

HARWICH PLANNING BOARD PUBLIC HEARING NOTICE

In accordance with the provisions of MGL c.40A §5, the Harwich Planning Board will hold a public hearing on Tuesday, September 22, 2020 not earlier than 6:30 pm in the Donn B. Griffin Room, Harwich Town Hall, 732 Main Street, Harwich, 02645 to consider an amendment to the Harwich Zoning Codes as shown below. The meeting will be via REMOTE PARTICIPATION ONLY. Written comments may be submitted to the Planning Board at the address provided above or email the Town Planner, Charleen Greenhalgh, at cgreenhalgh@town.harwich.ma.us. Anyone having interest in this zoning amendment is invited to access the meeting via GoToMeeting.com. Instructions regarding how to access and participate in the meeting will be posted on the Planning Board's Agenda page for the date of the meeting: <https://www.harwich-ma.gov/node/2451/agenda/2020>.

Article ____: To see if the Town will vote to amend the Code of the Town of Harwich – Zoning as it relates to “Multifamily, (new text is shown in **bold**) as follows:

Within **§325-2 – Definitions**, amend the definition of “Bedroom” by deleting the existing definition and replace it with the following:

BEDROOM: Any room used or intended to be used for sleeping purposes or as determined by State and/or Harwich Board of Health Regulations.

Further, within **§325-9 Permitted uses**, amend the third sentence by adding the term “**multifamily**,” after “single-family,”

Further, within **§325-13 - Table 1 – Use Regulations, Paragraph I Residential Uses** amend within the table Item #8 Multifamily dwelling as follows:

Use	RR	RL	RM	RH-1	RH-2	RH-3	CV	CH-1	CH-2	IL	MRL	MRL-1	WR
8 Multifamily dwelling (§325-51.Q)	<u>S</u>	<u>S</u>	<u>S</u>	S	S	S	<u>S</u>	<u>S</u>	-	-	S	S	S

Further, within **§325-16 - Table 2, Area Regulations**, delete within RH-2 and RH-3 Districts the following Use “Multifamily” and Minimum Required elements and within the MRL and MRL-1 Districts the following Use “Multifamily residential” and Minimum Required elements and add the following to the table:

District	Use	Minimum Required				
		Lot Area (square feet)	Lot Frontage (continuous feet)	Front (feet)	Side (feet)	Rear (feet)
<u>All Districts Where Permitted by Use Special Permit</u>	<u>Multifamily</u>	<u>40,000⁴</u>	<u>150</u>	<u>Footnote ⁵</u>	<u>25</u>	<u>25</u>

⁴40,000 square feet is required for vacant lots. For lawfully pre-existing structures/use converting to multifamily residence the existing lot size shall be allowable.

⁵Front setback to be determined at the time of Site Plan Review §325-55 for existing buildings. For new construction the front setback shall be 25 feet.

Further, within §325-16 – Table 3, Height and Bulk Regulations amend within the table by deleting the MRL and MRL-1 rows and adding the following:

District	Maximum Permitted Height (feet)	Maximum Permitted Height (stories)	Maximum Building Coverage of Lot (covered area as % of total lot area)	Maximum Site Coverage as % of Total Site Area	Minimum Residential Net Floor Area (square feet)
<u>MRL</u>	<u>30</u>	<u>2 ½</u>	<u>15</u>	<u>25</u>	<u>None</u>
<u>MRL – 1</u>	<u>30</u>	<u>2 ½</u>	<u>15</u>	<u>25</u>	<u>None</u>
<u>In all Districts where Multifamily is Permitted by Use Special Permit</u>	<u>40</u>	<u>3 ½</u>	<u>=</u>	<u>80</u>	<u>Studio or efficiency unit: 250; bedroom unit: 550; 2-bedroom unit: 940</u>

Further, within §325-18 Additional Regulations, make the following amendments:

Within **Paragraph E**, delete the term “multifamily,”

Delete in their entirety **Paragraphs H, I, J, L and M**.

Re-letter Paragraph “K” to “H” and delete in its entirety and add the following language:
“No outside staircase shall be used to furnish primary access to any of the units in a hotel or motel.”

