

### TOWN COUNCIL Town of Falmouth, Maine Introduction March 28, 2016

#### **An Ordinance Amending the Zoning and Site Plan Review Ordinance Regarding Dimensional Requirements, Zoning Districts, Multi-family units, Rate of Growth, and other elements to implement the 2014 Comprehensive Plan**

Be it ordained by the Town Council of the Town of Falmouth, Maine in Town Council assembled, that the Falmouth Zoning and Site Plan Review Ordinance be amended as follows.

#### **19-1.2. Definitions**

**Dwelling, ~~Multi-family Multiplex:~~** A building designed or intended to be used, or used exclusively for residential occupancy by three (3) or more families living independently of one another and containing three (3) or more dwelling units, ~~including apartment buildings and condominiums, but excluding single-family dwellings with an accessory apartment permitted under Section 19-55.~~

**Dwelling, Two-Family:** A building ~~in the Tidewater Master Planned Development District~~ designed or intended to be used, or used exclusively for residential occupancy by two (2) families living independently of one another and containing two (2) dwelling units, ~~including condominiums,~~ but excluding single-family attached dwellings with an accessory dwelling unit ~~apartments~~ as permitted under Section 19-55. [Adopted, 4/4/05]

**Dwelling Unit:** A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units. ~~All dwelling units must contain a minimum of 600 sq. ft. of floor area.~~ [Amended 5/26/09]

**~~Multiplex:~~** ~~A group of attached dwellings containing dwelling units arranged side by side or back to back or in other configurations.~~

## Sec. 19-7 "F" - Farm and Forest District

The farm and forest district is ~~a rural residential district an area~~ which is not expected to be provided with public sewer, ~~located in a generally rural area~~ and intended to remain in that character. The district allows residential uses at low density and recreational and agricultural pursuits.

<p><b>Permitted Structures and Uses</b></p> <ul style="list-style-type: none"> <li>a. Accessory buildings &amp; uses</li> <li>b. Animal husbandry</li> <li>c. Farming</li> <li>d. Forestry</li> <li>e. Municipal buildings &amp; uses</li> <li>f. Outdoor recreation</li> <li>g. Single Family Detached Dwellings</li> <li>h. Tier I Personal Wireless Service Facilities [Adopted, 4/25/05]</li> <li>i. Tier III Personal Wireless Service Facilities [Adopted, 4/25/05]</li> <li>j. Personal Use Airstrip [Adopted, 9/26/05]</li> <li>k. <b>Essential Services</b> ** [Adopted, 7/28/2014]</li> </ul> <p><u>Accessory Dwelling Unit</u></p>	<p><b>Conditional Uses</b></p> <p><del>Accessory Dwelling Units</del></p> <ul style="list-style-type: none"> <li>Cemeteries</li> <li>Day care centers [Amended, 7/22/91]</li> <li>Day care homes {Amended, 7/22/91}</li> <li>Churches</li> <li>Extractive Industries</li> <li>Health Institutions</li> <li>Home occupations</li> <li>Kennels</li> <li>Libraries</li> <li>Museums</li> <li>Private clubs</li> <li>Private schools</li> <li>Riding stables</li> <li>Amateur Radio Towers [Adopted, 4/23/90]</li> <li>Veterinary Clinics [Adopted, 5/27/93]</li> <li>Bed and Breakfast Establishments[Adopted 5/27/93]</li> <li>Elderly Boarding Home [Adopted, 5/28/96]</li> <li>Outdoor Eating Areas [Adopted, 5/28/96]</li> <li>Roadside Stand [Adopted 02/27/12]</li> </ul>
<p>**[Note: establishment of an essential service that includes vehicular access or structures requires site plan approval by the Planning Board.]</p>	

[Table amended 1/24/11]	Minimum Lot Size		Max. Lot Coverage	dwelling unit density allowance (sq ft)	Min. site size (acres)
	Lot Area (sq ft)	Lot Width (ft)			
All Uses	--	250'	15%	-	--
Cemeteries	--	--	--	-	10
Day Care Centers	--	--	--	-	2
Churches	--	--	--	-	5
Health Institute	--	--	--	-	5
Private Clubs	--	--	--	-	3
Private Schools	--	--	--	-	3
Riding Stables	--	--	--	-	3
Single Family Detached & Other Uses	80,000	--	--	<u>80,000</u>	--

**Sec. 19-8 "RA" - Residential A District**

<b>Permitted Structures and Uses</b>	<b>Conditional Uses</b>
Accessory Building & Uses Farming Forestry Municipal Buildings & Uses Single Family Detached Dwellings <u>Two family</u> <u>Multi family</u> Tier I Personal Wireless Service Facilities [Adopted, 4/25/05] Essential Services** [Adopted, 7/28/2014] <u>Accessory Dwelling Unit</u>	<u>Accessory Dwelling Units</u> Cemeteries Day Care Centers [Amended, 7/22/91] Day Care Homes [Amended, 7/22/91] Churches Congregate Housing Health Institutions. Home Occupations Libraries Marinas <u>Multiplexes</u> Museums Private Clubs Private Schools Amateur Radio Towers [Adopted, 4/23/90] Bed and Breakfast Establishments [Adopted,5/27/93] Elderly Boarding Home [Adopted, 5/28/96] Outdoor Eating Areas [Adopted, 5/28/96] Roadside Stand [Adopted 02/27/12]
**[Note: establishment of an essential service that includes vehicular access or structures requires site plan approval by the Planning Board.]	

