

2025 AMENDMENTS TO THE AMHERST ZONING ORDINANCE

PROPOSED BY THE AMHERST PLANNING BOARD

FOR BALLOT VOTE AT THE 2025 TOWN MEETING

The amendments to the Amherst Zoning Ordinance proposed by the Amherst Planning Board are outlined below. *Additions* are shown in ***bold italic text*** and the ~~deletions~~ are shown in ~~strikethrough text~~.

THE FOLLOWING WERE REPOSTED FROM THE FIRST PUBLIC HEARING ON JANUARY 8, 2025, AND INCLUDE THE FULL TEXT OF THE ORIGINAL ZONING ORDINANCES FOR AMENDMENTS #1 AND #2.

Proposed Amendments #3 and #4 were moved by the Board to ballot vote in March 2025 and will not be discussed at the Second Public Hearing.

PLANNING BOARD PROPOSED AMENDMENT #1:

1. *Amend Article III, General Zoning Provisions, Section 3.15 Home Occupations, to add a second type of home occupation as a “base of operations” for a business conducted at other locations; clarify storage requirements; clarify the parking requirements for vehicles and equipment; clarify hours of operation and deliveries; require information regarding the septic system, parking areas, and access; clarify renewal requirements; and to amend Article IX, Definitions, Section 9.1 Meaning of Certain Words, to amend the definition of Home Occupation, as follows:*

Section 3.15 Home Occupations. (3-14-95, 3-11-08)

- A. PURPOSE AND AUTHORITY. The ~~P~~***purpose*** of this ordinance is to provide for home-based businesses while protecting the character of the residential neighborhoods in which they operate. The activities associated with home occupations are not to detract from the rural character of the Town nor shall they create traffic, environmental or aesthetic impacts substantially different than the impacts created by other permitted uses in the neighborhood.
- B. DEFINITION. An ***home occupation is an*** occupation or business activity ~~which is~~ ***that is clearly subordinate to the principal residential use and*** conducted by a resident ***(1)*** within his/her own dwelling or in a garage or barn-type outbuilding; ~~and which is clearly subordinate to the principal residential use.~~ ***or (2) from his/her own dwelling or in a garage or barn-type outbuilding as a base of operations, performing the majority of work at other locations but returning to the dwelling routinely, with***

or without vehicles and other equipment.

C. REQUIREMENTS FOR ALL HOME OCCUPATIONS.

1. The home occupation shall occupy no more than twenty percent (20%) of the existing, gross heated floor area of the primary residence or, if the home occupation is conducted in an outbuilding, shall not occupy an area greater than fifty percent (50%) of the existing, gross heated floor area of the primary residence. Up to a maximum of one thousand (1,000) square feet of covered area may be dedicated to the home occupation.
2. No emissions of dust, fumes, smoke, noise (greater than sixty-five [65] decibels), vibration, light, or water attributable to the home occupation shall be allowed across the property line.
3. No outdoor display advertising or ***outdoor*** storage of any products, or materials ***or equipment*** associated with the home occupation shall be allowed except as provided below. ***Indoor storage of allowable products, materials or equipment must occur within the area restrictions identified above.***
4. No more than two (2) trips per day by commercial delivery vehicles (on average) shall be allowed.
5. ***Vehicles and towed or self-propelled equipment related to the home occupation may not be stored or garaged at the residence lot except as provided below.***

D. CLASSES OF HOME OCCUPATION.

1. Class A Home Occupation. A Class A Home Occupation has no impact on the neighborhood.
 - a. The business is not visible to the surrounding properties or the street.
 - b. Activity is carried out entirely within the residence or accessory buildings, there is no sign other than a rural delivery mailbox.
 - c. No vehicle other than the residents' personal vehicles, which are not lettered or painted to advertise the business.
 - d. The business has no employees other than the residents of the dwelling.
 - e. No clients or customers come to the house to transact business, and any deliveries are made by standard delivery truck (no large freight vehicles are involved in the day-to-day operation).
 - f. Operators of Class A Home Occupations may choose to register with the Town, using the Home Occupation Registration form. A copy of the registration form, signed by the Director of Community Development, will be provided to the operator if requested. (3-8-22)
2. Class B Home Occupation. A Class B Home Occupation ***is conducted within the residence or accessory building(s) and*** has minimal impact

on the surrounding neighborhood.

