



TOWN OF FALMOUTH ORDINANCE NO 9-2024

Proposed Amendments to CH.II-19 of the Code of Ordinances to Implement the Requirements of 30-A M.R.S. §§4364, 4364-A, and 4364-B

Town Council Introduction 4/24/2023

Public Hearing 5/22/2023

CH. II-19 ZONING AND FLOODPLAIN MANAGEMENT

Div. II-19-1-2. Definitions

Affordable Housing Development: A development meeting the requirements of Sec. 19-73 of this ordinance, and meeting the following requirements:

A. For rental housing, a development in which a household whose income does not exceed 80% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford 51% or more of the units in the development without spending more than 30% of the household's monthly income on housing costs; and

B. For owned housing, a development in which a household whose income does not exceed 120% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford 51% or more of the units in the development without spending more than 30% of the household's monthly income on housing costs.

For purposes of this definition, "housing costs" include, but are not limited to:

1. For a rental unit, the cost of rent and any utilities (electric, heat, water, sewer, and/or trash) that the household pays separately from the rent; and
- ~~1.2.~~ For an ownership unit, the cost of mortgage principal and interest, real estate taxes (including assessments), private mortgage insurance, homeowner's insurance, condominium fees, and homeowners' association fees.

Potable: Safe for drinking as defined by the U.S. Environmental Protection Agency's (EPA) Drinking Water Standards and Health Advisories Table and Maine's interim drinking water standards for six different perfluoroalkyl and polyfluoroalkyl substances (PFAS), Resolve 2021 Chapter 82, *Resolve, To Protect Consumers of Public Drinking Water by Establishing Maximum Contaminant Level for Certain Substances and Contaminants*.

Residential Planned Development: A planned, integrated residential development involving detached single-family dwellings, two-family dwellings, ~~multi-family dwellings~~, or a combination thereof in an architecturally harmonious environment with common access and utility system.

Div. II-19-1-3. ESTABLISHMENT OF DISTRICTS

Sec. 19-7 Farm and Forest District (FF)

The farm and forest district is an area which is not expected to be provided with public sewer, located in a generally rural area and intended to remain in that character. The district allows residential uses at low density and recreational and agricultural pursuits.

Permitted Structures and Uses

- A. Accessory animal husbandry use [Adopted 7/10/17]
- B. Accessory structures & uses [Amended 7/25/22]
- C. Accessory dwelling unit [Adopted 7/11/16]
- D. Accessory farm use [Adopted 7/10/17]
- E. Animal husbandry
- F. Farming
- G. Forestry
- H. Municipal buildings & uses
- I. Outdoor recreation
- J. Single Family Detached Dwellings
- K. Tier I Personal Wireless Service Facilities [Adopted, 4/25/05]
- L. Tier III Personal Wireless Service Facilities [Adopted, 4/25/05]
- M. Personal Use Airstrip [Adopted, 9/26/05]
- N. Essential Services [Adopted, 7/28/2014]
- O. Two-Family Dwellings

Conditional Uses

- A. Cemeteries
- B. Day care centers [Amended, 7/22/91]
- C. Day care homes [Amended, 7/22/91]
- D. Place of Worship
- E. Extractive Industries
- F. Health Institutions
- G. Home occupations
- H. Kennels
- I. Libraries
- J. Museums
- K. Private clubs
- L. Private schools
- M. Riding stables
- N. Amateur Radio Towers [Adopted, 4/23/90]
- O. Veterinary Clinics [Adopted, 5/27/93]
- P. Bed and Breakfast Establishments [Adopted 5/27/93]
- Q. Elderly Boarding Home [Adopted, 5/28/96]
- R. *[Repealed 1/10/2022]*
- S. Roadside Stand [Adopted 02/27/12]

[Table amended 1/24/11/ 7/11/16,11/14/16]	Max. Lot Coverage	Minimum Lot Size		Max. Residential Density (sq ft) See Section 19-64.1	Min. site size (acres)	<u>Min lot area per dwelling unit (sq ft)</u>
		Lot Area (sq ft)	Lot Width (ft)			
All Uses	15%	--	250'		--	
Cemeteries		--	--	--	10	
Day Care Centers		--	--	--	2	
Place of Worship		--	--	--	5	
Health Institute		--	--	--	5	
Private Clubs		--	--	--	3	
Private Schools		--	--	--	3	
Riding Stables		--	--	--	3	
Single Family Detached & Other Uses		80,000	--	80,000 [Adopted 7/11/16]	--	<u>80,000</u>

Minimum Setbacks in Feet			
	<u>Front Setback</u>	<u>Side Setback</u>	<u>Rear Setback</u>
Single Family Detached & Other Uses	25	20	40
Cemeteries, Day Care Centers, Place of Worship, Riding Stables, Veterinary Clinics Health Institutions, Private Clubs, Private Schools, Kennels	50	50	50

Sec. 19-8 Residential A District (RA) [Amended 7/11/2016; 05/29/2019]

Permitted Structures and Uses	Conditional Uses
A. Accessory Structures & Uses [Amended 7/25/22] B. Accessory Dwelling Units [Adopted 7/11/16] C. Accessory Farm Use [Adopted 07/11/17] D. Farming E. Forestry F. Municipal Buildings & Uses G. Single Family Detached Dwellings H. Tier I Personal Wireless Service Facilities [Adopted, 4/25/05] I. Essential Services [Adopted, 7/28/2014]	A. Cemeteries B. Day Care Centers [Amended, 7/22/91] C. Day Care Homes [Amended, 7/22/91] D. Place of Worship E. Congregate Housing F. Health Institutions. G. Home Occupations H. Libraries I. Marinas J. ~~Multi-Family Dwelling⁺~~ K. Museums L. Private Clubs M. Private Schools N. Two-Family Dwelling¹ O. Amateur Radio Towers [Adopted, 4/23/90] P. Bed and Breakfast Establishments [Adopted, 5/27/93] Q. Elderly Boarding Home [Adopted, 5/28/96] R. ~~[Repealed 1/10/2022]~~ S. Roadside Stand [Adopted 02/27/12]

