

# Zoning Amendments 2021

## STAFF REPORT

December 9, 2020

While it has been a busy year, staff recommends the Planning Board continue to improve the zoning ordinance by addressing “low-hanging fruit” while more substantive zoning modifications will require greater study and deliberation in the coming years.

Additionally, the Town Planner and the Zoning Administrator recommends that the Planning Board and the Zoning Board of Adjustment reconvene the Zoning Ordinance Review Committee (ZORC) in the new year.

In the meantime, we present two zoning amendments for the Board’s consideration for the 2021 Town Vote: definition revisions to clarify building setbacks, and a zoning ordinance that is companion to a proposal from the Animal Control officer regarding backyard animals.

### ATTACHMENTS

- A. Proposed Zoning Amendment: Definition of Building Setback and associated terms.
- B. Proposed Zoning Amendment: Backyard Animals & Proposed §188-4

### 1) Article II, Terminology, § 334-6 Definitions

Purpose: The current definition of Setbacks, Building is ambiguous and contrary to other zoning ordinances:

*Current:*

#### **BUILDING SETBACK**

The minimum distance from the RIGHT-OF-WAY to a FRONT, SIDE or REAR LOT LINE at which a building, driveway or other regulated structure or feature may be set or constructed.

For example, driveways are access ways that connect a lot to a right-of-way. In order for this connection to occur, the driveway must traverse the front yard setback. Secondly, the term “other regulated structure or feature” is an undefined phrase leaving many to question its intent. Simply put, the intent of a building setback are to regulate the distance between a building and a property line.

*Proposed:*

**SETBACK**

The minimum required distance between the property line and the building line.

This definition requires the definition of “building line,” which is also proposed:

**BUILDING LINE**

The perimeter of that portion of a building nearest a property line, but excluding open steps, terraces, cornices and other ornamental features projecting from the building of structure.

The proposed amendment also clarifies definitions of Building, Accessory Building and Principal Building that are currently either grammatically incorrect or confusing. Further, it eliminates redundant definitions of accessory buildings, for which there are currently three. For full text of the proposed amendment, see **Attachment A**.

**DRAFT MOTION**

I move for the Planning Board to conduct a public hearing on the 6<sup>th</sup> of January 2021 for the proposed amendment to §334-6 “Definitions” to clarify the definition of Building Setback, and associated terms, as presented and discussed at tonight’s meeting.

Motion by: \_\_\_\_\_ Second: \_\_\_\_\_ Carried/Failed: \_\_\_\_\_

**2) Article VA, Backyard Animals**

This proposed amendment is part of a collaborative effort between the Zoning Administrator and the Animal Control Officer in order for the Town to ensure the right to own and proper caretaking of animals commonly known as farm animals. This proposed amendment is a supplement to a new Town Ordinance to be proposed to the Board of Selectmen by the Animal Control Officer, §188-4. For full text of the proposed amendment and town ordinance, see **Attachment B**.

In tandem with the proposed Town Ordinance (§188-4), this proposed ordinance permits the raising and keeping of backyard animals as an accessory use to residential while ensuring proper animal husbandry. The husbandry aspect is under the auspices of §188-4 and largely relies on Best Management Practices. The only physical land use aspect of this proposal is that backyard animal facilities (pens, coops). It is not staff’s intent to prohibit someone’s horse from wandering up to the property fence, but to ensure things like pig pens are not within the setbacks.

**DRAFT MOTION**

I move for the Planning Board to conduct a public hearing on the 6<sup>th</sup> of January 2021 for the proposed amendment Article VA “Backyard Animals” as presented and discussed at tonight’s meeting.

Motion by: \_\_\_\_\_ Second: \_\_\_\_\_ Carried/Failed: \_\_\_\_\_

## Suggested Revisions to: §334-6 Definitions

### Additions:

#### **SETBACK**

The minimum required distance between the property line and the building line.

#### **BUILDING LINE**

The perimeter of that portion of a building nearest a property line, but excluding open steps, terraces, cornices and other ornamental features projecting from the building of structure.

#### **BUILDING**

Any structure used or intended for supporting or sheltering any use of occupancy.

#### **BUILDING, ACCESSORY**

A building in which a use that is customarily incidental and subordinate to that of the principal use is being conducted, including temporary or portable structures.

#### **BUILDING, PRINCIPAL**

A building in which a principal use is being conducted.

### Deletions:

#### ~~ACCESSORY BUILDING or SHED~~

~~A structure of any kind other than an AWNING or CANOPY, the purpose of which is storage or other accessory use.~~

#### ~~ACCESSORY STRUCTURES~~

~~A detached building or other structure, the use of which is customarily incidental and subordinate to that of the principal building, and which is located on the same lot as that occupied by the principal building. These include, but are not limited to:~~

~~A. ACCESSORY BUILDING or SHED.~~

~~B. AWNING.~~

~~C. CANOPY.~~

~~D. PORTABLE GARAGE.~~

~~E. CAR CANOPY.~~

**BUILDING, STRUCTURE (Accessory)**

See "ACCESSORY STRUCTURES."

