

Delete Red

Add Blue

14. 240 – 1.1D Delete Section 240 – 1.1D Amendments and replace

§ 240-1.1D Amendments

- (1) Amendment process - No amendment to this bylaw shall be made except by a vote of Town Meeting and only after the zoning article is properly submitted to, and a public hearing is held by, the Planning Board in accordance with the procedures of MGL c. 40A, § 5.
- (1) AMENDMENT PROCESS – An amendment to this Zoning Bylaw shall only be made by a two-thirds vote of Town Meeting except where state law provides a lesser quantum of vote, and only after the zoning article is properly submitted to, and a public hearing is held by, the Planning Board in accordance with the procedures of G.L. c. 40A, § 5.

5 240-6.1B Insert an “Accessory Apartment – Attached” use, showing a “Y” for the Agricultural AA, Agricultural A, and Agricultural B districts in the Agricultural Districts Use Table (Section 240-6.1B) and change the existing “Accessory Apartment” use to an “Accessory Apartment – Detached” use showing a “SP-Z” for all Agricultural Districts. Repeat this action for the Residence Districts, except that a “N” will remain in the General Residence in both the attached and detached cases.

1 240-6.1B Add “Research and philanthropic institutions” to the Agricultural Districts Use Table (Section 240-6.1B) as a Special Permit (“SP-Z”) from the Zoning Board of Appeals in all Agricultural Districts.

§ 240-6.1 Agricultural Districts (AGAA, AGA, AGB)

§ 240-6.1B Use Table

Special Permit Uses

Accessory Apartment-Attached		Y	Y	Y
Accessory Apartment-Detached	.	SP-Z	SP-Z	SP-Z
Accessory apartment	1. Purposes:	SP-P	SP-P	SP-P
Private club not conducted for profit		SP-Z	SP-Z	SP-Z
Research and philanthropic institutions		SP-Z	SP-Z	SP-Z
Television or radio antenna subject to MGL c. 409A, § 3	Facilities exceeding 50 feet above ground level	SP-Z	SP-Z	SP-Z

3. 240-6.2B Add the words “See the Special Permit section of this Business Use Table below for more information on multifamily use allowed by special permit” in the Business Districts Use Table (Section 240-6.2B) Three-family dwelling standards section.

15. 240-6.3B Delete the “Multiple Uses” use from the Business Districts Use Table (Section 240-6.2B) and the Industrial Districts Use Table (Section 240-6.3B).

16. 240-6.2B Add the words “Any combination of community service, business, and commercial uses permitted by right or by special permit, together with multifamily use with a density greater than six (6) units per acre but not to exceed eight (8) units per acre” into the standards column of the “Residential and Commercial mixed-use” use in the Business Districts Use Table (Section 240-6.2B), renumber as item #3, and insert a “N” for the B1 district, “N” for the B2 district, “N” for the B3 district, and “SP-Z” for the BR district.

11. 240-6.2B Change the “Y” to an “N” for a Class IV Restaurant in the B-2 District in the Business District Use Table (Section 240-6.2B).

12. 240-6.2B Change the “SP-Z” to an “N” for a Class III Restaurant in the B-2 District in the Business District Use Table (Section 240-6.2B).

240-6.2 Business Districts (B-1, B-2, B-3, BR)

§ 240-6.2B Use Table

N = Not allowed

Y = Allowed by-right

SP-Z = Zoning Board of Appeals special permit SP-P = Planning Board special permit

Uses		B-1	B-2	B-3	BR
Residential Uses					
Single-family detached house		Y	Y	Y	Y
Semi-detached and two-family dwelling		Y	Y	Y	Y
Three-family dwelling		N	N	N	Y
		See the Special Permit section of this Business Use Table below for more information on multifamily use allowed by special permit			
Public or nonprofit housing for the elderly		Y	Y	Y	N
Community Service Uses					
Cemetery		Y	Y	Y	Y
Educational institution		Y	Y	Y	Y
Hospital		Y	Y	Y	N
Library		Y	Y	Y	Y
Museum		Y	Y	Y	Y
Philanthropic institution		Y	Y	Y	Y

Religious institution	Including a residence for the institution	Y	Y	Y	Y
Research institution		Y	Y	Y	Y
Sanitorium		Y	Y	Y	N
School		Y	Y	Y	Y
Mixed-Use					
Multiple uses	For any property in the B-1, B-2, and B-3 Districts on which exists a special permit use, any additional use proposed for that property, including a use allowed in the zoning district as a matter-of-right, shall be allowed with the issuance of a special permit by the Zoning Board of Appeals. The Board shall take into consideration the combined effects of each use on the property and determine whether such combination is in harmony with the general intent of this bylaw, utilizing the criteria of Section 240-12.1, Article 13, Section 240-14.1 and Section 240-14.3. This section shall not be construed to prohibit any property owner from conducting an allowed use by-right in the zoning district provided that any existing use approved by special permit on the same lot is abandoned. Any additional use for which a special permit is required shall be subject to the standards in this section with respect to the review of the combined effects of each use on the property.	SP-Z	SP-Z	SP-Z	N
Residential and commercial mixed-use	1. Any combination of community service, business, and commercial uses permitted by right or by special permit, together with one or two	Y	Y	Y	Y

dwelling units.