	Minimum Lot Size		Max. Lot Coverage	Max. Residential Density (sq ft) See Section 19-64.1	Min. site size (acres)	Min lot area per dwelling unit (sq ft)
	Lot Area (sq ft)	Lot Width (ft)				
All Uses	--	--	20%	--	--	
Cemeteries	--	300	--	--	10	
Day Care Centers	--	200	--	--	2	
Place of Worship	--	300	--	--	5	
Congregate Housing	--	300	--	7,500	5	

Health Institute	--	300	--	--	5	
~~Multi-family~~	--	~~200[±]~~	--	~~15,000[±]~~	~~2[±]~~	
Private Clubs	--	200	--	--	3	
Private Schools	--	200	--	--	3	
~~Two-family~~	--	~~200[±]~~	--	~~15,000[±]~~	~~2[±]~~	
Single Family Detached & Other Uses	20,000 ¹	125 ¹	--	20,000 ¹	--	<u>20,000</u>

Minimum Setbacks In Feet			
	Front Setback	Side Setback	Rear Setback
Single Family, Detached, and other uses	25 ¹	20 ¹	40 ¹
Cemeteries; Day Care Centers, Private Clubs, Private Schools, ~~Two-Family[±]~~ , ~~Multi-Family[±]~~	50	50	50
Congregate Housing, Health Institute, Place of Worship	100	100	100

Sec. 19-9 Residential B District (RB)

Permitted Structures and Uses	Conditional Uses
Accessory Structures & Uses [Amended 7/25/22]	Cemeteries
Accessory Dwelling Units	Day Care Centers [Amended 7/22/91]
Farming	Day Care Homes [Amended 7/22/91]
Forestry	Place of Worship
Municipal Buildings & Uses	Congregate Housing
Single Family Detached Dwellings	Extractive Industries
Two family	Health Institutions
~~Multi-family~~	Home Occupations
Tier I Personal Wireless Service Facilities [Adopted 4/25/05]	Libraries
~~Essential Services~~ [Adopted 7/28/2014]	Marinas
Accessory Farm Use [Adopted 7/10/17]	Museums
	Private Clubs
	Private Schools
	Amateur Radio Towers [Adopted 4/23/90]
	Bed and Breakfast Establishments [Adopted 5/27/93]

	Elderly Boarding Home [Adopted 5/28/96]
	~~[Repealed 1/10/2022]~~
	Neighborhood Variety/Convenience Store* [Adopted 8/28/06]
	Roadside Stand [Adopted 02/27/12]
	* Applies only in that part of the RB District bounded by I-295, the Turnpike Spur, and the Presumpscot River

	Minimum Lot Size		Max. Lot Coverage	Max. Residential Density (sq ft) See Section 19-64.1	Min. site size (acres)	<u>Min lot area per dwelling unit (sq ft)</u>
	Lot Area (sq ft)	Lot Width (ft)				
All Uses	--	--	20%	--	--	
Cemeteries	--	300	--	--	10	
Day Care Centers	--	200	--	--	2	
Place of Worship	--	300	--	--	5	
Congregate Housing	--	300	--	7,500	5	
Health Institute	--	300	--	--	5	
~~Multi-family~~	~~30,000~~	~~150~~	--	~~25,000~~	--	
Private Clubs	--	200	--	--	3	
Private Schools	--	200	--	--	3	
~~Two-family~~	~~25,000~~	~~100~~		~~25,000~~	--	
Single Family Detached, & Other Uses	25,000	100	--	25,000 [Amended 7/11/16]	--	<u>25,000</u>

~~Minimum Setbacks in Feet~~ <u>Minimum Setbacks in Feet</u>			
	<u>Front Setback</u>	<u>Side Setback</u>	<u>Rear Setback</u>
Place of Worship, Congregate Housing, Health Institution	100	100	100
Cemeteries, Day Care Center, Private Club, Private School	50	50	50
Single Family Detached, ~~Two-family, Multi-family~~ and Other Uses	15	15	30

Sec. 19-10 Residential C District (RC)

Permitted Structures and Uses	Conditional Uses
A. Accessory Structures & Uses [Amended 7/25/22] B. Accessory Dwelling Unit C. Accessory Farm Use [Adopted 7/10/17] D. Farming E. Forestry F. Municipal Buildings & uses G. Single Family Detached Dwellings H. Tier I Personal Wireless Service Facilities [Adopted, 4/25/05] I. Essential Services [Adopted, 7/28/2014] J. Two-Family Dwellings	A. Place of Worship B. Health Institutions C. Libraries D. Museums E. Private Clubs F. Private Schools G. Amateur Radio Towers [Adopted, 4/23/90] H. Bed and Breakfast Establishments [Adopted 5/27/93] I. Elderly Boarding Home [Adopted, 5/28/96] J. <i>[Repealed 1/10/2022]</i> K. Roadside Stand [Adopted 02/27/12]

[Table amended 1/24/11]	Minimum Lot Size		Max. Lot Coverage	Max. Residential Density (sq ft) See Section 19-64.1	Min. site size (acres)	Min lot area per dwelling unit (sq ft)
	Lot Area (sq ft)	Lot Width (ft)				
All Uses	--	--	20%		--	
Place of Worship	--	300	--		5	
Health Institute	--	300	--		5	
Clubs	--	200			3	
Private Schools	--	200	--		3	
Single Family Detached & Other Uses	60,000	160	--	60,000 [Adopted 7/11/16]	--	60,000

Sec. 19-10.1 Residential D District (RD)

Permitted Structures and Uses	Conditional Uses
A. Accessory Structures & Uses [Amended 7/25/22] B. Accessory Dwelling Unit C. Accessory Farm Use [Adopted 07/10/17] D. Farming E. Forestry F. Municipal Buildings & Uses G. Single Family Detached Dwellings H. Two Family I. ~~Multi-Family~~ J. Tier I Personal Wireless Service Facilities [Adopted, 4/25/05] K. <u>Essential Services</u> [Adopted, 7/28/2014]	A. Cemeteries B. Day Care Centers [Amended 7/22/91] C. Day Care Homes [Amended 7/22/91] D. Place of Worship E. Congregate Housing F. Extractive Industries G. Health Institutions H. Home Occupations I. Libraries J. Marinas K. Museums L. Private Clubs M. Private Schools N. Amateur Radio Towers [Adopted, 4/23/90] O. Bed and Breakfast Establishments [Adopted, 5/27/93] P. Elderly Boarding Home [Adopted, 5/28/96] Q. ~~[Repealed 1/10/2022]~~ R. Roadside Stand [Adopted 02/27/12]

