

**ARTICLE 10:** To see if the Town will vote to amend Chapter 240 – Zoning – of the Code of Falmouth by 1) deleting the Standards language from the Accessory Apartments use found in the Agricultural Districts Use Table (Section 240-6.1B) and the Residence District Use Table (Section 240-6.6B), 2) adding the following new section to Article 9 Special Regulations, and 3) renumbering the sections within Article 9 accordingly:

This was deleted by a vote in Article 9 November 13, 2023 1) deleting the Standards language from the Accessory Apartments use found in the Agricultural Districts Use Table (Section 240-6.1B) and the Residence District Use Table (Section 240-6.6B)

2) adding the following new section to Article 9 Special Regulations,

3) renumbering the sections within Article 9 accordingly:

## **240 – 9.1 Accessory Apartments**

### 240 – 9.1A Purpose

- (1) **PURPOSE** – The purpose of the accessory apartment section is to: broaden the range of housing choice in Falmouth by increasing the number of small dwelling units available for rent; encourage greater diversity of population with particular attention to young adult citizens and to allow for "Aging in Place" for our senior citizens; and promote more economic and energy efficient use of the town's housing supply. All this while maintaining the appearance and character of the town's single-family neighborhoods.

### 240 – 9.1B Definition

**ACCESSORY APARTMENT** – Notwithstanding Sections 240-11.2A(2), and 240-11.5B(2), this is an additional dwelling unit, subordinate in size and accessory to the principal dwelling unit on the lot, located in either the principal dwelling or an accessory structure on the lot. An accessory apartment shall be constructed so as to maintain the appearance and essential character of a single-family dwelling or accessory structure thereto located on the lot.

### 240 – 9.1C Requirements

- (1) Only one accessory apartment shall be allowed per lot.
- (2) The lot size shall be no less than 7,500 square feet (7,000 square feet minimum in sewer service areas).
- (3) Either the principal dwelling or accessory apartment must be owner-occupied for a period of 7 months in every calendar year, or owned by a nonprofit organization or government authority whose purpose is to provide affordable housing.
- (4) Either the principal dwelling or accessory apartment may be rented, but not both. The owner-occupied dwelling cannot be rented while owner is absent. Rental periods shall be not less than 6 months and weekly/monthly rentals (so called "summer rentals") are expressly prohibited. Neither the principal dwelling nor accessory apartment shall be used as commercial accommodations at any time.
- (5) The accessory apartment shall have no more than 2 bedrooms and a maximum of 800 square feet of floor area, or 40 percent of the floor area of the principal dwelling, whichever is less as measured using the exterior side of the first floor outside wall, plus the following: finished attic space, 50% of the first floor; finished ½ story, 75% of the first floor; ¾ story (gambrel), 90% of the first floor; 2nd floor colonial, 100% of the first floor; 3rd story colonial, 100% of the first floor.

- (6) The footprint of a new detached accessory dwelling unit cannot exceed that of the principal dwelling.
- (7) An existing dwelling in excess of 4 bedrooms may convert 2 of the existing bedrooms into one accessory unit.
- (8) The total number of bedrooms on the lot shall not exceed 4 where the lot contains less than 20,000 square feet. A property that has a preexisting bedroom count that exceeds 4 bedrooms per 20,000 square feet of lot area can maintain that number of current bedrooms but cannot increase that number.
- (9) Whether allowed as of right or by special permit, accessory apartments located on lots subject to the provisions of the Water Resource Protection Overlay District or the Coastal Pond Overlay District, the total number of bedrooms shall not exceed one bedroom per 10,000 square feet of lot area. Properties that preexist with a density greater than one bedroom per 10,000 square feet in a Coastal Pond Overlay District can maintain their existing bedroom count but cannot increase that count.
- (10) Owners of properties in a Coastal Pond Overlay District that want to increase the number of bedrooms beyond the density outlined in § 240-9.1C(9) can only do so provided that:
  - a. Both the principal dwelling and accessory apartment are connected to the municipal sewer system, and only to the extent allowed within the applicable sewer district bylaw or regulation; or
  - b. An on-site septic system with enhanced nitrogen removal approved by the Board of Health is installed on the property.

