



Town of Falmouth Community Development Department
271 Falmouth Road
Falmouth, ME 04105
☎ 207.781.5253
📄 207.781.8677
💻 www.town.falmouth.me.us

Memorandum

Date: July 19, 2011
To: Nathan A. Poore, Town Manager
From: Amanda L. Stearns, Community Development Director
Cc: Jay Reynolds, Parks and Public Works Director
Justin Brown, Acting Code Enforcement Officer
Ethan Croce, Senior Planner
Re: METRO installation of bus stops and advertising

I have reviewed the Zoning and Site Plan Review Ordinance as well as the Code of Ordinances and have the following comments regarding the regulation of the placement of bus stops and the use of advertisement on those structures.

The town's ordinances and regulations treat private property and public rights of way separately. The control over parcels of land (lots) regardless of ownership is under the jurisdiction of the Zoning Ordinance while rights of way are governed by the Code of Ordinances.

Zoning Restrictions

Structure

A typical bus stop (shelter) would most likely meet the definition of structure under the ordinance. Any non-residential structure over 100 square feet currently requires Site Plan Review approval by the Planning Board if placed on a parcel.

Allowed Use (see Section 3)

The ordinance does not speak to the specific use of a bus stop in any district but does permit "Municipal Building or Use" in all districts except Business Professional. It is possible a bus stop could be permitted as well as an accessory structure but may not meet the strict definition of accessory which is a building or use "...customarily incidental to..." another use or building.

Signs (see Section 5)

The ordinance does not permit off premise signs and only permits wall signs for businesses located on the same lot that are a maximum of ten percent (10%) of the wall on which they are located. Free standing signs on the same parcel are also permitted and limited in size. It is my assumption that the legislation anticipates signs as an integral part of the structure of a bus stop rather than an independent freestanding sign.

Code of Ordinances – The following excerpt from the Code of Ordinances addresses miscellaneous activities in the public way. It does not appear to permit structures such as a bus shelter. If placed in the public right of way it requires approval by the Parks and Public Works Department and may also require MDOT approval on state owned or subsidized streets. Other activities in the public way are addressed in the Zoning Ordinance and include provisions for farm stand signs and political signs.

Sec. 14-43. Miscellaneous activities within the public way.

Notwithstanding that the public way is intended for public travel and convenience, other uses are permissible when not in conflict with public interest. The following criteria shall apply to uses within the street right-of-way:

- (1) Mailboxes may be located in the public way when located so as not to obstruct visibility for safe vehicle operation and not to interfere with the maintenance of the public way. Mailboxes shall be placed as follows:
 - a. The box will be a minimum of forty-two (42) inches above the edge of pavement;
 - b. The reflectors will be located on the side facing oncoming traffic; and
 - c. The standard or upright will be at least four (4) feet from the edge of pavement.
- (2) Lawns and other ground cover may be located within the right-of-way so long as the landscape will not adversely affect visibility for safe vehicle operation nor impede storm drainage and snow and ice removal activities. No ground cover (shrubs or trees) may be placed within four (4) feet of the edge of pavement without written permission of the director of public works. The director of public works shall review the location and design to determine if curbing or drainage modifications are necessary.
- (3) No water other than the natural flow from a site may be discharged into the right-of-way of a street without written permission from the director of public works. The director shall review the proposed location and design and consider the following before granting any permit:
 - a. Adequacy of downstream drainage system;
 - b. Impact upon the public way;
 - c. Snow and ice removal and control.

Conclusions

1. The current ordinances of the Town may allow some very limited application of the statute. Should the Council support the concepts of the legislation the most appropriate avenue would be amendments to the Zoning Ordinance and the Code of Ordinances to permit the use.
2. A projected time frame for the consideration, development and adoption of amendments might be as noted below:
 - July 25/August 8 – Council reviews and approves development of amendments
 - Month of August to write amendments – more time may be necessary if the amendments are sent to a committee
 - September introduction and public hearing
 - October MRA hearing and order