	Minimum Lot Size		Max. Lot Coverage	Max. Residential Density (sq ft) See Section 19-64.1	Min. site size (acres)	<u>Min lot area per dwelling unit (sq ft)</u>
	Lot Area (sq ft)	Lot Width (ft)				
All Uses	--	--	20%	--	--	
Cemeteries	--	300	--	--	10	
Day Care Centers	--	200	--	--	2	
Place of Worship	--	300	--	--	5	
Congregate Housing	--	300	--	7,500	5	
Health Institute	--	300	--	--	5	
~~Multi-Family~~	~~45,000~~	~~150~~	--	~~30,000~~	--	
Private Clubs	--	200	--	--	3	

Private Schools	--	200	--	--	3	
~~Two-Family~~	~~30,000~~	~~100~~		~~30,000~~	--	
Single Family Detached & Other Uses	30,000	100	--	30,000	--	<u>30,000</u>

<u>Minimum Setbacks in Feet</u>			
	<u>Front Setback</u>	<u>Side Setback</u>	<u>Rear Setback</u>
Place of Worship, Congregate Housing, Health Institution	100	100	100
Cemetery, Day Care Center, Private Club, Private School	50	50	50
Single Family Detached, ~~Two-Family~~ , ~~Multi-Family~~ , Other uses	15	15	30

Sec. 19-10.2 Highland Lake Residential District (HL)

Permitted Structures and Uses	Conditional Uses
A. Accessory Structures & Uses [Amended 7/25/22] B. Accessory Dwelling Unit C. Accessory Farm Use [Adopted 7/10/17] D. Farming E. Forestry F. Municipal Buildings & Uses G. Single Family Detached Dwellings H. Two Family I. Tier I Personal Wireless Service Facilities [Adopted, 4/25/05] J. Essential Services [Adopted, 7/28/2014]	A. Cemeteries B. Day Care Centers [Amended 7/22/91] C. Day Care Homes [Amended 7/22/91] D. Place of Worship E. Congregate Housing F. Extractive Industries G. Health Institutions H. Home Occupations I. Libraries J. Marinas K. Museums L. Private Clubs M. Private Schools N. Amateur Radio Towers [Adopted, 4/23/90] O. Bed and Breakfast Establishments [Adopted, 5/27/93] P. Elderly Boarding Home [Adopted, 5/28/96] Q. <i>[Repealed 1/10/2022]</i> R. Roadside Stand [Adopted 02/27/12]

	Minimum Lot Size		Max. Lot Coverage	Max. Residential Density (sq ft) See Section 19-64.1	Min. site size (acres)	Min lot area per dwelling unit (sq ft)
	Lot Area (sq ft)	Lot Width (ft)				
All Uses	--	--	20%	--	--	
Cemeteries	--	300	--	--	10	
Day Care Centers	--	200	--	--	2	
Place of Worship	--	300	--	--	5	
Congregate Housing	--	300	--	7,500	5	
Health Institute	--	300	--	--	5	
~~Two Family~~		~~200~~	--	~~30,000~~	~~2~~	
Private Clubs	--	200	--	--	3	

Private Schools	--	200	--	--	3	
Single Family Detached, & Other Uses	40,000	150	--	40,000	--	<u>40,000</u>

<u>Minimum Setbacks In Feet</u>			
	<u>Front Setback</u>	<u>Side Setback</u>	<u>Rear Setback</u>
Cemetery, Day Care Center, Private Club, Private School	50	50	50
Place of Worship, Congregate Housing, Health Institution	100	100	100
Single Family Detached, ~~Two-Family~~ and Other Uses	25	20	40

Sec. 19-11 Village Center Districts (VC1, VC2 and VCC)

Sec. 19-11.3 Use and Maximum New Ground Floor Tenant Area Tables

19-11.3.1 VC1 and VC2

Permitted Uses, Conditional Uses and Maximum New Ground Floor Tenant Area (MNGFTA)				
Permitted Uses	VC 1 MNGFTA (sq. ft.)	Category of Use	VC 2 MNGFTA (sq. ft.)	Category of Use
Accessory structure or use [Amended 7/25/22]	50,000	P	50,000	P
<u>Affordable Housing Development¹</u>	na	<u>P</u>	na	<u>P</u>
Art and Craft Studio ¹	na	P	na	P
Automobile dealership (sales, service, storage & rental)	na	X	50,000	P
Bed and Breakfast Establishment	50,000	P	50,000	P
Business and professional office ²	50,000	P	50,000	P
Commercial School	20,000	P	20,000	P
Car Wash [Amended 7/24/17]	na	X	20,000	CU
Day care center	50,000	P	50,000	P
Dwelling Unit ¹	na	P	na	P
Essential Services	na	P	na	P
Gas Station	na	CU	na	CU
Home Occupation	na	P	na	P
Horticultural Nursery	na	P	na	P
Hotel	na	P	na	P
Kennels [Amended 04/13/2020]	50,000	CU	50,000	CU
Light manufacturing ¹	na	P	na	P
Municipal use	50,000	P	50,000	P
Outdoor recreation facility, permanent structure	50,000	CU	50,000	CU
Outdoor retail display > 100 and ≤2,500 square feet as an accessory use	na	P	na	P
Outdoor display of automobiles as an accessory use to automobile dealership	na	X	No limit	P
Place of Worship	50,000	P	50,000	P
Private club	50,000	P	50,000	P
Private School	20,000	P	20,000	P
Restaurant, including carry-out [Amended 1/10/2022]	50,000	P	50,000	P
Restaurant, drive-through	na	X	50,000	CU
Retail and service establishment, includes outdoor retail display not to exceed 100 sq. ft.	50,000	P	50,000	P
Retail, grocery ²	60,000	P	60,000	P

Permitted Uses, Conditional Uses and Maximum New Ground Floor Tenant Area (MNGFTA)				
Permitted Uses	VC 1 MNGFTA (sq. ft.)	Category of Use	VC 2 MNGFTA (sq. ft.)	Category of Use
Service garage	50,000	CU	50,000	CU
Tier I & Tier II Personal Wireless Service Facility	na	P	na	P
Tradesmen's Office ¹	na	P	na	P
Veterinary Clinic	50,000	P	50,000	P
Wholly enclosed place of assembly, amusement, recreation, culture, and government	50,000	P	50,000	P
¹ Permitted on upper floors only				
² Retail, Grocery is limited to 60,000 gross square feet total for all floors				
P – Permitted; CU – Conditional Use Permit Required; X – Not permitted				

Sec. 19-13 Mixed Use Cluster District (MUC) [Amended 4/25/22]

To establish within the Town of Falmouth areas for well-planned mixed use developments with access to the region's major highway system.

