



## AMHERST

## Massachusetts

TOWN HALL 4 Boltwood Avenue Amherst, MA 01002-2351 PLANNING BOARD (413) 259-3040 (413) 259-2402 [Fax] planning@amherstma.gov

## Articles 11-15. Residential Rental Zoning Amendments (Planning Board)

The Planning Board is bringing these amendments to this fall's Special Town Meeting in order to help address Amherst's increasingly challenging rental housing situation. These amendments are part of a much larger strategy by the Town to address Amherst's housing issues, of which problem rentals are only one aspect. A separate set of rental regulations to be proposed under the General By-Laws are in development for consideration by the 2013 Annual Town Meeting.

Because of the inter-related nature of housing issues, Articles 11-15 are designed to work together. The articles are presented as separate amendments in order to make the distinct aspects of the new regulations easier to grasp and consider, but they depend upon one another to work. Articles 11 and 15 propose to amend zoning definitions which clarify the differences between distinct residential uses, and create definitions needed for the proper implementation and enforcement of regulations. Article 15 in particular provides amended and new definitions without which Articles 12, 13, and 14 could not function.

Articles 12, 13, and 14 propose to change how Amherst's Zoning Bylaw regulates three categories of smaller rental properties containing 1, 2, or more units—single family dwellings, two family dwellings, and converted dwellings. It is these smaller, off-campus rental properties which have in recent years become an increasing source of problems for neighborhoods, tenants and the community, as more and more former owner-occupied homes have been sold and converted into rental properties. None of the proposed articles address the regulation of apartment complexes.

Here is an abbreviated summary of each article:

Article 11. Lodging or Boarding House Definition — Adds a new definition for the existing use category of lodging or boarding houses where no definition currently exists in the Bylaw. The definition would establish a minimum (6) and maximum (10) number of lodgers who rent rooms (not dwelling units—no kitchens allowed) for a definite period of time, not overnight. Occupancy by the owner or manager of the use is currently required, and that would not change. No change is proposed in the permits currently required or in the zoning districts where the use is allowed or not allowed. The proposed definition is founded in state law and a review of zoning definitions from numerous Massachusetts communities.

<u>Article 12. Single Family Dwellings</u> – Divides the existing single family use category into two use categories. Under the first category, traditional uses of single family residences (owner-occupancy by an individual or family, or rentals by households not constituting a temporary group of unrelated persons) would continue to be by right. The second category, a single dwelling unit where no owner occupant is present and the entire dwelling unit is rented to a group of up to four unrelated persons, is allowed only under a Special Permit. The definition of single family dwelling is amended to correspond to the changes proposed to the use category.

Article 13. Two Family Dwellings – Divides the existing use category into two use categories. Under the first category, duplexes with a resident owner occupant living in one or both units as their primary residence would be regulated as duplexes are currently regulated (Site Plan Review approval or Special Permit, depending on the zoning district). Under the second category, duplexes with no owner occupant (rentals) would be allowed only under a Special Permit. In combination with proposed converted dwelling amendment (Article 14), a duplex would be more clearly defined as a two unit residence built primarily but not exclusively through new construction or expansion/addition. The definition of two family dwelling is amended to correspond to the changes proposed to the use category.

Article 14. Converted Dwellings – Amends the definition and language in the use category itself in order to clarify the distinction between multi-unit residences created predominantly through the conversion of existing occupied or unoccupied buildings, and other residential use categories (like duplexes, apartments, town houses). To protect existing neighborhood fabric, preserve historic buildings from demolition, and promote sustainability, the maximum area for new units resulting from demolition and new construction in a converted dwelling is limited to no more than 20% of the total final habitable space in a converted dwelling. If demolition and reconstruction involve the reuse of existing structure and materials, and two of five desirable goals are met by the conversion, that amount could increase to 40% with permission of the permit granting body.

Converted dwellings would continue to be by Special Permit only in all residential zoning districts. The maximum number of dwelling units in a converted dwelling in the R-G and R-VC districts would be is reduced from six (6) to four (4) units, making it consistent with the maximum in other residential zoning districts. Conversion from one (1) to a total of two (2) units would be allowed in denser mixed use 'center' districts, even where duplexes (a different use category) are prohibited, as a denser reuse of an existing property. Language is added clarifying interpretation of the minimum age and size of outbuildings eligible for conversion, reducing the minimum size of a converted outbuilding from 500 sq. ft. of exterior footprint to 350 sq. ft. of habitable space. This will encourage sustainable development of new small residential units. Appropriate rental property management is required. The definition of converted dwelling is amended to correspond to the changes proposed to the use category.

<u>Article 15. Residential Zoning Definitions</u> – Provides definitions for uses or terms associated with residential rental activity needed for the other amendments to work:

**Dwelling unit** Provides a previously missing definition corresponding to the

definition of dwelling unit in the Massachusetts Building Code.

**Family** Updates existing "family" definitions by recognizing civil unions

and legal guardianship, and by adding a new section recognizing protected categories of group housing. [A definition of "functional

family" is being postponed until spring 2013.]

**Owner Occupant** Adds to the existing definition a reference to the new definition for

Principal Residence.

**Principal Residence** Creates a definition establishing the criteria by which the principal

residence of a property owner is determined.

**Resident Manager** Provides a new definition describing in general terms the duties of a

live-in manager of rental properties.