

TOWN OF
WILMOT
NEW HAMPSHIRE

PLANNING AND ZONING ORDINANCE

As adopted March 12, 1968
including subsequent amendments up to and
including March 14, 2015

PLANNING AND ZONING ORDINANCE

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FOREWORD

FACTS YOU SHOULD KNOW BEFORE YOU SELL LAND...

The Town of Wilmot Planning and Zoning Ordinance provides:

“The owner or lessee of any plot of ground intended for development or subdivision into building lots shall file with the Planning Board a plan or map of the proposed subdivision, and shall obtain the approval of the Planning Board thereon before proceeding with the development, sale or lease of lots in said subdivision.” (Article VII, Section II).

And State Law defines a subdivision as:

“...The division of the lot, tract, or parcel of land into two or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease, condominium conveyance or building development...” (Chapter 672:14 N.H. R.S.A).

Effective July 3, 1970, State Law provides a severe penalty for failure to secure approval by the Planning Board in N.H R.S.A Chapter 36:21:1. If you sell part of your land – thus subdividing it – without prior approval of the Planning Board and filing an approved plat with the register of deeds, you are subject to a fine of \$500 for each lot or parcel sold. The town may enjoin such transfer or sale and may recover penalty and cost of civil action.

PLANNING AND ZONING ORDINANCE

ARTICLE I

PREAMBLE

Section I: Authority This Ordinance has been prepared in accordance with the provisions of Chapter 31 of the New Hampshire Revised Statutes Annotated, (1966) as amended.

Section II: Purpose The purpose of this Ordinance is to promote the health, safety, and general welfare of the community; to encourage the most appropriate use of land throughout the municipality and to help conserve the value of property.

ARTICLE II

ESTABLISHMENT OF ZONING DISTRICTS AND USES

Section I: Zoning Districts shall be as shown on the Town Map. District boundaries shown within the lines of roads, highways, or transportation right-of-way shall be deemed to follow the centerline, with district boundary limits measured from said centerlines. The relocation of roads shall not affect the location of such district boundaries. The Selectmen or their appointees shall refuse action when they cannot definitely determine the location of a district boundary by such centerlines, by the scale or dimensions stated on the zoning map, or by the fact that it does not clearly coincide with a property line. The Board of Adjustment, upon appeal, shall interpret the location of the district boundary with reference to the scale of the zoning map and the purposes set forth in all relevant provisions of this ordinance.

Section II: Residential Districts shall comprise the entire town except for the Village Districts and the Commercial Districts.

Section III: Village Districts

WILMOT CENTER: Commencing at the centerline of Route 4-A in line with the westerly sideline of Patterson Road; thence westerly by the centerline of Route 4-A to a point in the centerline that is opposite of the easterly sideline of Granite Hill Road; the limits of said zone shall be:

Northerly along the westerly sidelines of Patterson Road to a point that is 500' at right angles from the Route 4-A centerline, thence westerly at a distance of 500' from Route 4-A centerline to a point that is opposite the easterly sideline of Granite Hill Road and at right angles from the Route 4-A centerline. Southerly along the easterly sideline of Granite Hill Road to a point that is 500' at right angles from Route 4-A centerline to a point that is opposite the westerly sidelines of Patterson Road and at right angles to the Route 4-A centerline.

WILMOT FLAT: Commencing at a point on the northerly sideline of Routes 11 at the centerline of the easterly junction of Village Road; thence northerly at right angles to Route 11 to a point 500' from the centerline Village Road; thence westerly 500' from the

Village Road centerline, to a point opposite the centerline intersection of Village Road on the sideline of Route 11 and at right angles thereto, said point being 500' from the centerline of Village Road on the northerly sideline of Route 11; thence easterly by the northerly sideline of Route 11 to the place of beginning.

