

# ZONING ORDINANCE OF THE TOWN OF WILTON

*Amended June 20, 2022*



CERTIFIED BY: Heather G. Harris

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## ARTICLE 1. GENERAL

### 1.1 Authority

This Ordinance is adopted pursuant to Article VIII, Part 2, Section 1 of the Maine Constitution and Title 30-A M.R.S.A. Section 3001 and Title 38 M.R.S.A. Sections 435 et seq. and shall be known and may be cited as the "Zoning Ordinance of the Town of Wilton."

### 1.2 Purpose

The purpose of this Ordinance, pursuant to the Wilton, Maine, Comprehensive Plan, is to promote the health, safety, and general welfare of the residents of the Town; to encourage the most appropriate use of the land throughout the Town; to promote traffic safety, to provide safety from fire and other elements; to provide adequate light and air; to prevent overcrowding of real estate; to promote a wholesome home environment; to prevent housing development in unsanitary areas; to provide an adequate street system; to promote the coordinated development of unbuilt areas; to encourage the formation of community units; to provide allotment of land area in new developments sufficient for all the requirements of community life; to conserve natural resources; to provide for adequate public services; to prevent and control water pollution; to protect spawning grounds, fish, aquatic life, birds, other wildlife habitat; to conserve the shore cover and to enhance visual and actual points of access to inland waters, retain natural beauty, to protect archaeological and historic resources.

### 1.3 Basic Requirements

*(Amended June 18, 2001 and June 19, 2006)*

- A. A building permit is not required if the project is normal maintenance, as defined. A building permit is also not required if the project enlarges the existing volume of the structure but the materials used in the project cost less than \$2,000 and the project is not normal maintenance, as defined.
- B. A building permit is required if the project is not normal maintenance, as defined, and the project either: 1) Enlarges the footprint of the existing building; or, 2) Enlarges the existing volume and the materials used in the project cost \$2,000 or more.
- C. A building permit is also required in the Resource Protection Zone, Limited Residential and Recreational Zone and Stream Protection Zone when construction, erection, movement, or alteration is proposed or when a project is not normal maintenance. Normal maintenance in the shore land zone is defined as the normal upkeep and maintenance of a structure, including repairs and maintenance that do not involve the expansion of a structure. Expansion is defined as an increase in the floor area or volume of a structure, including all extensions such as, but not limited to: attached decks, garages, porches, and greenhouses.
- D. Any accessory structure that is less than one-hundred twenty (120) square feet in floor area

and less than ten (10) in height does not require a building permit and does not have to comply with side and rear setback requirements but must meet shore land setback requirements and must meet a front setback requirement of fifty (50) feet in the Farm and Farm Zone, Commercial Zone, and Industrial Zone and must meet a front setback requirement of twenty-five (25) feet for all other Zones, provided that the accessory structure is not placed on a permanent foundation and provided that only one accessory structure that complies with the requirement in this Article is allowed on a lot. Permanent foundation is defined as a foundation that attaches to the structure permanently to the ground.

- E. If more than one residential dwelling unit, principal governmental, institutional, commercial, or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements and setbacks shall be met for each dwelling unit, principal structure or use.
- F. A use permit is required from the Code Enforcement Officer (CEO) or from the Planning Board (PB) for any use or change of use noted in Table A. When a use permit is required from the CEO or from the PB and a building permit is also required from the CEO, then the CEO shall only issue the building permit after the use permit has been approved by the CEO or by the PB and the conditions established by the CEO or by the PB that must be complied with prior to the issuance of a building permit have been met. Use permits that involve only change of ownership of an existing permitted business may be issued by the CEO with notification of abutters 10 days prior to the issuance of said permit.
- G. A sign permit is required prior to the erection, enlargement or replacement of any sign under Section 5.8 of this Ordinance.
- H. Building, Use, and Sign permit application fees are to be established by the Selectmen with Planning Board input.

#### **1.4 Validity and Severability**

The invalidity of any section or provision of this Ordinance shall not be held to invalidate any other section or provision of this Ordinance.

#### **1.5 Conflict With Other Ordinances**

- A. This Ordinance shall not be construed to repeal any existing bylaws or ordinances, or to impair the provisions of private restrictions placed upon property, provided, however, that where this Ordinance imposes greater restrictions, its provisions shall control. Notwithstanding the foregoing, the previously adopted Wilton Zoning Ordinance and all amendments thereto are replaced effective upon the adoption of this Ordinance by Town Meeting.
- B. Subdivision Ordinance  
The review and approval of proposed subdivisions, generally defined as the division of a tract or parcel of land into three or more lots within a five-year period, or the division of an existing residential or commercial structure into three or more distinct and separate units



shall be governed by the Town of Wilton Subdivision Ordinance as adopted at Town Meeting in June 2003, and all amendments thereto.

## **1.6 Amendments**

### **A. Initiation of Amendments**

An amendment to this Ordinance may be initiated by:

1. The Planning Board provided a majority of the Board has so voted;
2. Request of a majority of the Selectmen; or
3. Written petition of a number of voters equal to at least 10% of the number of votes cast in the Town of Wilton in the last gubernatorial election.

B. The Planning Board shall hold a public hearing on the proposed amendment at least 15 days prior to the Town Meeting at which the proposed amendment is to be considered. Notice of the hearing shall be posted in the municipal office at least 14 days before the public hearing and published at least twice in a newspaper that has general circulation in the Town of Wilton. The date of first publication must be at least 14 days before the hearing and the date of second publication must be at least 7 days before the hearing.

### **C. Adoption of Amendment**

An amendment to this Ordinance may be adopted by a majority vote of a special Town Meeting attended by at least 100 Wilton residents over 18 or by a majority vote of the Annual Town Meeting.

