

**Draft Zoning Amendment**  
**Chapter 601 Zoning and Site Plan Review Ordinance**  
**Town of Falmouth ME**  
**July 19, 2012, rev 9-24-12, rev 10-2-12, rev 10-18-12, 10-30-12**

**An Ordinance Amending the Zoning and Site Plan Review Ordinance Regarding Ground Floor Area Limitations for Tenant Space in the Route One Business District (SB1)**

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.

**Amend Section 3.6**

Delete existing Permitted Structures and Uses and Conditional Uses lists. *[Note: Ballet Arts Facility will now be under the use "Wholly enclosed place of assembly, amusement, recreation, culture, and government".]*

**Add a new Section 3.6.1, Permitted Uses, Conditional Uses and Size-Area Limitations for Ground Floor Tenant Space:**

<b>Route One Business District (SB1) – Permitted Uses, Conditional Uses and <u>Area Limitations</u> for Tenant Space Ground Floor <u>Area Limitations</u></b>	
<b><u>Permitted Uses</u></b>	<b><u>Maximum Ground Floor Tenant Area (sq. ft.)</u></b>
Business and professional offices	50,000
Wholly enclosed places of assembly, amusement, recreation, culture, and government	50,000
Motels and hotels	Not applicable
Private clubs	50,000
Restaurants (excluding carry-out and drive-through restaurants)	50,000
Automobile sales	50,000
Automobile related sales and services	50,000
Retail and service establishments	50,000
Grocery Retail*	60,000
Accessory buildings and uses	50,000
Farmer's Markets	50,000
Mixed Use Development	50,000
Diverse Housing	50,000
Tier I Personal Wireless Service Facilities	Not applicable
Tier II Personal Wireless Service Facilities	Not applicable
Municipal buildings & uses	50,000
Commercial Schools	50,000
<b><u>Conditional Uses</u></b>	
Light manufacturing	50,000
Multiplex residential	50,000
Outdoor recreation facilities, permanent structures	50,000
Outdoor sales and storage of equipment and materials	Not applicable
Automobile repair service garage	50,000
Automobile service station	50,000

Carry-out and drive-through restaurants	50,000
Veterinary Clinic	50,000
Churches	50,000
Public Utilities	Not applicable
Outdoor Eating Areas	Not applicable
Day Care Centers	50,000
*Grocery Retail is limited to 60,000 gross square feet total for all floors	

**Add a new Section 3.6.2. Exemption for ground floor area on Map/Lot U52-002**

The ground floor area of the tenant space approved as part of the October 2, 2012 Site Plan re-approval, located on Map/Lot U52-002 and granted to Wal-Mart Real Estate Business Trust, is exempt from the ground floor area limitations in Table 3.6.1 provided that a building permit has been issued and construction for the project has commenced on or before October 2, 2013 in accordance with Section 9.6 of the Zoning and Site Plan Review Ordinance. Upon issuance of a building permit, the tenant space shall be considered existing nonconforming tenant space as defined in Section 3.6.3.b.

**Add a new Section 3.6.32, Exemptions for Existing Nonconforming Tenant Spaces Area As of [Date of Adoption]**

3.6.32.a Determination of existing nonconforming tenant space area size.

When determining the ground floor area of existing tenant space area, the Code Enforcement Officer shall rely on current town records unless it is determined by the Officer that more accurate data exists.

3.6.2.b. Existing nonconforming tenant areas, whether occupied or vacant as of [date of adoption] shall be exempt from the Maximum Ground Floor Tenant Area requirements in Section 3.6.1.

3.6.32.b.c. Use of existing nonconforming ground floor tenant space area.

- (1) Notwithstanding the ground floor tenant area limitations specified in Table 3.6.1, existing nonconforming tenant space areas, either vacant or occupied, may be ~~(re)occupied and/or reconfigured~~ within an existing building footprint provided that the reconfiguration does not result in any single size of the resulting tenant configuration does not result in a ground floor tenant space area exceeding the size square footage of the existing nonconforming tenant space area and,
- (2) The number of times reconfiguration of existing nonconforming tenant spaces may occur is unlimited provided that each reconfiguration meets the requirements in Section 3.6.2.c (1) above.
- (3) ~~further, provided that there is no~~ In no event shall there be an increase in -increase in- the number of tenant spaces within ~~the an~~ existing building footprint that exceed the ground floor tenant area limitations in Table 3.6.1.;

3.6.32.c.d. Definition of terms.

For the purposes of this section, the following terms shall be defined as:

- (1) "Existing building footprint" is defined as the building footprint existing as of [date of adoption].

- (2) "Existing nonconforming tenant ~~space~~area" is defined as a ground floor tenant ~~space~~area existing as of (date of adoption), which exceeds the ground floor tenant area limitations in Table 3.6.1.
- (3) "Ground floor tenant area" is defined as the first floor indoor ~~floor~~space occupied by a single tenant, either by rent, lease or ownership as measured from the interior wall faces.

**Add a new Section 3.6.3. Exemption for ground floor tenant area of approved site plans.**

Site plans approved by the Planning Board under Section 9 of this ordinance are exempt from the ground floor tenant area limitations in Section 3.6.1 above provided that the project has commenced in accordance with Section 9.6. Amendments or re-approvals to site plans are not exempt.

**Amend Section 2, Definitions**

1. Add a definition: "Grocery Retail – A self-service retail store selling primarily food products for consumption off site."
2. Amend the definition of "Wholly enclosed places of assembly, amusement, recreation, culture and government" to read:

"An establishment providing a) indoor recreation facilities such as a bowling alley, skating rink, swimming pool, tennis or racquet ball courts but not including a mechanical, electronic, video or computer game arcade; b) mechanical, electronic, video or computer games if such games are accessory to a principal use which conforms to the provisions of this Ordinance or (c) presentation of the performing arts and cinematography. In the Tidewater Master Planned Development District, such facilities are limited to public gatherings and activities related to approved uses of the Master Plan. [Amended, 5/27/93; 4/4/05]

**Amend Section 3.8 - "MUC" Mixed Use Cluster District**

Add "17. Grocery Retail as part of a mixed use development"

**Amend Section 3.9 - "VMU" Village Mixed Use District**

Add "16. Grocery Retail with less than 5,000 SF of gross floor area"

**Amend Section 3.14 - West Falmouth Crossing Master Planned Development District**

Add "14. Grocery Retail as part of a mixed use development"

**Amend Section 3.18.1 - Tidewater Master Planned Development District**

Add "26. Grocery Retail"

DRAFT