

20.40 Agricultural-Residential District

A. Guiding Principle

Preserve the rural nature of Rochester while maintaining residential growth and value in a manner that is consistent with the Town's Master Plan and the Right to Farm By-law.

(Added: Article 8, November 19, 2018 Special Town Meeting)

B. Specific Objectives

1. Encourage and protect the agricultural interests.
2. Maintain residential housing growth consistent with a rural environment.
3. Accommodate in-home family businesses.
4. Allow diverse options that can promote open space.
5. Protect wildlife habitats.

(Added: Article 8, November 19, 2018 Special Town Meeting)

C. Location

The location and boundaries of the zoning districts are hereby established as shown on a map titled "Zoning Map of the Town of Rochester, Massachusetts" dated November 16, 1998, as amended, and is hereby declared to be part of this By-law.

(Amended: Articles II & III, November 16, 1999 Special Town Meeting)

D. Lot Dimensions

1. Any dwelling hereafter erected, altered, or placed shall be located on lot with frontage on an approved or accepted street. Said lot shall not have less than the minimum requirements set forth in the table below, and no more than one dwelling shall be built upon any such lot. No existing lot shall be changed as to the size or shape so as to result in the violation of the requirements set forth below:

Min. Lot Area <u>Sq. Ft.</u>	Min. Lot Frontage <u>In Ft.</u>	Min. Front Side, Rear <u>Yards in Ft.</u>	Max. Struct. Cover % <u>Lot Area</u>	Structure Height <u>Feet</u>	*Min. Buildable Area in <u>Square Feet</u>
87,120	225	40	20	35	45,000

(Amended: Article X, October 29, 2007 Special Town Meeting)

(Amended: Article XXII, October 24, 2005 Special Town meeting)

(Amended: Re-codified, November 27, 2000 Special Town Meeting)

(Amended: Article VI, October 27, 1997 Special Town Meeting)

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

The shape of the lot must be capable of containing a rectangle with a width of at least one hundred feet (100) at the street-side, and parallel with the street on which frontage is measured, or, if a curve as in a cul-de-sac, parallel to a tangent to the curve with orientation such that the width-line is at right angles to the radius and a length sufficient that the area of the rectangle contains no less than 50 percent (50%) of the minimum lot size requirements. It must be possible to draw a straight line from this rectangle to the frontage. At no point between the required frontage and the aforementioned rectangle shall the lot width be less than 50 feet.

(Amended: Article XXII, May 18, 2009 Annual Town Meeting)

(Amended: Article XX, June 7, 2004 Annual Town Meeting)

(Amended: Article XXV, June 4, 2001 Annual Town Meeting)

(Amended: Re-codified, Article IV, November 27, 2000 Special Town Meeting)

2. Minimum connected upland Buildable area in square feet: 45,000 of which a minimum contiguous 20,000 square feet is within the Structure Placement Area.

(Amended: Article XXII June 7, 2004 Annual Town Meeting)

(Amended: Article XXIV June 4, 2001 Annual Town Meeting)

(Amended: Article IV, November 27, 2000 Special Town Meeting)

3. A lot or parcel of land having an area or a frontage of lesser amounts than required by this table may be considered as coming within the area and frontage requirements of this section, provided such lot or parcel of land was shown on a plan described in a deed duly recorded or registered at the time of the adoption of this bylaw, and did not at the time of such adoption or later adjoin other land of the same owner available for the use in connection with such lot or parcel as stated in Section 6, Chapter 40A.

(Amended: Re-codified, Article IV, November 27, 2000 Special Town Meeting)

4. Any lot lawfully laid out on a plan endorsed with the words "approval under the subdivision control law not required"; or words of similar import, pursuant to Massachusetts General Laws, Chapter 41, Section 81P, which complies at the time of such recording or endorsement, whichever is earlier, with the minimum area, frontage, width, and depth requirements, of the protective bylaw then in effect, was held in common ownership with that of adjoining land located in the same residential district, and further provided, at the time of building, such lot is in a district zoned for residential use, and conforms except as to area, frontage, width and depth requirements with the applicable provisions of the protective by-law then effect, may be built upon for residential use for a period of five years from the date of such recording or endorsement.