D. Copies of amendments within the shore land area attested by the Town Clerk shall be submitted to the Commissioner of the Department of Environmental Protection within fourteen (14) days of approval by the voters at Town Meeting and shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. If the Commissioner fails to act on any amendment within forty-five (45) days of the Commissioner's receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within this period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

## 1.7 Ordinance Review

The original Wilton Zoning Ordinance was adopted and became effective on March 11, 1974, and was revised and amended as follows:

Adopted	March 11, 1974
First Revision	March 10, 1975
Second Revision	March 15, 1976
Third Revision	March 25, 1977
Fourth Revision	March 9, 1981
Amended	March 8, 1982
Amended	March 7, 1983
Amended	March 12, 1984
Amended	March 11, 1985
Amended	March 10, 1986
Amended	March 10, 1986
Amended	March 21, 1988
Amended	March 6, 1989
Amended	March 12, 1990
Amended	March 11, 1991
Amended	March 3, 1992
Amended	August 10, 1992
Amended	June 12, 1995
Amended	June 22, 1998
Amended	June 21, 1999
Amended	June 19, 2000
Amended	June 18, 2001
Amended	June 17, 2002
Amended	June 16, 2003
Amended	June 14, 2004
Amended	June 13, 2005
Amended	June 19, 2006
Amended	June 18, 2007
Amended	June 16, 2008
Amended	June 15, 2009
Amended	June 14, 2010
Amended	June 06, 2011
Amended	June 18, 2012
Amended	June 10, 2013
Amended	June 19, 2014
Amended	June 20, 2016
Amended	May 22, 2017
Amended	June 18, 2018
Amended	June 17, 2019
Amended	August 17, 2020
Amended	June 14, 2021
Amended	June 20, 2022

## ARTICLE 2. NONCONFORMANCE

*(Amended 6/18/2007 and 6/16/2008)*

### **2.1 Definition**

Any lot, building, structure, use of land or portion thereof, existing at the effective date of adoption of, or any amendment to, this Ordinance, which as a result of the adoption or amendment to this Ordinance does not conform with one or more of the applicable provisions of this Ordinance, shall be considered lawfully nonconforming.

### **2.2 Land Use Requirements**

Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved or altered and no new lot shall be created or existing lot altered except in conformity with all of the provisions of this Ordinance and the regulations herein specified for the district in which it is located, unless a variance is granted.

### **2.3 Nonconformance**

#### A. Purpose

It is the intent of this Ordinance to promote land use conformities, except that lawfully nonconforming conditions that existed before the effective date of this Ordinance or an amendment to this Ordinance shall be allowed to continue, subject to the requirements set forth in this section. Except as otherwise provided by this Ordinance, a nonconforming condition shall not be permitted to become more nonconforming.

#### B. General

1. **Transfer of Ownership.** Nonconforming structures, lots and uses may be transferred, and the new owner may continue the nonconforming use or continue to use the nonconforming structure or lot, subject to the provisions of this Ordinance.
2. **Repair and Maintenance.** This Ordinance allows, without a permit, the normal upkeep and maintenance of nonconforming uses and structures including repairs or renovations which do not involve expansion of the nonconforming use or structure, and such other changes in a nonconforming use or structure as federal, state or local building codes may require.

#### C. Nonconforming Structures

1. **Expansions.** A nonconforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the nonconformity of the structure and is in accordance with subparagraphs (a) and (b) below.
  - a. After January 1, 1989, if any portion of a structure is less than any required setback that portion of the structure shall not be expanded, as measured in floor area or



volume, by 30 percent or more, during the lifetime of the structure. If a replacement structure conforms to the requirements of Section 2.3.C.3, and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area or volume since that date.

- b. When a new, enlarged or replacement foundation is constructed under a nonconforming structure, the new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in subsection 2, "Relocation," below, and the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansions in conformity with Section 2.3.C.1.a above. In addition in shoreland areas (1) the foundation does not cause the structure to be elevated by more than three additional feet, as measured from the uphill side of the structure (from the original ground level to the bottom of the first floor sill), it shall not be considered as an expansion of the structure; (2) there is less than 5 feet between the finished basement floor and the bottom of the first floor joists; and (3) the basement area is used exclusively for storage or mechanical purposes, and not for habitation.

2. **Relocation.** A nonconforming structure may be relocated within the boundaries of the parcel on which the structure is located, provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more nonconforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

- a) Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

- b) Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.
- c) Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

3. **Reconstruction or Replacement.** Any nonconforming structure which is removed, or which is damaged or destroyed, regardless of the cause, by more than 50 percent of the market value of the structure before such removal or damage, may be reconstructed or replaced provided that such reconstruction or replacement is in compliance with the dimensional requirements of this Ordinance to the greatest practical extent as determined by the Planning Board in accordance with the purposes of this Ordinance, and provided a permit is obtained for the reconstruction or replacement within eighteen months of said damage, destruction, or removal. In no case shall a structure be reconstructed or replaced so as to increase its nonconformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 2.3.C.1 above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure vegetation shall be replanted in accordance with Section 2.3.C.2 above.

If any such structure is located within a floodplain along a river or other waterbody identified by the 100-year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, such structure shall be reconstructed only in compliance with the standards of the Floodplain Management Ordinance for the Town of Wilton.

Any nonconforming structure which is damaged or destroyed by 50 percent or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place with a permit, from the Code Enforcement Officer.

In determining whether the building reconstruction or replacement meets the dimensional requirements of this Ordinance to the greatest practical extent, the Planning Board shall consider in addition to the criteria in Paragraph 2 above, the physical condition and type of foundation present, if any.

4. **Change of Use of a Nonconforming Structure.** The use of a nonconforming structure may not be changed to another use unless the Planning Board after receiving a written

application determines that the new use will have no greater adverse impact on any adjacent water body, tributary stream or wetland, or on the subject or adjacent properties and resources, than the existing use.

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources and functionally water-dependent uses.

