

TOWN OF WILTON  
SUBDIVISION ORDINANCE  
June 16, 2003, Amended June 19,2006, Amended June 4, 2012

**ARTICLE I. PURPOSES**

The purposes of this Ordinance are to assure the comfort, convenience, safety, health and welfare of the people of the Town of Wilton, to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving subdivisions within the Town of Wilton, Maine, the Planning Board shall consider the following criteria and before granting approval shall make findings of fact that the provisions of this Ordinance have been met and that the proposed subdivision will meet the requirements set forth in the State Subdivision Law.

**ARTICLE II. AUTHORITY, ADMINISTRATION, EFFECTIVE DATE REPEAL OF EXISTING ORDINANCE**

2.1 Authority

- A. This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII-A of the Maine Constitution and Title 30-A, M.R.S.A. Section 3001.
- B. These standards have been prepared in accordance with the provisions of Title 30-A MRSA Section 4403.
- C. These standards shall be known and may be cited as "Subdivision Ordinance of the Town of Wilton, Maine."

2.2 Administration

- A. The Planning Board of the Town of Wilton, hereinafter called the Board, shall administer these standards.
- B. The provisions of these standards shall pertain to all land proposed for subdivision, as defined by this Ordinance, within the Town of Wilton.

2.3 Effective Date

The effective date of this Ordinance is\_\_\_\_\_.

2.4 Repeal of Existing Subdivision Ordinance

Adoption of this Ordinance shall repeal any and all previous subdivision ordinances and regulations. This shall not prevent the enforcement of repealed ordinances or regulations with respect to the time periods in which they were in effect.

2.5 Conflict with Other Ordinances

- A. This Ordinance shall not be construed to repeal any existing bylaws or ordinances, other than those specifically identified, or to impair the provisions of private restrictions placed upon property, provided, however, that where this Ordinance imposes greater restrictions, its provisions shall control.

2.6 Validity and Severability

A. Should any section or provision of this Ordinance be declared by any court to be invalid, such decision shall not invalidate any other section or provision.

### **ARTICLE III. ADMINISTRATIVE PROCEDURE**

3.1 In order to establish an orderly, equitable and expeditious procedure for reviewing subdivisions and to avoid unnecessary delays in processing applications for subdivision review, the board shall prepare a written agenda for each regularly scheduled meeting. The agenda shall be prepared no less than one week in advance of the meeting, distributed to the Board members and any applicants appearing on the agenda, and posted at the municipal offices. Applicants shall request to be placed on the boards agenda at least seven days in advance of a regularly scheduled meeting by contacting the code enforcement officer. Applicants who attend a meeting but who are not on the Boards agenda may be heard only after all agenda items have been completed, and then only if a majority of the Board so votes. However, the Board shall take no action on any application not appearing on the Boards written agenda.

3.2 Joint Meetings. If any portion of the proposed subdivision crosses the boundary of an adjacent municipality or area under the jurisdiction of the Land Use Regulation Commission, the Board shall meet jointly with that municipality's planning board or the Land Use Regulation Commission to discuss the application.

### **ARTICLE IV. PREAPPLICATION FOR SUBDIVISIONS**

#### **4.1 Submission**

The Pre-application Sketch Plan shall show, in simple sketch form, the proposed layout of streets, lots, and other features in relation to existing conditions. The sketch plan, which may be a free-hand penciled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development. It is recommended that the sketch plan be superimposed on or accompanied by a copy of the assessor's map(s) of the property proposed for subdivision. The sketch plan shall be accompanied by a copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision, unless the proposed subdivision is less than ten acres in size.

#### **4.2 Contour Interval and On-Site Inspection**

Within thirty days of the Pre-application meeting, the Board shall hold an onsite inspection of the property and inform the applicant in writing of the required contour interval on the Preliminary Plan. The applicant shall place "flagging" at the center line of any proposed streets and at the approximate intersections of the street center lines and lot corners, prior to the onsite inspection. The Board shall not conduct on site inspections when there is more than one foot of snow on the ground.

#### **4.3 Ownership Interest**

The applicant shall furnish to the Board written evidence showing his interest (option, contract for sale, etc.) in the property to be subdivided.

#### **4.4 Rights not Vested.**

The pre-application meeting, the submittal or review of the sketch plan or the on-site inspection shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1 M.R.S.A., 302.

#### **4.5 Establishment of File.**

Following the pre-application meeting the Board shall establish a file for the proposed subdivision. All correspondence and submissions regarding the pre-application shall be maintained in the file.

### **ARTICLE V. REPEALED**

## **ARTICLE VI. PRELIMINARY PLAN FOR SUBDIVISION**

### **6.1 Procedure**

A. Within six months after the on-site inspection by the Board, the applicant shall submit to the Code Enforcement Officer an application for approval of a Preliminary Plan at least seven (7) days prior to a scheduled meeting of the Board. Failure to submit an application within six months of the on-site inspection shall require resubmission of the Sketch Plan to the Board. The Preliminary Plan should approximate the layout shown on the Sketch Plan and recommendations made by the Board. The Board shall provide the applicant with a dated receipt of a Preliminary Plan application at the Board meeting where the Preliminary Plan application is first presented and heard by the Board.

B. All applications for final plan approval for a Subdivision shall be accompanied by a non-refundable application fee of \$25 per lot or dwelling unit, payable by check to the municipality. In addition, the applicant shall pay a fee of \$50 per lot or dwelling unit to be deposited in a special account designated for that subdivision application, to be used by the Board for hiring independent consulting services to review the application, if necessary. If the balance in the special account is drawn down by 75%, the Board shall notify the applicant, and require that an additional \$25 per lot or dwelling unit be deposited by the applicant. The Board shall continue to notify the applicant and require an additional \$25 per lot or dwelling unit be deposited as necessary whenever the balance of the account is drawn down by 75% of the original deposit. Any balance in the account remaining after a decision on the final application by the Board shall be returned to the applicant. An additional fee may be required to cover the cost of advertising for a public hearing.

C. The applicant, or the applicant's duly authorized representative, shall attend the meeting of the Board to present the final plan. Failure to attend the meeting to present the final plan shall result in a delay of the Boards receipt of the plan until the next meeting which the applicant attends.

D. Upon receipt of an application for preliminary plan approval of a subdivision, the Board shall notify in writing all owners of abutting property to the proposed subdivision.

E. Within thirty (30) days of the Board issuing a receipt of a Preliminary Plan application form and fee, the Board shall notify the applicant in writing whether or not the application is complete, and what, if any, additional submissions are required for a complete application.

F. The Board shall hold a public hearing on the preliminary plan application within thirty (30) of receipt of a complete application, and shall publish notice of the date, time and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven (7) days prior to the hearing. Notice of the public hearing shall be mailed to all abutters of the proposed subdivision seven (7) days prior to the hearing by the Town of Wilton.

G. The Board shall, within sixty days of a public hearing, or within another time limit as may be otherwise mutually agreed upon by the Board and the applicant, make findings of fact on the application, and approve, approve with conditions, or deny the preliminary plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.