Permitted Structures and Uses	Conditional Uses
A. Accessory structures & uses [Amended 7/25/22] B. Accessory Dwelling Unit C. Business and professional offices D. Wholly enclosed places of assembly, amusement, recreation, culture, and government E. Wholesale establishments F. Warehouses G. Light manufacturing H. Retail and service establishments¹ I. Two family ~~or multi-family~~ dwellings J. Research facilities K. Restaurants (including carry-out or drive through restaurants)[Amended 11/14/12] L. Residential planned developments M. Municipal buildings and uses N. Tradesman's offices O. Single Family Detached Dwellings (only in established residential areas and except on lots fronting on Gray Road) [Adopted 5/28/96] P. Tier I Personal Wireless Service Facilities [Adopted, 4/25/05] Q. Tier II Personal Wireless Service Facilities [Adopted, 4/25/05] R. Commercial Schools [Adopted 5/27/08] S. Grocery retail ² [Adopted 11/26/12] T. Essential Services [Adopted, 7/28/2014] U. Hotels³ V. Art and Craft Studios W. Day Care Centers X. Veterinary Clinics	A. Outdoor recreation facilities B. ~~[Repealed 4/25/22]~~ C. Place of Worship D. Excavating Business E. Land reclamation F. Processing of Mineral materials for resale [Amended, 4/25/88] G. ~~[Repealed 4/25/22]~~ H. ~~[Repealed 1/10/22]~~ I. Day Care Homes [Adopted, 7/23/01] J. Kennels [Amended 4/13/20]
¹ Maximum ground floor tenant area 50,000 square feet ² Maximum ground floor tenant area 60,000 square feet ³ Maximum building footprint 20,000 square feet	

	Min. Lot Area (Sq ft)	Min. Lot Width	Max. Lot Coverage	Min. Setbacks			Max. Residential Density (sq ft) See Section 19-64.1	Min lot area per dwelling unit (sq ft)
				Front	Side	Rear		
Single family detached & ~~Accessory dwelling units~~ Two-family dwellings	20,000	125 ft.	20%	25	20	40	10,000 with public sewerage	10,000 with public sewerage or

							or 20,000 w/o public sewerage	<u>20,000 w/o public sewerage</u>
All other uses	--	200 ft.	30%	50	25	25	10,000 with public sewerage or 20,000 w/o public sewerage	

Sec. 19-14 Village Mixed Use District (VMU) [Amended 4/25/22]

To establish within the Town of Falmouth areas for small scale, low intensity nonresidential uses which are compatible with the residential character of the district. Areas designated as VMU are areas with historical development patterns as village centers.

<u>Permitted Structures and Uses</u>	<u>Conditional Uses</u>
A. Retail and service establishments with less than 5,000 SF of gross floor area B. Business and Professional offices C. Art and craft studios D. Tradesman's offices E. Restaurant ¹ [Amended 1/10/2022] F. Restaurant, Carry-out ¹ G. Museums H. Bed and Breakfast establishments I. Single family detached dwellings J. Two Family dwellings K. ~~Multi-Family dwellings~~ L. Residential planned developments M. Municipal buildings and uses N. Accessory structures and uses [Amended 7/25/22] O. Accessory Dwelling Units P. Tier I Personal Wireless Service Facilities [Adopted, 4/25/05] Q. Tier II Personal Wireless Service Facilities [Adopted, 4/25/05] R. Commercial Schools with less than 5,000 SF of gross floor area S. Grocery Retail with less than 5,000 SF of gross floor area T. Essential Services [Adopted, 7/28/2014] U. Hotels ²	A. Cemeteries B. Day care centers C. Day care homes D. Place of Worship E. Health institutions F. Libraries G. Congregate care facilities H. Home occupations I. Veterinary Clinic [Amended, 7/22/91] J. Elderly Boarding Home [Adopted, 5/28/96] K. Kennels [Amended 04/13/2020]
¹ Restaurants not served by public sewer shall have no more than 60 seats ² Maximum building footprint 20,000 square feet	

	Min. Lot Area (Sq ft)	Min. Lot Width	Max. Lot Coverage	Min. Setbacks			Max. Residential Density (sq ft) See Section 19-64.1	<u>Min lot area per dwelling unit (sq ft)</u>
				Front	Side	Rear		

<u>Single family detached, and two-family dwellings</u>	<u>10,000</u>	<u>150 ft.</u>	<u>35%</u>	<u>25</u>	<u>15</u>	<u>15</u>	<u>10,000 with public sewerage - 20,000 w/o public sewerage</u>	<u>10,000 with public sewerage - 20,000 w/o public sewerage</u>
All other uses	--	150 ft.	35%	25	15	15	10,000 with public sewerage - 20,000 w/o public sewerage	

Sec. 19-18 Resource Conservation Zoning Overlay District (RCZO)

Sec. 19-18.5 Standards for Conservation Subdivisions

D. **Standards for Individual Residential Lots** -- Lots, where applicable, that are created for residential development as part of a conservation subdivision, and the subsequent development of those lots, shall conform to the following standards:

1. Minimum Lot Size -- Individual lots that are created as part of a Conservation Subdivision may be smaller than the required minimum lot size for the district in which it is located and are not subject to the minimum lot area per dwelling unit standard of the underlying district. The size of the individual lots shall be shown on the subdivision plan and shall be subject to Planning Board approval based upon its finding that the lot sizes will allow for the creation of a high quality living environment for the residents of the subdivision and provide for adequate sewage disposal. In no case shall any lot served by a subsurface wastewater disposal system in RB, RC, RD, HL or FF be less than twenty thousand (20,000) square feet in area. In no case shall any lot in RB, RC, RD, HL or FF served by the public sewer system be less than ten thousand (10,000) square feet in area. In no case shall any lot served by a subsurface wastewater disposal system in RA be less than 10,000 square feet in area. In no case shall any lot served by the public sewer system in RA be less than 5,000 square feet in area. [Amended 07/11/16]

