

**Town of
WILTON**

**ZONING
REGULATIONS**

March 1989

LAND USE LAWS AND REGULATIONS

WILTON, NEW HAMPSHIRE

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C O N T E N T S

WILTON ZONING ORDINANCE

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WILTON
LAND USE LAWS AND REGULATIONS

WILTON
ZONING ORDINANCE

ARTICLE I. PREAMBLE

In pursuance of authority conferred by Chapter 674:16, N.H. Revised Statutes Annotated, 1955, as amended, (N.H. RSA), the following Ordinance is hereby enacted by the voters of the Town of Wilton, New Hampshire, in Official Town Meeting this 10th day of March, 1981.

The purpose of this ordinance is to promote and protect the health, safety, prosperity, convenience or general welfare of the inhabitants, as well as efficiency and economy in the process of development of the incorporated Town of Wilton, by the promotion of good civic design and arrangements including protection of farmlands and open space, by wise and efficient expenditures of public funds, the adequate provision of public utilities and other public requirements, and by other means. The Articles of this Ordinance take precedence over the articles of the "Wilton Code of Building and Sanitation" and supersede all "Zoning Ordinances" previously adopted by the Town of Wilton, New Hampshire.

ARTICLE II. DISTRICTS

For the purpose of this ordinance the Town of Wilton is divided into districts as shown on the zoning map filed with the Town Clerk and dated March 9, 1971, and including the following: (1) Residential District; (2) General Residence and Agricultural District; (3) Commercial District; (4) Industrial District; (5) Office Park District; (6) Flood Plain Conservation District; (7) Wetland Conservation District; (8) Watershed District; and (9) Aquifer Protection District.

ARTICLE III. DEFINITIONS

For the purpose of this Ordinance, certain terms are defined as provided in this section.

A. Accessory building means a building subordinate to the main building on a lot used for purposes incidental to those of the main building.

B. Aquifer. Land areas determined to overlay water saturated stratified drift deposits of sands and/or gravels capable of yielding private and public potable water supplies. The extent of the Aquifer Protection District shall be the outermost edge of the surficial extent of all aquifer deposits presently designated as stratified drift as supported by information included in the USGS Aquifer Delineation study entitled "Geohydrological appraisal of the Nashua area, south central New Hampshire, by K. W. Toppin, (1986).

C. Building. A structure having a roof or cover and forming a shelter for persons, animals or property.

D. Dwelling. A privately or publicly owned permanent structure containing a dwelling unit or dwelling units. The terms "single family", "duplex family" or "multi-family" dwelling shall not include hotel, lodging house, hospital, membership club, dormitory or tourist house.

1. Dwelling Unit. One or more living or sleeping rooms arranged for the use of one or more individuals living as a single family house-keeping unit, with cooking, living, sanitary and sleeping facilities.

a. Single Family. A building containing one dwelling unit.

b. Duplex Family. A building containing two dwelling units. Only one such building shall be developed on any one lot.

c. Multi-Family. A building containing three or more dwelling units.

2. Duplex Family.

a. Two (2) dwelling units attached, designed or arranged as separate housekeeping units.

3. Multi-Family.

a. Three (3) or more dwelling units attached, designed or arranged as separate housekeeping units.

E. Family. An individual, or two or more persons related by blood, marriage, legal adoption, or those placed in the home for adoption, and foster children, or a group of not more than five persons (excluding no more than two servants) who need not be related by blood or marriage, living together as a single non-profit housekeeping unit.

F. Front Yard is a space extending for a full width of a lot between the extreme front line of a building and the nearest right-of-way.

G. Frontage means the continuous length of the lot bordering on the public right-of-way providing the principal route of access to the proposed lot, subdivision and/or cluster development.

H. Hazardous or Toxic Materials or Liquids. Materials or liquids that pose a threat, present or future, to the environment, whether in use, storage or transit, including without exception hazardous waste identified and listed in accordance with Section 3001 of the Resource Conservation and Recovery Act of 1976, and any amendments thereto.

I. Home produce and products means and includes everything of an agricultural nature grown, produced, conditioned or otherwise carried on on the property of the resident; also such articles as are manufactured or altered by members of the household of the bona fide resident of any property.

J. Hospital. A building providing twenty-four (24) hour in-patient services for the diagnosis, medical and surgical treatment and care of human ailments."

K. Hotel. A building or any part of a building containing rooming units without individual cooking facilities for transient occupancy and having a common entrance or entrances including an Inn, Motel, Motor Inn, and Tourist Court, but not including a boarding house, lodging house or rooming house."

L. Lodging Unit. One or more rooms for the use of one or more individuals not living as a single housekeeping unit and not having cooking facilities. A "lodging unit" shall include rooms in boarding houses, tourist houses, rooming houses, lodging houses, and bed and breakfast establishments.

M. Lot. A parcel of land occupied or capable of being occupied by one building or use, and the building or uses accessory thereto, including such open spaces and yards as are required by this ordinance.

N. Lot Line. A line dividing one lot from another.

O. Lot of Record. Land designed as a separate and distinct parcel in a legally-recorded deed filed in the record of Hillsborough County, New Hampshire.

P. Non-conforming building or structure. A non-conforming building or structure is a building or structure, or the use of which, in whole or in part, does not conform to the regulations of the district in which the building or structure is located.

Q. Non-conforming Land Use. A non-conforming land use is a use of any land which does not conform to the regulations of the district in which such use exists.

R. On the Town Zoning Map. districts and land areas will be shown in the following colors:

- Residential - Blue
- General Residential and Agricultural - White
- Commercial - Red
- Industrial - Yellow
- Public, State and Town Property - Green
- Office Park - Orange
- Wetland Conservation District - Purple
- Flood Plain District - Brown

S. Right-of-Way means and includes all town, state and federal highways and the land on either side of same as covered by statutes to determine the width of the rights-of-way.

T. School. A learning center having an academic curriculum approved for attendance purposes by the State Department of Education.

U. Sign.

1. Any advertisement, announcement, direction or communication produced in whole or in part by the construction, erection, affixing or placing of a structure on any land or on any structure; or produced by painting on or posting or placing printed, lettered, pictures, figures or colored material on any building, structure or surface and such signs shall be of durable material and maintained in good condition at all times; provided however, that signs placed or erected by the Town or State for the purpose of showing street names or traffic directions or regulations or other municipal or governmental purposes shall not be included herein. Temporary or non-advertising signs may be approved by the Selectmen under such terms and conditions as they may require.

2. Permit. Before the erection of any sign, applicant must first pay a filing fee of five dollars (\$5.00) and obtain a permit from the Board of Selectmen. The application for such permit shall contain a description of the sign, materials to be used, type of intensity of lighting and include dimensions and a sketch or photograph of the proposed sign.

3. Penalty. In addition to Article XVI PENALTY, non-conforming signs and signs that are erected without obtaining a permit; may be removed by the Town of Wilton at the expense of the owner of the sign.

V. Structure. Any construction, erection, assemblage or other combination of materials upon the land which is made in such a manner as to imply that it will remain in position indefinitely or which in fact remains on the land for a period of time in excess of thirty (30) days.

W. Trailer Park or Mobilehome Park means a land area occupied or designed for occupancy by two or more house trailers in use for living purposes.

X. Wetlands. Those areas where the water table is usually at or near the surface or where the land is covered by shallow water, including those soils identified as poorly or very poorly drained by the U.S. Department of Agriculture, Soil Conservation Service, in the Soil Survey of Hillsborough County, New Hampshire, Western Part, 1985, for the Town of Wilton, meeting one of the following requirements: (1) periodically the land supports predominantly wetland vegetation; 2) the substratum (the material underlying the A and B horizons of the soil) contains predominantly undrained hydric soils; 3) the substratum is non-soil and is saturated with water or is covered by shallow water at some time during the growing season.

ARTICLE IV. GENERAL PROVISIONS

The following restrictions are placed upon the alteration and/or removal of natural materials from any parcel of land in order to maintain a safe, healthy and harmonious atmosphere for all in the Town of Wilton.

A. Alteration and removal of materials.

1. The removal of sod, loam, clay, sand, gravel, or other natural inorganic material from any premises in any District is allowed in instances when such removal is (a) incidental to the lawful construction or alteration of a building or structure, or the lawful construction of a way (including driveway), on the portion of the premises where removal occurs; (b) incidental to the construction or operation of public works by the Town or the State at the location where the removal occurs. Otherwise, the removal of such materials or any of them from any premises in any District is prohibited except that such removal may be authorized by the Planning Board upon site plan review approval in accordance with the Excavation Site Plan Review Regulations in any instance where the Board determines that the removal will be advantageous to the premises in question or to the neighborhood, or otherwise desirable, and will be of such character and can be so accomplished in accordance with said Regulations.

B. Sanitary Protection

All sanitary waste will be properly disposed of in such a manner to prevent all health hazards. All uses as set forth below shall be serviced either by individual septic systems or the town sewer system. An individual septic system shall meet the following specifications.

1. Individual Septic System

a. All sanitary systems shall hereinafter be constructed and maintained in accordance with standards set ~~and~~ enforced by the N.H. State Department of Health and Welfare and by the N.H. Water Supply and Pollution Control Commission.

b. System shall be inspected before covering by the State of New Hampshire, or Town of Wilton, with cost borne by the installer.

2. Town Sewer System.

ARTICLE V. RESIDENTIAL DISTRICT

The purpose of this district is to provide opportunities for mixed types of residential uses with a high density. The extent of this district is determined by the designated residential boundaries on the zoning map.

A. A building may be erected, altered or used and a lot may be used or occupied for:

1. Single family and duplex family dwelling and uses accessory thereto.

2. Upon site plan approval by the Planning Board, multi-family dwelling of three families.

3. A maximum of three (3) dwelling units per lot is allowed for any new construction on Town water and sewerage and a maximum of two (2) dwelling units per lot in the remainder of this district.

4. No lot may have more than one residential building per lot except as provided by the Cluster Development Ordinance. The number of dwelling units per residential building shall be determined by the density provisions of this Article.

B. Elderly Housing Overlay Zoning District.

1. Purpose: The purpose of this article is to establish an overlay zoning district within which elderly housing shall be a permitted use. It is declared to be in the public interest and the general welfare of the Town of Wilton to encourage the development of housing for the elderly. Where these regulations differ from other sections of the Zoning Ordinance, the provisions of this section shall take precedence.

2. Definition: For the purpose of this article, the term "elderly housing" shall mean any housing which is specifically funded by the local, state, or federal government, or agencies of the same, for the permanent and exclusive use of elderly persons.

3. Permitted Use: Any site proposed for elderly housing under this article shall be permitted for that use in any zoning district in the Town of Wilton so long as the following requirements are complied with:

a. that the construction standards and requirements comply with those of the Town and the lending agency;

b. that the rent levels be subsidized or otherwise affordable to the occupants;

c. that the site plan and design be of such character as to harmonize with the neighborhood, to make a transition between areas of unlike character, to protect property values in the neighborhood, and to preserve the beauty of the neighborhoods.

