

ZONING LAW – Part 3 of 3

Town of Hardenburgh. New York

TOWN OF HARDENBURGH

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ARTICLE IX

AMENDMENTS

SECTION 9.1 AUTHORITY TO AMEND

9.1.1 The Town Board may from time to time amend, supplement or repeal, in whole or in part, this Law, subject to the provisions of this Article and Town Law. Such amendment shall be adopted by majority vote of the Town Board, except as specified in Section 9.1.2 and 9.3.2 hereof, and may be initiated in the following ways:

a. By the Town Board on its own motion; b. On the recommendation of the Planning Board or the Zoning Board of Appeals;

c. By the filing of a petition by Town taxpayers or residents, on a form prescribed by the Town Clerk, describing such proposed amendment, accompanied by a fee in accord with a schedule established by the Town Board.

9.1.2 If a duly signed and acknowledged protest against a proposed amendment to this Law is submitted to the Town Board, by any one of the following, it shall not become effective except by a favorable vote of three-fourths of the members of the Board.

a. The owners of twenty percent or more of the area of the land included in such proposed change, or

b. The owners of twenty percent or more of the land immediately adjacent to such proposed change extending one hundred feet there from, or

c. The owners of twenty percent or more of the land directly opposite such proposed change extending one hundred feet from the street frontage of such opposite land.

SECTION 9.2 PROCEDURES

9.2.1 PUBLIC HEARING

No amendment to this Law shall become effective until a public hearing is held in relation thereto at which the general public shall have an opportunity to be heard.

9.2.2 NEWSPAPER NOTICE OF HEARING

At least fifteen (15) days prior to the date of such public hearing, a notice of the time and place shall appear in the official newspaper of the Town. Such notice shall describe the area, boundaries, regulations, or requirements that such proposed change involves.

9.2.3 REFERRALS

All proposed changes to these zoning regulations or map shall be referred to the appropriate body as set forth in Section 9.3.

9.2.4 PUBLICATION AND POSTING

Every amendment to this Zoning Law, including any map incorporated therein, adopted in accordance with the Town Law shall be entered in the minutes of the Town Board, and a copy or summaries thereof, exclusive of any map incorporated therein, shall be published once in a newspaper of general circulation in the Town. In addition, a copy of such Law or amendment, together with a copy of any map incorporated therein, shall be posted conspicuously at or near the office of the Town Clerk in accordance with Town Law. Affidavits of the publication and posting thereof shall be filed with the Town Clerk.

9.2.5 EFFECTIVE DATE

An amendment or change in this Law shall take effect 10 days following publication and posting in accordance with Section 9.2.4. and filing of the local law with the Secretary of State in accord with Article 3 of the Municipal Home Rule Law.

SECTION 9.3 REFERRAL TO THE PLANNING BOARD

9.3.1 REFERRAL TO THE PLANNING BOARD

a. Procedure All proposed amendments originated by petition or by motion of the Town Board shall be referred to the Town of Hardenburgh Planning Board 30 days prior to the required public hearing for a report and recommendations thereon. If the Planning Board shall not have made its final report thereon within 30 days of reference thereto, the Town Board may, proceed to final action.

b. Planning Board Report In preparing a report on a proposed amendment, the Planning Board shall consider the following:

- (1) Whether such change is consistent with the objectives and purposes of the Zoning Law.
- (2) The nature and location of uses and buildings to be affected and the manner in which they will be affected.
- (3) Whether uses permitted by the proposed change will be appropriate in the affected area(s).
- (4) The affect of the change on existing or proposed public facilities and services such as schools, streets, utilities, etc.

9.3.2 REFERRAL TO THE COUNTY PLANNING BOARD

a. Matters to be Referred Any change in the district classification of, or the regulations applying to, real property lying within a distance of 500 feet of the following shall be referred to the Ulster County Planning Board prior to final action in accord with Sections 2391. and m. of the General Municipal Law. No final action shall be taken within 30 days of such referral unless a response is received sooner.

(1) The boundary of any other municipality.

(2) The boundary of any existing or proposed county or state park or other recreation area or state forest preserve lands.

