

## Section IX General Zoning Regulations

### A. Nonconforming Uses

#### 1. Uses Allowed by Grandfather Clauses

The lawful use of any structure of land existing at the time of the enactment or subsequent amendment of this By-Law may be continued although such structure or use does not conform with provisions of the By-Law.

#### 2. Extension

Pre-existing nonconforming structures or uses may be extended or altered, provided, that no such extension or alteration shall be permitted unless there is a finding by the permit granting authority... that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming use to the neighborhood.

#### 3. Abandonment

A nonconforming use which has been abandoned for a period of more than two years shall not be re-established unless there is a finding by the Zoning Board of Appeals.

#### 4. Changes

Once changed to a conforming use, no structure or land shall be permitted to revert to a non-conforming use.

#### 5. The Building Commissioner may issue a building permit for any nonconforming structure to be reconstructed, extended, altered, or structurally changed upon a determination by the Building Commissioner that such proposed reconstruction, extension, alteration, or change does not increase the nonconforming nature of said structure, and the proposed changes otherwise conform with all other zoning requirements.

If the Building Commissioner determines that the proposed reconstruction, extension, alteration or change increases the non-conforming nature of the structure and/or does not otherwise conform with all zoning requirements, and the Building Commissioner does not issue a building permit, then the Zoning Board of Appeals may authorize the proposed reconstruction, extension, alteration or change upon a determination that it is not substantially more detrimental than the existing nonconforming use to the neighborhood.

*(Amended: Article XXV, October 24, 2005 Special Town Meeting)*

**B. Building Regulations**

The Board of Selectmen shall appoint an Inspector of Buildings to hold office for a term or until his successor is appointed and qualified. His compensation shall be fixed by the Board of Selectmen. Said inspector shall not inspect his own work or any building in which he is interested.

No person shall be appointed as Inspector of Buildings who has not had at least five years experience as a building civil engineer, architect, or as a superintendent, foreman or competent mechanic in charge of construction.

**C. Building Permits, Repairs, Fees**

1. Permits will be issued by respective inspector as required by State Building Code.
2. Separate permits will be required for building, alterations, repairs, demolitions, fireplace, solid fuel burning stoves, wiring, plumbing, gas, oil burner, smoke detectors and sewage disposal system. Fees shall be set by the Board of Selectmen to be paid to the Town of Rochester.

**D. Expiration of Building Permits**

If the work described in any permit has not begun within six months of date of issue, the permit shall expire and the Inspector of Buildings shall give written notice to the persons affected that the permit is cancelled. Work shall not proceed until a new permit has been issued. Construction or amendments of the By-Laws unless the use or construction is commenced within a period of six (6) months after issuance of the permit, and in cases involving construction, unless construction is continued through to completion as continuously and expeditiously as is reasonable.

**E. Complaints**

Whenever a violation of this By-Law is alleged to have occurred, any citizen may file a complaint. Such complaint shall be filed in writing with the Inspector of Buildings, and shall state fully the nature of the alleged violation. The Inspector of Buildings shall properly record the complaint, investigate immediately and take action he deems necessary.

**F. Enforcement**

This By-law shall be enforced by the Inspector of Buildings or person or boards designated, if none, by the Board of Selectmen. No building shall be built or altered and no use of land or a building shall be begun or changed without a permit having been issued by the Inspector of Buildings. No building shall be occupied until a Certificate of Occupancy has been issued by the Selectmen or the Inspector of Buildings appointed by them. Any person violating any of the provisions of the Zoning By-Law may be fined not more than \$100.00 for each offense, per violation. Each day that such violation continues shall constitute a separate offense.

Each offense of this By-Law may be enforced through the non-criminal disposition procedures provided in Massachusetts General Laws, Chapter 40, Section 21D, by giving the offender written notice to appear before the clerk of the Wareham District Court not later than twenty-one days after the date of said notice to confess the offense charged, either personally or through a duly authorized agent or by mailing to the Town Clerk a postal note, check or money order for the one hundred dollars penalty for each violation cited. Any person so notified who wishes to contest the alleged violation may, within twenty-one days after the date of the notice, request a hearing before the District Court pursuant to G.L. Chapter 40, Section 21D.

*(Amended: Article XXX, May 17, 1995 Reconvened Annual Town Meeting)*

**G. Orderly Development**

*(Amended: Article XVI, October 24, 2005 Special Town Meeting)*

**1. Statement of Purpose**

The Town of Rochester currently confronts a number of critical issues regarding its infrastructure and services, as a result of rapidly increasing rates of growth. The purpose of this subsection is to provide a temporary limit on such growth in order to afford the boards and agencies of the Town the information, time and capacity to incorporate growth into its master plan and other planning activities relating to the impact of such development. In particular, this temporary limitation will provide the Town with a reasonable pace of growth, keyed to the six-year recent average of new residential dwelling permits, while it works to achieve the following goals:

- a) Adoption of water resource management plans for the Mattapoissett and Sippican River aquifers.

- b) Adoption of an updated master plan to replace the plan dated April 2000.
- c) Adoption of an affordable housing plan approved by the Massachusetts Department of Housing and Community Development (DHCD).
- d) Adoption of an accessory apartment By-Law with affordable housing approved by DHCD.
- e) Adoption of an alternative zoning By-Law to provide for rural development which may allow bonus lots for DHCD-approved affordable housing.
- f) Authorization for a regional Planner.
- g) Adoption of a comprehensive twenty-year school plan securing title to land should it become necessary to construct a second grammar school.

## 2. Limit on Building Permits

After the adoption of this By Law and continuing until June 30, 2010, at which time this section G shall expire, no more than forty eight (48) permits for construction of new dwelling units shall be issued annually, which limitation shall be calculated and administered in accordance with the procedures set forth in section 4.

## 3. Exemptions

Exempt from the limitations under this section are: Affordable-income dwellings that qualify under the regulations of DHCD; units permitted under the Special Residential Development By-Law; units constructed within any smart growth overlay district enabled under Massachusetts General Laws, c. 40R; and, existing lots of record or lots shown on approval not required plans and definitive subdivision plans approved prior to the effective date of this by law or approval not required plans, preliminary subdivision plans and definitive subdivision plans which were filed prior to such effective dated, and subsequently approved.

The provision of this section shall not apply to, nor limit in any way, the granting of building and occupancy permits required for enlargement, restoration, or reconstruction of dwellings existing on lots as of the date of passage of this subsection, but shall apply to the conversion of single family to two-family dwellings.

#### 4. Procedures

The Building Commissioner shall accept applications for new dwelling building permits in accordance with the following procedures:

- a) The Commissioner shall act on each application in the order of its submittal;
- b) Any application that is deemed incomplete or inaccurate by the Commissioner shall be returned to the applicant and if not perfected within thirty days of its original submittal shall be considered a new submittal;
- c) No person shall submit more than two permit applications in a calendar month;
- d) All applications with respect to land in one ownership on the date of adoption of this By-Law shall be considered as from one person for the purpose of this by-law;
- e) The Building Commissioner may aggregate applications for the purpose of this by law if he determines that the applications are made by persons or entities that are under the control of a single person or entity;
- f) Twelve (12) permits shall be available in each quarter of the year;
- g) The quarters are defined as January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31;
- h) The period from the date of passage of this subsection through December 31, 2005 shall be considered a quarter of a year;
- i) If less than twelve (12) permits are issued in a quarter, the number of additional permits that could have been issued to fill the limitation of twelve permits per quarter shall be available for issuance in any subsequent quarter; and
- j) Any permit that has expired due to failure to commence activity within six months of issuance shall be considered available under subsection i), above, in the quarter in which the expiration occurred.