(Amended: Article XXVII, June 4, 2001 Annual Town Meeting)

(Amended: Re-codified, Article IV, November 27, 2000 Special Town Meeting)

5. The limitation on height of a structure shall not apply in any district to chimneys, ventilators, spires, antennas used exclusively for on-site applications, or purely ornamental features of a structure, provided such features are in no way used as living space. The provisions of this section shall apply solely to features attached to the primary structure.

(Amended: Article XX, June 4, 2007 Annual Town Meeting)

(Amended: Re-codified, Article IV, November 27, 2000 Special Town Meeting)

6. In order to provide Rochester landowners of sizeable acreage and limited frontage with some opportunity to realize at least some development value without the time and expense of initiating a Definitive Subdivision proposal, the Rochester Zoning By-law provides the options of a Back Lot Division by Special Permit: a parcel with no other contiguous land in common ownership may be divided into two or more lots, one of which has less than the normally required frontage on a public way existing at the time of the Special Permit request, and a single-family dwelling may be built on the reduced frontage lot, provided that such division is authorized on a Special Permit granted by the Planning Board. Such a division may be authorized if meeting each of the following, but not otherwise:

(Amended: Re-codified: Article II, October 29, 2007 Special Town Meeting)

(Amended: Article XXVI, June 4, 2007 Annual Town Meeting)

(Amended: Article XXI, June 9, 2003 Annual Town Meeting)

(Amended: Article XX, June 4, 2001 Annual Town Meeting)

(Amended: Article IV, November 27, 2000 Special Town Meeting)

- a. The applicant shall demonstrate that an additional lot is achievable under Rochester Zoning By-Laws for conventional subdivisions as specified in Section D. Lot Dimension, and the Rules & Regulations governing subdivisions.

(Amended: Article II, October 29, 2007 Special Town Meeting)

- b. The lot having reduced frontage must have frontage of at least 35 feet.

(Amended: Re-codified, Article II, October 29, 2007 Special Town Meeting)

- c. The lot having reduced frontage must contain at least twice as much lot area as otherwise required, without counting any portion of its access strip (the portion of the lot between the street and the point where lot width equals 100 feet or more).

(Amended: Re-codified, Article II, October 29, 2007 Special Town Meeting)

- d. The lot having reduced frontage must be capable of containing a square with sides equal to the normally required lot frontage. The access strip shall be configured with a minimum 35-foot width throughout such that a straight line may extend from the frontage to this square.

(Amended: Re-codified, Article II, October 29, 2007 Special Town Meeting)

- e. All other requirements specified in Section D. Lot Dimensions must be met.
(Amended: Re-codified, Article II, October 29, 2007 Special Town Meeting)
- f. No lot having less frontage than normally required shall be approved by the Planning Board if it abuts another such lot which is or was in the same ownership either at the time of application or at any time within the five years preceding that time, or if the proposed lot has less than normally required frontage on a road created by a subdivision within the five (5) years preceding the proposal.
(Amended: Re-codified, Article II October 29, 2007 Special Town Meeting)
(Amended: Article XXI, June 9, 2003 Annual Town Meeting)
- g. Egress from the created lots must involve no greater hazard owing to grade and visibility limitations than would be normal for a standard lot in the same vicinity.
(Amended: Re-codified, Article II, October 29, 2007 Special Town Meeting)
- h. Reduction of privacy, damage to the natural environment, and difficulties of utility provision must be no greater than would be expected for standard land division at that location.
(Amended: Re-codified, Article II October 29, 2007 Special Town Meeting)
- i. The proposal must be determined by the Planning Board to not circumvent the intent of the Rochester Zoning By-laws.
(Amended: Article II, October 29, 2007 Special Town Meeting)
(Amended: Article XXI, June 9, 2003 Annual Town Meeting)
- j. Such lots shall not be further divided.
(Amended: Article II, October 29, 2007 Special Town Meeting)
(Amended: Re-codified, Article II, October 29, 2007 Special Town Meeting)
- k. Any reduced frontage lot created under these provisions shall be shown and identified on a plan endorsed by the Planning Board as "Lot___ approved for reduced frontage and shall not be further subdivided."
(Amended: Re-codified, Article II, October 29, 2007 Special Town Meeting)
- l. Such Back lots shall have underground utilities.
(Amended: Re-codified, Article II, October 29, 2007 Special Town Meeting)
(Amended: Article XVIII, October 24, 2005 Special Town Meeting)
- m. The Planning Board may promulgate Rules and Regulations governing Back Lot Special Permits from time to time as it judges appropriate.
(Amended: Article XVIII, October 24, 2005 Special Town meeting)