4. Zoning Requirements: Recognizing the potential physical limitations of the elderly, the desirability of locating elderly housing developments within the more intensively developed areas of the community where related support services are usually available, and the problems of finding large tracts of affordable land within these developed areas, the Town's zoning requirements for elderly housing developments shall be amended as follows:

a. the number of bedrooms per acre shall not exceed thirty-six (36);

b. the building shall not occupy more than forty percent (40%) of the lot area;

c. there shall be no less than seventy-five (75) feet of frontage of a Town road Class V or better;

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d. the building setback shall not be less than twenty (20) feet;

e. parking spaces shall be provided for no fewer than three-quarters (3/4) of the number of units;

f. other zoning requirements of the underlying district shall be waived, and the Planning Board, in its site plan review process, shall approve plans that exemplify the spirit of the ordinance.

C. The following uses by special exception of the Board of Adjustment and non-residential site plan review and approval by the Planning Board may be permitted after review of plans showing location, lay-out, and utilities and if, in its judgment the Board finds that the use will not create traffic congestion, fire hazards, or be offensive to surrounding property owners because of lights, noise, and odors, or tend to reduce the value of the surrounding property, has adequate sewage and water facilities and sufficient off-street parking, will preserve the attractiveness of the Town:

1. Any home occupation shall be permitted as an accessory use provided it complies with the other requirements of this Article. Such home occupation shall be carried on by the resident owner, resident members of the owner's family, or a resident tenant, resident members of the tenant's family. Two (2) on-premise employees who are not part of the family are permitted. The business use shall be incidental and secondary to the use of the dwelling unit for residential purposes. No additions or changes shall be made to the residence or accessory buildings that will make it impractical to revert to purely residential use. Objectionable circumstances such as noise, vibration, smoke, dust, electrical disturbance, odors, heat or glare shall not be produced. Exterior storage of materials shall not be permitted.

2. In addition to the parking area required for primary residential use, sufficient off-street parking space shall be provided for any non-resident employees, customers and suppliers who may normally be expected to need parking space at one time. Driveways may be used for client parking; where additional space is desired, a maximum of two (2) parking spaces is permitted but shall not be located in the front yard. Parking spaces shall be a minimum of nine feet by eighteen feet (9' X 18') per space. No traffic shall be generated by such activity in substantially greater volume than would normally be expected in the neighborhood. When a business outgrows the standards established for a home business, it must relocate into a commercial or industrial district.

D. The following uses will only be allowed by special exception by the Board of Adjustment and non-residential site plan review and approval by the Planning Board. In considering an application for special exception under this paragraph, the Board shall consider whether or not the surrounding property owners because of lights, noise, odors, or other factors relating to the use; its effect on the value of surrounding property; whether there are adequate sewerage and water facilities, and adequate off-street parking; and its effect on the attractiveness of the Town:

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1. Churches, synagogues, parish houses, convents, hospitals, civic and municipal buildings, schools and day care centers.

2. Multi-family uses of residential buildings in existence as of March 14, 1989 upon the following terms and conditions:

a. A maximum of two (2) dwelling units per lot less than 1/2 acre in size where Town water and sewer are available.

b. A maximum of three (3) dwelling units per lot of 1/2 acre or more in size where Town water and sewer are available.

c. Two (2) 9' x 18' parking spaces per dwelling unit shall be required on site.

d. Open space in an amount equal to two times the area occupied by parking and all structures on site.

e. In granting a special exception of Zoning Board of Adjustment in addition to the foregoing shall consider that the purpose of this sub Paragraph 2 is to provide economical housing in existing old larger structures located in Town.

E. Lot sizes shall be not less than one-half (1/2) acre per dwelling unit when served by both public water and sewer. Lots not served by both public water and sewer shall not be less than one (1) acre per dwelling unit.

1. The frontage shall be one hundred (100) feet on a public right-of-way, Class V or better.

2. Setbacks. Thirty-five (35) feet front. Side lot aggregate thirty-five (35) feet, with minimum of fifteen (15) feet for any one side yard for interior lots.

For each corner lot, side yard abutting street side shall be thirty-five (35) feet.

3. A detached private garage may be erected and maintained if not closer to side lot line than fifteen (15) feet on an interior lot and twenty-five (25) feet on a corner lot and thirty-five (35) feet to the front yard line.

4. Height of buildings not to exceed forty-five (45) feet or two stories.

F. Trailers and Mobile Homes

The use of land for the accommodation of trailers and/or mobile homes is prohibited. However, any property owner or lessee may accommodate the trailer of a non-paying guest for a period not exceeding thirty (30) days in any year.

G. Signs.

Property owners with business, professional or service enterprises shall be allowed a maximum of one advertising structure or sign not to total over four (4) square feet in area per face, up to two faces may be used. A maximum of two signs pertaining to the lease, sale or use of a building on which they are placed, shall not exceed a total of four (4) square feet for each sign, both faces may be used. Top of any sign shall not be over six (6) feet from existing ground level. A building sign may be substituted for the advertising structure but must not extend above the roof eaves or the rake of the gable end. Off premise advertising structures or signs are prohibited (except directional signs). Illuminated signs shall be in keeping with the character of the neighborhood; however, animated, flashing or intermittently illuminated signs are prohibited.

ARTICLE VI. GENERAL RESIDENCE AND AGRICULTURAL DISTRICT

A building may be erected, altered or used, and a lot may be used or occupied for any of the following purposes, and in accordance with the following provisions:

A. Any use permitted in the Residential District under the same provisions as apply to residences in those districts, except that the lot areas shall be governed by Article VI, Paragraph C.

B. All general farming and forestry activities.

C. Required lot area:

1. Lot areas shall be determined by soil type and slope classification for septic tank effluent disposal systems. The frontage shall be not less than two hundred (200) feet on a public right-of-way, Class V or better. The lot area for single and multi-family dwelling units shall comply with soil and slope classifications for septic tank effluent disposal systems per dwelling unit. Wetlands and land contained within the one hundred (100) year flood plain must be excluded from the calculation of the area of a lot. The following permissible minimum lot acreages will address current soil and slope limitations as referenced by letter and number designations shown on soil and slope maps on file in the Clerks Office of the Town Hall as prepared by the Hillsborough County Conservation District.

a. Slight limitation, determined by soil type and slope classification shall be a minimum of one (1) acre.

b. Moderate limitation, determined by soil type and slope classification, shall be a minimum of one and a half (1-1/2) acres.

c. Severe limitation, determined by soil type and slope classification, shall be a minimum of two (2) acres.

d. Lot size when serviced by town Water and Sewer shall be a minimum of 1 acre where soils and slopes are slight to moderate limitation as determined by soil type and slope classification and shall be a minimum of 1-1/2 acres where soils and slopes are severe limitation as determined by soil type and slope classification.

e. Construction on ungraded soil, e.g. map symbols 299, GP and sand pits, shall only be allowed by special exception, after review of plan showing location, layout, utilities and if in its judgment the Board of Adjustment finds that the use will not create a hazard to the occupant of the land, the abutters, the ground water and the health and welfare of the residents of the Town of Wilton.

f. The minimum width of a lot between any point on any side lot line and any point on any other side lot line measured through any point of the principal building shall be 175 feet. In the event of an irregularly shaped lot and a question as to the identification of the appropriate side lot lines for the foregoing measurements, the matter shall be decided by the Building Inspector with the advice of the Planning Board. The rear lot line is that line which is furthest from and most nearly parallel to the front yard line. All other lot lines are side lot lines. Triangular and irregularly shaped lots may have no rear lot line. Such lots shall have a width of at least 120 feet at every point measured 35 feet back from the edge of the public right-of-way.

g. Any parcel in the General Residence and Agricultural District may be subdivided into lots and such lots may be built upon for single family residential uses under the following alternate requirements. Approval for such use may be granted only upon site plan review by the Planning Board, and upon Planning Board determination that:

1) The proposed reduced frontage development better serves the neighborhood than would a development under the otherwise applicable provisions of this ordinance.

2) That the proposed reduced frontage development meets the following requirements.

a.) Lot Frontage: The frontage shall be not less than fifty (50) feet on a Class V or better public right-of-way. Reduction in frontage shall not be allowed where likely to result in a hazardous concentration of egress points.

b.) Setbacks: No building or structure shall be erected or used within seventy-five (75) feet of the front lot line nor within fifty (50) feet of the side or rear lot line.

c.) Lot Area: No lot shall be less than five (5) acres in size, excluding wetlands and land included within the one hundred (100) year floodplain.

d.) Access: No more than two (2) lots may be accessed from one (1) private drive. No private drive shall enter onto a public road unless two hundred feet (200') of safe, each way, all-season sight distance is established. No private drive shall be located so as to enter onto a public road within two hundred feet (200') of any existing or proposed intersection or egress point on the public road (unless the private drive enters opposite an existing intersection or egress point). No private drive developed under this section shall directly access New Hampshire Route 101.

e.) Special Exception: The following is permitted by special exception:

1)) A maximum of four (4) lots (two (2) frontage and two (2) back lots) may be accessed from one egress point and served by one private drive in accordance with this article by special exception of the Zoning Board of Adjustment and site plan approval by the Planning Board provided:

a)) Such private drive is capable of providing proper emergency vehicle access at all times of the year.

b)) That the proposed use by special exception satisfies Paragraph 1 and the other requirements of Paragraph 2 hereinabove.

2)) Upon special exception by the Zoning Board of Adjustment and site plan approval by the Planning Board, a two (2) family building may be permitted on a back lot of at least 10 acres in size provided.

a)) The private drive serving said back lot serves no more than two (2) other dwelling units or lots.

b)) The proposed development meets the requirements of sub-paragraph e (1) a & b hereinabove.

f) The Planning Board shall be provided with a document establishing the conditions of use of the common private drive that are satisfactory to Town Counsel and include the following: Mutual easements between the two (2) lots; provisions for maintenance of the private drive; and suitable dedication that will insure that such private drive shall not become a Town road unless brought into conformity with the existing town road requirements as specified by this ordinance.

2. Location of on-site disposal fields.

a. To avoid high concentration of effluent discharges in a localized area, no disposal field shall be located within the required setback as measured from the property line.

3. Any proposed building development, meeting the requirements of Article VI, C, 1 above, that exceeds four (4) dwelling units per owner or developer during any one year shall have prior approval of the Planning Board based upon satisfactory submitted working plans. Said Planning Board shall impose requirements, restrictions or changes to such plans as deemed necessary for public safety and protection in areas of drainage, health, pollution, fire, safety, roads, etc. Such owner, developer or agents thereof shall have recourse to the Board of Adjustment to set aside, all or in part, those requirements so imposed.

4. Cluster development of dwelling units may be permitted provided that the following conditions are met:

e.) Special Exception: The following is permitted by special exception:

1)) A maximum of four (4) lots (two (2) frontage and two (2) back lots) may be accessed from one egress point and served by one private drive in accordance with this article by special approval by the Planning Board provided:

a)) Such private drive is capable of providing proper emergency vehicle access at all times of the year.

b)) That the proposed use by special exception satisfies Paragraph 1 and the other requirements of Paragraph 2 hereinabove.

2)) Upon special exception by the Zoning Board of Adjustment and site plan approval by the Planning Board, a two (2) family building may be permitted on a back lot of at least 10 acres in size provided.

a)) The private drive serving said back lot serves no more than two (2) other dwelling units or lots.

b)) The proposed development meets the requirements of sub-paragraph e (1) a & b hereinabove.

f) The Planning Board shall be provided with a document establishing the conditions of use of the common private drive that are satisfactory to Town Counsel and include the following: Mutual easements between the two (2) lots; provisions for maintenance of the private drive; and suitable dedication that will insure that such private drive shall not become a Town road unless brought into conformity with the existing town road requirements as specified by this ordinance.