	Minimum Lot Size		Max. Lot Coverage	dwelling unit density allowance (sq ft per unit)	Min. site size (acres)
	Lot Area (sq ft)	Lot Width (ft)			
All Uses	--	--	20%	--	--
Cemeteries	--	300	--	--	10
Day Care Centers	--	200	--	--	2
Churches	--	300	--	--	5
Congregate Housing	--	300	--	7,500	5
Health Institute	--	300	--	--	5
<u>Multi family Multiplexes</u>	<u>15,000--</u>	<u>100200</u>	--	<u>5,00015,000</u>	<u>2</u>
Private Clubs	--	200	--	--	3
Private Schools	--	200	--	--	3
<u>Two-family</u>	<u>10,000</u>	<u>50</u>	--	<u>5,000</u>	--
Single Family Detached & Other Uses	<u>10,00020,000</u>	<u>50125</u>	--	<u>10,000 [Amended 1/24/11]</u>	--

<b>Minimum Setbacks In Feet</b>			
	<b>Front Setback</b>	<b>Side Setback</b>	<b>Rear Setback</b>
Cemeteries	50	50	50
Day Care Centers	50	50	50
Churches	100	100	100
Congregate Housing	100	100	100
Health Institute	100	100	100
<u>Multiplexes</u>	<u>50</u>	<u>50</u>	<u>50</u>
Private Clubs	50	50	50
Private Schools	50	50	50
Single Family, Detached/ <u>Two family/Multi family and</u> Other Uses	<u>1025</u>	<u>1020</u>	<u>3040</u>

**Sec. 19-9 "RB" - Residential B District**

<p><b>Permitted Structures and Uses</b>                  Accessory Buildings &amp; Uses                  Farming                  Forestry                  Municipal Buildings &amp; Uses                  Single Family Detached Dwellings  <u>Two family</u>  <u>Multi family</u>                  Tier I Personal Wireless Service Facilities [Adopted, 4/25/05]                  Essential Services** [Adopted, 7/28/2014]  <u>Accessory Dwelling Unit</u></p>	<p><b>Conditional Uses</b>  <u>Accessory Dwelling Units</u>                  Cemeteries                  Day Care Centers [Amended 7/22/91]                  Day Care Homes [Amended 7/22/91]                  Churches                  Congregate Housing                  Extractive Industries                  Health Institutions                  Home Occupations                  Libraries                  Marinas  <u>Multiplexes</u>                  Museums                  Private Clubs                  Private Schools                  Amateur Radio Towers [Adopted, 4/23/90]                  Bed and Breakfast Establishments [Adopted, 5/27/93]                  Elderly Boarding Home [Adopted, 5/28/96]                  Outdoor Eating Areas [Adopted, 5/28/96]                  Neighborhood Variety/Convenience Store* [Adopted 8/28/06]                  Roadside Stand [Adopted 02/27/12]</p>
<p>**[Note: establishment of an essential service that includes vehicular access or structures requires site plan approval by the Planning Board.]</p>	<p>*Applies only in that part of the RB District bounded by I-295, the Turnpike Spur, and the Presumpscot River</p>

	Minimum Lot Size		Max. Lot Coverage	dwelling unit density allowance (sq ft per unit)	Min. site size (acres)
	Lot Area (sq ft)	Lot Width (ft)			
All Uses	--	--	20%	--	--
Cemeteries	--	300	--	--	10
Day Care Centers	--	200	--	--	2
Churches	--	300	--	--	5
Congregate Housing	--	300	--	7,500	5
Health Institute	--	300	--	--	5
<u>Multi family Multiplexes</u>	<u>30,000</u> —	<u>150</u> <del>200</del>	--	<u>10,000</u> <del>30,000</del>	<u>2</u>
Private Clubs	--	200	--	--	3
Private Schools	--	200	--	--	3
<u>Two-family</u>	<u>25,000</u>	<u>100</u>	--	<u>10,000</u>	
Single Family Detached, & Other Uses	<u>25,000</u> <del>40,000</del>	<u>100</u> <del>150</del>	--	<u>25,000</u> —[Amended 1/24/11]	--

<b>Minimum Setbacks In Feet</b>			
	<b>Front Setback</b>	<b>Side Setback</b>	<b>Rear Setback</b>
Cemeteries	50	50	50
Day Care Center	50	50	50
Churches	100	100	100
Congregate Housing	100	100	100
Health Institutions	100	100	100
<u>Multiplexes</u>	<u>50</u>	<u>50</u>	<u>50</u>
Private Clubs	50	50	50
Private Schools	50	50	50
Single Family Detached, <u>Two-Family, Multi-family</u> and Other Uses	<u>15</u> <del>25</del>	<u>15</u> <del>20</del>	<u>30</u> <del>40</del>

**Sec. 19-10 "RC" - Residential C District [Adopted, 8/30/73]**

<p><b>Permitted Structures and Uses</b>                  Accessory Buildings &amp; Uses                  Farming                  Forestry                  Municipal Buildings &amp; uses                  Single Family Detached Dwellings                  Tier I Personal Wireless Service Facilities [Adopted, 4/25/05]                  Essential Services** [Adopted, 7/28/2014]  <u>Accessory Dwelling Unit</u></p>	<p><b>Conditional Uses</b>  <u>Accessory Dwelling Units</u>                  Churches                  Health Institutions                  Libraries                  Museums                  Private Clubs                  Private Schools                  Amateur Radio Towers [Adopted, 4/23/90]                  Bed and Breakfast Establishments [Adopted 5/27/93]                  Elderly Boarding Home [Adopted, 5/28/96]                  Outdoor Eating Areas [Adopted, 5/28/96]                  Roadside Stand [Adopted 02/27/12]</p>
<p>**[Note: establishment of an essential service that includes vehicular access or structures requires site plan approval by the Planning Board.]</p>	

[Table amended 1/24/11]	Minimum Lot Size		Max. Lot Coverage	dwelling unit density allowance (sq ft per unit)	Min. site size (acres)
	Lot Area (sq ft)	Lot Width (ft)			
All Uses	--	--	20%		--
Churches	--	300	--		5
Health Institute	--	300	--		5
Clubs	--	200	--		3
Private Schools	--	200	--		3
Single Family Detached & Other Uses	60,000	160	--	<u>60,000</u>	--