- a. No structural change or addition to the existing buildings indicates the business use of the property.
 - b. The business has no **more than two** employees (other than the residents of the dwelling).
 - c. One non-illuminated sign not to exceed six square feet per side may be displayed.
 - d. ~~One vehicle displaying text or decoration promoting the business may be allowed.~~ **No more than two vehicles (or vehicle/trailer combinations) used in the business may be routinely parked outside where visible from the street or abutting properties.**
 - e. Up to ~~three~~ **ten** clients or customers per day (on average) may be received **between 8:00 a.m. to 6:00 p.m., Monday thru Saturday.**
 - f. **Deliveries other than those by standard delivery truck must be received between 10:00 a.m. and 2:00 p.m.**
 - g. **The site must accommodate parcel pick-up and delivery with facilities for drop-off storage.**
 - h. ~~f. Hours of outside operation may be 8:00 a.m. to 6:00 p.m., Monday thru Saturday. The operator must provide documentation of the adequacy of the septic system for the proposed use, and a sketch of the property demonstrating adequate areas designated for parking of employees and clients/customers, access and turning of delivery vehicles, and safe pedestrian access for clients/customers to the business where applicable.~~
 - i. ~~g.~~ Operators of Class B Home Occupations must register with the Town, using the Home Occupation Registration form. A copy of the registration form, signed by the Director of Community Development, will be kept on the premises in a readily accessible location. (3-8-22)
3. Class C Home Occupation. A Class C Home Occupation **is conducted from the dwelling or in a garage or barn-type outbuilding as a base of operations, performing the majority of work at other locations, and** has minor impact on the surrounding neighborhood.
- a. No structural change or addition to the existing buildings indicates the business use of the property.
 - b. The business has no ~~more than two~~ employees (other than the residents of the dwelling) **routinely working at the residence location. Employees or subcontractors working away from the residence location shall not use the residence location for parking of vehicles.**
 - c. One non-illuminated sign not to exceed six (6) square feet per side, may be displayed.
 - d. ~~One~~ **No more than two** vehicles (or vehicle/trailer combinations) displaying text or decoration promoting **used in the business may be allowed routinely parked outside where visible from the street or abutting properties.**
 - e. ~~Up to ten clients or customers per day (on average) may be received.~~ **e. Business operations shall not occur outside of the hours of 7:30 a.m. to 6:00 p.m., Monday thru Saturday.**

- ~~f. Hours of outside operation are 8:00 a.m. to 6:00 p.m., Monday thru Friday, 9:00 am to 8:00 pm Saturday.~~
- f. ~~g.~~ Deliveries other than those by standard delivery truck must be received between 10:00 am and 2:00 pm.
- ~~g. The site must accommodate parcel pick-up and delivery with facilities for drop-off storage.~~
- g. ~~i.~~ Operators of Class C Home Occupations must register with the Town, using the Home Occupation Registration form. ***A copy of the registration form, signed by the Director of Community Development, will be kept on the premises in a readily accessible location.***
- ~~h. In addition the operator must provide documentation of the adequacy of the septic system for the proposed use, and a sketch of the property demonstrating adequate areas designated for parking of employees and clients/customers, access and turning of delivery vehicles, and safe pedestrian access for clients/customers to the business where applicable. A copy of the registration form, signed by the Director of Community Development, will be kept on the premises in a readily accessible location. (3-8-22)~~

E. SPECIAL PROVISIONS.

1. Any Bed & Breakfast operated under this section of the ordinance shall be limited to a maximum of five (5) bedrooms for guest use.
2. Scale of operation of any Class B or C Home Occupation may be limited by the capacity of the existing septic system.
3. Adequate off-street parking must be provided for any Class B or C Home Occupation.

