerator, and cooking facilities. Kitchenette is defined as an area for the preparation of food with amenities ~~including but not limited to a countertop, cabinets, sink, refrigerator, eabinets,~~ microwave and plug-in countertop kitchen appliances.

LOT AREA — The total area located within the lines of a lot as measured on a horizontal plane. Within the Shoreland Zone, "lot area" shall exclude land areas below the normal high-water line of a water body or upland edge of a wetland and any other adjacent areas of sand, if any, located between the normal high-water line of a water body and either the seaward edge of a structure, such as a sea wall, or the seaward edge of dune vegetation and areas beneath roads serving more than two lots.

MARINA — A business establishment having frontage on the navigable waters within the Town which offers for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, bait and tackle shops and marine fuel service facilities. ~~rent or sale to the boating public; moorings, dock space, boats and marine equipment, shower and laundry facilities, water, ice, diesel fuel, gasoline, oil and related products; and where boats may be hauled, stored, repaired and/or constructed.~~

NET RESIDENTIAL AREA — The area of a lot or site available for development determined by the Code Enforcement Officer by subtracting from the gross acreage of a lot the following:

~~A. Fifteen percent for roads and parking.~~

~~B.A.~~ \_\_\_\_\_ Land which is cut off from the main parcel by a road, existing land uses, or where no means of access has been provided so that it is isolated and unavailable for building purposes or for common use.

~~C.B.~~ \_\_\_\_\_ Land shown to be in the floodway or coastal high hazard area on a flood boundary and floodway map or flood insurance rate map prepared by the U.S. Department of Housing and Urban Development or its successor agency.

~~D.C.~~ \_\_\_\_\_ Other areas which are unsuitable for development in their natural state because of topography, drainage or subsoil condition. Specific conditions include but are not limited to:

1. Water table at or near the surface for all or part of the year.
2. Unstable soils such as Sebago mucky peat, coastal dune or tidal marsh.
3. Wetlands of any kind regardless of area.

~~E.D.~~ \_\_\_\_\_ Land in rights-of-way or drainage or stormwater management easements other than utility easements serving the premises except tree maintenance easements granted to the Town.

~~F-E.~~ Land in the Resource Protection Zone.

~~G-F.~~ Wetland that has been filled.

OUTLET STREAM - any perennial or intermittent stream, as shown on the most recent highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map, that flows from a freshwater wetland.

ROAD — A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, ~~excluding~~ including a driveway as defined.

SHORE FRONTAGE — The length of a lot bordering on ~~streams, ponds, rivers, tidal waters, or coastal or freshwater~~ a water body or wetlands, measured in a straight line between the points of intersection of the lot lines with the shoreline.

SHORELAND ZONE — The land area located within 250 feet, horizontal distance, of the normal high-water line of any great pond or river; within 250 feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; within 250 feet of the upland edge of a freshwater wetland; or within 75 feet, horizontal distance, of the normal high-water line of a stream; or within the one-hundred-year floodplain, adjacent to nontidal or nonriverine waters, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils. For purposes of this chapter, the entire Dock Square and Riverfront Zones as depicted on the Official Zoning Map shall also be considered as Shoreland General Development Districts (see § 240-3.1).

STRUCTURE — Anything temporarily or permanently located, built, constructed or erected for the support, shelter or enclosure of persons, animals, goods or property of any kind or anything constructed or erected on or in the ground together with anything constructed or erected with a fixed location above, below or upon the surface of the ground or water. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes. Structure does not include fences, poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors; subsurface waste water disposal systems as defined in Title 30-A, section 4201, subsection 5; geothermal heat exchange wells as defined in Title 32, section 4700-E, subsection 3-C; or wells or water wells as defined in Title 32, section 4700-E, subsection 8. Not all structures are subject to setback requirements. See § 240-6.1 for exemptions.

~~SUSTAINED SLOPES OF 20%, AREAS OF~~ — a change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area. A measurable land area with steep topography, where a change in elevation of 20% or 20 feet of vertical change per 100 feet of horizontal change, is substantially maintained or exceeded throughout.

UPLAND EDGE OF A WETLAND — The boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the ~~contour line, established as seven feet above mean sea level, utilizing the National Geodetic Vertical Datum (NGVD) of 1929~~ line formed by the landward limits of the salt

tolerant vegetation and/or the highest annual tide level including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation, or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six meters (approximately 20 feet) tall or taller.