2.	Any combination of community service, business, and commercial uses permitted by right or by special permit, together with multifamily use with density not to exceed 6 dwelling units per acre.	SP-Z	SP-Z	SP-Z	Y
3.	Any combination of community service, business, and commercial uses permitted by right or by special permit, together with multifamily use with a density greater than six (6) units per acre but not to exceed eight (8) units per acre	N	N	N	SP-Z

In the BR District, a Planning Board special permit is required for any new mixed-use development with a proposed gross floor area of 10,000 square feet or more.

For mixed-use development under 2. above, all business, commercial, or community service uses must be located within the first story space in any mixed-use structure sited within 100 feet of the street frontage.

For any mixed-use development with multifamily uses that requires a Zoning Board of Appeals special permit, the Board must find that the public good will be served; that the business zoned area will not be adversely affected; and that the uses permitted in the zone will not be noxious to a multifamily use.

A Zoning Board of Appeals special permit is required for any change, alteration, modification, or addition to an existing commercial or business shopping center that would result in a building with a gross floor area of 10,000 square feet or more, including existing or proposed dwelling units.

Mixed-use development with density up to 20 units per 40,000 square feet of upland may be allowed through Site Plan Review, without a special permit, in the Mixed Residential Commercial Overlay District (§ 240-7.5D).

Business and Commercial Uses

Restaurant, or other place for food service.	(See the Special Permit section of this Business Use Table below for more information on restaurants allowed by special permit)	Y	Y	Y	Y
a. Class I		Y	Y	Y	Y
b. Class II		N	Y	Y	Y
c. Class III		N	Y	N	SP-ZN
d. Class IV		N	YN	N	N
Retail sales not more specifically listed	Allowed in the B-3 District if each establishment occupies not more than 4,000 square feet of gross floor area.	Y	Y	Y	Y

15. 240-6.3B Delete the “Multiple Uses” use from the Business Districts Use Table (Section 240-6.2B) and the Industrial Districts Use Table (Section 240-6.3B).

10. 240-6.3B Change the “No” in the Stable Use in the LI-B District Use Table (Section 240-6.3B) to “N”.

17. 240-6.3B Add a “SP-P” in the Light Industrial A (LI-A) and Light Industrial B (LI-B) for the Waste Disposal use in the Industrial Districts Use Table (Section 240-6.3B).

§ 240-6.3 Industrial Districts (LI-A, LI-B, LI-C)

§ 240-6.3B Use Table

Special Permit Uses

Multiple uses	For any property in the B-1, B-2, and B-3 Districts on which exists a special permit use, any additional use proposed for that property, including a use allowed in the zoning district as a matter-of-right, shall be allowed with the issuance of a special permit by the Zoning Board of Appeals. The Board shall take into consideration the combined effects of each use on the property and determine whether such combination is in harmony with the general intent of this bylaw, utilizing the criteria of Section 240-12.1 , Article 13 , Section 240-14.1 and Section 240-14.3 . This section shall not be construed to prohibit any property owner from conducting an allowed use by-right in the zoning district provided that any existing use approved by special permit on the same lot is abandoned. Any additional use for which a special permit is required shall be subject to the standards in this section with respect to the review of the combined effects of each use on the property.	SP-Z	N	N
Stable		SP-Z	No	N
Theater, cinema, bowling alley, and skating rink	This category shall not include billiard rooms and similar commercial amusement places with automated amusement devices	SP-Z	SP-Z	N
Waste disposal	Waste disposal include the following:	SP-P	SP-P	SP-P

7. 240-6.6B Replace the current language in the Standards column of the Multi-family use in the Residence Districts Use Table (Section 240-6.6B) with “no more than three units if at least one unit is affordable.”

5. 240-6.6B Insert an “Accessory Apartment – Attached” use, showing a “Y” for the Agricultural AA, Agricultural A, and Agricultural B districts in the Agricultural Districts Use Table (Section 240-6.1B) and change the existing “Accessory Apartment” use to an “Accessory Apartment – Detached” use showing a “SP-Z” for all Agricultural Districts. Repeat this action for the Residence Districts, except that a “N” will remain in the General Residence in both the attached and detached cases.