#### D. Nonconforming Uses

1. Expansion of nonconforming uses outside of the shoreland zone may be allowed provided the Planning Board after reviewing written application determines that no greater adverse impacts would occur as the result of the expansion as defined below. In the shoreland zone, only expansions of non-conforming residential uses are permitted, in accordance with the 30% expansion limitation in Article 2, section 2.3.c.1.a.
  - a. The expansion of a nonconforming use will be in accordance with any applicable Performance Standards set forth in Article 5 and 6, Site Plan Review Standards.
  - b. The expansions of the nonconforming use will not encroach further on the required setbacks.
  - c. The proposed expansion is of the same character or less noxious than the current nonconforming use.
  - d. The expansion use will not create a traffic hazard nor increase an existing traffic hazard.
  - e. That the amount of parking required to meet the minimum requirements for the proposed use exists on the site or will be otherwise provided in Ordinance.
  - f. The amount of noise, odors, vibrations, smoke, dust and air discharges of the proposed expansion shall be equal to or less than the present use.
  - g. The hours of operation of the proposed expansion will be compatible with the existing, surrounding land uses.
2. **Resumption Prohibited.** A lot, building or structure in or on which a nonconforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a nonconforming use except that the Planning Board may, for good cause shown by the applicant, grant a single extension, of up to one year of that time period where the application for extension is made before expiration of the original one-year period. This provision shall not apply to prohibit the resumption of use of a residential structure for residential purposes provided that the structure has been used or maintained for residential purposes at any time during the preceding five (5) year period.
3. **Change of Use.** An existing nonconforming use may be changed to another nonconforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to the criteria listed in Section 2.3.(c).(4) above.

E. Nonconforming Lots

1. **Lots of Record.** A single lot of record which at the time of first recording of its legal description in the Franklin County Registry of Deeds met all minimum lot frontage and lot area requirements then applicable, but subsequently has become non-conforming as to minimum lot frontage or lot area as a result of the passage of this Ordinance or any amendment to this Ordinance, may be built upon, without the need for a variance, provided that such lot is not owned by the same person or persons as any other contiguous lot and provided that all other requirements of this Ordinance are met. Relief from the requirements of this Ordinance other than lot frontage or lot area may be granted only by variance from the Board of Appeals in accordance with the provisions of this Ordinance.
2. **Merger of Lots** (a) If two or more contiguous lots are owned by the same person(s), and if any of the lots do not meet the requirements for lot frontage or lot area established by this Ordinance, the lots shall be merged to the extent necessary to create a lot or lots which comply with the lot frontage and lot area requirements of this Ordinance, and no portion of the lots so merged which does not meet the lot area or lot frontage requirements of this Ordinance may be built upon, or may be sold if such sale would result in separate ownership of the non-conforming portion. (b) This section 2.3 (E)(2) shall require merger only of (i) unimproved lots with one another and (ii) unimproved lots with lots which are separately improved with a principal structure. As used in this subsection, the term "unimproved lot" includes any lot which does not contain a principal structure.
3. **Division of Single Lots Containing More Than One Principal Structure.** Where a single lot of record contains more than one principal structure, each of which at the time of its construction complied with any applicable dimensional requirements, the lot may be divided and each principal structure may be conveyed separately upon approval by the Codes Enforcement Officer of a plot plan which complies to the fullest extent possible with the dimensional requirements of this Ordinance, provided such dividing and conveyance comply with all other applicable local ordinances and State law.
4. **Nonconforming lots in the Shore land Zone.** Notwithstanding anything to the contrary in paragraphs 1 through 3 above, any lot in the Shore land Zone which is not served by public sewer and has less than 20,000 square feet of lot area or less than 100 feet of shore land frontage is subject to the following restrictions:
  - a. no conversions from seasonal dwellings (as defined in 30-A M.R.S.A. section 4201(4)) to year-round dwellings are allowed.
  - b. no new year-round dwellings are allowed.

## ARTICLE 3. ESTABLISHMENT OF ZONES

### 3.1 Zones

For the purpose of this Ordinance, the Town of Wilton is hereby divided into ten zones:

Residential I (RI)	Farm & Forest (F&F)
Residential II (RII)	Resource Protection (RP)
Commercial (C)	Limited Residential & Recreational (LR&R)
Industrial (I)	Downtown/Village
Stream Protection (SP)	Watershed Overlay District (WO)

### 3.2 Zone Boundaries

- A. The boundaries of these zones are hereby established as shown on a map prepared by the Wilton Planning Board and entitled "Zoning Map of the Town of Wilton", and listed by lot number on a set of Wilton tax maps. In case of any apparent inconsistency between the boundaries shown on the map and the definitions, descriptions and purposes contained in the text of this ordinance, the map shall govern.
- B. This map, with such changes and amendments as may be made in accordance with the provisions of this Ordinance, shall be part of this Zoning Ordinance and shall be placed on file in the office of the Town Clerk.
- C. Where uncertainty exists with respect to the boundaries of any zone as shown on the Zoning Map, the Planning Board shall determine the boundaries.
- D. Shore land Zones: The Shore land Zone includes those lands lying within 250 feet horizontal distance of the normal high water mark of Pease Pond and Varnum Pond, Wilson Lake, and Wilson Stream above and below Wilson Lake. In addition, the Shore land Zone includes those lands located within 250 feet, horizontal distance, of the upland edge of freshwater wetlands as defined on the Zoning Map, within 75 feet horizontal distance of a stream as defined herein and within the 100 year floodplain.

### 3.3 Lots in Two or More Zones

Where a zone boundary line as established in this Ordinance and shown on the Zoning Map, divides a lot which was a lot of record at the time of the enactment of this Ordinance, the provisions of this Ordinance applicable to the less restrictive zone shall be considered as extending to a maximum of 25 feet beyond the zone boundary line into the adjacent zone. Where a zone boundary line divides a lot created after enactment of this Ordinance, the provisions of this Ordinance applicable to the more restrictive zone shall extend 25 feet into the less restrictive zone. These provisions do not apply when the other portion is located in the Resource Protection, Stream Protection or Limited Residential & Recreation District.

## **ARTICLE 4. ZONING DISTRICT REQUIREMENTS**

### **4.0 Basic Requirements**

The following basic requirements apply in all zoning districts:

#### **A. Use Regulations**

Table A sets forth those uses which are permitted, permitted with a permit from the Code Enforcement Officer, permitted with a permit from the local plumbing inspector, permitted with a permit from the Planning Board, or prohibited in each zoning district. Any use not listed on Table A is prohibited use. Uses requiring Planning Board review (other than home occupations) must be approved under the Site Plan Review Standards of Article 6 of this Ordinance.

#### **B. Dimensional Requirements**

Dimensional Requirements are set forth on Table B.

