

PLANNING/ZONING



COMMUNITY PLANNING ORDINANCE

Adopted March 14, 1989
Amended March, 2008
Amended March, 2014
Amended April 8, 2015
Reformatted January 19, 2016
Amended March 14, 2017

Article I

PURPOSE AND AUTHORITY

This Ordinance has been adopted in accordance with RSA 674:17 in order to insure that the Town of Sullivan shall have the benefits of land use regulations in order to lessen congestion on our streets; to secure safety from fires, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, solid waste facilities, water, sewage, schools, parks, and child care; and to assure proper use of natural resources and other public requirements.

Article II

DISTRICT DESIGNATION

- A. The Town of Sullivan shall consist of one Rural Residential District as shown on the Community Planning Map. However, the area within 500 feet of the intersection of Church Street and Centre Street shall be further designated as a scenic area.
- B. The purpose of the Rural Residential District is to provide for the mix of residential, agricultural, commercial, and industrial uses common to small New Hampshire Communities.
- C. The flood plain development district from the ordinance adopted by the Town is incorporated herein by reference.
- D. The areas near Chapman Pond, Bolster Pond, and the Ashuelot River are protected under the provisions of the Comprehensive Shore Land Protection Act (RSA 483 B) and are subject to that law.
- E. The wetland conservation district from the ordinance adopted by the town is incorporated herein by reference.

Article III

USE APPLICATION

- A. The following uses are permitted In the Rural Residential District:
 1. One family dwelling unit.
 2. Two-family dwelling units.
 3. Agriculture, animal husbandry, and forestry.
 4. Home businesses.
 5. Seasonal dwelling units.
 6. Public Parks or playgrounds including accessory shelters.
 7. The keeping of animals and all normal activities incidental thereto such as odors and noise will be allowed.
 8. Any activity, now permitted by law, engaged in by a farmer as defined herein, in connection with and in furtherance of the business of farming, such as, but not limited to: odors; noise; the collection, transportation, distribution and storage of animal wastes; storage, transportation and use of equipment for tillage, planting and harvesting; transportation, storage and use of legally permitted fertilizers and limes, insecticides, herbicides, and pesticides all in accordance with local, state and federal law and regulations and in accordance with the manufacturer's instructions and warnings; construction of farm structures and facilities as permitted by local and state building codes and regulations; and construction and maintenance of fences.

- B. The following uses may be permitted by a special exception from the Sullivan Board of Adjustment in accordance with Article VI:
1. Multifamily dwelling units.
 2. Lodging houses, hotels, motels, or inns.
 3. Commercial use including but not limited to: stores, garages, professional offices, post offices, utilities, funeral homes, warehouses, restaurants, junk yards, recreational uses, and campgrounds. The last use is also subject to the Town of Sullivan Campground Ordinance.
 4. Institutional uses, including, but not limited to: privately owned educational facilities such as schools, daycare facilities, nursery schools, or kindergartens; churches or other places of worship; health care facilities such as convalescent homes or homes for the aged; and public educational facilities.
 5. Industrial uses including but not limited to: sawmill operations and forest product manufacturing; removal of natural materials; and other industrial and manufacturing uses which are not injurious, obnoxious, offensive, or otherwise objectionable or hazardous to the community for any cause.
 6. Wireless communications facilities in accordance with the requirements of Article VI.C.10
- C. Areas and Dimensions for structures and/or buildings:
1. The minimum lot area is 2 acres.
 2. The minimum lot width at the building line is 200 feet
 3. The minimum lot depth from the front property line is 200 feet.
 4. The minimum lot width at the road frontage is 200 feet on a class V or better road.
 5. The minimum set back from the highway right of way is 50 feet.
 6. The minimum set back from adjacent property lines is 20 feet.
 7. The maximum density allowed (including multifamily developments, and with the exception of one attached or internal ADU) is one dwelling unit for every two acres.
 8. The minimum total interior living area for a Principal Dwelling Unit shall be 700 square feet, of which not less than 600 square feet shall be on one level.
 9. The minimum total interior living area for an Accessory Dwelling Unit shall be 400 square feet and its area shall not exceed the area of the principal dwelling unit.

