



Town of Amherst, New Hampshire  
**Office of Community Development**  
Building · Code Enforcement · Planning · Zoning · Economic Development

**PROPOSED 2016 ZONING AMENDMENTS**  
(as amended 1/20/2016)

**Amendment 1 – Mobile Homes and Trailers** – To amend Section 3.6 of the Zoning Ordinance to clarify that unoccupied recreational vehicles may be stored in all areas of Town, to allow temporary occupancy of a recreational vehicle by a person for whom a residence is being built on the property, and occupancy of a recreational vehicle on a property for no more than 30 days in any one year for guests of the property owner.

**Amend** Section 3.6 as follows:

Section 3.6 Mobile Homes and Trailers.

- A. The use as a permanent residence of a house trailer or a mobile home is permitted in all zones of the Town which permit residential uses, and within and subject to the criteria of a Planned Residential Development, and subject to ~~SECTION G, WATER POLLUTION CONTROL REGULATION for the TOWN OF AMHERST.~~ Town of Amherst Septic System Ordinance.
- B. ~~Travel Trailers, as determined by the State Tax Commission,~~ Registered recreational vehicles, as defined in RSA 259:84-a, may be stored unoccupied in all zones of the Town.
- C. The temporary use of a registered recreational vehicle by a person for whom a residence is being built on the property may be permitted by the Zoning Administrator. The Zoning Administrator shall grant permission for a period not to exceed three months, excepting that he may renew at his discretion such permission at the expiration of the three-month period.
- D. A property owner or lessee may accommodate one trailer of a nonpaying guest on their property for a period not exceeding 30 days in any one year.

**Amendment 2 – Corrections for Consistency with 2015 Amendments** – Several wording changes and reference sections need to be updated for consistency with Zoning Amendments adopted in 2015. These are non-substantive changes.

**Amend** Section 4.3.A.7 as follows:

7. ~~Affordable-Workforce~~ Housing (see ~~Article VIII, Section 8.5~~ Section 4.14)

**Amend** Section 4.5.B.7 as follows:

7. ~~Affordable-Workforce~~ Housing (see ~~Article VIII, Section 8.5~~ Section 4.14)

**Amend** Section 4.16.E Incentives to delete the reference to Section 4.16 and instead refer to Section 4.14.

**Amendment 3 – Personal Wireless Service Facilities** – In 2013, RSA 12K:10 expressly exempted municipalities from requiring site plan review for co-location of antennas on an existing telecommunications tower. The proposed amendment will make the Zoning Ordinance consistent with State statute.

**Amend** Section 3.16.E as follows:

E. USE REGULATIONS. A Personal Wireless Service Facility shall require a building permit in all cases and ~~may be~~ are permitted as follows:

1. Existing Tower Structures: Subject to the issuance of a building permit ~~that includes review by the Planning Board, which review shall be limited to issues relating to access, bonding, and security for removal, structural integrity, and appropriate camouflage of such siting,~~ carriers may locate a Personal Wireless Service Facility on any guyed tower, lattice tower, mast, or monopole in existence prior to the adoption of this Article, or on any Personal Wireless Service Facility previously approved under the provisions of this Article so long as the co-location complies with the approved site plan. All the Performance Standards from this Article shall be met. ~~This provision shall apply only so long as the height of the mount is not increased, a security barrier already exists, and the area of the security barrier is not increased. Otherwise, site plan review is required.~~
- ~~2.~~ Reconstruction of Existing Tower Structures: An existing guyed tower, lattice tower, monopole, or mast in existence prior to the adoption of this Article may be reconstructed with a maximum twenty (20) foot increase in height so as to maximize co-location so long as the standards of this Article are met and so long as this twenty (20) foot increase in height does not cause a facility previously existing at less than two hundred (200) feet to exceed two hundred (200) feet in height. The mount shall be replaced with a similar mount that does not significantly increase the visual impact on the community. ~~Site Plan review is required.~~
3. Existing Structures: Subject to the provisions of this Section ~~and Minor site plan review under RSA 674:43:III and except as otherwise permitted Under Section 3.16.E.1,~~ a carrier may locate a Personal Wireless Service Facility on an existing structure, building, utility tower or pole, or water tower.
2. Ground Mounted Facility: A new Personal Wireless Service Facility involving construction of a ground mount shall require site plan review and be subject to the provisions of this Section.

