

**Draft Ordinance Amendment**  
**TOWN COUNCIL**  
**Town of Falmouth, Maine**  
Prepared for Council introduction April 23, 2012

**An Ordinance Amending the Zoning and Site Plan Review Ordinance  
regarding an Expansion of OceanView RCOD, Creation of the Elementary  
School Redevelopment District and Modifications to provisions for Signs.**

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.

*Replace Section 3.16 in its entirety with the following language:*

**3.16 Retirement Community Overlay District** [Adopted, 11/23/98; Amended 10/13/09, Amended 5/30/12]

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 and are integrated into the neighborhood.

**3.16.1 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.

**3.16.2 Designation of or amendment to a Retirement Community Overlay District**

The Town Council may designate or amend 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 Long-range Planning Advisory Committee (LPAC), 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 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 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.

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.

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,
7. The designation of the district will not have an unduly negative impact on neighboring properties, and
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 Long-range Planning Advisory Committee that does not involve a specific development proposal is not subject to these submission requirements.

- d. **Repeal** - The Town Council may repeal any Overlay District and terminate all rights in the overlay provisions if:
  - 1. Necessary Subdivision 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, or
  - 2. Substantial construction has not been begun on the improvements shown on the approved Subdivision or Site Plan within three (3) years of the Town Council's vote to create or amend the district.

### **3.16.3 Subdivision and/or Site Plan Approval**

The Planning Board, prior to its approval of a Subdivision or Site Plan shall find that the application is generally consistent with the conceptual master plan if such a plan was approved as part of the designation process.

### **3.16.4 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. Living arrangements and services for the elderly and/or people with disabilities including, but not limited to, congregate housing, independent housing with residential support services, assisted living facility, nursing facility or skilled nursing facility, adult day care, senior center, health institution or memory loss care.

- b. Associated uses, 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) indoor and outdoor recreational facilities
  - 2) financial services,
  - 3) medical and dental services,
  - 4) maintenance facilities
  - 5) personal services, or
  - 6) places of worship

### 3.16.5 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 there shall be a minimum of 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 there shall be a minimum of two thousand (2,000) 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) percent.
- f. **Maximum building height** - no building shall exceed four (4) stories or forty-five (45) feet as measured in accordance with Section 5.20.
- g. **Minimum building separation** - all 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 floor area of less than five thousand (5,000) square feet. The maximum size of any building shall be a total floor area of one hundred thousand (100,000) square feet.
- i. **Minimum setbacks** - These provisions are designed to allow smaller 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 be as defined below.

The minimum setback from the external perimeter of the district shall be as follows:

<b>Building Height</b>	<b>Minimum Setback</b>
Not more than two (2) stories or thirty (30) feet	Fifty (30) feet
Not more than three (3) stories or forty (40) feet	Ninety (90) feet
Not more than four (4) stories or forty-five (45) feet	One hundred fifty (150) 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:
  - 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.
- 2) The setback from internal street rights-of-way shall be twenty-five (25) feet.
- j. **Single Family Dwelling** – Notwithstanding the provisions of Section 4.4.a, more than one single family dwelling may be permitted on a lot.

### 3.16.6 Development along Adjacent Roads

When the development proposal provides for the construction or expansion of a building visible from an existing road, special consideration shall be paid to the design of the building and site. In general, buildings shall be designed so that they appear to face the road. No service or storage areas shall be located between the building and the road. Curb cuts onto roads shall be minimized where practical. Parking lots shall be located internally 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 link it with the proposed buildings.

### 3.16.7 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. 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.

- a. Common elements such as signs, lighting, and site furniture and improvements should be used where practical to establish a sense of community.
- b. Where appropriate, provisions for pedestrian linkages should be made to bring the elements of the retirement community together.
- c. Notwithstanding Section 5.13.g, the Planning Board may approve off premise signs provided a master sign plan is the District is approved by the Planning Board. The master sign plan shall provide for compatible design elements such as color, form, materials and lighting.

**3.16.8 Ocean View Retirement Community (OVRC)** – The Ocean View Retirement Community is designated as a Retirement Community Overlay District as depicted on the Official Zoning Map and the Approved OVRC Conceptual Master Plan dated May 30, 2012.

The requirements of the RCOD shall apply to the OVRC except as specifically modified in this sub section.

a. **Building Height and External Setbacks**

<b>Building Height &amp; External Setbacks</b>	<b>Minimum Setback to External Lot Lines</b>
Not more than two (2) stories or thirty (30) feet	Thirty (30) feet
Not more than three (3) stories or forty (45) feet	Ninety (90) feet
Not more than four (4) stories or sixty (60) feet	One hundred fifty (150) feet

- b. **Internal Setbacks:** There shall be no required setback from internal lot lines, or from internal street rights of way, within the District.