H. When granting approval to a preliminary plan, the Board shall state the conditions of such approval, if any, with respect to:

1. The specific changes which it will require in the Final Plan;
2. The character and extent of the required improvements for which waivers may have been requested and which, in the Board's opinion, may be waived without jeopardy to the public health, safety, and general welfare; and
3. The amount and type of all performance guarantees which it will require as prerequisite to the approval of the Final Plan.

I. Approval of a preliminary plan shall not constitute approval of the Final Plan or intent to approve the final plan, but rather it shall be deemed an expression of approval of the design of the preliminary plan as a guide to the preparation of the final plan. The final plan shall be submitted for approval of the Board upon fulfillment of the requirements of this Ordinance and the conditions of preliminary approval, if any. Prior to the approval of the Final Plan, as a result of the further study of the proposed subdivision or as a result of additional information received, the Board may require additional changes deemed necessary or other conditions to be met so that the final plan will satisfies all of the approval criteria set forth in this Ordinance or in 30-A M.R.S.A. Section 4404 for subdivision approval.

## 6.2 Submissions

A. Location Map: The preliminary plan shall be accompanied by a location map adequately showing the relationship of the proposed subdivision to the adjacent properties. This will allow the Board to locate the subdivision within the municipality. The location map shall show:

1. Locations and names of existing and proposed streets.
2. Boundaries and designations of any zoning districts.
3. An outline of the proposed subdivision and any remaining portion of the owner's property if the preliminary plan submitted cover only a portion of the owner's entire contiguous holding.

B. Preliminary Plan: The Preliminary Plan shall be submitted in four copies of one or more maps or drawings which may be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The preliminary plan shall be drawn to a scale of not more than 100 feet to the inch. The Board may allow plans for subdivision containing more than 100 acres to be drawn at a scale of not more than 200 feet to the inch provided all necessary detail can easily be read. In addition, one copy of the plan(s) which may be reduced to a size of 8 ½ by 11 inches, and all accompanying information shall be submitted to the Code Enforcement Officer so that copies can be mailed by the Code Enforcement Officer to each Board member. Upon the finding of a complete application the applicant shall provide the Code Enforcement Officer with copies of the reduced size plan to be provided to the Fire Department, Police Department, Rescue Chief, Road Commissioner, Sewer and Water Departments, Public Works Department and Superintendent of Schools for their comments and/or suggestions. The following information shall either be shown on the Preliminary Plan or accompany the application for preliminary approval:

1. Proposed name of the subdivision or identifying title and the name of the municipality, in which it is located, plus the tax assessor's map and lot numbers.
2. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument set or found at each lot corner.
3. A copy of the deed from which the survey was based and proof of right, title or interest. A copy of all covenants or deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
4. A copy of any proposed deed restrictions, covenants or agreements intended to cover all or part of the lots in the subdivision.

5. Indication of the type of sewage disposal to be used in the subdivision.
  - a. When sewage disposal is to be accomplished by subsurface sewage disposal systems, test pit analyses, prepared by a licensed site evaluator and in compliance the Maine Subsurface Waste Water Disposal Rules shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
  - b. When sewage disposal is to be accomplished by connection to the Town of Wilton sewer system, a written statement from the Sewer Department stating it has the capacity to collect the wastewater shall be provided.
  - c. A hydrogeologic assessment prepared by a Certified Geologist or Registered Professional Engineer, experienced in hydrogeology, when the subdivision is not served by public sewer and any part of the subdivision is located over a sand and gravel aquifer identified as a Significant Sand and Gravel Aquifer by the Maine Geological Survey.
6. Indication of the type of water supply system(s) to be used in the subdivision.
  - a. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydrogeologist familiar with the area.
  - b. When water is to be supplied by public water supply, a written statement from the Water Department Superintendent shall be submitted indicating there is adequate supply and pressure for the subdivision and that the department approves the plans for extensions where necessary. Where the department's supply line is to be extended, a written statement from the fire chief, stating approval of the location of fire hydrants if any, and a written statement from the water department superintendent approving the design of the extension shall be submitted.
7. The date the plan was prepared, magnetic north point, graphic map scale, names and addresses of the record owner, sub divider, and individual or company who prepared the plan. The plan(s) shall be stamped or sealed by a professional engineer, surveyor or planner, or all of them, as the case may be.
8. A copy of that portion of the county soil survey covering the subdivision along with soil descriptions and interpretations. When the county soil survey shows soils which are generally unsuitable for the uses proposed, the Board may require the submission of a report by a registered soil scientist indicating the suitability of soil conditions for those uses.
9. Contour lines at the interval specified by the Planning Board, showing elevations in relation to mean sea level.

10. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the plan.
11. A soil erosion and sedimentation control plan which employs the Best Management Practices as contained in the Maine Erosion and Sediment Control Handbook for Construction.
12. A plan for the disposal of surface waters prepared by a qualified professional knowledgeable in surface drainage.
13. The location of any fresh water wetlands.
14. The location of river, stream or brook within or abutting the proposed subdivision.
15. The location and nature of significant wildlife habitat identified by the Maine Department of Inland Fisheries and Wildlife.
16. Any portion of the subdivision which is located within the watershed of a lake or pond shall be identified.
17. If the proposed subdivision is in the direct watershed of a great pond a phosphorous control plan is needed, as described in section 10.9.
18. The location of any zoning districts affecting the subdivision.
19. The location of known archaeological resources.
20. Identification of documented rare and endangered species identified by the state or federal governments and measures to protect them.
21. The location of documented historic buildings and sites on or adjacent to the site and measures, which will be taken to minimize impacts upon the buildings and sites.
22. The location of scenic sites or views as identified in the Town of Wilton Comprehensive Plan.
23. Statement of the applicant's technical and financial capacity to carry out the project as proposed.
24. The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, vegetative cover type, and other essential existing physical features shall be shown on the plan.
25. The location and size of existing and proposed sewers, water mains, culverts, and drainage way on or adjacent to the property to be subdivided.

26. The location, names and present widths of existing and proposed streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision.

27. The proposed lot lines with approximate dimensions and lot areas.

28. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.

29. The location of any open space to be preserved and a description of proposed ownership, improvement and management.

30. A traffic impact analysis prepared by a Professional Engineer when required by the Board.

31. The names and addresses of owners of record of adjacent property, including any property directly across an existing public street from the subdivision.

## **ARTICLE VII. FINAL PLAN FOR SUBDIVISION**

### **7.1 Procedure**

A. The applicant shall, within 12 months after the approval of the preliminary plan, file with the Code Enforcement Officer an application for approval of the final plan. If the application for the final plan is not submitted within 12 months after preliminary plan approval, the Board may refuse without prejudice to act on the final plan, and require resubmission of the preliminary plan. The final plan shall approximate the layout shown on the preliminary plan, plus recommendations made by the Board. The Board shall provide the applicant with a dated receipt of a final plan application at the Board meeting where the final plan application is first presented and heard by the Board.

B. The applicant, or the applicant's authorized representative, shall attend the meeting of the Board to present the final plan. Failure to attend the meeting to present the final plan shall result in a delay of the boards' receipt of the plan until the next meeting which the applicant attends.

C. Within thirty (30) days of the Board issuing a dated receipt of a Final Plan application form, the Board shall notify the applicant in writing as to whether or not the application is complete, and what, if any, additional submissions are required for a complete application.

