

Town of Falmouth Zoning and Site Plan Review Ordinance  
Retirement Community Overlay District (Section 3.16)  
Introduction of Amendments by Councilor Libby  
August 24, 2009

Section 2 - Definitions

Delete this definition

~~2.12 **Congregate Housing:** "Congregate Housing" means residential housing consisting of private apartments and central dining facilities and within which a congregate housing supportive services program serves functionally impaired elderly occupants who are unable to live independently yet do not require the constant supervision or intensive health care available at intermediate care or skilled nursing facilities. For purposes of the Falmouth Zoning Ordinance, congregare housing shall include only those facilities which have been certified by the State of Maine as meeting all certification standards and guidelines for congregare housing facilities as promulgated by the Department of Human Services pursuant to the provisions of Maine State Statutes.~~

Add the following definitions

Congregate Housing: "Congregate Housing" means residential housing consisting of private apartments and central dining facilities and within which a congregare housing supportive services program serves elderly occupants.

Assisted Living Facility: A residential facility that provides a State licensed program of assisted living services to consumers in private apartments in buildings that include a common dining area. Services include medication management, 24-hour supervision, and assistance with the activities of daily living, social activities, transportation and other health-related services.

Personal Service – An establishment where nonprofessional services, involving the care of a person or of their personal goods or apparel, are provided. This definition applies only to the Residential Community Overlay District (RCOD)

Skilled Nursing Facility

"Skilled Nursing Facility" means an institution or a distinct part of an institution which is primarily engaged in providing skilled nursing care and related services for residents who require medical or nursing care or rehabilitation services on an inpatient basis and do not require acute level of care.

Nursing Facility

"Nursing Facility" means an institution or a distinct part of an institution which is primarily engaged in providing skilled nursing care and related services for residents who require medical or nursing care, rehabilitation services or health-related care and services above the level of room and board.

## Section 5 – Parking

add the following subsection to be applied strictly to the RCOD

### Parking Standards

<u>Assisted Living</u>	<u>1 parking space for every 3 beds and 1 for each employee</u>
<u>Skilled Nursing- Nursing –Memory Care</u>	<u>one space per 10 beds plus employees</u>
<u>Congregate Housing</u>	<u>1 space per dwelling unit.</u>
<u>Single or Multi Family, Attached or Detached Dwelling</u>	<u>2 parking spaces for each dwelling unit</u>

### 3.16. Retirement Community Overlay District [Adopted, 11/23/98]

The Retirement Community Overlay District is intended to provide flexibility and creativity in the design and development of retirement communities that provide a continuum of care and a range of living environments for older residents in locations that are appropriate for this type of development. The overlay district is designed to foster high quality communities that are an asset to the Town ~~while assuring that these developments are good neighbors and are integrated into the neighborhood.~~

#### 3.16.1 Initial Designation of Overlay Districts

The following existing retirement community is designated as a Retirement Community Overlay District and the provision for the submission of a conceptual master plan waived:

The Ocean View Retirement Community is located between Falmouth and Middle Roads and includes lots on the April 1, 2008 Tax Maps designated as Sheet 310, Map U-27 - 13B, 13D, 13E, and 13F.

#### 3.16.2 Effect of Designation as an Overlay District

The Retirement Community Overlay District is intended to function as an overlay district. As such, the requirements of the underlying zoning district will remain in force and will apply to all use of land and buildings within the Overlay District except as specifically modified by the provisions of this section. The designation of an Overlay District is intended to recognize that a planned retirement community has special considerations that do not apply to other uses and to allow for additional flexibility in the permitting of these uses in return for an increased level of community oversight.

