

SECTION 1.0 PURPOSE AND AUTHORITY

1.1 TITLE. The title of this Chapter shall be "Zoning Bylaw, Chapter 190 of the Code of the Town of Wakefield." The short title shall be "Zoning Bylaw, Town of Wakefield."

1.2 PURPOSE. This Zoning By-law (herein, "this Bylaw") has been enacted to promote and protect the public health, safety, convenience, and general welfare of the inhabitants of the Town of Erving and:

- * to plan for the orderly growth of the Town;
- to promote the prosperity and well-being of its inhabitants while retaining the rural character of the Town;
- to prevent blight;
- to protect natural resources and prevent pollution of the environment;
- to encourage the appropriate use of land throughout the Town;
- to mitigate and reverse the effects of climate change; to encourage multi-modal transportation;
- to protect public health and safety;
- to prevent overcrowding and undue concentration of population while providing housing guidelines appropriate for residents of all income levels;
- to embrace and encourage racial, cultural, generational, and socioeconomic diversity;
- to support the development of adequate municipal services consistent with managed growth of the Town;
- to maintain the scenic characteristics of the area as an attraction for recreational and tourist activities; and
- to preserve historical and other cultural resources.

§ 190-3. Purpose.

~~The purpose of this chapter is to promote the health, safety, convenience and general welfare of the inhabitants of the Town of Wakefield; to lessen the danger from fire and congestion and from the hazards of floodwater inundation; to protect and conserve the value of property; to preserve and increase the amenities of the Town; to conserve natural conditions; to promote the educational, cultural and economic welfare of the public; to encourage an orderly expansion of~~

the tax base; to encourage housing for all income and age levels; and to improve and beautify the Town by encouraging the most appropriate use of land in accordance with the Town-wide Master Plan and this chapter.

~~§ 190-69. Purpose and intent.~~

~~It is the purpose and intent of this article to describe how this chapter will be originally adopted and subsequently amended, as well as to describe the effects of a decision holding a part of this chapter invalid and the effective date of this chapter.~~

1.3 AUTHORITY. This Bylaw is enacted in accordance with the provisions of the General Laws, Chapter 40A, and any and all amendments thereto, and by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

~~§ 190-2. Authority.~~

~~This chapter is adopted pursuant to the authority granted by MGL c. 40A, as amended to date.~~

1.4 SCOPE. For these purposes, the construction, repair, alteration, reconstruction, height, number of stories, and size of buildings and structures, the size and width of lots, the percentage of lot area that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land in the Town are regulated as hereinafter provided.

1.5 APPLICABILITY. Except as set forth in Section 5.1 or as otherwise provided herein, all buildings or structures hereinafter erected, reconstructed, altered, enlarged, or moved, and the use of all premises in the Town, shall be in conformity with the provisions of this Bylaw. No building, structure or land shall be used for any purpose or in any manner other than is expressly permitted within the district in which such building, structure or land is located. When the application of this Bylaw imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants, or agreements, the provisions of this Bylaw shall control.

1.6 AMENDMENTS. This Bylaw may from time to time be changed by amendment, addition, or repeal by the Town in the manner provided in G.L. c. 40A, s.5, and any amendments thereto.

~~§ 190-70. Adoption and amendment.~~

~~This chapter will be originally adopted and from time to time changed by amendment, addition or repeal in the manner hereinafter provided.~~