Article IV

GENERAL PROVISIONS

- A. **Manufactured Housing.** Manufactured housing may be located in Sullivan provided it conforms to all of the provisions of this ordinance that are applicable to single-family dwellings.
- B. **Setbacks from Bodies of Water.** All buildings or structures shall be located no less than fifty feet (50) from the normal high water mark (within the past 5 years) of the following bodies of water:
1. Bolster Pond (Also subject to the Comprehensive Shoreland Protection Act)
 2. Chapman Pond (Also subject to the Comprehensive Shoreland Protection Act)
 3. Ellis Reservoir
 4. Otter Brook
 5. Granite Lake Brook.
 6. Ashuelot River (Also subject to the Comprehensive Shoreland Protection Act).
 7. Spaulding Brook.
 8. All other streams that normally flow all year

- C. **Flood Elevation.** No person shall build, construct, or place any building, manufactured housing of any type, campsite, septic tank, leach field, any other part of a sewer system, fence, road, or any other structure of any type in the following locations without a written permit to do so by the Board of Selectman, and then only after a public hearing. The following distances are elevations above the normal high water level of the watercourse:
1. Within 15 feet of the Ashuelot River, or of a watercourse adjacent to or near it (Also subject to the Comprehensive Shoreland Protection Act.)
 2. Within 10 feet of Otter Brook from Centre Street to the Roxbury-Sullivan Town Line.
 3. Within 7 feet of Otter Brook from Centre Street to the Nelson-Sullivan Town Line.
 4. Within 5 feet of all other perennial streams.
 5. Within 5 feet of Bolster or Chapman Ponds. (Also subject to the Comprehensive Shoreland Protection Act.)
- D. **Nonconforming Uses.** Any nonconforming use of the land or buildings lawfully existing at the effective date of this ordinance or any amendment thereto may be continued. In addition, any land or building so existing which was designed, intended for, arranged, or is devoted to a nonconforming use, may be altered and the nonconforming use continued, subject to the following:
1. A nonconforming use may be changed to a conforming use, but may not be changed back to a nonconforming use at a later date.
 2. A nonconforming use which has been discontinued for a period of one year shall not be resumed.
 3. Upon the granting of a special exception by the Board of Adjustment, a nonconforming use may be enlarged or extended providing such extension does not adversely affect the area in which the nonconforming use is located, the adjacent properties, the character or environment of the neighborhood, or create a serious hazard to vehicle or pedestrian traffic.
 4. When a building in which there is a nonconforming use is destroyed by fire, explosion, or act of God, it may be reconstructed within a period of one year and the nonconforming use continued providing there is no enlargement or extension of the nonconforming use.
- E. **Nonconforming Lots.** Nothing in this ordinance shall prevent the construction of a permitted building or the establishment of a permitted use on a lot of record existing at the effective date of this ordinance or any amendment thereto which contains less than the prescribed area or width providing that safe and adequate disposal of sewage, safe water supply, and minimum setback requirements can be met without endangering the health and safety of the residents providing that it was on the effective date of this Ordinance:
1. A single lot on a class V or better road described and recorded in the Cheshire County Registry of Deeds, or
 2. Shown on a map or subdivision approved by the Sullivan Planning Board and recorded in the Cheshire County Registry of Deeds
- F. **Hazardous Uses.** No building or improvement shall be erected, used, or maintained; and no land shall be used or maintained for any use, trade, business, or process which is obnoxious or offensive by reason of gas, odor, dust, smoke, vibration, liquid discharge, illumination, noise, hazardous and toxic waste including nuclear waste, or which constitutes a public hazard whether by fire, explosion, or otherwise.
- G. **Accessory Building and Uses.** Any accessory use or any accessory building located on the same lot which is customarily incidental to the principal use or building shall be permitted.

Applicants should also consult Article III.C for the proper dimensions, setbacks, and density requirements; and Article V.A for building permit requirements.

H. **Accessory Dwelling Units (ADUs).** One internal or attached accessory dwelling unit per single family dwelling will be deemed a permitted accessory use for all single-family dwellings.

1. An internal or attached ADU shall be permitted for all single-family dwellings, subject to the following:
 - a. Only one internal or attached ADU shall be permitted for each single-family dwelling,
 - b. the ADU shall have an independent means of ingress and egress, or shall have ingress and egress through a common space such as a shared hallway to an exterior door,
 - c. in order to be considered attached, there must be a common wall between the principal dwelling unit and the ADU, and
 - d. provision shall be made to meet local and State regulations for adequate water supply and sewage disposal service, and all other local regulations.
2. A single detached ADU located on the same lot as and incidental to the principal dwelling unit shall be permitted for lots of 4 or more acres. A maximum of two detached ADUs located on the same lot as and incidental to the principal dwelling unit shall be permitted for lots of 10 acres or more. An approved septic system design is a prerequisite to construction.