2. Location of on-site disposal fields.

a. To avoid high concentration of effluent discharges in a localized area, no disposal field shall be located within the required setback as measured from the property line.

3. Any proposed building development, meeting the requirements of Article VI, C, 1 above, that exceeds four (4) dwelling units per owner or developer during any one year shall have prior approval of the Planning Board based upon satisfactory submitted working plans. Said Planning Board shall impose requirements, restrictions or changes to such plans as deemed necessary for public safety and protection in areas of drainage, health, pollution, fire, safety, roads, etc. Such owner, developer or agents thereof shall have recourse to the Board of Adjustment to set aside, all or in part, those requirements so imposed.

4. Cluster development of dwelling units may be permitted provided that the following conditions are met:

- a. Minimum development site not less than fifteen (15) acres.
- b. Minimum frontage on a public right-of-way, Class V or better, shall be no less than five hundred (500) feet.
- c. Dwelling unit density shall be determined by the Planning Board in accordance with the provisions of the Cluster Developments Regulations applicable to the General Residence and Agriculture District. The total number of dwelling units will be determined by the total acreage being submitted for development including land that shall be restricted by Section d below, but excluding wetlands and land contained within the one hundred (100) year flood zone in accordance with Paragraph numbered 5 of the Cluster Development Regulation.
- d. Fifty percent (50%) of said land shall be set aside as open space except within a one (1) mile radius of the Town Hall where Town water and sewer are supplied. Land within this one (1) mile radius of Town Hall with Town water and sewer supplied shall have forty percent (40%) of land set aside as open space (see Cluster Development Regulation, paragraph 5).
- e. Prior approval of the Planning Board shall be based upon satisfactory working plans. Said Board shall impose requirements, restrictions or changes to such plans as deemed necessary to serve the best interests of the Town and for public safety and protection in areas of health, pollution, fire safety, roads, access, recreational facilities, construction, architecture, sidelines and set-back, etc. The developer, owner or agent thereof, shall have recourse to the Board of Adjustment to set aside or change such restrictions, or requirements, all or in part, as imposed.
- f. A public hearing shall be held prior to approval if the potential year-round population resulting from the development would equal or exceed three percent (3%) of the Town.

D. Yards Required.

No building or other structure shall be erected or used nearer to any lot line than thirty-five (35) feet.

E. Trailers and Mobile Homes: Trailer Parks and Mobile Home Parks.

1. Trailers and mobile homes.

An individual house trailer or an individual mobile home may be located anywhere in this district provided it meets all frontage, front yard, side and back yard minimum land area, and Sanitary Protection requirements in this ordinance. Open space under the trailers and mobile homes shall be enclosed with suitable "skirting."

2. No Trailer Parks or Mobile Home Parks shall be permitted without the prior approval to the Planning Board and the decision of approval is to be based on the proposed layout as evidenced by satisfactory working plans.

F. Signs.

Property owners with business, professional or service enterprises shall be allowed a maximum of one advertising structure or sign not to total over four (4) square feet in area per face, up to two faces may be used. A maximum of two signs pertaining to the lease, sale or use of a building on which they are placed, shall not exceed a total of four (4) square feet for each sign, both faces may be used. Top of any sign shall not be over six (6) feet from existing ground level. A building sign may be substituted for the advertising structure but must not extend above the roof eaves or the rake of the gable end. Off premise advertising structures or signs are prohibited (except directional signs). Illuminated signs shall be in keeping with the character of the neighborhood; however, animated, flashing or intermittently illuminated signs are prohibited.

ARTICLE VII. COMMERCIAL DISTRICT

A. A building or structure may be erected, altered or used, and a lot may be used or occupied for any of the following purposes and in accordance with the following provisions. Any change in use or type of activity in an existing structure or any new construction in this district, other than single family dwelling unit, must have prior approval from the Planning Board based on the Non-Residential Site Plan Review procedures.

1. Any use permitted in the General Residence and Agricultural District under the same provisions as apply to residences in said district.

2. Lodging houses, apartment houses, hotels, inns, motels, tourist courts, cabins, including such retail businesses within these permitted buildings as are conducted for the convenience of the residents or guests shall be permitted.

3. Restaurants and other retail establishments.

4. Garages, parking lots and filling stations.

5. Business offices.

6. Theatres, halls, clubs and amusement centers.

7. Greenhouses, florist shops.

8. Funeral homes.

9. Wholesale establishments in connection with permitted retail establishments, warehousing or merchandise for retail sale within the District.

B. Frontage, and Yards Required: Except Main Street from Milford Line to Forest Street.

1. Frontage shall not be less than two hundred (200) feet on a public Right-of-Way, Class V or better.

2. There shall be a front yard on each lot which shall be not less than thirty-five (35) feet in depth, or at a depth to conform with existing buildings.

3. Each side yard shall be not less than twenty-five (25) feet wide.

4. There shall be a rear yard on each lot the depth of which shall be not less than twenty (20) feet.

C. Percentage of Lot Coverage.

Not more than seventy-five percent (75%) of the gross land area of any lot shall be occupied by buildings, parking and roadways.

D. Signs.

Property owners shall be permitted a maximum of two (2) advertising signs or advertising structures, on the premises, relating only to the permitted use or uses conducted in the building or on the immediate premises thereof. Each sign or structure shall not total over one hundred (100) square feet in area per face and a maximum of two faces may be used. Top of any sign shall not exceed eighteen (18) feet above existing ground level. No building sign shall extend above the roof eaves or the rake on the gable end. Sign or advertising structure (except building mounted) must not be placed within fifteen (15) feet of lot lines and must be placed in such a manner that sign or structure does not obstruct free and clear vision of automobiles or pedestrian traffic. A sign may be illuminated but such illumination shall be confined to the area of the sign and shall be arranged to avoid glare or reflection on to any portion of any adjacent highway or into the path of on-coming vehicles or on to any residential premises. Animated, flashing or intermittently illuminated signs are prohibited.

E. Road Access.

1. Access to any lot with frontage on NH Route 101 shall be by such other street or side road as is available and not by NH Route 101 unless no other access is available. If no other access is available, entrance and exit for such lot(s) shall be limited to one (1) curb cut on NH Route 101 for each lot-of-record existing as of March 11, 1986. If access to a lot is available to a street or side road other than NH Route 101, access to the lot shall be taken from the street or side road.

As each lot is developed within this district, provision shall be made during the non-residential site plan review process for the lay-out and construction of streets or side roads as Planning Board shall determine necessary to permit travel between adjacent lots without accessing NH Route 101. To encourage shared lot access, where all possible and practical, the location of all accessory street or roadway curb cuts shall be situated to allow adjacent lots to also take advantage of or share the same point of access along the street or roadway.

2. Access to any Town road or State highway shall required Town or State permit approval.

F. Frontage.

Except along Main Street from the Milford line to Forest Street, the minimum lot frontage shall be two hundred (200) feet.

ARTICLE VIII. INDUSTRIAL DISTRICT

This district provides a location for the establishment of industrial facilities and operations to improve employment opportunities and broaden the tax base in the Town of Wilton.

Permitted uses are manufacturing, compounding, processing, packing, treatment or warehousing of goods and products, research and/or testing laboratory, and offices provided the use meets standards of performance of this ordinance.

The Industrial District shall encompass those areas within the Town of Wilton so designated on the Official Zoning Map. This shall include the following five areas:

1. The area in northern Wilton bordering the Town of Lyndeborough along Forest Road and the B&M Railroad right-of-way. As delineated on the Town of Wilton Tax Map, this includes Lots B-3 through B-6 (inclusive), B-10, B-97 through B-112 (inclusive), B-120 and portions of Lots B-117 through B-119 (inclusive) and B-121.

2. The area adjacent to NH Route 101 west of the Souhegan River Bridge and the area adjacent to NH Route 31 and Mansure Road. As delineated on the Town of Wilton Tax Map, this includes lots D-100, D-101 D-102, E-17. E-23 through E-28 inclusive, a portion of E-29. F-11. F-12-1 through F-12-32 inclusive, F-13 through F-21 inclusive, F-23, F-24, F-25, a portion of F-141, west of the Souhegan River, F-142 through F-146, inclusive F-158, F-159 and F-161, a portion of lot 160 F-west of the Souhegan River and F-165 through F-173 (inclusive).

3. The area fronting on the south side of Whiting Hill Road. As delineated on the Town of Wilton Tax Map this includes Lot D-92.

4. The area at the east end of Highland Street along the Souhegan River. As delineated on the Town of Wilton Tax Map this includes Lots J-104 and J-105.

5. The area south of Main Street and north of NH Route 101 along the Souhegan River. As delineated on the Town of Wilton Tax Map this includes Lots D-94, J-49, J-110, J-113, K-159 through K-162 (inclusive), portions of K-165 and K-166 through K-169 (inclusive), K-174 through K-176 (inclusive) and L-64 through L-66 (inclusive).

A. A building or structure may be erected, altered or used, and a lot may be used or occupied for any of the following purposes, and in accordance with the following provisions:

1. Industrial establishments will meet the following provisions:

a. All future industrial establishments in this district must receive prior approval to build based on the proposed layout as evidenced by satisfactory working plans submitted to the Planning Board under the Non-Residential Site Plan Review procedure adopted by the Planning Board.

b. Any expansion of any existing industrial establishment must have prior approval based on the proposed layout as evidenced by satisfactory working plans submitted to the Planning Board under the Non-Residential Site Plan Review procedures adopted by the Planning Board.

c. Any alterations of the nature of the industry carried on in an existing industrial establishment must have prior approval from the Planning Board under the Non-Residential Site Plan Review procedure adopted by the Planning Board.

B. Permitted Uses.

1. Every use shall be operated so that it will minimize negative environmental impacts to neighboring properties from emissions of smoke, noise and odors, vibrations, discharges, and shall conform to all State and Federal regulations and the following performance standards.

a. Vibrations: Every use shall be so operated that ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point on the property line of the property on which the use is located.

b. Noise: Objectionable noise due to intermittent beat frequency, or shrillness shall be muffled or eliminated so as not to become a nuisance to adjacent property. No noise shall be perceptible without instruments, at any point of the property line on which the use is located.

c. Odor: Every use shall be so operated as to prevent the emission of objectionable or offensive odors in any such concentrations as to be readily perceptible at any point at or beyond the lot line of the property on which the use is located.

d. Smoke: No use shall be so operated that it degrades the quality of the air by emitting smoke or particulate matter.

e. Discharges: No use shall be so operated that it emits hazardous waste or materials.

C. Lot Requirements.

1. Frontage shall be not less than one hundred (200) feet. Lot size shall not be less than 2 acres per lot.

2. Not more than sixty percent (60%) of the gross land area shall be occupied by buildings, parking and roadways. Total lot impervious coverage (buildings, parking area and roads) shall not exceed forty (40)

percent within an aquifer area. Where development is within an aquifer area, all surface storm water shall be kept on-site and handled in such a manner as to allow the water to infiltrate into the ground before leaving the site.

3. No primary or accessory buildings, parking area, septic leachfield or water supply well shall be located:

a. less than one-hundred (100) feet from the edge of the public right-of-way for NH Route 101;

b. less than seventy-five (75) feet from the edge of the public right-of-way for all other public roads;

c. less than thirty-five (35) feet from side and rear lot lines.

4. Off-street parking facilities must be provided on a basis of one (1) parking space for every one and two-tenths (1.2) employees and based upon highest expected employee occupancy and anticipated visitors.

