

**AMENDMENTS TO
CITY CODE OF ORDINANCES
CHAPTER 102, ZONING
ARTICLE V, DISTRICT REGULATIONS
DIVISION 13. SEARSPORT AVENUE WATERFRONT
ZONING DISTRICT**

Editor’s Note: The City has used the following format to identify the proposed amendments to Chapter 102. All text shown in **Bold and Red Font** is language that is proposed to be added to the Chapter/Ordinance. All text shown in ~~**Bold and Blue and Strike-Through Font**~~ is language that is proposed to be deleted from the Chapter/Ordinance. All text shown in **Black Font** is existing language in the Chapter/Ordinance that is not proposed to be either added or deleted. All text shown in **Bold and Green Font and Underlined** is an informational note to the public that is intended to help provide an understanding of the proposed Ordinance provision. Said text is not part of the adopted Ordinance. (See attached text of adopted amendments).

First Reading: July 6, 2021

Second Reading: August 3, 2021

Signature

Date

CHAPTER 102, ZONING

ARTICLE V. DISTRICT REGULATIONS

DIVISION 13. Searsport Avenue Waterfront District

Sec. 102-561. Permitted uses requiring Code Enforcement Officer review.

[Ord. No. 78-2001, 6-5-2001]

The City eCode eEnforcement eOfficer shall review and make decisions regarding applications for a use permit for the following types of uses in the Searsport Avenue Waterfront District:

- (1) Residential, single-family dwelling. Manufactured housing units are prohibited.
- (2) Residential, two-family dwelling. Manufactured housing units are prohibited.
- (3) Residential, one or two bedroom accessory dwelling unit in a detached structure. Manufactured housing units are prohibited. **Also reference the Article IX, Division 6, Supplemental Performance Standards in this Chapter.**
- (4) Yard sales are permitted as an accessory use to a residential use on no more than 10 days in any calendar year.
- (5) Home occupations (expanded definition).
- (6) Bed and breakfast, including class 1, class 2 and class 3.
- (7) Craft fairs on no more than 10 days in any calendar year.
- (8) Essential services.
- (9) Municipal uses deemed necessary by the City Council, subject to the eCouncil conducting a duly noticed public hearing (minimum 10 days) prior to taking action to permit the use.
- (10) Public parks.
- (11) Agriculture and farm animals, excluding a commercial piggery, raising poultry for commercial uses, and slaughterhouses.
- (12) Accessory uses for principal uses for which the CEO can issue a permit.
- (13) Accessory structures to principal structures for which the CEO can issue a permit.
- (14) Solar Energy Systems, Small-Scale and Medium-Scale, ground-mounted and roof-mounted.
- (15) Solar Energy Systems, Large-Scale, roof-mounted.
- (16) Fill activities that involve the removal or addition of fill that exceeds 100 cubic yards of material.**

Sec. 102-562. Permitted uses requiring Planning Board review.

The City Planning Board shall review and make decisions regarding applications for the following types of uses in the Searsport Avenue Waterfront District:

- (1) Retail stores, provided that no single retail store (use) and no structure in which a retail store (use) or stores (uses) are located is greater than 20,000 square feet **in size**.
- (2) Shopping centers, including mixed use development (service, retail, restaurant, and/or office in same complex), provided that no single shopping center structure is greater than 20,000 square feet **in size**.
- (3) Service businesses.
- (4) Hotels and motels.
- (5) Restaurants, **excluding fast food restaurants and restaurants with drive-through windows**.
- (6) Ice cream stands.
- (7) Professional offices and **health care** offices.
- (8) Office complexes.
- (9) Funeral homes.
- (10) Health care facilities.
- (11) Congregate retirement residential housing.
- (12) Multifamily housing, if **on connected to** public sewer.
- (13) **Residential P**planned unit development (~~residential and nonresidential~~) **and cluster housing development**.
- (14) Non-municipal public and quasi-public uses.
- (15) School, day nursery, institution of an educational, religious, philanthropic, fraternal, political or social nature; including as an accessory use to a permitted activity.
- (16) Indoor recreational activities and facilities.
- (17) Campgrounds.
- (18) Marinas and marine related businesses.
- (19) Boat building, boat **repair, boat retrofitting**, and boat storage, **including the on-site sale of boats and accessory equipment**.
- (20) Lobster pound and fish processing.
- (21) Water borne transportation and recreation.
- (22) Aquaculture, **Freshwater or Marine**.
- (23) Nurseries, green houses, landscaping businesses, tree farms and similar operations involved with the growing and selling of plant material. This use shall include the sale of machinery, materials, plants or similar items commonly associated with landscaping activities.
- (24) Accessory structures and accessory uses for uses for which the Planning Board can issue a permit for the principal use or principal structure.
- (25) Stealth telecommunications facilities.
- (26) Medical Marijuana caregiver retail stores
- (27) Medical Marijuana manufacturing facilities.
- (28) Medical Marijuana testing facilities.
- (29) Solar Energy Systems, Large-Scale, ground-mounted.