**Amendment 4 – Elderly Housing Density** – The 2015 IHO replaced the density bonuses for innovative housing types with one common table of density bonuses. The elderly housing ordinance includes a provision for a density of one (1) dwelling unit per acre, which provides an unintended density bonus. The proposed amendment corrects this.

**Amend** Section 4.20A by deleting the following:

~~2. Net tract density shall be a minimum of one (1) acre for each dwelling unit, and the entire tract of land on which a development is situated shall contain not less than fifteen (15) acres.~~

**Amendment 5 – Board of Adjustment** – Portions of Section 6.3 relative to the Board of Adjustment and its procedures are inconsistent with State statute or out of date.

**Amend** Section 6.3 as follows:

**B. ORGANIZATION.**

1. The Board of Adjustment shall consist of five (5) members. ~~who shall not hold any other elective office under the municipality. (3-12-63)~~
2. The members of the Board of Adjustment shall be elected at the annual Town Meeting. (3-5-74, 3-12-96)
3. Vacancies in the Board, occurring other than through the expiration of a term, shall be filled in accordance with RSA 673:12.
4. Members of the Board of Adjustment shall serve without compensation. (3-12-63)
5. The Board shall have five (5) alternate members to be appointed by the Board of Adjustment in accordance with RSA 673:6 II-a.

**F. Conditions for the Granting of a Variance.**

1. ~~Every variance granted by the Board of Adjustment shall be based upon and accompanied by a specific finding or findings, supported by evidence produced at the hearing that:~~ The Board of Adjustment may grant a variance from the terms of the Zoning Ordinance in accordance with RSA 674:33.

~~a. — There are several circumstances or conditions, fully described in the findings applying to the land or buildings that do not apply generally to land or buildings in the neighborhood. (3-12-63)~~

~~b. — Said circumstances or conditions are such that the strict application of the provisions of the ordinance would deprive the applicant of the reasonable use of the land or building and would result in unnecessary hardship. (3-12-63)~~

~~c. — For reasons set forth in the findings granting of the variance would be of benefit to the public interest, would promote the reasonable use of the land or building and that the variance granted by the Board of Adjustment is the minimum variance that will accomplish this purpose. (3-12-63)~~

**Amendment 6 – Administration** – Formatting errors in the Ordinance over time have the potential for misinterpretation in the administration and application of the Ordinance. The proposed changes to Section 6.1 are organizational only.

**Amend** Section 6.1 as follows:

C. EARTH MATERIAL REMOVAL.

No earth material as defined in Section 3-8 hereof shall be removed unless a permit has been applied for and obtained in a fashion consistent with the provisions of Section 3-8 hereof. (3-14-78)

1. The Board of Selectmen, or the Administrative Official, may require of any applicant for a permit such sketches, drawings, plot plans, or other material as are deemed necessary to make a decision as to compliance with the provisions of this ordinance. They may require plans, details, specifications for new structures to have been prepared, or sealed, by a licensed architect or engineer. (3-12-63, 3-13-84)

2. If an applicant requests a permit to undertake an activity on a lot non-conforming in size and frontage as otherwise required by this ordinance and is making application under Article IV, Section 4-2 of this ordinance, such applicant shall file as part of his application, the date of the recording and the Registry of Deeds reference number of the recording of the non-conforming lot. (3-12-63)

~~3. The Administrative Official shall be a salaried employee of the Town and shall be paid a salary as determined by the Selectmen and approved by the Town as part of the annual budget. (3-6-73)~~

4. All permits issued under the provision of this ordinance shall expire and become invalid two years from the date of issuance of the permit. (3-14-78)

D. ADMINISTRATION

~~1. The Administrative Official shall be a salaried employee of the Town and shall be paid a salary as determined by the Selectmen and approved by the Town as part of the annual budget.~~