Section IV: Commercial Districts

COMMERCIAL DISTRICT I: Beginning at a point on the southerly sideline of Route 11, said point being approximately 1868' easterly of the New London-Wilmot Town Line and being the property division of Tax Map Tracts 11 Parcel 43 and Sheet 11 Parcel 44; thence southwesterly along the property division of Tax Map Parcel Sheet 11 Parcel 44 and Tax Map Parcel Sheet 11 Parcels 43, 42-4, 42-5, 42-6, and continuing southwesterly along the property division of Tax Map Parcel Sheet 11 Parcels 42-6 and 42-20, to the Wilmot-New London Town Line; thence southeasterly along the said Wilmot-New London Town Line to a point on said Town Line that is 400 feet distant from the northerly sideline of Pine Hill Road as measured at a right angle to said northerly sideline; thence easterly parallel with and 400 feet distant from said Pine Hill Road northerly sideline to a point that is 400 feet as measured at a right angle from the westerly sideline of Joy Road, so called; thence northwesterly parallel with and 400 feet distant from said Joy Road westerly sideline to a point as intersected by a continuation of the easterly property line of Tax Map Parcel #11-47 and said zoning line; thence northerly by said line of Continuation and the easterly property line of Tax Map Parcel #11-47 to the southerly sideline of Route 11; thence westerly along the southerly sideline of Route 11 to the place of beginning.

COMMERCIAL DISTRICT II: Beginning at the easterly sideline of Kearsarge Valley Road at the southerly sideline of Route 11; thence southerly by the easterly sideline of Kearsarge Valley Road to a point that is 1200' at right angles from the centerline of Route 11; thence easterly, 1200' from the Route 11 centerline, to a point on the easterly sideline of Old Winslow Road that is 1200' at right angles from Route 11 centerline; thence northerly by the easterly sideline of Old Winslow Road to the southerly sideline of Route 11; thence westerly by the southerly sideline of Route 11 to the place of beginning.

Section V: Uses.

This section describes the uses that are permitted in a given Zoning District. A building or structure may be erected, altered or used, and a lot may be used or occupied only as described. All terms are defined in Article XIII: Definitions. All uses must comply with Article III: General Regulations, All Districts.

i. Uses Permitted in All Districts

A. The following uses shall be permitted in all districts and are not subject to Site Plan Review:

1. Single-family dwellings and two-family dwellings, including manufactured homes, and structures associated with the residential use.
2. Accessory dwelling units, per the provisions of Article XVII: Accessory Dwelling Units.
3. Agriculture and forestry, and structures associated with the agricultural use.

B. The following uses shall be permitted in all districts subject to Site Plan Review by the Planning Board:

1. Home occupations and cottage industries, per the provisions of Article XIV: Home Occupation/Cottage Industry Ordinance.
2. Bed and breakfasts.
3. Day care facilities.

C. Cluster subdivisions shall be permitted in all districts subject to a Special Use Permit by the Planning Board, per the provisions of Article VII: Cluster Subdivisions.

ii. Residential District

Purpose - Provide low-density housing, while allowing for continued agricultural uses on adjacent lands. No commercial development is permitted. Development in this district will have the least amount of impact on neighboring properties, e.g. noise, lighting, vibration, and traffic.

A. The following additional uses shall be permitted in the Residential District subject to Site Plan Review by the Planning Board:

1. Wireless communication facilities, per the provisions of Article XVI: Wireless Communications Facilities Ordinance.

B. The following uses shall require a Special Exception by the Board of Adjustment and subsequent Site Plan Review by the Planning Board in the Residential District:

1. Multi-family dwellings.
2. Government, non-profit, and religious facilities.
3. Inns.
4. Assisted living facilities and nursing homes.
5. Earth excavations.

ii. Village District

Purpose - Promote the development of existing village areas with a mix of residential and low-impact commercial activity. Development in this district may have some impact on neighboring properties, e.g. noise, lighting, vibration, and traffic.

A. The following additional uses shall be permitted in the Village District subject to Site Plan Review by the Planning Board:

1. Multi-family dwellings.
2. Government, non-profit, and religious facilities.
3. Personal services and professional offices.
4. Retail sales not to exceed 600 square feet.

