

404. MOTELS

404.1. Goals and Purposes. The Town of Yarmouth, as a traditional resort destination, maintains the majority of its hotels on the main corridor in the Town, namely Route 28. Although Yarmouth contains the most guest units of any Cape Cod Town, many of the motel properties have fallen into disrepair without reasonable alternatives to make necessary repairs, improvements and upgrades. Based on the great demand and inadequate supply, Yarmouth also lacks a sufficient supply of housing, including affordable and employee housing. As such, and with the inability to make profitable decisions as to the use of Route 28 properties, many motel owners have begun to utilize their properties as multi-family dwellings. Keeping in mind the economic goals of property owners, and the social and economic realities of the occupants of these motels, as well as the reasons for the creation of these tenancies along Route 28, it is the intention of this Section 404:

1. to provide a carefully controlled mechanism that promotes public welfare, community and economic opportunities, including business and housing, through the conversion of motel properties into new commercial, mixed, and/or multifamily housing uses, while on the one hand preserving and enhancing the ambiance of our historic community, and on the other, providing for safe living, eating and cooking facilities within Housing;
2. to allow mixed use buildings with residential use over retail, commercial, and/or office uses;
3. to allow for the creation and/or redevelopment of multiple units on a single lot, consisting of commercial space, and singles, duplexes, townhouses, and apartments, non-year-round vacation dwelling units, and affordable housing;
4. to provide the owners of applicable properties with the ability to improve, renovate, and/or replace their properties to maximize the uses of limited lot size by easing bulk regulations and allowing for an increase in density.

404.2 Applicability. The provisions of this Section 404 shall apply to those properties or lots (1) which are within the current B2 zoning district, and (2) for which a motel license has been issued, pursuant to M.G.L. c. 140, § 32B, prior to and is in effective on April 11, 2006 or was issued a motel license after April 11, 2006 ("Applicable Property"). However, the following properties, denoted by the Map and Parcel as shown on the Yarmouth Assessor's records, are hereby specifically excluded from the provisions of this Section 404:

Map 32, Parcels 65, 66, 68, 69, 83, 84, 85, 87, 88, 89, 90, 91, 92, 93, 119, 120, 121, 122, 123, 135, 136, 154, 155, 169, 170, 171, 189, 190, 191;

Map 60, Parcels 121, 122, 129, 130, 131, 132, 133, 159, 160, 161, 163, 164, 165, 166, 167, 168, 169, 171, 172, 195, 196, 197; and

Map 61, Parcels 22, 23, 24, 25, 28, 29, 57, 58, 59, 60, 74, 75, 76, 77, 78, 79, 80, 81, 82.

404.3 Project Approval. The lawful use of any structure or land in the B2 Zoning District, existing at the time of enactment or subsequent amendment of this section of the bylaw may be continued, although such structure or use does not conform with any other provision of the zoning bylaw. The creation of motel uses and housing, as subsequently defined, on the same lot shall be permitted if the provisions of this Section 404 are met.

Projects meeting all the criteria for as-of-right development on those properties to which Section 404 applies will be approved by the Building Commissioner. Projects which do not meet the criteria for as-of-right development on those properties to which Section 404 applies or requires a Special Permit for use as described in Section 202.5 or which require a Special Permit for non-conformancy pursuant to Section 104.3 can be approved through issuance of a Special Permit by the Yarmouth Planning Board.

404.4 Change, Extension or Alteration of Motels

Lawfully pre-existing non-conforming structures to which Section 404 applies, and lawfully pre-existing structures located on non-conforming lots to which Section 404 applies, may be altered, extended or razed and replaced, by right, provided the alteration, extension or raze and replacement complies with the provisions of this Section 404, and satisfies the requirements of the Site Plan Review Team.

404.5 The provisions of the Table of Dimensional Requirements in Section 203.5 shall continue to apply to the applicable properties to which Section 404 applies, unless specifically addressed in this Section 404.