~~2. Effective this date, all non-residential site plans approved by the Planning Board shall expire four (4) years from the date of Planning Board approval. This expiration date shall not apply to plats that are exempt or vested because of the operation of RSA 674:39. (3-14-89, 3-9-10)~~

~~3. Upon receipt of the application for a permit with sufficient information to clearly establish the nature and extent of the proposed activity, the Administrative Official shall determine whether the proposed activity or use constitutes a permitted use within the provisions of this ordinance or whether a special exception or a variance is required. (3-14-78)~~

**Amendment 7 – Recreational Use** – Currently, non-commercial recreational uses are permitted as an accessory use in the Town and may not be a primary use of the lot. There are inconsistent definitions and standards for recreational uses throughout the ordinance. The proposed amendment would allow non-commercial recreational uses in all zones in town. Commercial recreation establishments are currently permitted in the Industrial Zone and permitted by special exception in the Commercial Zone and this would remain unchanged.

**Amend** Section 4.3.A.8, Section 4.4.B.7, Section 4.5.B.8, Section 4.6.B.4, Section 4.7.A.7, Section 4.8.A.10, and Section 4.9.A.17 to remove the existing non-commercial recreational uses language and add the following as an allowed use in all zones:

Non-commercial recreational uses, subject to obtaining Planning Board site plan approval and determination by the Planning Board of the following:

1. Such use shall be compatible with existing neighborhood uses,
2. Such use complies with the spirit, intent and letter of Section 3.1, Nuisance Provision,
3. Adequate sanitary facilities are provided for the intended use,
4. Uses involving motor driven objects producing sixty (60) or more decibels or sound at a range of ten feet as part of the recreational use are prohibited; and
5. Night lighting may be allowed by the Planning Board when more than 500 feet from any abutting lot line, but not between 9:00pm and 7:30am.

**Amend** Section 4.7.B.1, Commercial Zone uses permitted by Special Exception as follows:

1. ~~Outside~~ Commercial recreation establishments exclusive of outdoor theaters.

**Amend** Section 4.9.A.14, Industrial Zone permitted uses as follows:

14. ~~Interior~~ Commercial recreation establishments.

**Insert** the following definitions in Section 9.1:

Non-commercial recreational uses – A non-commercial, registered not-for-profit facility designed to serve the recreation needs of the community, designed primarily as an outdoor, open space and for passive or active use, including some ancillary constructed or installed facilities, such as playground equipment, modern restrooms or picnic shelters. No charge for the purpose of obtaining a profit is made for the use of the area or any accessory structures thereon.

Commercial Recreation Establishments - Any establishment whose main purpose is to provide the general public with a sport or recreational activity and where tickets are sold or fees are collected for the activity, including without limitation, skating rinks, miniature golf, driving ranges, arcades, bowling alleys, billiard halls, go-cart tracks, exercise and health clubs, tennis clubs, indoor shooting range, rural recreation facilities and similar uses.

**Amendment 8 – Temporary Signs** – A recent Supreme Court ruling has had implications for the way that municipalities regulate signs. Any sign ordinance that could be considered content-based is unconstitutional. In order to treat all businesses and organizations consistently, and to address concerns directed to the Community Development Office by the business community, a revision to the Town’s temporary signage ordinance is proposed.

**Amend** Section 3.4.D by deleting Sections 3.4.D.1 and 3.4.D.2 and inserting the following:

D. SIGN STANDARDS.

1. Temporary Signs for Activities or Events. Temporary signs for special events must receive a temporary sign permit from the Community Development Office. No more than four special event sign permits shall be issued to any business, non-profit organization or individual in any calendar year, except within its first year of operation where no more than six shall be issued. Special event signs shall not exceed sixteen (16) square feet in the Business Sign District nor eight (8) square feet in the General Sign District. No more than two (2) signs may be permitted for any special event. Such signs may be displayed for a maximum of twenty-one (21) days and must be removed at the end of the event. Temporary signs for special events shall not be attached to trees, rocks, other parts of a natural landscape, utility poles or fences, nor be placed in a position that will obstruct or impair traffic or in any manner create a hazard or disturbance to the health, safety and welfare of the general public. In addition, up to ten (10) off premises directional signs, not to exceed two (2) square feet may be permitted.