B. The following uses shall require a Special Exception by the Board of Adjustment and subsequent Site Plan Review by the Planning Board in the Village District:

1. Inns.
2. Assisted living facilities and nursing homes.
3. Restaurants.

iii. Commercial District

Purpose - Encourage commercial establishments in the vicinity of New Hampshire Route 11. Development in this district may have some impact on neighboring properties, e.g. noise, lighting, vibration, and traffic.

A. The following additional uses shall be permitted in the Commercial District subject to Site Plan Review by the Planning Board:

1. All uses permitted in the Residential and Village Districts subject to Site Plan Review.
2. Inns, hotels, and motels.
3. Banks.
4. Retail sales greater than 600 square feet.
5. Restaurants, theaters, and indoor recreation centers.
6. Automotive shops, car washes, and gas stations.
7. Self-serve storage facilities and warehouses.
8. Sawmills and light industry.
9. Kennels.

B. Earth excavations and convention centers shall require a Special Exception by the Board of Adjustment and subsequent Site Plan Review by the Planning Board in the Commercial District.

ARTICLE III

GENERAL REGULATIONS, ALL DISTRICTS

Section I: No building or structure shall be erected, or moved to a new location, no existing structure shall be altered, and no new well shall be established, without first obtaining a permit duly granted by the Selectmen or their appointee, to whom information and plans of the proposed building structure, alterations, or well location shall be submitted.

Any permit for a non-residential and non-agricultural building or for a multi-family building containing more than two units, shall require a site plan approval by the Planning Board.

Section II: It shall be the duty of the administrative authority to grant or refuse a permit within 30 days after receipt of an application. The applicant may be called in for consultation by the Selectmen or their appointee, within the thirty-day period, for the purpose of gaining further information or making suggestions.

Section III: Before a permit shall be issued, it shall be first determined by the Selectmen or their appointee, whether the proposed constructions conforms to all the conditions of this Ordinance, and the permit shall be issued only when such conformity is assured.

Section IV: The applicant for a permit shall pay a fee determined by the Board of Selectmen for the issuance of said permit. The administrative authorities may reduce the fee if, in their opinion, the relatively small size of the project does not warrant such a payment. Wells are exempt from permit fees.

Section V: It shall be the responsibility of the applicant and builder, whose names shall appear on the permit, to adhere to all submitted plans and information for which the permit was granted.

Section VI: No owner or occupant or lessee of any land shall permit any ruins caused by fire, explosion, flood, storm, or other Act of God, to be left unfinished or incomplete thereon, but shall finish or complete or remove the same within 12 months of date of occurrence except, when there is property in court litigation, it will take place within one year after settlement of such court action.

Section VII: No land shall be used for a motor vehicle junkyard, or used for a dump, or for the storage of abandoned vehicles or discarded materials of any kind, in a manner that is disorderly, unsightly, noxious, or detrimental to the public or prejudicial to the general welfare. The selection of a public dumping place, maintained or designated by the Board of Selectmen, shall not be affected by this regulation.

Section VIII: Earth Excavation

The Board of Selectmen are the town regulators of earth excavation.

Section IX: Any aggrieved firm, corporation. Or person may appeal to the Board of Adjustment, who shall have authority to allow slight variance to the specific terms of the Ordinance where it can be shown that they would result in unnecessary hardship, as provided in Article IX.

Section X: Nothing in this Ordinance shall be construed to prevent the continuance of any existing use of land or buildings, but when any non-conforming use is discontinued for at least one year, said building or land shall be subject to the provisions of this Ordinance.

Section XI:

1. Building lots for a single family dwelling unit or other allowed used in the Village District shall contain a minimum of one acre with at least one hundred feet of frontage on a roadway. For two-family and multi-family dwellings (not to include accessory dwelling units) an additional one half acre of land will be required per additional dwelling unit in the Village District. All dwelling units will require a building permit from the Board of Selectmen. Multi-family dwelling units will require site plan review by the Planning Board in addition to a building permit
2. Building lots for a single-family dwelling unit or other allowed use in the Residential and Commercial Districts shall contain a minimum of two acres with at least one hundred fifty feet of frontage on a roadway. For two family and multifamily dwellings (not to include accessory dwelling units) an additional one-acre of land will be required per additional dwelling unit in the Residential and Commercial Districts. All dwelling units will require a building permit from the Board of Selectmen. Multi-family dwelling units will require site plan review by the Planning Board in addition to a building permit.
3. Accessory Dwelling units shall not require additional acreage.
4. Density requirements of Article III Section XI shall apply to cluster subdivisions.