**Sec. 19-10.1 "RD" - Residential D District**

<p><b>Permitted Structures and Uses</b>                  Accessory Buildings &amp; Uses                  Farming                  Forestry                  Municipal Buildings &amp; Uses                  Single Family Detached Dwellings                  Two family                  Multi family                  Tier I Personal Wireless Service Facilities [Adopted, 4/25/05]                  Essential Services** [Adopted, 7/28/2014]                  Accessory Dwelling Unit</p>	<p><b>Conditional Uses</b>  <del>Accessory Dwelling Units</del>                  Cemeteries                  Day Care Centers [Amended 7/22/91]                  Day Care Homes [Amended 7/22/91]                  Churches                  Congregate Housing                  Extractive Industries                  Health Institutions                  Home Occupations                  Libraries                  Marinas                  Multiplexes                  Museums                  Private Clubs                  Private Schools                  Amateur Radio Towers [Adopted, 4/23/90]                  Bed and Breakfast Establishments [Adopted, 5/27/93]                  Elderly Boarding Home [Adopted, 5/28/96]                  Outdoor Eating Areas [Adopted, 5/28/96]                  Neighborhood Variety/Convenience Store* [Adopted 8/28/06]                  Roadside Stand [Adopted 02/27/12]</p>
<p>**[Note: establishment of an essential service that includes vehicular access or structures requires site plan approval by the Planning Board.]</p>	<p>*Applies only in that part of the RB District bounded by I 295, the Turnpike Spur, and the Presumpscot River</p>

	Minimum Lot Size		Max. Lot Coverage	dwelling unit density allowance (sq ft per unit)	Min. site size (acres)
	Lot Area (sq ft)	Lot Width (ft)			
All Uses	--	--	20%	--	--
Cemeteries	--	300	--	--	10
Day Care Centers	--	200	--	--	2
Churches	--	300	--	--	5
Congregate Housing	--	300	--	7,500	5
Health Institute	--	300	--	--	5
Multi family Multiplexes	45,000	150-200	--	15,000-30,000	2
Private Clubs	--	200	--	--	3
Private Schools	--	200	--	--	3
Two-family	30,000	100	--	15,000	
Single Family Detached, & Other Uses	30,000-40,000	100-150	--	30,000-[Amended 1/24/11]	--

<b>Minimum Setbacks In Feet</b>			
	Front Setback	Side Setback	Rear Setback
Cemeteries	50	50	50
Day Care Center	50	50	50
Churches	100	100	100
Congregate Housing	100	100	100
Health Institutions	100	100	100
Multiplexes	50	50	50
Private Clubs	50	50	50
Private Schools	50	50	50
Single Family Detached, Two-family and Other Uses	15-25	15-20	30-40

**Sec. 19-10.2 "HL" - Highland Lake Residential District (previously RB)**

<p><b>Permitted Structures and Uses</b>                  Accessory Buildings &amp; Uses                  Farming                  Forestry                  Municipal Buildings &amp; Uses                  Single Family Detached Dwellings  <u>Two-Family</u>                  Tier I Personal Wireless Service Facilities [Adopted, 4/25/05]                  Essential Services** [Adopted, 7/28/2014]  <u>Accessory Dwelling Unit</u></p>	<p><b>Conditional Uses</b>                  Cemeteries                  Day Care Centers [Amended 7/22/91]                  Day Care Homes [Amended 7/22/91]                  Churches                  Congregate Housing                  Extractive Industries                  Health Institutions                  Home Occupations                  Libraries                  Marinas                  Museums                  Private Clubs                  Private Schools                  Amateur Radio Towers [Adopted, 4/23/90]                  Bed and Breakfast Establishments [Adopted, 5/27/93]                  Elderly Boarding Home [Adopted, 5/28/96]                  Outdoor Eating Areas [Adopted, 5/28/96]                  Roadside Stand [Adopted 02/27/12]</p>
<p>**[Note: establishment of an essential service that includes vehicular access or structures requires site plan approval by the Planning Board.]</p>	
<p><i>*Applies only in that part of the RB District bounded by I-295, the Turnpike Spur, and the Presumpscot River</i></p>	

	Minimum Lot Size		Max. Lot Coverage	dwelling unit density allowance (sq ft per unit)	Min. site size (acres)
	Lot Area (sq ft)	Lot Width (ft)			
All Uses	--	--	20%	--	--
Cemeteries	--	300	--	--	10
Day Care Centers	--	200	--	--	2
Churches	--	300	--	--	5
Congregate Housing	--	300	--	7,500	5
Health Institute	--	300	--	--	5
<u>Multiplexes-Two-family</u>	--	200	--	30,000	2
Private Clubs	--	200	--	--	3
Private Schools	--	200	--	--	3
Single Family Detached, & Other Uses	40,000	150	--	<u>40,000</u> - [Amended 1/24/11]	--

<b>Minimum Setbacks In Feet</b>			
	<u>Front Setback</u>	<u>Side Setback</u>	<u>Rear Setback</u>
Cemeteries	50	50	50
Day Care Center	50	50	50
Churches	50	50	50
Congregate Housing	100	100	100
Health Institutions	100	100	100
<del>Multiplexes</del>	<del>50</del>	<del>50</del>	<del>50</del>
Private Clubs	50	50	50
Private Schools	50	50	50
Single Family Detached and Other Uses	25	20	40

**Sec. 19-13 "MUC" - Mixed Use Cluster District**

To establish within the Town of Falmouth areas for well-planned mixed use developments with access to the region's major highway system.

<p><b>Permitted Structures and Uses</b>          Accessory buildings and structures          Business and professional offices          Wholly enclosed places of assembly, amusement, recreation, and government          Wholesale, warehousing and distributions facilities          Light manufacturing operations with no exterior storage of material, equipment or products          Retail businesses as part of a mixed use development          Multiplexes as part of a mixed use development          Research facilities          Restaurants (including carry-out or drive through restaurants)[Amended 11/14/12]          Residential planned developments as part of mixed use development          Municipal buildings and uses          Tradesman's offices          Single Family Detached Dwellings (only in established residential areas and except on lots fronting on Gray Road) [Adopted 5/28/96]          Tier I Personal Wireless Service Facilities [Adopted, 4/25/05]          Tier II Personal Wireless Service Facilities [Adopted, 4/25/05]          Commercial Schools as part of mixed use development [Adopted 5/27/08]          Grocery retail as part of a mixed-use development. [Adopted 11/26/12]          Essential Services** [Adopted, 7/28/2014]  <u>Accessory Dwelling Unit</u></p>	<p><b>Conditional Uses</b>          Outdoor recreation facilities          Day Care Centers          Churches          Excavating Business          Land reclamation          Processing of Mineral materials for resale [Amended, 4/25/88]          Veterinary Clinic [Amended,7/22/91]          Outdoor Eating Areas [Adopted, 5/28/96]          Day Care Homes [Adopted, 7/23/01]  <del>Accessory Dwelling Units [Amended 11/27/06]</del></p>
<p>**[Note: establishment of an essential service that includes vehicular access or structures requires site plan approval by the Planning Board.]</p>	

