

Proposed Changes to Zoning 2023

ORDINANCE WORDING AND EXPLANATION

Decisions – Red changes added after first hearing.

Article VI.E.8. Decisions.

- a. Per RSA 674:33, VIII, Upon receipt of any application for action pursuant to this section, the zoning board of adjustment shall begin formal consideration and shall approve or disapprove such application within ninety (90) days of the date of receipt, provided that the applicant may waive this requirement and consent to such extension as may be mutually agreeable. If the Zoning Board of Adjustment determines that it lacks sufficient information to make a final decision on an application and the applicant does not consent to an extension, the board may, in its discretion, deny the application without prejudice, in which case the applicant may submit a new application for the same or substantially similar request for relief.
- b. In accordance with RSA 676:3 II, following the public hearing of an appeal, the Board's written decision shall be made available for public inspection within five (5) business days of such vote.
- c. If the application is approved with conditions, the Board shall include in the written decision a detailed description of all conditions necessary to obtain final approval. Additionally, the applicant, owner of the property, Selectmen, Planning Board and Zoning Compliance Officer shall be notified of the decision.
- d. The Board shall include in its written decision, the reason for the denial or approval, including "finding of fact" supporting the Board's decision, as well as any conditions noted during the approval by the Board.

Explanation: This is a NH Legislative change for the 90-Day Decision Deadline for Zoning and Planning Boards, and the need for findings-of-fact in all decisions. This new law attempts to speed up the decision-making process, but also allows for an extension of the time if agreed by both parties, as well as a few other provisions.

Mobile Home Replacement on Single Lots of Record – Red changes added after first hearing.

Article III.B.5.d. Mobile Homes.

d. Mobile Homes existing on single lots of record with less than two (2) acres.

- i. Removal of a mobile home on a single lot of record, not to include mobile home parks, when done with the intent of replacing the same, shall not constitute a cessation or termination of the pre-existing use.
- ii. The replacement dwelling can be either a mobile home, modular home, or a home built entirely on-site.
- iii. A replacement dwelling shall not render the property more nonconforming, nor shall **the square footage of its living area** be more than 25% larger than the existing mobile home and any living areas defined in iv below. A Zoning Compliance Permit must be approved before the mobile home is removed to preserve the rights of the protected and vested pre-existing, non-conforming use, and to confirm the size allowable to be replaced.
- iv. The determination of size of the existing mobile home shall not include existing outbuildings or attachments such as, but not limited to, porches or decks, but rather only include the original manufacturer's **square foot area** of the mobile home and any heated living space added to the mobile home.
- v. The mobile home must be replaced with a newer mobile home manufactured no more than ten (10) years from the date of installation.
- vi. No person shall reside in a temporary structure on the premises during replacement of the structure unless the original mobile home is damaged by fire or other disaster. This is permitted per RSA 674:32, II, for which the owner may live in a mobile home while a home is under construction, and the period of such occupancy shall expire in 12 months from the placement of such structure or upon the issuance of a certificate of occupancy, whichever occurs first.

Explanation: This initial proposed change to Article III.B.5 was to have a better explanation of ‘substantially similar’ as outlined in this existing Ordinance. The existing wording in the Article also conflicts with Article III.B.4. To address this conflict, and define what substantially similar would be, the changes were proposed.

Upon further review it was determined more changes were needed to outline the criteria for determining the size and the age of a MH if that is what it is replaced with. The Board then discussed the Ordinance a step further, and with the need for workforce housing in New Hampshire, decided to propose allowing owners to replace these mobile homes with small stick-built homes if they wish to do so.

Stats: There are a total of 26 mobile homes on their own land of less than two acres to which this Ordinance applies. There are six MH’s that this applies to under half (.50) an acre, seven between .50 and 1, and thirteen between 1 and 2 acres. The current Epsom Ordinance does not allow mobile homes to be added to single lots of record. Any existing mobile home on a single lot of record was grandfathered when that portion of the Ordinance was written or updated.