- A. ~~The adoption or change of this chapter may be initiated by the submission of the proposed zoning bylaw or change to the Town Council by the Town Council, Zoning Board of Appeals, by an individual owning land to be affected by the change or adoption, by 10 registered voters in the Town, by the Planning Board or by the Regional Planning Agency. The Town Council shall, within 14 days of receipt of such zoning bylaw or change, submit it to the Planning Board for review. [Amended 11-5-2018 RTM by Art. 17]~~
- B. ~~No zoning bylaw or amendment thereto shall be adopted until after the Planning Board has held a public hearing thereon at which interested persons shall be given an opportunity to be heard. Said public hearing shall be held within 65 days after the proposed zoning bylaw or change is submitted to the Planning Board by the Town Council. Notice of the time and place of such public hearing, of the subject matter, sufficient for identification, and of the place where texts and maps thereof may be inspected shall be published in a newspaper of general circulation in the Town once in each of two successive weeks, the first publication to be not less than 14 days before the day of the hearing (not counting the day of the hearing), and by posting such notice in a conspicuous place in the Town Hall for a period of not less than 14 days before the day of said hearing. [Amended 11-5-2018 RTM by Art. 17]~~
- C. ~~Notice of said hearing shall also be sent by mail, postage prepaid, to the Massachusetts Department of Community Affairs, the Regional Planning Agency and to the Planning Boards of all abutting cities and Towns.~~
- D. ~~No vote to adopt any such proposed bylaw or amendment shall be taken until a report with recommendations by the Planning Board has been submitted to the Town Meeting or 21 days after said hearing have elapsed without submission of such report, after which the Town Meeting may adopt, reject or amend any such proposed bylaw. If the Town Meeting fails to vote to adopt any proposed bylaw or amendment within six months after such hearing, no action shall be taken thereon until after a subsequent public hearing is held with notice and report as above provided.~~
- E. No zoning bylaw shall be adopted or changed except by a two-thirds (2/3) vote of the Town Meeting.
- F. ~~No proposed zoning bylaw or amendment which has been unfavorably acted upon by the Town Meeting shall be again considered by the Town Meeting within two years after the date of such unfavorable action unless the adoption of such proposed bylaw or amendment is recommended in the final report of the Planning Board.~~
- G. ~~The effective date of the adoption or amendment of this chapter shall be the date on which such adoption or amendment was voted upon by the Town Meeting. The adoption or amendment shall be published in a Town bulletin or pamphlet and posted or shall be published in a newspaper pursuant to MGL c. 40, § 32. After the adoption of the zoning bylaw or amendment and approval of the Attorney General, the Town Clerk shall send a copy of the zoning bylaw, as amended, to the Department of Community Affairs forthwith.~~

- H. ~~No claim of invalidity of this chapter arising out of any possible defect in the procedure of adoption or amendment shall be made in any legal proceeding, and no state, regional, county or municipal officer shall refuse, deny or revoke any permit, approval or certificate because of any such claim of invalidity unless within 120 days after adoption of this chapter or amendment legal action is commenced and notice specifying the court, parties, invalidity claimed and date of filing is filed, together with a copy of the petition, with the Town Clerk within seven days after commencement of the actions.~~
- I. ~~All procedures not stated herein but stated in MGL c. 40A (the Zoning Act) shall be governed by the Zoning Act as may be amended from time to time.~~

1.7 SEVERABILITY. The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision herein.

§ 190-71. Severability.

~~In case any section or provisions of this chapter shall be held invalid in any court, the same shall not affect any other section or provision of this chapter, except so far as the section or portion so declared invalid shall be inseparable from the remainder of any portion thereof.~~

1.8 WHEN EFFECTIVE. The effective date of this Bylaw shall be the date of adoption by the Wakefield Town Meeting.

All to Rules and Regulations

Fees and Submission Requirements ~~[Amended 4-8-2002 ATM by Art. 39]~~

~~§ 190-73. Schedule of fees and complete submissions.~~

~~The following schedule of fees is established to cover the costs of legal notices, mailings and other costs related to the review of applications and petitions submitted to the Zoning Board of Appeals, the Planning Board or other special permit granting authority, if any.~~

~~A. For all applications there is a fee of \$100 to cover advertising and notification of the first 20 parties to be notified (\$2 will be charged for each additional party over 20). B. In addition, the following fees shall be paid:~~