Sec. 19-18.6 Standards for Subdivision Development Using Country Estate Lots

- A. **Purpose** -- The alternative form of development within the Resource Conservation Zoning Overlay (RCZO) District is the use of Country Estate lots either as part of a subdivision or as individual lots that do not constitute a subdivision. ~~This section establishes standards for a subdivision using Country Estate lots.~~ These standards are intended to assure that the layout of the lots respects those areas of the site that have natural resource value, protects the rural character of the RCZO District, and provides reasonable access to lots for public safety purposes.
- B. **Standards for Individual Lots** -- Country Estate lots shall conform to the following standards:
 1. Minimum Lot Size -- ~~The minimum lot size for a Country Estate lot is t~~Three hundred fifty thousand (350,000) square feet.
 2. Minimum Lot Area per Dwelling Unit: 350,000 square feet.

3. Minimum Net Residential Area Per Unit – ~~The minimum net residential area per unit is Forty-thousand (40,000) square feet. [Amended 1/24/11]~~
 4. Minimum Lot Width – The distance between the opposing lot lines measured through the principal buildings on the lot shall be three hundred (300) feet.
 5. Minimum ~~Street Frontage~~~~Lot Access Requirements~~ – ~~A Country Estate lot shall have frontage on a public street, approved private way, or an approved private access drive meeting the provisions of Section 19-75.~~ A Country Estate lot shall have the following minimum street frontage based upon the type of street:
 - a public street in existence as of April, 1, 2005 400 ft
 - a public street created after April 1, 2005 200 ft
 - an approved private ~~streetway~~ 100 ft
 - an approved private ~~access~~ drive for country estates 25 ft (See Sec.19-75)
 6. Minimum Property Line Setback – All principal buildings shall be setback a minimum of seventy-five (75) feet from any property line. Accessory buildings and structures with less than two hundred (200) square feet of footprint area shall be set back a minimum of fifty (50) feet from any property line. Any other accessory buildings and structures shall be setback a minimum of seventy-five (75) feet from any property line.
- C. **Layout and Design of the Development** – Any subdivision shall be laid out in accordance with the Four Step Design Process set forth in [Appendix 7-9](#) of Land Subdivision. This process shall be used to guide the location of building sites, lots, and access to minimize the impact on identified Primary and Secondary Conservation Areas. Documentation of the Four Step Process shall be provided as part of the review of the project.
- D. **Streetscape Buffers** – A vegetated buffer strip shall be maintained on any portion of a Country Estate lot that fronts on or otherwise abuts any public street existing as of April 1, 2005 to minimize the visual impact of the development on the streetscape. The depth of the buffer strip shall be at least fifty (50) feet. No parking, buildings, structures, or recreational facilities shall be permitted within this buffer strip but accessory structures such as signs, walls, underground utility structures, and drainage facilities may be located within this buffer as well as trails required under [Appendix 7-1](#) N of Land Subdivision. The buffer strip may be crossed by driveways or access drives that run essentially perpendicular to the street. The buffer strip shall be naturally vegetated or landscaped in a manner appropriate to the existing site conditions and the secondary conservation value of the strip. The treatment of the buffer strip shall be subject to approval by the Planning Board as part of the approval of the development. Appropriate legal mechanisms shall be established to assure that the buffer strip will be permanently protected and maintained. [Amended 5/29/07]
- E. **Perimeter Buffers** -- A vegetated buffer strip shall be maintained along the external perimeter or property line of the Conservation Subdivision, with the exception of property lines along public streets, to minimize the impact of the ~~development~~~~Conservation Subdivision~~ on abutting properties. The width of the buffer strip shall be at least fifty (50) feet. If the buffer strip abuts a water body or wetland, the width and treatment of the buffer strip shall be expanded to comply with the most restrictive requirements of Section ~~II-19-1-7~~, Shoreland Zoning and Section ~~19-71~~, where applicable. No parking, buildings, structures, or recreational facilities, with the exception of trails required under [Appendix 7-1](#) N of Land Subdivision, shall be permitted within this buffer strip but accessory structures such as walls, underground utility structures, and drainage facilities may be located within this buffer. The buffer strip shall be naturally vegetated or landscaped and the treatment shall be subject to approval by the

Planning Board as part of the approval of the subdivision. Appropriate legal mechanisms shall be established by the subdivider, subject to approval by the Planning Board, to assure that the buffer strip will be permanently protected and maintained. [Amended 5/29/07]

Trails required under Appendix 7-1N of Land Subdivision and street right of ways for future street connections may be located within the buffer strip. [Adopted 5/29/07]

Access roads may be located in the buffer strip where the Planning Board determines through the Four Step Design Process that the resulting road location and subdivision design best achieves the purposes of a conservation subdivision as listed in Section 19-18.5.A.1-5. [Amended 5/29/07]

- F. **Conceptual Long Range Development Plan** -- When a development involving Country Estate lots will not utilize the entire parcel and there is potential for future subdivision or development of the parcel, the application for approval shall include a Conceptual Long Range Development Plan showing the potential utilization of the lots and the balance of the parcel not being subdivided. The Long Range Plan is intended to be conceptual in nature, to rely on published data about natural resources relevant to the parcel and the built environment, and to demonstrate that the current development proposal will not compromise important conservation values or the long term development of the parcel. This plan shall show the relationship of the proposed lots to the balance of the parcel and to adjacent land. This plan shall analyze the conservation and development potential of the remaining area of the parcel and shall show, in general terms, the potential access and development areas in a manner that demonstrates that both the proposed development and the future development can occur so that it conforms to the requirements of the RCZO District and preserves the significant natural resource and conservation values of the entire parcel.