Additionally, reletter Paragraph “N” to “I”; Paragraph “O” to “J”; Paragraph “P” to “K”; Paragraph “Q” to “L”; and, Paragraph “R” to “M”

Further, within §325-20 Stories for human use or occupation, in the first sentence delete the words “multifamily dwelling,”

Further, within §325-39 Off-street parking schedule, Paragraph A, within the Residential Uses Parking Table, delete “multifamily” after “apartment,” and add a new “Multifamily” and parking spaces as follows:

Multifamily

1.5 per studio, efficiency or 1-bedroom unit
2 per 2-bedroom unit or greater

Further, within §325-51 Special Permits, Paragraph D and subparagraph D(1) delete the words “multifamily dwelling,” and subparagraph D(2) in its entirety and add a new Paragraph Q as follows:

Q. Multifamily Special Permit

1. **The Planning Board shall serve as the special permit granting authority for multifamily developments, including conversion of existing structures/uses to multifamily and/or new construction.**
2. **A Site Plan Review special permit pursuant to §325-55 is also required.**
3. **All multifamily dwellings must be connected to a municipal water system.**
4. **A habitable room in a multifamily dwelling unit shall have a minimum floor area of not less than 120 square feet and shall have no major width or length dimension less than 10 feet. Closets, storage spaces, bathrooms and kitchens are not habitable rooms for the purpose of these minimum area and dimension requirements.**
5. **The number of multifamily dwelling units shall be determined by the ability to place an adequately size septic system for the number of bedrooms; and required parking per number of units and landscaping on the site pursuant to Article IX Off-Street Parking and Loading Requirements.**
6. **All outside entrances to multifamily dwellings shall provide protection to the immediate area in front of said entrance from the weather.**
7. **Whenever the land upon which a multifamily dwelling is to be erected is located partially within a Drinking Water Resource Protection District, maximum possible use of the area outside the Drinking Water Resource Protection District will be made for the disposal of stormwater runoff and sewage.**
8. **Recreation areas. Where appropriate to the topography and natural features of the site, the Planning Board may require that at least 10% of the open space or two acres (whichever is less) shall be of a shape, slope, location and condition to provide an informal field for group recreation or community gardens for the residents of the multifamily development.**

The full text for the proposed amendments can be found on the Planning Website at <http://www.harwich-ma.gov/planning-board>.

In accordance with state law, this legal notice will also be available electronically at www.masspublicnotices.org. The Town is not responsible for any errors in the electronic posting of this legal notice.

Duncan Berry, Chair,
Cape Cod Chronicle 9/3/2020, 9/10/2020

ON THE FOLLOWING PAGES PLEASE FIND THE FULL TEXT OF THE PROPOSED CHANGES

§325-2 – Definitions

BEDROOM: Any room used or intended to be used for sleeping purposes or as determined by State and/or Harwich Board of Health Regulations. ~~For the purpose of determining the number of bedrooms in a proposed multifamily dwelling unit, all rooms which meet the minimum size requirements for habitable rooms under this bylaw other than a kitchen, bathroom and living/dining room shall be considered as bedrooms.~~

§325-9 Permitted uses

In the following Table of Use Regulations, the uses permitted by right in the district shall be designated by the letter (P). Those uses that may be permitted by special permit in the district, in accordance with §§325-51 and 325-53, shall be designated by the letter (S). Uses designated (-) shall not be permitted in the district. Any use presently listed as a permitted use in the Table of Use Regulations shall be designated as a special permit if the use proposes a structure or structures having a gross floor area of more than 7,500 square feet or 20 or more new parking spaces on the site, except that single-family, multifamily, religious and educational uses shall be exempt from this provision. Some uses listed in the table as allowed as of right (P) or on special permit (S) require a special permit under the site plan provisions of this bylaw.

§325-13 - Table 1 – Use Regulations, Paragraph I Residential Uses

Use		RR	RL	RM	RH-1	RH-2	RH-3	CV	CH-1	CH-2	IL	MRL	MRL-1	WR
8	Multifamily dwelling (§325-51 Q)	<u>S</u>	<u>S</u>	<u>S</u>	S	S	S	<u>S</u>	<u>S</u>	-	-	S	S	S

§325-16 - Table 2, Area Regulations

District	Use	Minimum Required				
		Lot Area (square feet)	Lot Frontage (continuous feet)	Front (feet)	Side (feet)	Rear (feet)
RH-2	Multifamily	40,000 plus 7,500 for every dwelling unit	150	50	50	50
RH-3	Multifamily	40,000 plus 4,500 for every dwelling unit	150	25	20	20
MRL	Multifamily residential	10 contiguous acres minimum; 25 contiguous acres maximum; maximum density 8 bedrooms per acre	150	50	50	50

MRL-1	Multifamily residential	8 contiguous acres minimum; maximum density 4 bedrooms per acre, provided Planning Board may give a bonus as elsewhere provided in this bylaw	150	50	50	50
<u>All Districts Where Permitted by Use Special Permit</u>	<u>Multifamily</u>	<u>40,000⁴</u>	<u>150</u>	<u>Footnote 5</u>	<u>25</u>	<u>25</u>

⁴40,000 square feet is required for vacant lots. For lawfully pre-existing structures/use converting to multifamily residence the existing lot size shall be allowable.