F. RENEWAL, ~~OR~~ EXPIRATION, ***OR OUTGROWTH*** OF REGISTRATION.

1. Class B and C Home Occupation registrations and the uses provided for therein, shall automatically terminate five years after the date of issuance but ~~shall~~ ***may*** be renewed by the Town provided that the dwelling owner shall ***apply for renewal***, certify that the use is in compliance with this ordinance, ***and pay any required renewal fee.***
2. Class B ***and C*** Home Occupations that grow to exceed the requirements under Section 3.15.D. 2 ~~shall comply with the requirements of Section 3.15.D.3 within six (6) months.~~
- ~~1. Class C Home Occupations shall not exceed the requirements of Section 3.15.D.3 and may be directed by the Director of Community Development or designated officer to reduce the impact of the operation or move to a non-residential site within sixty (60) days. (3-8-22)~~
3. ***A Home Occupation may be Class B or Class C but not both.***

4. Home Occupation permits are not transferable.

G. PROHIBITED USES.

Home Occupation uses shall not include the following:

1. Any use that generates, stores or uses regulated hazardous substances, receives or ships hazardous materials regulated under Chapter 49 - Code of Federal Regulations, or that generates or disposes of hazardous waste as regulated under Chapter 40 - Code of Federal Regulations. This prohibition includes dry cleaning facilities, metal extraction and salvage operations, ~~most landscaping businesses~~, machine shops, photo-developing operations, and laboratories.
2. Sales or repairs of automobiles, snowmobiles, jet skis or other motorized vehicles.
3. Hair or nail salons, barber, or beauty shops.
4. Medical or dental group practice clinics or veterinary clinics.
5. Clothing cleaners or dyers.
6. Banks.
7. Coffee or sandwich shops or other restaurant facilities.
8. Daycare facilities larger than a maximum of six (6) children. (3-9-10)

H. PERMITTED USES NOT REGULATED AS HOME OCCUPATIONS.

Certain activities conducted in residential zones are regulated by other parts of the Amherst Zoning Ordinance:

1. Farming and Agricultural Uses, including Farming. (Section 3-12)
2. Personal Wireless Service Facilities. (Section 3-16)
3. Equestrian Facilities and Events. (Section 3-17)
4. Non-commercial sports and recreational uses.
5. By Special Exception in certain zones:
 - a. Kennels
 - b. Sawmills
 - c. Religious Uses
 - d. Funeral Homes

- e. Nursing Homes

ARTICLE IX -- DEFINITIONS

Section 9.1 Meaning of Certain Words. (3-8-22)

Home Occupation. An occupation or business activity ~~which is~~ *that is clearly subordinate to the principal residential use and* conducted by a resident **(1)** within his/her own dwelling or in a garage or barn-type outbuilding; *or (2) from his/her own dwelling or in a garage or barn-type outbuilding as a base of operations, performing the majority of work at other locations but returning to the dwelling routinely, with or without vehicles and other equipment.* ~~and which is clearly subordinate to the principal residential use.~~ (3-2-80, 11-2-82, 3-10-92, 3-11-93, 3-8-94, 3-14-95, 3-8-22, 3- -25)

EXPLANATION: This proposal would allow as a home occupation those types of business that are conducted at locations other than the resident's home, for which the home property serves as a base of operations. Examples of the types of business include, but are not limited to, landscapers, carpenters, plumbers, building contractors, electricians, etc.

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- 2. *Amend Article III, General Zoning Provisions, to add Section 3.21 on Residential Driveways; amend Article IV, Zoning Regulations, to clarify Section 4.3 Residential/Rural Zone (RR) and Section 4.5 Northern Rural Zone (NR) regarding the road providing access for the driveway; and, to amend Article IX, Definitions, Section 9.1 Meaning of Certain Words, to amend the definition of Driveway and Private Road and add the definition of Principle Route of Access, as follows:*

ARTICLE III -- GENERAL ZONING PROVISIONS

[New] Section 3.21 Residential Driveways. (3- -25)