Sec. 102-563. Prohibited uses.

Only those uses specifically listed as permitted uses requiring **CEO Code Enforcement Officer** review, **Section 102-561**, or permitted uses requiring Planning Board review, **Section 102-562**, are allowed within the Searsport Avenue Waterfront District. All other uses are prohibited.

Sec. 102-564. Applicability of shoreland zoning and floodplain regulations. Section 102-564 repealed by Council voted on August 3, 2021.

~~Provisions of chapter 82, pertaining to shoreland zoning, and chapter 78, article II, pertaining to floodplains, may apply in the Searsport Avenue Waterfront District. See the shoreland maps and FIRM flood maps.~~

Sec. 102-565 Dimensional and density standards. **Section 102-565 repealed by Council vote on August 3, 2021.**
[Ord. No. 78-2001, 6-5-2001]

~~(a) — Minimum lot size and minimum frontage requirements — Residential uses.~~

- ~~(1) Any lot created on or after August 19, 2001, that is connected to City sewer and that is used for a single-family or two-family residential use, shall be a minimum of 15,000 square feet in size, and shall have a minimum of 150 feet of road frontage.~~
- ~~(2) Any lot created on or after August 19, 2001, that is not connected to City sewer and that is used for a single-family residential use, shall be a minimum of 20,000 square feet in size and shall have a minimum of 150 feet of road frontage.~~
- ~~(3) Any lot created on or after August 19, 2001, that is not connected to City sewer and that is used for a two-family residential use, shall be a minimum of 40,000 square feet in size, and shall have a minimum of 150 feet of road frontage.~~
- ~~(4) Any lot that was created before August 19, 2001, that does not comply with either or both the minimum lot size and minimum frontage requirements established in subsections (1)-(3), shall be considered a nonconforming lot of record, and may be used for a single-family or two-family residential use, subject to the provisions of the state plumbing code for subsurface wastewater disposal.~~
- ~~(5) A lot, regardless of when it was created, that is used for a multifamily residential use established on or after August 19, 2001, shall be connected to public sewer, shall be a minimum of 1/2 acre (21,780 square feet) in size, and shall have a minimum of 150 feet of road frontage.~~
- ~~(6) A lot that does not comply with any one or all standards identified in subsection (5), and that was used for a multifamily residential use before August 19, 2001, shall be considered a nonconforming use. This nonconforming use may continue, and may expand, subject to the requirements of article III, Nonconformance, of this chapter.~~

~~(b) Minimum lot size and minimum frontage requirements — Nonresidential uses.~~

- ~~(1) Any lot created on or after August 19, 2001, that is used for a nonresidential use shall be a minimum of one acre (43,560 square feet) in size, and the lot shall have a minimum of 150 feet of road frontage. The minimum size of such a lot, however, shall be greater than one acre, and the minimum amount of frontage, however, shall be greater than 150 feet, if warranted, to comply with the requirements of the article IX, division 4 performance standards, section 102-1242(a), (b) and (c).~~
- ~~(2) A lot that was created before August 19, 2001, that does not comply with the minimum lot size and minimum lot frontage requirements identified in subsection (1), shall be considered a nonconforming lot of record, and shall be considered a buildable lot for a nonresidential use, provided that the lot complies, if warranted, with the requirements of the article IX, division 4 performance standards, section 102-1242(a), (b), (c), (d) and (e).~~