#### ~~3.16.3 Definition of a Retirement Community~~

~~For the purposes of this section, a project must meet all of the following to be considered a retirement community:~~

- ~~1. The community will provide a continuum of care that offers a variety of levels of care and a range of services to elderly and/or disabled residents.~~
- ~~2. The community will be designed to provide a sense of a unified development with a common design character.~~
- ~~3. The community will include housing for at least one hundred fifty (150) residents in a range of accommodations.~~

### 3.16.3 Designation of or amendment to a Retirement Community Overlay District

The Town Council may designate or amend ~~any area of thirty (30) acres or more as a~~ Retirement Community Overlay District in accordance with the following procedures and standards:

a. Procedure - The Town Council shall consider requests for the designation of a Retirement Community Overlay District. Requests for the designation of a district may be initiated by the Planning Board, the Comprehensive Long-range Planning Advisory Committee (LEPAC), or the owners of at least 75% of the total land area proposed to be included in the district. Designation requests by property owners shall be made in writing and shall provide the information set forth below.

The Council shall hold a public hearing on the request within forty-five (45) days, but no sooner than twenty-one (21) days, of its receipt by the Town provided that the ~~Town Planner~~ Community Development Director or their designee has determined that all of the required information has been provided. Notice shall be given by first class mail At least fourteen (14) days prior to the hearing, ~~the Council shall notify to~~ all owners of property within the proposed district or amendment thereto and all owners of property within five hundred (500) feet of the proposed district of the public hearing. ~~and their opportunity to comment on the designation of the overlay district.~~

For the purposes of this section, the owners of property shall be considered to be the parties listed by the Tax Assessor for the Town of Falmouth as those against whom taxes are assessed at the time of notice. Failure of any property owner to receive notice of the public hearing shall not necessitate another hearing nor invalidate any action of the Town Council. ~~Following the public hearing, the Town Council shall decide whether or not to designate the overlay district.~~

b. Standards - In considering requests for the designation or amendment of a Retirement Community Overlay District, the Council may vote to create or amend such a district only if it finds that:

1. The designation of the Overlay District is consistent with the Town's Comprehensive Plan,

2. The designation will result in the development or expansion of a quality retirement community,
  3. The community is or will be served by public sewerage and public water with adequate capacity to serve the development,
  4. The community will provide a continuum of care that offers a variety of levels of care and a range of services to elderly and/or disabled residents,
  5. The community will be designed to provide a sense of a unified development with a common design character,
  6. The community will include housing for at least one hundred fifty (150) residents in a range of accommodations,
  - ~~4.7.~~ The designation of the district will not have an unduly negative impact on neighboring properties, and
  - ~~5.8.~~ The area to be designated is located in a Residential A (RA), Residential B (RB), or Village Mixed Use (VMU) District.
- c. **Submission Requirements** - If the request for the designation of a Retirement Community Overlay District is initiated by the owners of the property within the proposed overlay district, the request shall be accompanied by the following:
1. A narrative description of the range of care and service options to be offered and a discussion of how these are consistent with the definition of a retirement community.
  2. A conceptual master plan showing, in general terms, the proposed location and size of buildings, roads and drives, parking areas, recreational facilities, and other development features. The conceptual master plan shall be prepared by a registered landscape architect, registered architect, or registered professional engineer and shall be based upon a site analysis plan identifying the major developmental opportunities and constraints associated with the proposed district. The site analysis plan shall show in a conceptual nature the primary drainage features and patterns of the proposed district, environmentally sensitive areas, prime development areas, potential points of vehicular access, and other significant manmade and natural features of the proposed district.

The Town Council may waive the provision for the submission of a conceptual master plan for the designation of an overlay district in conjunction with a retirement community existing as of the date of adoption of this section if the proposed overlay district includes the property that is already in use as a retirement community.

A request for the designation of a Retirement Community Overlay District initiated by the Planning Board or the ~~Comprehensive Long-range Planning~~ Advisory Committee that does not involve a specific development proposal is not subject to these submission requirements.