D. The Board shall hold a hearing within thirty (30) days of receipt of a complete application, and shall publish notice of the date, time, and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven (7) days prior to the hearing and the notice of the hearing shall be posted in at least three prominent places at least seven days prior

to the hearing. Notice of the public hearing shall be mailed to all abutters of the proposed subdivision seven (7) days prior to the hearing by the Town of Wilton.

E. Before the Board grants approval of the final plan, the applicant shall meet the performance guarantee requirements contained in Article XII.

F. Within sixty days from the public hearing the Board shall make findings of fact, and conclusions relative to the standards contained in Title 30-A M.R.S.A. §4404 and in this Ordinance. If the Board finds that all standards of the Statute and this Ordinance have been met, they shall approve the final plan. If the Board finds that any of the standards of the Statute and this Ordinance have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the standards will be met by the subdivision. The reasons for any conditions shall be stated in the records of the Board.

## **7.2 Submissions**

A. The Final Plan shall consist of two reproducible, stable-based transparent originals embossed with the seal of the professional who prepared the plan. One will be recorded at the Registry of Deeds, the other will be filed at the Municipal Office and four copies of one or more maps or drawings drawn to a scale of not more than 100 feet to the inch shall be provided to the Board. Plans for subdivisions containing more than 100 acres may be drawn at a scale of not more than 200 feet to the inch provided all necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of one half inch along all sides. Space shall be provided for endorsement by the Board. Four copies of all information accompanying the plan shall be submitted. In addition, one copy of the plan(s) which may be reduced to a size of 8 ½ by 11 inches, and all accompanying information shall be submitted to the Code Enforcement Officer so that copies can be mailed by the Code Enforcement Officer to each Board member. Upon the finding of a complete application the applicant shall provide the Code Enforcement Officer with copies of the reduced size plan to be provided to the Fire Department, Police Department, Rescue Chief, Road Commissioner, Sewer and Water Departments, Public Works Department and Superintendent of Schools for their comments and/or suggestions.

B. The application for approval of the Final Plan shall include the following information.

1. Proposed name of the subdivision or identifying title and the name of the municipality in which it is located, along with the assessor's map and not numbers.

2. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, and made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument set or found at each lot corner.

3. The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, vegetative cover type, and other essential existing physical features shall be shown on the plan.
4. A copy of any proposed deed restrictions, covenants or agreements intended to cover all or part of the lots in the subdivision.
5. Indication of the type of sewage disposal to be used in the subdivision. When sewage disposal is to be accomplished by connection to the public sewer system, a written statement from the Sewer Department indicating the Department has reviewed and approved the sewage design shall be submitted.
6. Indication of the type of water supply system(s) to be used in the subdivision.
  - a. When water is to be supplied by the Town of Wilton, a written statement from the Water Department shall be submitted indicating the Department has reviewed and approved the water system design.
7. The date the plan was prepared, magnetic and true north point, graphic map scale, names and addresses of the record owner, sub divider, and individual or company who prepared the plan. The plan(s) shall be stamped or sealed by a professional engineer, surveyor, or planner, or all of them, as the case may be.
8. The location of any zoning boundaries affecting the subdivision.
9. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
10. The location, names and present widths of existing and proposed streets, highways, easements, building lines, parks and other open spaces in the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established.
11. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers of cession to the municipality of all public open spaces shown on the plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be maintained shall be submitted. If open space or other land is to be offered to the municipality, written evidence that the Municipal Officers are satisfied with the legal sufficiency of the written offer of cession shall be included.
12. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the plan.

13. A soil erosion and sedimentation control plan which employs the Best Management Practices as contained in the Maine Erosion and Sediment Control Handbook for Construction.

14. A plan for the disposal of surface waters prepared by a qualified professional knowledgeable in surface drainage.

15. If the proposed subdivision is in the direct watershed of a great pond a phosphorous control plan is needed.

### **ARTICLE XIII FINAL APPROVAL AND FILING**

A. Upon findings of fact and determination that all standards in Title 30-A, M.R.S.A. §4404, and this Ordinance have been met, and upon voting to approve the subdivision, the Board shall sign the final plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial. One copy of the signed plan shall be retained by the Board as part of its permanent records. One copy of the signed plan shall be forwarded to the tax assessor. Any subdivision not recorded in the Registry of Deeds by the sub divider within ninety days of the date upon which the plan is approved and signed by the Board shall become null and void.

B. At the time the Board grants final plan approval, it may permit the plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to insure the orderly development of the plan.

C. No change, erasures, modifications, or revisions shall be made in any final plan after approval has been given by the Board and endorsed in writing on the plan, unless the revised final Plan is first submitted and the Board approves any modifications, except in accordance with Article 8.1.C. The Board shall make findings that the revised plan meets the standards of Title 30-A, M.R.S.A. §4404, and this Ordinance. In the event that a plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the plan stricken from the records of the Registry of Deeds.

D. The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the municipality, approval of the plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the municipal officers covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.

E. Failure to commence substantial construction of the necessary improvements in the subdivision within two years of the date of approval and signing of the plan shall render

the plan null and void. Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.

## **ARTICLE IX. ENFORCEMENT**

### **9.1 Inspection of Required Improvements**

A. At least ten days prior to commencing each major phase of construction of required improvements, the sub divider or contractor shall notify the Code Enforcement Officer in writing as to when construction of improvements will begin. The municipal officers shall cause inspection to be made to assure that all municipal specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.

B. If the inspecting official finds, upon inspection of the improvements, that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the sub divider, he shall so report in writing to the municipal officers, Board, and the sub divider or builder. The municipal officers shall take any steps necessary to assure compliance with the approved plans.

C. If at any time before or during the construction of the required improvements, it appears to be necessary or desirable to modify the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances, such as encounters with hidden outcrops of bedrock, natural springs, etc. The inspecting official shall issue any approval under this section in writing and shall transmit a copy of the approval to the Board. Revised plans shall be filed with the Town. For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than 1%, etc., the sub divider shall obtain permission to modify the plans from the Board.

D. For those subdivisions in which construction activity will cease for the winter season, at the close of each summer construction season, the town shall have the site inspected by the Code Enforcement Officer. If the Code Enforcement Officer determines that additional inspection is necessary, then a qualified individual will conduct the inspection, at the expense of the sub divider. By November 1 of each year during which construction was done on the site, the Code Enforcement Officer or inspector shall submit a report to the Board based on that inspection, addressing whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate to do the job for which they were designed for and whether the measures are sufficient to prevent erosion and storm water pollution during the time that construction is suspended. The report shall also include a discussion and recommendations on any problems which were encountered.

E. Prior to the sale of any lot, the sub divider shall provide the Board with a letter from a registered land surveyor, stating that all monuments shown on the plan have been installed.

F. Upon completion of street construction and prior to a vote by the municipal officers to submit a proposed town way to a town meeting, a written certification signed by a professional engineer registered in the State of Maine may be required by the municipal officers at the expense of the applicant, certifying that the proposed town way meets or exceeds the design and construction requirements. If there are any underground utilities the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility. "As built" plans shall be submitted to the municipal officers.

G. The sub divider or builder shall be required to maintain all improvements and provide for snow removal on streets and sidewalks and maintenance unless the improvements are accepted by the municipality or control is placed with a lot owners association.