Section XII: In all districts: Any use that may be obnoxious or injurious by reason of production, emission of odor, dust, smoke, refuse matter, fumes, noise vibration or similar condition, or that is dangerous to the comfort, peace, enjoyment, health or safety of the community or lending to its disturbance or annoyance, is prohibited.

The dumping of hazardous waste within the Town is also prohibited. Hazardous waste shall be defined, at a minimum, as per RSA 147-A.

Section XIII: A business permit shall be required of any new business or industry. Plans for use of land in any district for business or industrial purposes must be submitted to the Planning Board for approval before a permit is issued.

Section XIV:

1. A permit must be obtained from the Planning Board or their appointee before the erection or placement of a permanent sign. There shall be a fee determined by the Planning Board for a sign permit.

Exceptions:

- a. Temporary signs provided that they shall be erected no longer than thirty (30) days;
2. Signs shall measure no larger than twenty (20) square feet in the Commercial District and six (6) square feet in the Village and Residential Districts.
3. No signs shall be placed in such a position as to endanger traffic on a street by obscuring a clear view or by confusion with official street signs or signals. No sign shall be placed that obscures a scenic view. Every sign permitted hereunder shall be constructed of durable materials and shall be maintained in good condition and repair at all times. No neon, tubular gas or privately owned electric signs shall be allowed.
4. Commercial property owners or tenants with business, professional or other service enterprises shall be allowed two advertising signs, relating only to the use or uses conducted in the building or on the immediate premises thereof; also, two signs pertaining to the lease, sale or use of a lot or building on which placed.
5. Home Occupations and Cottage Industries shall be allowed one advertising sign, relating only to the occupation, profession or business conducted on the premises.
6. Directional signs relating to a business operated in the town of Wilmot shall be permitted provided that said directional signs for any one enterprise do not exceed one in any two-mile length of road, not including those to indicate change of direction; also, that said directional signs cannot be within fifty (50) feet of any other sign.
It is the intent of this paragraph to encourage businesses to share directory signs in the areas which may become congested by individual directional signs.
7. Upon application, the Planning Board or their appointee, may permit, at their discretion and when conditions justify the request, an increase in size by not over 50% of all classes of signs heretofore permitted.

8. A discontinued commercial business, home occupation or cottage industry shall remove all of its advertising and/or directional signs within sixty (60) days from a close of business.

Section XV: If deemed to be in the Public interest, the Wilmot Planning Board shall have the authority to require larger lot sizes than those stipulated in ARTICLE III – Section XI.

Section XVI: A building lot bordering on a Class VI highway, as defined in the New Hampshire Revised Statutes Annotated 229:5; or on a right-of-way shown on a subdivision or plat approved by the Planning Board, may be permitted provided that:

1. The Selectmen, after review and comment by the Planning Board, vote to authorize such permit with the condition that the Town neither assumes responsibility for maintenance of any portion of said public way or highway, nor liability for any damages resulting from the use thereof, and
2. The applicant, prior to the issuance of a building permit, produces evidence that appropriate notice of the limits of municipal responsibility and liability has been recorded in the county registry of deeds.

ARTICLE IV

BUILDING REGULATIONS – RESIDENTIAL DISTRICT

Section I: Every new building or structure shall be set back from the front property line not less than 30 feet, or such distance as shall conform to the line of existing buildings on adjacent property. All new buildings or structures shall be set back not less than 15 feet from the side and not less than 10 feet from the rear of property lines.

Section II: Every dwelling shall have a permanent closed foundation and a minimum ground floor area of 480 square feet outside measurement for each family unit. Steps or ground-level terraces shall not be considered a part of the dwelling for the purpose of this section, but all porches or other similar elements, suitable for year-round occupancy, shall be considered a part of the dwelling.

