

TOWN OF ROXBURY
NEW HAMPSHIRE

ZONING ORDINANCE

Adopted March 7, 1972
Amended March 4, 1975; March 9, 1982; March 8, 1988;
March 13, 1990; March 1993; March 11, 2008

ARTICLE I

Purpose & Title

A. Purpose: To promote the health, safety, convenience and general welfare of the community; to protect and conserve the value of property; and also that the community may grow in an orderly manner, the following ordinance is hereby enacted by the voters of said Town of Roxbury pursuant to the authority conferred by the Revised Statutes of the State of New Hampshire, Chapter 31, as amended.

B. Title: This ordinance shall be known and may be cited as "The Town of Roxbury Zoning Ordinance of 1972" hereinafter referred to as "this ordinance".

ARTICLE II

Establishment of Districts

A. For the purpose of this ordinance, the Town of Roxbury is divided into two districts as shown on the official zoning map filed with the Town Clerk and dated December 9, 1971, and includes the following:

1. Residential Districts
2. Rural Residential and Agricultural Districts
3. Floodplain District

B. The districts shown on the Zoning Map shall be defined as follows:

1. The Residential District shall be bounded on the:
 - a. North by the railroad trestle

- b. East by the old railroad bed
- c. South by the Town boundary line
- d. West by Otter Brook

2. The Rural Residential and Agricultural District shall include all other areas of Town not mentioned above.

3. The Flood Plain District includes all special flood hazard areas designated as Zone A, A1-30 on the Roxbury Flood Insurance Rate Maps, (FIRM) and the Flood Boundary and Floodway Maps, dated April 1, 1982 on file with the Town Clerk, Planning Board and Selectmen. These maps as well as accompanying Roxbury Flood Insurance Study are incorporated herein by reference.

ARTICLE III

General Provisions Applicable to All Districts

A. No owner or occupant of land in any district shall permit fire ruins or other ruins to be left, but shall remove same to ground level within one year.

B. No privy, cesspool, septic tank, or sewage disposal area shall be constructed less than seventy-five (75) feet from the edge of a public water body or permanent stream, from a well, or from a dwelling other than that to which it is appurtenant.

C. Any uses that may be obnoxious or injurious by reason of the production or emission of odor, dust, smoke refuse matter, fumes, noise, vibrations, or similar conditions, or that are dangerous to the comfort, peace enjoyment, health or safety of the community or leading to its disturbance or annoyance are prohibited in any district.

D. Mobile homes and house trailers may be maintained as a residence by the owner of the lot on which it is parked if the mobile home or house trailer and the lot upon which it is parked conform to the provisions of this ordinance, in all respects, including the land standards for dwelling houses.

E. Mobile home parks or trailer parks are not permitted.

F. Planned unit development shall permit any use permitted in that district. In addition, it shall permit innovative types of housing unit designs and arrangements as permitted under the subdivision regulations.

G. Off-street parking shall be provided for all uses, suitable to accommodate the typical needs of such a use, at the rate of two-hundred fifty (250) square feet per automobile.

ARTICLE IIIa

General Provisions Applicable To All Districts

Steep Slopes

A. The purpose of the Steep Slopes article is to reduce damage to streams and lakes from erosion, run-off of storm water caused by improper or excessive construction, effluent from improperly sited sewage disposal systems; to preserve vegetative cover and wildlife habitat; to preserve scenic views and to protect unique and unusual natural areas.

1. Special Provisions

a. Development will not be allowed on slopes exceeding 25%.

b. Lots with a 15-25% slope shall in addition to meeting all requirements of this ordinance and where land development is intended, shall be presented to the Roxbury Planning Board and approved before issuance of a building permit is considered by the Selectmen.

c. Any lot to be considered for a building permit shall have a minimum of 40,000 contiguous square feet with less than 25% slope.