Sec. 19-18.7 Country Estate Developments Not Involving a Legal Subdivision of Land

Any proposed division of land in the Resource Conservation Zoning Overlay District that will ~~create two (2) or more Country Estate lots within any five (5) year period~~ not create a subdivision shall be done in accordance with a plan approved by the Planning Board. ~~If the division does not create a subdivision, this plan may be combined with a plan for a private way or a plan for a private access drive. If the division is not subject to review and approval by the Planning Board under one of these provisions, Planning Board approval of a Plan for a Country Estate Development shall be required prior to the sale or transfer of any of the lots.~~ The plan and its review shall conform to the provisions of Sec. 19-18.6.B, D, and E and conform to the following requirements:

- a. The plan showing the Country Estate Development shall be prepared by a registered land surveyor. The plan shall be labeled "Plan for a Country Estate Development" and shall provide an approval block for the signatures of the Planning Board members. The plan shall delineate each of the lots to be created and the proposed access for each lot.
- b. The applicant shall submit an Existing Resources and Site Analysis Plan and documentation of the Four Step Design Process for the site as provided for Ch. II-7, Land Subdivision. These submissions shall cover those areas of the site proposed for division. The Existing Resources and Site Analysis Plan shall be prepared by a registered landscape architect unless the Planning Board determines that the project does not require these services due to the absence of primary or secondary conservation areas as defined by this ordinance and as indicated in Section 19-18.5.C.2.

- c. The approved plan shall be recorded in the Cumberland County Registry of Deeds within ninety (90) days of the date of the Planning Board approval. If the plan is not recorded within this time period, the approval of the Planning Board shall be null and void.
- d. In reviewing requests for approval of a Plan for a Country Estate Development under this subparagraph, the Planning Board shall apply such standards and criteria, and may impose such conditions, as are applicable to conditional uses under subsections 19-119 and 19-123 of this Ordinance and the provisions of the RCZO District.
- e. After a Plan for a Country Estate Development has been approved by the Planning Board, no further Country Estate lots shall be created from the initial lot or by the further division of any of the Country Estate lots without the prior approval of such lots by the Planning Board under this subsection.

Sec. 19-18.8 Exempt Lots

- A. Any lot of record as of April 1, 2005 may be divided to create one additional ~~exempt~~ lot exempt from the requirements of this Sec. 19-18 whether or not such division is a subdivision, provided that all of the following conditions are met:
 - 1. The lot of record shall be held in separate ownership from any abutting property.
 - 2. Both of the lots created by the division shall meet all other applicable requirements of the Code of Ordinances. the minimum lot size requirements for the underlying district including minimum lot size, minimum lot width, and minimum street frontage and the minimum suitable building area per lot requirement of Section 19-64.2 a.
 - ~~3. If the division is a subdivision as defined by this ordinance or Ch. II-7, Land Subdivision, the division shall be subject to review and approval by the Planning Board in accordance with Ch. II-7. The lot of record has not utilized the allowance in Sec.19-18.8.B.~~
- B. Any lot of record as of April 1, 2005 may be developed to create one additional dwelling unit exempt from the requirements of this Sec. 19-18 provided that the dwelling unit and the lot meet all other applicable requirements of the Code of Ordinances.

Sec. 19-21 Retirement Community Overlay District (RCOD)

Sec. 19-21.6 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:

- ~~j. **Single Family Dwelling** Notwithstanding the provisions of Section 19-30.a, more than one single family dwelling may be permitted on a lot.~~

Sec. 19-22 Highland Lake Conservation Overlay District (HLCOD) [Adopted 11/27/00]

Sec. 19-22.3 Requirements

- a. Any project that requires private way, site plan or subdivision approval by the Planning Board shall prepare a phosphorus control plan according the following requirements:
 1. The project shall not export available phosphorus in stormwater runoff at a rate of more than .020 lbs/acre/year. [Amended 05/13/2019]
 2. The phosphorus control plan shall be prepared in accordance with the manual entitled: Phosphorus Control in Lake Watersheds: A Technical Guide to Evaluating New Development, by the Maine Department of Environmental Protection, 1992, or its most recent revision.
 3. The Planning Board shall require the phosphorous control plan to be reviewed by a qualified third party professional in order to determine compliance with the standards of this ordinance. The Planning Board may waive this third party review requirement on projects that are deemed to pose little risk to natural resources due to factors such as the project's size, simplicity, and location. [Adopted 05/13/2019]
- b. The construction of a ~~dwelling unit~~single family home, the expansion of more than 200 square feet of building footprint on a ~~dwelling unit~~n-existing home, or the clearing of trees and moving of soil material for the purpose of building a ~~dwelling unit~~single family home, requires a phosphorus control permit from the Code Enforcement Officer.

Sec. 19-23 Tidewater Master Planned Development District (TWMP)[Adopted, 4/4/05]

Sec. 19-23.1 Allowed Uses

The use of land, buildings and structures within the Tidewater Master Planned Development District shall be consistent with the adopted Master Development Plan. The following uses shall be specifically allowed in accordance with the Master Development Plan:

Table 19-23.1 Tidewater Master Planned Development District	
Permitted Structures and Uses	Conditional Uses
1. Accessory structures & uses [Amended 7/25/22] 2. Single family detached dwellings 3. Two-family dwellings 4. Multi-family dwellings 5. Apartments on the upper floors of a mixed-use building 6. Business and professional offices 7. Research facilities 8. Wholly enclosed places of assembly, amusement, recreation, and government 9. Outdoor facilities for recreation, entertainment and culture 10. Retail and service establishments and commercial schools [Adopted 5/27/08] 11. Restaurants [Amended 1/10/2022]	1. Essential services 2. Light manufacturing operations with no exterior storage of material, equipment or products 3. Home occupations 4. Roadside Stands [Adopted 02/27/12]

12. <i>[Repealed 1/10/2022]</i> 13. Hotels 14. Municipal buildings and uses 15. Day care centers 16. Place of Worship 17. Health Institutions 18. Libraries 19. Museums 20. Private clubs 21. Farming 22. Animal Husbandry 23. Forestry 24. Riding Stables 25. Accessory farm use [Adopted 7/10/17] 26. Grocery Retail [Adopted 11/26/12] 27. <u>Accessory Dwelling Units</u> 28. <u>Affordable Housing Developments¹</u>	
--	--