ARTICLE 3  
Establishment of Zones

§ 240-3.1. Zoning districts.

- B. The Dock Square and Riverfront Zones shall be considered as Shoreland General Development I Districts for the purposes of compliance with the Maine DEP Shoreland Zoning Guidelines.

ARTICLE 4  
Zone Regulations

§ 240-4.3. Village Residential Zone.

Permitted Uses	Conditional Uses Subject to Site Plan Review	Conditional Uses Subject to Zoning Board of Appeals Review
<u>Manufactured Housing</u>		

§ 240-4.4. Village Residential East Zone.

Permitted Uses	Conditional Uses Subject to Site Plan Review	Conditional Uses Subject to Zoning Board of Appeals Review
<u>Manufactured Housing</u>		

§ 240-4.5. Dock Square Zone.

Permitted Uses	Conditional Uses Subject to Site Plan Review	Conditional Uses Subject to Zoning Board of Appeals Review
<u>Single family dwelling</u>		
<u>Two-family dwelling</u>		

§ 240-4.6. Riverfront Zone.

Permitted Uses	Conditional Uses Subject to Site Plan Review	Conditional Uses Subject to Zoning Board of Appeals Review
<a href="#">Manufactured Housing</a>		

§ 240-4.7. Cape Arundel Zone.

Permitted Uses	Conditional Uses Subject to Site Plan Review	Conditional Uses Subject to Zoning Board of Appeals Review
<a href="#">Manufactured Housing</a>	<a href="#">Multiplex</a>	

§ 240-4.8. Goose Rocks Zone.

Permitted Uses	Conditional Uses Subject to Site Plan Review	Conditional Uses Subject to Zoning Board of Appeals Review
<a href="#">Manufactured Housing</a>		

§ 240-4.9. Cape Porpoise East and Cape Porpoise West Zones.

Permitted Uses	Conditional Uses Subject to Site Plan Review	Conditional Uses Subject to Zoning Board of Appeals Review
<a href="#">Manufactured Housing</a>		

§ 240-4.10. Cape Porpoise Square Zone.

Permitted Uses	Conditional Uses Subject to Site Plan Review	Conditional Uses Subject to Zoning Board of Appeals Review
<a href="#">Manufactured Housing</a>		

**§ 240-4.14. Uses permitted: Shoreland Zone.**

In those portions of the Shoreland Zone which are not within the Resource Protection Zone, only those uses permitted in the underlying zone shall be permitted. In addition to permits required elsewhere in this chapter, the following activities, when conducted in the Shoreland Zone but not the Resource Protection Zone, shall require permits as follows:

- A. Activities and land uses requiring a permit from the Code Enforcement Officer issued in accordance with the provisions in Article 11.
  1. Filling or other earthmoving activity ~~and involving no more of less~~ than ~~five-ten~~ cubic yards of earth within any twelve-month period.
  2. Clearing or removal of vegetation for activities other than timber harvesting.
  3. Mineral exploration activities disturbing less than 100 square feet of ground surface.
  4. Timber harvesting.
  - 4.5. Individual Private Campsites
  - ~~5-6.~~ Structures accessory to allowed uses.
  - ~~6-7.~~ Uses similar to uses requiring a CEO permit per Maine DEP Chapter 1000.

**§ 240-4.15. Uses permitted: Resource Protection Zone.**

- A. Activities and land uses requiring approval from the Code Enforcement Officer. The following activities may occur in the Resource Protection Zone with approval from the Code Enforcement Officer issued in accordance with the provisions in Article 11:
  1. Timber harvesting.
  2. Clearing or removal of vegetation for activities other than timber harvesting<sup>1</sup>.
  3. Filling or other earthmoving activity of less than ten cubic yards within any twelve-month period.
  - 3-4. Individual Private Campsites
  5. Uses similar to uses allowed without a permit.
  6. Uses similar to uses requiring ~~approval from the Code Enforcement Officer~~ a CEO Permit per Maine DEP Chapter 1000.
- B. Activities and land uses requiring approval from the Planning Board. The following activities and land uses may occur in the Resource Protection Zone with a permit from the Planning Board issued in accordance with the provisions in Article 10:
  1. Agriculture.

