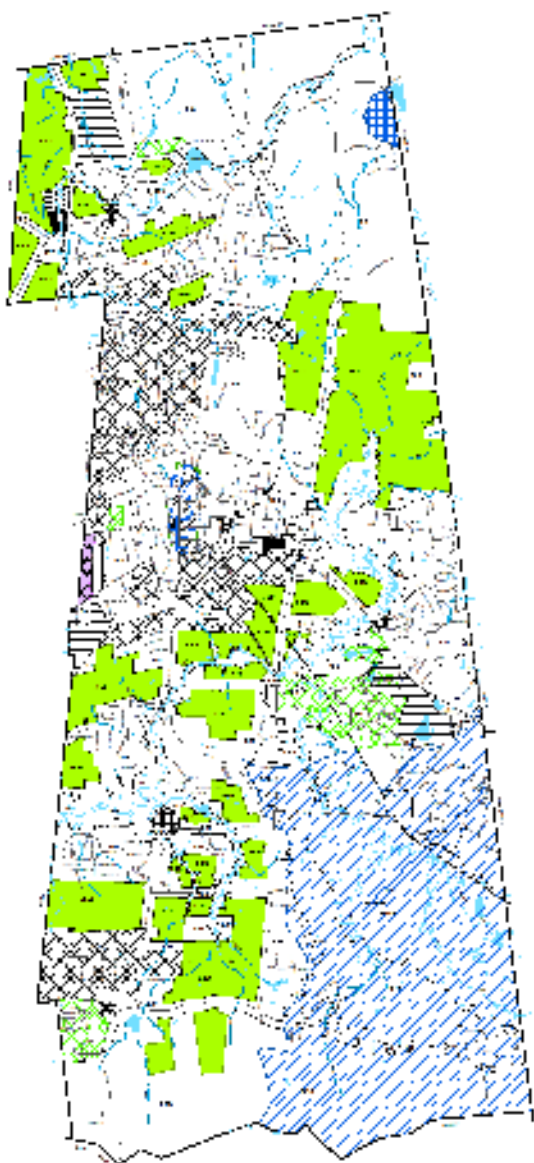


ZONING PRIMER

**A 21ST
Century
Update
Of
Definitions,
Acronyms,
And
FAQs**



Introduction

Land area in Amherst is divided into districts called zones. Zones have designations, often appearing as initials on zoning maps and charts. Zoning determines the uses, dimensions and sometimes design within these areas. Town Meeting must approve the designations and any changes to them.

To enable you to deal comfortably with zoning issues the Town Meeting Coordinating Committee has revised this zoning primer originally published by a previous Planning Board and the Planning Department. This Primer is meant to be an introduction to the terms used and a general overview of zoning principles.

For more information, *and to see the full by-law and zoning maps*, please see

www.amherstma.gov/zoning

**The Town Meeting Coordinating
Committee
October 2013**

This Zoning Primer was assembled using information from the zoning bylaw and previous primers, with input from the Planning Board, the Planning Department and the Building Inspector. It is meant to be a living document with frequent updates to be posted on the Town website - Town Meeting page.

www.amherstma.gov/zoningprimer

Frequently Asked Questions

What is zoning?

Zoning is the way Massachusetts communities regulate the use of land. Zoning regulations allow a community to control where different uses occur and under what circumstances.

Why do we need zoning?

Zoning allows the town to group land uses according to their compatibility, and to separate them into zoning districts that protect the health, safety, and general well-being of the community.

What is the Zoning Bylaw?

The Zoning Bylaw is the whole body of zoning regulations that have been adopted by Town Meeting. It includes the Zoning Map, land use chart, dimensional regulations, definitions and other regulations pertaining to the various zoning districts.

How does zoning work?

The Zoning Map divides the Town into districts and gives each district a name such as Commercial, General Business, or Neighborhood Residence. The Zoning Map shows the land in the Town and to which one or more of these districts it is assigned. The same zoning district may occur in more than one geographic location in Town. In addition to the underlying Zoning District, one or more Overlay Districts may apply.