404.6 Any property owner or agent thereof who seeks a change, extension, alteration or raze and replacement for a building and/or property to which Section 404 applies shall be subject to Site Plan Review, as referred to in Section 103.3. Notwithstanding any other provision herein, the binding comments of the Design Review Representative to the Site Plan Review, based on design controls consistent with the Yarmouth Architectural and Site Design Standards, as established by the Yarmouth Planning Board, shall be compulsory. In the case of land or buildings subject to this section, no occupancy permit for full or partial occupancy of the site shall be issued until all required site improvements, including those binding comments of the Design Review Representative, serving the structure to be occupied have been completed. This requirement shall apply to any project for which changes or alterations, whether interior and/or exterior, are sought.

404.6.1 Lighting. No motel in the B2 shall be illuminated in such a way that causes glare for motorists, pedestrians or neighboring premises.

404.6.2 Where any motel lot line abuts a residential district boundary, there shall be a buffer at least ten (10) feet wide containing a dense grouping of trees or shrubs, either retained or planted, sufficient to provide a natural barrier at least three (3) feet high initially and at least seven (7) feet high within five (5) years.

404.7 Definitions For purposes of this Section 404 only, the following terms shall have the following meanings unless other meaning is required by the context or is specifically prescribed:

TOP OF THE SHOP HOUSING - the creation or redevelopment of Housing on the second and/or third floor of a structure at an Applicable Property, whose first floor is used for commercial, industrial or office uses, and which meets the criteria set forth herein.

MULTI-FAMILY HOUSING - Multi-Family Dwellings defined in Section 500 of this Bylaw, and which meets the criteria set forth herein.

MIXED USE - a combining of commercial (retail, office and/or service) use(s) with a residential use on the same or contiguous lot.

RAZE AND REPLACE or RAZE AND REPLACEMENT - the voluntary removal of one hundred percent (100%) of all pre-existing structural materials and mechanical systems of a structure or structures, exclusive of foundations, and the replacement of those materials and systems with new materials and systems pursuant to the creation of Housing.

HOUSING - dwelling units for rent or sale by any person or entity, to be used for purposes of residential, rental, employee, or affordable housing, and consisting of either one or more dwelling units on a single lot, and comprised by any one or more of the following: single units, duplexes, townhouses, apartments, condominium units, top-of-the-shop housing, multi-family, mixed uses, or non-year-round vacation dwelling units, or any combination thereof.

MOTEL CONVERSION - the creation of Housing within or upon an Applicable Property, for which a motel license was issued, pursuant to M.G.L. c. 140, § 32B, prior to and is effective on April 11, 2006, or which was issued a motel license after April 11, 2006, which property was operated as a motel immediately prior to the creation of said Housing, which is not created by virtue of a Raze and Replacement or new construction, and which meets the criteria defined herein.

404.8 Top Of The Shop And Multi-Family Housing Any Housing created at an Applicable Property in any manner other than by utilizing the existing motel structure, which is defined as a Motel Conversion, must comply with the requirements of this Section 404.8.

404.8.1 Minimum Dwelling Unit (DU) Size. The minimum square footage of any Housing created in any manner other than by a Motel Conversion, pursuant to Section 404.8 of this Bylaw, shall be a minimum of 600 square feet.

404.8.2 Allowed Residential Densities and the Affordable Housing Requirement. For purposes of this Section 404.8.2, there will be an allowed density of up to 16 dwelling units per acre as long as Affordable Housing Units, as defined in Section 500, are provided at the following rates:

Units per Acre	Affordable Units per Acre
1-4	0
5-7	1
8-11	2
12-15	3
16	4

The purpose and Intent of the Affordable Housing Requirement is to encourage development of new housing that is affordable to low- and moderate-income households. At a minimum, affordable housing produced through this regulation should be in compliance with the requirements set forth in M.G.L. c. 40B, § 20 – 24 and other affordable housing programs developed by state, county and local government. It is intended that the affordable housing units that result from this bylaw be considered Local Initiative Units, in compliance with the requirements for the same, as specified by section 412 of this Bylaw.