ARTICLE IV

Residential Districts

A. Uses Permitted: In the Residential District, buildings may be erected, placed, altered or used and land may be used or occupied only for the following purposes and in accordance with the following provisions:

1. Single or two-family dwellings with private garages and accessory buildings.
2. Churches and religious institutions, hospitals,(excluding animal hospitals), nursing homes, municipal buildings, parks and playgrounds and schools, public or private.
3. Residences may be used to house such customary uses by the owner or tenant as offices for doctors, lawyers, real estate and insurance or other recognized professions, or such home occupation as hair dressing or dressmaking, except that the number of persons employed at any one location shall not number more than two persons in addition to the owner or tenant.
4. Home occupation activities other than those listed above are permitted only as a special exception granted by the Board of Adjustment when said Board is satisfied that such use meets the requirements imposed by ARTICLE IX, Section D & G, Item 1.
5. Farm and garden activities are permitted when incidental to primary residential use, and home food and garden produce may be exposed for sale in this district, provided that such use is in no way injurious, obnoxious or offensive to the neighborhood.

B. Lot Area and Yard Requirements

1. No house or building shall be erected closer than thirty-five (35) feet from the edge of the right-of-way, nor shall said house or building be closer than twenty (20) feet from the side and rear property line.
2. Lots for dwelling shall be of sufficient size to provide adequate water supply and sewage facilities, but in no case shall the lot be less than one and one-half (1 1/2) acres.

3. Each lot shall have a minimum uninterrupted frontage of at least one hundred seventy-five feet, with a minimum depth of at least two hundred feet.

ARTICLE V

Rural Residential and Agricultural District

A. Uses Permitted: In rural residential and agricultural districts, buildings may be erected, placed, altered or used only for the following purposes and in accordance with the following provisions:

1. Any use permitted in the residential district.
2. Farming, lumbering and mining operations and other uses compatible with the character of a rural district provided that no farm building, lumber mill or mining operation shall be erected within one hundred (100) feet from the boundary line of any residential district.
3. Industrial and manufacturing operations are permitted in the rural residential and agricultural district only by special exception granted by the Board of Adjustment when said Board is satisfied that such use meets the requirements imposed by Article IX Section D. Industrial And Manufacturing operations shall not be erected within one-hundred (100) feet from the boundary line of any residential district.
4. Roadside stands for the sale of farm products raised on the premises.
5. Stables and riding academies.
6. Plant nurseries and greenhouses.
7. Veterinary hospitals and kennels.
8. Ski areas for alpine (Downhill skiing with motorized lifts) and/or nordic (Crosscountry skiing). The sale of food and beverages will be allowed as part of the services provided at the area and related skiing equipment can be rented or sold at such areas.

B. Lot area and Yard Requirements

1. No house or building shall be erected closer than fifty (50) feet from the edge of the right-of-way nor shall said house or building be closer than fifty (50) feet from the side and rear property lines and one hundred fifty (150) feet from any existing dwelling on abutting property.
2. Lots for dwelling shall be of sufficient size to provide adequate water supply and sewage facilities but in no case shall be less than five (5) acres per dwelling unit.
3. Each lot shall have a minimum uninterrupted frontage of at least four hundred (400) feet with a minimum depth of at least two (200) feet along the entire minimum frontage requirement.

ARTICLE VI

FLOOD PLAIN DISTRICT

A. Uses Permitted: The Flood Plain District is herein established as an overlay district. The underlying permitted uses are allowed in accordance with the following provisions:

1. Mobile Homes are prohibited in the Flood Plain District.
2. Any additional requirements imposed by the Roxbury Flood Plain Development Ordinance, which is herein incorporated in this zoning ordinance, a copy of which can be obtained at the selectmen's office or from the Planning Board Chairperson.

ARTICLE VII

Non-Conforming Uses

A. Any lawful use of land or of a building or part thereof at the time of the adoption of this ordinance may be continued, although such use does not conform to the provisions of this ordinance, provided however, that:

1. A non-conforming use may not be changed to another non-conforming use.
2. Upon the granting of a Special Exception by the Board of Adjustment, under the requirements imposed by ARTICLE IX, Section D, a non-conforming use may be enlarged or

extended where the expansion is a natural activity, closely related to the manner in which the piece of property is used at the time of the enactment of this ordinance. However, enlargement or expansion may not be substantial and may not render the premises or property proportionally less adequate, may not adversely affect the area in which the non-conforming use is located, the adjacent properties, the character or environment of the neighborhood or create a serious hazard to vehicle or pedestrian traffic.

3. A non-conforming lot may be not be voluntarily reduced in size.

B. When any existing non-conforming use of land or buildings has been discontinued for one year, the land and buildings shall thereafter be used only in conformity to this ordinance.