~~(c) Minimum setback requirements.~~

- ~~(1) The minimum setback requirements for a single-family or two-family dwelling use or structure and any accessory structure or use to these uses are as follows:
Front: 30 feet;
Side: 15 feet; and
Rear: 15 feet.~~
- ~~(2) The minimum setback requirements for a multifamily dwelling use or structure and any accessory structure or use to this use are as follows:
Front: 30 feet;
Side: 25 feet; and
Rear: 25 feet.~~
- ~~(3) The minimum front, side and rear setback requirements for a nonresidential use or nonresidential structure are identified in the article IX, division 4 performance standards (reference section 102-1243, minimum front setback requirements for nonresidential structures; section 102-1244, minimum side setback requirements for nonresidential structures; and section 102-1245, minimum rear setback requirements for nonresidential structures). The amount of front, side or rear setback required in sections 102-1243, 102-1244 and 102-1245, may vary in accordance with the section 102-1276 view protection standards for the Searsport Avenue Waterfront District, for the purposes of preserving public views of the water.~~
- ~~(4) All setbacks shall be measured from the property line, and the applicant shall be responsible for verifying that all setback requirements are met. The applicant, code enforcement officer or Planning Board may use a MDOT or City road~~

~~layout or right-of-way, a property deed or similar information to determine the minimum amount of setback required. The code enforcement officer or Planning Board, however, may require the applicant to provide a survey to identify property lines and setback requirements if either deems that a survey is necessary to verify the applicant's representations.~~

~~(d) Structure height. The maximum height of any structure shall be 35 feet.~~

~~(e) Density standard. The following density standards shall apply to all residential uses in the Searsport Avenue Waterfront District. These density standards are subject to modification in accordance with the planned unit development requirements identified in subsection (f).~~

<u>Type of Use</u>	<u>Sewer</u>
Single-family	One unit in one structure per 15,000 square feet
Two-family	Two units in one structure per 15,000 square feet
Multifamily	Three units in one structure per 21,780 square feet and an additional 7,260 square feet for each additional unit

<u>Type of Use</u>	<u>Subsurface Wastewater Disposal</u>
Single-family	One unit in one structure per 20,000 square feet
Two-family	Two units in one structure per 40,000 square feet
Multifamily	Prohibited as a new use established after August 19, 2001

~~(f) Residential and nonresidential planned unit development. In the case of a residential or non-residential planned unit development the above standards may be modified in accordance with the special provisions of article VI of this chapter. In addition, planned unit developments shall be reviewed under the subdivision ordinance.~~

~~The following maximum density standards shall apply to a residential planned unit development:~~

<u>Type of Use</u>	<u>Sewer</u>
Single-family	One unit in one structure per 10,000 square feet
Two-family	Two units in one structure per 15,000 square feet
Multifamily	Four units in one structure per 21,780

Type of Use

Sewer

square feet and an additional 5,445 square feet for each additional unit

Type of Use

Subsurface Wastewater Disposal

Single-family

One unit in one structure per 20,000 square feet

Two-family

Two units in one structure per 30,000 square feet

Multifamily

Prohibited as a new use established after August 19, 2001

~~(g) Lot coverage standards. Residential and nonresidential structures shall have a maximum lot coverage of 30% of the property. Lot coverage is defined as the amount of footprint of all structures, buildings only, and not including roads, driveways or parking areas, that are present on a property. However, if all or a portion of a property is located in the Shoreland Zone, the more restrictive definition of lot coverage (impervious surface coverage) identified in the Shoreland Zone, shall apply to the portions of the property that are in the Shoreland Zone. The amount of lot coverage for a nonresidential use may vary in accordance with the section 102-1276 view protection standards for the Searsport Avenue Waterfront District, for the purposes of preserving public views of the water.~~

~~(h) Performance standards.~~

~~All nonresidential uses proposed in the Searsport Avenue Waterfront shall comply with the article IX, division 4 nonresidential development performance standards. All residential uses proposed in the Searsport Avenue Waterfront District shall comply with the article VIII, divisions 2 and 3, and article IX, division 2, performance standards.~~

Sec. 102-564.5 Dimensional and density standards for residential uses in the Searsport Avenue Waterfront district.