¹ The Tidewater Master Plan and the Tidewater Village Design Guidelines shall be amended to reflect the addition of Affordable Housing Developments as a permitted use only in those areas where multi-family dwellings are allowed. (TV2, TV3, and Town-owned parcel R02-009)

Sec. 19-23.3 Additional Standards and Requirements

A. Off Street Parking and Loading

Parking shall be provided for uses within the District in conformance with the provisions of Section 19-38 except as follows:

1. on street parking in conformance with the approved Master Development Plan may be counted toward the parking requirement for non-residential uses
- ~~2. parking does not have to be located on the same lot as the use it serves provided that such parking is located within five hundred (500) feet of the use~~
- ~~3.~~ 2. parking may be located in the area adjacent to the property or lot line in conformance with the adopted Master Development Plan provided such parking is appropriately screened
- ~~4. the required number of parking spaces for all dwelling units shall be two (2) spaces per unit~~

Sec. 19-30 Access Requirements for Lots [Amended 12/22/05]

~~a. Only one single family detached dwelling shall be permitted on a lot.~~

No dwelling shall be erected except on a lot that fronts on a street as defined, and the minimum street frontage, measured along the lot line at the street, shall be at least equal to the minimum lot width, except:

1. As provided in Sections 19-82 and 19-83 for “grandfathered lots.”

2. As provided in Section 19-18.6 and 19-18.7. for country estates lots served by private drives.

Sec. 19-38 Off-Street Parking [Amended 5/24/04; 5/13/13; 8/26/13; 07/11/16]

- a. To match actual demand for parking with supply the permitting authority shall determine the number of off-street parking spaces required. The number and proximity of on-street parking spaces shall be considered when determining the number of spaces required. The table below provides the minimum number of parking spaces required for the uses listed. Parking for uses not listed shall be determined by the permitting authority except that the permitting authority may not impose any parking requirements for accessory dwelling units and may not require more than two parking spaces for every three units in an Affordable Housing Development.

Staff may waive parking requirements for improvements approved under Minor Site Plan Review if it is satisfactorily demonstrated to the staff by the applicant that there is adequate parking provided for the property without the addition of spaces as required in this section. For purposes of this section the term independently accessible shall mean that each parking space shall be accessible for use without need for the removal of any other vehicle from any other approved parking space on the site.

(1)	Dwelling	
	a. Single Family, Two family	2 spaces per unit, spaces for each unit in a two family must be independently accessible
	b. Multi family	1 space per unit
	c. ~~Accessory Dwelling Unit~~	~~1 space per unit, must be independently accessible~~
	d. Units in VC1 and VC2 <u>that are not part of an Affordable Housing Development</u>	1 space per unit
(2)	Motel, bed and breakfast, hotel	1 space per sleeping room
(3)	School	5 spaces per room used for purpose of instruction.
(4)	Health Institution (bed facilities only)	1 space for every 3 beds and 1 for each employee based on the highest expected average employee occupancy.
(5)	Place of worship, enclosed place of assembly	1 space for every 5 seats of assemblage
(6)	Retail and service establishment	1 space for every 500 square feet of gross floor area or permanent outdoor retail display area.
(7)	Restaurant, indoor seating only	1 space for every 3 seats
(8)	Business and professional office	1 space for every 500 square feet of gross leasable area, exclusive of common and bulk storage areas.
(9)	Warehousing, wholesaling, manufacturing	1 space for every 1,000 square feet of gross leasable area
(10)	Day Care Home	2 per dwelling unit plus 2 additional spaces.
(11)	Day Care Center	1 per full-time employee plus 1 space for every four persons attending the day care center at any one time.
(12)	Congregate Housing Facility	1 space per dwelling unit

(13)	Elderly Boarding Home	2 per dwelling unit plus 1 space per non-owner elderly resident.
(14)	Ballet Arts Facility	1 space for every 200 sq. ft. of office area and 1 space for every 500 sq. ft. of instruction/performance space. [Added 5/24/04]

Sec. 19-55 Accessory Dwelling Units

Sec. 19-55.1 General [Amended 07/11/16]

The purpose of Accessory Dwelling Units, which include Accessory Apartments and Accessory Cottages, is to provide a diversity of housing for town residents while protecting the single family character of residential neighborhoods. The following provisions apply:

- a. Only one Accessory Dwelling Unit shall be permitted per single family dwelling. The accessory dwelling unit and the single-family dwelling to which it is accessory must be held in the same ownership.
- b. An Accessory Dwelling Unit shall have a minimum gross floor area of 190 square feet. An Accessory Dwelling Unit shall not exceed 100% of the gross floor area of the single family dwelling to which it is accessory, not including garages, porches, decks or unfinished areas, or 850 square feet of gross floor area, whichever is less.
- c. The single family dwelling unit in which an Accessory Apartment is located shall have only one main entrance and all other entrances shall appear subordinate to the main entrance. An entrance leading to a foyer with entrances leading from the foyer to the two dwelling units is permitted.
- d. Accessory Dwelling Units are exempt from the density and net residential area requirements of Sec.19-64 and are exempt from all requirements related to lot area in Div.II-19-1-3.

Sec. 19-69 Rate of Residential Growth [Adopted 7/24/00] [Amended 5/24/04; 12/19/06; 5/13/13; 07/11/2016; 08/23/2021]

e. Maximum rate of residential growth:

1. Town Wide Growth Cap. The maximum number of development permits issued in any calendar year shall be limited in the manner prescribed below.
 - a) No more than 65 development permits total for new single family detached dwelling units, two-family dwelling units or manufactured housing dwelling units combined.
 - b) No more than 24 development permits for new multi-family dwelling units.
 - ~~c) No more than 20 development permits for new accessory dwelling units.~~
2. Growth Cap applicable to Farm and Forest (FF) and Highland Lake (HL) Districts only. The maximum number of development permits issued in any calendar year shall be limited ~~in the manner prescribed below. a)~~ to No more than 26 development permits total for new single family detached dwelling units, two-family dwelling units or manufactured housing dwelling units combined.
 - ~~b) No more than 8 development permits for new accessory dwelling units.~~

~~i. Maximum rate of residential growth and issuance procedure for development permits in calendar years 2021 and 2022. [Adopted 08/23/2021]~~