(3) The right-of-way of any existing or proposed county or state road, parkway, or other controlled access highway.

(4) The existing or proposed right-of-way of any stream or drainage channel owned by the county for which the county has established channel lines.

(5) The existing or proposed boundary of any county or state owned land on which a public building or institution is located.

b. County Planning Board Recommendations If the Ulster County Planning Board fails to report its recommendations within 30 days after receipt of a full statement of such referred material, the Town Board shall construe such inaction as approval of the proposed zoning action and may act without such a report.

c. Affect of Negative Report If the Ulster County Planning Board disapproves the proposed amendment, or recommends modification thereof, the proposed amendment shall not become effective except by a vote of a majority plus one of all members of the Town Board and after the adoption of a resolution fully setting forth the reasons for such action.

9.3.3 REFERRAL TO ADJACENT MUNICIPALITIES

At least 10 days prior to the date of the public hearing, written notice of any proposed change or amendment affecting property within 500 feet of the boundary of any adjacent Town or Village shall be transmitted to the Town or Village Clerk of that Town or Village. The Town or Village shall have the right to appear and to be heard at such public hearing with respect to any such proposed change or amendment, but shall not have the right of review by a court as provided in Article 78 of the Civil Practice Act.

ARTICLE X

TERMINOLOGY

SECTION 10.1 USE AND INTERPRETATION OF WORDS

Except where specifically defined herein, all words used in this Law shall carry their customary meanings. Words used in the present tense shall include the future. Words used in the singular number shall include the plural, and words used in the plural number include the singular, unless the context clearly indicates the contrary.

The word "shall" is always mandatory. The word "may" is permissive. "Building" or "structure" includes any part thereof. A "building" includes all other structures of every description except fences and walls, regardless of dissimilarity to conventional building forms. The word "lot" includes the word "plot" or "parcel". The word "person" includes a corporation as well as an individual. The phrase "used for" includes "arranged for", "designed for", "intended for", "maintained for" and "occupied for".

SECTION 10.2 DEFINITIONS

Accessory Building - A structure detached from the principal building on the same lot and customarily incidental and subordinate to the principal building or use.

Accessory Use - A use of land or of a building or portion thereof customarily incidental

and subordinate to the principal use of the land or building and located on the same lot with such principal use.

Agricultural Use - The use of a parcel of land for agricultural purposes including tilling the soil, dairying, pasture, apiculture, arboriculture, horticulture, floriculture, aquatic farming, harvesting of tree products and animal husbandry; also included are the necessary accessory uses and structures for packing, treating, and storing of products, produce and equipment, provided that the operation of any such accessory use shall be secondary to that of normal agricultural activities; agricultural does not include kennels or slaughter houses.

Alteration - As applied to a building or structure, a change or rearrangement in the non-structural parts, or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

Alteration (Structural) - Any change in either the supporting members of a building, such as bearing walls, columns, beams and girders, or in the dimensions or configurations of the roof or exterior walls.

Bed and Breakfast Establishment/ Inn - An establishment providing no more than three rooms of transient housing accommodation (less than one week in length), which provides food and/or drink only to persons occupying the transient quarters.

Billboard - A sign or structure which directs attention to an idea, product, business activity, service, or entertainment which is conducted, sold or offered at a location other than the premises on which such sign is located.

Boarding House - A private dwelling in which at least three but not more than six rooms are offered for rent, and table board is furnished only to roomers, and in which no transients are accommodated. A rooming house or a furnished room house shall be deemed a boardinghouse.

Building - Any structure which is permanently affixed to the land, has one or more floors and a roof, and is intended for the shelter, housing, or enclosure of persons, animals, or equipment or goods.

Building (Accessory) - See "Accessory Building".

Building Area - The total square footage of interior floor areas measured on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces and steps.

Building (Completely Enclosed) - A building separated on all sides from adjacent open space or other buildings by fixed interior walls or party walls, pierced only by windows and doors, and covered by a permanent roof.

Building (Detached) - A building entirely surrounded by open space on the same lot.

Building Principal - A building in which is conducted the principal use of the lot on which said building is located.