(a) The Searsport Avenue Waterfront zoning district was established on August 19, 2001. Any property or structure established on or after August 19, 2001 must comply with all applicable dimensional and density standards in this Section. Lots that may be nonconforming because such were created prior to August 19, 2001, and do not satisfy current dimensional requirements shall be considered a nonconforming lot of record, and must satisfy all standards that apply to a nonconforming lot of record. All structures that may be nonconforming because such were constructed prior to August 19, 2001, and do not satisfy current dimensional requirements, may continue to exist and may expand in accordance with the Article III, Nonconformance provisions in this Chapter.

(b) The minimum lot size and minimum frontage requirements for residential uses in the Searsport Avenue Waterfront district shall comply with the following standards.

(1) Minimum lot size and lot frontage requirements for a property connected to public sewer.

<u>Type of Use on Sewer</u>	<u>Lot Size</u>	<u>Lot Frontage</u>
Single Family Residential	15,000 sq ft.	150 lineal feet
Two-Family Residential	15,000 sq ft.	150 lineal feet
Single Family with Detached Accessory Dwelling Unit	15,000 sq ft.	150 lineal feet
Multi-Family Residential	21,780 net sq. ft.	150 lineal feet

(2) Minimum lot size and lot frontage requirements for a property that uses a subsurface wastewater disposal system for managing wastewater.

<u>Type of Use - Subsurface System</u>	<u>Lot Size</u>	<u>Lot Frontage</u>
Single Family Residential	20,000 sq ft.	150 lineal feet
Two-Family Residential	30,000 sq ft.	150 lineal feet
Single Family with Detached Accessory Dwelling Unit	30,000 sq ft.	150 lineal feet
Multi-Family Residential	Prohibited use after August 19, 2001. 43,560 net sq. ft. for a nonconforming use of record.	150 lineal feet for a use that is a nonconforming use of record.

(3) If there are one or more types of residential uses on the lot (property), the total size (area) of the lot must be no less than the amount of square feet needed to satisfy the minimum lot size requirement for each of the respective uses on the lot, reference standards (1) and (2) above, and the amount of use (density) on the lot must comply with the residential density standards identified in (e) or (f) of this Section. The total amount of lot frontage, however, only needs to satisfy the minimum amount of lot frontage required for the most intensive use on the property.

(c) Minimum structure setback requirements for residential structures.

- (1) The minimum setback requirements for following types of residential structures and accessory structures to said residential structures shall comply with the standards in the following table.

<u>Type of Use</u>	<u>Front Setback</u>	<u>Side Setback</u>	<u>Rear Setback</u>
Single Family	30 ft	15 ft	15 ft
Two Family	30 ft	15 ft	15 ft
Single Family with Detached Accessory Dwelling Unit	30 ft	15 ft	15 ft
Multi-Family	30 ft	25 ft	25 ft

- (2) A residential structure that was constructed on or before August 19, 2001 that does not comply with the above structure setback requirements shall be considered a nonconforming structure of record with respect to setback requirements. Said residential structure may continue and may expand, subject to requirements of Article III, Nonconformance, of this Chapter, and in the case of an accessory dwelling unit in a detached structure, compliance with the Article IX, Division 6, Supplemental Performance Standards.

- (3) All structure setbacks shall be measured from the property lines, and the applicant shall be responsible for verifying that all setback requirements are met. The applicant, Code Enforcement Officer or Planning Board may use a MDOT or City road layout or right-of-way, a property deed, or similar information to assist in determining the location of the property lines and minimum amount of setback required. The Code Enforcement Officer or Planning Board, however, may require the applicant to provide a survey to identify property lines and setback requirements if either deems that a survey is necessary to verify the applicant's representations.

- (d) Structure height for residential structures.

The maximum structure height for the following types of residential structures and accessory structures to said residential structures shall comply with the standards in the following table.