⁵Front setback to be determined at the time of Site Plan Review §325-55 for existing buildings. For new construction the front setback shall be 25 feet.

§325-16 – Table 3, Height and Bulk Regulations

District	Maximum Permitted Height (feet)	Maximum Permitted Height (stories)	Maximum Building Coverage of Lot (covered area as % of total lot area)	Maximum Site Coverage as % of Total Site Area	Minimum Residential Net Floor Area (square feet)
MRL	40	2½	15	50	Studio or efficiency unit: 250; bedroom unit: 550; 2-bedroom unit: 940
<u>MRL</u>	<u>30</u>	<u>2½</u>	<u>15</u>	<u>25</u>	<u>None</u>
MRL-1	40	2½	15	50	Studio or efficiency unit: 250; bedroom unit: 550; 2-bedroom unit: 940
<u>MRL – 1</u>	<u>30</u>	<u>2½</u>	<u>15</u>	<u>25</u>	<u>None</u>
<u>In all Districts where Multifamily is Permitted by Use Special Permit</u>	<u>40</u>	<u>3½</u>	<u>-</u>	<u>80</u>	<u>Studio or efficiency unit: 250; bedroom unit: 550; 2-bedroom unit: 940</u>

§325-18 Additional Regulations

- E. On a lot used for ~~multifamily~~, hotel or motel purposes, parking lots, roads, streets, tennis courts, swimming pools and like amenities and facilities shall not cover more than 15% of the area of the lot. For the purpose of this subsection, golf courses, putting greens, bowling greens and similar amenities which do not involve covering the ground with any impervious material shall not be included for the purpose of computing the total ground coverage of a project.
- H. ~~No building permit may be issued for a multifamily dwelling project unless and until site plans showing the entire project to be constructed are submitted to the Building Official with the application for a building permit, and this requirement shall apply whether or not the project is to be built in phases.~~
- I. ~~All ways intended for use by vehicular traffic within the perimeter of a multifamily dwelling project shall be installed and constructed in accordance with the requirements governing road construction set forth in the Subdivision Rules and Regulations, as adopted from time to time by the Harwich Planning Board.~~
- J. ~~All multifamily dwellings must be connected to a municipal water system.~~
- K. ~~H. A habitable room in a multifamily dwelling unit shall not have a minimum floor area of less than 120 square feet and shall have no major width or length dimension less than 10 feet. Closets, storage spaces, bathrooms and kitchens are not habitable rooms for the purpose of these minimum area and dimension requirements.~~
(1) ~~All outside entrances to multifamily dwellings shall be designed in such manner as to provide protection to the immediate area in front of said entrance from the weather.~~
(2) ~~No outside staircase shall be used to furnish primary access to any of the units in a multifamily dwelling, hotel or motel.~~
- L. ~~No multifamily dwellings may be erected on any lot in the MRL or MRL-1 District the geographical center of which is closer than 1,500 feet to the geographical center of any lot upon which multifamily dwellings with more than four dwelling units are constructed, provided that, for the purpose of this subsection, contiguous lots in common ownership may be considered as a single parcel and developed for multifamily use, provided further that lots separated by a road, street or way will be considered contiguous for the purpose of this subsection and, if commonly owned, may be treated as one parcel for the purpose of multifamily construction.~~
- M. ~~Whenever the land upon which a multifamily dwelling is to be erected is located partially within a Drinking Water Resource Protection District, maximum possible use of the area outside the Drinking Water Resource Protection District will be made for the disposal of toxic or hazardous materials and sewage.~~

Additionally, reletter Paragraph “N” to “I”; Paragraph “O” to “J”; Paragraph “P” to “K”; Paragraph “Q” to “L”; and, Paragraph “R” to “M”

§ 325-20 Stories for human use or occupation.