2. Road and driveway construction for access to a use permitted within the Resource Protection Zone as allowed by the standards in § 240-5.12.
3. Structures accessory to permitted uses, but not the accompanying principal structures.
4. Nonresidential facilities for educational, scientific, or nature interpretation purposes.
5. Filling or other earthmoving activity of more than ten cubic yards within any twelve-month period.
6. Public and private parks and recreation areas involving minimal structural development.
7. Piers, docks, wharves, bridges, causeways and uses projecting into the water.
8. Public utilities and essential services.
9. Mineral extraction, including sand and gravel extraction.
10. Single-family dwellings
11. Home Occupations
12. Essential services (except Roadside distribution lines 34.5kvV and lower in the Shoreland Zone may be approved by the CEO).
- ~~12.~~13. Structures accessory to allowed uses.
14. Uses similar to uses requiring approval from the Planning Board ~~per as permitted under~~ Maine DEP Chapter 1000.

## ARTICLE 5

### Shoreland and Resource Protection Performance Standards

#### § 240-5.4. Clearing or removal of vegetation for activities other than timber harvesting.

- A. In a Resource Protection Zone, cutting or removal of vegetation shall be limited to uses expressly authorized in the zone. ~~Within the Shoreland and Resource Protection Zones, invasive species may be removed by manual or hand tools or other methods as approved by the Department of Environmental Protection. Where necessary to control erosion, a replanting with native plants is required to replace any removed invasive species.~~

#### §240-5.21. Individual Private Campsites

Individual private campsites not associated with campgrounds are allowed provided the following conditions are met:

- (1) One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.
- (2) When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.
- (3) Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
- (4) Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.
- (5) The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.
- (6) A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
- (7) When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

**§ 240—5.221. Photographic Record Required**

ARTICLE 6

**Town-Wide Regulations**

**§ 240-6.1. General provisions**

- E. No part of any lot which is below the normal high-water mark of any body of water, no part of any lot which is part of a right-of-way, other than utility easements servicing the lot or tree maintenance easements granted to the Town, and also excluding lands which are below the normal high-water mark of any body of water or wetlands, as defined by this chapter, regardless of size, shall be used for the purpose of computing lot area or any size, ~~setback, frontage,~~ or density requirement of this chapter.

**§ 240-6.10. Residential parking standards.**

A. Each ~~single family~~ dwelling unit shall be provided with ~~two~~ off-street parking spaces.

(1) Studio to two-bedroom units: one space per unit

(2) Three or more bedroom units: two spaces per unit

A.B. Each multiplex shall meet the following standards:

(1) The design, layout, size, area, construction, and screening standards of §§ 240-7.11 and 240-10.7 shall be met.

~~(2) Parking spaces shall be provided to conform with the number required in the following schedule:-~~

~~a. One bedroom units: one space per unit.~~

~~b. Two bedroom units: two spaces per unit.~~

~~e.a. Three and four bedroom units: two spaces per unit.~~

B.C. Off-street parking shall be provided for elder-care facilities in accordance with the following schedule:

(1) One space for each employee on the shift with the greatest number of employees; plus

(2) One space for each independent living unit in which the occupant receives no supportive services; plus

(3) One space for every two congregate living or similar units in which the occupant receives only a basic level of supportive services; plus

(4) One space for every three assisted-living or similar units or beds in a nursing home in which the occupant receives a high level of supportive services.

C.D. Parking spaces must be composed of sufficient impervious or semipervious material (e.g., asphalt, concrete, composites, gravel) to support a vehicle in all conditions. Semipervious materials such as "grass pavers" or similar materials can be used.

~~D. Parking for residential components of residential mixed use shall be as follows:~~

~~(1) One bedroom unit: one parking space.~~

~~(2) Two or more bedroom unit: two parking spaces.~~

E. Parking for a residential rental accommodation shall include one additional off-street parking space per room rented, in addition to the minimum parking spaces required for the dwelling unit.