## **9.2 Violations and Enforcement**

A. No plan of a division of land within the municipality which would constitute a subdivision shall be recorded in the Registry of Deeds until a final plan has been approved by the Board in accordance with this Ordinance.

B. No person, firm, corporation or other legal entity may convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.

C. No person, firm, corporation or other legal entity may convey any land in an approved subdivision which is not shown on the final plan as a separate lot.

D. Any person, firm, corporation or other legal entity who conveys, offers or agrees to convey any land in a subdivision which has not been approved as required by these regulations shall be punished by a fine of not less than \$100, and not more than \$2,500 for each such conveyance, offering or agreement. The Town may institute proceedings to enjoin the violation of this section, and may collect attorney's fees and court costs if it is the prevailing party.

E. No public utility or any utility company of any kind shall serve any lot in a subdivision for which a Final Plan has not been approved by the Board.

F. No person shall establish or develop a subdivision without first having a final plan thereof approved by the Board, and recorded in the registry of deeds. "Develop" shall include grading or construction of roads, grading of land or lots, or construction of any buildings.

G. No lot in a subdivision may be sold, leased, or otherwise conveyed before the street upon which the lot fronts is completed in accordance with these regulations up to and including the entire frontage of the lot. No unit in a multifamily development shall be occupied before the street upon which the unit is accessed is completed in accordance with these regulations.

## **ARTICLE X. GENERAL STANDARDS**

In reviewing applications for a subdivision, the Board shall consider the following general standards and make findings that each, in addition to standards contained in Title 30-A, M.R.S.A., Section 4404, has been met prior to the approval of a final plan. In all instances, the burden of proof shall be upon the applicant.

### **10.1 Conformance with Comprehensive Plan.**

All proposed subdivisions shall be in conformity with the Comprehensive Plan and with the provisions of all pertinent state and local codes and ordinances.

### **10.2 Open Space/Buffer Provisions**

A. The Board may require that a proposed subdivision design include a landscape plan that will show the preservation of existing trees, the replacement of trees and vegetation, graded contours, streams and the preservation of scenic, historic, trail corridors or environmentally desirable areas.

B. The Board may require that the sub divider reserve an area equal to ten percent of his total land as an open space and/or recreational area for use by property owners in the subdivision.

1. If such an area is reserved, the final plan shall provide how title to the reserved land shall be held and how costs of development, maintenance and taxes shall be met.

2. Included in the instrument of conveyance to each property owner of the subdivision shall be a statement of:

a) The manner of providing for the cost of development and maintenance and for property taxes of the reserved land.

b) If appropriate, the individual property owner's pro rata share of development costs, maintenance cost and property taxes of the reserved land.

c) Land designed for public use shall not be subdivided for any other purpose. This prohibition does not apply to land areas designed for later development if the subdivision plan includes provision for development in discrete stages.

d) Any area designated for common use shall be so arranged that each property owner has access to it.

C. Land reserved for open space purposes shall be of a character, configuration and location suitable for the particular use intended.

D. Reserved land acceptable to the Board and sub divider may be dedicated to the municipality as a condition of approval.

E. The Board may require a natural buffer of up to 200 feet between dwellings located in a subdivision and land utilized for agricultural purposes.

### **10.3 Land Not Suitable for Development.**

The following lands shall not be included in the calculations of building density for the purpose of meeting the requirements of multi-family developments of three or more units.

A. Land which is located within the 100-year frequency floodplain as identified by the Federal Emergency Management Agency or the Department of Housing and Urban Development, Flood Insurance Administration, unless the sub divider shows proof through the submission of materials prepared by a registered land surveyor which show that the property in question lies above the 100 year flood level. The elevation of filled or made land shall not be considered.

B. Land which is part of a right-of-way, or easement, including utility easements.

C. Land that has been created by filling or draining a pond or wetland.

### **10.4 Blocks.**

Where street lengths exceed 1,000 feet between intersections with other streets, the Board may require a utility/pedestrian easement, at least 20 feet in width, to provide for underground utility crossings and/or a pedestrian pathway of at least five feet in width. Maintenance obligations of the easement shall be included in the written description of the easement.

### **10.5 Lots**

A. All lots shall meet the minimum requirements of the Town of Wilton Zoning Ordinance.

B. Lot configuration and area shall be designed to provide for adequate off-street parking and service facilities based upon the type of development contemplated.

C. Lots with multiple frontages shall be avoided wherever possible. When lots do have frontage on two or more roads, the plan, and deed restrictions shall indicate vehicular access shall be located only on the less traveled way.

D. Wherever possible, side lot lines shall be perpendicular to the street.

E. The subdivision of tracts into parcels with more than twice the required minimum lot size shall be laid out in such a manner as to either provide for or preclude future resubdivision.

F. When a proposed subdivision is located on soils identified as "prime farmland" the location of structures should be arranged to maximize the maintenance of such soils.]

G. The Board may require subdivisions located in the Farm and Forest District as identified in the Town of Wilton Zoning Ordinance to limit areas of individual lots to be developed for structures, driveways and lawns to 40 percent of the lot area.

H. Within the Farm and Forest District as identified in the Town of Wilton Zoning Ordinance the location of structures should be arranged to avoid tops of ridge lines and fields. When ever possible and feasible the designated area for the placement of structures shall be on the edges of fields.

I. Within the Farm and Forest District as identified in the Town of Wilton Zoning Ordinance each lot shall contain a development area containing a minimum of 20,000 square feet of land area which does not include 100- year flood plain, slopes greater than 20 percent or Class I, II or III wetlands as identified under the Natural Resource Protection Act.

## **10.6 Utilities**

A. Underground utilities shall be installed prior to the installation of the final gravel base of the road. All underground utilities shall be properly marked to avoid damage by future excavations.

B. The size, type and location of street lights, electric lines, telephone, and other utilities shall be shown on the plan.

## **10.7 Required Improvements**

The following improvements are required for all subdivisions unless waived by the Board in accordance with provisions of this Ordinance.

A. Monuments: Monuments of granite or concrete not less than four (4) inches square in width or iron reinforcement rods at least 5/8 inches across the top and at least four (4) feet in the ground shall be installed as follows:

1. Monuments shall be set at all street intersections and points of curvature, but no further than 750 feet apart along street lines having no curves or intersections.

2. Monuments shall be set at all corners and angle points of the subdivision boundaries and all lot boundary corners and angle points.

#### B. Water Supply

1. If a central water supply system is provided by the sub divider, the location and protection of the source, and the design, construction and operation of the system shall conform to the standards of the State of Maine Rules of the Department of Human Services Relating to Drinking Water (10-144 A.C.M.R. 231).

2. When the subdivision is to be served by the public water system, the complete supply system within the subdivision, including fire hydrants, shall be installed at the expense of the sub divider. The size and location of mains, gate valves, hydrants and service connections shall be reviewed and approved in writing by the Water Department. In addition, the Water Department shall determine if sufficient pressure exists and if it does not, and then identify steps to be taken in order to insure sufficient pressure.

#### C. Sewage Disposal

1. The developer shall submit evidence of soil suitability for subsurface sewage disposal prepared by a licensed site evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules.