<u>Type of Structure</u>	<u>Maximum Height</u>
Single Family	35 ft
Two Family	35 ft

Single Family with Detached Accessory Dwelling Unit	35 ft
Multi-Family	35 ft

(e) Density standard.

- (1) The following density standards shall apply to all residential uses in the Searsport Avenue Waterfront district that are connected to public sewer. These density standards are subject to modification in accordance with the planned unit development and cluster housing development requirements identified in Subsection (f) below.**

<u>Type of Use</u>	<u>Connected to Sewer</u>
Single Family	One unit in one structure per 15,000 sq. ft
Two Family	Two units in one structure per 15,000 sq. ft.
Single Family with Detached Accessory Dwelling Unit	Primary and detached unit structures per 15,000 sq. ft.
Multi-Family	Six units per 21,780 net square feet and an additional 1,500 net square feet for each additional unit

- (2) The following density standards shall apply to all residential uses in the Searsport Avenue Waterfront district that use a subsurface wastewater disposal system for managing wastewater. These density standards are subject to modification in accordance with the planned unit development and cluster housing development requirements identified in Subsection (f) below.**

<u>Type of Use</u>	<u>Subsurface System for Wastewater</u>
Single Family	One unit in one structure per 20,000 sq. ft.
Two Family	Two units in one structure per 30,000 sq. ft.

Single Family with Detached Accessory Dwelling Unit	Primary and detached unit structures per 30,000 sq. ft.
Multi-Family	Prohibited use after August 19, 2001. 43,560 net sq ft. for the initial 4 units for a nonconforming use of record and 10,890 net sq. ft. for each additional unit.

(f) Residential planned unit development and cluster housing development.

In the case of a residential planned unit development or cluster housing development, the density standards identified in (e) of this Section may be modified in accordance with the special provisions of Article VI of this Chapter, and the following density requirements. A residential planned unit development or cluster housing development shall be reviewed pursuant to standards in the Subdivision Ordinance, Chapter 94, and Chapter 90, Site Plan.

- (1) A residential planned unit development or cluster housing development that is connected to public sewer in the Searsport Avenue Waterfront district shall comply with the following density standards.**

<u>Type of Use</u>	<u>Connected to Sewer</u>
Single Family	One unit in one structure per 10,000 sq. ft
Two Family	Two units in one structure per 10,000 sq. ft.
Single Family with Detached Accessory Dwelling Unit	Primary and detached unit structures per 10,000 sq. ft.
Multi-Family	Six units per 21,780 net square feet and an additional 1,500 net square feet for each additional unit

- (2) A residential planned unit development or cluster housing development that uses a subsurface wastewater disposal system for managing wastewater in the Searsport Avenue Waterfront district shall comply with the following density standards.**

<u>Type of Use</u>	<u>Subsurface System for Wastewater</u>
Single Family	One unit in one structure per 20,000 sq. ft

Two Family	Two units in one structure per 20,000 sq. ft.
Single Family with Detached Accessory Dwelling Unit	Primary and detached unit structures per 20,000 sq. ft.
Multi-Family	Multi-family is a prohibited use, however, a planned unit development may include multi-family as a housing option, subject to a density standard of 20,000 sq ft of land area for the first 2 units, and 10,000 sq ft for each additional unit.

(g) Lot coverage standards for residential uses.

Residential structures shall occupy (lot coverage) a maximum of 30% (thirty percent) of the lot (property). Lot coverage for the Searsport Avenue Waterfront district is defined as the amount of footprint of all structures, buildings only, and does not include roads, driveways, parking areas, in-ground patios, and similar features that are present on a property. However, if all or a portion of a property is located in a Shoreland Zoning district, the more inclusive definition of lot coverage (impervious surface coverage) identified in Chapter 82, Shoreland, shall apply to the portions of the property that are in a Shoreland Zoning district.

Sec. 102-565.5. Dimensional standards for nonresidential uses and structures in the Searsport Avenue Waterfront district.

(a) Minimum lot size and minimum frontage requirements for nonresidential uses.