**§ 240-6.12. Signs and billboards.**

C. Performance standards for permanent signs.

- (1) No sign shall be erected adjacent to any public way in such a manner as to obstruct clear and free vision or where, by reason of its position, shape, color, illumination or working, the sign or billboard may interfere with, obstruct the view of, or be confused with any authorized sign, signal or device, or otherwise constitute a hazard to pedestrian or vehicular traffic.
- (2) Roof-mounted signs are prohibited.
- (3) No sign or portion of a sign structure shall exceed 20 feet in height measured from the adjacent road surface.
- (4) Illuminated signs shall be permitted, subject to the following restrictions and prohibitions:
  - a. There shall be no intermittently illuminated, traveling light, animated, flashing light, or internally illuminated signs.
  - b. All illuminated signs shall be shielded or hooded so the light source itself is not visible off of the premises.
- (5) In all zones except Resource Protection and Stream Protection Zoning Districts:
  - a. Signs erected on nonresidential properties shall conform to the requirements set forth in Subsection H, Table A. The allowable number and dimensions of signage on a nonresidential property shall be calculated based upon the gross square footage of floor space that is owned or leased by the sign permit applicant within the structure(s) located on the nonresidential property for which a sign permit is sought.
  - b. Signage erected on residential properties shall conform to the requirements set forth in Subsection H, Table B.
- (6) In Resource Protection Zone the following provisions shall govern the use of signs:
  - a. Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises.
  - b. Name signs are allowed, provided such signs shall not exceed two (2) signs per premises, and shall not exceed twelve (12) square feet in the aggregate.
- ~~(6)~~(7) All signs overhanging a sidewalk or public way shall be no less than 10 feet from the surface of the pavement.
- ~~(7)~~(8) No signs shall be posted on trees which are under the jurisdiction of the Tree Warden of the Town.
- ~~(8)~~(9) The area of a sign shall be calculated by measuring the area of the smallest rectangle capable of enclosing the sign in every plane. If a three-dimensional sign has a depth of more than one foot, the area of the sign shall be calculated by measuring the total surface area of the smallest box capable of enclosing the entire sign.

~~(9)~~(10) Window lettering displaying information such as business name, hours of operation, website, etc., is permitted to occupy up to 35% of the glazed area per window. Lettering governed by this subsection shall not be considered signage for purposes of calculating the area of allowable square footage or number of signs. (See Subsection H.)

~~(10)~~(11) Signs erected or installed in the interior of a structure which form an integral part of a bona fide window display which is related to merchandise or services available within the structure shall not be considered signs for purposes related to this section.

**§ 240-6.14. Road construction, filling and grading.**

G. Placement of new underground utilities within a private or public right of way shall be demarked on a site layout and comply with the location and depth requirements as follows:

<u>Underground Utility Line Name</u>	<u>Location in ROW</u>	<u>Depth of Line Placement from Finished Grade</u>
<u>Water Line</u>	<u>Under travel width half position off centerline</u>	<u>As determined by the Public Works Department</u>
<u>Sewer Line</u>	<u>Under travel width at center line</u>	<u>As determined by the Public Works Department</u>
<u>Electric Line</u>	<u>Within ROW outside travel width and shoulder</u>	<u>36"</u>
<u>Gas Line</u>	<u>Within ROW outside travel width and shoulder</u>	<u>36"</u>
<u>Stormwater Sewer System</u>	<u>12' from centerline or at road shoulder</u>	<u>36"</u>
<u>Other utility lines not defined</u>	<u>Within ROW outside travel width and shoulder</u>	<u>36"</u>

ARTICLE 7

**Performance Standards for Specific Activities, Land Uses and Zones**

**§ 240-7.6. Home occupation.**

B. All home occupations shall conform with the following conditions:

- ~~(8) Except in the Free Enterprise and Farm and Forest Zones, a home occupation shall not be permitted in a single family dwelling in which there is an accessory apartment.~~  
~~(9) Only one home occupation shall be permitted per dwelling unit.~~

**§ 240-7.11. Multiplex**

~~H. An area of open space not less than 20 feet wide shall be maintained with grass, bushes, flowers or trees all along the side and rear lot lines and (except for the entrance and exit driveways) along the entire front line of each lot. Such open space area shall not be built on or paved or used for parking or storage.~~

~~I.H.~~ No existing building or structure may be converted to multiplex use without Planning Board Site Plan Review Approval under Article 10 or without complying with the standards of this section. Prior to the conversion of dwelling units in a multiplex or other spaces in a building to a condominium form of ownership, a plan of the proposed condominium units shall be submitted to the Code Enforcement Officer to enable him/her to determine whether structural changes will be made which require site plan review approval under Article 10.