#### 240 – 9.1D Design Standards

- (1) DESIGN STANDARDS – Accessory apartments, whether a part of new construction, reconstruction, alteration, change to a single-family residence, or within an attached or detached accessory structure, shall maintain the following standards:
  - a. The architectural effect, as the result of the accessory apartment being constructed within the principal dwelling, shall be that of a single-family residence consistent in its exterior character.
  - b. The architectural effect, as the result of the accessory apartment being constructed as a detached accessory structure shall be incidental to a single-family structure and in the same character and period of architecture as the primary resident.
  - c. Parking for the accessory apartment shall be provided on site.

#### 240 – 9.1E Procedures

- (1) An accessory apartment constructed within an existing single-family dwelling or an existing accessory structure attached thereto: Prior to the issuance of a building permit, Site Plan Review (Design Review), pursuant to § 240-12.2, shall be conducted by the Planning Board, taking into account the design standards, requirements and purposes of this accessory apartment bylaw. The application for Site Plan Review shall include the information contained in § 240-12.2D, unless waived by the Planning Board.
- (2) An accessory apartment constructed within an existing detached accessory structure or within a new detached accessory structure (not attached to a single-family dwelling): In addition to the site plan review requirements above, a special permit from the Zoning Board of Appeals shall also be required. In addition to the design standards, requirements, and purposes of this accessory apartment bylaw, the Zoning Board of Appeals shall take into account the standards found in § 240-12.1E(1), a. through i. of this Zoning Bylaw.

#### 240 – 9.1F Monitoring

- (1) An affidavit shall be submitted annually to the Building Commissioner, signed by the property owner, attesting that the principal dwelling or accessory apartment has been owner-occupied for a period no less than 7 months and not otherwise rented as set forth in § 240-9.1C(3). The Building Commissioner may allow a property owner to be absent during this 7-month period for cause, such as military assignment, work related issues, health issues, academic sabbatical, or a similar circumstance.

#### 240 – 9.1G Enforcement

- (1) Upon a written determination and notice by the Building Commissioner that the property owner has failed to comply with these provisions, the owner shall bring the accessory apartment into compliance within 90 days of such notice. Failing compliance, the property shall be restored to single-family dwelling status within 90 days of the failure determination, in a manner that complies with all State Building Code requirements and other local regulations or bylaws.

- § 240-9.2 Adult uses
  - § 240-9.2A Intent and purpose
  - § 240-9.2B Special permit requirements
- § 240-9.3 Affordable housing development
  - § 240-9.3A Purpose and authority
  - § 240-9.3B Standards
  - § 240-9.3C Application requirements
  - § 240-9.3D Project approval requirements
- § 240-9.4A Location of Automotive services
- § 240-9.4B Unregistered motor vehicles
- § 240-9.5 Commercial accommodations
  - § 240-9.5A Cooking and housekeeping facilities
  - § 240-9.5B Dining facilities
  - § 240-9.5C Garage
  - § 240-9.5D Extended development plan request
  - § 240-9.5E Time-share conversion of existing commercial accommodations
  - § 240-9.5F Time-share construction or conversion of new commercial accommodations
- § 240-9.6 Home occupation
  - § 240-9.6A Requirements
  - § 240-9.6B Special permit
- § 240-9.7 Marijuana treatment centers
  - § 240-9.7A Marijuana treatment centers
  - § 240-9.7B Definitions
- § 240-9.8 Planned residential development
  - § 240-9.8A Purposes and applicability
  - § 240-9.8B Special permit
  - § 240-9.8C Permitted uses and structures
  - § 240-9.8D Dimensional requirements
  - § 240-9.8E Density and land area required
  - § 240-9.8F Density limitations
  - § 240-9.8G Density bonus
  - § 240-9.8H Open space
  - § 240-9.8I Agricultural and recreational use

- § 240-9.8J Conformance with other bylaw provisions**
- § 240-9.8K Application requirements**
- § 240-9.9 Wind energy systems**
- § 240-9.9A Purpose**
- § 240-9.9B Permitted; prohibited: exceptions**
- § 240-9.9C Definitions**
- § 240-9.9D Special permit application requirements**
- § 240-9.9E Special permit process & review criteria**
- § 240-9.9F Special permit decision**
- § 240-9.9G Maintenance**
- § 240-9.9H Enforcement**
- § 240-9.9I Annual inspections**
- § 240-9.9J Decommissioning or abandonment**