#### **C. Performance Standards**

Performance standards are set forth in Article 5 of this Ordinance. Additional requirements applicable in particular zoning districts are set forth in Sections 4.1 through 4.10 below.

### **4.1 Resource Protection Zone**

#### **A. Purpose**

1. To protect the most vulnerable shore land areas along with other areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values, and to discourage development in unsafe and unhealthful areas. The Resource Protection Zone may include areas located outside the Shore land Zone. The Resource Protection Zone may include but is not limited to:
  - a. Wetlands, swamps, and bogs;
  - b. Floodplains to the extent of the 100 year flood designation on the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps; or other floodplains as mapped by the Town and depicted on the Zoning Map.
  - c. Slopes subject to severe natural erosion or on which erosion would be expected to be severe as the result of human activities;
  - d. Areas designated as having special historic or scenic or natural significance;
  - e. Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of May 1, 2006 or as subsequently adopted. For the



purposes of this paragraph "wetlands associated with great ponds and rivers" shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. "Wetlands associated with great ponds or rivers" are considered to be part of that great pond or river.

- f. Areas of two or more contiguous acres with sustained slopes of 20 percent or greater that are located in the shore land zone as defined herein; and
- g. Land areas along rivers subject to severe bank erosion, undercutting or river bed movements.
- h. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater wetland as defined, and which are not surficially connected to a water body during the period of normal high water.

**B. Specific Performance Standards**

The provisions contained in Section 4.8 governing the Varnum Pond Watershed Overlay District apply if the property is also located in said District.

**C. Special Permit for Single Family Residence**

Notwithstanding the provisions of Section 4.0.A and Table A, excepting structure setback requirements the Planning Board may issue a special permit for construction of a single family residence in the Resource Protection Zone if the applicant demonstrates that all of the following conditions are met:

- 1. There is no location on the property, other than a location within the Resource Protection Zone, where the structure can be built.
- 2. The lot on which the structure is proposed is undeveloped and was established and recorded in the Franklin County Registry of Deeds before the adoption of the Resource Protection Zone.
- 3. All proposed buildings, sewage disposal systems and other improvements are:
  - (a) Located on natural ground slopes of less than 20% and
  - (b) Located outside the floodway of the 100-year floodplain along rivers and artificially formed great ponds along rivers based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year floodplain elevation; and the development is otherwise in compliance with the Floodplain Management Ordinance for the Town of Wilton. If the floodway is not shown on the Federal Emergency Management Agency maps, it is deemed to be 1/2 the width of the 100-year floodplain. For purposes of this subparagraph, "floodway" means the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot in height.
- 4. The total ground-floor area, including cantilevering or similar overhanging extensions of all principal and accessory structures is limited to a maximum of 1,500 square feet.

This limitation shall not be altered by variance.

5. All structures, except functionally water-dependent structures, are set back from the normal high-water line of a waterbody, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the planning board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the floodplain and its proximity to moderate-value and high-value wetlands.

## **4.2 Limited Residential & Recreational Zone**

### A. Definition and Purpose

1. Definition: This zone comprises areas which would fall into the Resource Protection Zone except that they have already been developed, primarily for residential and recreational uses.
2. Purpose: To regulate uses in such a way as to prevent significant pollution of the water and to preserve the aesthetic and recreational values of shore land areas.

## **4.3 Residential I Zone**

### A. Definition and Purpose

1. Definition: This zone comprises the older built-up village areas of Wilton, Dryden, and East Wilton. These areas are, for the most part, served by Town water and sewer.
2. Purpose: To maintain the close residential character of these areas, the older built-up village areas of Wilton, Dryden and East Wilton, and to assure new development is compatible.

## **4.4 Residential II Zone**

### A. Definition and Purpose

1. Definition. This zone comprises the medium density, suburban residential areas of the Town.
2. Purpose. The purpose of establishing this zone is to identify those areas whose proximity to Town maintained roads indicate a historical use for residential or other low intensity development and designate areas where low density residential growth can occur while minimizing local service costs.

## **4.5 Farm and Forest Zone**

### A. Definition and Purpose

1. Definition: This zone comprises the majority of generally unbuilt areas in the Town, primarily woodland and farmland.
2. Purpose: To encourage the continued production of renewable resources by recognizing and maintaining those areas suitable for either agricultural or forest production.

### B. Specific Performance Standards

The requirements of §4.8 governing the Varnum Pond Watershed District shall apply if the property is also located within said District.

### C. Rural Land Management System

The following system shall be used to determine the required minimum lot area per dwelling unit and thus the density of development for residential subdivisions in the Farm & Forest Zone of the Town of Wilton. This system is based upon the United States Department of Agriculture's farmland importance classification and the sites' suitability for subsurface sewage disposal.

To determine the density of development for a subdivision proposal, the site shall be evaluated according to the following factors.

This evaluation shall be based on a soils map prepared by a soil scientist following an on-site investigation and certified by the Franklin County Conservation District. For each factor, a numerical rating shall be made, and the ratings for the four factors shall be combined to get the "Overall Suitability Rating" for the parcel. The following schedule shall then be applied to the "OSR" to determine the allowable density of development.

Overall Suitability Rating	Minimum Lot Area Per Dwelling Unit
30 to 35	40,000 sq. ft.
24 to 29	80,000 sq. ft.
16 to 23	120,000 sq. ft.
12 to 15	200,000 sq. ft.
less than 12	Not permitted

#### Criteria:

1. Percent of the site classified as Prime Farmland or Unique Farmland by the U.S. Department of Agriculture Soil Conservation Service.

a.	less than 10%	10
b.	11% - 20%	9
c.	21% - 40%	7
d.	41% - 65%	4
e.	more than 65%	0

2. Percent of the site suitable for private underground sewage disposal utilizing conventional septic tank leach field systems based upon Part 11 of the Maine State Plumbing Code.

- a. more than 90% 10
- b. more than 70-90% 9
- c. more than 40-70% 7
- d. more than 20-40% 4
- e. less than 20% 0

3. Percent of the site with a SCS soil suitability rating of good or fair for houses with basements.

- a. more than 90% 10
- b. more than 70-90% 9
- c. more than 40-70% 7
- d. more than 20-40% 4
- e. less than 20% 0

4. Percent of the site located outside of a flood hazard area or wetland area, or located at least 100 feet from the high watermark of any pond, perennial stream or river.