E. Permitted Uses

1. Single family dwelling
2. Accessory structures

Table of Accessory Structure Dimensional Regulations

(All distances are measured from the respective property line)

Type of accessory structure	floor area	Min. Front setback	Min. Side setback	Min. Rear setback	Min. Distance between structures
1. Major farm structure	no limit	100 ft	100 ft	100 ft	10 ft
2. Intermediate farm structure	800 sf *	60 ft	60 ft	60 ft	10 ft
3. Minor farm structure	675 sf *	40 ft	40 ft	40 ft	10 ft
4. Roadside farm stand	80 sf *	15 ft	10 ft	10 ft	10 ft
5. Accessory structure >150 sf	1,000 sf **	40 ft	40 ft	40 ft	10 ft
6. Accessory structure ≤ 150 sf *** (in rear yard only)	150 sf *	Not Allowed	10 ft	10 ft	10 ft
7. Garage	1,000 sf **		40 ft	40 ft	40 ft
8. Guest house	300 sf *	40 ft	40 ft	40 ft	10 ft
9. Swimming pools	Not Applicable	40 ft	40 ft	40 ft	10 ft
* Total gross floor area (TGFA)	Includes all horizontal roof projections and all floors.				
** Ground floor area (GFA)	Includes all horizontal roof projections. No multiple stories or floors.				
*** Not to be used for animals					
No accessory structure other than roadside stand shall be located within the front yard area or meet the minimum set back requirement, whichever is greater.					

Height shall not exceed the height of the principal structure except where permitted below.

(Amended: Article XXI, June 4, 2007 Annual Town Meeting)

(Amended: Article 5, November 25, 2013 Special Town Meeting)

(Amended: Article 6, November 19, 2018 Special Town Meeting)

3. Religious, educational or municipal use except cemeteries

4. Uses incidental to residential use on the same premises are limited to the following:
 - a. Use of a room or rooms in a dwelling for home occupations conducted by the resident occupant only; such as dressmaking, home cooking, millinery, provided that there not be compensated employment of more than one employee, exclusive of family members living on the premises.
 - b. Use of the premises or structure thereon in connection with his trade conducted primarily away from his home by a resident tradesman such as carpenter, electrician, painter, plumber, mason, furnace repairman; provided that there not be compensated employment of more than one employee, exclusive of family members living on the premises.
 - c. Use of premises in professional occupation such as physician, dentist, hairdresser, barber, attorney, draftsman, engineer, accountant and real estate; provided that there not be compensated employment of more than one employee, exclusive of family members living on the premises

(Amended: Article 23, Annual Town Meeting June 13, 2016)

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

5. Farm or nursery, including the display and sale of stock.
6. Raising of not more than four hogs or pigs for personal use provided the penned area and all structures are not in the front yard area and setback one hundred feet from all property and street lines.
7. Raising of not more than ten rabbits for personal use provided the hutch is not in the front yard area and is setback forty feet from all property and street lines.
8. Storing of one unoccupied trailer in an accessory building or storing of one unoccupied trailer on a lot, not in the front yard area and conforming with all other lot setback dimensions.
9. Private swimming pools twenty-four inches deep or more and having a surface area of two hundred fifty square feet or more shall be required to have an enclosure not less than forty-eight inches above ground. The construction of the fence shall be as to prohibit the passage of a sphere larger than four inches through any opening or under the fence and able to withstand a horizontal load of two hundred pounds.