13. 240-6.6B Change the reference in Section 240-6.6B under Special Permit Uses, Accessory Apartment, Item #6 (Monitoring), first paragraph from “3(b)” to “3(c)”.****This section has been deleted???*****

§ 240-6.6 Residence Districts (SR-AA, SR-A, SR-B, SR-C, GR)

§ 240-6.6B Use Table

Other Principal Uses

Agriculture, horticulture, and floriculture	If involving the raising and keeping of livestock for other than private use of the residents of the premises, then only on parcels of 5 acres or larger	Y	Y	Y	Y	Y
Multi-family use	For 3 or more units, at least one of the units being affordable no more than three units if at least one unit is affordable.	N	N	N	N	Y
Piers, floats, and docks	With the approval by the Conservation Commission and the Board of Selectmen as a common pier, float, or dock	Y	Y	Y	Y	Y

Special Permit Uses

Accessory Apartment-Attached	Y	Y	Y	Y	N
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Accessory Apartment-Detached	SP-Z	SP-Z	SP-Z	SP-Z	N
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Accessory apartment	1.	Purpose:	SP-Z	SP-Z	SP-Z	SP-Z	N
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The purpose of the Accessory Apartment bylaw is to: broaden the range of housing choice in Falmouth by increasing the number of small dwelling units available for rent; encourage greater diversity of population with particular attention to young adult citizens; allow for "Aging in Place" for senior citizens; and promote more economic and energy efficient use of the town's housing supply, while maintaining the appearance and character of the Town's single-family neighborhoods.

2. Definition:

Accessory Apartment - Sections **240-11.2B(2)**, and 240-11.5.B(2), notwithstanding, this is an additional dwelling unit, subordinate in size, and accessory to the principal dwelling unit on the lot, located in either the principal dwelling or an accessory structure on the lot. An accessory apartment shall be constructed so as to maintain the appearance and essential character of a single-family dwelling or accessory structure thereto located on the lot.

3. Requirements

- a) Only one accessory apartment shall be allowed per lot.
- b) The lot size shall be no less than 7,500 square feet (7,000)

square feet minimum in sewer service areas).

- c) Either the principal dwelling or accessory apartment must be owner-occupied for a period of 7 months in every calendar year, or owned by a nonprofit organization or government authority whose purpose is to provide affordable housing.
- d) Either the principal dwelling or accessory apartment may be rented, but not both. The owner occupied dwelling cannot be rented while the owner is absent. Rental periods shall be not less than 6 months and weekly/monthly rentals (summer rentals so-called) are expressly prohibited. Neither the principal dwelling nor accessory apartment shall be used as commercial accommodations at any time.
- e) The accessory apartment shall have no more than 2 bedrooms and a maximum of 800 square feet of floor area, or 40% of the floor area of the principal dwelling, whichever is less, as measured using the exterior side of the first floor outside wall plus as follows: finished attic space, 50% of first floor; finished 1/2 story, 75% of first floor; 3/4 story, (gambrel), 90% of first floor; 2nd floor colonial, 100% of first floor' 3rd floor colonial, 100% of first floor.
- f) The footprint of a new detached accessory dwelling unit cannot exceed that of the principal dwelling.
- g) An existing dwelling in excess of 4 bedrooms may convert 2 of the existing bedrooms into one accessory unit.
- h) The total number of the bedrooms on the lot shall not exceed 4 when the lot contains less than 20,000 square feet. A property that has a preexisting bedroom count that exceeds 4 bedrooms per 20,000 square feet of lot area can maintain that number of current bedrooms but cannot increase that number.
- i) Whether allowed as a matter of right or by special permit, for accessory apartments located on lots subject to the provisions of the Water Resource Protection Overlay or Coastal Pond Overlay Districts, the total number of bedrooms shall not exceed one per 10,000 square feet of lot area. Properties that preexist with a density of greater than one bedroom per 10,000 square feet in a Coastal Pond Overlay District can maintain their existing bedroom count but cannot increase that count.
- j) Owners of properties in a Coastal Pond Overlay District that want to increase the number of bedrooms beyond the density outlined in Subsection 3.i above can only do so provided that:
 - i. Both the principal dwelling and accessory apartment are connected to the municipal sewer system and only to the

extent allowed within the applicable sewer district bylaw or regulation; or

- ii. An on-site septic system with enhanced nitrogen removal approved by the Board of Health is installed on the property.

