



PART II CODE OF ORDINANCES

CH. II-19 ZONING AND FLOODPLAIN MANAGEMENT

FOOTNOTE(S):

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Editor's note— The zoning, flood prevention and protection and site plan regulations of the town are not printed in this Code, but are on file in the town clerk's office.

Editor's note— At the city's instruction, Ord. of Sept. 24, 2007, Arts. I—XV, set out provisions intended for inclusion with Ch. II-19. For purposes of clarity, and at the editor's discretion, these provisions have been included as Art. II-19-2.

Cross reference— Boundaries of the town, § 2-2; provisions for notices for nuisances, signs, dangerous, unsafe, dilapidated buildings, and any other action the expense of which may be collected from the property owner, § 2-3; board of appeals, § 2-60 et seq.; parks and community programs advisory committee, § 2-85 et seq.; planning board, § 2-95 et seq.; waterfront and harbor committee, § 2-115 et seq.; division of planning, § 2-246; division of code administration functions, § 2-248; animals, Ch. II-3; buildings and building regulations, Ch. II-4; condominium conversion regulations, § 4-100 et seq.; land subdivision, Ch. II-7; licenses, permits and business regulations, Ch. II-8; marine activities, structures and ways, Ch. II-9; junked and abandoned motor vehicles prohibited on public and private property, § 12-3; solid waste regulations, Ch. II-13; swimming pools, Ch. II-15; traffic and motor vehicles, Ch. II-17; utilities, Ch. II-18; certain discharges into the public sewer system prohibited, § 18-190 et seq.

ART. II-19-1. IN GENERAL

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

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

[Adopted 11/23/98, Amended 10/13/09, 05/30/12, 05/23/16]

The Retirement Community Overlay District is intended to provide flexibility and creativity in the design and development of retirement communities that provide 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.

Sec. 19-21.1 Initial Designation of Overlay Districts [Repealed 05/30/12]

Effective on: 12/9/2013

Sec. 19-21.2 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.

Effective on: 12/9/2013

Sec. 19-21.3 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 housing types and, if any, range of care and service options to be offered and a discussion of how these are consistent with the definition of a retirement community. [Amended 05/23/16]
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.

Effective on: 5/23/2016

Sec. 19-21.4 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.

Effective on: 12/9/2013

Sec. 19-21.5 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:

1. congregate housing,
 2. independent housing with residential support services,
 3. assisted living facility,
 4. nursing facility or skilled nursing facility,
 5. adult day care,
 6. senior center,
 7. health institution or;
 8. 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
- c. Housing for older persons

Effective on: 5/23/2016

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:

- 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 5,000 square feet in RA and 6,000 square feet of net residential area in RB and VMU within the overall area of the retirement community. [Amended 7/11/16]
- 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 50 feet in RA and 100 feet in RB and VMU. [Amended 7/11/16]
- 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 19-53.

- 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:

Building Height	Minimum Setback
Not more than two (2) stories or thirty (30) feet	Fifty (50) 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 19-30.a, more than one single family dwelling may be permitted on a lot.

Effective on: 7/11/2016

Sec. 19-21.7 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.

Effective on: 12/9/2013

Sec. 19-21.8 Design Elements (RCOD-OVRC-AVRC)

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 19-46, the Planning Board may approve off-premise signs provided a master sign plan for 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. All signs shall comply with 23 M.R.S.A. Chapter 21, Maine Traveler Information Services.[Amended 5/30/12;7/24/17]

Effective on: 7/24/2017

Sec. 19-21.9 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 November 9, 2015. The requirements of the RCOD shall apply to the OVRC except as specifically modified in this sub section.

a. Building Height and External Setbacks

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

Notwithstanding the table above, buildings shall maintain a minimum setback of twenty (20) feet from the Elementary School Redevelopment District (ESRD) boundary.

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

Effective on: 5/23/2016

Sec. 19-21.10 Avesta Retirement Community (AVRC) [Adopted 05/23/16]

The Avesta Retirement Community is designated as a Retirement Community Overlay District as depicted on the Official Zoning Map and the Approved AVRC Conceptual Master Plan dated May 23, 2016. The requirements of the RCOD shall apply to the AVRC except as specifically modified in this subsection.

- A. **Affordability.** All dwelling units shall be affordable housing as defined in this ordinance.
- B. **Age restriction.** All dwelling units shall be housing for older persons as defined in this ordinance.
- C. **Exemptions from standards.** The AVRC shall be exempt from Sec. 19-21.3.b.4., relative to the provision of a continuum of care and range of care and 6., relative to maximum number of residents required.
- D. **Minimum site size.** Four (4) acres.
- E. **Minimum net residential area per elderly dwelling unit.** The AVRC is exempt from this provision.
- F. **Maximum number of dwelling units.** The maximum number of dwelling units shall not exceed thirty-nine (39.)

G. Building Height and External Setbacks

Building Height & External Setbacks	Minimum Setback to External Lot Lines
Not more than two (2) stories or thirty-five (35) feet	Thirty (30) feet

H. Internal setbacks. There shall be no required setback from internal rights of way, within the District.

I. 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 no more than twenty thousand (20,000) square feet. The maximum size of any building shall be a total floor area of twenty thousand (20,000) square feet.

J. Parking requirement. Notwithstanding any contrary provision of Section 19-38, thirty-nine (39) parking spaces shall be provided on-site.

K. Minimum lot street frontage. Fifty (50) feet.

Effective on: 5/23/2016