10. Use of a trailer for a period not to exceed twelve months as a temporary replacement for a dwelling destroyed by fire or natural causes.
(Amended: Article VI, November 27, 2000 Special Town Meeting)
(Amended: Article XVI, February 25, 2002 Special Town meeting)
11. Occupancy of a recreational vehicle on a lot shall require a permit from the building inspector.
(Amended: Article XVI, February 25, 2002 Special Town Meeting)
12. Transportation trailers and boats are not to be stored in the front yard area and conforming with all other lot setback dimensions.
13. Antennas, towers, windmills shall not be located in front yard area and setback from all property lines equal to or greater than the height of the structure plus twenty feet.
14. Flagpoles shall be setback from all property lines equal to or greater than the height of the pole.
15. Upon issuance of a permit by the building inspector, use and occupancy of a temporary trailer for a period of one year or a period ending thirty days following completion of the construction of a permanent dwelling on the premises, whichever first occurs.
16. New construction and conversions of multifamily dwellings are permitted with the following conditions:
 - a) Not more than one multifamily dwelling shall be constructed on a lot.
 - b) All parking will be on site and no closer than 40 feet from any property line.
 - c) At least one unit must be owner occupied.
 - d) Multifamily dwellings shall not have more than 4 (four) dwelling units.
 - e) One structure consisting of a two-family dwelling unit is permitted with the following conditions:
 - 1) Minimum lot size is 105,000 (one hundred five thousand) square feet.
 - 2) Minimum frontage on a public way of 300 (three hundred) feet measured at a 40 (forty) foot set-back line.
 - 3) Minimum side lot setbacks is fifty (50) feet.
 - 4) Minimum contiguous upland (non-wetlands) is 50,000 (fifty thousand) square feet within the Structure Placement Area.

- 5) Structure is to be placed on the largest contiguous upland on the lot.
- f) One structure consisting of a three-family dwelling unit is permitted with the following conditions:
 - 1) Minimum lot size is 145,000 (one hundred forty five thousand) square feet.
 - 2) Minimum frontage on a public way of 370 (three hundred seventy) feet measured at a 40 (forty) foot set-back line.
 - 3) Minimum side lot setbacks is sixty (60) feet
 - 4) Minimum contiguous upland (non-wetlands) is 70,000 (seventy thousand) square feet within the Structure Placement Area.
 - 5) Structure is to be placed on the largest contiguous upland on the lot.
- g) One structure consisting of a four-family dwelling unit is permitted by right with the following conditions:
 - 1) Minimum lot size is 185,000 (one hundred eight five thousand) square feet.
 - 2) Minimum frontage on a public way of 450 (four hundred fifty) feet measured at a 40 (forty) foot set-back line.
 - 3) Minimum side lot setbacks is 70 (seventy) feet.
 - 4) Minimum contiguous upland (non-wetlands) is 90,000 (ninety thousand) square feet within the Structure Placement Area.
 - 5) Structure is to be placed on the largest contiguous upland on the lot.

(Amended: Article 5, November 19, 2018 Special Town Meeting)

17. Temporary Storage Units are only allowed in the front yard area provided they comply with at least one of the following:

1. Units are used in conjunction with an active Building Permit for construction or renovation on the property where they are located.
2. Town sanctioned trash and recycling containers.
3. Farm stands as defined in Section 19.30 Definitions.
4. Short term use not to exceed seven (7) consecutive calendar days, not to exceed three (3) occurrences per year

(Added: Article 7, November 19, 2018 Special Town Meeting)

F. Uses Permitted by Special Permit

1. Use of the premises or structure therein in connection with a trade by a resident requiring employment of more than one employee.

2. Renting of rooms or furnishing of board for not more than four persons in a single-family dwelling unit.
(Amended: Article 23 Annual Town Meeting June 13, 2016)
3. Commercial raising of hogs, pigs or fur-bearing animals, however, only if such activity is carried out five hundred feet or more from any lot line or street line.
4. Personal wireless service facilities in accordance with Chapter 22.30.
(Amended: Article V, November 27, 2000 Special Town Meeting)
(Amended: Article XVI, February 25, 2002 Special Town Meeting)
5. Use of a temporary trailer beyond one year, provided that application for the special permit is made at least thirty days prior to the expiration of the temporary trailer permit authorized by the building inspector under Section E.2. (11).
6. Where the intended or proposed use for a parcel in any zoning district is not specifically allowed by special permit or by variance herein, the board of appeals may grant a special permit or use variance for said intent or purpose, subject to a public hearing at which it has been shown that the proposed use is in harmony with the general purpose or intent of the bylaws.