- (1) A lot (property) created on or after August 19, 2001 that is used for a nonresidential use shall be a minimum of 43,560 square feet (one acre) in size, and the lot shall have a minimum of 150 feet of road frontage, if the lot has road frontage. The minimum size of such a lot, however, shall be greater than 43,560 square feet, and the minimum amount of road frontage shall be greater than 150 feet, if warranted, to comply with the requirements of the Article IX, Division 4, Nonresidential Performance Standards, Section 102-1242(a), (b), and (c).**
- (2) A lot (property) that was created before August 19, 2001 that does not comply with the minimum lot size and minimum lot frontage (if the lot has road frontage) requirements identified in (1) above, shall be considered a nonconforming lot of record, and shall be considered a buildable lot for a nonresidential use, provided that the lot complies, if warranted, with the requirements of the Article IX, Division 4, Performance Standards, Section 102-1242(a), (b), (c), (d), and (e).**

(3) If a lot (property) is occupied by a nonresidential use and one or more types of residential use, the size (area) of the lot, in total, must satisfy the minimum lot size (area) requirement for the nonresidential use identified in (1) or (2) above, and the respective residential lot size standards identified in Section 102-564.5(b), and the respective density standards identified in Section 102-564.5(e) and (f), for each type of residential use that is on the property.

(b) **Minimum structure setback requirements for nonresidential structures.**

The minimum front, side, and rear structure setback requirements for a nonresidential structure in the Searsport Avenue Waterfront district are identified in the following Article IX, Division 4, Performance Standards: Section 102-1243, Minimum Front Setback requirements for Nonresidential Structures; Section 102-1244, Minimum Side Setback Requirements for Nonresidential Structures; and Section 102-1245, Minimum Rear Setback Requirements for Nonresidential Structures.

The method of measurement for the minimum amount of setback for a nonresidential structure shall be determined by the method for residential structures identified in Section 102-564.5(c)(3).

(c) **Maximum structure height for a nonresidential structure.**

The maximum height of a nonresidential structure or an accessory structure to a nonresidential structure shall be 38 feet, unless a portion of the property is located in a Shoreland District, in which case the respective Shoreland District maximum height standard shall apply. This maximum height requirement does not apply to the following specific uses: a telecommunication facility (subject to Chapter 102, Zoning, Article VIII, Supplementary District Regulations, Division 5, Telecommunication Facilities), a water standpipe storage tank, a utility pole, and a storage silo for an agricultural use. The height requirement similarly does not apply to structures that may be exempt from the measurement of height pursuant to the City definition for height of a structure.

(d) **Lot coverage requirements for a nonresidential structure.**

A nonresidential structure shall occupy (lot coverage) a maximum of 30% (thirty percent) of the lot (property). Lot coverage for the Searsport Avenue Waterfront district is defined as the amount of footprint of all structures, buildings only, and does not include roads, driveways or parking areas, that are present on a property. However, if all or a portion of a property is located in the Shoreland Zone, the more inclusive definition of lot coverage (impervious surface coverage) identified in Chapter 82, Shoreland, shall apply to the portions of the property that are in a Shoreland District. In addition, the amount of lot coverage for a nonresidential use may vary in accordance with the Article IX, Performance Standards, Division 4,

Section 102-1276 view protection standards for the Searsport Avenue Waterfront district, for the purposes of preserving public views of the water.

Sec. 102-566. Performance Standards.

(a) Performance standards for residential uses.

All residential uses in the Searsport Avenue Waterfront district shall comply with applicable performance standards identified in Article VIII and Article IX of this Chapter, and applicable requirements of the Chapter 98, Technical Standards..

(b) Performance standards for nonresidential uses.

All nonresidential uses in the Searsport Avenue Waterfront district shall comply with the Article IX, Division 4, Nonresidential Development Performance Standards, applicable requirements of the Chapter 98. Technical Standards, and if the project qualifies as a Site Plan, the requirements of Chapter 90.

(c) Shoreland zoning and floodplain regulations.

Provisions of Chapter 82, Shoreland Zoning, and Chapter 78, Floods, may apply to a property in the Searsport Avenue Waterfront district, reference the adopted Shoreland map and the adopted FIRM Flood maps.

Sec. 102-~~566~~567 through Sec. 102-580. (Reserved)