- ~~1. Notwithstanding Section 19-69.e.1.a above, up to 10 additional development permits beyond the 65 referenced therein may be issued in calendar year 2021 provided that:
 - ~~a. Any additional development permit issued under this subsection in excess of 65 shall be subtracted from the maximum allowed number of development permits that may be issued pursuant to Section 19-69.e.1.a in calendar year 2022;~~
 - ~~b. Any additional development permit issued under this subsection shall be for new single family detached dwelling units, or two family dwelling units; and~~
 - ~~c. No more than 3 additional development permits under this subsection shall be issued for dwelling units located in a subdivision, as defined in Section 7-2 of this Code.~~~~
- ~~2. Applications for development permits received by the Town on or after January 1, 2021 and prior to May 25, 2021 for which no development permit has yet been issued shall be deemed to have been filed with the Town on August 23, 2021. Applications for development permits received by the Town on or after May 25, 2021 and prior to August 24, 2021 for which no development permit has yet been issued shall be deemed to have been filed with the Town on August 24, 2021.~~

Sec. 19-73 Diverse Housing in Mixed Use Developments [Adopted 5/24/04][Repealed 5/13/13] Affordable Housing Developments

Prior to the Town granting final approval of an affordable housing development, the Town shall ensure that any such approval is conditioned upon the owner of the affordable housing development being required to execute a restrictive covenant, recorded in the registry of deeds, for the benefit of and enforceable by a party acceptable to the Town, to ensure that for at least 30 years after completion of construction:

A. For rental housing, occupancy of all of the units designated affordable in the development will remain limited to households at or below 80% of the local area median income at the time of initial occupancy; and

B. For owned housing, occupancy of all of the units designated affordable in the development will remain limited to households at or below 120% of the local area median income at the time of initial occupancy.

Sec. 19-75 Private Access Drives For Country Estates Lots [Adopted 12/22/05]

The Planning Board may approve the use of a private access drive to provide access to Country Estate lots in the Resource Conservation Zoning Overlay District in accordance with the following provisions:

- a. A private access drive may be used to provide access to not more than three (3) Country Estate lots, and not more than three (3) dwelling units, in the Resource Conservation Zoning Overlay District.
- b. The private access drive shall be located in a deeded right-of-way or easement with a width of not less than twenty-five (25) feet. The right-of-way or easement may be part of one or more of the lots but the area within the right-of-way or easement shall not be counted toward meeting the minimum lot area or minimum net residential area requirement for the lot(s).
- c. The private access drive shall meet the design and construction requirements for private ways set forth in Section 19-60, except that private access drives serving Country Estate lots shall not be subject to the dead end length limitations and no sewer easement will be required by the Town. The width of the right of way shall be as indicated in subsection b. above.

Sec. 19-77 Alterations.

Except as provided in this subsection, a nonconforming structure or use shall not be extended or enlarged in any manner except as may be permitted as a variance. The following requirements shall apply to expansion or enlargement of structures which are nonconforming solely due to lot size, lot width, lot frontage, lot coverage, height, or setback requirements. Any lot located in RA that is not located in the WVOD and is at least 5,000 square feet in area shall be considered conforming with regard to lot size for the purposes of this section.[Amended 1/24/00; 7/11/2016]

- a. Except for lots located in the Water View Overlay District the extension, enlargement, or construction of a single family detached dwelling, two-family dwelling, or residential detached accessory structure which is nonconforming solely due to lot size, lot width, lot frontage, lot coverage, height, or setback requirements, is permitted provided the extension, enlargement, or construction is not located between the lot lines and the required setback lines and does not compound nor create a lot coverage or height violation. [Amended 10/25/04; 7/24/06; 5/30/12; 7/22/13]
- b. The Board of Zoning Appeals may permit: the extension or enlargement of a single family detached dwelling; two-family dwelling; ~~the extension or enlargement of a~~ residential accessory structure located ten (10) feet or greater from a property line; or the development of a residential accessory structure as a conditional use in accordance with Section 19-119 and 19-123 where a lot size, lot width, lot frontage, lot coverage, height or setback nonconformity exists provided the following criteria are met [Amended 10/25/04; 7/22/13]:
 1. Shall not increase lot coverage above 50%; and,
 2. If the existing structure is nonconforming in relation to setbacks, the new structure shall not extend closer to the lot lines than the existing structure; and shall not create or compound a violation of the height restrictions in Section 19-53. [Amended 7/24/06; 7/22/13], and
 3. No part of the extension or enlargement of the structure may be closer than ten (10) feet from any lot line [Amended 7/22/13].
- c. The Board of Zoning Appeals may permit as a conditional use in accordance with Section 19-119 and 19-123, the extension or enlargement of a ~~two-family dwelling or a~~ multi-family dwelling subject to the following requirement: No part of the extension or enlargement of ~~a two-family dwelling or~~ a multi-family dwelling may be closer than twenty (20) feet from all property lines and thirty (30) feet from dwellings on any adjoining lot. [Amended 10/25/04; 7/25/22]

Sec. 19-166 Certificates of Occupancy

After a building, structure, or part thereof has been erected, altered, enlarged, or moved, pursuant to a building permit, a certificate of occupancy shall be obtained from the Building Inspector for the proposed use before the same may be occupied or used. A certificate of occupancy also is required for the following:

- a. Any increase in the number of dwelling units in a building.
- b. Establishment of any home occupation.
- c. Change in the use of a nonconforming structure or lot.

d. Occupancy and use, or change of use, of vacant land, except for the raising of crops.

Prior to issuance of a certificate of occupancy for any dwelling unit, the Town must receive written verification that the structure is connected to adequate water and wastewater services. Written verification under this subsection must include the following:

A. If the dwelling unit is connected to the public sewer system, proof of adequate service to support any additional flow created by the structure and proof of payment for the connection to the sewer system;

B. If the dwelling unit is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector under section 4221. Plans for subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with subsurface wastewater disposal rules adopted under Title 22, section 42;

C. If a dwelling unit is connected to a public, special district or other centrally managed water system, proof of adequate service to support any additional flow created by the structure, proof of payment for the connection and the volume and supply of water required for the structure; and

D. If a dwelling unit is connected to a well, proof of access to potable water. Any tests of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

Attest: _____

**Ellen Planer
Town Clerk**