Building Line - A line parallel to the street line and set back therefrom a distance equal to the required front yard in the zoning district in which a lot is located.

Bulk - A term used to describe the size, volume, area, and shape of buildings and structures and the physical relationship of their exterior walls or their location to lot lines, other buildings and structures or other walls of the same building, and all open spaces required in connection with a building, other structure, or tract of land.

Commercial Campground and Recreational Vehicle Parks- A plot of ground on which two or more campsites are located, established or maintained for occupancy by camping units of the general public as temporary living quarters for recreation, education or vacation purposes; operated as a business and open to the public for a fee.

Conference Center - A facility which is used for conferences, seminars or similar purposes and which provides housing, food service, meeting space, educational and recreational facilities as well as ancillary facilities for twenty or more guests.

Dwelling - A building designed or used principally as the living quarters for one or more families (see "Residences").

Dwelling (One family) - A building containing only one dwelling unit.

Dwelling (Two family) - A building containing two dwelling units.

Dwelling (Multiple) - A building containing three or more dwelling units including units attached with party walls.

Dwelling Unit - A building or entirely self-contained portion thereof designed for occupancy by only one family (including any domestic staff employed on the premises) and having complete cooking and sanitary facilities for the exclusive use of the occupants of the "dwelling unit". A boarding house, convalescent home, dormitory, fraternity or sorority house, hotel, inn, lodging or rooming house, nursing, or other similar home, or other similar structure shall not be deemed to constitute a dwelling unit.

Family - A "family" consists of one or more persons who live together and maintain a common household. More than five persons not related by blood, marriage or adoption, shall not be deemed to constitute a family.

Finished Grade - The elevation at which the finished surface of the surrounding lot intersects the walls or supports of a building or other structure. If the line of intersection is not horizontal, the finished grade- in computing height of buildings and other structures or for other purposes - shall be the average elevation of all finished grade elevations around the periphery of the building.

Forestry - The operation of timber tracts, tree farms, forest nurseries, and related activities such as reforestation services and the gathering of gums, barks, balsam needles, maple sap, Spanish moss, and other forest products.

Height of Building - The vertical distance measured from the average finished grade along the exterior walls of the building (or adjacent to the side of a structure) to the highest point of such building or structure.

Hotel - A building or any part thereof, which contains living and sleeping accommodations for transient occupancy, has a common exterior entrance or entrances, and may contain one or more common dining rooms, drinking places and entertainment facilities.

Home Occupation - An activity carried out for gain by a resident in his or her dwelling which is clearly incidental and secondary to the primary use of the dwelling for residential purposes.

Junkyard - An area of land with or without buildings used for or occupied by the storage, keeping, or abandonment of junk, including scrap metals or other scraps, used or salvaged building materials, or the dismantling, demolition, or abandonment of automobiles other vehicles, appliances or machinery or the major parts thereof for three (3) months or more shall be deemed a "junkyard".

Kennel - An establishment in which more than six (6) dogs or other domestic animals are housed, groomed, bred, boarded, trained or sold.

Loading Berth Loading Facility - A space at a building, housing a nonresidential use, specifically designed to allow loading or unloading of goods and materials from a vehicle.

Loading Facilities - One or more loading berths at a building.

Logging - The removal of timber from a property in quantities greater than 20 standard cords of wood, 2,000 cubic feet or 10,000 board feet within any given calendar year. Nothing in this law shall prevent cutting of trees by a property owner on his own land for his own personal use and enjoyment.

Lot - A defined portion or parcel of land considered as a unit, devoted to a specific use or occupied by a building or a group of buildings that are united by a common interest, use, or ownership, and the customary, accessories and open spaces belonging to the same.

Lot Area - The total horizontal area included within the lot lines.

Lot (Flag) - A lot fronting on a public or private road or street which does not meet the lot width requirements of the district in which the lot is located at the rear of the required front yard but widens or extends to a point where the distance between the side lot lines is equal to or greater than the required lot width.

Lot Frontage - A lot line which is coincident with a street line.

Lot Line - The lines bounding a lot as defined herein.