~~Amendments or Expansions - The Town Council may modify or expand the boundaries of an Overlay District at any time following the same procedures and standards as used in the creation of the district.~~

- d. ~~Repeal - The Town Council may repeal any Overlay District created at the request of the property owners within the district and terminate all rights in the overlay provisions if:~~
1. Necessary Subdivision ~~and/or~~ Site Plan approvals have not been obtained for the retirement community within two (2) years of the Town Council's vote to create or amend the overlay district, ~~and/or~~
  2. Substantial construction has not been begun on the improvements shown on the approved Subdivision ~~and/or~~ Site Plan within three (3) years of the Town Council's vote to create or amend the district.

#### 3.16.4 Subdivision and/or Site Plan Approval

~~Once a Retirement Community Overlay District has been designated, The Planning Board, prior to its approval of a Subdivision or Site Plan shall find that the all applications for Subdivision and/or Site Plan approval shall be is generally consistent with the conceptual master plan if such a plan was submitted approved as part of the designation process. Prior to approving any Subdivision and/or Site Plan involving the Retirement Community, the Planning Board shall find that the proposed development activities are generally consistent with the conceptual master plan.~~

~~An applicant for an approval that is subject to a conceptual master plan may request a change to the master plan by filing a revised plan with the Town Council. The Council shall consider the submission as an amendment to the district designation and shall use the same procedures and approval standards as for the initial designation of a district.~~

#### 3.16.5 Permitted Uses

In addition to the uses allowed in the underlying zoning district, the following uses shall be permitted uses in any Retirement Community Overlay District:

- a. ~~Housing a Living arrangements eaccommodations for the elderly and/or people with disabilities as part of a retirement community including, but not limited to, independent living units, congregate units, assisted living units, Alzheimer's care units, residential care units, respite care units, sub-acute care units, and similar~~

units, congregate housing, independent housing with residential support services, assisted living, nursing or skilled nursing care, adult day care or memory loss care.

b. ~~Nursing home and other facilities providing skilled nursing care.~~

b. ~~Supportive~~ Associated facilities uses, as part of a retirement community including, but not limited to provided that use or uses are incidental and subordinate to the residential facilities, are designed and will function as an integral part of the community and are to serve primarily the residents. Uses include, but are not limited to:

- 1) ~~, administrative facilities, dining facilities, care facilities, common areas, indoor and outdoor recreational spaces and facilities,~~
- 2) ~~maintenance facilities, and similar facilities necessary for the operation of the retirement community or the provision of services to the residents or that provide services or activities for residents of the retirement community and other elderly people and/or people with disabilities such as healthcare, physical therapy, speech therapy, occupational therapy, rehabilitation services, financial services,~~
- 3) medical and dental services,
- 4) personal care services,
- 5) places of worship, and
- 1) ~~and other convenience or support services that meet the day-to-day needs of the residents of the community.~~

c. ~~Senior centers.~~

d. ~~Day care and elder care centers.~~

### 3.16.7 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 ~~other than care beds provided for below,~~ there shall be a minimum of ~~seven thousand five hundred (7,500)~~ six thousand (6,000) square feet of net residential area 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 ~~that is not part of a dwelling unit~~, there shall be a minimum of two thousand ~~five hundred~~ (2,500,000) 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 one hundred (100) feet.
- e. **Maximum lot coverage** - the total portion of the overall area of the retirement community covered by buildings and structures shall be not more than twenty (20) %.
- f. **Maximum building height** - no building shall exceed ~~three (3) stories or thirty-nine (39)~~ four stories or forty-five feet as measured in accordance with Section 5.20.
- g. **Minimum building separation** - all detached buildings and structures shall be separated by a minimum of ten (10) feet at the closest point. This separation shall not apply to units in attached housing.
- h. **Maximum building area** - any building located within seventy-five (75) feet of the perimeter of the overall site shall have a total gross floor area of less than five thousand (5,000) square feet. The maximum size of any building shall be a total gross floor area of seventy one hundred thousand (~~70~~100,000) square feet.
- i. **Minimum setbacks** - ~~the setback provisions~~ These provisions are designed to allow smaller, ~~less intense~~ buildings to be located near the perimeter of the retirement community while requiring that larger buildings be more centrally located within the site. Therefore, the required minimum setback of buildings and structures shall ~~vary depending on the situation, height of the building, and type of buffering.~~ be as defined below.
  - ~~— On the perimeter of the overall site (that is the perimeter of the Overlay District), the following setbacks shall apply:~~
    - ~~— j. — No building or part of a building shall be located within fifty (50) feet of the external perimeter of the overall site of the retirement community.~~
    - k. — The minimum setback from the external perimeter of the ~~overall site that abuts an adjacent lot shall vary depending on the height of the building~~ district shall be as follows:

Building Height	Minimum Setback
Not more than two (2) stories or thirty (30) feet	Fifty (50) feet
Not more than <del>two and a half (2.5)</del> <u>three (3)</u> stories or <del>thirty five (35) feet</del> <u>forty (40) feet</u>	Ninety (90) feet

Not more than three (3) stories or <del>thirty-nine (39) feet</del> <u>forty-five (45) feet</u>	<del>Two</del> <u>One</u> hundred <del>fifty (200) 150</del> feet
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~~1. The setback from an adjacent perimeter street and, therefore the maximum height of a building along that street shall conform to the setbacks established above unless an established setback pattern exists along the street. Where an established pattern of setbacks exists and a new building is to be located within seventy five (75) feet of the edge of the right of way, the placement of the building shall conform to the established pattern and the height of the new building shall be limited to not more than two (2) stories or thirty (30) feet. An established setback pattern will be deemed to exist if the setbacks of building on adjacent lots are within a range of ten (10) feet.~~

1) The setback requirement from a perimeter street shall not apply to an existing building or any portion of an existing building that is located within the required setback provided that:

~~that is being incorporated into a retirement community if~~

- a) the building will not be expanded in the direction of the street,
- b) the height of the building will not be increased, and
- c) the gross floor area of the building will not be increased by more than sixty (60) percent or two thousand (2,000) square feet, whichever is less.

~~Within the overall site, the following setbacks shall apply from internal property lines and streets that are constructed as part of the retirement community:~~

~~1. The setback from internal property lines shall be twenty (20) feet or the height of the building which ever is greater.~~

2) 2. The setback from internal street rights-of-way shall be twenty-five (25) feet.

### 3.16.8 Development Along Adjacent Roads



When the development proposal provides for the construction or expansion of a building ~~within seventy five (75) feet of an existing road on the perimeter of the retirement community site~~ visible from an existing road, special consideration shall be paid to the design of the building and site ~~\_to be compatible with other development along the road.~~ In general, buildings shall be designed so that they appear to face front on the road, ~~or as an alternative, do not turn their backs to the road.~~ No service or storage areas shall be located between the building and the road. ~~Vehicular access shall be from internal streets or combined entrances where practical.~~ Curb cuts onto roads shall be minimized where practical. Parking lots shall be located internally where practical, ~~on the retirement community side of these buildings where practical~~ rather than between the buildings and the existing road. If a side walk or pedestrian way exists along the existing road, provisions shall be made to ~~extend this past the site and to~~ link it with the ~~planned~~ proposed buildings.

### 3.16.9 Design Elements

The design of the retirement community shall reflect an overall sense that the entire community is part of a single development with a pedestrian friendly, neighborhood scale. As such, the buildings shall convey a common character but need not be similar in either design or scale. Common elements such as signs, lighting, and site furniture and improvements should be used where practical to establish a sense of community. Where appropriate, provisions for pedestrian ~~and car~~ linkages should be made to bring the elements of the retirement community together. In general, high intensity, high traffic uses and core facilities should be sited in central locations within the community where feasible, with lower intensity uses on the perimeter.

### ~~3.16.9 Initial Designation of Overlay Districts~~

~~The following existing retirement community is designated as a Retirement Community Overlay District and the provision for the submission of a conceptual master plan waived:~~

~~The Ocean View Retirement Community located between the Falmouth and Middle Roads including Lots 2A-1, 2A-2, 13B, 13C, 13D, 13E, and 13F as shown on Tax Map U-27~~