In reference to Table 3, maximum permitted height (stories), in no case may any building used for ~~multifamily dwellings~~, hotel or motel use exceed 50 feet in height nor contain more than four levels for human occupation. In no case shall a single-family residence contain more than two levels for human occupation, provided that the basement or cellar of a single-family residence can be used as a family room or recreational room but shall not be used as sleeping quarters unless it is made to comply with the provisions of the Building Code regulating the design and construction of such rooms. In no case shall any other building provide more than two stories or levels for human use or occupation.

§325-39 Off-street parking schedule.

- A. These standards are the minimum requirement. The Planning Board, under site plan review, may vary the required number of spaces if the nature and scale of a proposed use warrant such a change. In determining the number of spaces required, only actual or delineated spaces shall be calculated. In the case of multiple uses on a single lot, the required number of parking spaces will be equal to the combined total of parking spaces for each use.

Use	Parking Spaces
Residential Uses	
Single-family dwelling, two-family dwelling	2
Single-family dwelling with accessory apartment, multifamily or mixed-use development	1.5 per unit
<u>Multifamily</u>	<u>1.5 per studio, efficiency or 1- bedroom unit</u> <u>2 per 2-bedroom unit or greater</u>

§325-51 Special Permits

- D. Special permit to construct ~~multifamily dwellings~~, hotels or motels.

- (1) The Planning Board, in acting upon an application for special permit to construct ~~multifamily dwellings~~, hotels or motels, shall have the authority, pursuant to MGL c. 40A, § 9, to include in the grant of permission authorization to increase the permissible density of population or intensity of a particular use in a proposed development, provided that the petitioner or applicant shall, as a condition for the grant of authority to increase permissible density, provide certain open space or some or all of the amenities hereafter listed, but the Board shall not have the authority to increase the density of population or intensity of uses beyond the maximums hereafter specified.

Amenity	Maximum Density Increase
Swimming pool	8%
Tennis courts	4%
Golf course	16%
Community building or recreation building	2%

~~(2) For the purpose of ensuring that an applicant or petitioner constructs the proposed amenities in accordance with the plans and specifications submitted to the Planning Board, the Planning Board shall require, as a condition to the granting of the permit, that the applicant or petitioner execute a covenant on such reasonable terms and conditions as the Planning Board may specify and wherein the petitioner or applicant shall agree to construct the amenities as proposed in accordance with a timetable approved by the Planning Board, and the Planning Board may require that the amenity or amenities, once constructed, shall be under the control or jurisdiction of a nonprofit organization, the principal purpose of which is the maintenance and management of said amenities, or that control of said amenities be conveyed to a corporation or trust owned or to be owned by the owners of lots or residential units within the development. The covenant required hereunder shall be recorded at the Barnstable County Registry of Deeds before any work authorized by the special permit is begun, and no lot, dwelling or multifamily dwelling unit shall be conveyed (except as provided in MGL c. 41, § 81U, Clause 2) until said covenant has been released in whole or as it relates to the portion of the premises to be conveyed by duly executed instrument or release by the Planning Board.~~

Q. Multifamily Special Permit

- 9. The Planning Board shall serve as the special permit granting authority for multifamily developments, including conversion of existing structures/uses to multifamily and/or new construction.**
- 10. A Site Plan Review special permit pursuant to §325-55 is also required.**
- 11. All multifamily dwellings must be connected to a municipal water system.**
- 12. A habitable room in a multifamily dwelling unit shall not have a minimum floor area of not less than 120 square feet and shall have no major width or length dimension less than 10 feet. Closets, storage spaces, bathrooms and kitchens are not habitable rooms for the purpose of these minimum area and dimension requirements.**
- 13. The number of multifamily dwelling units shall be determined by the ability to place an adequately size septic system for the number of bedrooms; and required parking per number of units and landscaping on the site pursuant to Article IX Off-Street Parking and Loading Requirements.**
- 14. All outside entrances to multifamily dwellings shall be designed in such manner as to provide protection to the immediate area in front of said entrance from the weather.**

15. Whenever the land upon which a multifamily dwelling is to be erected is located partially within a Drinking Water Resource Protection District, maximum possible use of the area outside the Drinking Water Resource Protection District will be made for the disposal of stormwater runoff and sewage.
16. Recreation areas. Where appropriate to the topography and natural features of the site, the Planning Board may require that at least 10% of the open space or two acres (whichever is less) shall be of a shape, slope, location and condition to provide an informal field for group recreation or community gardens for the residents of the multifamily development.