Lot Width - The width of a lot measured parallel to the lot frontage at the rear of the required front yard.

Lot of Record - A lot which is recorded in the office of the Ulster County Clerk.

Mobile Home - (also Trailer) - A portable, factory-made dwelling unit, built on its own chassis, designed to be transported on its own wheels or those of another vehicle, and intended, when connected to all required utility systems, to be suitable for year-round occupancy. The term mobile home shall not be construed to include a modular home or a recreational vehicle.

Mobile Home Park - A site established for the long-term parking and occupancy of four or more mobile homes including necessary improvements and utilities.

Modular Home - A dwelling unit consisting of two or more major segments constructed off-site, which complies with the New York State Uniform Fire Prevention and Building Code, and designed to be transported to a site for permanent assembly and anchoring to a permanent foundation and to become a fixed part of the real estate.

Motel - A building or group of buildings containing individual living and sleeping accommodations primarily consisting of one bedroom and bath units, each of which is provided with a separate exterior entrance and a parking space, and is offered principally for rental and use by motor vehicle travelers. The term "motel" includes but is not limited to every type of similar establishment known variously as an auto court, motor hotel, motor court, motor inn, motor lodge, tourist court, tourist cabins, roadside hotel.

Motor Vehicle Repair - General repair, rebuilding or reconditioning of engines, motor vehicles, or trailers, such as collision service, body repair and frame straightening; painting and upholstery; vehicle steam cleaning; and undercoating.

Motor Vehicle Service or Gasoline Station - Any building, land area, or other premises used or intended to be used for the retail dispensing or sale of automobile fuels, which activity may be accompanied by accessory uses such as sales of lubricants, tires, accessories or supplies, minor repairing of automobiles or a single-bay auto wash; provided, however, that automobile wrecking, major repairing of automobiles, parking or storing automobiles for hire and operation of more than one towing vehicle shall not be deemed permissible accessory uses of an automobile service station.

Motor Vehicle Wrecking - The dismantling or disassembling of motor vehicles or trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

Non-conforming Bulk - That part of a building, other structure, or tract of land which does not conform to one or more of the applicable bulk regulations of this Law, either following its effective date or as a result of subsequent amendments thereto.

Non-conforming Use - Any use of a building, other structure, or tract of land, otherwise lawfully established, which does not conform to the use regulations herein, either at the effective date of this Law or as a result of subsequent amendments thereto.

Nursery - An establishment where woody or herbaceous plants are grown for sale, including a structure for the sale of such merchandise.

Nursery School or Preschool - A place providing or designed to provide daytime care or instruction by an individual, association, corporation, institution, or agency, whether or not for compensation or reward, for seven or more children from the age of two to five years inclusive, away from their homes for more than two and one half but less than 10 hours per day.

Premises - A lot together with all the buildings and uses thereon.

Public and Private Schools - Schools formally accredited by the New York State Department of Education and schools which instruct more than twenty students per year, even though not formally accredited by the New York State Department of Education. The latter category would encompass nursery schools, environmental education centers, trade schools and elderhostels.

Recreational Vehicle - A vehicular type portable structure without permanent foundation, which can be towed, hauled or driven and is primarily designed as temporary living accommodation for recreational camping and travel use and including but not limited to travel trailers, truck campers, camping trailers and self-propelled motor homes.

Recycling Centers Commercial - See "Junkyard".

Residence - A building, or any part of a building, which contains living and sleeping accommodations for permanent occupancy. "Residence" therefore includes all one-family and two-family houses, row houses, mobile homes, apartment houses, boarding, rooming, fraternity, and sorority houses. However, "residence" shall not include the following:

- (a) Transient accommodations, such as hotels, motels, and camp grounds; or
- (b) That part of a building containing both residences and other uses which is used for any nonresidential uses, except accessory uses for residences.

Restaurant - An establishment where food and beverages are prepared, served and intended to be consumed primarily within the principal building and where such food and beverages are not primarily packaged for removal by the customer.

Riding Academy - Any establishment where horses are kept for riding, driving or stabling for compensation.