**"MUC"- Mixed Use Cluster**

	Min. Lot Area (Sq ft)	Min. Lot Width	Max. Lot Coverage	Min. Setbacks			dwelling unit density allowance (sq ft)
				Front	Side	Rear	
Single family detached & Accessory dwelling units	20,000	125 ft.	20%	25	20	40	n/a [Ed. Note - correction made to column 3/9/09]
All other uses	--	200 ft.	30%	50	25	25	10,000 with public sewerage or 20,000 w/o public sewerage



**Sec. 19-14 "VMU" - Village Mixed Use District**

To establish within the Town of Falmouth areas for small scale, low intensity nonresidential uses which are compatible with the residential character of the district.

Areas designated as VMU are areas with historical development patterns as village centers.

<p><b>Permitted Structures and Uses</b></p> <ul style="list-style-type: none"> <li>Retail and service establishments with less than 5,000 SF of gross floor area</li> <li>Professional offices</li> <li>Art and craft studios</li> <li>Tradesman's offices</li> <li>Restaurants (not including carry-out or drive through restaurants) with less than sixty seats</li> <li>Museums</li> <li>Bed and Breakfast establishments</li> <li>Single family detached dwellings</li> <li>Multiplexes</li> <li>Residential planned developments</li> <li>Municipal buildings and uses</li> <li>Accessory buildings and uses</li> <li>Tier I Personal Wireless Service Facilities [Adopted, 4/25/05]</li> <li>Tier II Personal Wireless Service Facilities [Adopted, 4/25/05]</li> <li>Commercial Schools with less than 5,000 SF of gross floor area</li> <li>Grocery Retail with less than 5,000 SF of gross floor area</li> <li><a href="#">Essential Services**</a> [Adopted, 7/28/2014]</li> <li><a href="#">Accessory Dwelling Unit</a></li> </ul>	<p><b>Conditional Uses</b></p> <ul style="list-style-type: none"> <li><a href="#">Accessory Dwelling Units</a></li> <li>Cemeteries</li> <li>Day care centers</li> <li>Day care homes</li> <li>Churches</li> <li>Health institutions</li> <li>Libraries</li> <li>The conversion of an existing structure into multi-family housing with no more than three dwelling units</li> <li>Congregate care facilities</li> <li>Home occupations</li> <li>Veterinary Clinic [Amended, 7/22/91]</li> <li>Elderly Boarding Home [Adopted, 5/28/96]</li> <li>Outdoor Eating Areas [Adopted, 5/28/96]</li> </ul>
<p>**[Note: establishment of an essential service that includes vehicular access or structures requires site plan approval by the Planning Board.]</p>	

	Min. Lot Area (Sq ft)	Min. Lot Width	Max. Lot Coverage	Min. Setbacks			dwelling unit density allowance (sq ft)
				Front	Side	Rear	
All other uses	--	150 ft.	35%	25	15	15	10,000 with public sewerage - 20,000 w/o public sewerage

## Resource Conservation Zoning Overlay District

### Sec. 19-18.5 Standards for Conservation Subdivisions

- A. **Maximum Density** - Repealed. ~~The maximum number of dwelling units that may be developed in a Conservation Subdivision shall be determined by dividing the calculated Net Residential Area of the parcel by the required Minimum Net Residential Area Per Dwelling Unit for the district in which the subdivision is located and rounding down to the maximum allowed whole number of units. If the subdivision involves only part of a parcel, the Net Residential Area shall be calculated for that portion of the parcel proposed to be included in the subdivision and the determination of the maximum number of dwelling units within the subdivision determined based upon that Net Residential Area.~~
- D. **Standards for Individual Residential Lots** -- Lots that are created for residential development as part of a conservation subdivision, and the subsequent development of those lots, shall conform to the following standards:
1. **Minimum Lot Size** -- Individual lots that are created as part of a Conservation Subdivision may be smaller than the required minimum lot size for the district in which it is located. The size of the individual lots shall be shown on the subdivision plan and shall be subject to Planning Board approval based upon its finding that the lot sizes will allow for the creation of a high quality living environment for the residents of the subdivision and provide for adequate sewage disposal. In no case shall any lot served by a subsurface wastewater disposal system be less than twenty thousand (20,000) square feet in area nor any lot served by the public sewer system be less than ten thousand (10,000) square feet in area. Notwithstanding the provisions above, any lot in the RA District shall be a minimum of 10,000 square feet in area.
  2. **Minimum Lot Width** – The minimum lot width for lots in a conservation subdivision shall be one hundred twenty-five (125) feet. The Planning Board may reduce the minimum lot width by up to fifty (50%) percent provided that the project is developed according to an approved master development plan where each individual lot is subject to design review of the lot layout and building design according to parameters and guidelines submitted by the developer and approved by the Planning Board. Said design parameters shall include maximum lot coverage, floor area ratio, and major building axis line relationship to street line (parallel or perpendicular) for each lot to ensure that each lot will be developed in a way that coordinates with adjacent lots, prevents building crowding, and provides adequate yard spaces and privacy screening, while avoiding a repetitive pattern of housing orientation and design throughout the project. Notwithstanding the provisions above, lots in the RA District shall have a minimum lot width of 50 feet. Lots in the RB and RD districts shall have a minimum lot width of 100 feet.
  3. **Minimum Street Frontage** – The minimum street frontage for lots in a conservation subdivision may be reduced to not less than one hundred twenty-five (125) feet unless a master development plan is submitted per subsection 2 above. Lots that have their required street frontage on a turning circle may have less street frontage than the required minimum, but in no case shall any lot have less than fifty (50) feet of street frontage, except for lots in the RA District, which may not be less than 25 feet. The amount of frontage for the individual lots shall be shown on the subdivision plan and shall be subject to Planning Board approval based upon its finding that the lot frontages will allow for the creation of a high quality living environment for the residents of the subdivision and provide adequate access to the residences and other facilities,
  4. **Minimum Front Setback** – The minimum front setback for lots in a conservation subdivision shall be ~~between fifteen (15) and twenty five (25) feet~~ feet except for lots in RA, and RB Districts, for which the minimum front setback shall be 10 feet. The Planning Board shall approve the minimum front setback for each lot as part of the subdivision approval. The size of the minimum front setback for each lot shall be shown on the subdivision plan and may vary from lot to lot or in different areas of the subdivision. In approving the minimum setbacks, the Planning Board shall find that the setbacks will: 1) allow the principal building to be sited in accordance with the Four Step Design Process, 2) allow for the creation of a high quality living environment for the residents of the subdivision, 3) allow for the preservation of significant natural resources, and 4) provide for adequate privacy for each unit based upon the character of the lot and proposed landscaping of the lot.