ARTICLE VIII

Administration and Enforcement

A. Duty: It shall be the duty of the Selectmen, and they are hereby given the power and authority to administer and enforce the provisions of this ordinance. The Selectmen may appoint an agent to administer (accept and issue permits and inspect) but not enforce this ordinance.

B. Permit Issuance: The Selectmen or their agent shall issue any and all permits requested when such permit is in accordance with the provisions of this ordinance.

C. Permit Required: After passage of this ordinance, all proposed development (See Article XV, Definitions) within the Town of Roxbury, shall require a permit from the selectmen or their authorized agent in order that the Town may determine whether such development is in conformity with the Zoning Ordinance and Building Regulations of the Town. In any Historic Preservation (HP) District, such permit shall also be submitted to and approved by the Historic District Commission as required by NH Revised Statutes Annotated, 1955, Chapter 31:89 a-1 and as may be amended.

D. Remodeling: No permit shall be required for remodeling or repairing where the purpose for which the building or structure is to be used is not changed. or the building is not enlarged or the use extended.

E. Enforcement: Upon any well-founded information that this ordinance is being violated, the Selectmen shall take immediate steps to enforce the provisions of this ordinance by seeking an injunction in the Superior Court or by any other legal action.

ARTICLE IX

Board of Adjustment

A. Creation: A Board of Adjustment is hereby created and its members shall be appointed by the Selectmen in accordance with, and shall have the terms and powers hereby conferred upon the Board of Adjustment by, the provisions of Chapter 31, NH Revised Statutes Annotated, 1955, and as may be amended.

B. Adoption of Rules: The Board of Adjustment shall adopt rules to govern its proceedings in accordance with the provisions of this ordinance, and the provisions of Chapter 31, NH Revised Statutes Annotated, 1955, and as may be amended.

C. Interpretation: The Board of Adjustment may hear and decide a case where it is alleged there is error in any order, requirement, decision or determination made by the Selectmen or their agent in the enforcement of this ordinance.

D. Special Exceptions: The Board of Adjustment may in appropriate cases, and subject to appropriate conditions and safeguards as determined by the Board, grant a permit for a special exception. The Board in acting on an application for a special exception shall take into consideration the following conditions:

1. The proposed use is permitted in the District.
2. The specific site is an appropriate location for such use.
3. The use as developed will not adversely affect the adjacent area.
4. There will be no nuisance or serious hazard to vehicles or pedestrians.
5. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

6. The proposed use shall comply with all the frontage, setbacks, minimum land area, sanitary protection, signs and parking requirements for itself or its most similar use, except where specifically named by the board, the reasons for such waiver to be set forth in writing by the Board.

7. The proposed use is subject to RSA 674:33-a Equitable Waiver of Dimensional Requirements.

E. Variance: The Board of Adjustment may authorize a variance from the terms of this ordinance only where the board finds that ALL OF THE FOLLOWING CONDITIONS APPLY:

1. There are special circumstances or conditions applying to the land for which the variance is sought (such as, but not limited to, the exceptional narrowness, shallowness, or shape of the property in question or exceptional topographical conditions), which are peculiar to such land and the application of the requirements of this ordinance will deprive an owner of such property a reasonable use of it, and will impose upon such owner a hardship(1) not shared by the owners of other property in the same district.

2. The specific variance as granted is the minimum variance that will grant reasonable relief to the owner and is necessary for a reasonable use of the land.

3. The granting of the variance will be in harmony with the general purposes and intent of this ordinance (2) and with the convenience, welfare and character of the district within which it is proposed and will not be injurious or otherwise detrimental to the public welfare.

4. The use is a permitted use.

(1) Financial hardship does not constitute "Hardship" in this case.

(2) That there are separate zoning categories for similar uses; i.e. residential, commercial, industrial etc., each of which require special types of restrictions.

F. Appeals:

1. An appeal cannot be taken to or granted by the Board of Adjustment for both a special exception and a variance at the same time or concurrently for the same case, use, structure or lot.

2. Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time as provided by the rules of the Board, by filing with the officer from whom the appeal is taken, and with the board, a notice of appeal specifying the grounds thereof. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or attorney.