Refer to Article V for building permit requirements. Applicants should also consult Article III.C for the property dimensions, setbacks, and density requirements.

I. **Seasonal Dwellings.** Any seasonal dwelling may be converted to a permanent dwelling unit provided that local and State sewage disposal regulations and all other local regulations are met. Applicants should also consult Article III. C for the property dimensions, setbacks, and density requirements; and Article V for building permit requirements.

J. **Permanent Foundations.** All one and two family units including manufactured housing shall be placed on a permanent continuous foundation. Manufactured housing may be placed on a floating slab as defined by the most current New Hampshire State Building Code and shall be properly skirted.

K. **Excavations.** Excavations for the removal of fill or other materials will not be permitted within 500 feet of the intersection of Church Street and Centre Street. Where permitted such excavations must comply with the requirements of Chapter 155-E, N.H. Revised Statutes Annotated, and must receive a permit from the Sullivan Planning Board.

L. **Septic and Water Systems.** The location of septic and water systems shall comply with existing State and local regulations including setbacks as stated in Article III.C. Approval of new septic systems shall be a prerequisite for building permit approval on new dwelling units.

M. **Erection of Buildings on Streets.** The provisions of RSA 674:41 will apply including setbacks as stated in Article III.C.

N. **Alternative Development.** Alternative development shall be granted only where the Planning Board finds that such development will be superior to conventional development in:

1. Preserving open space for agriculture, conservation or recreation,
2. Preserving historic, archeological, and cultural features located on the site,
3. Utilizing natural features of the land,
4. Preserving those areas of the site that have the highest ecological value (for example,

- wildlife habitat and water resources),
5. Locating buildings and structures on those portions of the site that are the most appropriate for development and avoiding developing in areas ill-suited for development such as areas that have excessively steep slopes, and
 6. Allowing more efficient provision of public services;

and at least equal to a conventional plan in other respects.

Alternative development of lots 20 or more acres in size and other methods of preserving open space are specifically allowed. Alternative development will require that the landowner provide a minimum of 2 acres per principal dwelling unit. In the determination of such additional acreage requirement, wetlands shall not be calculated. Minimum lot width at the road frontage shall be 200 feet on a class V or better road, and the minimum setback from the highway right of way shall be 50 feet. Under such a development plan, individual lot size may, at the discretion of the Planning Board, be less than 2 acres, but only in such circumstances as ownership of additional land held in common, and adjacent to the subject lot, provides a minimum of 2 acres per Principal Dwelling Unit.

Article V

BUILDING PERMITS

- A. **When Required.** A building permit shall be required for all dwelling units, including ADUs, seasonal or permanent. A building permit shall also be required to erect or place any type of building or other structure, attached or detached, which will be over 400 square feet. A permit shall not be required for normal repairs to, or redecoration of, a building. Exemption from permit requirements of this ordinance shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of any other laws or ordinances of this jurisdiction.
- B. **Application for a Residential Building Permit.** Written application for a building permit to construct or place a dwelling unit shall be filed with the Board of Selectmen or its agent. This application shall include at least the following:
 1. Location of the lot.
 2. Boundaries of the lot.
 3. Names of abutting property owners.
 4. The nature of the proposed building.
 5. The general contours of the land and location of any wetlands.
 6. The proposed access to the lot.
 7. Proposed location of the building(s) with measured setbacks shown.
 8. Proposed location of the well, septic system or alternative waste disposal system.
 9. Any existing structures, sewage facilities, or wells on the lot.
 10. Any other pertinent details.

When applicable, the necessary State approvals shall be obtained for construction of a septic system.
- C. **Application for an Accessory Building Permit.** Written application for a building permit, over 400 square feet shall be filed with the Board of Selectmen or their agent to include size and location on the lot. Applicants should also consult Article III.C for the proper dimensions, setbacks, and density requirements.
- D. **Conditions for Issuing a Building Permit.** The Board of Selectmen or their agent shall determine as a matter of record whether or not the granting of such a permit will be in

accordance with the purpose and requirements of this Ordinance and shall take into consideration the following items:

1. That the proposed use will not adversely affect stream channels and their ability to handle run-off of surface waters and;
2. Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.