5. Access to any lot with frontage on NH Route 101 shall be by such other street or side road as is available and not by NH Route 101 unless no other access is available. If no other access is available, entrance and exit for such lot(s) shall be limited to one (1) curb cut on NH Route 101 for each lot-of-record existing as of March 8, 1988. If access to a lot is available to a street or side road other than NH Route 101, access to the lot shall be taken from the street or side road. As each lot is developed within this district, provision shall be made during the non-residential site plan review process for the lay-out and construction of streets or side roads as Planning Board shall determine necessary to permit travel between adjacent lots without accessing NH Route 101. To encourage shared lot access, where all possible and practical, the location of all accessory street or roadway curb cuts shall be situated to allow adjacent lots to also take advantage of or share the same point of access along the street or roadway. Access to any Town road or State highway shall require Town or State permit approval.

6. In the event that a lot-of-record existing as of March 8, 1988 cannot satisfy the minimum lot requirements set forth in Section C of this Article because of its configuration, the Zoning Board of Adjustment may permit a reduction in these requirements (except for Section C2) by special exception. The special exception shall only be permitted after receiving a request for such action and after a duly noticed public hearing. The permitted reduction in the requirement said lot-of-record cannot meet in these circumstances is designed to permit a proposed use in accordance with the objectives and purpose of this District as set forth in this Article.

D. Conditions for Use of Area Water Supply.

1. Uses which are to be served by the public water supply system shall undergo a review by the Planning Board to ensure the proposed use would not require more than ten percent (10%) of available capacity as

determined by the system's current safe yield and average daily water usage at the time of the proposed development. In any circumstance, where the Town of Wilton may require professional assistance or additional information to make a determination of compliance, the developer shall be required to pay the costs associated with obtaining this assistance.

2. In areas not served by the public water system, industries shall obtain their own water supply; in cases where industries shall be utilizing a private well to supply adequate water for manufacturing and employees use, the following performance standards will be applied in an effort to avoid depletion of water supplies for neighboring uses:

a. In areas determined by the United States Geological Survey (U.S.G.S) as having a high potential to yield water, proposed uses may require up to a maximum of four thousand (4,000) Gallons Per Day,(GPD) of groundwater from a drilled well.

b. In areas determined by the U.S.G.S. as having medium potential for yielding water, proposed uses may require up to a maximum of two thousand (2,000) GPD of groundwater supply from a drilled well.

c. In areas determined by the U.S.G.S. as having low potential for yielding water, proposed uses may require up to a maximum of one thousands (1,000) GPD of groundwater supply from a drilled well.

d. In areas determined by the U.S.G.S. as generally yielding enough water for domestic supplies, proposed industrial uses shall not require more than a maximum of seven hundred-fifty (750) GPD of groundwater supply from a drilled well.

3. In cases where the developer will pay the costs of having hydrogeological testing performed on the proposed development area, the Town of Wilton may modify the above limits based on the results of the testing which indicate the location and extent of groundwater sources and their ability to sustain a constant yield of water supply without unreasonable reduction of water supply to adjacent uses.

E. Traffic Generation.

1. Industrial uses shall be permitted to generate traffic in keeping with the character of the roadway from which the use has access and egress, according to the following schedule:

<u>Street Access</u>	<u>Allowed Trip Generation per Acre</u>
Class IV and Class V Roads	0 - 10 Average Daily trips
Class I and Class II Roads	0 - 150 Average Daily Trips

F. Signs.

Property owners shall be permitted a maximum of two (2) advertising signs or advertising structures, on the premises, relating only to the permitted use or uses conducted in the building or on the immediate premises thereof. Each sign or structure shall not total over one hundred

(100) square feet in area per face and a maximum of two faces may be used. Top of any sign shall not exceed eighteen (18) feet above existing ground level. No building sign shall extend above the roof eaves or the rake on the gable end. Sign or advertising structure (except building mounted) must not be placed within fifteen (15) feet of lot lines and must be placed in such a manner that sign or structure does not obstruct free and clear vision of automobiles or pedestrian traffic. A sign may be illuminated but such illumination shall be confined to the area of the sign and shall be arranged to avoid glare or reflection on to any portion of an adjacent highway or into the path of on-coming vehicles or on to any residential premises. Animated, flashing or intermittently illuminated signs are prohibited.

G. Uses not Permitted.

1. Residential uses are not permitted in the industrial District.

H. Uses by Special Exception.

1. Commercial uses are permitted in the Industrial District by special exception and must comply with the lot requirements set forth in this Section. Said commercial use will only be allowed upon special exception by the Board of Adjustment and Non-Residential Site Plan Review by the Planning Board. In considering an application for special exception under this paragraph, the Board shall consider whether or not the use will create traffic congestion and fire hazards; its effect on surrounding property owners because of lights, noise, odors, or other factors relating to the use; its effect on the value of surrounding property; whether there are adequate sewage and water facilities, and adequate off-street parking; and its effect on the attractiveness of the Town.

I. Buffer Zone.

1. Any lot bordering on an area zoned for residential use or having existing residential uses on it, shall have a landscaped buffer between any building or parking area and the residential zone or use. Should vegetation alone be used or in combination with earth berm, the buffer should be a minimum of twenty (20) feet thick and composed of both evergreen trees and shrubs.

2. All setbacks from public roads shall be landscaped sufficiently with trees and shrub vegetation, earth berm and/or fencing to maintain a permanent, dense buffer between the highway and any building or parking areas. If vegetation is to be used alone or in combination with an earth berm, it is to be a minimum of twenty-five (25) feet thick and composed of both evergreen trees and shrubs. If wood, concrete, metal or other type of fencing is to be used, a fifteen (15) foot thick vegetation buffer is to be placed in front of the fence between it and the highway.

J. Building Height.

1. Height of buildings not to exceed forty-five (45) feet or two (2) stories.

ARTICLE IX. OFFICE PARK DISTRICT

The objective of this District is to attract corporate office and research facilities in a college-campus like environment which will be achieved through restrictive zoning requirements and deed restrictions with limited allowed usage, large open spaces, generous setback requirements and compatible architectural and landscape standards. Buildings must be limited to first-class construction and sited to blend with the environment with a minimum change in the natural topography.

A building may be erected, altered or used and a lot may be used or occupied for any of the following purposes and in accordance with the following provisions:

A. Uses Permitted.

Corporate offices and research facilities and farming uses only. There is expressly forbidden from this District all retail establishments, including motels, restaurants, service stations, automobile repair garages, professional offices catering to the public, real estate offices, service facilities (such as beauty parlors, T.V. repairs, etc.), warehouse facilities, assembly and manufacturing facilities, and other uses similar to these prohibited uses. However, by Special Exception of the Board of Adjustment any such outlawed use may be allowed, provided the Board of Adjustment, after a public hearing, finds that such outlawed use would meet all four of the following requirements:

1. Be aesthetically compatible with other buildings and uses within the Office Park District.
2. Such use would generate only nominal amounts of motor vehicular traffic, and in any event not more than ten (10) motor vehicles per day, exclusive of employees.
3. Will not devalue surrounding property.
4. Will be harmonious with the objective and purposes of this District as set forth in the preamble to this District.

B. Minimum Lot Size: Five (5) acres.

C. Maximum Park Development.

Not more than fifteen percent (15%) of the gross land area shall be occupied by buildings, parking, and roadways.

D. Access.

Access and egress shall only be from one (1) access road leading to a State Highway.

E. Signage.

1. One park development sign for informational purpose only, carrying park name and the name of individual company offices will be allowed at park entrance. Signs shall not exceed one hundred (100) square feet in area or a height of eighteen (18) feet above the entrance road.

2. One building sign affixed to the face of each building, not to exceed thirty-two (32) square feet in area, will be allowed. No building sign may extend above the roof eaves or the rake on the gable end.

3. Small directional signs, not exceeding two (2) square feet, may be located at driveway intersections.

4. Illuminated signs shall be shielded in such a way as to produce no glare, undue distraction, confusion or hazard to the surrounding area or to the vehicular traffic. Illumination shall be properly focused upon the sign itself.

5. Neon, animated, flashing or intermittently illuminated signs are prohibited.

6. Company symbols and trade marks shall be considered as signs and must meet all of the above restrictions.

F. Minimum Building Setbacks.

Two hundred (200) feet from all park lines and there shall be on each lot a front setback of at least one hundred (100) feet in depth and fifty (50) feet setback on side and back lot property lines.

G. Maximum Building Size.

Forty thousand (40,000) square feet gross floor area on ground floor.

H. Maximum Building Height.

Two (2) stories with a maximum height above mean lot terrain of thirty-five (35) feet.

I. Conservation Zone.

All land within one hundred (100) feet of Blood Brook shall be retained in its natural state except for foot trails.

J. Off-Street Parking Requirements.

There shall be at least one parking space for each one and two-tenths (1.2) employees based upon the highest expected employee occupancy.

K. Compliance.

All development within this district shall comply with all other zoning and building regulations enacted by the Town of Wilton.

ARTICLE X. FLOODPLAIN CONSERVATION DISTRICT

This district is as described by the Flood Insurance Study - Town of Wilton, N.H., Hillsborough County, Flood Boundary and Floodway Maps, Town of Wilton, N.H., Hillsborough County, 1-6, Flood Insurance Rate Maps, Town of Wilton, N.H., Hillsborough County, 1-6 as prepared by the U.S. Department of Housing and Urban Development, Federal Insurance Administration.

A. All subdivision proposals and proposals for other developments, governed by these Regulations having lands located in A and A1-A9 as identified on Flood Insurance Rate Maps - Town of Wilton, N.H., Hillsborough County, 1-6, including their utilities and drainage, shall be located and designed to be consistent with the need to minimize flood damage and provide adequate drainage.

B. To maintain a Regulatory Floodway as delineated on the Flood Boundary and Flood Maps, Town of Wilton, N.H., Hillsborough County, 1-6.

C. Subdivision proposals and other proposed new developments greater than fifty (50) lots or five (5) acres, whichever is less, shall include base flood elevation data.

D. Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway that would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

E. Prohibit the placement of any mobile homes, except in an existing mobile home park or mobile home subdivision, within the adopted regulatory floodway.

F. Meet all requirements of the Department of Housing and Urban Development - National Flood Insurance Program as specified by Part 1910.3 Floodplain management criteria for flood-prone areas, of Federal Register Volume 41, No. 207 - Tuesday, October 26, 1976.

ARTICLE XI. WETLANDS CONSERVATION DISTRICT

A. District Boundaries.

The Wetland Conservation District is hereby determined to be those areas delineated as poorly drained or very poorly drained soils identified by the U.S. Department of Agriculture, Soil Conservation Service, through field mapping surveys completed in 1969 and shown on its field mapping photographic sheets for the Town of Wilton, N.H. The Wilton Conservation District as herein defined is shown on a map or maps designated as the Town of Wilton Wetland Conservation District Map and shall be a supplement to the "Zoning Map" of the Town of Wilton, N.H.

In all cases where the Wetland Conservation District is superimposed over another zoning district in the Town of Wilton, that district whose regulations are the more restrictive shall apply.

The soil type which the Soil Conservation Service has determined in its field mapping surveys to be poorly drained or very poorly drained is explained in the Hillsborough County Soil Handbook which is on file with the Planning Board and in the office of the Town Clerk, Wilton, N.H.