**Amendment 9 – Accessory Apartment** – Currently, accessory apartments are allowed by special exception in the Rural Residential, Northern Rural, Northern Transitional, Commercial and Limited Commercial Zones. The proposed amendment would make accessory apartments a permitted use subject to specific criteria.

**Amend** Section 4.3 Rural Residential Zone by **inserting** the following:

4.3.A Permitted Uses

10. Accessory apartment.

and by **deleting** the following:

4.3.B Uses Permitted By Special Exception

~~4. Accessory Apartment. A second dwelling unit incorporated within an existing or proposed single family home which is structurally integrated with direct access between it and the main living unit. The total area of the accessory apartment shall not exceed 800 square feet and shall consist of only one bedroom. Any changes to the total number of bedrooms per lot will require a new state-approved septic plan to be placed on file with the Zoning Office prior to the issuance of a conversion/building permit.~~

**Amend** Section 4.4 Northern Transitional Zone by **inserting** the following:

4.4.B Permitted Uses

10. Accessory apartment.

and by **deleting** the following:

4.4.E Uses Permitted By Special Exception

~~7. Accessory Apartment. A second dwelling unit incorporated within an existing or proposed single family home which is structurally integrated with direct access between it and the main living unit. The total area of the accessory apartment shall not exceed 800 square feet and shall consist of only one bedroom. Any changes to the total number of bedrooms per lot will require a new state-approved septic plan to be placed on file with the Zoning Office prior to the issuance of a conversion/building permit.~~

**Amend** Section 4.5 Northern Rural Zone by **inserting** the following:

4.5.B Permitted Uses

9. Accessory apartment.

and by **deleting** the following:

4.5.C Uses Permitted By Special Exception

~~7. Accessory Apartment. A second dwelling unit incorporated within an existing or proposed single family home which is structurally integrated with direct access between it and the main living unit. The total area of the accessory apartment shall not exceed 800 square feet and shall~~

~~consist of only one bedroom. Any changes to the total number of bedrooms per lot will require a new state-approved septic plan to be placed on file with the Zoning Office prior to the issuance of a conversion/building permit.~~

**Amend** Section 4.7 Commercial Zone by **inserting** the following:

4.7.A Permitted Uses

9. Accessory apartment.

and by **deleting** the following:

4.7.B Uses Permitted By Special Exception

~~6. Accessory Apartment. A second dwelling unit incorporated within an existing or proposed single family home which is structurally integrated with direct access between it and the main living unit. The total area of the accessory apartment shall not exceed 800 square feet and shall consist of only one bedroom. Any changes to the total number of bedrooms per lot will require a new state-approved septic plan to be placed on file with the Zoning Office prior to the issuance of a conversion/building permit.~~

**Amend** Section 4.8 Limited Commercial Zone by **inserting** the following:

4.8.A Permitted Uses

12. Accessory apartment.

and by **deleting** the following:

4.8.B Uses Permitted By Special Exception

~~6. Accessory Apartment. A second dwelling unit incorporated within an existing or proposed single family home which is structurally integrated with direct access between it and the main living unit. The total area of the accessory apartment shall not exceed 800 square feet and shall consist of only one bedroom. Any changes to the total number of bedrooms per lot will require a new state-approved septic plan to be placed on file with the Zoning Office prior to the issuance of a conversion/building permit.~~

**Amend** Section 9.1, Definitions by **inserting** the following:

Accessory Apartment – A second dwelling unit incorporated within an existing or proposed single family home which is structurally integrated with direct access between it and the main living unit. The total area of the accessory apartment shall not exceed eight hundred (800) square feet and shall consist of only one bedroom. Any changes to the total number of bedrooms per lot will require a new state-approved septic plan to be placed on file with the Community Development Office prior to the issuance of a building permit.