



**TOWN OF FALMOUTH
ORDINANCE NO 39-2021**

**PROCEDURE FOR REQUESTS TO AMEND THE CODE OF
ORDINANCES**

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 by adding a new section to read as follows:

CH. II-22 PROCEDURE FOR REQUESTS TO AMEND THE CODE OF ORDINANCES

Sec. 22.1 Generally

At its discretion, the Town Council may choose to consider requests to amend the Code of Ordinances. Unless otherwise waived per Sec. 22.5 below, the following provisions shall be used to evaluate requests for ordinance amendments not originating from members of the Town Council or Town staff. Requests shall be accompanied by all information described in a checklist of submittal requirements and by application fees as described herein and as described on the Land Use Permit Fee Schedule. Said checklist and fees are approved by the Town Council and may be amended from time to time.

Sec. 22.2 Applicability

These provisions apply to requests for amendments to CH. II-7 and ART. II-19-1 of the Code of Ordinances.

Sec. 22.3 Procedure for ordinance amendment requests

- a. Initial Submittal – Requests for ordinance amendments shall be submitted to the Town Manager and shall be accompanied by the initial submittal application fee and all information described in the checklist of submittal requirements.
- b. Staff Determination of Completeness Required - At such time as the Town Manager or designee determines that the submission is complete, the request shall be forwarded to the Town Council. The request shall be placed on a future Town Council agenda in coordination with the Council Chair, who will exercise discretion in determining which future Council meeting has adequate capacity to consider the request.
- c. Initial Town Council Meeting - The Town Council shall review the request, determine whether the request should proceed, and determine next steps in the process. The Town Council's determination may take into account various factors including, but not limited to, the merits of the request, the anticipated impacts of the request on surrounding properties and on the overall Town, the Town's organizational capacity to process the request, whether/how the request should be

prioritized over other Town Council priorities, and any public comments received. The Town Council may hold additional meetings and may request additional information prior to making a determination as to whether a request should be considered further. A recommendation to continue reviewing a request shall not be interpreted as a positive recommendation to approve a request.

If the Town Council determines the request should proceed, the request may be referred to the Community Development Committee (CDC) for review at a future CDC meeting after taking into account various factors including other Town Council priorities assigned to the CDC.

- d. CDC Review – If a request is referred to the CDC, the CDC shall review the request and provide comments and recommendations on the request to the Town Council. The CDC may hold multiple meetings at its discretion, and as it deems necessary, in order to make an informed recommendation to the Town Council. The CDC's comments and recommendations are advisory to the Town Council and shall be forwarded to the Town Council for consideration at a future Town Council meeting in coordination with the Council Chair who will exercise discretion in determining which future Town Council meeting has adequate capacity to consider the request.
- e. Second Town Council Meeting – The Town Council shall review the CDC's comments and recommendations, if any, public comments received, and any additional information it deems pertinent, and determine whether the request should proceed, be considered at a later date, or not proceed. The Town Council may hold additional meetings and may request additional information prior to making a determination as to whether a request should proceed. Applicable application fees shall be paid prior to further consideration of any request.

If the Town Council determines that a request should proceed, the Town Council shall determine which ordinance amendment process shall be used to evaluate the request further.

- i. If the Town Council determines that a contract zone process is preferred, the process in Sec. 19-26.5 of the Code of Ordinances shall be adhered to.
- ii. If the Town Council determines that a map and/or text amendment is preferred, the Town Council shall determine next steps in the process at that time. The Town Council's determination shall be based on the specific nature of the request and may include, without limitation, the location and scope of the request.

Sec. 22.4 Escrow account for professional and/or legal services

The Town Council may utilize professional consultant services and/or legal services to review requests for ordinance amendments. All consultant and legal expenses incurred by the Town Council as part of its review of any request shall be paid by the requestor of the amendment. Escrow fees, in an amount determined by the Town Council, shall be submitted and deposited into an escrow account established by the Town for the purpose of paying for any professional and/or legal services. The Town Council shall notify the requestor of its intent to spend any portion of this account and specify the purpose of the expenditure. If the escrow fees are expended prior to the Town Council completing its review, the requestor shall replenish the escrow account to the original amount or to another amount as may be determined by the Town Council. Escrow fees not spent by the Town Council in the course of its review shall be returned to the applicant.

Sec. 22.5 Waivers from requirements

By the affirmative vote of at least four Councilors, the Council may choose to waive any of the requirements contained in this CH. II-22.

Attest: _____

Ellen Planer

Town Clerk

November 23, 2020