B. Purpose.

In the interest of public health, convenience, safety and welfare, the regulations of this District are intended to guide the use of areas of land with extended periods of high water tables.

1. To prevent the development of structures and land uses on naturally occurring wetlands which would contribute to pollution of surface and groundwater by sewerage.

2. To prevent the destruction of natural wetlands which provide flood protection.

3. To prevent unnecessary or excessive expenses to the Town to provide and maintain essential services and utilities which arise because of inharmonious use of wetlands.

4. To encourage those uses that can be appropriately and safely located in wetland areas.

C. Permitted Uses.

Any use that does not result in the erection of any structure or alter the surface configuration by the addition of fill or by dredging and that is otherwise permitted by the zoning ordinance.

1. Forestry - tree farming

2. Agriculture

3. Wildlife refuge

4. Parks and such recreational uses as are consistent with the purpose and intentions of Section B.

5. Conservation areas and nature trails.

6. Open spaces as permitted by subdivision regulations and other sections of this ordinance.

7. Natural drainage-ways, i.e. streams, creeks or other paths of normal run-off water.

8. Water impoundments and wells for water supply.

D. Special Exceptions.

Special exceptions may be granted by the Zoning Board of Adjustment (ZBA) for the following uses within the Wetland Conservation District.

1. Streets, roads and other access ways and utility right-of-way easements including power lines and pipe lines if essential to the productive use of land not so zoned and if so located and constructed as to minimize any detrimental impact of such uses upon the wetlands.

2. The undertaking of a use not otherwise permitted in the Wetland Conservation District, which may include the erection of a structure, dredging, filling, draining or otherwise altering the surface configuration of the land, if it can be shown that such proposed use will not conflict with the purpose and intentions of Section B and if such proposed use is otherwise permitted by the zoning ordinance. Proper evidence to this effect shall be submitted in writing to the ZBA and shall be accompanied by the findings of a review by the Hillsborough County Conservation District.

3. In the event an area is incorrectly designated as being poorly drained or very poorly drained soils on the Town of Wilton Wetland Conservation District Map and evidence to that effect is satisfactorily presented to the ZBA, the ZBA may determine that the restrictions contained in this Article shall not apply. Such evidence may be obtained either by revision by the Soil Conservation Service of its soil maps or by adequate on-site soils investigation and analysis conducted by a soils scientist qualified in field analysis with such investigation and analysis to be reviewed by the Hillsborough County Conservation District.

4. In the event an area is incorrectly designated as other than poorly drained or very poorly drained soils on the Town of Wilton Wetland Conservation District Map but is in fact poorly drained or very poorly drained and evidence to that effect is satisfactorily presented to the ZBA, the ZBA shall determine that the restrictions in this Article shall apply. Such evidence shall be subject to the same procedure as outlined in Paragraph 3 of this Section.

5. Any exception granted by the ZBA must be preceded by a Public Hearing thirty (30) days before said approval may be given. Abutters to affected property must be notified ten (10) days in advance of the public Hearing.

ARTICLE XII. AQUIFER PROTECTION DISTRICT

A. Purpose and Intent: Pursuant to NH RSA 674:16 and 674:21, the Aquifer Protection District is hereby established for the purposes of protecting, preserving and maintaining the existing and future municipal water supply sources of the Town of Wilton by regulating the uses of land over known aquifers and their recharge areas, so as to protect such supplies from contamination caused by adverse or incompatible land use practices or developments. The Aquifer Protection Ordinance is intended to limit the uses of land so designated to those which will not adversely affect water quality by contamination, or water quantity by preventing recharge of the aquifer.

B. Location: The extent of the Aquifer Protection District shall be the outermost edge of the surficial extent of all aquifer deposits presently designated as stratified drift as supported by information included in the USGS Aquifer Delineation study entitled "Geohydrologic Appraisal of the Nashua Area, Southcentral New Hampshire, by K. W. Toppin, (1986). The Aquifer Protection District is a zoning overlay district which imposes additional requirements and restrictions to those of the underlying, base district zoning. In all cases, the more restrictive requirement(s) and permitted uses shall apply.

C. Permitted Uses: The following uses shall be permitted in this district.

1. Industrial or commercial uses (in the appropriate Industrial or Commercial District) which discharge no (non-human) wastes on site (human wastes only in approved septic systems).

2. Residential Development, at densities permitted in the underlying district if serviced by Town water and sewer, otherwise at fifty (50) percent of the density of the underlying District (i.e. double the acreage requirement of the underlying District), with the exception of those areas within the Watershed District where the density shall correspond to the underlying district.

3. Activities designed for conservation of soil, water, plants, and wildlife.

4. Outdoor recreation, nature study, boating, fishing, and hunting where otherwise legally permitted.

Normal operation and maintenance of existing water bodies, wells, and dams, splash boards, weirs, and other water control, supply, and conservation devices.

6. Foot, bicycle, and/or horse paths and bridges.

7. Maintenance and repair of any existing structure.

8. Farming, gardening, nursery, forestry, harvesting and grazing provided that fertilizers, herbicides, pesticides, manure, and other leachables are used appropriately and not stored outdoors. The cultivation and harvesting of crops shall be in accordance to recognized soil conservation practices of the Hillsborough Soil Conservation District and agricultural practices as may be regulated by the NH Department of Agriculture, the Division of Public Health Services of the Department of Health and Human Services, and the NH Water Supply and Pollution Control Commission or recommended by the Hillsborough County Extension Service. Forestry or tree farming shall be in accordance with recognized management practices in order to protect the aquifer from contamination or damage as may be regulated by the Division of Forests and Lands of the NH Department of Resources and Economic Development or recommended by the Hillsborough county Soil Conservation District and Extension Service.

D. Prohibited Uses: The following uses shall not be permitted in the Aquifer Protection District:

1. Disposal of solid waste other than brush or stumps.
2. Subsurface storage of petroleum and other refined petroleum products except as regulated by the NH Water Supply Pollution Control Commission (Ws 411 Control of Non-residential Underground Storage and Handling of Oil and Petroleum Liquids). The placement of residential tanks underground for the storage of petroleum and other refined petroleum products shall not be allowed unless in conformance with NH State guidelines as applicable to commercial uses.
3. Disposal of liquid or leachable wastes, except from single or multi-family residential sub-surface disposal systems, or approved commercial or industrial systems which discharge human wastes only.
4. Industrial uses which discharge contact type process waters on site. Non-contact cooling water is permitted.
5. Outside un-enclosed storage of road salt.
6. Dumping of snow containing de-icing chemicals brought from outside the Aquifer Protection District.
7. Commercial animal feed-lots where animals are kept at excessive densities.
8. Mining of land except incidental to a permitted use.
9. Excavation of sand or gravel, except those conducted in accordance with an approved Earth Removal Permit issued pursuant to Article IV of this ordinance.
10. All on site handling, disposal, storage, processing or recycling of hazardous or toxic materials.
11. Automotive service and repair shops unless they are operated in accordance with NH State statutes, rules and regulations governing such use, and junk and salvage yards unless they are operated in accordance with NH State statutes, rules and regulations governing such use.
12. Bulk storage of toxic material for resale or distribution.

E. Administration: All subdivision proposals and other proposed new developments within the Aquifer Protection District shall be reviewed by the Planning Board and shall conform to the provisions of this ordinance and the Subdivision Regulations of the Town of Wilton and further shall assure that:

1. All such proposals are consistent with the need to protect the groundwater of the Town of Wilton and adjacent communities.

2. All sanitary sewer systems are designed to minimize or eliminate leakage or discharges from the system into the groundwater.

3. On site waste disposal systems are located so as to avoid or minimize groundwater contamination.

4. All surface storm water generated by development is kept on-site and handled in such a manner as to allow the water to infiltrate into the ground before leaving the site.

5. Streets, roads, and parking areas are constructed so that the need for direct application of road salt is minimized for winter safety, and so that run-off from such uses is channeled to avoid or minimize groundwater contamination.

6. Written approval of the State of New Hampshire Water Supply and Pollution Control Commission has been obtained.

F. Incorrectly Designated Zones: When the actual boundary of the Aquifer Protection District is in dispute by any owner or abutter actually affected by said boundary, the Planning Board, at the owner/abutters expense and request, may engage a professional geologist or hydrologist to determine more accurately the precise boundary of said Aquifer Protection District, and shall submit to the Planning Board his findings, including:

1. A detailed topographic layout of the subdivision and/or area to be developed, prepared by a registered land surveyor.

2. A revised soils map of the subdivision and/or area prepared by a soils scientist qualified in hydrologic studies including a written report of his on-site field inspection and test boring data.

3. The aquifer boundary as shown on the U.S. Geological Survey Map shall be overlaid on the plat and the newly proposed boundary location shall be indicated on the same plat by a broken line.

4. Any additional mapping, hydrogeologic reports or information which becomes available, as a result of recent or on-going scientific investigation of the location and extent of aquifers, performed by the U.S. Geological Survey, NH State agencies or boards, or the Town of Wilton or the agents of any of the above.

The Planning Board may, based upon the findings of Section F. 1-4 above, adjust the boundary or area designation of the Aquifer Protection District of reduce or expand the area so designated so as to more correctly define the location and extent of the aquifer on a site-specific, case-by-case basis.

The Planning Board shall reserve the right to withhold action on such plat pending the results of an on-site and/or other investigation by that Board or its appointed agent and shall act to approve or disapprove the final plat within 90 days of submission or such further time as deemed necessary and as provided for by NH State statute.

G. Enforcement: The Town Selectmen, or their agent, shall be responsible for enforcement of this ordinance. They shall issue permits for construction in the Aquifer Protection District only after specific approval for the construction has been granted by the Planning Board. The Building Inspector is authorized to issue cease and desist orders whenever he becomes aware of violations of this ordinance.

H. Non-Conforming Uses: Non-conforming uses may continue in this district in the form in which they exist at the time of the adoption of this ordinance and as provided in Article XII, unless they pose a direct hazard to the aquifer or are actually causing some foreign substances (oils, salts, chemicals, etc.) to be introduced into the aquifer. In the latter case, the Selectmen shall issue an immediate cease and desist order to stop the offending activity or process from continuing activity in this district.

ARTICLE XIII. ELDERLY HOUSING DISTRICT

A. Purpose: The Elderly Housing District is hereby established for the purpose of providing housing specifically designed to meet the needs of the elderly while ensuring compliance with local planning standards and land use policies.

B. Special Exception Conditions: Each proposed use shall be by special exception by the Board of Adjustment and Site Plan review by the Planning Board. In considering an application for special exception under this paragraph, the Board of Adjustment shall determine:

1. That the proposed elderly housing use will not adversely impact the existing and probably development uses in the underlying use district.

2. That the use of the land is appropriate for elderly housing and is consistent with the stated intent and standards of Elderly Housing District.

3. That there will be no devaluation of surrounding properties.

4. That the plot area is sufficient, appropriate and adequate for the proposed use and the reasonable anticipated operation.

5. That the proposed use will preserve the attractiveness of the Town of Wilton.

6. That the proposed elderly housing project will provide for the health, safety and welfare of the elderly occupants.

C. General Standards: All housing for the elderly shall conform to the following standards:

1. Any development of housing for the elderly may be located in any district in the Town of Wilton.

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2. Dwelling unit density shall not be greater than 24 units/gross tract acre for 1 bedroom units or 12 dwelling units/gross tract acre for 2 bedroom unit when served by Town water and sewer. For lots not served by Town water and sewer, the dwelling unit density shall not be greater than the density provisions of the underlying district.

