



TOWN OF FALMOUTH

ORDINANCE NO 114-2017

An Ordinance Amending the Code of Ordinances Regarding Invasive Terrestrial Plants

Be it ordained by the Town Council of the Town of Falmouth, Maine in Town Council assembled, that the Falmouth Code of Ordinances be amended to read as follows:

Chapter II-7 Land Subdivision

Sec. 7-11. Performance Guarantee

- A. **General.** A **performance guarantee** shall be drafted such that the Town shall receive written notice at least sixty (60) days prior to their expiration. Construction which occurs such that certification by the Public Works Director is not possible shall be grounds for default of the performance guarantee. A Performance Guarantee may be tendered in the form of either cash or a certified letter of credit in a form satisfactory to the **Planning Board**. If cash is accepted the Town and developer shall execute an escrow agreement in a form satisfactory to the Planning Board. It shall be in an amount of money to be determined by the Planning Board with the advice of various Town departments sufficient to cover the cost of completing all improvements required by the Planning Board approval. It shall be conditioned upon the completion of all such improvements within the time limit specified by the Planning Board, which shall not exceed two (2) years from the date of approval.
- B. **Conditional Agreement.** A Conditional Agreement, if acceptable in lieu of a Performance Guarantee, shall be endorsed by the Planning Board on the Final Plan, and shall provide that no lot or parcel of land may be conveyed, and that no permit may be issued by the Building Inspector for any building on any portion of the development until the completion of all such improvements within a period of time determined by the Planning Board not to exceed two (2) years from the date of such agreement.
- C. **Completion of Site Improvements.** Completion shall be determined by the Public Works Director or their designee to their satisfaction, who shall submit written certification to the Community Development Director that all improvements assured by the Performance

Guarantee have been constructed in conformance with the Final Plan and all applicable codes and ordinances. In addition, the developer shall furnish at his own expense the signed certification by a registered surveyor or civil [engineer](#) that all permanent bounds or monuments have been installed and are accurately in place in the locations designated in the Final Plan.

For projects that include either the construction or extension of streets or any required improvements made in existing street rights of way, the performance guarantee shall not be reduced below \$5,000 until a qualified professional approved by the Public Works Director, and whose services are paid by the developer, has verified, upon visual inspection, that all street rights of way and street easement areas where improvements are required are free of invasive terrestrial plants as defined in Chapter 19-2 of this Code. The Public Works Director may also consult with the Conservation Commission regarding the identification of invasive terrestrial plants.

Appendix 7-1

H. Additional Requirements

Street trees, esplanades, and buffer areas may be required by the Planning Board as necessary to insure compliance with the guidelines contained in Section [7-3](#), and the other provisions of this Ordinance. Where such improvements are required, they shall be incorporated in the Final Plan and executed by the subdivider as construction of the subdivision progresses. Invasive terrestrial plants as defined in Sec. 19-2 are prohibited.

Division II-14-2-2 [Street] Dedication and Acceptance

Sec. 14-62. Procedure.

1. Prior to submittal of a formal application, the applicant must present to the public works department the following documentation:
 - a. Proof of unencumbered fee simple title in the [private way](#) being proposed for acceptance;
 - b. Proof that all improvements required by the [planning board](#) have been satisfactorily completed and that all performance guarantees associated with those improvements have been released; and
 - c. Proof that the private way has endured without damage at least two (2) consecutive freeze/thaw cycles after construction.
 - d. Proof of the verification by a qualified professional approved by the public works department and compensated by the applicant that the street rights of way and any other property proposed to be conveyed in any manner to the town, upon visual inspection, has been free of invasive terrestrial plants as defined in Chapter 19-2 of this Code for a period of two years prior to the application filing. In the event that invasive terrestrial plants are present, the applicant shall provide proof to the public works director that there have been appropriate eradication methods applied for a minimum of two growing seasons in a manner acceptable to the public works director.