What do zoning designations mean?

The Zoning Bylaw contains a general description, a use chart, and dimensional regulations for each district. The use chart shows how each category of land use - such as a farm, an office, a school, or a multiple-unit dwelling - is regulated in that district. The dimensional table lists minimum and/or maximum limits on the size of a lot, building height, percentage of a lot that can be covered, and similar issues related to the scale and impact of development for each district.

Can the Town's Zoning Bylaws ever be over-ridden?

Yes. There is a provision of the Massachusetts General Laws, section 40B, which allows the Town's zoning bylaws to be over-ridden by someone building an affordable housing project IF the Town has fallen below the 10% threshold of affordable housing . Such projects are called 40B projects.

Who administers the Zoning Bylaw?

Zoning is enabled by Massachusetts General Law (Chapter 40). The town's zoning bylaw is adopted and amended by Town Meeting. Citizen panels including the Planning Board, the Zoning Board of Appeals, and the Design Review Board administer certain aspects of the Zoning Bylaw on behalf of the town. The Building Commissioner is the town's zoning enforcement officer. The Planning Department provides support for each of the town entities. The Building Commissioner is the town's Zoning Enforcement Officer, interpreting and enforcing the Bylaw.

TYPES OF ZONING REVIEW

By Right

By Right means the type of use (e.g., bank, residential, etc.) is allowed by right within the district in question, but is still subject to certain minimums of lot size, frontage on roads, and distance from buildings to property lines. There are limits to building dimensions, lot coverage, and other factors involving intensity of development. A by-right use is presumed to be a normal and expected use in the districts where it is allowed. The Zoning Enforcement Officer reviews by-right uses for compliance with the Bylaw.

SPR

Site Plan Review

Some uses that are allowed are still subject to a **Site Plan Review**. The Site Plan Review process requires a public hearing before the Planning Board which reviews features on the site plan (parking, landscaping, lighting, waste disposal, drainage, etc.). A site plan must be approved by the Planning Board prior to the issuance of a building permit. The Planning Board cannot disallow the use entirely, but it can attach conditions to the permit for a given project. These conditions are intended to minimize any negative impact which the development might have and to enhance its compatibility with neighboring uses. SPR decisions must be made by at least 2/3s, but no fewer than five, of the nine members of the Board who are participating and voting. Planning Board members are appointed by the Town Manager.

SP**Special Permit**

When a particular use is neither allowed by right, nor prohibited, it is shown on the use chart as requiring a Special Permit. This means that the owner cannot proceed with that use without the explicit permission of the Special Permit Granting Authority (SPGA) which may either be the Zoning Board of Appeals (ZBA), or the Planning Board.

A Special Permit should be applied to land uses which are neither normal nor expected in the zoning districts where they may be possible. The SPGA holds a public hearing after first notifying the owners of adjacent properties (known as abutters). After reviewing applicable sections of the Zoning Bylaw and regulations and considering the proposed development's potential impact on its surroundings, the SPGA issues a ruling. It either denies the use entirely or grants a permit with conditions as to how the site will be developed and how the use will be conducted. A Special Permit is discretionary, and no one applying for a Special Permit can assume that they will receive one.

The ZBA decisions are made by a three-person ZBA panel. All ZBA members are appointed by the Select Board and their votes must be unanimous for the Special Permit to be approved. Planning Board decisions must be made by a minimum 2/3s vote with no fewer than 6 members voting in the affirmative.

ANR**Approval Not Required**

This means that a property is being divided, or a lot-line is being moved, but the resulting lots comply with frontage requirements in the applicable district, therefore subdivision approval is not required.