*Add a new Section 3.20 to the Zoning and Site Plan Review Ordinance as follows:*

**3.20 Elementary School Redevelopment District (ESRD)**

**3.20.1 Purpose**

The District is established to redevelop the area on the site of the historic Plummer, Mason-Motz and Lunt Schools. The site is unique due to the type, size and placement of buildings, the history of use of the property as elementary schools and its proximity to OceanView Retirement Community.

**3.20.2 Conformance with Other Requirements** – All development and use of land within the ESRD District shall conform to all other requirements of the Zoning and Site Plan Review Ordinances except as specifically provided for in this section.

**3.20.3 District Boundaries**

The boundaries of the ESRD are as depicted on the Official Zoning Map.

**3.20.4 Subdivision and/or Site Plan Approval**

The Planning Board, prior to its approval of a Subdivision and/or Site Plan shall find that the application is generally consistent with the Approved Conceptual Master Plan dated May 30, 2012.

**3.20.5 Permitted Uses**

- a. Municipal buildings and uses
- b. Living arrangements and services for the elderly and/or people with disabilities including, but not limited to: congregate housing, independent housing with residential support services, assisted living facility, nursing facility or skilled nursing facility, adult day care, senior center, health institution or memory loss care.
- c. outdoor recreational facilities
- d. wholly enclosed place of assembly, amusement, recreation, culture and government
- e. auditorium
- f. business and professional offices
- g. accessory building
- h. private school
- i. retail and service establishments limited to 2,000 gross square feet

**3.20.6 Dimensional Standards**

**a. Lot Requirements**

All Uses	Minimum Lot Size		Max. Lot Coverage	Min. net residential area per dwelling unit	Min. site size
	Lot Area	Lot Width			
	na	na	na	na	na

b. **Setbacks:** There are no required setbacks.

c. **Building Height** - No building shall exceed four (4) stories or sixty (60) feet.

**3.20.7 Master Sign Plan** – Any permanent sign installed within the District shall be depicted on a master sign plan as approved by the Planning Board. The master sign plan shall be in accordance with Sections 5.11 – 5.19 and shall provide for compatible design elements such as color, form, materials and lighting.

**3.20.8 Parking**

- a. **Setbacks** – The Planning Board may waive the front yard parking setback requirements of Section 9.10.C if the location of the parking is consistent with the Approved Conceptual Master Plan.
- b. **Off-Street Parking** – The Planning Board shall determine the minimum number of off-street parking spaces required. The number and proximity of on-street parking spaces may be considered when determining the minimum number of off-street spaces required.
- c. **Shared Parking** – the Planning Board may allow shared parking on multiple lots and between all uses.

**3.20.9 Underground Utilities** – Notwithstanding Section 9.7.d, existing above ground utility lines may remain above ground.



*Amend Sections 5.11 – 5.19 as follows:*

**5.11 Signs - General Provisions** [Amended 5/26/09][Amended 1/24/11]

- a. Purpose. The purpose of regulating signs is to promote and protect the public health, welfare and safety by regulating existing and proposed outdoor advertising, outdoor advertising signs, and outdoor signs of all types; to protect property values, enhance and protect the physical appearance of the community, preserve the scenic and natural beauty and provide a more enjoyable and pleasing community; to reduce sign or advertising distractions and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public right of way, provide more open space and curb the deterioration of natural beauty and community environment and to promote Falmouth as a distinctive community.
- b. Sign Permits. After the effective date of this ordinance and except as otherwise herein provided, no person shall erect or move any signs without first applying for and obtaining a sign permit. Applications shall be on forms prescribed and provided by the town setting forth such information as may be required for a complete understanding of the proposed work. Signs requiring an approval from the Planning Board or Community Development Director must in addition obtain a permit from the Building Official prior to installation. [Amended 1/24/11]

(1) Signs permitted by the Building Inspector. [Adopted 1/24/11]

- (a) Temporary advertising signs,  
(b) Signs not otherwise requiring approval by the Planning Board or Community Development Director.  
(c) Refacing of any existing sign in any district other than those listed in 3.(c) below. [Added 5/30/12]

(2) Signs requiring Planning Board Approval. [Adopted 1/24/11]

- (a) Signs in excess of twenty (20) square feet of display area.  
(b) Any new sign located in the BP, SB-1, TMPDD, VCOD, WFCMPDD or CO Districts.  
(c) Property Identification Signs.

Submittal requirements shall include such information referenced in Sections 9.2.a (4) and 9.7.e. of this ordinance.

