

**TOWN COUNCIL**  
**Town of Falmouth, Maine**  
**April 28, July 21, 2014, 2014**

**An Ordinance Amending the Zoning and Site Plan Review Ordinance  
Regarding Utility Infrastructure**

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.

**Section 2 - Definitions**

**Essential Services:** Facilities for the transmission or distribution of water, gas, electricity or communications or for the collection, treatment or disposal of wastes, including, without limitation, towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories but not buildings. Wastewater pump stations are not considered buildings for purposes of application of this definition. [used expressly for Section 7, Shoreland Zoning]

~~**Public Utilities:** Are facilities for the transmission or distribution of water, gas, electricity, or communication; or for the collection, treatment, or disposal of wastes. This definition shall not include transmission towers or underground utilities. [Adopted, 7/22/91]~~

**Structure:** Any combination of materials covering more than 10 square feet constructed or erected above or below or upon the surface of the ground or water including a porch or deck. The term structure shall not include:

- a. a boundary wall or fence;
- b. an awning or tent for a specific event (limited to 6 days) for which a town permit has been issued;
- c. an uncovered and unenclosed patio or terrace, except under Section 7, Shoreland Zoning;
- d. a retractable awning or shade used solely to screen a door or window;
- e. a backyard tent used for sleeping; or
- f. paving of driveways or parking lots, except in the Shoreland Zone.[Adopted 4/27/87]
- g. essential services or any portion thereof which is located underground.

**Section 3**

Delete the term Public Utilities in the following districts:

3.2 FF, 3.3 RA, 3.4 RB, 3.5 RC, 3.7 BP, 3.8 MUC, and 3.9 VMU

Add Essential Services as a Permitted Use in all districts. [Note: establishment of an essential service that includes vehicular access or structures requires site plan approval by the Planning Board.]

## Section 4

Add a new Section 4.8, Setbacks for Wastewater Pump Station to read:

Section 4.8, Setbacks for Wastewater Pump Station. Wastewater pump stations are exempt from structural setbacks in Section 3. However, they shall meet the setbacks to the greatest extent practical. In determining the greatest practical extent, the following shall be considered: 1) depth of the lot; 2) proximity to abutting uses; 3) the slope of the land; 4) the potential for soil erosion; 5) the type and amount of vegetation to be removed; 6) the proposed building's site elevation in regard to the floodplain; and 7) proximity to wetlands. The permitting authority may place conditions on an approval to mitigate any negative impact to the site or abutting properties.

**Section 7** - Amend the Land Use Table as follows:

LAND USES (see note 1) [Amended 5/26/09][???	SP	RP	LR	LC
1. Forest management activities except for timber harvesting	yes	yes	yes	yes
2. Timber harvesting	yes	CEO	yes	yes
3. Clearing of vegetation for approved construction and other allowed uses	CEO	CEO	yes	yes
4. Mineral exploration	no	CEO	yes	yes
5. Emergency operations	yes	yes	yes	yes
6. Agriculture	yes	CEO	yes	yes
7. Aquaculture	yes	PB	PB	yes
8. Principal structures and uses: A. One and two family residential B. Multi-unit residential C. Commercial D. Industrial E. Governmental and Institutional F. Small non-residential facilities for educational, scientific, or nature interpretation purposes	BZA no no no no BZA	PB (2) no no no no PB	CEO PB no no PB CEO	CEO PB PB no PB CEO
9. Structures accessory to allowed uses	BZA	PB	CEO	CEO
10. Piers, docks, wharves, bridges, and other structures and uses extending over or below the normal high-water line or within a wetland A. Temporary B. Permanent	PB PB	PB PB	CEO PB	CEO PB
11. Conversions of seasonal residences to year-round residences	CEO	no	CEO	CEO
12. Private sewage disposal systems for allowed uses	CEO	CEO	CEO	CEO
13. Essential services	<del>PB</del>	<del>PB</del>	<del>PB</del>	<del>PB</del>
<u>a. all improvements, including wastewater pump stations, with the exception of those listed in b. below,</u>	<u>PB</u>	<u>PB</u>	<u>PB</u>	<u>PB</u>
<u>b. underground distribution or collection pipes or lines</u>	<u>CEO</u>	<u>CEO</u>	<u>CEO</u>	<u>CEO</u>
14. Public and private recreational areas involving minimal structural development	PB	PB	CEO	CEO
15. Individual, private campsites	CEO	CEO	CEO	CEO

16. Campgrounds	no	no	PB	PB
17. Road construction	PB	PB	PB	PB
18. Driveway construction	PB	PB	CEO	CEO
19. Parking facilities	no	no (3)	CEO	CEO
20. Marinas	no	no	PB	PB
<del>21. Public Utilities, including sewage collection and treatment facilities</del>	<del>PB</del>	<del>PB</del>	<del>PB</del>	<del>PB</del>
22. Filling and earthmoving of < 10 cubic yards	CEO	CEO	yes	yes
23. Filling and earthmoving of > 10 cubic yards	PB	PB	PB	PB
24. Uses similar to allowed uses	CEO	CEO	CEO	CEO
25. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO
26. Uses similar to uses requiring a PB permit	PB	PB	PB	PB

**7.29 Essential Services** [Adopted 5/26/09][Amended ????]

- (1) ~~(1)~~ — Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
- (2) Wastewater pump stations shall be exempt from structural setbacks in Section 7.25.
- ~~(1)~~(3) — The installation of essential services, other than road-side distribution lines and wastewater pump stations, ~~is~~are not allowed in a Resource Protection or Stream Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.
- (4) ~~(3)~~ — Damaged or destroyed public utility transmission and distribution lines, towers, culverts, pipes, drains, lines, wastewater pump stations and related equipment may be replaced or reconstructed without a permit.