3. Dwelling units shall have a maximum of 2 bedrooms and shall be designed for and restricted to occupancy by the elderly.

4. Housing developments for the elderly shall not be required to conform to the requirement that there be one dwelling per lot. Building types permitted are cluster, townhouse and apartment structures. Apartment is defined as a structure with separate living units located adjacent to, below or above other living units.

5. Occupancy of all units within each development shall be limited to family units where the head of household or spouse is at least 60 years of age.

6. The minimum lot area shall be 1 acre and the lot shall have at least 100 feet of frontage on a public right-of-way, Class V or better if served by water and sewer, otherwise the minimum lot area shall be at least 2 acres and the lot shall have 200' frontage on public right-of-way Class V or better. Lot coverage shall not exceed 75% of the total lot area.

7. All buildings, driveway and parking areas shall be set back in conformance with the set back requirements of the underlying zoning district where the development is to be located. A vehicular drop-off area to the building may be located within the front yard set back; building height maximum shall be 45 feet.

8. Parking shall be provided at a minimum of one parking space for each two bedroom unit and .75 parking space for each one bedroom. During Site Plan Review, the Planning Board may require additional parking for visitors and additional parking based upon distance of the development from the center of Town, income of residents, and access of residents to transportation and shopping and other services.

9. All buildings shall be provided with the following safety features.

- a. ramps to the first floor of each building;
- b. non skid floors;
- c. doors of sufficient width to accommodate wheelchairs;
- d. electric cooking stoves;
- e. electric outlets at levels at least 24 inches above the floor;

f. showers in place of tubs for more than 50% of the dwelling units and handicapped showers for 25% of the dwelling units;

g. grab bars around tubs (where provided) and toilets;

h. lever handle-type spigots and door knobs;

i. emergency signals which ring in adjoining apartments or at a central location.

10. Adequate ancillary facilities, usually associated with the group living needs for comfort, health, safety and welfare of elderly persons and not usually constructed for multi-family dwellings shall be provided to meet the need of the proposed population of the development. The floor area of such ancillary facilities shall not be less than 5 percent of the total floor area of the building. These facilities may include dispensaries, medical facilities, common dining facilities, group recreation facilities, laundry facilities and other similar or related facilities.

11. The development shall be landscaped so as to be integrated with the Town. The perimeter of the development shall be landscaped with a sufficient buffer strip to minimize its intrusion on neighboring land uses.

12. The cumulative number of elderly dwelling units constructed in conformance with this Article shall not exceed 6% of the total number of dwelling units in the community.

D. Review of Site Plans: The Planning Board shall review and approve or disapprove the site plans for all proposed elderly housing. The review of any site proposed for elderly housing shall take into account its proximity to those support services (shopping, medical, transportation, etc.) necessary to meet the needs of the elderly in addition to the standards contained in Paragraph B. Where support services are absent or remote, provisions for such services shall be provided by the developer.

E. Change of Use: If any structure erected pursuant to a special exception and site plan review in accordance with this article ceases to be used exclusively for elderly housing, then the full zoning ordinance requirements for the new use must be met. Failure to comply with the zoning ordinance may result in a revocation of the certificate of occupancy for the structure.

ARTICLE XIV. WATERSHED DISTRICT

The purpose of the Watershed District is to preserve the quality of the water to protect the health and welfare of the residents of the Town of Wilton by minimizing sources of pollution through regulation and restriction of population density and activity, and by keeping organic and inorganic wastes to a minimum.

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A. Watershed District shall mean the land and water areas which by seepage or flow introduce water into the old and new reservoirs of the Town. Generally, this includes, but is not restricted to, the watersheds of Mill Brook and Stockwell Brook above the reservoirs. The area shall be defined by the U.S. Soil Conservation Service of the Department of Agriculture and will be shown on the amended zoning map filed with the Town Clerk.

B. In the Watershed District, lot sizes shall not be less than 15 acres per dwelling unit. Wetlands (as defined by Article XI, Paragraph A, District Boundaries), land within the 100 year flood plain as defined by the Flood Insurance Rate Maps, Town of Wilton, NH, and land within the deeded flowage rights to the State of New Hampshire Flood Control System shall not be counted as part of the acreage amount. Frontage shall be a minimum of 500 feet on a Class V or better town road. No residence, building, structure, septic system or its containment area or feed lot shall be located less than 250 feet from open water, perennial or intermittent stream, the 100 year flood plain or deeded flowage rights to the State of New Hampshire Flood Control System (as defined hereinabove), nor located less than 150 feet from all remaining wetlands. Any disturbance of slopes of 15% or more shall require a sedimentation and erosion control plan approved by the Planning Board. The use of any hazardous or toxic materials or liquids within the above stated set back areas is prohibited.

C. No pasturing of livestock or fowl will be permitted within one hundred (100) feet of open flowing water. It will be the responsibility of the land owner to protect the water by installing adequate and proper fencing.

D. No land shall be filled, excavated or graded and no land shall be used in such a way that would cause substantial or avoidable erosion or alter existing patterns of natural water flow in the Watershed District, except for those uses incidental to permitted residential and agricultural construction.

E. In the Watershed District, only residential or agricultural purposes will be allowed.

F. Cluster Developments shall be permitted within the Watershed District in accordance with the Cluster Development Regulation and provided such proposed Cluster Development shall conform to all set-back requirements specified in this Article.

G. The Watershed District regulation will take precedence over any other district which is located within the watershed zone.

H. This District will incorporate the regulation to protect the purity of the water of Mill Brook Wilton, under the provision of Chapter 57, Laws of 1899, entitled "An act for the better protection of public water supplies" as adopted at special Town Meeting on December 4, 1904.

ARTICLE XV. NON-CONFORMING USES AND BUILDINGS

A. Any non-conforming use of land or building (other than uses specified in B below), may continue in their present use, except that any non-conforming use or building may not be:

1. Changed to another non-conforming use.
2. Re-established after discontinuance for one year except to a use conforming to this Ordinance.
3. Extended or enlarged as applied to buildings. Land removal may not be extended beyond present property lines.
4. Rebuilt after damage exceeding fifty percent (50%) of its former market value.

B. No outdoor advertising structure may continue as a non-conforming use for more than two (2) years after the effective date of this ordinance unless it is designed to direct attention to a business or profession conducted on the premises.

C. Provisions for Sub-standard Lots of Record.

Where a lot of record at the time of the effective date of this Ordinance has less area and/or frontage than herein required in the District in which it is located, and the owner of such lot does not own other parcels or tracts adjacent thereto:

1. Said lot may be used for a single family dwelling use permitted in that district subject to New Hampshire Water Supply and Pollution Control Commission approval and subject to all district regulations applicable to lots within the district wherein the lot is located with the exception of lot size and/or frontage. The Board of Adjustment may grant a special exception for reduced set backs in situations where the dimensions of the grandfathered lot would otherwise prevent compliance with the setback requirements of the underlying district and the proposed development is in keeping with the existing development of the neighborhood.

2. Said lot may be used for any non-residential use permitted in the district in which it is located when compliance is made with maximum density requirements, setbacks, and New Hampshire Water Supply and Pollution Control Commission regulations.

ARTICLE XVI. EXCAVATION SITE PLAN REVIEW REGULATIONS

Section I: General Purpose and Authority

Chapter 155-E of the New Hampshire Revised Statutes requires that, with several exceptions, all mining and excavation operations in the State obtain prior approval and permit from the local municipality in which the operation is to occur. Unless otherwise specified at Town Meeting,

this authority falls to the local planning boards. The purpose of the Statute is to minimize safety hazards created by open excavations; to safeguard the public health and welfare; to preserve our natural assets of soil, water, forests and wildlife; to maintain aesthetic features of our environment; to prevent land and water pollution; and to promote soil stabilization.

Section 2: Definitions - In this regulation:

I. "Earth" means sand, gravel, rock, soil or construction aggregate produced by quarrying, crushing or any other mining activity or such other naturally-occurring unconsolidated materials that normally mask to bedrock.

II. "Dimension Stone" means rock that is cut, shaped or selected for use in blocks, slabs, sheets, or other construction units of specified shapes or sizes and used for external or interior parts of buildings, foundations, curbing, paving, flagging, bridges, revetments, or for other architectural or engineering purposes. Dimension stone includes quarry blocks from which sections of dimension stone are to be produced. Dimension stone does not include earth as defined in RSA 155-E:1, I.

III. "Excavation" means a land area which is being used, or has been used, for commercial taking of earth, including all slopes.

IV. "Commercial" shall mean any use of any earth material for sale or resale on or off site of the excavation area. In addition, an excavation shall be considered commercial if earth materials are transported to other land whose ownership is different than the ownership of the land from which the earth was excavated. Excavations which use earth materials in the processing of other material such as, but not limited to, concrete, asphalt and other building materials shall be considered commercial.

V. "Regulator" means the planning board of the Town of Wilton, New Hampshire.

VI. "Notice of Intent" means a written notice to the Regulator and to the Conservation Commission to inform them of the intent to apply for a permit to excavate for a new excavation, or for expansion of, or continuation of any excavation in operation at the time of adoption of this regulation.

VII. "Application" means a completed application for an excavation permit. An application shall not be considered complete until all of the application checklist items have been completed and accepted to the satisfaction of the Regulator in addition to any other requirements of this regulation. In addition, an application shall not be considered complete until a receipt of completed application has been issued by the Regulator.

Section 3: Permit Required

No owner shall permit any new excavation of earth on his premises without first obtaining a permit. Excavations in operation at the time of adoption of this regulation shall have six (6) months from the date of adoption of this regulation to register with the Town as an existing excavation. Excavations which have not operated commercially within three (3) years of the adoption of this regulation shall not continue to operate until a permit to excavate is issued by the Regulator. All excavations, other than properly registered grandfathered pits, require a permit except:

I. Excavation that is incidental to the lawful construction or alteration of a building or structure or the lawful construction or alteration of a parking lot or way including a driveway on a portion of the premises where removal occurs.

II. Excavation that is incidental to agricultural or silvicultural activities, normal landscaping or minor topographical adjustments, provided ownership of the earth material does not change as a result of the excavation.

III. Excavation from an area contiguous to or from contiguous land in common ownership with, stationary manufacturing and processing plants in operation as of the effective date (August 1979) of this chapter which use earth obtained from such areas. (Stationary manufacturing and processing plants shall only be permitted in zones where they are specifically authorized, and only after a site plan is reviewed and approved by the planning board.)

IV. Excavation for a granite quarry for the purpose of producing dimension stone where specifically permitted by the zoning ordinance.

V. Excavation performed exclusively for the lawful construction, reconstruction or maintenance of a Class I, II, III, IV, or V highway by a unit of government which has a contract for the construction, reconstruction or maintenance of the highway, provided that a copy of the pit agreement executed by the owner, the agent and the governmental unit shall be filed with and accepted by the Regulator prior to the start of excavation but such excavation shall not be exempt from the provisions of Sections 8 and 14 of this regulation.

VI. A person owning land abutting a site which was taken by eminent domain or by any other governmental taking upon which construction is taking place may stockpile earth taken from the construction site and may remove the earth at a later date after written notification to the planning board.