(3) Signs requiring approval by the Community Development Director or the Director's designee. [Adopted 1/24/11][Amended 5/30/12]

- (a) Replacement or alteration of signs equal to or less than twenty (20) square feet of display area in the BP, SB-1, TMPDD, VCOD, ESRD, RCOD, WFCMPDD or CO Districts.  
(b) Replacement or alteration of signs equal to or less than twenty (20) square feet of display area previously approved by the Planning Board.

- (c) Refacing of any existing sign in the BP, SB-1, TMPDD, VCOD, ESRD, RCOD, WFCMPDD or CO Districts.

Submittal requirements shall include the information referenced in Sections 9.2.a (4) and 9.7.e. and any other requirements as may be deemed necessary by staff for a complete understanding of the proposed work.

- c. Permit Fees. No sign permit shall be issued until the prescribed fee has been paid as established by the Town Council. [Amended 8/27/07]
- d. Maintenance and Conformance of Signs. No sign shall be erected or altered except in conformity with the provisions herein. The sign must be kept clean, neatly painted and free from all hazards, such as, but not limited to, faulty wiring and loose fastenings, and must be maintained at all times in such safe condition so as not to be detrimental to the public health or safety or detrimental to physical appearance or scenic or natural beauty of the community, or constitute a distinction or obstruction that may contribute to traffic accidents.
- e. General Safety Standards for Signs. No sign, whether new or existing, shall be permitted that causes a sight, traffic, health or welfare hazard, or results in a nuisance, due to illumination, placement, display, or manner of construction.
- f. Exceptions. For the purpose of this ordinance, the term "sign" does not include signs erected and maintained for public safety and welfare or pursuant to and in discharge or any governmental function, or required by law, ordinance or governmental regulation, or to "name signs" not exceeding one (1) square foot in area identifying occupants of the premises where such sign is located.
- g. Any sign located in the BP, SB-1, VCOD, TMPDD, or CO District shall comply with the applicable design guidelines.

**5.12 Reserved.**

**5.13 Regulations Applicable to Signs [Amended 5/26/09][Amended 1/24/11]**

The following provisions relating to signs are applicable in all districts except where otherwise noted.

- a. Signs identifying the name, address, and profession of a permitted home occupation or a lawfully existing nonconforming home occupation are allowed provided such sign does not exceed two (2) square feet of display area, is non-illuminated, and is mounted flat against the wall of the principal building.[Amended 1/24/11]
- b. A bulletin board or similar sign in connection with any church, museum, library, school or similar public structure is allowed.
- c. No sign shall project over a public right of way.
- d. No sign shall have visible moving parts, blinking, moving or glaring illumination, or any part consisting of banners, pennants, ribbons, streamers, spinners or other similar devices.

- e. A string of lights shall not be used for the purpose of advertising or attracting attention unless as an integral part of a permitted sign.
- f. Any sign which no longer advertises a bona-fide business conducted, product sold, activity or campaign being conducted, or public notice, shall be taken down and removed by the owner, agent or person having the beneficial use of the building or premises upon which such sign may be found within ten (10) days after written or personal notification from the Building Inspector, except in the case of temporary signs which shall be removed in accordance with Section 5.12.
- g. No billboards or other off-premises signs, including official business directional signs as defined in 23 MRSA, subsection 1903, shall be constructed, erected, or maintained in any district, except as expressly permitted by the terms of this Ordinance, nor shall any banner, streamer, pennant, ribbon, spinner, or similar device be constructed or erected in any district.
- h. Directional signs solely indicating ingress and egress placed at driveway locations, containing no advertising material, having a display area not exceeding three (3) square feet, and not extending higher than seven (7) feet above ground level, are permitted.
- i. Nonconforming signs may continue but may not be altered or relocated on the same premises without approval by the Board of Zoning Appeals as a conditional use. Nonconforming signs located within the public right of way shall not be permitted to be altered or relocated within the public right of way. [Adopted 4/27/87]
- j. Identification signs indicating the location of, or direction to, a separate function performed within one portion of that building may be erected over or by the doorway or entrance to such portion of the building. The sign area shall not exceed ten (10%) percent of the area of such doorway or entrance to such portion of the building.
- k. No sign shall be erected in a floodplain.
- l. A sign with a double signboard or display area shall be construed to be one sign for the purpose of this Ordinance.
- m. No portable or roof signs shall be permitted unless otherwise specified. [Amended 5/26/09]
- n. Minimum lot line setbacks for all signs shall be fifteen (15) feet unless otherwise specified.
- o. Maximum gross display area of wall signs shall not exceed ten (10%) percent of the wall area to which it is attached.
- p. Property Identification Signs – Property Identification Signs shall be regulated by the following requirements:[Adopted 1/24/11]
  - 1) Districts allowed – Signs are permitted in BP, RA, RB, RC and FF. Signs in residential districts are limited to subdivisions approved by the Planning Board.
  - 2) Setbacks
    - a) Sign Area – The entire sign area shall be located between 0 and 15 feet from the street right of way.
    - b) Supporting Sign Structure
      - (1) Front Lot Line – No setback required.
      - (2) Side property lines – Minimum of 5 feet.