- a. more than 90% 10
- b. more than 70-90% 9
- c. more than 40-70% 7
- d. more than 20-40% 4
- e. less than 20% 0

**4.6 Commercial Zone**

A. Purpose

To identify those areas which were deemed suitable for light industry, stores, lodging, or similar businesses.

**4.7 Industrial Zone**

A. Purpose

To provide areas within the Town of Wilton for manufacturing, processing, treatment, research, warehousing, distribution and other industrial activities through the establishment of an industrial floating zone.

B. Location (*Amended June 19, 2000*)

The location of the Industrial Zone shall be by amendment to this Ordinance and shall be adopted by a majority vote of the Governing Body of the Town. The location of an Industrial Zone shall be based upon:

- 1. The minimum size of the area to be zoned shall not be less than twenty (20) acres.
- 2. The zone is or will be served by adequate infrastructure including water and sewer provided by the Town or the developer.
- 3. The availability of adequate transportation and traffic facilities.
- 4. The zone shall be affixed not more than two (2) times without amendment to the

## Comprehensive Plan.

### C. Application for Location of Industrial Zone

An application for the location of industrial development shall follow a two step procedure (except those areas already zoned industrial), for proper rezoning of land and approval of development plans:

1. The applicant shall submit to the Planning Board for rezoning consideration a general plan of the proposed parcel or use. This information shall not serve to comply with the Site Plan Review approval.
2. The rezoning amendment shall comply with the provisions of Section 1.6 of this Ordinance.

## **4.8 Watershed Overlay District**

### A. Purpose

The Watershed Overlay District is intended to maintain safe and healthful environmental conditions; prevent and control water pollution; protect spawning grounds, fish, aquatic life, bird and other wildlife habitats; control building sites; provide visual and physical points of access to waters and natural beauty; and protect and maintain the present quality and volume of potable water supplied from the Varnum Pond Watershed to residents of Wilton, Farmington, and North Jay.

### B. Boundaries and Definitions

The Watershed Overlay Zone is that area of Wilton in which surface and ground waters ultimately flow or drain into Varnum Pond as delineated on a watershed map on file in the Wilton Town Office. The Watershed Overlay Zone shall be superimposed over underlying zones. Permitted uses in the underlying zones shall continue subject to compliance with the provisions of the Watershed Overlay Zone.

### C. Use, Dimensional and Environmental Regulations

All buildings, structures, uses and activities in the Watershed Overlay Zone shall comply with the performance standards of Sections 5.1 through 5.8 of Article 5 of this Ordinance.

### D. Waiver

When by reason of extraordinary physical conditions peculiar to the land or buildings under appeal but not to other land or buildings adjoining or nearby, an owner of land would be subject to unusual difficulty or special hardships (not mere financial hardship or hardships caused by rigid sewage disposal regulations) by reason of the literal application and rigorous enforcement of the terms of this section, the Planning Board may grant a waiver from strict compliance with the requirements of this section after notice and public hearing. No such waiver shall be granted unless the Board is satisfied that the waiver applied for will not adversely affect the quality of the Varnum Pond water supply. When an application for a waiver is filed, it shall be forwarded to the Water Department together with a request for an informational report and a recommendation to the Board regarding the disposition of the requested waiver application. In any case in which a waiver request is granted despite the recommendation of the Water Department that it be denied, the Planning Board shall make part of its permanent records a written statement

of its reasons for taking such action. In granting any such waiver application, the Board may also impose reasonable conditions upon the use as part of the permanent records of the Board, as well as being furnished to the applicant for compliance which shall be enforced by the Code Enforcement Officer or Plumbing Inspector.

E. Conflict

In any case in which a provision of this section conflicts with a provision of any other section of this Chapter, the provisions which establishes the more stringent standard shall apply.

#### **4.9 Downtown/Village Zone**

A. Purpose and Location

1. Purpose. The Downtown/Village Zone is intended to maintain the traditionally developed area of Town. Development is of greater density than in other areas of the Town and covers a mixture of land uses including manufacturing, commercial, public and residential. The traditional downtown area of the community should be a vital and active area, and this zone seeks to maintain the existing character and land use mix.
2. Location. The Downtown/Village Zone shall include those lots on the west side of Wilson Stream with frontage on Main Street in the area between Weld Street and the Canal Street Bridge.

#### **4.10 Stream Protection District**

A. Purpose and Location

1. Purpose. To provide a buffer area adjacent to streams to maintain their natural values.
2. Location. The Stream Protection District includes all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within 250 feet, horizontal distance, of the normal high-water line of a great pond or river, or within 250 feet, horizontal distance, of the upland edge of a freshwater wetland. Where a stream and its associated shore land area is located within 250 feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland



## ARTICLE 5. PERFORMANCE STANDARDS

### 5.0 Introduction

A. This article lists special regulations that pertain to individual zones or uses, as appropriate.

### 5.1 Special Considerations for the Shoreland Zone

#### A. Applicability.

Section 5.1 applies only to Resource Protection, Limited Residential and Recreational, Stream Protection and Watershed Overlay zones and to all land areas located within 250 feet, horizontal distance, of the normal high-water line of any great pond, river or the upland edge of a wetland and not located within the Downtown/Village, Commercial or Industrial zones. All other sections of Article 5 apply in all zones.

#### B. Additional Considerations for Review and Approval

In addition to other criteria of this Ordinance the Planning Board shall find that the proposed use in the Shoreland Zone:

1. Will maintain safe and healthful conditions;
2. Will not result in water pollution, erosion, or sedimentation to surface waters;
3. Will adequately provide for the disposal of all wastewater;
4. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
5. Will conserve shore cover and visual, as well as actual, points of access to inland waters;
6. Will protect archaeological and historic resources as designated in the comprehensive plan;
7. Will avoid problems associated with floodplain development and use; and
8. Is in conformance with the other provisions of Section 5.1

#### C. Sanitation

1. Privies shall be permitted in areas not served by municipal sewage facilities provided that they conform to the provisions of the State of Maine Subsurface Disposal Rules.
2. All subsurface sewage disposal facilities shall be installed in conformance with the Maine Subsurface Disposal Rules and the following.
  - a. Clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high water line of a water body or the upland edge of a wetland; and
  - b. A holding tank is not allowed for a first-time use in the shoreland zone.

