

## **SECTION 1.0 PURPOSE AND AUTHORITY**

### **1.1 PURPOSE**

These By-Laws are enacted to promote the general welfare of the Town of Foxborough, to protect the health and safety of its inhabitants, to encourage the most appropriate use of land throughout the town, and to increase the amenities of the Town, all as authorized by, but not limited by, the provisions of the Zoning Act, Massachusetts General Laws, Chapter 40A, as amended, and Section 2A of 1975 Mass. Acts 808.

### **1.2 AUTHORITY**

These By-Laws are enacted in accordance with the provisions of Massachusetts General Laws, Chapter 40A – The Zoning Act, any and all amendments thereto, and by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

### **1.3 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.

**1.3.1 Certain Terms.** For purposes of these By-Laws, and except otherwise as may specifically be stated, all references to the term “Town” shall mean the Town of Foxborough; all reference to such terms as “Planning Board,” “Board of Appeals,” and the like shall mean such boards, agencies, committees or the like of the Town of Foxborough as are designated by such terms; and all references to such terms as “Building Commissioner,” “Town Clerk,” “Town Planner,” and the like shall mean such officials of the Town of Foxborough as are designated by such terms.

### **1.4 APPLICABILITY**

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 these By-Laws. No building, structure or land shall be used for any purpose or in any manner other than as expressly permitted within the district in which such building, structure or land is located. Where the application of these By-Laws imposes greater restrictions than those imposed by any other regulation, permit, restriction, easement, covenant, or agreement, the provisions of these By-Laws shall control. Nothing herein shall be construed to supersede the provisions of the State Building Code, 780 CMR 1.00, et seq.

**1.4.1 Applicability; Nonconformities.** Except as hereinafter provided, these By-Laws shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building permit or Special Permit issued before the first publication of notice of the public hearing on these By-Laws or any amendments thereto, but shall apply to any change or substantial extension of such use, to a building permit or Special Permit issued after the first notice of said public hearing, to any reconstruction, extension or structural change of such structure and to any alteration of a structure begun after the first notice of said public hearing to provide for its use in a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent except

where alteration, reconstruction, extension or a structural change to a single or two family residential structure does not increase the nonconforming nature of said structure.

- 1.4.2 Commencement.** Construction or operations under a building permit or Special Permit shall conform to any subsequent amendments to these By-Laws, unless the use or construction is commenced within a period of not more than six (6) months after the issuance of the permit and in any case involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

## **1.5 REQUIREMENTS NOT ADDRESSED IN THESE BY-LAWS**

- 1.5.1 Gravel Removal.** All gravel removal operations shall only be authorized by the Board of Selectmen pursuant to the Town's Revised Earth Removal By-Law.
- 1.5.2 Wetlands.** All operations governed by Massachusetts General Laws, Chapter 131, the Wetlands Protection Act, shall also require the authorization of the Conservation Commission pursuant to the Foxborough Wetlands Protection By-Law.
- 1.5.3 Demolition.** All requests for demolition permits shall comply with the provisions of the Demolition By-Law per Section 10 of the Foxborough General By-Laws.
- 1.5.4 Scenic Roads.** All operations conducted on roads designated as "scenic" shall comply with the provisions of the Scenic Roads By-Law, per Section 11 of the Foxborough General By-Laws.

## **1.6 ZONING AMENDMENTS**

These By-Laws may be changed by amendment, addition or repeal, but only in the manner hereinafter provided.

- 1.6.1 Initiation.** Any change to these By-Laws may be initiated by the submission to the Board of Selectmen of a proposed change by the Board of Selectmen, the Board of Appeals, the Planning Board, by an individual owning land to be affected by the change, by the request of registered voters pursuant to Massachusetts General Laws, Chapter 39, Section 10, or by the Metropolitan Area Regional Planning Council (MAPC). When a petition is presented by an individual owning land to be affected by the change or by the request of registered voters, the petition shall be accompanied by a reasonable fee to cover the costs of the required public notices. The Board of Selectmen shall submit any proposed change to the Planning Board for review within fourteen (14) days of receipt of such change.
- 1.6.2 Public Hearing.** No change shall be adopted until after the Planning Board has held a public hearing at which interested parties shall be given an opportunity to be heard. The public hearing shall be held within sixty-five (65) days after the proposed change is submitted to the Planning Board by the Board of Selectmen.
1. Notice of the public hearing shall be given by publication in a newspaper of general circulation in the Town once in each of two (2) successive weeks, the first publication to be not less than fourteen (14) days before the day of the hearing and by posting such notice in a conspicuous place in the Foxborough Town Hall for a period

of not less than fourteen (14) days before the day of such hearing.

2. Notice of such hearing shall also be sent by mail, postage prepaid, to the Massachusetts Department of Community Affairs, MAPC and to the Planning Boards of all abutting towns. A separate, conspicuous statement shall be included with property tax bills sent to nonresident property owners, stating that notice of hearings under these By-Laws shall be sent by mail, postage prepaid to any such owner who files an annual request for such notice with the Town Clerk no later than January first and pays a reasonable fee.
3. Publication and notices shall contain the date, time and place of the hearing, a summary of the subject matter and the place where texts and maps may be inspected.

**1.6.3 Planning Board Report.** The Planning Board shall submit a report with recommendations to the Board of Selectmen and Town Meeting within twenty-one (21) days after the date of the public hearing.

**1.6.4 Vote.** No vote to adopt any proposed change shall be taken until after such notice, hearing and report is subsequently submitted or twenty-one (21) days have elapsed without the required report with recommendations, after which the Town Meeting may adopt, reject, or amend any such proposed change. If a Town Meeting fails to vote to adopt any proposed change within six (6) months after the Planning Board hearing, no action shall be taken thereon until after a subsequent public hearing held with notice and report as provided above. No change shall be adopted except by a two-thirds (2/3) vote of Town Meeting. No proposed change that has been unfavorably acted upon shall be considered by Town Meeting within two (2) years after the date of such unfavorable action, unless the adoption of such proposed change is recommended in the final report of the Planning Board.

**1.6.5 Statement.** The Planning Board shall furnish a statement explaining the change proposed, with supporting maps or plans to be submitted with the change to the Massachusetts Attorney General. The change shall also be published in a Town bulletin or pamphlet, copies of which shall be posted in Town Hall; or be published at least twice, one (1) week apart in a newspaper of general circulation in the Town of Foxborough. The publication shall include a statement that claims of invalidity because of any default in procedures may only be made within ninety (90) days of such posting of the second publication and a statement indicating where copies of such change may be examined.

**1.6.6 Transmittal.** After adoption and approval, a copy of the By-Law shall be sent to the Massachusetts Department of Community Affairs by the Town Clerk.

**1.6.7 Legal Action.** Pursuant to Massachusetts General Laws, Chapter 40, Section 32, legal action may be taken regarding defects in the procedure of adoption. A copy of the petition must be filed with the Foxborough Town Clerk within seven (7) days after the commencement of the action.

## **1.7 EFFECTIVE DATE**

The effective date of any change shall be the date of the Town Meeting vote of acceptance, unless disapproved by the Massachusetts Attorney General, whereby the previous By-Law shall govern.

**1.8 SEPARABILITY**

The invalidity of any section or provision of these By-Laws shall not invalidate any other section or provision herein.