- 3) Location – Signs in the BP District may only be erected at one entrance on US Route One. In residential districts signs may be located at each entrance.
- 4) Sight Distance– The sign must be designed to provide adequate sight distance for exiting traffic as determined by the permitting authority.
- 5) Type of Sign – Signs may either be a free standing sign or be incorporated into a wall or fence made of materials such as stone, brick or wood.
- 6) Dimensions
  - a) Overall Height including supporting structure shall not exceed six (6) feet above natural ground. Height shall be measured as an average height from the original elevation to the top of the structure.
  - b) Height to Width Ratio – All signs shall be oriented horizontally with a height equal to or less than the width.
  - c) Letter size shall be between five (5) and fifteen (15) inches in height.
- 7) Relationship to free-standing advertising signs – In the BP District, a minimum of a sixty (60) foot separation shall be maintained between any property identification sign and a free standing advertising sign. Existing free standing advertising signs shall be relocated to meet this requirement.
- 8) Number – No more than two signs are permitted per entrance and shall be located on opposite sides of the driveway or street.
- 9) Total size one face – The maximum sign area shall not exceed 24 square feet. The Planning Board may allow a larger sign area if necessary to accommodate the property name. The sign area of the street number and name is exempt from the total sign area.
- 10) Design Style – Signs shall meet the requirements of the Route One Design Guidelines.
- 11) Content
  - a) The name, symbol, logo or other graphic identification of the property.
  - b) Properties that access directly to US Route One shall include the street number on the sign. The number shall be a minimum of six inches in height and be visible twenty four hours a day year round. Visibility may be achieved by external lighting or by flat reflective paint applied to the numbers.
  - c) Multiple tenant listings and advertising are prohibited.

**5.14 Maximum Size of Freestanding Signs (square feet of display area)[Amended 5/30/12]**

Type of sign	F	RA, RB & RC	SB, BP, MUC & VMU	CO, <u>ESRD</u> , <u>RCOD</u>
Temporary signs giving notice	12	12	16	16
Temporary real estate	9	9	16	16
Temporary construction	16	16	16	16
Bulletin Board Home	24	24	24	24
Home Occupation	2	2	-	2

Advertising	16	-	100	48
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**5.15 Maximum Size of Wall Signs (square feet of display area) [Amended 5/30/12]**

Type of sign	F	RA, RB & RC	SB, BP, MUC & VMU	CO, <u>ESRD, RCOD</u>
Temporary signs giving notice	12	12	16	16
Temporary real estate	9	9	16	16
Temporary construction	16	16	32	32
Bulletin Board Home	24	24	24	24
Home Occupation	2	2	-	
Advertising	50	-	100	48

**5.16 Maximum Number of Freestanding Signs Per Lot [Amended 5/30/12]**

<u>District</u>	<u>Permanent</u>
F	1
RA, RB & RC	1
SB, BP, MUC & VMU	2
CO <u>and ESRD</u> <u>RCOD</u>	1 <u>Determined by the</u> <u>Planning Board</u>

**5.17 Free-Standing Signs - Other Requirements [Amended 1/24/11][Amended 5/30/12]**

Unless otherwise provided, free standing advertising signs in the SB-1, BP, CO, ESRD, RCOD, MUC, TMPDD, WFCMPDD and VMU districts shall conform to the following:

- a. Maximum length and height sixteen (16) feet. In the CO, ESRD, RCOD and Districts, height shall be limited to twelve (12) feet.
- b. Minimum distance between signs one hundred (100) feet.

**5.18 Wall Signs - Other Requirements [Amended 1/24/11]**

Unless otherwise provided, wall signs shall conform to the following:

- a. Maximum height seven (7) feet above the eaves.
- b. No wall sign shall extend beyond the wall to which it is attached or party wall separating occupancies.

**5.19 Illumination of Signs [Amended 1/24/11] [Amended 5/30/12]**

Illumination of Signs shall meet the requirements of applicable design guidelines where required under Section 9.7. In addition, the following restrictions shall apply.

- a. Internal Illumination

Internal illumination of signs shall be permitted only in the SB1 and MUC districts between the hours of 7:00 a.m. and 11:00 p.m., except that this time restriction shall not apply to the illuminated signs of retail establishments during such hours as the establishments are lawfully open to the public.

Within the RA, RB, RC, FF, BP, ESRD, RCOD and VMU Districts, no sign with internal illumination shall be permitted.

- b. External Illumination – Signs may be externally illuminated in any district provided light fixtures are shielded and no spill over occurs to the street or adjacent properties.