Short Term Rentals – Red changes added after first hearing.

Article III, U. Short Term Rentals.

1. **Purpose:** The use of short-term rentals is regulated to preserve the traditional character of residential neighborhoods that can be negatively impacted by this type of use and to help preserve the quality and quantity of the housing stock for year-round residential use.
2. **Definition:** Short-Term Rental: A dwelling unit, where transient lodging may be provided for compensation for short stays (no less than two (2) and no more than thirty (30) consecutive nights), and where the dwelling unit would normally be considered a residential living unit not associated with regulated commercial activities such as a hotel, motel, rooming/boarding/lodging house, or a bed-breakfast.
3. **Application for Special Exception:** Short-term rentals are permitted in all zones by special exception as either a primary or accessory use of the property. In addition to the general special exception criteria found in Article VI (D)(5), the following criteria must also be met.
 - a. Prior to submitting an application for a special exception, the owner must arrange for and complete a safety inspection by the Fire Department and shall submit the inspection report as part of the application. The inspection shall be limited to determining that the following minimum safety requirements are met:
 - i. Functional Smoke and CO detectors must be installed in areas defined by the State of New Hampshire’s adopted version of the National Fire Protection Association codes and standards.
 - ii. Windows and doors functioning as the primary and secondary means of egress shall conform to the current adopted Life Safety Code requirements for One (1) and Two (2)-Family Dwellings.
 - iii. No basement space shall be used as sleeping areas unless there are properly sized egress windows and/or doors.
 - iv. A functional fire extinguisher shall be visibly installed in any kitchen area.
 - v. Safety concerns reported by lodgers or abutters may require additional inspection(s) by the Fire Department,
 - b. **Parking.** All short-term rentals shall provide a minimum of one parking space per bedroom plus one extra space. On-street overnight parking shall not be allowed.
 - c. All dwellings must be on a Class V Road or better.
4. **Pre-Existing Short-Term Rentals.**
 - a. **For a dwelling to be considered a pre-existing short-term rental the owner must provide short-term rental documentation prior to April 1, 2023, such as evidence of payment of State Meals & Rooms Tax or a filing of Form CD-100 (Meals and Rentals Request to Update or Change License) to the State of New Hampshire, Department of Revenue**

Administration, in order to continue to operate without the need for a Special Exception Application.

- b. All pre-existing dwellings must have a safety inspection by the Town of Epsom Fire Department consisting of the items outlined in Section 3A, i through v, as listed above.
- c. Must provide documentation to the Town from a Septic System Evaluator licensed by the State of New Hampshire indicating a working septic system exists that is suitable for the occupancy of the dwelling.
- d. Must provide documentation to the Town that potable water exists.

5. General Requirements: The following regulations shall apply to all short-term rentals:

- a. If the property is determined to be a seasonal dwelling it may only be available for rental for no more than seven (7) months of the year.
- b. The maximum occupancy of the short-term rental shall be two persons per bedroom. Notice of the occupancy limits shall be prominently displayed in the short-term rental unit.
- c. All owners of short-term rentals shall, by June 1 of each year, submit documentation to the town demonstrating that the septic tank is pumped annually.
- d. All owners of short-term rentals shall provide a place for renters to deposit their trash and shall arrange for trash to be removed from the property at least weekly. Owners shall further assure that all properties be maintained and kept clean of debris.
- e. All owners of short-term rentals shall prominently post notice in the rental that Epsom is a residential town and that respectful behavior by the renters is expected, including complying with all rules established by the town and the owner, and
- f. All owners of short-term rentals shall file a statement with the town clerk that provides the name, address, and telephone number of a person within the state who is authorized to and responsible for addressing issues which arise at the property, and who is authorized to accept service of process for any legal proceeding brought against the owner relating to the short-term rental.