2. An application packet including an original application form as prescribed by the director of parks and public works and all required documents and items specified in Sec. 14-63 plus three (3) copies, shall be submitted to the parks and public works department. Applications may contain multiple streets within a development.
3. The director of public works, or their designee, shall determine if the application is complete within thirty (30) business days of receipt.
4. If the application is determined incomplete, the public works staff shall notify the applicant of the missing information. When an application is determined to be complete, the department shall forward the application to the community development director, police chief and fire chief.
5. The community development director, director of public works, police chief, and fire chief shall provide written reports within thirty (30) days of receipt of the determination of completeness. Reports shall address the following:
 - a. Conformance with the town's comprehensive plan as well as other adopted plans that address desired street patterns;
 - b. Budget impact regarding provision of adequate municipal services;
 - c. Expenditures by the town for upgrading or extending water and/or sewer mains, storm drains, sanitary sewers, gas mains, culverts, underdrains and all underground and overhead utilities;
 - d. Town liability for damage to private property such as, but not limited to, walks, fences, lawns and other items that encroach within the proposed right-of-way; and
 - e. Any concerns for providing public safety and access to the street and its occupants.
6. At such time as the director of parks and public works determines that the application is ready for consideration by the town council, the town manager shall place the application on the next available town council agenda.
7. If the town council determines that the street is in order for acceptance, an order shall be scheduled at such time as the director of public works determines that all documents noted in Sec. 14-63(11) are submitted and acceptable.

(Ord. of 7-12-2010)

Division II-19-1-2 [Zoning] Definitions

Invasive Plants to be Prohibited in Falmouth	
<i>Acer ginnala</i>	Amur maple
<i>Acer platanoides</i>	Norway maple
<i>Aegopodium podagraria</i>	Bishop's weed
<i>Ailanthus altissima</i>	Tree of heaven
<i>Alliaria petiolata</i>	Garlic mustard
<i>Amorpha fruticosa</i>	False indigo
<i>Ampelopsis glandulosa</i>	Porcelain berry
<i>Artemisia vulgaris</i>	Common mugwort
<i>Berberis thunbergii</i>	Japanese barberry
<i>Berberis vulgaris</i>	European barberry
<i>Celastrus orbiculata</i>	Asiatic bitterweet
<i>Centaurea biebersteinii</i>	Spotted knapweed
<i>Cynanchum louiseae</i>	Black swallowwort
<i>Eleagnus umbellata</i>	Autumn olive
<i>Euonymus alatus</i>	Burning bush
<i>Euphorbia cyparissias</i>	Cypress spurge
<i>Fallopia baldschuanica</i>	Chinese bindweed
<i>Fallopia japonica</i>	Japanese knotweed
<i>Frangula alnus</i>	Glossy buckthorn
<i>Heracleum mantegazzianum</i>	Giant hogweed
<i>Hesperius matronalis</i>	Dame's rocket
<i>Impatiens glandulifera</i>	Himalayan balsam
<i>Iris pseudacorus</i>	Yellow iris
<i>Lepidium latifolium</i>	Perennial pepperweed
<i>Ligustrum obtusifolium</i>	Blunt-leaved privet
<i>Ligustrum vulgare</i>	Common privet
<i>Lonicera morrowii</i>	Morrow honeysuckle
<i>Lonicera japonica</i>	Japanese honeysuckle
<i>Lonicera maackii</i>	Amur or bush honeysuckle
<i>Lonicera tartarica</i>	Tartarian honeysuckle
<i>Lythrum salicaria</i>	Purple loosestrife
<i>Microstegium vimineum</i>	Japanese stilt-grass
<i>Paulownia tomentosa</i>	Pawlonia
<i>Persicaria perfoliata</i>	Mile-a-minute weed
<i>Phellodendron amurense</i>	Amur cork tree
<i>Phragmites australis</i>	Common reed
<i>Poa nemoralis</i>	Wood blue grass
<i>Polygonum perfoliatum</i>	Mile-a-minute vine

<i>Populus alba</i>	White cottonwood
<i>Reynoutria x bohemica</i>	Bohemian knotweed
<i>Rhamnus cathartica</i>	Common buckthorn
<i>Robinia pseudoacacia</i>	Black locust
<i>Rosa multiflora</i>	Multiflora or rambler rose

Attest: _____

Ellen Planer
Town Clerk
March 27, 2017