2. When the subdivision is proposed to be served by the public sewer system, the complete collection system within the subdivision, including manholes and pump stations, shall be installed at the expense of the sub divider. The Sewer Department shall review and approve all manholes, size and location of sewer lines and service connections and certify that providing service to the proposed subdivision is within the capacity of the system's existing collection and treatment system or improvements planned to be completed prior to the construction of the subdivision.

#### D. Surface Drainage

1. Where a subdivision is traversed by a stream, river, or surface water drainage way, or where the Board has determined that surface water runoff to be created by the subdivision should be controlled, there shall be provided easements or drainage rights-of-way with swales, culverts, catch basins or other means of channeling surface water within the subdivision and over other properties. This storm water management system shall be designed by a qualified professional knowledgeable in surface drainage.

2. Drainage easements for existing watercourses or proposed drainage ways at least thirty (30) feet wide shall be provided for and indicated on the plan, conforming substantially to the lines of existing natural drainage.

3. The applicant shall provide a statement from the designing professional that the proposed subdivision will not create erosion, drainage or runoff problems either in the subdivision or with respect to adjoining properties. Where the peak runoff from the subdivision onto abutting properties is increased either in volume or duration, easements allowing such additional discharge shall be obtained from abutting property owners.

4. A storm water drainage plan, showing ditching, culverts, storm drains, easements, and other proposed improvements meeting the standards of Article 11. 2 shall be submitted.

### **10.8 Land Features**

A. Topsoil shall be considered part of the subdivision and except for surplus topsoil from roads, parking areas, and building excavations, shall not be removed from the site.

B. The Board shall require the applicant to take measures as contained in the Maine Erosion and Sediment Control Handbook for Construction to correct and prevent soil erosion in the proposed subdivision.

C. Neither structures nor roads shall be located in areas of one (1) or more contiguous acres of sustained slopes in excess of 20 percent.

D. The Board may require additional studies and measures when structural development, including roads, is proposed in areas of one (1) or more contiguous acres of sustained slopes of between 10 and 20 percent.

### **10.9 Phosphorous Export**

Projects proposed within the direct watershed of a lake or pond listed below shall be designed to limit phosphorous runoff to the levels defined below. The Board shall keep an accurate record of permits issued by watershed using an appropriate record keeping system, and shall review actual development rates and recommend adjustments to the table at five year intervals, subject to a reasonable appropriation by the Town to conduct such a reassessment, or the availability of adequate State or regional grant programs or technical assistance programs. Adjustments may be made without amendment of this Ordinance or the Comprehensive Plan.

### Lake Protection Level

	LPL	Phosphorus Loads	Per Acre Phosphorus load (pounds)
Pease Pond	Medium	7.96	0.106
Varnum Pond	High	11.79	1.072
Wilson Lake	High	72.10	0.06
Bonney Bog Pond	Medium	2.98	0.045

a. Phosphorous export from a proposed development shall be calculated according to the procedures defined in "Phosphorous Control in Lake Watersheds: A Technical Guide for Evaluating New Development" (Maine DEP et.al., September 1989 with revision in 1992 and as may be amended). Upon request, copies of all worksheets and calculations shall be made available to the Board.

b. Phosphorous control measures shall meet the design criteria contained in "Phosphorus Control in Lake Watersheds: A Technical Guide for Reviewing Development" (Maine DEP et al., September 1989 with revisions in 1992 or as may be amended). The Board shall require the reasonable use of vegetative buffers, limits on clearing, and minimizing road lengths, and shall encourage the use of other non-structural measures prior to allowing the use of high-maintenance structural measures, such as infiltration systems and wet ponds.]

### 10.10 Construction in Flood Hazard Areas

When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency, the plan shall indicate that all principle structures on lots in the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation. Such a restriction shall be included in the deed to any lot which is included or partially included in the flood hazard area.

### 10.11 State Permits

Copies of all applicable State approvals and permits, provided, however, that the Board may approve site plans subject to the issuance of special State licenses and permits in cases where it determines that it is not feasible for the applicant to obtain them at the time of plan review.

### 10.12 Municipal Services

When the Board finds, based upon the recommendation of department heads, that municipal services do not have sufficient capacity to service the proposed subdivision, the Board may:

1. Require phasing of the subdivision to allow for the development of expanded municipal services
2. Require the applicant to assist in upgrading municipal services, or
3. Deny the application

### **10.13 Open Space Subdivisions**

1. It is the policy of the Town of Wilton to encourage the development of open space subdivisions in order to preserve a sense of space, provide for agricultural, forestry, and recreational land uses, preserve other resources identified in the Town of Wilton Comprehensive Plan, and blend new development with the traditional open and wooded, agricultural and village landscapes of Wilton.

This standard is intended to implement that policy by providing incentives that afford flexibility in road and lot layout and design and road frontage requirements to the landowner. It also allows the Board to waive or reduce certain otherwise applicable standards and provisions of this Ordinance and the Town of Wilton Zoning Ordinance if such landowners commit to the permanent preservation of important open space resources. These incentives are designed to encourage greater flexibility and more innovative approaches to housing development and environmental design which will promote the most appropriate use of land, preservation of permanent open space, agricultural or forest land, important natural features, wildlife habitat, water resources, ecological systems, and historic and scenic areas for the benefit of present and future residents will be accomplished.

2. An open space subdivision achieves the purposes of this performance standard by reducing the lot size, frontage and setback requirements as contained in the Town of Wilton Zoning Ordinance. It locates housing and accompanying uses in those areas where they have the smallest impact on identified environmental, wildlife, agricultural, forest, and other open space resources. These resources are then permanently preserved by the use of covenants and restrictions or conservation easements. To qualify as an open space subdivision, a subdivision must achieve those of the following purposes that the Board determines to be applicable to its specific circumstances:

- a. Long-term protection and preservation of existing natural and other resources and landscapes identified in the Town of Wilton Comprehensive Plan, including, but not limited to:
  - i. State-defined critical areas and unique features and areas identified in the Comprehensive Plan;
  - ii Historic land use patterns and historic structures;

- iii. Points of visual access to or from water bodies and scenic vistas as identified in the Comprehensive Plan and points of access to water bodies;
- iv. Forest land
- v. Agricultural land
- vi. Wildlife habitat
- b. Maintenance or establishment of compatibility with surrounding land uses and the overall character of the town as defined by the comprehensive plan;
- c. Provision of adequate buffers for adjoining properties where needed;
- d. Contribution to town wide open space planning by creating a system of permanently preserved open spaces throughout the town and encouraging linkage of open space areas.
- e. Preservation of land suitable for agricultural and forestry uses, particularly where the open space subdivision borders active agricultural or forestry land or land suitable for the same;
- f. Preservation of traditional land uses;
- g. Provision for recreation facilities, including active and passive recreational space, in the most suitable locations for use consistent with the other purposes of this performance standard.