Process for creating or amending a Zoning Bylaw

**Step 1
Zoning Sub-
committee,
other Town
Committees,
or private
individuals**

Under state law, any of the following can place a zoning amendment article on the Town Meeting warrant:

- The Select Board
 - The Zoning Board of Appeals
 - The Planning Board
 - A Regional Planning Agency, such as the Pioneer Valley Planning Commission
- A landowner requesting a change affecting his or her property
 - Petition articles by Amherst voters can be brought to the Select Board by a designated deadline. Petition forms for zoning amendments are available at the Town Clerk's Office. The number of signatures of registered voters needed for a petition article is 10 for an Annual Town Meeting, 100 for a Special Town Meeting, and 200 for a Special Town Meeting within a Special Town Meeting.

Zoning Subcommittee information is available on the town's website at:

www.amherstma.gov/zsc

**Step 2
Zoning
Subcommittee**

Most zoning amendments originate with the Planning Board with the assistance of the Planning Department, then passed to the Zoning Subcommittee for detailed consideration.

With public and staff input, a draft zoning article is presented to the full Planning Board for further discussion, If a zoning proposal comes from a different source, it will usually also be referred to the Planning Board and ZSC by the Select Board.

**For more information about how to present a petition article, see:
www.amherstma.gov/tmpetition**

**Step 3
Planning Board**

State law requires the Planning Board to hold a public hearing on all proposed zoning amendments and to make a recommendation to Town Meeting.

Written reports are mailed to Town Meeting members and available on the Town Meeting webpage of the Town website. All Planning Board and Zoning Subcommittee meetings are open to the public and most include an opportunity for public comment.

**Planning Board information is available online at:
www.amherstma.gov/planningboard**

**Step 4
Select Board &
Finance Committee**

The Select Board, Finance Committee and any other relevant committees discuss articles and vote to recommend, to not recommend or to take no

position on particular zoning articles. Customarily, there is a brief public comment time at the beginning of each Select Board meeting and sometimes during the meeting.

**Select Board agendas are available online at:
www.amherstma.gov/selectboard**

**Step 5
Town Meeting
Coordinating
Committee
(TMCC) events
prior to Town
Meeting**

Education of Town Meeting members about zoning proposals:

- A Warrant Review to educate Town Meeting members about each article on the warrant. Amherst Media tapes this event so it can be viewed on the Amherst Media channel and website.
- Precinct meetings to discuss Town Meeting articles.
- A bus tour to visit sites of various proposed zoning articles.
- A Zoning Education workshop conducted with the Planning Board and staff.

See the TMCC webpage on the Town's web-site for dates of these events. Town Meeting members also receive notice about these events in the Town Meeting packets mailed by Town Hall.

Town Meeting Coordinating Committee
www.amherstma.gov/tmcc

**Step 6
Town
Meeting**

Zoning articles on the Warrant for Town Meeting are discussed and voted on by Town Meeting. Town Meeting members can speak in favor or against particular articles. Non-Town Meeting Amherst residents can come as an interested party and request to speak.

Members of the public who are not Amherst residents must ask the Moderator for a opportunity to speak to Town Meeting and Town Meeting must vote on whether to allow the person to speak. Massachusetts General Law (Chapter 40A) lists Town Meeting as the approving body for Zoning articles which are often scheduled together on the Warrant. Zoning amendments require a 2/3 super-majority to be adopted.

Town Meeting
www.amherstma.gov/tm

**Step 7
Attorney
General**

Approval

Amendments to the Zoning Bylaw are effective immediately upon approval by Town Meeting. They are, however, subject to review and approval by the Massachusetts Attorney General.

**Step 8
Bringing back
a defeated
zoning article**

A zoning amendment which has been “unfavorably acted upon” (defeated), whether introduced by the Planning Board or a petitioner, cannot be brought back to Town Meeting for two years unless adoption of the amendment is recommended by the Planning Board. The two-year restriction does not apply to amendments that are dismissed, or referred back a committee, board, or petitioner for further review, rather than defeated, by Town Meeting.

ZONING DISTRICTS

Underlying Zoning Districts

The underlying zoning district determines the general characteristics of the zone including uses and dimensional requirements.