The height of any new building shall not exceed 35 feet between the maximum height of the roof to grade level, as measured on any face of the building.

Section III: Sewage must be disposed of in septic tanks or proper size and its location and drainage system shall comply with New Hampshire State Laws and Regulations.

Septic tanks and disposal systems must be located at least 75 feet from any existing well, at least 75 feet from public waters, and at least 75 feet from any dwelling other than that to which they may be attached, unless authorized otherwise by the Town Health Officer. Replacement of sewage systems shall comply with this section. New wells or replacement wells will be located 75 feet from existing sewage systems.

Section IV: a.) A recreational vehicle can be used as temporary housing on a lot with a dwelling for a period of no more than thirty (30) days in a calendar year. b.) The owner of a lot of record is permitted to use a recreational vehicle as his or her seasonal residence on the property for up to

one hundred and eighty (180) days in a calendar year. A building permit as outlined in Article III, must be obtained and the sanitary provisions of Article IV, Section III must be observed.

Section V: A recreational vehicle or manufactured home can be used as a temporary residence for up to 360 days by the property owner or employee of the property owner during construction of a dwelling on the lot of the property owner. This must be described on the building permit and the sanitary provisions of Article IV, Section III must be observed.

Section VI: The Board of Selectmen shall review all building permit applications for new construction or substantial improvements and determine whether the proposed building sites will be reasonably safe from flooding, in accordance with the Wilmot Floodplain Ordinance adopted 3/13/90.

Section VII: Storage containment units can be used as temporary structures for up to one hundred and eighty (180) days. Storage containment units can also be used as permanent structures provided that the units are screened from view from the road. A building permit as outlined in Article III, must be obtained for temporary and permanent storage containment units.

Section VIII: All lots on Class VI roads, subsequent to March 9, 2010, will require upgrade of the road prior to the issuance of a building permit.

ARTICLE V

BUILDING REGULATIONS – VILLAGE DISTRICT

Section I: As provided for in Article IV, Section I, II, III, IV, V, VI, VII, and VIII.

ARTICLE VI

BUILDING REGULATIONS – COMMERCIAL DISTRICT

Section I: As provided for in Article IV, Section I, II, III, IV, V, VI, VII, and VIII.

ARTICLE VII

CLUSTER SUBDIVISIONS

Section I: Authority Pursuant to RSA 674:21, Cluster Development is permitted, subject to the requirements of this article.

Section II: Purpose The purpose of Cluster Subdivision is to encourage flexibility in the design and development of land, promote its most efficient use and preserve open space in harmony with its natural features. Consistent with this purpose, lot sizes and frontage requirements may be reduced so that lots may be clustered on a portion of an entire parcel, subject to Planning Board approval and provided that (1) the remaining land in the parcel is reserved for open space, the future development or subdivision of which is prohibited, and (2) the number of permitted building lots in the subdivision shall not exceed the density allowed in the underlying zoning district.

Section III: Procedure Prior to commencing a Cluster Subdivision, the owner of such parcel shall obtain a Special Use Permit from the Planning Board. Subdivision approval, and where applicable, Site Plan Review approval, are also required. The application for a Special Use Permit shall be processed concurrently with Subdivision and Site Plan Review applications, in accordance with the rules and regulations of the Planning Board.

Section IV: Criteria Prior to approving a Special Use Permit for a Cluster Subdivision, the Planning Board shall determine that the following requirements are met.