Access to a residential lot from the required frontage on a publicly maintained road or, if approved by the Planning Board, a private road, shall be by a driveway and shall comply with the requirements of RSA 674:41. A driveway ordinarily traverses a single lot leading to the residences on that same lot. However, not more than two (2) immediately adjacent residential lots may share a driveway section existing within the required frontage of one or both of the lots, provided:

- A. each lot complies with applicable frontage and other dimensional requirements;*
- B. the Planning Board determines that reduction of curb cuts, avoidance of wetland or wetland buffer impacts, or other good cause exists for permitting shared access;*
- C. the driveway meets all other applicable Town and Planning Board driveway requirements; and*
- D. the Planning Board is provided with documentation satisfactory to Town Counsel establishing easements, conditions of use and maintenance obligations for the common portion of driveway and providing that such driveway shall never become a public road, and such documentation is properly recorded.*

Access and driveway requirements for reduced frontage lots are set forth in section 3.9.

ARTICLE IV -- ZONING REGULATIONS

Section 4.3 Residential/Rural Zone (RR). (3-12-63, 3-11-93, 3-10-15)

A. PERMITTED USES.

1. One-family dwelling and accessory buildings or structures. (3-11-08)
2. Planned Residential Development. (See Art. IV, Sec. 4.17)
3. Farm, Agricultural or Nursery Use.
4. Roadside stand for the sale of farm produce or nursery products. (3-11-93)
5. Home Occupation. (3-11-93)
6. (Deleted 3-8-22)
7. Workforce Housing (See Section 4.14)
8. Non-commercial sports and recreation uses, subject to obtaining Planning Board site approval, which shall provide at minimum for applicable:
 - a. Setbacks,
 - b. Buffers,
 - c. Sanitary facilities,
 - d. Parking,
 - e. Mitigation of traffic impact, and
 - f. Adequate provision of emergency services, and subject to determination by the Planning Board of the following:
 - i. Such use shall not be the primary use of the lot;
 - ii. Such use shall be non-commercial in nature;
 - iii. Deleted (3-6-04);
 - iv. Deleted (3-6-04);
 - v. Such use shall be compatible with existing neighborhood uses;
 - vi. Such use complies with the spirit and letter of Section 3.1, Nuisance Provision; and
 - vii. No permanent buildings shall be permitted as part of such use, except for sheds to the extent necessary for storage of equipment for such use.
 - g. Noise and lighting. Uses involving motor-driven objects producing sixty (60) or more decibels of sound at a range of ten feet as part of the sport or

recreation are prohibited. Night lighting primarily for uses permitted under this section may be allowed by the Planning Board when more than five hundred (500) feet from any abutting lot line, but not between 9:00 p.m. and 7:30 a.m. (3-14-95)

9. Elderly Housing (See Article IV, Section 4.20) (3-10-15)
 10. Accessory Dwelling Unit (3-8-16, 3-12-24)
- B. USES PERMITTED BY SPECIAL EXCEPTION RESIDENTIAL/RURAL. (3-11-93)
1. Religious purposes. (3-1-05)
 2. Nursing Homes. (3-12-63)
 3. (Deleted 3-10-2015)
 4. (Deleted 3-8-2016)
- C. AREA AND FRONTAGE REQUIREMENTS.
1. The minimum lot area shall be two (2) acres. The minimum area shall contain no wetland as defined in Art. IV, Sec. 4.11, no flood plain as defined in Art. IV, Sec. 4.10, and no slopes greater than twenty percent (20 %). (3-5-74, 3-14-89, 3-6-04)
 2. Each new lot shall have a minimum frontage of two hundred (200) feet ***on the principal route of access to the lot*** ~~on a publicly maintained road~~, unless frontage has been approved and recorded as a reduced frontage lot. (3-4-75, 3-10-87, 3-14-23) Corner lots shall have the minimum required frontage on each side of the lot that abuts a street or road. (3-8-22)
- D. YARD REQUIREMENTS.
1. Each dwelling, building, or structure shall be set back at least fifty (50) feet from the front lot line, or at such distance that will be no closer than an existing structure. An addition may not be extended laterally more than a maximum of a fifty percent (50%) increase of the lineal frontage of the existing structure and must conform to any other setback requirements on the lot. (3-12-63, 3-9-82, 3-12-02, 3-11-08)
 2. Except in the Historic District, each dwelling, building, or structure shall be set back at least twenty-five (25) feet from the side and rear property lines. In the case of corner property, this distance shall be increased to fifty (50) feet on that side bordering a street, lane, or public way. (3-12-63, 3-8-05, 3-11-08)
 3. Any accessory buildings or structures shall be set back at least twenty (20) feet from side and rear lot lines and at least fifty (50) feet from the front lot line and not exceed twenty-two (22) feet in height. In the case of corner property, the setback distance