Business Districts:

B-G

General Business

The purpose of the B-G District is to provide for a mixed use area of high density, containing a wide variety of commercial, office, residential, institutional, civic, and cultural uses. To this end, it is intended that this district be applied within the Town Center of Amherst.

B-VC

Village Center Business

The purpose of the B-VC District is to provide areas within the village centers of Amherst that allow for a mix of uses, including retail, commercial, office and housing of moderate to high density.

B-N

Neighborhood Business

The purpose of the B-N District is to provide for areas of mixed use and moderate density to serve as small centers providing goods and services within or near residential neighborhoods, or as a transitional zone between more densely-developed business areas and residential neighborhoods.

B-L

Limited Business

The purpose of the B-L District is to provide areas for moderate density, office, commercial and multifamily developments. It is intended to be located in transitional areas between high density business districts and high density residential districts or in appropriate areas along arterial or primary roads.

COM

Commercial

The purpose of the COM District is to provide areas for a wide range of retail uses and services and commercial activities in appropriate locations along primary roads within the Town.

Residential Districts:

RG

General Residence

The R-G District provides for medium and higher density neighborhoods (12,000 sq. ft. minimum lot area) near the Town Center. This area has historically had greater density and provides for residential use close to services and employment or educational opportunities in the Town Center or at the University.

RN

Neighborhood Residence

The R-N District provides for medium density residential areas (20,000 sq. ft. minimum lot area). This zoning designation is appropriate for neighborhoods adjacent to higher density residential areas and near arterial or primary streets, or as transition to lower-density districts. This is the most common residential zone in Town.

R-O

Outlying Residence

The R-O District provides for lower density residential areas (30,000 sq. ft. minimum lot area). These areas are transitions between lower density R-LD District and medium density R-N District.

R-LD

Low Density Residence

The R-LD District provides residential areas that allow limited development to protect environmentally sensitive areas, or agricultural or other natural resources. This is the lowest density residential district (80,000 sq. ft. minimum lot area).

R-VC

Village Center Residence

The R-VC District provides residential areas within and next to village centers. This district is medium density (15,000 sq. ft. minimum lot area) and allows a limited mix of residential and office uses.

R-F

Fraternity Residence

The R-F Districts provides the only area for sorority, fraternity and similar facilities associated with educational institutions.

Other Districts:

PRP

Professional and Research Park

The purpose of the PRP District is to provide an open and attractive environment for office, research and low intensity industrial activities. The standards and regulations are intended to limit development to those activities that are non-commercial in nature and that operate in a clean and quiet manner.

ED

Educational District

ED zoning allows any use of land and buildings which may legally be carried on by, or under the auspices of, the college or university which owns or manages the property. It is intended that the Educational District only include land which is owned or managed by Amherst College, Hampshire College, or the University of Massachusetts.

LI

Light Industrial

The purpose of the LI District is to provide areas for certain light manufacturing, warehousing, wholesaling and similar activities.

OP

Office Park

The purpose of the OP District is to provide areas for office and limited research activities. To this end, the standards and regulations are intended to limit the types of uses and to provide for a clean, open and quiet environment that will not adversely impact adjoining residential areas.

Overlay Districts:

An overlay zoning district is placed "over" the underlying zone on the official zoning map as a way to adjust for special circumstances or changing situations such as agricultural protection or watershed protection. The overlay zoning district may or may not change the uses or the dimensional requirements allowed in that zoning district.

WP

Watershed Protection

The WP District is an overlay district intended to provide additional protection to those lands which by virtue of their location, slope and soils, make up the watersheds of the public water supply.

FPC

Flood Prone Conservancy

FPC Districts consist of those geographical areas which by virtue of their relationship to components of the natural hydrology of the Town of Amherst have substantial importance to the protection of life and property against the hazards of floods, erosion, and pollution and in general are essential to the public health, safety, and welfare. To this end, the number and types of uses allowed are restricted.