Explanation: The need for a short-term rental Ordinance has been on the planning and zoning radar for a few years. Many other municipalities throughout New Hampshire have adopted short-term rental ordinances and this is “to preserve the traditional character of residential neighborhoods that can be negatively impacted by this type of use and to help preserve the quality and quantity of the housing stock for year-round residential use.” Not having an Ordinance to regulate the short-term rentals in a municipality can cause several issues due to the absence of the owners, such as lots becoming unmaintained, thereby affecting the property values of the homes around them. These regulations also provide guidance for rental owners to ensure that a few measures are put in place to ensure the safety of their renters, and the Town’s ability to respond to these properties in the event of an emergency.

Religious Organizations

Are you in favor of Amendment # to the Epsom Zoning Ordinance, as proposed by the Planning Board, to add a definition of Religious Organizations as any church, body of communicants, or group that gathers in common membership for regular worship and religious observances whose identity and mission are derived from a religious or spiritual tradition, and operates as registered or unregistered, nonprofit, voluntary entities; to also add Religious Organizations to Article II.C, Table of Uses, as permitted uses in all zones; and to amend Article III.O to conform with RSA 674:76 and allow Religious Organizations in all zones subject to site plan review to ensure compliance with the generally applicable regulations of height, yard size, lot area, setbacks, open space and building coverage.

Definition

Religious Organization: Any church, body of communicants, or group that gathers in common membership for regular worship and religious observances whose identity and mission are derived from a religious or spiritual tradition, and operates as registered or unregistered, nonprofit, and voluntary entities.

Add Religious Organizations to Article II.C, Table of Uses, as permitted uses in all zones.

Amend Article III.O to read: “Religious Organizations are permitted in all Zones and subject to a site plan review, to ensure compliance with the Ordinance’s regulations of height of the structure, yard size, lot area, setbacks, open space, and building coverage requirement.”

Explanation: This is a NH Legislative change. It is a very vague House Bill that was passed (see below) by the Legislature with no guidelines or wording that would explain the intent or purpose. We have covered the definition, the zones allowed, and the wording to regulate what items can be regulated by a Municipality. This new law has an affective date as of July 1, 2022.

Current through Chapter 346 of the 2022 Legislative Session

Section 674:76 - Religious Use of Land and Structures

No zoning ordinance or site plan review regulation shall prohibit, regulate, or restrict the use of land or structures primarily used for religious purposes; provided, however, that such land or structures may be subject to objective and definite regulations concerning the height of structures, yard sizes, lot area, setbacks, open space, and building coverage requirements as long as said requirements are applicable regardless of the religious or non-religious nature of the use of the property and do not substantially burden religious exercise. RSA 674:76 Added by 2022, 291:1, eff. 7/1/2022

Seasonal Dwellings

Are you in favor of Amendment # to the Epsom Zoning Ordinance, as proposed by the Planning Board, to add a definition of Seasonal Dwellings a structure that is designed to be used or is actually used for temporary residential use for less than twelve (12) months per year, or primarily for a specific or distinct season. This term includes, but is not limited to, lake house, hunting or snowmobile lodges or camps, summer camps or lodges, and further is designed to be used, or is used, for residential use for less than six (6) cumulative months in a given year (184 days), which is not the domicile of the owner or any other individual, and further to Amend Article III.B.7.b, to refer the Article to this section only.

Explanation: Section III(B)(7) ONLY relates to pre-existing nonconforming seasonal dwellings. Seasonal dwelling is not a term used anywhere else in the Ordinance therefore the PB proposes to:

Amend Article III(B)(7)(b) Seasonal Dwelling to read:

For purposes of this section only, a “seasonal dwelling” is a structure that is designed to be used or is actually used for temporary residential use for less than twelve (12) months per year, or primarily for a specific or distinct season. This term includes, but is not limited to, lake house, hunting or snowmobile lodges or camps, summer camps or lodges.

Then add a new, generally applicable definition of Seasonal Dwelling: A structure that is designed to be used, or is used, for residential use for less than six (6) cumulative months in a given year (184 days), which is not the domicile of the owner or any other individual.