shall be at least fifty (50) feet on each side bordering a street, lane, or public way. (3-8-22) The height requirement may be waived for farm structures. (3-12-63, 3-10-87, 3-8-05, 3-11-08) In the Historic District, a new dwelling, building, or structure shall be either at least twenty (20) feet from the side and rear property lines or no closer than twenty-five (25) feet from the principal dwelling, building, or structure on any abutting lot, whichever is greater. (3-8-05, 3-11-08, 3-12-24)

4. No new principal dwelling, building, or structure shall be constructed to a height greater than forty (40) feet. No structure shall be constructed with more than four (4) floors/levels including basement and attic levels. No new dwelling, building, or structure, or addition to an existing dwelling, building, or structure that increases the total area of the structure, shall have a floor area ratio greater than fifteen percent (15%). The aggregate floor area ratio shall be no greater than fifteen percent (15%). (3-6-04, 3-13-07, 3-11-08, 3-11-14)

E. PROHIBITED USES.

1. Aircraft landing fields. (3-10-98)

Section 4.5 Northern Rural Zone (NR). (3-2-76, 3-10-15)

A. GENERAL. The purpose of establishing the Northern Rural Zone is the following:

1. To recognize, establish, and affirm an area of the Town in which lower density development is of itself, desirable. (3-11-86)
2. To recognize the unique rural, scenic, and natural character of a portion of Town which has remained essentially undeveloped and unchanged during the time that the remainder of the Town has experienced considerable physical development and change. (3-2-76)
3. To identify a portion of Town that contains extensive areas of poor soils, steep slopes, and limited accessibility which limits the type of development which is compatible with these limitations as well as the areas in which development can suitably take place. (3-2-76)
4. To ensure that future development in this area of Town be of a type that is compatible with the area's extensive physical limitations as well as its unique rural, scenic, and natural character. (3-2-76)

B. PERMITTED USES.

1. One (1) family dwelling and accessory buildings or structures. (3-2-76, 3-11-08)
2. Farm, agricultural, or nursery use. (3-2-76)

3. Roadside Stand for the sale of farm produce or nursery products. (3-2-76)
4. Home Occupation. (11-2-82)
5. Planned Residential Development (PRD). In order to achieve the purpose of this section, Planned Residential Development shall be encouraged as the principal method of future development of this zone. (See Art. IV, Sec. 4.17) (11-2-82)
6. (Deleted 3-8-22)
7. Workforce Housing (see Section 4.14)
8. Amateur, non-profit sports and recreation uses subject to obtaining Planning Board site approval which may provide at minimum for setbacks, buffers, sanitary facilities, parking, and traffic impact. Uses involving motorized recreation vehicles are prohibited. Night lighting may be allowed by the Planning Board when more than five hundred (500) feet from any residential use but not after 9:00 p.m. (3-12-91)
9. Accessory Dwelling Unit (3-8-16, 3-12-24)

C. USES PERMITTED BY SPECIAL EXCEPTION NORTHERN RURAL ZONE.

1. Religious purposes. (3-2-76)
2. Private schools. (3-2-76)
3. Hospitals, clinics, nursing homes, and other similar uses. (3-2-76)
4. Professional offices. (3-2-76)
5. Funeral homes. (3-2-76)
6. Sawmills. (3-2-76, 3-9-82)
7. (Deleted 3-8-16)
8. Kennels. (11-2-82)