1. **MASTER PLAN:** All Cluster Subdivisions shall be consistent with the character of the Town of Wilmot and the objectives of the Master Plan.
2. **PARCEL SIZE:** The total contiguous acreage of a parcel of land proposed for a Cluster Subdivision shall not be less than the following:
 - Residential Districts: Twenty (20) acres
 - Village Districts: Five (5) acres
 - Commercial Districts: Fifteen (15) acres
3. **ALLOWED USES:** Permitted uses and special exceptions in a Cluster Subdivision shall be the same as in the underlying zoning district.
4. **DENSITY:** The maximum number of building lots permitted within a Cluster Subdivision shall not exceed the maximum number of lots that would be allowed for a conventional subdivision in the underlying zoning district, excluding any unbuildable land. The area of the parcel that is used to calculate the maximum permissible number of lots shall be the Net Acreage of the parcel. For the purpose of this Article, Net Acreage is defined as the gross acreage of the tract less any unbuildable areas, such as rights-of-way, watercourses, water bodies, wetlands and steep slopes (i.e. those with greater than 25% slope over elevation changes greater than 20 feet.)

The applicant shall have the burden of submitting sufficient information to the Planning Board to demonstrate that the number of building lots in a proposed Cluster Subdivision complies with this requirement. The Planning Board may require an applicant to submit a subdivision plan for a traditional, non-cluster subdivision in order to demonstrate compliance with this requirement.

5. **LOT SIZE AND FRONTAGE:** Lot size and roadway frontage requirements set forth in Article III, Section X of this Ordinance may be reduced in a Cluster Subdivision to a minimum of three-quarter (3/4) acre with at least seventy (70) feet of frontage on a roadway.
6. **SETBACKS:** No structure shall be located closer than 30 feet from the right-of-way of a proposed or existing public street or from the edge of the travel surface of a proposed or existing road. The Planning Board may require setbacks greater than minimum requirements.
7. **BUFFER STRIP:** A buffer strip having a minimum depth of 75 feet shall be provided between any proposed structure within the subdivision and the perimeter of the tract. No building structure or parking area shall be permitted within the buffer strip. The buffer strip may be included as part of the common open space, provided that the buffer strip is contiguous with the remainder of the common open space. Whenever feasible the buffer strip shall remain in its natural state with no construction, grade alternation or clearing, and it shall contain existing, natural vegetation. In the absence of existing vegetative

cover, new vegetative screening shall be planned to buffer the cluster subdivision from abutting properties. This vegetative screening shall be of a size, type and spacing determined adequate by the Planning Board to screen and buffer buildings, parking areas and other structures and activities from neighboring properties and public rights-of-way and to otherwise establish a landscaped setting for development consistent with the surrounding community. In recognition of the potential importance of visibility within a commercial cluster development, the Planning Board may consider reducing the minimum depth of the buffer strip between a building and a public right-of-way to 30 feet. This buffer may be semi-transparent if the structure is of a scale, material and configuration that is in harmony with neighboring structures. Buffer strips between a parking area and a public right-of-way may be reduced 50 feet, but must remain an adequate visual barrier. The goal of these accommodations is to permit a commercial establishment to be visible to potential customers, but by no means obtrusive upon the surrounding environment.

8. **IMPACT:** A Cluster Subdivision shall not have an adverse impact on the environment or on transportation systems, community facilities, utilities and services. The Planning Board may require an applicant for Cluster Subdivision approval to submit an impact statement(s) which sets forth the impact of the proposal on the natural and man-made environment and/or community facilities, traffic, utilities and municipal services.
9. **BUILDINGS:** The Planning Board may require that the scale size, configuration, color and exterior materials of building units in a Cluster Subdivision are complementary and do not detract from the general existing architectural style of the surrounding neighborhood. In a Cluster Subdivision located in the Commercial District, lots used for non-residential purposes may have more than one principal building, provided all septic approvals are obtained.
10. **CONDITIONS:** The Planning Board may attach such conditions to its approval of a Special Use Permit as it deems necessary to accomplish the objectives of this article and/or sound land planning or as are otherwise conducive to the health, safety and general welfare.