#### D. Principal and Accessory Structures and Lots

1. All new principal and accessory structures shall be setback at least 100 feet, horizontal distance, from the normal high-water line of great ponds, and 75 feet, horizontal distance,

from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, except that in the Downtown/Village and Industrial Zones the setback from the normal high-water line shall be at least 25 feet. In the Resource Protection District the setback requirement shall be 250, feet horizontal distance, except for structure, roads, parking spaces or other related objects allowed in that district in which case the setback requirements specified above shall apply. In addition

- a. The water body, tributary stream or wetland setback provision shall not apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, private docks and retaining walls, and shall not apply to other functionally water-dependent uses. The setback provisions shall apply to boathouses, storage sheds, garages and other similar structures.
  - b. The Planning Board may increase the required setback of a proposed structure, as a condition to permit approval, if necessary to accomplish the purposes of this ordinance. Instances where a greater setback may be appropriate include, but are not limited to, areas of steep slope; shallow or erodible soils; or where an adequate vegetative buffer does not exist.
2. The lowest floor elevation of all buildings and structures, and all openings into structures including basements, shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood plain soils.
  3. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided; 1) that the structure is limited to a maximum of four (4) feet in width; 2) that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38, MRSA Section 480-C); and 3) that the applicant demonstrates that no reasonable access alternative exists on the property.
  4. In determining compliance with the minimum lot size requirements set forth on Table B of this Ordinance, the following provisions apply to all land located within the shore land zone:
    - a. Land below the normal high water line of a water body or upland edge of a wetland and land beneath roads serving more than two lots shall not be included toward calculating minimum lot area.
    - b. Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land, and shall be considered each a separate lot unless such road was established by the owner of land on both sides thereof after September 22, 1971.
    - c. The minimum width of any portion of any lot within 100 feet, horizontal distance, of the normal high water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.

**E. Piers, Docks, Wharfs, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland**  
*(Amended June 21, 1999, June 16, 2008 and June 14, 2021)*

1. No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot;

except that when a single lot contains at least twice the minimum shore frontage as specified in Table B, a second structure may be allowed and may remain as long as the lot is not further divided.

2. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
3. The location shall not interfere with existing developed or natural beach areas.
4. The facility shall be located so as to minimize adverse effects on fisheries.
5. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf shall not be wider than six feet for non-commercial uses.
6. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.
7. New permanent piers and docks shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.
8. No existing structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
9. Except in the Downtown/Village, Commercial or Industrial zones, structures built on, over or abutting a pier, wharf, dock or other structures extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

#### F. Agriculture

1. All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209), OR AMENDMENTS THERETO.
2. Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shore land zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
3. All agricultural activities involving the tilling or fertilizing of soil greater than 10,000 square feet in surface area within the shore land zone, or the spreading, disposal or storage of more than 1 ton of manure within the shore land zone shall be done in conformance with a soil and water conservation plan that conforms with or provides greater safeguards and protections than the standards and specifications contained in the publication entitled State of Maine Strategy for Managing Non point Source Pollution from Agricultural Sources and Best Management System Guidelines, dated October, 1991. Such activities shall require a permit from the Planning Board. Application for such permit shall be accompanied by the soil and water conservation plan. The Planning Board may require review and critique by the Franklin County Soil and Water Conservation District of any plan not prepared by the District and may impose conditions

upon the activity as recommended by the District. Non-conformance with the provisions of said plan or conditions shall constitute a violation of this Ordinance. Agricultural activities involving the draining or altering of any inland wetlands within the shore land zone shall not be undertaken without applicable permits required under state and federal law and under the Floodplain Management Ordinance for the Town of Wilton.

Notwithstanding anything to the contrary in 1 M.R.S.A. §302, this paragraph (B) applies to applications for permits pending on the date of its adoption.

4. There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond; within seventy-five (75) feet, horizontal distance, from other water bodies; nor within twenty-five feet, horizontal distance, of tributary streams, and wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.
5. Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond; within seventy-five (75) feet, horizontal distance of other water bodies, nor, within twenty-five (25) feet, horizontal distance, of tributary streams, and wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

#### G. Timber Harvesting and Clearing of Vegetation for Development

##### 1. Timber Harvesting

The Town of Wilton repealed its local shoreland timber harvesting regulations on January 1, 2013. Timber harvesting in shore land zones are now regulated by State law. See the Maine Department of Conservation for State requirements and permitting.

##### 2. Clearing of Vegetation for Development

- a. Within a shore land area zoned for resource protection abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet inland from the normal high water mark except to remove safety hazards. Elsewhere in any Resource Protection District the clearing of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.
- b. Except in areas as described in paragraph a, above, and except to allow for the development of permitted uses, within a strip of land extending one hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:
  - 1) There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed SIX (6) feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created. Adjacent to a great pond classified GPA, or stream or river flowing to a great pond classified GPA, the width of the foot path shall be limited to six (6) feet.
  - 2) Selective cutting of trees within the buffer strip is permitted provided that a well distributed stand of trees and other vegetation is maintained. For the purposes of this section a "well-distributed stand of trees" adjacent to a great pond classified

GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 12 or more in any 25-foot by-25 foot square (625 square feet) area as determined by the following rating system.