3. An individual may apply for approval of an open space subdivision either after pre application review of a conventional subdivision or by initially filing an application for an open space subdivision. In either case, the Board shall review the application in accordance with Title 30-A M.R.S.A. Section 4404 and this Ordinance.

a. Pre-application Procedure

- i. Any applicant for a subdivision with open space is encouraged, but not required, to submit at the pre-application stage a complete build out plan for the entire parcel.
- ii. After review of the pre-application, if the Board determines that the proposed subdivision with open space meets the purposes set forth in subparagraph 2.a.i-vi which are applicable to the proposed subdivision as well as other applicable provisions of this subsection, this Ordinance, the zoning ordinance and the comprehensive plan, the Board shall permit the applicant to proceed with an application for an open space subdivision.

b. Application Procedure

- i. Required Plans: The submissions for a subdivision with open space shall include all plans and materials required for a conventional subdivision under this Ordinance.

c. General Requirements

In Board review and approval of a subdivision with open space, the following requirements shall apply and shall supersede any inconsistent or more restrictive provisions of this Ordinance and the zoning ordinance.

i. Use and District Requirements

(a) All subdivisions with open space shall meet the use standards of the districts in which they are located.

- ii. A lot for a dwelling unit created as part of a subdivision with open space shall not be further subdivided.

4. Layout and Siting Standards

In planning the location and sitting of residential structures in a subdivision with open space, priority should be given to the preservation of the open space for its natural resource value. Human habitation activity located and sited on the least valuable natural resource portion of a parcel, taking into account the contours of the land and the steepness of slopes. The building lots on a parcel shall be laid out and the residential structures shall be sited according to the following principles. The Board in its discretion shall resolve conflicts between these principles as applied to a particular site.

a. Upon soils least suitable for agricultural use and in a manner which maximizes the useable area remaining for the designated open space use. Where agricultural, forestry, or recreational, whether existing or future uses, are particularly targeted for preservation;

b. Within woodlands, or along the far edges of open agricultural fields adjacent to any woodland in order to reduce encroachment upon agricultural soils and to enable new residential development to be visually absorbed by natural landscape features;

c. In such manner that the boundaries between residential lots and active agricultural use, commercial forest land, and/or wildlife habitat are well-buffered by vegetation, topography, roads or other barriers in order to minimize potential conflict between residential and agricultural and forestry uses;

d. In locations where buildings may be oriented with respect to scenic vistas, natural landscape features, topography and natural drainage areas, in accordance with an overall plan for site development;

## 5. Space Standards

a. Shore frontage and shore setback requirements shall not be reduced below the minimum shore frontage or shore setback required in the Town of Wilton Zoning Ordinance.

b. The required minimum land area per dwelling unit for the building envelope may be reduced to 20,000 square feet. The building envelope shall contain a minimum of 20,000 square feet of land area which does not include 100 year floodplains, areas of two or more acres of sustained slopes greater than 20 percent, or wetlands as defined by the Natural Resource Protection Act. If the lot area is reduced, the total open space in the development shall equal or exceed the sum of the areas by which the building lots are reduced below the minimum lot area normally required in the district.

c. Minimum road frontage requirements contained in the zoning ordinance may be waived or modified by the Board provided that:

i. Any applicable provisions regarding roads in Subsection 7. below are satisfied; and

ii. Adequate access and turn-around to and from all parcels by emergency vehicles can be ensured by private roads and/or common driveways.

d. A reduction of required setback distances may be allowed at the discretion of the Board, based upon the public benefits to be achieved from the design, provided that the front and rear setbacks shall be no less than 25 feet, or that required for the applicable district, whichever shall be less. For the perimeter of an open space development, overall development setback shall not be reduced below the minimum front, side and rear setbacks required in the zoning district unless the Board determines that a more effective design of the project can better accomplish the purposes of this performance standard.

## 6. Utilities

At the discretion of the Board, in order to achieve the most appropriate design and layout of lots and open space, utilities, including individual wells and septic systems, may be located on designated portions of the open space, if necessary, provided they shall not unreasonably interfere with the open space purposes or uses to be achieved under this section and for the particular parcel(s).

## 7. Roads

The Planning Board shall require private roads and common driveways to comply with the design standards set forth in Town of Wilton Street Standard Ordinance.

## 8. Open Space Requirements

In Board review and approval of a subdivision with open space, the following requirements shall apply and shall supersede any inconsistent or more restrictive provision of this Ordinance or the Town of Wilton Zoning Ordinance.

a. Open Space Uses. On all parcels, open space uses shall be appropriate to the site. Open space should include natural features located on the parcel(s) such as, but not limited to, stream beds, agricultural land, forested acreage, wildlife habitat, rock outcroppings and historic features and sites. Open space shall be preserved and maintained subject to the following, as applicable:

i. On parcels that contain significant portions of land suited to agriculture or commercial forestry, open space shall be preserved for agricultural or forestry, other compatible open space uses such as wildlife habitat, recreation (active or passive), and resource conservation.

ii. When the principal purpose of preserving portions of the open space is the protection of natural resources such as wetlands, aquifers, steep slopes, wildlife and plant habitats, and stream corridors, open space uses in those portions may be limited to those which are no more intensive than passive recreation.

b. Notations on Plan. Open space, common lands, roads or facilities must be clearly labeled on the final plan as to its use or uses with respect to the portions of the open space that such use or uses apply, ownership, management, method of preservation, and the rights, if any, of the owners in the subdivision to such land or portions thereof. The plan shall clearly show that the open space land is permanently reserved for open space purposes, and shall contain a notation indicating the book and page of any conservation easements or deed restrictions required to be recorded to implement such reservations.

c. Ownership of Open Space Land. Open space land may be held in private ownership; or owned in common by a Homeowners' Association (HOA); transferred to a nonprofit organization such as a conservation trust, or association, acceptable to the Board; or held in such other form of ownership as the Board finds adequate to achieve the purposes set forth in subparagraph 2.a.iv and under the other requirements of this article. The Board shall, in its review, require as a condition of approval provisions for the ongoing maintenance and associated costs for such maintenance of the open space.

d. Maintenance Standards

i. Ongoing maintenance standards, where appropriate, shall be established, enforceable by the town against the owner(s) of common land, including open space land, roads and other facilities as a condition of subdivision approval. Such maintenance standards may include conditions, obligations, or costs to maintain the use, facilities and/or scenic character.

ii. If a HOA or an agreement of owners of the lots or units is to be used, until 51% of all lots and/or units have been sold, and a homeowners association has been formally organized, the applicant for such development shall be responsible for maintenance of the common lands and facilities.

#### 9. Homeowners' Associations or Agreements.

Where any portion of a subdivision is proposed or required to be held in common by owners of lots, or owned in common by a Homeowners' Association (HOA) or similar entity, covenants for mandatory membership in the association setting forth the owners' rights, interest, privileges, responsibilities for maintenance, and obligations in the association and the common land, road or open space shall be approved by the Board and included in the deed for each lot.

### 10.14 Traffic Conditions

A. No individual lot or dwelling unit shall have direct vehicular access onto a public road existing at the time of development.

B. A residential subdivision which will have lot access from a street which has a peak hour volume of 200 vehicle trips or greater shall be limited to two (2) access points.

C. Where a lot has frontage on two or more streets, the access to the lot shall, where practical, be provided to the lot across the frontage and from the street where there is lesser potential for traffic congestion and hazards to traffic and pedestrians.