Section 4: Application For Permit

Any owner or owner's designee subject to this chapter shall, prior to excavation or expansion of excavation of any land, apply to the Regulator for a permit for excavation and submit a restoration plan. The permit application shall be signed and dated by the applicant and shall

contain at least the following information in addition to other regulation, checklist and site plan review requirements: (The Planning Board may waive one or more of the items listed under Excavation Plan upon the formal request of the Applicant.)

1. The name and address of the owner of the land to be excavated, the person who will actually do the excavation and all abutters to the premises on which the excavation is proposed.

2. An excavation Plan at a scale of no less than one inch equals one hundred feet and showing the area to be excavated and the land falling within 100 feet (or more if requested by the Board) of the perimeter of the area to be excavated. All plans submitted to the Regulator shall comply with the provisions in the Soil Erosion and Sedimentation Control Subdivision and Non-Residential Site Plan Review Regulation. All plans submitted shall be of a quality that they are easily understood and of an accuracy that compliance can easily be checked. At least four copies of final plans shall be filed with the Regulator prior to issuance of a permit.

The Excavation Plan shall include:

- a. seal or signature of an engineer or land surveyor registered in the State of New Hampshire;
- b. existing topography at contour intervals of five or fewer feet, based on mean seal level;
- c. the breadth, depth and slope of the proposed excavation, and existing excavation where applicable, and the estimated duration of the excavations;
- d. wooded and heavily vegetated areas;
- e. all surface drainage patterns including wetlands and standing water;
- f. location of all easements, on or below the ground;
- g. location and width of all public roads and rights-of-way;
- h. a log of borings or test pits that extend to either the seasonal highwater table, ledge, or a minimum of six feet below the maximum proposed excavation depth, including location and soils data;
- i. location and extent of any stone walls, ledge out croppings, wells, existing buildings, septic systems, utilities and the like;
- j. an insert site location map showing the proposed operation in relation to existing roads, housing, and community facilities at a scale of at least one inch equals one thousand feet (1" = 1,000');
- k. any existing and all proposed excavation areas;
- l. any existing and all accessory facilities/activities;
- m. existing and proposed access roads, including width and surface materials;
- n. existing and proposed parking area;
- o. existing and proposed fencing/buffers, visual barriers, including height and materials;
- p. storage areas for topsoil to be used in reclamation; and
- q. all measures to control erosion, sedimentation, water pollution, air pollution, and hazards to human safety.

3. A Restoration Plan at the same scale as the Excavation Plan, and covering the same area. All plans submitted to the Regulator shall comply with the provisions in the Non-residential Site Plan Review Regulation. All plans submitted shall be of a quality that they are easily understood and of an accuracy that compliance can easily be checked. At least four copies of final plans shall be filed with the Regulator prior to issuance of a permit. In addition, the Planning Board may require the posting, prior to final approval, of a bond or escrow agreement by the applicant or his agent sufficient to guarantee the satisfactory restoration of the site. The bond shall be approved as to form and sureties by the Board. The agreement shall be conditioned upon completion of the improvements within such time period as shall be determined by the Board. The bond shall be released upon satisfactory completion of the restoration plan for the site. (The Planning Board may waive one or more of the items required as part of the Restoration Plan upon the formal request of the applicant.)

The Restoration Plan shall include:

- a. seal and signature of an engineer or land surveyor registered in the State of New Hampshire;
- b. all boundaries of the area proposed for restoration;
- c. final topography of the area proposed for restoration;
- d. final surface drainage pattern, including the location and physical characteristics of all artificial and/or modified drainage facilities;
- e. schedule of final restoration activities including seeding mixtures, cover vegetation, fertilizer types, and rates;
- f. photographs of the site before excavation (from at least two different vantage points); and
- g. subsequent use of the site, if known or anticipated.

Section 5: Registration of Existing Excavations

Any existing excavation in operation at the time of the adoption of this regulation shall have six months to register with the town as an existing excavation. All registered excavations shall not be required to obtain a permit for continuation of the operation but shall provide a modified Excavation Plan and a modified Restoration Plan within six months of the date of registration. The modified plan shall include all of the information required for an excavation permit unless otherwise indicated by the Planning Board. The Planning Board may waive one or more of the required items upon the formal request of the applicant.

Section 6: Additional Permit Requirements

1. Size and Restoration Time Limit on New Excavations

No permit application for excavation and reclamation of a new area shall exceed five acres in size. The size of the area for any permitted excavation shall not exceed that area which can be excavated and restored according to the approved application within a five (5) year period. A maximum of three (3) acres will be permitted to remain open and inactive for a period of five (5) years without forfeiture of the bond.

If restoration of the site is not completed within the five (5) year permit period the Town may declare part or all of the bond forfeit, and use these monies to restore the site, in addition to the requirement of Section II (Issuance of Permit). At no time shall more than 1 permit be allowed on a lot of record.

2. Size and Restoration Time Limit on Expansions of Existing Excavations

No permit application for expansion and restoration of an existing excavation shall exceed the area of the existing excavation plus five acres. However, the entire excavation area shall not exceed that area which can be excavated and restored according to the approved Restoration Plan within a five (5) year period. If an existing operating excavation at the time of adoption of this regulation cannot be restored within five (5) years, no additional new excavation into an undisturbed area shall be permitted until the existing excavated area is restored based on the approved Restoration Plan as required by this regulation. In the case of an excavation in operation at the time of adoption of this ordinance that is not being expanded, the permit period allowed for restoration shall be five (5) years.

If restoration of the site is not completed within the five (5) year permit period the town may declare part or all of the bond forfeit, and use these monies to restore the site, in addition to the requirements of Section II (Issuance of Permit) be allowed on a lot of record.

3. Excavation Sites Considered Non-Conforming

Expansion of any site used for sand and gravel excavation is limited to such activities which are considered a permitted or allowed use in the corresponding zoning district. For those excavation sites determined to be non-conforming uses or activities, no further expansion of the site will be permitted to occur.

4. Hours of Operation

The hours of operation shall be set by the Planning Board during the permit process. The level of operation and the type of neighborhood affected by the operation shall be considered by the Planning Board in setting these hours.

5. Hauling Information

Hauling information, including routes to be utilized, the type and weight of motor vehicles involved, and the frequency and schedule of operations of such vehicles shall be provided to the Planning Board prior to the issuance of an Excavation Permit. The Planning Board may require modifications to such plans and/or may place conditions upon such operations, depending on surrounding land uses and road conditions. The Regulator reserves the right to conduct a traffic study at the applicant's expense to ensure that public safety, neighborhood compatibility and road capacity and condition have been optimized in the hauling plan.

Section 7: Excavation Standards

a. No excavation covered under RSA 155-E shall be permitted closer than 50 feet of the boundary of a disapproving abutter or within 10 feet of an approving abutter unless approval is requested by the abutter.

b. No excavation covered under RSA 155-E shall be permitted closer than 250 feet of a dwelling of a disapproving abutter or 150 feet of an approving abutter unless approval of a lesser distance is requested by the abutter.

c. Natural vegetation adjacent to neighboring properties on which excavation is not intended shall be maintained for the purposes of erosion control, screening, noise reduction, and property valuation.

d. No actual excavation is to exceed five (5) acres at one time unless specifically authorized by the Planning Board.

e. Appropriate erosion, sedimentation, air and water quality measures shall be integrated into the excavation process. Excavations shall comply with the Non-Residential Site Plan Review Regulation.

f. No excavation shall be permitted so close to the seasonal high water table or to bedrock (as indicated by the required borings or test pits) as would preclude the subsequent re-use of the site in accordance with existing public health standards, local zoning, and local master plan.

g. Where the depth of excavation will exceed 15 feet and temporary slopes will exceed 1:1 in grade, a fence or other suitable barricade shall be erected to warn of danger and/or limit access to the site.

h. No area shall be excavated which will cause the accumulation of free standing water for prolonged periods. Appropriate drainage shall be provided.

i. Topsoil shall be stripped from the excavation area and shall be stockpiled for use in subsequent restoration of the site.

j. All temporary structures required during excavation operations shall be removed from the site within 30 days after such operations cease.

k. All vehicles transporting excavated material shall utilize adequate covering and/or sideboards to prevent dust and spillage when loaded.

Section 8: Site Restoration Standards

The Planning Board or its designee shall periodically inspect the operations and shall perform a final restoration inspection in order to ensure that the approved plans have been followed.

a. No slope in soil material shall be left in steeper than 3:1 (three horizontal feet for each one foot of vertical drop) unless it can be demonstrated by the applicant that a steeper grade can be adequately vegetated and stabilized. Under no case shall a soil material slope be left steeper than 2:1.

b. All debris, stumps, boulders, etc. shall be disposed of in a manner acceptable to the Planning Board or its designee.

c. Ground levels and grades shall be restored as shown on the approved restoration plan as soon as practical after site excavation has been completed.

d. Stockpiled topsoil shall be re-spread over the disturbed area to a depth to allow and maintain re-vegetation. Areas having the most critical problems to re-vegetation shall be given first priority should available topsoil be limited. The disturbed area(s) shall be fertilized, if necessary, and seeded with a grass or grass-legume mixture.

e. If deemed necessary by the Planning Board, suitable trees or shrubs may be planted in order to provide screening and natural beauty and to aid in erosion control. Such planted areas shall be protected from erosion during an appropriate establishment period by mulch and structural erosion control devices.

f. Upon completion of the restoration operations, the topography of the land shall be left so that water draining from the site follows the pre-excitation, natural drainage pattern with no increase in the off site volume of flow.

g. The responsible party shall not be released from its performance commitment (restoration bond, etc.) until the Planning Board certifies compliance with all terms of the Excavation Plan and the Restoration Plan.

Section 9: Prohibited Projects

The Regulator shall not grant a permit:

I. Where an excavation is proposed below road level within 50 feet of any highway right-of-way unless such excavation is for the purpose of said highway;

II. For excavation within 50 feet of the boundary of a dis-approving abutter or within 10 feet of the boundary of an approving abutter unless approval is requested by said abutter;

III. For excavation within (150) feet of a dwelling unless approval of a lesser distance is requested by said abutter:

IV. When the excavation is not permitted by zoning or other applicable ordinance;

V. When the issuance of the permit would be unduly hazardous or injurious to the public welfare;

VI. Where existing visual barriers would be removed, except to provide access to the excavation;

VII. Where excavation would damage a known aquifer, so designated by the United States Geological Survey, or would be closer than 4 ft. to the known aquifer;

VIII. When excavation is planned beneath or adjacent to inland surface water and wetlands in such a manner that a permit is required from local and other state and federal agencies with jurisdiction over the

premises; but the Planning Board may approve the application when all the necessary permits have been obtained; or

IX. Where the project cannot comply with the restoration provisions of Sections 6 and 8;

X. No excavation shall be allowed within 75 feet of wetlands (poorly and very poorly drained soils), streams or open bodies of water. The natural vegetation shall be retained in this 75 foot buffer. A high intensity soil survey may be required of the applicant if needed to accurately identify wetland areas. In the watershed district no excavation shall be permitted within 150 feet of wetlands or 250 feet of streams and open water bodies and the natural vegetation shall be retained within the buffer. A high intensity soil survey may be required by the Planning Board.

Section 10: Application For Amendment

When the scope of a project for which an excavation permit has been issued is proposed to be altered so as to affect either the size or location of the excavation, the rate of removal or the plan for restoration, the owner shall submit an application for amendment of his excavation permit. The amended application shall be subject to approval in the same manner as provided for an excavation permit. An application for amendment to increase the size of a permitted excavation may be allowed if at least one-half of the area covered by the prior permit is restored to the Regulators satisfaction.