1. Diameter of tree at 4 ½	
2. Feet above ground level	Points
3. (inches)	
a. 2-4	1
b. >4-12	2
c. >12	4

- 3) Adjacent to other water bodies, tributary streams, and wetlands, a “well-distributed stand of trees” and other vegetation” is defined as maintaining a minimum rating score of 8 per 25-foot by 25-foot square area.
- 4) For the purposes of Section 5.1.G.2.b.2., “other natural vegetation” is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least three (3) saplings less than two (2) inches in diameter at four and one-half (4 ½) feet above ground level for each 25-foot by 25-foot rectangular area. If three (3) saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 3 saplings have been recruited in to the plot.
- 5) Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 ½ feet above ground level may be removed in any ten (10) year period
- 6) In order to protect water quality and wildlife habitat, adjacent to great ponds classified GPA, and streams and rivers which flow to great ponds classified GPA, existing vegetation under three (3) feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described in paragraphs G.2.a and G.2.b above.
- 7) Pruning of tree branches, on the bottom 1/3 of the tree is permitted.
- 8) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.
- 9) The provisions contained in paragraph G.2.b above shall not apply to those portions of public recreational facilities adjacent to public swimming areas. Cleared areas, however, shall be limited to the minimum area necessary
- c. At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high water line of any other water body, tributary stream, or the upland edge of a wetland, except to allow for the development of permitted uses, there shall be permitted on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 ½ feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.
- d. In no event shall cleared openings for development, including but not limited to,

principal and accessory structures, driveways and sewage disposal areas, exceed in the aggregate, 25% of the lot area or ten thousand (10,000) square feet, whichever is greater, including land previously developed. This provision shall not apply to the Industrial and Downtown Village Zones.

- e. Cleared openings legally in existence on the effective date of this Ordinance may be maintained, but shall not be enlarged, except as permitted by this Ordinance.
  - f. Fields which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section..
3. Plan Required in Watershed Overlay District (*Amended June 21, 1999*)

Within the Watershed Overlay District, harvesting of trees may be permitted only after a plan prepared by a qualified forester is submitted to and approved by the Planning Board. Such plan shall be approved or disapproved on the basis of its conformance with good watershed management practice for domestic water supplies and shall be judged by the standards of this section 5.4.

#### H. Floodplains

- 1. All buildings and structures constructed, erected, enlarged modified, replaced or relocated within a floodplain area must comply with the requirements of the Floodplain Management Ordinance of the Town of Wilton.

- 2. Mobile Home Parks in Floodplains

In the case of mobile home parks located in Zone A of the Flood Hazard Boundary Map, an evacuation plan shall be filed, by the owner, with the Town Civil Emergency Preparedness Office, indicating alternate vehicular access and escape routes.

#### I. Individual Private Campsites. Individual, private campsites not associated with campgrounds are allowed provided the following conditions are met:

- 1. One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shore land zone, whichever is less, may be permitted.
- 2. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance from the normal high water line of a great pond and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
- 3. Only one recreational vehicle shall be allowed on a campsite. The recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.
- 4. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet. (*Amended June 21, 1999*)
- 5. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
- 6. When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance



with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities. (*Amended June 17, 2019*)

J. Campgrounds (*Amended June 21, 1999*). Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:

1. Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the high-water line of a water body shall not be included in calculating land area per site.
2. The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one-hundred (100) feet, horizontal distance, from the normal high-water line of a great pond and seventy-five (75) feet, horizontal distance from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

K. Roads and Driveways. The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.

1. Roads and driveways shall be set back at least one-hundred (100) feet, horizontal distance, from the normal high-water line of a great pond and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

On slopes of greater than twenty (20) percent the road and/or driveway setback shall be increased by ten (10) feet, horizontal distance, for each five (5) percent increase in slope above twenty (20) percent.

Section 1 does not apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures, and facilities located nearer to the shoreline, or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 1 except for that portion of the road or driveway necessary for direct access to the structure.

2. Existing public roads may be expanded within the legal road right-of-way regardless of setback from a water body, tributary stream or wetland.
3. New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable

alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District, the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.

4. Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Article 5.8. *(Amended June 21, 1999)*
5. Road and driveway grades shall be no greater than ten (10) percent except for short segments of less than two hundred (200) feet.
6. In order to prevent road and driveway surface drainage from directly entering water bodies tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarred buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarred buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
7. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarred buffer strips before the flow gains sufficient volume or head to erode the road, driveway or ditch. To accomplish this, the following shall apply:

- a. Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road or driveway at intervals no greater than indicated in the following table:

<u>Grade (Percent)</u>	<u>Spacing (Feet)</u>
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21+	40

- b. Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.
  - c. On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle down slope from a line perpendicular to the centerline of the road or driveway.
  - d. Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning and their inlet and outlet ends shall be stabilized with appropriate materials.
8. Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

L. Parking Areas (*Amended June 21, 1999*)

1. Parking areas shall meet the shoreline and tributary stream setback for structures for the district in which such areas are located. The setback requirement for parking areas serving public boat launching facilities may be reduced to no less than fifty (50) feet from the normal high-water line or upland edge of a wetland if the Planning Board finds that no other reasonable alternative exists.
2. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent storm water runoff from flowing directly into a water body, and where feasible, to retain all runoff on-site.
3. In determining the appropriate size of proposed parking facilities, the following shall apply:
  - a. Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
  - b. Internal travel aisles: Approximately twenty (20) feet wide.

M. Essential Services

1. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
2. The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection or Stream Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.
3. Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

N. Mineral Exploration

Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than one hundred (100) square feet of ground surface. A permit from the Code Enforcement Officer shall be required for mineral exploration which exceeds the above limitation. All excavations, including test pits and holes, shall be immediately capped, filled or secured by other equally effective measures to restore disturbed areas and to protect the public health and safety.

O. Water Quality

No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream or wetland.

P. Archaeological Site

Any proposed land use 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 twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

Q. Erosion and Sedimentation Control (*Amended June 21, 1999*)

1. Filling, grading, lagooning, dredging, earth moving activities and other land use activities shall be conducted in such a manner to prevent to a maximum extent the erosion and sedimentation of surface waters.
2. Clearing of vegetation in the shore land zone shall require a permit from the Code Enforcement Officer. Filling and earth-moving activities greater than ten (10) cubic yards in the shore land zone shall require a permit from the Code Enforcement Officer, except that filling and earth-moving activities greater than ten (10) cubic yards in the Resource Protection District shall require a permit from the Planning Board.
3. Conditions may be imposed on earth moving activities by the Code Enforcement Officer or the Planning Board as necessary to prevent erosion and sedimentation and such conditions will become part of a permit.