## Retirement Community Overlay District

### Sec. 19-21.6 Space and Bulk Standards

Notwithstanding the requirements of the underlying zoning district, a retirement community and all uses, buildings, and structures associated with it shall be governed by the following provisions:

- a. **Minimum site size** - a retirement community shall include a minimum of thirty (30) acres. Individual lots within the community shall be a minimum of twenty thousand (20,000) square feet in size.
- b. **Minimum net residential area per elderly dwelling unit** - for each dwelling unit occupied by an elderly or disabled household there shall be a minimum of 5,000 square feet in the RA District and six thousand (6,000) square feet of net residential area in RB and VMU within the overall area of the retirement community.
- c. **Minimum net residential area per care bed** - for each bed in an assisted living facility or other accommodation for the elderly or person with disabilities there shall be a minimum of two thousand (2,000) square feet of net residential area within the overall area of the retirement community.
- d. **Minimum lot width** - any individual lot within a retirement community shall have a width of 50 feet in the RA District and one hundred (100) feet in RB and VMU Districts.

**Sec. 19-24.3. Conditions and Standards for Zone Change to MRSD [Middle Road Special District]**

D. Permitted Uses:

1. Single – Family Detached Dwellings
2. Accessory Building and Use
3. Accessory Dwelling Unit

E. Conditional Uses

- ~~1. Accessory Dwelling Units~~
2. Home Occupation
3. Multiplex
4. Bed and Breakfast Establishment
5. Neighborhood Variety /Convenience Store
6. Retail and Service Establishments
7. Professional Office
8. Restaurant with no drive-thru
9. Outdoor Eating Area
10. Commercial School
11. Tradesmen Office
12. Art and Craft Studio

**Sec. 19-38 Off-Street Parking [Amended, 5/24/04][Amended 5/13/13; 8/26/13]**

- e. To match actual demand for parking with supply the permitting authority shall determine the number of off-street parking spaces required. The number and proximity of on-street parking spaces shall be considered when determining the number of spaces required. The table below provides the minimum number of parking spaces required for the uses listed. Parking for uses not listed shall be determined by the permitting authority. Staff may waive parking requirements for improvements approved under Minor Site Plan Review if it is satisfactorily demonstrated to the staff by the applicant that there is adequate parking provided for the property without the addition of spaces as required in this section.

(1)	Dwelling	
	a. Single Family, <del>Two-family</del>	2 spaces per unit, <u>spaces for each unit in a two-family must be independently accessible</u>
	b. <del>Multi-family</del> <del>Multiplex</del>	1 space per unit, <u>spaces for each unit in a multi-family must be independently accessible</u>
	c. Accessory Dwelling Unit	1 space per unit, <u>must be independently accessible from single family unit</u>
	d. Units in VC1 and VC2	1 space per unit
(2)	Motel, bed and breakfast, hotel	1 space per sleeping room
(3)	School	5 spaces per room used for purpose of instruction.
(4)	Health Institution (bed facilities only)	1 space for every 3 beds and 1 for each employee based on the highest expected average employee occupancy.
(5)	Place of worship, enclosed place of assembly	1 space for every 5 seats of assemblage
(6)	Retail and service establishment	1 space for every 500 square feet of gross floor area or permanent outdoor retail display area.
(7)	Restaurant, indoor seating only	1 space for every 3 seats
(8)	Business and professional office	1 space for every 500 square feet of gross leasable area, exclusive of common and bulk storage areas.
(9)	Warehousing, wholesaling, manufacturing	1 space for every 1,000 square feet of gross leasable area
(10)	Day Care Home	2 per dwelling unit plus 2 additional spaces.
(11)	Day Care Center	1 per full-time employee plus 1 space for every four persons attending the day care center at any one time.
(12)	Congregate Housing Facility	1 space per dwelling unit
(13)	Elderly Boarding Home	2 per dwelling unit plus 1 space per non-owner elderly resident.
(14)	Ballet Arts Facility	1 space for every 200 sq. ft. of office area and 1 space for every 500 sq. ft. of instruction/performance space. [Added 5/24/04]

**Sec. 19-41 ~~Dwelling Units Repealed~~**

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~~All dwelling units shall contain at least six hundred (600) square feet of floor area, except as provided in Section 19-55.~~

**Sec. 19-42 Multi family dwellings. Multiplex**

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- a. ~~Multi-family A-dwellings in a multiplex~~ shall contain no more than six ~~(6)~~ dwelling units. ~~I~~On a site with more than one ~~two-family or multi-family dwelling multiplex~~, dwellings shall contain an average of four ~~(4)~~ or fewer dwelling units.
- b. Multi-family dwellings shall be located on a site that is served by two means of vehicular egress, either provided by a street or a driveway. Alternatively, one means of egress may be a bike/pedestrian trail connection, provided that there is a minimum separation of 50 feet to the vehicular egress and it is in addition to a sidewalk/path associated with the access driveway or street.
- c. ~~In order to integrate open space within a multiplex site, multiplex buildings shall be located at least two hundred (200) feet apart.~~
- d. ~~Multiplexes in the VC Districts are exempt from a. and b. above. [Adopted 5/13/13]~~