Section 11: Hearing

Prior to the Regulator approving an application for an excavation permit or an application for an amended excavation permit, a public hearing shall be held within 30 days on such application. A notice of said hearing shall be sent to all abutters and shall specify the grounds for the hearing as well as the date, time, place, and at least 14 days notice of the time and place of such hearing shall be published in a paper of general circulation in the town and legal notice therefore shall also be posted in at least 3 public places in the town; the 14 days shall not include the day of publication or the day of the meeting, but shall include any Saturdays, Sundays and legal holidays within said period. Within 20 days of said hearing or any continuation thereof, the Planning Board shall tender a decision approving or disapproving the application, giving reasons for disapproval.

Section 12: Issuance of Permit

If the Regulator, after public hearing, approves the application for a permit and determines it is not prohibited by Section 9 it shall, upon receipt of an excavation application fee determined by the Regulator not to exceed \$50 and the posting of a bond or other surety with the municipal treasurer in the amount determined by the Planning Board to be sufficient to guarantee compliance with the permit, grant the permit for excavation. The period of the performance bond or other surety shall be

for a period of 5 years. A copy of the permit shall be prominently posted at the excavation site and the principal access thereto. A permit shall not be assigned or transferable without the prior written consent of the Regulator. A permit shall specify the date upon which it expires. The Planning Board may include in a permit such reasonable conditions as are consistent with the purpose of this regulation including the provision of visual barriers to the excavation. In addition, a permit fee in an amount determined by the Planning Board for application plan review and annual compliance review, by the Planning Board or its designated agent, shall be assessed the applicant prior to issuance of a permit. This permit fee shall also include sufficient funds for the Town's designated engineer or other agents of the Regulator to periodically conduct field reviews at the excavation site to ensure compliance with the approved plans for the excavation.

Section 13: Appeal

If the Regulator disapproves or approves an application for an excavation permit or an application for an amended permit, any interested person affected by such decision may appeal to the Planning Board for a rehearing on such decision or any matter determined thereby. The motion for rehearing shall fully specify every ground upon which it is alleged that the decision or order complained of is unlawful or unreasonable and said appeal shall be filed within 10 days of the date of decision appeal from. The Regulator shall either grant or deny the request for rehearing within 10 days, and if the request is granted, a rehearing shall be scheduled within 30 days. Any person affected by the Planning Board's decision on a motion for rehearing to the Planning Board may appeal in conformity with the procedures in RSA 677.

Section 14: Enforcement

I. The Regulator or its duly authorized agent may suspend or revoke the permit of any person who has violated any provision of his permit or this regulation or made a material mis-statement in the application upon which his permit was granted. Such suspension or revocation shall be subject to a motion for rehearing thereon and appeal in accordance with Section 13. Failure to file for a permit as required by this regulation shall be considered a violation subject to the enforcement provisions of this regulation.

II. The Regulator or a person affected thereby may seek an order from the Superior Court that the violator cease and desist from violation of any provision of his permit or this regulation and take such action as maybe necessary to be in compliance with his permit and this regulation. If the Superior Court issues such an order, the Planning Board or the person affected, as the case may be, shall have judgment for all costs and attorney fees in seeking such an order.

III. To ascertain if there is compliance with this regulation, a permit issued hereunder or an order issued hereunder, the Regulator or its duly authorized agent may enter upon any land on which there is reason to believe an excavation is being conducted or has been conducted since the effective date of this regulation.

IV. Whoever, violates any provision of this regulation, a permit issued hereunder or a valid order issued hereunder shall be guilty of a misdemeanor.

V. Operations who fail to file for permit will be issued a cease and desist order.

Section 15: Separability

The invalidity of any provisions of this regulation shall not affect the validity of any other provision.

ARTICLE XVII. ENFORCEMENT

A. There shall be a Board of Adjustment appointed per Ch. 673:1, IV; 3, I; 5, II; 6, I; 11; 12, I; 13; 674:33. IV, N.H. RSA.

B. It shall be the duty of the Board of Selectmen, and the Board is hereby given the power and authority, to see that the provisions of this Ordinance are enforced per Ch. 674:33, I, II, III, N.H. RSA.

C. The Building Inspector shall issue any and all building permits requested when such permits are in accordance with the provisions of this Ordinance.

D. Permits.

After passage of this Ordinance, it shall be unlawful to erect or alter the bulk of any building, place any trailer or mobile home, or relocate any building in these Districts without first obtaining a building permit from the Building Inspector.

E. No permit shall be required for repairing and remodeling where the purpose for which the building is to be used is not changed.

F. Upon any well founded information that this Ordinance is being violated, the Selectmen shall take immediate steps to enforce the provisions of this Ordinance by seeking an injunction in the Superior Court or take any other legal action.

ARTICLE XVIII. BOARD OF ADJUSTMENT

The Board of Selectmen shall make appointments to a Board of Adjustment of five (5) members whose duties shall conform to the provisions of Ch. 674:29 N.H. RSA. Thereafter, as terms expire or vacancies occur, the appointing authority shall be responsible for filling vacancies and maintaining full membership on the Board of Adjustment. The Board of Adjustment shall conform in membership and term in office to the provisions of Ch. 673:3, I; 5, II; 6, I; 11; 12, I; and 13, N.H. RSA.

ARTICLES XIX. PHASING OF DEVELOPMENTS

A. Indicators of Growth Impact: The Town of Wilton hereby determines that the presence of any of the following conditions constitutes an indicator of Growth Impact. An Indicator of Growth Impact occurs when:

1. The number of dwelling units for which building permits have been issued (whether for single family or multi-family structures) for either:

a. the preceding six (6) month period (as measured on June 30 and December 31) equals or exceeds 1.6 percent of the total number of dwelling units existing in the previous calendar year; or

b. the preceding twelve (12) month period (as measured on June 30 and December 31) equals or exceeds 3.2 percent of the total number of dwelling units existing for the two (2) previous six (6) month periods.

The Planning Board shall be responsible for determining the total number of dwelling units in the Town in a given calendar year (as of December 31) by February 15 of the succeeding year and the total number of dwelling units in the Town in a given year as measured on June 30 by August 15 of the same year.

2. The number of enrolled students in either the Wilton Elementary School or the Wilton-Lyndeborough Cooperative High School (or other public school erected hereafter) exceeds eighty percent (80%) of stated capacity as defined by the School Board.

3. The number of dwelling units contained on a proposed subdivision plan or site plan submitted to the Planning Board equals or exceeds 1.3 percent of the then existing dwelling units as measured for the previous calendar year.

B. It shall be the responsibility of the Planning Board to monitor the Indicators of Growth Impact and to make public reports of the presence of one or more of the Indicators.

C. **Phasing of Subdivision and Cluster Developments:** If the Planning Board finds through its monitoring that either Indicator A₁, A₂ or A₃ has occurred, then the Planning Board may require the phasing of pending and future subdivision and cluster development proposals as provided in New Hampshire RSA 674:21. The purpose of phasing developments is to minimize a strain on municipal resources caused by the sudden introduction of a substantial number of new dwelling units and to allow the Town to plan and absorb the growth over a longer period of time so as to avoid severe impact on Town services and resources.

1. The Planning Board may require phasing of a subdivision or cluster development for a period of up to five (5) years for a project containing up to seventy-five (75) proposed dwelling units or individual lots. For a project exceeding seventy-five (75) dwelling units or individual lots, the Planning Board may negotiate a longer period of time over which phasing of the proposed development is to occur, based on the size of the project and the potential impact of the project on the Town.

2. Once a phasing plan is approved by the Planning Board with dates of allowed construction for each phase, the approved plan shall be recorded with the Hillsborough County Registry of Deeds.

3. The phasing of developments as provided for herein shall remain in effect until the issuance of the next public report as provided in Paragraphs A and B herein above, at which time the Planning Board shall determine if the phasing of developments is required in accordance with the provisions of this Article.

D. The Superior Court may, upon a petition filed by the Town and after notice and a preliminary hearing as in the case of pre-judgments under RSA 511-A, require an alleged violator to post a bond with the court to secure payment of any penalty or remedy or the performance of any injunctive relief which may be ordered or both. At the hearing, the burden shall be on the Town of Wilton to show that there is a strong likelihood that it will prevail on the merits, that the penalties or remedies sought are reasonably likely to be awarded by the court in an amount consistent with the bond sought, and that the bond represents the amount of the projected expenses of compliance with the injunctive relief sought.

ARTICLE XX. AMENDMENTS

This Ordinance may be amended in accordance with Ch. 675:2, 4, N.H. RSA. By petition of twenty-five (25) voters or by the Planning Board. Two (2) public hearings must be held, and voted on by ballot at Town Meeting.

ARTICLE XXI. FINES AND PENALTY

A. Any violation of Title LXIV: Planning and Zoning of the NH Planning and Land Use Regulation (RSA Chapters 672 to 677 inclusive), or any violation of the Town of Wilton ordinance, code or regulation adopted pursuant to this title may be made punishable, as determined by the Board of Selectmen, by either:

1. A civil fine of not more than one-hundred (\$100.00) dollars for each day that such violation is found by a court to continue after the conviction date or after the date on which the violator receives written notice from the municipality that he is in violation of any ordinance or regulation adopted under this title, whichever date is earlier; or

2. A criminal penalty, which shall be:

a. A misdemeanor if the violation is committed by a natural person; or

b. A felony if the violation is committed by any other person.

B. In any legal action brought by the Town of Wilton to enforce, by way of injunctive relief as provided by RSA 676:15 or otherwise, any ordinance, code or regulation adopted under this title by the Town, or to enforce any Planning Board or Zoning Board of Adjustment decision made pursuant to this title, or to seek the payment of any fine levied under Paragraph A., the municipality may recover its costs and reasonable attorney's fees actually expended in pursuing the legal action if it is found to be a prevailing party in the action. For the purposes of this paragraph, recoverable costs shall include all out-of-pocket expenses actually incurred, including but not limited to, inspection fees, expert fees and investigator expenses.

C. If any violation of a Town ordinance, code or regulation, or any violation of a Planning Board or Zoning board of Adjustment decision, results in the expenditure of public funds by the Town which are not reimbursed under Paragraph B., the court in its discretion may order, as an additional civil penalty, that a violator make restitution to the Town of Wilton for such funds so expended.

D. The superior court may, upon a petition filed by the Town and after notice and a preliminary hearing as in the case of pre-judgments under RSA 511-A, require an alleged violator to post a bond with the court to secure payment of any penalty or remedy or the performance of any injunctive relief which may be ordered or both. At the hearing, the burden shall be on the Town of Wilton to show that there is a strong likelihood that it will prevail on the merits, that the penalties or remedies sought are reasonably likely to be awarded by the court in an amount consistent with the bond sought, and that the bond represents the amount of the projected expenses of compliance with the injunctive relief sought.

ARTICLE XXII. SAVING CLAUSE

The invalidity of any provision of this Ordinance shall not affect the validity of any other provision.

ARTICLE XXIII. WHEN EFFECTIVE

This Ordinance and amendments as voted, shall take effect upon its passage.

Mark Whitehill, Chairman
Alex MacMartin, Jr., Vice-Chairman
David Stein, Selectman member
Michael Davidson
David Glines
Minot Ring
Richard Rockwood

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