

PART II CODE OF ORDINANCES

CH. II-19 ZONING AND FLOODPLAIN MANAGEMENT

FOOTNOTE(S):

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Editor's note— The zoning, flood prevention and protection and site plan regulations of the town are not printed in this Code, but are on file in the town clerk's office.

Editor's note— At the city's instruction, Ord. of Sept. 24, 2007, Arts. I—XV, set out provisions intended for inclusion with Ch. II-19. For purposes of clarity, and at the editor's discretion, these provisions have been included as Art. II-19-2.

Cross reference— Boundaries of the town, § 2-2; provisions for notices for nuisances, signs, dangerous, unsafe, dilapidated buildings, and any other action the expense of which may be collected from the property owner, § 2-3; board of appeals, § 2-60 et seq.; parks and community programs advisory committee, § 2-85 et seq.; planning board, § 2-95 et seq.; waterfront and harbor committee, § 2-115 et seq.; division of planning, § 2-246; division of code administration functions, § 2-248; animals, Ch. II-3; buildings and building regulations, Ch. II-4; condominium conversion regulations, § 4-100 et seq.; land subdivision, Ch. II-7; licenses, permits and business regulations, Ch. II-8; marine activities, structures and ways, Ch. II-9; junked and abandoned motor vehicles prohibited on public and private property, § 12-3; solid waste regulations, Ch. II-13; swimming pools, Ch. II-15; traffic and motor vehicles, Ch. II-17; utilities, Ch. II-18; certain discharges into the public sewer system prohibited, § 18-190 et seq.

Art. II-19-3. MORATORIA

Sec. 185. Moratorium on Subdivisions for Two-Family and Multi-family Residential Dwellings

WHEREAS, the Town of Falmouth (the “Town”) adopted a Comprehensive Plan in 2014, which recommends the creation of designated growth areas within the Town and growth management strategies for said growth areas, including increasing the maximum residential density allowances for two-family and multi-family dwellings; and

WHEREAS, the Town Council directed the Long-range Planning Advisory Committee (the “LPAC”) to develop policies for implementing increased maximum residential density allowances for two-family and multi-family dwellings in designated growth areas; and

WHEREAS, Residential A (RA), Residential B (RB) and Residential D (RD) zoning districts are wholly located in the designated growth areas; and

WHEREAS, the LPAC developed implementation policies for said growth areas, which among other things substantially increased the maximum residential density allowances for two-family and multi-family dwellings; and

WHEREAS, the Town Council reviewed and accepted the LPAC policies and directed the Community Development Committee (the “CDC”) to prepare specific zoning amendments to implement the LPAC policies; and

WHEREAS, the CDC analyzed the LPAC policies and, based on growth projections in the Comprehensive Plan, the historical pattern of development, and market trends, predicted that two-family and multi-family residential development would occur gradually over time and mostly as infill in existing neighborhoods as a result of implementing the LPAC policies; and

WHEREAS, the Town Council adopted zoning amendments on July 11, 2016, which established maximum residential density allowances for two-family and multi-family dwellings in certain zoning districts that exceeded the allowed densities of such dwellings prior to the July 11, 2016 zoning amendments; and

WHEREAS, since the adoption of the July 11, 2016 zoning amendments, two-family residential development proposals have occurred in the RB and RD zoning districts at a rate far exceeding the CDC predictions, and similar development pressure is reasonably anticipated for multi-family in the RB and RD zoning districts as well as two-family and multi-family in the RA zoning district; and

WHEREAS, there is a strong likelihood of continued two-family and multi-family residential development pressure at unanticipated rates in the RA, RB, and RD zoning districts due to the high demand for such development within the Town; and

WHEREAS, the Falmouth Zoning and Site Plan Review Ordinance, including the zoning amendments adopted on July 11, 2016 and other applicable laws, have not adequately provided for such unanticipated development pressure in the RA, RB, and RD zoning districts; and

WHEREAS, excessive two-family and multi-family residential development in the RA, RB, and RD zoning districts could pose serious harm to the public health, safety, and welfare of the residents of the Town by promulgating a pattern of growth that is incompatible with the residential character of certain areas of the Town and has the potential to cause adverse impacts to traffic flow, municipal services, public sewerage, and neighborhood character; and

WHEREAS, excessive two-family and multi-family residential development contributes to an increase in local costs of public services—including to public safety, general administration, and public sewerage—and thereby presents a reasonably foreseeable risk of overburdening the Town’s public facilities; and

WHEREAS, the Town needs a reasonable period of time to prepare and adopt amendments to the Falmouth Zoning and Site Plan Review Ordinance and other regulations of the Town to prevent serious public harm from excessive two-family and multi-family residential development in the RA, RB, and RD zoning districts and to address the reasonably foreseeable impacts of such proposed or anticipated development on public facilities; and

WHEREAS, pursuant to 30-A M.R.S. § 4356, the Town may adopt a moratorium ordinance on the processing of subdivision applications and the issuance of subdivision approvals; and

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Falmouth, Maine, in Town Council assembled, as follows:

- A. Acceptance, Processing, and Acting Upon Subdivision Applications Prohibited. No officer, official, board, agency, or employee of the Town shall accept, process, issue, or in any other way act upon any application for subdivision that proposes the development of two-family or multi-family residential dwellings in the RA, RB, or RD zoning districts for the duration of this moratorium.
- B. Date of Applicability. Notwithstanding the provisions of 1 M.R.S. § 302 or any other law to the contrary, and regardless of the Effective Date, this moratorium shall govern and apply to all proceedings and applications for subdivision that proposes the development of two-family or multi-family residential dwellings in the RA, RB, or RD zoning districts that were or are pending before the Planning Board on or at any time after **October 2, 2017** and, to the extent allowed by 30-A M.R.S. § 3007(6), shall nullify the issuance of any final approval of the Planning Board made on or at any time after **October 2, 2017** that authorizes subdivision that proposes the development of two-family or multi-family residential dwellings in the RA, RB, or RD zoning districts (the “Date of Applicability”).
- C. Effective Date; Duration. In accordance with Section 213 of the Town Charter, this moratorium shall take effect immediately upon its adoption (the “Effective Date”) and shall remain in full force and effect (i) for a period of 180 days from the Date of Applicability, (ii) until an amendment to the Falmouth Zoning and Site Plan Review Ordinance addressing density requirements for two-family and multi-family residential dwellings is adopted by the Town Council, or (iii) until this moratorium is extended or repealed, whichever shall occur first.
- D. Conflicting Provisions. Any other provision of the Falmouth Zoning and Site Plan Review Ordinance that is inconsistent with or conflicts with the provisions of this Section 19-185 is hereby repealed to the extent that it is applicable for the duration of the moratorium hereby ordained, and as it may be extended as permitted by law, but not otherwise.
- E. Severability. To the extent any provision of this Section 19-185 is deemed invalid by a court of competent jurisdiction, the remaining provisions herein shall remain valid.

Effective on: 11/13/2017