## Sec. 19-55 Accessory Dwelling Units Structures

### Sec. 19-55.1 General Accessory Dwelling Units [Amended 5/24/04]

The purpose of ~~the provisions concerning~~ Accessory Dwelling Units, which includes Accessory Apartments and Accessory Cottages, is to provide a diversity of housing for town residents while protecting the single family character of residential neighborhoods. ~~The following provisions apply: Accessory apartments may be utilized for rental purposes as well as in-law accommodations.~~

- A. Only one Accessory Dwelling Unit shall be permitted per single family dwelling. ~~lot~~
- B. An Accessory Dwelling Unit ~~Cottage~~ shall ~~contain at least three hundred and sixty (360) square feet of floor area. The floor area of an Accessory Cottage~~ shall not exceed one-hundred (100%) percent of the gross floor area of the single family dwelling to which it is accessory, not including garages, porches, decks or unfinished area, or eight hundred fifty (850) square feet of gross floor area square feet, whichever is less. [Amended 7/22/13]
- C. The single family dwelling unit in which an Accessory Apartment is located shall have only one main entrance and all other entrances shall appear subordinate to the main entrance. An entrance leading to a foyer with entrances leading from the foyer to the two dwelling units is permitted.

~~Accessory Dwelling Units are allowed as conditional uses in the RA, RB, RC, F, MUC and VMU Districts. [Amended 11/27/06]~~

~~Any request for an Accessory Dwelling Unit shall include a plot/site plan showing the following:~~

- a. ~~lot boundaries and dimensions at scale~~
- b. ~~zoning district~~
- c. ~~date of plan~~
- d. ~~property owner with deed reference~~
- e. ~~lot area~~
- f. ~~location and setback of all buildings~~
- g. ~~rights of way, public and private~~
- h. ~~all easements~~
- i. ~~street names~~
- j. ~~sewerage facilities~~
- k. ~~off-street parking spaces~~
- l. ~~Any request for an Accessory Dwelling Unit shall include a building plan showing the following:~~
- m. ~~separate floor layout of all finished levels~~
- n. ~~all plumbing facilities, kind and location~~
- o. ~~use of all rooms~~
- p. ~~all entrances/exits~~
- q. ~~all partitions, temporary or permanent~~
- r. ~~location and type of all major appliances~~

~~Any request for an Accessory Dwelling Unit shall conform to all provisions of the Maine State Plumbing Code and no dwelling that is served by an on-site wastewater disposal system shall be modified to create an Accessory Dwelling Unit until a site evaluation has been conducted by a licensed soil evaluator which demonstrates that a new system can be installed to meet the disposal needs of both dwelling units.~~

~~Outside stairways (either open or enclosed) that service Accessory Dwelling Units on upper stories are permitted, provided that they are integrated into and consistent with the architecture of the building, as opposed to having a tacked on, obtrusive appearance~~

### Sec. 19-55.2 Accessory Apartments [Amended 5/24/04]

- a. ~~The single family dwelling unit shall have only one main entrance and all other entrances shall appear subordinate to the main entrance. An entrance leading to a foyer with entrances leading from the foyer to the two dwelling units is permitted.~~



- b. ~~After completion, the main dwelling unit shall have at least 1,260 square feet. The Accessory Apartment shall have at least three hundred sixty (360) square feet. These floor areas shall be exclusive of garages, porches, or unfinished basements. The floor area of an accessory apartment shall not exceed the following percentage of floor area of the single family dwelling unit to which it is accessory, or the following fixed amounts, whichever are applicable:~~

If the floor area of the single family dwelling unit is:	The floor area of the accessory apartment shall not exceed:
Under 2,000 square feet	40%
2,000 sq. ft. or more, but less than 3,000 sq. ft.	35% or 800 sq. ft., whichever is greater
3,000 sq. ft. or more, but less than 5,000 sq. ft.	30% or 1,050 sq. ft., whichever is greater
Over 5,000 sq. ft.	20% or 1,500 sq. ft., whichever is greater

*Example of the above formula:*

*For a 600 square foot Accessory Apartment, the finished floor area of the dwelling unit must be not less than 2,100 square feet:*

*600 sq. ft Accessory Apartment / 40% = 1,500 sq ft principal dwelling unit. 1,500 sq. ft. principal dwelling + 600 sq. ft. Accessory Apartment = 2,100 sq. ft.*

2. ~~Any exterior modifications to the single family dwelling associated with construction or installation of an accessory apartment shall be consistent with the architectural style of the single family dwelling in terms of exterior materials, roof form, and window spacing.~~
3. ~~An existing single family dwelling that is nonconforming solely due to lot size, lot width, lot frontage, lot coverage, height or setback requirements may be expanded to incorporate an Accessory Apartment subject to the requirements of Section 19-77 for the expansion of other nonconforming single family dwellings.~~

**Sec. 19-55.3 Accessory Cottages** [Adopted 5/24/04] [See sunset provision in Section 19-69.d. (2)] [Amended 3/27/06]

- a. ~~An Accessory Cottage shall contain at least three hundred and sixty (360) square feet of floor area. The floor area of an Accessory Cottage shall not exceed one hundred (100%) percent of the floor area of the single family dwelling, not including garages, porches, decks or unfinished basements and attics, to which it is accessory or eight hundred fifty (850) square feet, whichever is less.[Amended 7/22/13]~~
- b. ~~For an Accessory Cottage which will be located within a new structure, the exterior materials, roof form, and window spacing and proportions of the Accessory Cottage shall approximate those of the existing or proposed single family dwelling unless the new structure is designed in a traditional New England form such as a barn.~~
- c. ~~For an Accessory Cottage located within an existing garage or other outbuilding, the structure is not required to approximate the exterior features of the existing single family dwelling, but any exterior modifications should be consistent with the architectural style of that structure unless the building is upgraded per the requirement for new structures.~~
- d. ~~An Accessory Cottages is permitted on a nonconforming lots, but the buildings in which they are located, whether existing or proposed, shall meet the minimum property line setbacks and the lot coverage requirements for the district in which they are located.~~

**Sec. 19-64.1 Net Residential Area and Maximum Residential Density. The maximum number of dwelling units for a subdivision or private way shall be the quotient of the net residential area for the development site divided by the dwelling unit density allowance as stated in the zoning district dimensional table.** Net residential area shall be determined by subtracting from the gross acreage the following.

