

**Order November 26, 2012
Zoning Amendment
Chapter 601 Zoning and Site Plan Review Ordinance
Town of Falmouth ME
November 21, 2012**

An Ordinance Amending the Zoning and Site Plan Review Ordinance Regarding Ground Floor Area Limitations for Tenants 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 Chapter 19 of the Code of Ordinances, 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 Area Limitations for Ground Floor Tenant Area:

<u>Route One Business District (SB1) – Permitted Uses, Conditional Uses and Maximum New Ground Floor Tenant Area</u>	
<u>Permitted Uses</u>	<u>Maximum New Ground Floor Tenant Area (sq. ft.)</u>
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
<u>Conditional Uses</u>	
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, Exemptions and Allowances for Existing Ground Floor Tenant Areas

3.6.2.a. 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 November 26, 2012.
- (2) "Existing nonconforming tenant area" is defined as a ground floor tenant area existing as of November 26, 2012, 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 space occupied by an individual tenant, either by rent, lease or ownership and as measured from the interior wall faces.

3.6.2. b. Determination of existing ground floor tenant area.

When determining the ground floor area of existing tenant areas, 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.c. Existing nonconforming tenant areas, whether occupied or vacant as of November 26, 2012 shall be exempt from the Maximum Ground Floor Tenant Area requirements in Section 3.6.1.

3.6.2.d. Use of existing ground floor tenant area.

- (1) Notwithstanding the ground floor tenant area limitations specified in Table 3.6.1, any existing nonconforming tenant area, either vacant or occupied, may be reconfigured within an existing building footprint in the following manner.
 - a. Existing areas equal to or greater than 60,000 square feet shall not exceed the existing nonconforming tenant area.
 - b. Areas greater than 50,000 and less than 60,000 square feet may be expanded up to and including 60,000 square feet.
 - c. Conforming tenant areas may be incorporated into the reconfiguration of nonconforming tenant areas.
- (2) The number of times reconfiguration of tenant spaces may occur is unlimited provided that each reconfiguration meets the requirements in Section 3.6.2.c (1) above.
- (3) In no event shall there be an increase in the number of nonconforming ground floor tenant areas in any building except for buildings occupied by or approved for a single tenant area as of November

26, 2012. Tenant area in buildings occupied by a single tenant with an area greater than 60,000 square feet may be reconfigured to create up to two nonconforming ground floor tenant areas.

3.6.2.3. Alteration of existing building footprint.

Existing building footprints may be altered to accommodate the reconfiguration or expansion of nonconforming tenant areas per section 3.6.2.d. (1) provided that the alteration occurs within the area created by the horizontal extension of the outermost existing building walls.

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 requiring Planning Board approval 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"