**BUILDING, PRINCIPAL**

A building in which is conducted the principal use of the lot on which it is located.

**BUILDING SETBACK**

The minimum distance from the RIGHT-OF-WAY to a FRONT, SIDE or REAR LOT LINE at which a building, driveway or other regulated structure or feature may be set or constructed.

ARTICLE VA

**Backyard Animals**

**§334-22.1 Purpose:** To permit the raising and keeping of backyard animals as an accessory use to residential while ensuring proper animal husbandry.

**§334-22.2 Definitions:**

Backyard animals - Livestock, poultry and other traditionally agricultural animals, including but not limited to: horses, cattle, swine, sheep, goats, and fowl.

Backyard animal facilities – enclosures with or without walls and/or roofs for the keeping, raising and sheltering of backyard animals.

**§334-22.3 Backyard Animal Facility Requirements**

Facilities for backyard animals shall comply with Town Ordinance §188-4.

**§334-22.4 Setbacks**

Backyard animal facilities shall be considered ACCESSORY BUILDINGS and subject to the Table of Minimum Dimensional Requirements §334-27.

**§334-22.5 Interpretation**

Nothing herein is intended to permit commercial activity unless it is otherwise permitted.

**§334-22.6 Severability**

If any provision of this Article governing backyard animals is found to be invalid by a court of competent jurisdiction, the remaining sections not affected thereby shall remain in full force and effect.

**§334-22.7 Penalties**

Violations and Penalties are subject to the provisions found in Article XV Enforcement and Miscellaneous Provisions, Section §334-79 Violations and penalties.

Note: the following text is a proposed Town Ordinance from the Animal Control Officer for consideration by the Board of Selectmen. It is not a Zoning amendment, it is provided for informational purposes only.

**§188-4 Other Animals**

**A. Definitions.**

The following terms have the following meanings for the purposes of §188-4, and do not affect or supersede definitions contained in any other Town ordinance or regulation.

**AT LARGE**

Not on the property of or under the control of an OWNER or KEEPER.

**BACKYARD ANIMAL**

Livestock, poultry and other traditionally agricultural animals, including but not limited to: horses, cattle, swine, sheep, goats, and fowl.

**KEEPER**

Any person or persons, firm, association or corporation who or which has temporary control or responsibility for an animal with the permission of the OWNER.

**NUISANCE**

A condition, activity, or situation (such as loud noise, foul odor) that interferes with the use or enjoyment of property.

**OWNER**

Any person or persons, firm, association or corporation owning, keeping or harboring an animal.

**ROOSTER**

Adult male or crowing male chicken.

**B. General Requirements**

1. The raising and/or keeping of ROOSTERS is prohibited.
2. BACKYARD ANIMALS are prohibited from being AT LARGE.

**C. Animal Husbandry**

1. Public nuisances shall not be allowed or to continue with the raising and keeping of BACKYARD ANIMALS.
2. BACKYARD ANIMALS must be kept in a manner that meets or exceeds the suggested recommendations of the UNH Cooperative Extension Guideline as amended: Housing and Space Guidelines for Livestock and hereby becomes explicitly required as a condition of this Chapter.

[https://extension.unh.edu/resources/files/Resource000471\\_Rep493.pdf](https://extension.unh.edu/resources/files/Resource000471_Rep493.pdf)

3. Animal waste shall be managed according to the Manual of Best Practices for Agriculture Compost, Fertilizer, and Manure, as amended. \*Includes pet waste.

<https://www.agriculture.nh.gov/publications-forms/documents/bmp-manual.pdf>

4. BACKYARD ANIMALS shall **not** be kept or raised within a dwelling. All structures shall have the ability to withstand all weather conditions including rain, snow, extreme winds, extreme cold or extreme heat.
5. Enclosed shelters shall provide clean, dry bedding and shall prevent drafts at the animal's level. Shelter from snow, wind and rain shall allow an animal's coat to remain dry, which provides maximum insulating value.
6. Poultry/fowl coops and fenced areas must, at all times, adequately contain the birds, provide them with adequate ventilation, be kept in a neat and sanitary

condition, protect the them from rodents and wild or domestic predators, and be maintained in a manner that will not disturb the use or enjoyment of neighboring lots due to noise, odor or other adverse impact.

7. Coop roofs must be appropriate to keep out predators, withstand wind, rain, and snow load. Coops must include at least one door or opening that accommodates human entry for cleaning and general animal husbandry. An enclosed run is permitted and recommended for poultry/fowl. An enclosed run is a fenced area outside the coop that is completely bound on all sides, including overhead, by a fence cage or wire and must be attached to the coop. The maximum height for an enclosed run is eight (8) feet measuring from the ground to the top of the structure. Both shall be kept in neat and sanitary condition at all times and in a manner that will not disturb neighboring lots due to noise, odor or other adverse impact. (Minimum sizes differ for each size of poultry/fowl).

**D. No Defense**

Failure of a KEEPER to comply with this provision shall not relieve the OWNER of responsibility for compliance.

**E. Violations.**

Violations of this section are subject to fines and fees per Section 205-9 Animal Control fees.