Section V: Open Space Requirements

1. **INTENT:** The intent of Cluster Subdivision is to reduce the actual amount of land used for structures thereby increasing the amount of usable open space. At the same time, safeguards must be in place to protect the interest of the public and those of future owners, in the Cluster Subdivision. For these reasons, the following additional requirements shall apply to all Cluster Subdivisions.
2. **DESCRIPTION:** A minimum of 30% of the parcel shall be preserved in common open space. The portion of this open space considered buildable must be at least 50%. In situations where compliance with this 50% requirement would unreasonably diminish the amount of remaining buildable land, the Planning Board may reduce the buildable portion of the open space to not more than 20% of the total buildable area of the tract, provided that all other criteria are met. The location, size and configuration of all common open space is subject to the specific approval of the Planning Board.
3. **PLAN:** An open space plan shall be submitted as part of the Cluster Subdivision proposal. The plan shall identify the location, use and treatment of all open space as well as proposed provisions for ownership, maintenance and control of the open space.

4. ACCESS: Each lot in a Cluster Subdivision shall have access to the common open space but need not adjoin such open space.
5. OWNERSHIP: To insure that the open space will be held in perpetuity as open space, the Cluster Subdivision shall provide for one or a combination of the following forms of ownership:
 - a. a lot owners' association or similar form of common ownership set up by the developer and made part of the deed for each lot,
 - b. the grant of a conservation easement to conservation organization approved by the Planning Board; or
 - c. the grant of a conservation easement to the Town of Wilmot.
6. LEGAL DOCUMENTS: All legal documents required to guarantee adherence to the above stated requirements, such as association documents, protective covenants, deed restrictions and easements, shall be subject to review and approval as to both form and substance by the Planning Board and town legal counsel prior to final approval of the Cluster Subdivision proposal.
7. CONVEYANCE: No portion of the common open space shall be conveyed in a manner which would result in non-compliance with this section.

ARTICLE VIII NEW DEVELOPMENTS

Section I: The purpose of this Article shall be to provide against scattered or premature subdivision of land as would involve danger or injury to health, safety or prosperity by reason of the lack of water supply, drainage, transportation, or other public services, or necessitate excessive expenditure of Town funds for the supply of such services, to provide for the harmonious development of the municipality and its environs, and for the proper arrangement and coordination of streets within subdivisions in relation to other existing or planned streets.

Section II: The owner or lessee of any plot of ground intended for development or subdivision into building lots shall file with the Planning Board a plan or map of the proposed subdivision, and shall obtain the approval of the Planning Board thereon before proceeding with the development, sale or lease of lots in said subdivision.

Section III: It shall be the duty of the Planning Board to inspect the site of such proposed subdivision, and to require such roadway and other areas for common use as will eventually be acceptable to the Town for maintenance by the Town, and to approve the same when satisfied that such proposed plans are in harmony with and conducive to the general welfare of the Town and the neighborhood, and not detrimental to existing property values; but in no sense shall this be deemed acceptance by the Town of the street or streets.

ARTICLE IX BOARD OF ADJUSTMENT

Section I: In accordance with New Hampshire Revised Statutes Annotated, 1955 Chapter 31:66-89, as amended, the Board of Selectmen shall provide for appointment of the Board of Adjustment. The Board of Adjustment shall consist of five members whose appointment and duties shall be in accordance with the applicable section in the New Hampshire Revised Statutes

Annotated, Chapter 31:66-89, as amended. It shall be the duty of the Board of Adjustment, in appropriate cases, and the subject to appropriate conditions and safeguards, to make special exceptions to the terms of the Ordinance in harmony with its general purpose and intent and in accordance with general or specific rules therein contained.

Section II: The Board of Adjustment shall have the following powers:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by administrative official in the enforcement thereof or of any Ordinance adopted pursuant thereto.
2. To hear and decide special exceptions to the terms of the Ordinance upon which the Board is required to pass under the Ordinance.