In making these determinations, the Board of Selectmen or their agent shall take into account:

1. The slope of the land, and;
 2. The nature of the soils and sub soils and their ability to adequately support sewage.
- E. **Issuance of a Building Permit.** Upon submission of a complete application for a building permit, the Board of Selectmen shall act to approve or disapprove such applications within 30 days for 1 to 9 dwelling units or 60 days for 10 or more dwelling units. Failure of the Board of Selectmen to act within 30 days shall be deemed approval. Building permits are valid only to the owner at the time the permit is issued. The permit is not transferable.
- F. **Temporary Permits.** The Board of Selectmen or their agents may issue a permit for a period of six months to allow temporary single-family occupancy of a structure not in conformance with the requirements of this Ordinance. The permit shall only be issued when the intent is shown by the applicant to conform to the provisions of this Ordinance. The temporary permit may be renewed by the Board of Selectmen or their agents for additional incremental periods if the applicant demonstrates satisfactory progress toward compliance.
- G. **Fees.** The Board of Selectmen is authorized to establish the amount of a fee for building permits.
- H. **Revocation of a Permit.** Any Permit may be revoked by the Board of Selectmen at any time for just cause (for example, violation of setbacks).
- I. **Expiration.** Building Permits expire one (1) year from the date of issuance. If construction is not complete within the stated time frame, a temporary permit may be applied for. In cases where building permits have expired and no temporary permit has been given, it will be necessary to reapply.
- J. **New Construction – Occupancy Permits.** Before any newly constructed dwelling or structure intended for human habitation can be occupied or utilized, an occupancy permit shall be approved by the Board of Selectmen or their designee. The occupancy permit is not to be construed as an expressed or implied legal warranty that the applicant has complied with all applicable requirements of building codes. Its purpose is to confirm safe and adequate disposal of sewage, well installation, minimum setbacks, driveway and apron installation meet the town’s regulation.

Article VI

THE BOARD OF ADJUSTMENT

- A. **Creation.** The Board of Adjustment is created to:
1. Hear appeals from an administrative decision made by the Board of Selectmen and any other Town Administrative Officers regarding the Community Planning Ordinance.
 2. Grant special exceptions.
 3. Grant variances.
- B. **Administration.** Relevant provisions of Chapter 676 and 67, N.H. Revised Statutes Annotated dealing with administration, enforcement, rehearing, and appeal procedures are hereby considered to be part of this Ordinance.

- C. **Special Exceptions.** The Board of Adjustment may grant a special exception, after a proper hearing, for those uses listed in Article III.B providing the following conditions and criteria are met:
1. The specific site is an appropriate location for such a use.
 2. The proposed use will not adversely affect the adjacent area.
 3. No nuisance or serious hazard to vehicles or pedestrians shall occur as a result of the proposed use.
 4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
 5. The proposed use will be consistent with the intent of the Comprehensive Planning Program and this Ordinance.
 6. Any addition, expansion, or alteration of an existing use for which a special exception had been granted must receive a new special exception if there is an expansion of the area of the existing structure or expansion into new land for which a special exception has not been granted.
 7. Any proposed or existing junk yard or dump must comply with all appropriate local regulations and State regulations contained in Chapters 147,236, and 322 NH Revised Statutes Annotated.
 8. All proposed multifamily developments shall have an overall density of no less than 2 acres for each dwelling unit, and shall comply with the Town of Sullivan subdivision regulations as well as any other applicable local and State regulations.
 9. The Board of Adjustment may impose additional requirements as may be necessary so that the standards can be changed to satisfy buildings other than residential.
 10. Wireless Communication Facilities:
 - a. Since the visual impact of wireless communication facilities can transcend town lines, communities that may be visually affected shall be formally notified of applications for such proposed facilities as projects having regional impact.
 - b. The applicant must demonstrate that every effort has been made to cause the facility to have the least possible visual impact on the town at large, including demonstration of realistic analysis of multiple sites and the need for the proposed height.
 - c. Any wireless communication facility shall be designed to accommodate multiple providers of communication services and will only be approved under the condition that the primary developer of the facility will make the facility available upon reasonable terms by lease or other legal instrument to other wireless communication services.
 - d. Any alteration of the original permitted use and device configuration of the facility will require a new special exception approval and site plan review approval from the Planning Board.
 - e. The Board of Adjustment may request detailed plans from the applicant and may, at the expense of the applicant, engage the services of professional consultants to review and comment on the proposal, and testimony of the applicants or their agents relating thereto.
- D. **Variations.** Where a variance is called for under the provisions of the Community Planning Ordinance, applicants must convincingly demonstrate to the Board of Adjustment **ALL** of the following:

1. That denial of the variance will result in “unnecessary hardship” to the owner seeking it, AND
2. That no decrease in the value of surrounding properties will result if the variance is granted, AND
3. That granting the variance would benefit the public interest, AND
4. That the proposed use is not contrary to the spirit and intent of the Community Planning Ordinance, AND
5. That by granting the variance, substantial justice will be done.