- a. 10% for roads and parking.
- b. Land which is cut off from the main parcel by a road, existing land uses, or where no means of access has been provided, so that it is isolated and unavailable for building purposes or for common use.
- c. Land shown to be in the flood way or coastal high hazard area on the Flood Boundary of Flood Insurance Rate Maps of the Town of Falmouth.
- d. Other land which is unsuitable for development in its natural state because of topography, drainage, or subsoil conditions. Specific conditions include but are not limited to:
  1. Areas having sustained slopes in excess of twenty-five (25%) percent or unstable soils subject to slumping, mass movement, or accelerated erosion.
  2. Areas classified as wetlands by state or federal law. [Amended, 8/26/96]
  3. Areas characterized predominately by "coastal wetlands" as that term is defined in 38 M.R.S.A. subsection 472(2). [Amended 12/22/86.]
- e. Land in rights-of-way or easements.
- f. Land in Resource Protection Districts.

**Sec. 19-64.2 Minimum Net Residential Area Per Lot** [Amended 1/24/11; 3/14/11;7/11/2011]

- a. Any ~~Residential lots~~ created after August 26, 1996 must meet the lesser of the following lot area requirements:
  1. At least 50% of the total lot area consists of land that that does not fall within one or more of the categories in Section 19-64.1.b through f; or
  2. After deducting land that falls within one or more of the categories in Section 19-64.1.b through f, the lot area equals at least the following square footage:
    - a. Residential A - ~~15,000~~
    - b. Residential B - 10,000~~20,000~~
    - c. Residential C - 30,000
    - d. Residential D - 15,000
    - e. Highland Lake - 20,000
    - f. Farm and Forest – 40,000
    - g. Village Mixed Use – 15,000
    - h. Mixed Use Cluster – with sewer 7,500, without sewer 15,000.
- b. For residential planned developments, at least seventy-five (75%) percent of any lot shall consist of land that does not fall within the categories of Section 19-64.1. [Adopted 8/26/96] [Amended 7/24/2000; 12/22/05]
- c. Notwithstanding subsections a and b above, lots created prior to August 26, 1996 and altered in either of the following ways shall not be considered new lots for purposes of this section: [Adopted 7/11/2011]
  1. subsequently divided if the division is for purposes of conveyance to a governmental or non-profit agency for the sole purpose of protecting natural resources in perpetuity or providing public access to protected natural resource areas; or
  2. encumbered with an easement or other legal instrument held by a governmental or non-profit agency for the purposes of protecting natural resources in perpetuity or providing public access to protected natural resource areas.

**Sec. 19-69 Rate of Residential Growth Residential Growth Permit [Adopted 7/24/00] [Amended 5/24/04; 12/19/06; 5/13/13]**

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- a. **Applicability** - A building development permit is required for the construction of a new dwelling units as required below. single family detached dwelling, or Accessory Cottage shall be issued by the Code Enforcement Office only if the application includes a valid residential growth permit issued in accordance with the provisions of this section.
- b. **Legal authority** - This section is adopted pursuant to Home Rule Powers as provided for in Article VIII-A of the Maine Constitution and 30-A M.R.S.A. §2101 et seq., and as provided for in Title 30-A M.R.S.A. §4360. [Amended 4/28/03]
- c. **Purpose** - The purpose of this section is to:
1. Provide for the local housing needs of the Towns existing residents.;
  2. Plan for continued residential population growth of the Town at a rate that is compatible with the orderly and gradual expansion of community services, including education, fire and police protection, road maintenance, waste disposal, health services, etc.;
  3. Avoid a situation in which the rapid completion of major subdivisions, housing many families with school-age children, could outstrip the towns capability to expand its schools and other services soon enough to avoid serious overcrowding; and.
  4. Ensure fairness in the allocation of building permits.
- d. **Exemption** - The following are exempt from the provisions of this section: ~~and the requirement to obtain a residential growth permit.~~
1. The repair, replacement, reconstruction or alteration of any existing residential building or structure;
  2. The repair, replacement, reconstruction, construction or alteration of a nonresidential building or structure
  3. The repair, replacement, reconstruction, construction or alteration of congregate housing, elderly boarding homes, housing units that are located in a RCOD part of a retirement community, elderly boarding care facilities, and an accessory dwelling unit apartments in an existing single family detached dwelling. [Amended 12/19/06];
  4. The repair, replacement, reconstruction, construction or alteration of any dwelling unit meeting the definition of affordable housing; and [Adopted 12/19/06]
  5. The repair, replacement, reconstruction, construction or alteration of any dwelling unit Dwelling units established in the VC Districts. [Adopted 5/13/13]
- e. **Maximum rate of residential growth construction:**
1. Town Wide Growth Cap. The maximum number of development permits issued in any calendar year shall be limited in the manner prescribed below. For the calendar year 2016, the number of permits shall be half of the total listed.
    - a. ~~The Town shall issue no more than 65 residential development growth permits for new single family detached dwelling units, two family dwellings or manufactured housing units to be built/placed every calendar year. This annual total shall be subject to the review procedure set forth below and shall commence in calendar year 2003. [Amended 4/28/03; 12/19/06]~~

No more than 65 development permits total for new single family detached dwelling units, two-family dwelling units and manufactured housing units combined.
    - b. ~~The Town shall issue no more than 35 residential growth permits for new Diverse Housing units to be built every calendar year. This annual total shall be subject to the review procedure set forth below. [Adopted 5/24/04] [Amended 12/19/06]~~