**§ 240-7.13. Residential mixed use.**

Purpose: To provide for smaller-scale housing options, specifically workforce housing and small-scale commercial options, by encouraging mixed-use structures ~~without requiring twice the minimum lot size on conforming lots.~~

- B. Minimum lot size and building setbacks shall meet the underlying zone requirements. ~~Minimum open space (area not occupied by structures or parking) shall be 60% of total lot area.~~
- G. The number of dwelling units permitted with a commercial use as identified in the definition of residential mixed use shall be limited to four and shall meet the net residential density requirements for the underlying zone. ~~[Amended 6-8-2021]~~

**§ 240-7.14. Residential rental accommodations.**

- B. Performance standards. No more than two rooms in a residential rental accommodation may be let out to roomers, provided that:
- (1) No separate kitchen/kitchenette or cooking facilities are provided for or use by the roomers;

ARTICLE 8

**Nonconformance and Vested Rights**

**§ 240-8.2. General.**

- B. Repair and maintenance. This chapter allows, without a permit, the normal upkeep and maintenance of nonconforming uses and structures including repairs or renovations that do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

**§ 240-8.3. Expansion of nonconforming structures.**

- B. Within any zoning districts, nonconforming structures only may be expanded, relocated, reconstructed, or replaced, subject to the following conditions, in addition to those required by Subsection A, above:
- (2) Thirty-percent expansion allowable one time only. If a replacement structure is erected in conformance with the requirements of Subsection B(5) below, and it is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area and volume since that date.
- a) An approved plan for expansion of a nonconforming structure must be recorded by the applicant with the registry of deeds, within 90 days of approval. The recorded plan must show the existing and proposed footprint of the non-conforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the shoreland zone boundary and evidence of approval by the municipal review authority
- a)b)No certificate of occupancy/completion will be given if proof of recording has not been provided.
- (3) Replacement foundations under a nonconforming structure. Whenever a new, enlarged, or replacement foundation is constructed under a nonconforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Subsection B(4) Relocation, below.
- a) If a new or replacement foundation is constructed under a nonconforming structure, the footprint of the new foundation may be reconfigured, provided that any changes are in conformance with the provisions of this article. An overlay comparison of the two foundation plans shall indicate that the proposed new footprint will not, when superimposed, deviate from the area of the existing footprint by more than 250 square feet. The new footprint shall not exceed the square footage of the existing footprint. Any reconfiguration shall not increase the area of the structure towards any water body or wetland and shall meet the property line setbacks.
- b) If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Subsection B(1) above, and the foundation does not cause the structure to be elevated by more than three additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first-floor sill), it shall not be considered to be an expansion of the structure.
- c) Repairs to existing foundations may be made without Planning Board approval.

- (4) Relocation of a nonconforming structure.
- b) When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation in accordance with Section 240-5.20. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

## ARTICLE 10

### Planning Board Site Plan Review

#### § 240-10.7. Performance standards.

- C. Stormwater management. Stormwater management plans shall be developed so as to ensure that surface water runoff shall be minimized and detained on site if possible. If it is not possible to detain water on site, downstream improvements may be required to minimize off-site impacts. The natural state of watercourses, swales, floodways or existing rights-of-way and easements shall be maintained as nearly as possible. Where the development involves more than 10,000 square feet of impervious surface, a stormwater drainage system capable of handling a one-hundredfifty year storm without adverse impact on adjacent properties and downstream facilities shall be constructed. Stormwater and surface water runoff, whether channelized or not, shall not be diverted onto adjacent properties without an easement, unless in a natural or previously existing channel.

#### § 240-10.11. Conditions attached to site plan review.

Upon consideration of the factors listed above, the Planning Board may attach such conditions, in addition to those required elsewhere in this chapter, that it finds necessary to further the purposes of this chapter. Violation of any of these conditions shall be a violation of this chapter. Such conditions may include, but are not limited to, specifications for: type of vegetation, specified sewage disposal and water supply facilities, landscaping and planting screens, period of operation, operational controls, professional inspection and maintenance, sureties, deed restrictions, restrictive covenants, type of construction, or any other reasonable conditions necessary to fulfill the purposes of this chapter. In Shoreland Zoning and Resource Protection Zones, the Planning Board may increase the required setback of a proposed structure, as a condition ~~to permit~~of approval, if necessary to accomplish the purposes of this chapter. Instances where a greater setback may be appropriate include, but are not limited to: areas of steep slope; shallow or erodible soils; or where an adequate vegetative buffer does not exist.

## ARTICLE 11

### Administration

**§ 240-11.9. Violations and legal action.**

- C. The Code Enforcement Officer shall conduct on-site inspections to ~~ensure~~<sup>insure</sup> compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this chapter.