Article VII

ADMINISTRATION

The Board of Selectmen shall administer the provisions of this Ordinance in the name of the Town. The Selectmen may appoint an agent to administer this Ordinance. The fire chief or his/her designee shall have the authority to make inspections in accordance with NFPA 101 - The Life Safety Code to determine the condition of dwellings located within the town in order that the health and safety of the occupants of all dwellings and the general public shall be safeguarded. The Health Officer shall have the authority to conduct sanitary investigations into complaints and nuisances that may endanger public health. Whenever a health officer knows or has cause to suspect that any nuisance or other causes of danger to the public health is in any building or enclosure, he/she may obtain an administrative inspection warrant under RSA 595-B, which may include, when necessary, authority for forcible entry. Remedies provided in RSA 676:15 and RSA 676:17 are hereby made available to the Selectmen except that no fine shall exceed \$100.00 per day for each day a violation continues.

Article VIII

AMENDMENTS

This Ordinance may be amended by procedures as set forth in Chapter 675:2, N.H. Revised Statutes Annotated.

Article IX

SEVERABILITY

The invalidity of any part of this ordinance shall not invalidate any other part, nor the ordinance as a whole.

Article X

EFFECTIVE DATE

This Ordinance shall take effect immediately upon its passage. Any local ordinance in effect at the time of passage shall remain in effect where inconsistent with this ordinance.

Article XI

DEFINITIONS

Accessory Building. Any building which is subordinate to the principle use of the property and which is habitually or customarily associated with or related to the principle use.

Accessory Dwelling Unit (ADU). A residential living unit that is within or attached to, or detached from, a single-family dwelling that is the principal dwelling unit, and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies.

This may also be referred to as an accessory apartment, camp, cabin, in-law apartment, bunkhouse, apartment, cottage, caretaker's apartment or other similar name.

Alteration. Any change or rearrangement in the supporting members of an existing building such as bearing walls, columns, beams, girders, or interior partitions as well as any change in doors or windows or any enlargement to or diminution of a building or structure whether horizontally or vertically or the moving of a building or structure from one location to another.

Building. Any structure having a roof or intended for shelter, housing, or enclosure of persons, animals, or materials, equipment, etc. This will include towers, pools, and parking lots.

Dwelling Unit. A building or part thereof designed for residential occupancy providing complete independent living facilities for one or more persons that includes permanent provisions for living, sleeping, eating, cooking and sanitation. A principal dwelling unit is an allowed residential structure to which an accessory building or accessory dwelling unit is subordinate.

Family. One or more persons living as a single housekeeping unit.

Farmer: Any person, organization, entity, association, partnership or corporation engaged in the business of agriculture, whether for profit or otherwise, including the cultivation of land, the raising of crops, the raising of livestock and the operation of poultry farms.

Forestry. The science of silviculture as defined by RSA 227:G:2:XI but precluding any commercial wood processing without special exception from the Zoning Board of Adjustment.

Home Business. Any use conducted entirely within a dwelling or accessory building which is incidental to the dwelling and does not substantially change the character thereof.

Lot. A parcel of land occupied or capable of being occupied by one structure for residential use and the structures or uses accessory thereto.

Manufactured Housing. A structure which is transportable in one or more sections and which, when erected on site, is 700 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling when connected to required utilities which include plumbing, heating, and electrical heating systems contained therein. Manufactured housing as defined in this section shall not include pre-site built housing as defined in RSA 674:31-A.

Multi-family Housing. Any housing unit containing more than two dwelling units.

Seasonal Dwelling Unit: Any structure intended for shelter or housing, meant for casual and intermittent occupancy (not greater than nine (9) consecutive months); not the principal place of abode for owner, tenant or occupant. See also, "Dwelling Unit."

Setback. An open space between buildings and property lines.

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

Wireless Communication Facility. Any tower, pole, antenna, access way (including roads), or other structure intended for commercial use in connection with transmission or reception of radio or television signals, or any other electromagnetic spectrum based transmission or reception. This definition is not to be construed to include homeowner rooftop antennas or satellite dishes.