Right-of-Way - A strip of land acquired by reservation, dedication, purchase, prescription or condemnation used or intended to be used to afford legal access to abutting property. See also street.

Right-of-Way Line - The dividing line between a lot and the adjacent right-of-way.

Roadside Farm Stand - An establishment, usually a booth or stall, which is accessory to a farm, primarily engaged in the retail sale of produce and farm products to the general public and which is open no more than eight months in any calendar year.

Rooming House - See "Boarding House."

Setback - The distance in feet from the street line to the principal building on a lot.

Scrap Materials Salvaging and Wholesaling - See "Junkyard".

Sign - Any letter, word, model, banner, flag, pennant, insignia, device, or representation designed or used as, or which is in the nature of, an announcement, direction or advertisement. The word "sign" does not include the flag, pennant or insignia of any nation, state, city or other political entity, or signs devoted to prohibiting trespassing. A sign shall have no more than two faces.

Site Plan - A plan that indicates the proposed development and uses of land or structures.

Skilled Nursing Home or Convalescent Home - A facility operated for the purpose of providing lodging, board, and nursing care to sick, invalid, infirm, disabled, or convalescent persons for remuneration.

Special Permit Use - A use of property that is basically appropriate to a given area, but which may be incompatible in some locations and, therefore, is not permitted by right everywhere. A special permit use, therefore, is one which is allowable only when specified facts and conditions are found to exist.

Stream Protected - A stream classified as protected under Article 15 of the New York State Environmental Conservation Law.

Street - An existing public way which affords principal means of access to abutting properties and is suitably improved; or a proposed way shown on a plat approved by the Town Planning Board and/or recorded in the office of the County Clerk.

Street Line - The dividing line between a lot and a street, which forms the front lot line of a lot abutting a street, and is defined by the right-of-way or parcel containing a street..

Street Width - The width of the right-of-way or the distance between property, street parcel or takings lines on opposite sides of a street.

Structure - A static construction of building materials, including buildings, mobile homes, stadia, platforms, towers, sheds, storage bins, antennas and other receivers, swimming pools and the like.

Swimming Pool - An outdoor water pool which is intended to be used for swimming or bathing. An outdoor water pool shall, for the purposes of this law, be construed to mean any swimming pool, tank, depression, or excavation in any material, dike, or berm constructed, erected, excavated, or maintained, which will cause the retention of water to a greater depth than 18 inches or having a plane surface area of water greater than 100 square feet, and includes in ground as well as above ground swimming pools.

Trailer - See "Mobile Home."

Use - This term is employed in referring to:

(a) The purpose for which any buildings, other structures, or land may be arranged, designed, intended, maintained, or occupied; or

(b) Any occupation, business activity, or operation conducted (or intended to be conducted) in a building or other structure, or on land.

Wetland Designated - A wetland designated in accord with Article 24 of the New York State Environmental Conservation Law.

Yard (Required) - That portion of the open area of a lot extending open and unobstructed from the ground upward, along a lot line, for a depth or width as specified by the bulk regulations. No part of such yard shall be included as part of a yard or other open space similarly required for buildings on another lot.

Yard Front - An open, unoccupied space extending across the full width of the lot, between the front lot line and a line drawn parallel thereto at the closest building.

Yard Rear - An open, unoccupied space extending across the full width of the lot between the rear lot line and a line drawn parallel thereto at the closest building.

Yard Side - An open, unoccupied space between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a street line shall be deemed a side line.

ARTICLE XI

SEPARATE VALIDITY

If any part or provision of this Law or the application thereof to any person or circumstance is adjudged invalid or unconstitutional by any court of competent jurisdiction, such judgment shall be confined in its effect to the part, provision, or application directly involved in the controversy in which each judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Law or the application thereof to other persons or circumstances. The Town Board hereby declares that it would have enacted this Law and each article, section, and subsection thereof even without any such part, provision, or application.

ARTICLE XI I

EFFECTIVE DATE

This Law shall take effect immediately upon adoption by the Town Board of the Town of Hardenburgh, New York, and proper publication, posting and filing as required by Municipal Home Rule Law.

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