## **5.2 Conversion of Dwellings**

### A. General Requirements

This section does not apply to dwellings in the shoreland zone. The Planning Board may permit a dwelling which existed prior to March 11, 1974 and which cannot meet the dimensional or parking requirements for two-family or multi-family dwellings to be converted to a two family or multi-family dwelling if the Board finds that the proposed conversion meets the criteria and standards of Section 6.4 of this Ordinance, subject to the limitations and guidelines of paragraphs B and C below. Approval of a conversion under this Section shall not require and shall not be deemed to be the granting of a variance.

### B. Limitations

1. Dimensional requirements may not be decreased more than fifty-five percent (55%).
2. Parking requirements may not be decreased more than fifty percent (50%).

### C. Guidelines

In setting required conditions, the Planning Board shall use the following guidelines.

1. Minimum Dwelling Unit Size 500 square feet for single family homes and 350 square feet for apartments. (*Amended June 6, 2011*)
2. Exterior. Exteriors of structures shall be maintained or reconstructed in a manner so that the architectural and aesthetic character of the property and of the neighborhood is maintained.
3. Open Space. Open, unpaved (lawn, garden, shrub or tree) area of a minimum equal to half the combined floor space of the dwelling units but no less than twenty-five percent (25%) of the property shall be maintained.

## **5.3 Entrances and Exits to Public Ways**

(*Amended June 21, 1999*)

All new developments must provide properly marked entrances and exits at right angles to the public way, including subsurface drainage when needed and curbing and sidewalks as may be required by the Maine Department of Transportation, the Planning Board, the Town, or Article 6.4.3.

## **5.4 Off-Street Parking and Loading**

A. The following minimum off-street parking requirements shall be provided and maintained for all new construction, alterations and changes of use:

- |   |   |
|---|---|
| 1. Dwellings:                                       | 1 ½ parking spaces for each dwelling unit   |
| 2. Motels, tourist homes:                           | 1 parking space for each sleeping room  |
| 3. Schools:   | 5 parking spaces for each room used for the purpose of instruction  |
| 4. Health institutions:                             | 1 parking space for every (bed facilities only) 3 beds and 1 parking space for each employee based on the expected average employee occupancy |
| 5. Theaters, auditoria, and churches:               | 1 parking space for every 4 seats or for every 100 square feet or major fraction thereof of assemblage space if no fixed seats                |
| 6. Retail stores:                                   | 1 parking space for every 200 square feet of gross floor area   |
| 7. Restaurants, eating and drinking establishments: | 1 parking space for 3 seats   |
| 8. Offices, professional and public buildings:      | 1 parking space for every 200 square feet of gross leasable area, exclusive of cellar and bulk storage areas                                  |
| 9. Industrial:                                      | 1 parking space for each 2 employees, based on the highest expected average employee occupancy  |

B. Required off-street parking spaces shall be located on the same lot as the principal building or use except within the Downtown/Village Zone where required off-street may be provided within 1,000 feet of the principal building measured along lines of access or at an off-site satellite parking area approved by the Planning Board. (*Amended June 21, 1999.*)

C. The Planning Board is empowered to determine the number of parking spaces required for any use not specifically listed herein by applying the requirements for the listed use category which most closely resembles the non-listed use.

## **5.5 Removal of Topsoil**

The removal of topsoil in excess of 100 cubic yards within a 12 month period shall not be permitted without a site plan approval by the Planning Board except where such removal is necessarily incidental to or in connection with the construction, alteration, excavation, or grading of a building, structure, road or parking area on the premises. The Planning Board may impose such restrictions as it deems necessary to protect adjacent properties or water bodies, and such restrictions shall be considered a condition of the permit.

## **5.6 Removal of Stone, Sand, Gravel & Minerals**

(*Amended June 21, 2002*)

The removal of sand, gravel or fill that is not for commercial sale or use, which will result in a total excavated area of one acre or less, shall be permitted with a permit from the Code Enforcement Officer provided that the standards in this Section are complied with.

Any removal of sand, gravel or fill that is for commercial sale or use, as well as removal that is not for commercial sale or use but that will result in a total excavated area in excess of one acre shall be permitted only with a Site Plan approval from the Planning Board. This Section also applies to the quarrying of stone or minerals for commercial sale or use. In addition to complying with the requirements of Article 6, such excavation or quarrying must comply with the following submissions requirements, review criteria and standards:

#### A. Submission Requirements

The Site Plan must show:

1. The existing and proposed limits of excavation clearly delineated.
2. Location, functions and ground area of all structures, facilities, (processing equipment such as crushers, washers, screeners, and hot-mix asphalt facilities) parking lots, roads, and mud run-off areas.
3. Entrance and exit layout.
4. Gates or other means for controlling access.
5. Pre- and post-development topography using an interval of ten foot contours for pits of less than five (5) acres and no greater than 10 foot contours for pits of five (5) acres or more if deemed necessary by the Planning Board.
6. Location of topsoil stockpile areas. Sufficient topsoil shall be salvaged for reclamation purposes.
7. Areas where natural vegetation will be left and where plantings will be made to screen the operation from view.
8. Slopes and vegetation for protecting adjacent structures.
9. For an extraction for commercial sale or use, location of a benchmark sufficient to verify the location of the seasonal high water table and one or more monitoring wells documenting the seasonal high water table during the life of the pit.
10. Proposed disposal method for stumps and grubbing.
11. Plans and schedule for reclamation.
12. A spill prevention, control and countermeasure plan to control spills of petroleum products and other hazardous materials.
13. The phases of excavation and reclamation.
14. Surface drainage and watersheds on parcel, pre- and post-excavation.
15. For pits of five (5) acres or more, at least one cross section along the long axis of the pit and another cross section at a right angle to it. The cross section diagrams should show the existing grade, the proposed final grade including maximum depth of excavation, depth to ground water and the stratigraphy of the surficial deposits at the site.

#### B. Review Criteria and Standards

1. A natural buffer strip of not less than 50 feet shall be maintained between the location of any extraction of materials and all property lines. The existing vegetation within the natural buffer strip shall not be removed. This buffer strip may be reduced to 10 feet with written consent from abutting property owners. The Planning Board may reduce the front