G. Requirements for Granting Specific Special Exceptions:

1. Home occupation activities may be allowed providing that such use meets the following criteria:

a. No equipment other than that which is normally found in the home may be used.

b. No stock and trade shall be maintained unless kept within a building.

c. The number of persons employed at any one location shall not number more than two persons in addition to the owner or tenant.

d. Signs - All signs or accessory signs shall be subject to approval by the Board of Adjustment as to safety, placement, and relation to neighboring properties and in no case shall any sign exceed twelve (12) square feet in area.

ARTICLE X

Amendments

This ordinance may be amended by vote as provided in Chapter 31 of the NH Revised Statutes Annotated, 1955, and as may be amended.

ARTICLE XI

Existing Ordinances

Nothing contained in this ordinance shall be construed as repealing or modifying any other ordinance or regulations of this Town, except such as may be specifically repealed or modified by this ordinance, but shall be in addition thereto. Nor shall anything in this ordinance be construed as repealing or modifying any private restrictions placed upon property by covenant, deed or other private agreement, or any restrictive covenants running with the land to which the Town is a party, but shall be in addition thereto.

Whenever the provisions of this ordinance differ from those prescribed by any statute, other ordinance or other regulation or restriction, that provision which imposes the greater restriction or higher standard shall govern.

ARTICLE XII

Penalty

Every person, firm or corporation violating any of the provisions of this ordinance shall, upon conviction, be fined an amount imposed by the Selectman not to exceed \$275 per day for each day such violation may exist.

ARTICLE XIII

Saving Clause

If any article, section, sub section, sentence, clause or phrase of these regulations is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of these regulations.

ARTICLE XIV

Effective Date

This ordinance shall take effect upon its passage.

ARTICLE XV

Definitions

For the purpose of this Ordinance, certain terms phrases and words have the meaning given herein. Words used in the present tense include the future; the singular includes the plural and the plural, the singular; the words "used" shall be construed as though followed by the words "or intended or designed to be used"; the words "building", "structure", "lot", or "premises" shall be construed as though followed by the words "or any portion thereof", and the word "structure" includes the word "building". The word "shall" is always mandatory and not merely directory.

A. Accessory Building: A detached building subordinate to the main building on a lot and used for purposes customarily incidental to those of the main building.

B. Accessory Use: A land use located on the same lot which is incidental and subordinate to the main structure or use of the land.

C. Development: Any man-made change to improved or unimproved real estate including, but not limited to, the erection or placement of buildings, signs, or other structures; mining; dredging; fillings; grading; paving; excavation; or drilling operations.

D. Depth: The distance measured from the front lot line to rear lot line, the measurement to be taken substantially at right angles or radial to street lines.

E. Dwelling: One or more living or sleeping rooms arranged for the use of one or more individuals living as a single housekeeping unit with cooking, living, sanitary and sleeping facilities.

F. Frontage: Means length of that boundary of a lot that borders on a public street. On any lot bounded on more than one side by a street, the street boundary that is to be the lot "front" shall be so designated in the application for a permit to build on such lot.

G. Lot: A parcel of land occupied or capable of being occupied by one structure or use and the structures or uses accessory thereto, including such open spaces and set backs as are required by this Ordinance. A lot may or may not be the land shown or described as a lot on a recorded deed or plan.

H. Trailer: A vehicle or similar portable structure having no foundation other than wheels, jacks, or skirting and not having all of the following: running water, sanitary facilities, bath facilities and toilet.

I. Mobile Home: A home which is mobile, a unit similar to a trailer, but having all of the following: running water, sanitary facilities, bath facilities and toilet.

J. Trailer Park: A land area occupied or designed for occupancy by two or more mobile homes.

K. Mobile Home Park: A land area occupied or designed for occupancy by two or more mobile homes.

L. Use, Non-Conforming: A use which lawfully occupied or used a structure or lot at the time this Ordinance became effective and which does not conform with the use regulations of the district in which it is located.

M. Lot of Record: Land designated as a separate and distinct parcel in a legally recorded deed and plan filed in the records of Cheshire County, NH.

N. Public Street: Any highway, street, road, avenue, lane or other right-of-way over which the public has a right to pass and repass and state, county or municipality has responsibility to maintain. The phrase "public street" shall include any street shown on a subdivision plat approved by the planning board in accordance with the state law whether or not the state, county or municipality has laid out such street as a publicly maintained highway. The words "public street" shall include the entire right of way.