4. Design Standards.

Accessory apartments, whether a part of new construction, reconstruction, alteration, or change to a single-family residence or an attached or detached accessory structure, shall maintain the following standards:

- a) The architectural effect, as a result of the accessory apartment being constructed within the principal dwelling or attached thereto, shall be that of a single-family residence consistent in its exterior character.
- b) The architectural effect, as a result of the accessory apartment being constructed as a detached accessory structure, shall be that of a structure incidental to a single-family residence and in the same character and period of architecture as a the primary residence.
- c) Parking for the accessory apartment shall be provided on site.

5. Procedures

- a) An accessory apartment constructed within an existing single-family dwelling or an existing accessory structure attached thereto prior to the issuance of a building permit for an accessory apartment constructed within a single-family dwelling or accessory structure attached thereto a site plan review (design review), pursuant to § **240-12.2**, shall be conducted by the Planning Board, taking into account the design standards, requirements, and purposes of this accessory apartment bylaw. The application for site plan review shall include the information contained in § **240-12.2D(3)** unless waived by the Planning Board.
- b) An accessory apartment constructed within an existing detached accessory structure or within a new detached accessory structure (not attached to a single-family dwelling): In addition to the site plan review requirements above, an accessory apartment built within or as an accessory structure, not attached to a single family dwelling, shall require a special permit from the Zoning Board of Appeals. In addition to the design standards, requirements, and purposes of this accessory apartment bylaw, the Zoning Board of Appeals shall take into account the standards found in § **240-12.1E**.

6. Monitoring.

An affidavit shall be submitted annually to the Building Commissioner, signed by the property owner, attesting that the principal dwelling or accessory apartment has been owner occupied for a period of 7 months and not otherwise rented as set forth in 3(bc) above. The Building Commissioner may allow a property owner to be absent during this 7-month period for cause, such as military assignment, work related issues, health issues, academic sabbatical, or similar circumstance.

7. Enforcement:

Upon a written determination and notice to the property owner by the Building Commissioner that the property owner has failed to comply with these provisions, the property owner shall bring the accessory apartment into compliance within 90 days of the notice. Failing compliance, the property shall be restored to single family dwelling status within 90 days of said failure determination, in a manner that complies with all requirements of the State Building Code and any legal regulations or bylaws.

4. **240-7.2B(3)a** Change the reference in Section 240-7.2B(3)a. from “all development proposals listed in § 240-7.2B(2)b. must file an analysis of development...” to “all development proposals listed in § 240-7.2B(2) must file an analysis of development.

§ 240-7.2 Coastal Pond Overlay District

§ 240-7.2B Description of the Coastal Pond Overlay District

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(3) Procedures - The following procedures shall be followed:

- a. All development proposals listed in § 240-7B(2)b. must file an analysis of development impact as specified by § **240-13.1D(4)a**, b, c, and di, dii, and diii, with the application made to the reviewing board;

2. **240-7.7B(4)** Add the word “Residential” to the density limitation sentence in Section 240-7.7B(4) Density Limitations and renumber that subsection as item #5. The new sentence will read: “The following residential density restrictions shall apply within the WRPOD.”

(5) Density limitations - The following **residential** density restrictions shall apply within the WRPOD:

- a. Minimum lot size: 80,000 square feet
- b. Minimum lot width: 200 feet
- c. Minimum lot frontage: 150 feet
- d. Maximum lot coverage by impervious surfaces: 20%

8. **240-11.7B(1)**Delete the “1988” after “National Geodetic Vertical Datum” in the two sentences in Section 240-11.7B(1).

9. **240-11.7B(2)**Replace the following values found in the Fresh Ponds Table (Section 240-11.7B(2)) as indicated below:

- **Crooked Pond Elevation** – replace “12” with “32”

- Flax Pond – replace “Flax Pond” with “Flax Pond (in Quissett)” and replace “21” with “13”
- Insert “Miles Pond in Sippewissett” and insert “10” for the elevation
- Remove the right parentheses at the end of “Unnamed Pond in the Coonamessett Valley below Sandwich Road
- Rename “Trout Pond (near Chester Street, formerly Flax Pond)” to “Trout Pond (near Chester Street formerly called Flax Pond)”
- Rename “Round Pond near Coonamessett Pond” to “Round Pond (near Coonamessett Pond)”

§ 240-11.7B Watermark

- (1) Buzzards Bay and Tidal Waters - The waters of Buzzards Bay, and tidal ponds and tidal rivers off Buzzards Bay, shall be determined by the contour line of the four-foot elevation based on the National Geodetic Vertical Datum 1988. The tidal waters of Great Harbor, Vineyard Sound, and Nantucket Sound and all tidal ponds and tidal rivers off Vineyard Sound and Nantucket Sound shall be determined by the contour line of the three-foot elevation based on the National Geodetic Vertical Datum 1988.
- (2) Fresh Ponds - The waters of fresh ponds shall be measured from the elevations as follow:

Elevation		Elevation	
Fresh Pond	(feet)	Fresh Pond	(feet)
Ashumet Pond	37	Morse Pond	7
Cedar Lake	11	Nyes Pond	7
Coonamessett Pond	35	Round Pond	23
Crocker Pond	1232	Round Pond (near Coonamessett Pond)	37
Crooked Pond	12	Shallow Pond	29
Deep Pond	37	Shivericks Pond	4
Deer Pond	19	Siders Pond	4
Flax Pond(in Quissett)	2113	Spectacle Pond (near Mares Pond)	15
Flax Pond (near John Parker Road)	14	Spectacle Pond (near Sam Turner Road)	33
Fresh Pond	21	Trout Pond (near Chester street, formerly called Flax Pond)	8
Grassy Pond	41	Unnamed Pond in the Coonamessett Valley below Sandwich Road)	16
Jenkins Pond	21	Weeks Pond	7

Elevation		Elevation	
Fresh Pond	(feet)	Fresh Pond	(feet)
Jones Pond	8	Wings Pond	11
Mares Pond	15		
Miles Pond in Sippewissett	10		

6. 240-14.1I Add the following language to Section 240-14.1I Parking Area Design and Location

§ 240-14.1 Parking

(6). Parking shall be provided as per Section 240-14.1 Parking of the Zoning Bylaw. All parking shall be located in side or rear yards behind the front facade line of the building, the exact location to be determined by the Planning Board under site plan review. However, the number of the required parking spaces may be altered by the Planning Board under site plan review for uses allowed as a matter of right, or by the special permit granting authority for uses allowed by special permit in the following manner:

a Number of spaces: may be reduced for mixed use developments at the discretion of the Planning Board based on the number of uses that are complementary in days and hours of operation. Parking may also be reduced if pedestrian amenities both on-site and between properties and the street line are incorporated into the site planning. In no case shall parking be reduced below fifty percent (50%) that is required pursuant to Article XXII unless by special permit; the Board of Appeals allows for such pursuant to § 240-107B.

b Location of spaces: Parking may be located off premises if shared parking between businesses or uses can be demonstrated via long-term agreements, leases, and licenses of five (5) years or more and to the satisfaction of the Planning Board or Board of Appeals as the case may be. Shared parking shall not be allowed that is more than three hundred (300) feet from the property line.

(7) Light Industrial Districts - In LI Districts, parking lots shall meet the following standards:

- a. In all Light Industrial Districts, no parking area shall be closer than 40 feet to the street line nor closer than 25 feet to any other lot line, except that in Light Industrial Districts A and C only, a parking area may be within 15 feet of any other lot line if that adjacent lot is also zoned for light industrial uses or for business uses.
- b. In the Light Industrial B District, no single parking area shall extend for more than 150 feet in width; adjacent parking areas may be connected by a common access driveway, but each parking area shall be separated from an adjacent parking area by not less than 10 feet in width of natural or planted areas.

(8) Bicycle racks - For parking areas of 40 or more spaces, locking bicycle racks shall be provided to accommodate one bicycle per 20 parking spaces required or fraction thereof.

(9) Drive-thru establishments - Site standards for drive-thru establishments include the following:

- a. Setbacks for stacking areas: motor vehicle stacking areas shall be set back a minimum 10 feet from all property lines.
- b. Dimensional requirements for stacking spaces: each stacking space shall be a minimum of 10 feet wide and 20 feet long and shall not include the use of any parking space, street, sidewalk, or parking aisle area. Stacking areas shall be separated from other internal driveways. All stacking areas serving a drive-thru window shall have an inside radius of no less than 25 feet.
- c. Stacking area requirements: vehicle stacking areas shall be provided according to the following for

drive-thru establishments:

- i. Fast-food restaurant: seven stacking spaces for the first drive-thru window, plus two stacking spaces for each additional window;
- ii. Other uses with drive-thru windows: three stacking spaces per window.
- d. Curb cuts: all curb cuts serving a drive-thru establishment shall have a minimum center line offset distance of 300 feet from any other curb cut serving a drive-thru establishment. All curb cuts must conform to the latest edition of the MassDOT Highway Division regulations concerning geometry and traffic circulation.

(10) Landscaping - See §§ **240-14.3D(7)** & (8) for parking lot landscaping requirements.