ARP

Aquifer Recharge Protection

The ARP District is an overlay district intended to provide additional protection to those lands, which by virtue of their location, slope, soils, subsurficial geology and water tables, constitute the recharge area for Zones I, II and III of the public water supply wells of the Town of Amherst within the Lawrence Swamp Aquifer.

FC

Farmland Conservation

The FC District is an overlay district configured to include, and intended to protect those lands which, by virtue of their soils, acreage, location adjacent to and contiguous with other farm land, and lack of protection under existing underlying zoning, comprise the critical farmland of the Town of Amherst.

DR

Design Review

The **Design Review District** is an overlay district intended to include the General Business (B-G) District and the abutting Limited Business (B-L) districts. The purpose of the DR District is to support the success and vitality of Amherst's Town Center by assuring that the historic character, aesthetic character, and functional quality of the design of Town Center buildings and sites are protected and enhanced. The DR District corresponds to those areas where the exterior design of new development or alterations requiring permits is subject to review by the Design Review Board.

TCDR

Town Common Design Review

The TCDR District is an overlay district intended to include the Amherst Town Common and sites within 150 feet of the Common greenspace, as measured from the outside edges of the curbs bordering the three sections of the Common, parking lots and interior roadways inclusive. The purpose of the TCDR District is to protect and enhance the design of the historic Town Common and that of the surrounding buildings and landscapes. The TCDR District corresponds to those areas where the exterior design of new development, or alteration on or within the vicinity of the Town Common is subject to review by the Design Review Board.

PURD**Planned Unit Residential Development**

The purpose of the PURD District is to provide for a mixture of housing types and open space, with variations in dimensional requirements, in appropriate areas within the Town, at greater densities than would otherwise be allowed by the underlying zoning. The PURD is an overlay district. The requirements of this District are intended to encourage design of creative development, protection of the natural resources, and compatibility with surrounding areas.

MP**Municipal Parking**

The MP District is an overlay district intended to include selected areas of the downtown General Business (B-G) District and abutting General Residence (R-G) District. Within the MP District, a wide range of permitted retail, service, commercial and residential uses shall be exempted from the requirement to provide off-street parking spaces. It is the policy of the Town of Amherst to encourage dense multi-use development in its Town Center. Toward that end, provision of off-street parking is not required for selected uses within the MP District.

R&D**Research & Development**

The R&D District is an overlay district intended to modify the regulations in underlying business and industrial/research park districts in order to facilitate research and development and testing uses and to provide specific additional regulations with regard to such uses.

TOWN OF AMHERST, MA ZONING MAP



Legend

Zoning Districts

- General Residence (R-G)
- Village Center Residence (R-VC)
- Neighborhood Residence (R-N)
- Outlying Residence (R-O)
- Low Density Residence (R-LD)
- Fraternity Residence (R-F)
- General Business (B-G)
- Limited Business (B-L)
- Village Center Business (B-VC)
- Neighborhood Business (B-N)
- Commercial (COM)
- Office Park (OP)
- Professional Research Park (PRP)
- Light Industrial (LI)
- Educational (ED)
- Flood Prone Conservancy (FPC)

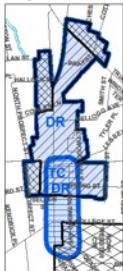
Overlay Districts

- Aquifer Recharge Protection (ARP)
- Watershed Protection (WP)
- Farmland Conservation (FC)
- Planned Unit Res. Development (PURD)
- Design Review District (DR)
- Town Common Design Review (TC-DR)
- Municipal Parking District (MPD)
- Research and Development (R&D)

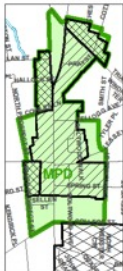
FPC Setbacks

- No Setback
- 25 Foot Stream Setback
- 50 Foot Stream Setback
- 75 Foot Stream Setback

Design Review
& Town Common
Design Review District



Municipal Parking
District



Produced by: Amherst Planning Department

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Most recently amended November 2011.

Zoning Bylaws are available at www.amherstma.gov
Online maps are available at gis.amherstma.gov



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