D. AREA AND FRONTAGE REQUIREMENTS.

1. The lot area shall be five (5) acres. The minimum area shall contain no wetland as defined in Art. IV, Sec. 4.11, no flood plain as defined in Art. IV, Sec. 4.10, and no slopes greater than twenty percent (20%). (3-14-89, 3-6-04)
2. Each new lot shall have minimum frontage of three hundred (300) feet ***on the principal route of access to the lot*** ~~on a publicly maintained road~~, unless frontage has been approved and recorded as a reduced frontage lot. (3-9-82, 3-10-87, 3-14-23) Corner

lots shall have the minimum required frontage on each side of the lot that abuts a street or road. (3-8-22)

E. YARD REQUIREMENTS.

1. Each dwelling, building, or structure shall be set back at least fifty (50) feet from the front lot line, or at such distance that will be no closer than an existing structure. An addition may not be extended laterally more than a maximum of a fifty percent (50%) increase of the lineal frontage of the existing structure and must conform to any other setback requirements on the lot. (3-11-80, 3-9-82, 3-11-08)
2. Each dwelling, building, or structure shall be set back at least forty (40) feet from the side and rear lot lines. In the case of corner property, this distance shall be increased to fifty (50) feet on that side bordering a street, lane, or public way. (3-8-05, 3-11-08)
3. Any accessory building or structure shall be set back at least thirty (30) feet from side and rear lot lines and at least fifty (50) feet from the front lot line and shall not exceed twenty-two (22) feet in height. This height requirement may be waived for farm structures or buildings. (3-11-80, 3-9-82, 3-12-85, 3-10-87, 3-11-08) In the case of corner property, the setback distance shall be at least fifty (50) feet on each side bordering a street, lane, or public way. (3-8-22)
4. No new principal dwelling, building, or structure shall be constructed to a height greater than forty (40) feet. No structure shall be constructed with more than four (4) floors/levels including basement and attic levels. No new dwelling, building, or structure, or addition to an existing dwelling, building, or structure that increases the total area of the dwelling, building, or structure, shall have a floor area ratio greater than fifteen percent (15%). The aggregate floor area ratio shall be no greater than fifteen percent (15%). (3-6-04, 3-11-08, 3-11-14)

F. PROHIBITED USES.

1. Aircraft landing fields. (3-10-98)

ARTICLE IX -- DEFINITIONS

Section 9.1 Meaning of Certain Words. (3-8-22)

Driveway. A private lane ~~from the public road~~ traversing private property, *providing access to a lot from that lot's required frontage on a publicly maintained road or, if approved by the Planning Board, equivalent frontage on a private road.* (3- -25) ~~ordinarily leading to a single-residence. (3-10-87)~~

Private Road. ~~A road constructed to the Town of Amherst Subdivision Standards but that may have a reduced width right-of-way and roadway surface. The Planning Board shall require adequate covenants, restrictions, and agreements including a Home Owners Association to~~

~~ensure that the Town will have no liability or responsibility to maintain said road.~~

Private Road. A ***privately owned*** road or road system layout, on private property, from the public road to the development. Such private property and private road shall be permanently encumbered with deed restrictions, satisfactory to Town Counsel, which shall ***provide for private maintenance and shall*** insure that the private road does not become a Town road. ***A private road shall be constructed to the Town of Amherst Subdivision Standards but that may have a reduced width right-of-way and roadway surface if approved by the Planning Board. (3- -25) (3-10-87)***

[New] **Principal Route of Access.** ***The required route of access to a lot from: (1) the required frontage on publicly maintained road; (2) the required frontage of a reduced frontage lot approved by the Planning Board; or (3) the required frontage on a private road provided that the private road was shown on a plan and approved by the Planning Board. (3- -25)***

EXPLANATION: This proposal would add a general section on residential driveways, clarify the area and frontage requirements regarding the road providing access for the driveway in the Residential/Rural (RR) and Northern Rural (NR) Zones, and modify the definitions of driveway and private road.

GN/

1/9/25