- ~~(1) Applications for petitions before the Zoning Board of Appeals:~~
 - ~~(a) Appeals from actions of administrative officials or agencies: \$125.~~
 - ~~(b) Residential variances related to dimensional regulations: \$50.~~
 - ~~(c) Nonresidential variances related to dimensional regulations: \$100.~~
- ~~(2) Applications for petitions before a special permit granting authority:~~
 - ~~(a) Multifamily or attached dwelling development: \$70 per residential dwelling unit.~~
 - ~~(b) Cluster development: \$70 per residential dwelling unit.~~
 - ~~(c) Any other special permit required by this chapter: \$100.~~
- ~~(3) Applicants for a sign permit within the Signage Overlay District shall pay a review fee of \$50. **[Added 5-3-2010 ATM by Art. 29]**~~

~~C. Combinations of separate applications or petitions listed above shall not be filed on one application. The petitioner shall file separate petitions and pay the appropriate fee for each application or petition filed. D. Submissions to Zoning Board of Appeals.~~

- ~~(1) In cases where an application is filed with the Zoning Board of Appeals, as required by the zoning code, for site plan approval, variances, and special permits, applicants are required to provide 25 copies of the application, complete plan sets and any documentation such as traffic and/or drainage studies with any application filed. The~~

~~Zoning Board shall seek comments from municipal departments by distributing copies of the submission within seven days as follows:~~

~~nine copies to the Zoning Board of Appeals; six copies to the Planning Board; and one copy each to the Conservation Commission, the Health Department, the Historical Commission, the Director of Public Works, the Town Engineer, the Town Planner, the Building Inspector, the Police Chief, the Fire Chief, and the Town Clerk.~~

- (2) ~~In cases where an application is filed with the Zoning Board of Appeals, as required by the zoning code, for a special permit, variance, or appeal of the Building Inspector's ruling regarding a sign, applicants are required to provide 17 copies of the application, complete plan sets and any documentation required under § 190-101. The Zoning Board of Appeals shall seek comments from municipal departments by distributing copies of the submission within seven days as follows:~~

~~nine copies to the Zoning Board of Appeals; three copies to the Design Review Board;~~

~~one copy each to the Planning Board, Historical Commission, the Town Planner, the Building Inspector, and the Town Clerk.~~

- E. ~~In cases where an application is filed with the Planning Board, as required by the zoning code, for site plan review or a special permit, applicants are required to provide 18 copies of the application, complete plan sets and any documentation such as traffic and/or drainage studies with any application filed. The Zoning Board shall seek comments from municipal departments by distributing copies of the submission within seven days as follows:~~

~~two copies to the Zoning Board of Appeals; six copies to the Planning Board; and~~

~~one copy each to the Conservation Commission, the Health Department, the Historical Commission, the Director of Public Works, the Town Engineer, the Town Planner, the Building Inspector, the Police Chief, the Fire Chief, and the Town Clerk.~~

- F. ~~Town boards or Town agents that receive copies of submissions, as listed above, shall have 30 days to investigate the pending application and submit a written recommendation to the board reviewing the application (either the Planning Board or the Zoning Board of Appeals, as stipulated by the zoning code). Action on a pending application may not be taken until all written reports are submitted to the board reviewing the application, or until 30 days have elapsed after the commenting Town board or Town agent received the application, whichever comes first.~~

- G. ~~If an applicant revises any plan or report related to the proposal that will change the project's impact on drainage or traffic, the proposed number of dwelling units, the location or design of buildings on the site, or in any other way that the reviewing board deems to be substantive~~

~~the applicant shall submit copies of the changed plans or report, with an written explanation of the change, for redistribution under §§ 190-73D and 190-73F, above, All time periods for distribution and comment, as required by § 190-73F, will begin anew. Final plans that have been revised to incorporate comments form other boards and conditions of approval are required for attachment to the final decision of the reviewing board; redistribution of these plans may be required for attachment to the notice of decision provided to other boards, but not for additional comment.~~