Within ten days of receipt of the application for such a special permit, the Board of Appeals shall transmit one copy of the application to each of the following: Conservation Commission, Planning Board, Board of Health, Highway Surveyor, Chief of Police, Fire Chief and Building Commissioner and Industrial Development Commission.

(Amended: Article XXVII, October 24, 2005 Special Town Meeting)
(Amended: Article XIX, June 3, 2002 Annual Town Meeting)

7. Private club, hospitals, sanitariums, convalescent homes, motel, hotel, restaurant, cemetery.
8. Any place of business such as a golf course, bowling alleys, office building, junkyard, bank, newspaper, repair shop, gas station or building for public utilities, etc., and a setback of at least eighty feet from all lot lines and any street lines on all structures.
9. Multifamily Dwelling
 - a) Conversions of any dwelling that is not Permitted under (Section 20.40.E.16) that increases the number of dwelling units provided the dwelling has been occupied at least 7 years prior to the application. Any increase in the structure floor area to accommodate additional dwelling units is not to exceed thirty percent (30%). Minimum lot size must be 87,120 Sq. Ft. and the minimum Lot Frontage must be 225 linear contiguous feet. At least one dwelling unit shall remain owner occupied.

(Amended: Article 5, November 19, 2018 Special Town Meeting)

10. No structure or accessory structure shall be constructed or allowed with a height greater than thirty-five (35) feet without a Special Permit from the Zoning Board of Appeals. Such Special Permit shall not exempt structure from the requirements of Section E.14. This provision shall not apply to those features exempt pursuant to Section D5.

(Amended: Article XIX, June 4, 2007 Annual Town Meeting)

(Amended: Article XIII: May 19, 1997, Special Town Meeting)

11. *(Deleted: Article XVI, February 25, 2002 Special Town Meeting)*

12. Flexible Development

(Amended: Article VI, November 27, 2000 Special Town Meeting)

(Adopted: Article I, October 27, 1997 Special Town Meeting)

(Deleted: Article 9, October 20, 2001 Special Town Meeting, See Section XXI)

13. Common Driveway

(Amended: Article XXI, June 4, 2001 Annual Town Meeting)

A private way, extending from a public way, serving as common vehicular access to two (2) or more but not more than four (4) single-family, residential house lots. A Common Driveway is defined as that portion of a private way serving two or more houses.

(a) Eligibility

The owner of each lot involved shall be party to the application for Special Permit. The Planning Board shall require the applicants to propose legal easements appropriate for permanently allowing passage over private property and location of signs on private property as required.

(Amended: Article III, October 29, 2007 Special Town Meeting)

(b) Purpose

The purpose of this by-law is to enhance the safety and welfare of residents served by Common Driveways and to clarify the rights and responsibilities of builders and residents of homes with Common Driveways, and of the Town of Rochester in order to minimize negative impacts on natural resources, to improve the public safety along public ways by reducing the number of curb cuts, and/or to preserve and enhance rural character by reducing the negative visual impact of multiple driveways exiting upon a public way or a way shown on a subdivision plan. The powers of the Planning Board shall be exercised with due regard for the foregoing.

(Amended: Article III, October 29, 2007 Special Town Meeting)

(c) Scope

Common Driveway shall not be permitted except by Special Permit from the Planning Board. Common Driveways and individual driveways originating from Common Driveways shall be subject to all requirements for driveways and off-street parking to which driveways originating from public ways or ways shown on subdivision plans are subject. A Common Driveway which is in existence and in use at the time of adoption of this by-law will be allowed to continue; however, if it is expanded, extended, or otherwise substantially changed, it shall be subject to this by-law and shall be brought into compliance through an application to the Planning Board for a Special Permit. A Common Driveway shall not become a public way. The Town of Rochester shall not be required to provide maintenance, snowplowing, school bus pickup, trash or recycle collection, or police patrols along a Common Driveway.