- c. ~~The Town shall issue~~ No more than 210 residential development permits for new Accessory Dwelling Units Cottages in each calendar year. This annual total shall be subject to the review procedure set forth below. [Adopted 5/24/04] [Amended 3/27/06; 12/19/06]
- 2. **Growth Cap applicable to Farm and Forest and Highland Lake Districts Only.** The maximum number of growth permits issued in any calendar year shall be limited in the manner prescribed below. For the calendar year 2016, the number of permits shall be half of the total listed.
  - a. No more than 26 development permits for new single family detached dwelling units, two-family dwellings and manufactured housing units combined.
  - b. No more than 8 growth permits for new Accessory Dwelling Units.
- f. **Periodic review** ~~The operation of t~~This section shall be reviewed by the Town Council Comprehensive Plan Advisory Committee (CPAC) periodically (but not less frequently than once every three years), to ensure that the annual maximum growth rate has not become inconsistent with the Town's capital improvement capability to establish or enlarge needed public facilities and services, and to be in compliance with Title 30-A M.R.S.A §4360. ~~Based on its review, CPAC may recommend amending this section as provided in Section 11.~~ [Amended 12/19/06]
- g. **Violations** ~~It shall be a violation of this section for any person to build or place a single family detached dwelling unit within the Town, without first having obtained a residential growth permit and building permit in accordance with this section from the Code Enforcement Officer, unless such construction or placement constitutes an exception under this section.~~
- h. **Application**
  - 1. ~~A growth permit application must be completed by the lot owner of record, including all endorsements and certifications.~~
  - 2. ~~Application shall be on forms provided by the town. The Code Enforcement Officer may request additional information and shall have the authority to require that the application be revised or supplemented in order to meet state or local requirements.~~
  - 3. ~~The application for a residential growth permit shall be accompanied by a fee as established by the Town Council. [Amended 8/27/07]~~
  - 4. ~~The growth permit application shall be accompanied by a complete application for a building permit.~~
- i. **Issuance procedure** - ~~Growth Development permits applications shall be issued in conjunction with a the building permit. submitted to the Code Enforcement Officer who shall endorse each with the date and time of receipt. In the event two or more growth permit applications are received simultaneously, the Code Enforcement Officer shall determine their order by random selection. The Code Enforcement Officer shall review growth permit applications in the same order as they are received. The Code Enforcement Officer shall review all growth permit applications for completeness and accuracy. When the Code Enforcement Officer finds an application to be complete, he shall approve it, endorsing the date and time of approval on the application.~~
- j. **System for ranking application** ~~The system for ranking growth permit applications shall be first come, first served based on when the application is approved and signed by the Code Enforcement Officer.~~
- k. **Submitting false information; reconsideration of disapproved applications**
  - 1. ~~Any person submitting false information on an application shall be subject to the penalties provided by law and shall not be eligible to apply for a growth permit for a period of one year.~~
  - 2. ~~Growth permit applications which are not approved by the Code Enforcement Officer because of incomplete or inaccurate information shall be automatically re-ranked and reconsidered upon resubmission following corrections.~~
- l. **Amendment of the building permit** ~~The single family home for which the building permit is issued shall be constructed substantially as specified on the growth permit and building permit applications. Minor~~

~~changes shall be permitted to accommodate field and design changes during construction but the home shall substantially conform to the design submitted for the permit including:~~

- ~~a. There shall be no substantial change in the architectural style or height of the building. The location of the home on the lot shall not be substantially changed except for minor changes to adjust for on-site conditions.~~
  - ~~b. The area of the building footprint shall not be changed by more than +/- ten percent (10%) of the total area of the footprint.~~
  - ~~c. The gross floor area of the home shall not be changed by more than +/- ten percent (10%) of the gross floor area of the building.~~
2. ~~Changes to the building of a greater magnitude shall require that the applicant re-apply for a residential growth permit. This resubmission shall be treated as a new application and shall be ranked in accordance with section j. based upon the date the resubmittal is approved.~~
- m. **NonTransferability** - A ~~development residential growth~~ permit application and the resulting growth permit shall be ~~site specific, and shall only be valid for construction of the associated unit at the time the permit is issued. on the lot specified in the application. However, †The development growth permit shall~~ **may be transferred** to new owners of the **unit if conveyed.** lot, if the property is sold or otherwise legally transferred.
  - n. **Conflict with other provisions** — This section shall not repeal, annul or in way impair or remove the necessity of compliance with any other rule, regulation, bylaw, permit or provision of law.

**Sec. 19-77 Alterations.[Conditional Use Approval for nonconforming lots or structures.]**

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Except as provided in this subsection, a nonconforming structure or use shall not be extended or enlarged in any manner except as may be permitted as a variance. The following requirements shall apply to expansion or enlargement of structures which are nonconforming solely due to lot size, lot width, lot frontage, lot coverage, height, or setback requirements. [Amended 1/24/00]

- a. Except for lots located in the Water View Overlay District the extension, enlargement, or construction of a single family detached dwelling or residential detached accessory structure which is nonconforming solely due to lot size, lot width, lot frontage, lot coverage, height, or setback requirements, is permitted provided the extension, enlargement, or construction is not located between the lot lines and the required setback lines and does not compound nor create a lot coverage or height violation. [Amended 10/25/04; 7/24/06; 5/30/12; 7/22/13] Any lot located in the RA District that is not located in the WVOD and is a minimum of 5,000 square feet in area will be considered conforming in regard to lot size for the purposes of this section.

**Sec. 19-127.3 Planning Board Site Plan Approval Required.**

Planning Board site plan approval under the procedures, submission requirements, and performance standards of this Div. II-19-1-9. shall be required for the following activities:

- a. The construction or enlargement of any nonresidential or multi-family residential building (~~multiplex and institutional~~);
- b. The construction or enlargement of any municipal building;
- c. The establishment or substantial change of any area for parking, loading, or vehicular service associated with non-residential or multi-family residential uses;
- d. The alteration, renovation, or change in use of more than ten thousand (10,000 sq. ft.) square feet of gross floor area of any non-residential building, including, without limitation, the alteration, renovation, or change in use of adjacent non-residential spaces that cumulatively consist of more than 10,000 sq. ft. of gross floor area.
- e. Outdoor Sales and Storage of Equipment and Outdoor Retail Display when proposed as part of a new or redevelopment of a property otherwise requiring site review under this section or requiring an amendment to an existing site plan approval. [Added 5/13/13]