### 10.15 Ground Water Quality

A. When a hydrogeologic assessment is submitted, by request of the Board, the assessment shall contain at least the following information:

1. A map showing the basic soils types.
2. The depth to the water table at representative points throughout the subdivision.
3. Drainage conditions throughout the subdivision.
4. Data on the existing ground water quality, either from test wells in the subdivision or from existing wells on neighboring properties.
5. An analysis and evaluation of the effect of the subdivision on ground water resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the subdivision, or at the subdivision boundaries; or at a distance of 1000 feet from potential contamination sources, whichever is a shorter distance.
6. A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the subdivision and within 100 feet of the

subdivision boundaries.

B. The subdivision will not result in the existing ground water quality becoming inferior to the physical, biological, chemical, and radiological levels for raw and untreated drinking water supply sources specified in the Maine State Drinking Water Regulations, pursuant to 22 M.R.S.A., Section 601.

C. If ground water contains contaminants in excess of the primary standards, and the subdivision is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.

D. If ground water contains contaminants in excess of the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.

E. Subsurface waste water disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells or other measures to reduce ground water contamination and protect drinking water supplies are recommended in the assessment, those standards shall be included as a note on the final plan, and as restrictions in the deeds to the affected lots.

#### **10.16 Protection of Significant Wildlife Habitat**

Applicants proposing to subdivide land in or within 75 feet of wildlife resources identified by the Maine Department of Inland Fisheries and Wildlife shall consult with a recognized wildlife or fisheries consultant or the Maine Department of Inland Fisheries and Wildlife and provide their written comments to the Board.

#### **10.17 Scenic Locations**

The Board shall consider the existence of a scenic site or view location as identified in the Town of Wilton Comprehensive Plan and the impact of the proposed subdivision on such a site or view. The Board may require the placement or visual qualities of structures on lots in such locations so to minimize the negative impacts of the subdivision on such sites and views.

#### **10.18 Archaeological Sites**

Any proposed subdivision activity involving structural development or soil disturbance on, or adjacent to, sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment at least 20 days prior to final approval in the case of a minor subdivision or preliminary approval of a major subdivision by the Board. The Board shall consider comments received from the Commission prior to rendering a decision on the application.

#### **10.19 Solid Waste**

All solid waste shall be disposed of at a Department of Environmental

Protection licensed facility.

## **ARTICLE XI. STREET AND STORM DRAINAGE DESIGN AND CONSTRUCTION STANDARDS**

### 11.1 Street Standards

- A. All streets proposed as an element of a subdivision shall comply with the Town of Wilton, Maine, Street Standards Ordinance, and zoning ordinance, except as provided for within this Ordinance.
- B. All street designs and submissions as required by the Town of Wilton, Maine, Street Standards Ordinance, and zoning ordinance, shall be submitted as an element of the subdivision application as required by this Ordinance.
- C. Street names shall be proposed by the applicant and approved by the town of Wilton and must comply with the Town of Wilton Street Naming and Property Numbering Ordinance. Streets that are continuations of existing streets shall be given the same name as the existing street. Names of new streets shall not duplicate nor bear the phonetic resemblance of the names of existing streets within the town.
- D. Approval of the Final Plan shall not constitute or be evidence of any acceptance by the Town of Wilton of any street or easement.

### 11.2 Storm Water Management Design Standards

- A. Adequate provision shall be made for disposal of all storm water generated within the subdivision, and any drained ground water through a management system of ditches, swales, culverts, under drains, and/or storm drains. The storm water management system shall be designed to conduct storm water flows to existing watercourses or storm drains.
  - 1. All components of the storm water management system shall be designed to meet the criteria of a 25-year storm.
- B. The storm water management system shall be designed to accommodate upstream drainage, taking into account existing conditions and approved or planned developments not yet built and shall include a surplus design capacity factor of 25% for potential increase in upstream runoff.
- C. Downstream drainage requirements shall be studied to determine the effect of the proposed subdivision. The storm drainage shall not overload existing or future planned storm drainage systems downstream from the subdivision. The sub divider shall be responsible for financing any improvements to existing drainage systems required to handle the increased storm flows.

## **ARTICLE XII. PERFORMANCE GUARANTEES**

12.1 Types of Guarantees. With submission of the application for final plan approval, the applicant shall provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time-span of the construction schedule and the inflation rate for construction costs:

A. A certified check payable to the town, or a savings account or certificate of deposit naming the town as owner, for the establishment of an escrow account; or

B. A performance bond issued by a surety company payable to the town and approved by the municipal officers; or

C. An irrevocable letter of credit from a financial institution establishing funding for the construction of the subdivision, from which the town may draw if construction is inadequate, approved by the municipal officers; or

D. An offer of conditional approval limiting the number of units built or lots sold until all required improvements have been constructed.

The conditions and amount of performance guarantee shall be determined by the Board with the advice of any engineer retained by the Board, road commissioner and municipal officers.

12.2 Contents of Guarantee. The performance guarantee shall contain construction schedule, cost estimates for each major phase of construction taking inflation into account, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guarantee to the developer, and a date after which the developer will be in default. The guarantee shall state that the town shall have access to the funds to finish construction.

12.3 Phasing of Development. The Board may approve plans to develop a major subdivision in separate and distinct phases. This may be accomplished by limiting final approval to those lots abutting that section of the proposed subdivision street which is covered by a performance guarantee. When development is phased, road construction shall commence from an existing public way. Final approval of lots in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.

12.4 Release of Guarantee. Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.

12.5 Default. If, upon inspection, it is found that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, the Code Enforcement Officer shall so report in writing to the municipal officers, the Board, and the sub divider or contractor. The municipal officers shall take any steps necessary to preserve the Town's rights.

12.6 Privately-Owned Roads. Where the subdivision streets are to remain privately-owned roads, the following words shall appear on the recorded plan.

"All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town."

### **ARTICLE XIII. WAIVERS**

13.1 Where the Board makes written findings of fact that the applicant will suffer an undue economic or other hardship if the requirements of this Ordinance are strictly applied, it may waive the necessity for strict compliance with the requirements of this Ordinance in order to provide relief from the hardship in question and to permit a more practical and economical development. However, this shall not compromise the public health, safety, and welfare and the waivers in question shall not have the effect of nullifying the effect of this Ordinance or the comprehensive plan.

13.2 Where the Board makes written findings of fact that, due to special circumstances regarding a particular lot proposed for inclusion in the subdivision, an undue economic or other hardship will be caused, it may waive strict compliance with those requirements of this Ordinance causing such hardship in order to permit a more practical or economically viable development, provided that the public health, safety, and welfare will be not compromised.

13.3 In granting waivers to any of these regulations in accordance with Sections 13.1 and 13.2, the Board shall require such conditions as that will assure the objectives of these regulations are met.

13.4 When the Board grants a waiver to any of the improvements required by this ordinance, the final plan, to be recorded at the Registry of Deeds, shall indicate the waivers granted and the date which they were granted.

### **ARTICLE XIV. ORDINANCE AMENDMENTS**

14.1 Initiation of Amendments. An amendment to this Ordinance may be initiated by:

- A. The Planning Board provided a majority of the Board has so voted;
- B. Request of the municipal officers; or
- C. Written petition of a number of voters equal to at least 10% of the number of votes cast in the municipality at the last gubernatorial election.

14.2 The Planning Board shall hold a public hearing on the proposed amendment. Notification of the hearing shall be posted and advertised in a newspaper of general circulation in the municipality at least seven days prior to the hearing.