(Amended: Article III, October 29, 2007 Special Town Meeting)

(d) Lot and Frontage Requirements

All lots to be served by a Common Driveway must meet the requirements of a lot as defined in the definition of a “lot” in Chapter 19.30 “Definitions” and meet the criteria for Lot Dimensions of the Town of Rochester Zoning By-Laws, or as otherwise approved by Special Permit or variance from appropriate authority. Common Driveways shall never be used to satisfy zoning frontage requirements. Each lot served shall have vital access frontage on a public way or a way shown on a subdivision plan, which serves to satisfy frontage requirements under Zoning By-Laws of the Town of Rochester. All dimensional requirements for lots served by a Common Driveway shall be the same as would be required for those lots had they not shared a Common Driveway.

(Amended: Article III, October 27, 2007 Special Town Meeting)

(Amended: Article XXIII: June 7, 2004 Annual Town Meeting)

(e) Design and Construction Standards:

An engineering plan shall be presented as follows:

1. Common Driveways shall be designed so that they will provide safe vehicular travel. Due consideration shall also be given to the attractiveness to the layout in order to obtain the maximum livability of the Common Driveway neighborhood.
2. Design and construction standards such as width of driveway, curb-cut radii, pavement thickness, and other such dimensions shall conform with the Zoning By-laws

and applicable Planning Board Rules and Regulations governing subdivisions as guidelines, as such standards may be amended from time to time. Said construction standards may be waived in the same manner, which applies to subdivisions. Any subsequent change to the roadway surface after the construction of a Common Driveway shall require a modification of the endorsed plan pursuant to M.G.L. 40.A. § 11 and this Special Permit.

(Amended: Article III, October 29, 2007 Special Town Meeting)

3. Signage and Addresses

A legally binding provision shall be made for a permanent sign displaying Common Driveway name previously approved by the Board of Selectmen and located where the Common Drive abuts the public way or a way shown on a subdivision plan. Displayed just below said sign shall be a second sign with the words "Private Road". Each of the signs shall comply with the Highway Surveyor's specifications.

A legally binding provision shall be made for a permanent Common Driveway "street" number for each individual driveway where it departs from the Common Driveway. Street numbers shall be assigned by the Building Commissioner.

(Amended: Article III, October 29, 2007 Special Town Meeting)

4. For new lots created with a proposal for access via Common Driveway, all utilities shall be underground, with corresponding easements as appropriate, unless waived by the Planning Board.

(Amended: Article III, October 29, 2007 Special Town Meeting)

(f) Maintenance, Repair and Upkeep

In issuing any special permit for a Common Driveway, the Planning Board shall require the applicants to demonstrate that, through easements, restrictive covenants or other appropriate legal devices, the maintenance, repair, snow removal, garbage and trash management, use regulations and liability for the Common Driveway shall remain perpetually the responsibility of the private parties, or their successors-in-interest and that any breach of this condition shall be deemed noncompliance with the terms of any Special Permit issued hereunder.

- (g) Permanence of Common Driveway
On granting of the Special Permit, the Common Driveway shall be the permanent access to each lot included and specific reference shall be made to this Special Permit in all subsequent deeds to the lots.
- (h) Filing Fee and procedure
1. A filing fee of \$50.00 per lot shall be submitted with the preliminary application (See #2 below) to cover administrative costs. In the event that the Planning Board determines that unusual or exceptional circumstances necessitate expert technical review, such costs shall be paid by the applicants.
(Amended: Article III, October 29, 2007 Special Town Meeting)
 2. A preliminary application shall be made to the Planning Board with all the required legal and engineering plans. A preliminary Special Permit hearing will be scheduled as part of the next regularly scheduled Planning Board meeting. A Special Permit hearing will be scheduled not more than 30 days after formal application is submitted per M.G.L. 40.A. § 11.
(Amended: Article III, October 29, 2007 Special Town Meeting)
(Adopted: Article XXI: June 4, 2001 Annual Town Meeting)
- (i) The Planning Board may promulgate Rules & Regulations governing Common Driveway Special Permits from time to time as it judges appropriate.
(Amended: Article III, October 29, 2007 Special Town Meeting)
14. Personal wireless service facilities in accordance with Chapter 22.30.
(Amended: Article V, November 27, 2000 Special Town Meeting)
15. Special Residential Development in accordance with Chapter 22.20.
(Amended: Article I, October 4, 2004 Special Town Meeting)