404.8.3 Maximum Building Coverage. Building Coverage shall be as outlined for all properties in the B2 Zoning District.

404.8.4 Maximum Allowed Heights. For any property to which this Section 404 applies and on which there will be a motel use or the creation of housing, the maximum building height shall be as follows:

404.8.4.1 On a single parcel having a minimum of 100,000 square feet of contiguous upland area, the maximum building height of properties to which Section 404 applies shall be as follows:

- 45 feet high with a maximum of 3 stories, any or all of which may be habitable, and none of which must comply with the definition of a habitable attic. Should commercial uses be located on the first or the first and second floor of a structure, the number of habitable stories used for housing will be reduced by the number of stories used for commercial purposes.
- Building eave or cornice heights shall not exceed 30 feet
- 35 feet maximum within 50 feet of adjoining residential zoning districts

404.8.4.2 On a parcel having less than 100,000 square feet of contiguous upland area, the maximum building height shall be 35 feet high with a maximum of 3 stories, any or all of which may be habitable, and none of which must comply with the definition of a habitable attic. Should commercial uses be located on the first or the first and second floor of a structure, the number of habitable stories used for housing will be reduced by the number of stories used for commercial purposes.

404.8.5 Set Backs. For any Applicable Property to which a change, alteration or raze and replace shall occur, and which structure will be a maximum of 35 feet, or less, in height, and which converts its use directly to Housing, or maintains its use as a motel, the setbacks recited in Section 203.5 shall apply, except that the setbacks from an existing lot-line at the property may be maintained. For any expansion of the pre-existing footprint, that new portion of the structure shall comply with the provisions of Section 203.5 for the B2 Zoning District.

For all other structures on Applicable Properties, the setbacks for such Properties shall comply with the provisions of Section 203.5 for the B2 Zoning District.

In addition, for purposes of any Housing involving more than one building on a lot, no building need be more than 12 feet from any other building on the same lot. Also, no structure which abuts a residentially zoned parcel or Route 28 may exceed 35 feet in height, unless that portion of the structure which does exceed 35 feet is located 50 feet from the abutting residentially zoned parcel or Route 28.

404.9 Motel Conversions

Any Housing created at an Applicable Property by utilizing the existing motel structure must comply with the requirements of this Section 404.9.

404.9.1 Allowed Residential Densities and the Affordable Housing Requirement. For purposes of this Section 404.9.1, there will be an allowed density of up to 16 dwelling units per acre as long as Affordable Housing Units, as Defined in Section 500, are provided at the following rates:

Units per Acre	Affordable Units per Acre
1-4	0
5-7	1
8-11	2
12-15	3
16	4

Should any property owner, for which this section of the bylaw shall apply, desire to voluntarily limit the use of the property to no more than 305 days each year, then there

shall be no requirement that any Affordable Housing Units be created at the property. Owners of Applicable Properties who desire to pursue this option shall have all water service to the Property shut off for the period of closure denoted above.

The purpose and Intent of the Affordable Housing Requirement is to encourage development of new housing that is affordable to low- and moderate-income households. At a minimum, affordable housing produced through this regulation should be in compliance with the requirements set forth in M.G.L. c. 40B, § 20 – 24 and other affordable housing programs developed by state, county and local government. It is intended that the affordable housing units that result from this bylaw be considered Local Initiative Units, in compliance with the requirements for the same, as specified by section 412 of this Bylaw.

404.9.2 For purposes of this Section 404.9, maximum allowable Building Coverage, Building Height and Set Backs shall be as outlined in Sections 404.8.3, 404.8.4 and 404.8.5.

404.9.3 Unit Size. For any Motel Conversion, the dwelling units created by said conversion shall be constituted as follows:

- 250 s.f. – Minimum Unit Size
- 250 s.f. – 400 s.f. - Up to 25% of units may be in this range
- 400 s.f. – 600 s.f. - Up to 25% of units may be in this range
- 600 s.f. – At least 25% of the units must be this minimum size
- 750 s.f. – At least 25% of the units must be this minimum size

404.9.4 For purposes of determining density of Applicable Properties upon which mixed use developments are created containing both Housing and Motel uses, the density of the Housing units shall be determined by reducing the total square footage of lot area of the Applicable Property by 1,000 square feet per motel guest unit, and then calculating the density as displayed in Sections 404.8.2 and 404.9.1 of this Section 404.

404.10 Guest Units The maximum number of motel Guest Units, as defined in Section 500, permitted in the Town of Yarmouth shall be equal to 3,553, and an accurate accounting of said Guest Units will be determined continuously by the Board of Selectmen or a designee of the Board of Selectmen.