14.3 Adoption of Amendment. An amendment to this Ordinance may be adopted by a majority vote of the Town Meeting.

## **ARTICLE XV. APPEALS**

15.1 An aggrieved party may appeal any decision of the Board under this Ordinance to the Board of Appeals within 30 days of the date the Board issues a written order of its decision.

## **ARTICLE XVI. SUBDIVISION PLAN AMENDMENT FEES**

The following fees shall be shall be paid to the town for amendments to approved subdivision plans. The selectmen shall have the authority to revise these fees after conducting a public hearing.

A. The fee for any amendment when the number of lots remains the same, and there is no substantial change to roads or drainage systems, shall be \$25.

B. The fee for any amendment, when three or less new lots are created, shall be a \$50 publishing and notice fee and \$100 for the first new lot created and \$50 for each additional lot.

C. The fee for amendment, when there are substantial changes to roads and drainage systems or more than three lots are created, shall be equal to that required by a new application.

## **ARTICLE XVII. DEFINITIONS**

In general, words and terms used in these regulations shall have their customary dictionary meanings. More specifically, certain words and terms used herein are defined as follows:

**Arterial Street:** A major thoroughfare which serves as a major traffic way for travel between and through the municipality.

**Collector Street:** A street servicing at least twenty (20) lots or dwelling units, or street which serves as feeder to arterial streets and collector of traffic from minor streets.

**Common Driveway:** A vehicle access way serving two dwelling units

**Complete Application:** An application shall be considered complete upon submission of the required fee and all information required by these regulations for a Final Plan, or by a vote by the Board to waive the submission of required information. The Board shall issue a receipt to the applicant upon its determination that an application is complete.

**Developed Area:** Any area on which a site improvement or change is made, including buildings, landscaping, parking areas, and streets.

**Direct Watershed:** That portion of the watershed that does not first drain through an upstream lake.

**Existing Public Street:** Roads which are maintained by the Town of Wilton and/or the State of Maine.

**Final Plan:** The final drawings, on which the applicant's plan of subdivision is presented to the Board for approval and which, if approved, may be recorded at the Registry of Deeds.

**Fresh Water Wetland:** Means fresh water swamps, marshes, bogs and similar areas which are:

a. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and

b. Not considered part of great pond, coastal wetland, river, stream or brook. These areas may contain small stream channels or inclusions of land that do not conform to the criteria.

**High Intensity Soil Survey:** A soil survey conducted by a certified soil scientist, meeting the standards of the National Cooperative Soil Survey, which identifies soil types down to 1/10 acre or less at a scale equivalent to the subdivision plan submitted. The mapping units shall be the soil series. Single soil test pits and their evaluation shall not be considered to constitute high intensity soil surveys.

**100 Year Flood:** The flood having a one percent chance of being equaled or exceeded in any given year.

**Industrial or Commercial Street:** A street servicing industrial or commercial uses.

**Industrial Park or Development:** A subdivision developed exclusively for industrial uses, or a subdivision planned for industrial uses and developed and managed as a unit, usually with provision for common services for the users.

**Manufactured Housing:** A structural unit or units designed for occupancy, constructed in a manufacturing facility, and transported, by the use of its own chassis or an independent chassis, to a building site. The term includes any type of building which is constructed at a manufacturing facility and transported to a building site where it is used for housing. It may be purchased or sold by a dealer in the interim. For purposes of this section, two types of manufactured housing are included. Those two types are:

1. Those units constructed after June 15, 1976, commonly called "newer mobile homes", which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards. These are structures

transportable in one or more sections, which, in the traveling mode, are 14 body feet or more in width and are 750 or more square feet in area, and are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities, including the plumbing, heating, air conditioning or electrical systems contained in the unit;

a. This term also includes any structure which meets all the requirements of this subparagraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established

under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401, et.seq.; and

2. Those units commonly called "modular homes" which the manufacturer certifies are constructed in compliance with Title 10, Chapter 957, and rules adopted under that chapter. These structures transportable in one or more sections which are not constructed on a permanent chassis, and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air conditioning or electrical systems contained in the unit.

**Minor Street:** A street servicing less than twenty lots or dwelling units.

**Mobile Home Park:** A parcel of land under unified ownership for the placement of three (3) or more manufactured homes.

**Mobile Home Park Lot:** Mobile home park lot means the area of land on which an individual home is situated within a mobile home park and which is reserved for use by the occupants of that home. A municipality shall require a lot to be designated on a mobile home park plan.

**Multi-Unit Residential:** A residential structure containing three (3) or more residential dwelling units.

**Net Residential Acreage:** The total acreage available for the subdivision, and shown on the proposed subdivision plan, after subtracting the area for streets or access and areas which are unsuitable for development.

**Net Residential Density:** The average number of dwelling units per net residential acre.

**Official Submission Date:** The date upon which the Board issues a receipt indicating a complete application has been submitted.

**Open Space Subdivision:** A subdivision in which the lot sizes are reduced below those normally required in return for the provision of permanent open space owned in common by lot/unit owners, the town, or a land conservation organization. Clustering shall not be used to increase the overall net residential density of the development.

**Person:** Includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.

**Preliminary Subdivision Plan:** The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Board for its consideration.

**Privately-Owned Street:** A street which is not intended to be dedicated as a town way.

**Recording Plan:** A copy of the final plan which is recorded at the Registry of Deeds and which need not show information irrelevant to the transfer of an interest in the property, such as sewer and water line locations and sizes, culverts, and building lines.

**Re-subdivision:** The division of an existing subdivision or any change in the plan for an approved subdivision which affects the lot lines, including land transactions by the sub divider not indicated on the approved plan.

**Significant Scenic View Locations:** Point where scenic views can be accessed as identified in the Wilton Comprehensive Plan.

**Stream, River or Brook:** River, stream or brook means a channel between defined banks created by the action of surface water, and which has two (2) or more of the following characteristics.

A. It is depicted as a solid or broken blue line on the most recent edition of the U.S. Geological Survey 7.5 minute series topographic map.

B. It contains or is known to contain flowing water continuously for a period of at least three (3) months of the year in most years.

C. The channel of the bed is primarily composed of mineral material such as sand and gravel, parent material, or bedrock that has been deposited or scoured by water.

D. The channel contains aquatic animals such as fish, aquatic insects or mollusks in the water or, if no water is present, within the stream bed.

E. The channel contains aquatic vegetation and is essentially devoid of upland vegetation.

**Street:** Public and private ways such as alleys, avenues, highways, roads and other rights-of-ways, as well as areas on a subdivision plans designated as rights-of-ways for vehicular access, other than driveways, farm roads or logging roads.

**Subdivision:** Subdivision is defined in Title 30-A M.R.S.A., section 4401.4 as the same may be from time to time amended.

**Substantial Construction:** The completion of any of the improvement(s) to the total property or individual lots and any infrastructure improvements which is equivalent to 30 percent of the total cost to the developer of such improvements.

**Tract, or Parcel, of Land:** All contiguous land in the same ownership, whether or not the tract is separated at any point by: an intermittent or non-navigable stream, tidal waters where there is no flow at low tide, or a private road established by the abutting landowners.