

ARTICLE 49

(Zoning Bylaw Amendment: Establishment of Harbor Overlay (HOD) Zoning District)

To see if the Town will vote to amend Chapter 139 (Zoning) of the Code of the Town of Nantucket as follows (*NOTE: new language is shown as highlighted text, language to be deleted is shown by strikethrough; these methods to denote changes are not meant to become part of the final text*):

1. **§ 139-12. Overlay Districts Flood Hazard FHD, Public Well Recharge PWR, Multifamily (MF), Neighborhood Employee Housing (NEHOD), Dormitory Overlay District (DOD), Country Overlay District (COD) and Town Overlay District (TOD), Harbor Overlay District (HOD).**

H. Harbor Overlay District (HOD).

- (1) The Harbor Overlay District shall be located as depicted on the map entitled "Harbor Overlay District," dated **January 2008** incorporated by reference and made a part hereof. The district as shown on said map shall be considered an overlay district to be superimposed on the Zoning Map of Nantucket, Massachusetts.
- (2) The purposes of the Harbor Overlay District are to ensure that (1) existing water-dependent uses are not displaced by nonwater-dependent uses; (2) harbor waters and the immediate shoreline and pier areas are dedicated to water-dependent uses; (3) commercial uses allowed by the underlying district regulations are compatible with, support, or otherwise do not interfere with water-dependent uses of the site; and (4) conversion of commercial space to residential use is limited.
- (3) Uses allowed or permitted in this overlay district are the same as those uses allowed or permitted in the underlying zones except as may be modified by the following:
 - (a) No new use or expansion of an existing use shall
 - (1) displace or significantly disrupt an existing water-dependent use with a nonwater-dependent use;
 - (2) locate a nonwater-dependent use on shorefront land so as to unreasonably diminish the capacity of the site to accommodate water-dependent use
 - (3) impede or infringe upon existing public access.
 - (b) new residential uses will be allowed only on upper floors of new structures and not on pile-supported structures over coastal waters or in structures within 25 feet of the mean high water line.
 - (c) new structures on shorefront land shall consist of or include the following water-dependent uses and/or uses accessory to these water-dependent uses as appropriate to the site.
 - (d) subsections (c) and (d) above do not pertain to structural alterations or reconstruction of existing residences as long a such alteration or

reconstruction does not increase the structure's footprint or provide for the structure's use for a different purpose.

Recreational boating-related: commercial marina; boat ramp or other public boating access facilities; boat haul-out facilities; boat repair and maintenance or waterfront facilities associated with inland sites providing these services; launch service; fuel and pump-out services; upland boat storage; services such as ice, laundry, bait, provisions; businesses such as ship chandlery, fishing outfitter; parking.

Commercial fishing related: berthing; loading/unloading areas; gear storage facilities; parking; seafood wholesaler, retail fish market.

Commercial charter boat: berthing, support facilities.

Waterfront public access and amenities (as an enhancement to all other uses, except where water-dependent operations would present a safety concern): public restrooms, seating.

Passenger and cargo ferry pier and facilities

4. Additional requirements within the HOD

- (a) Notwithstanding the provisions of § 139-23H(3) and 139-23I, all new commercial uses or expansions of commercial uses that entail an expansion of the building footprint or parking and circulation improvements (excluding handicap ramps and signage), and which are not otherwise subject to major site plan review, shall be subject to minor site plan review by the Director of Planning designated by the Planning Board for site plan review purposes, and such professional planning staff to whom the Director of Planning shall delegate this responsibility, for all uses and expansions up to, and including, 3,999 square feet of gross commercial floor area (including roofed over area).
- (b) The Planning Board shall be the special permit granting authority for all commercial uses requiring a special permit within the HOD.
- (c) In reviewing a use or expansion requiring either a minor or major site plan review within the HOD, the Planning Board and/or the Director of Planning or his designee shall make a determination that the proposed use or improvements are generally consistent with site plan review standards contained in § 139-23, and with the standards set forth in § 139-12H.

45. On shorefront land, new structures for nonwater-dependent uses shall not be located within 25 feet of the mean high water line or cover more than 50 percent of the parcel.

56. The following uses are prohibited in the Harbor Overlay District:

Cruise ship terminals or support facilities
Personal watercraft rental
Private docks

2. §139-3E. Overlay districts.

District	Abbreviation
Public Wellhead Recharge	PWR
Flood Hazard	FHD
Multifamily	MF
Neighborhood Employee Housing	NEHOD
Dormitory	DOD
Country	COD
Town	TOD
Harbor	HOD

3. §139-2. Definitions and word usage.

Water-dependent Use – Uses and facilities that require direct access to or location in coastal waters and which therefore cannot be located inland, including uses that provide general public access to those waters.

Personal Watercraft – A small vessel of less than 16 feet in length which uses an inboard motor powering a waterjet pump or a propeller as its primary source of motive power and that is designed to be operated by a person sitting, standing or kneeling on the vessel rather than the conventional manner of sitting or standing inside a vessel. This term includes jet skis, wet bikes and surf jets.

(Board of Selectmen for Harbor Plan Implementation Committee)