In order for the Board to grant a special exception it must find that the special exception being sought by the applicant is in fact permitted and specified in the Zoning Ordinance and that all of the conditions for the special exception are met and that the action is in harmony with the Town Plan and its policies, goals, objectives, standards and recommendations. For the purpose of this Ordinance, the following are established as general conditions for the granting of all special exceptions subject to further reasonable conditions as may be imposed by the Board:

- a. That the use will not be detrimental to the character or enjoyment of the neighborhood by reason of undue variation from the character or appearance of the neighborhood;
- b. That the use will not be injurious, noxious, or offensive and thus detrimental to the neighborhood;
- c. That adequate and lawful facilities or arrangements for sewage disposal, solid waste disposal, water supply, utilities, drainage and other necessary public or private services, are approved or assured, to the end that the use will be capable of proper operation. This requirement may be waived if review of the same subject matter by the Planning Board lies within its jurisdiction and appears assured;
- d. That the use will not be detrimental to vehicular and pedestrian traffic movement in the neighborhood nor cause traffic congestion;
- e. That the proposed structure and/or use shall be compatible with the spirit and intent of this Zoning Ordinance including its density standards.

In granting any special exception, the Board may prescribe reasonable conditions and safeguards deemed necessary to prevent nuisance and promote harmony with the neighborhood, and the disregard of any condition or safeguard when made part of the terms under which a special exception is granted shall be a violation of this Ordinance.

3. To authorize, upon appeal in specific cases, such variance from the terms of the Ordinance if:
 - a) The variance will not be contrary to the public interest;
 - b) The spirit of the ordinance and the master plan is observed;
 - c) Substantial justice is done;
 - d) The values of surrounding properties are not diminished;
 - e) Literal enforcement of the provisions of the ordinance would result in unnecessary hardship.

(1) For purposes of this subparagraph, “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area:

(A) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and

(B) The proposed use is a reasonable one.

(2) If the criteria in subparagraph (1) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable reasonable use of it.

The definition of “unnecessary hardship” set forth in subparagraph (e) shall apply where the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.

4. In exercising the above-mentioned powers such Board may, in conformity with the provisions thereof, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and may make such order or decision as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.
5. The concurring vote of three members of the Board shall be necessary to reverse any action of such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such Ordinance, or to effect any variation in such Ordinance.

ARTICLE X

ENFORCEMENT AND PENALTY

Section I: Upon any well-founded information that this Ordinance is being violated, the Selectmen shall take immediate steps to enforce the provisions of this Ordinance.

Section II: Whomever violates any of the provisions of this Ordinance shall be punished, upon conviction, by a fine not to exceed \$50.00 for each day of violation.

Section III: The invalidity of any section or provision of this Ordinance shall not invalidate any other section or provision thereof.

ARTICLE XI

AMENDMENTS

Section I: The provisions of this Ordinance may be amended or changed at any regular or special Town Meeting by a majority of the voters present as provided by Public Law.

ARTICLE XII

EFFECTIVE

Section I: This Ordinance shall take effect upon its passage.

ARTICLE XIII

DEFINITIONS

<u>Term</u>	<u>Definition</u>
Agriculture	See “Farm”
Assisted Living	A residential living facility that provides rooms, personal care, and supervision of self-administered medication and congregate dining facilities. They may provide other services, such as recreational activities, financial services and transportation.
Automotive Shop	The use of a site for the repair of automobiles, trucks, motorcycles, motor-homes, recreational vehicles, or boats, including the sale, installation, and servicing of equipment and parts. This use includes muffler shops, auto repair garages, tire sales and installation, wheel and brake shops, body and fender shops, and similar repair and service activities, but excludes dismantling or salvage.
Bank	A building, with or without a drive-up window, for the custody, loan or exchange of money; for the extension of credit; and for facilitating the transmission of funds.
Bed & Breakfast	A dwelling unit that contains no more than five (5) guest rooms where short-term lodging with a morning meal for guests only is provided for compensation. The operator of the Bed & Breakfast, whether or not the owner, shall live on the property. The Bed & Breakfast may host events such as weddings, small business meetings, and family reunions.
Building	Any structure with a permanent roof for the shelter, support or enclosure of persons, animals or property of any kind.
Car Wash	The use of a site for washing and cleaning of passenger vehicles, recreational vehicles, or other light duty equipment.
Convention Center	A facility designed to accommodate up to a maximum of 350 people and used for conventions, conferences, seminars, product displays, recreation activities, and entertainment functions, along

with accessory functions including temporary outdoor displays, and food and beverage preparation and service for on premise consumption.

Day Care Facility	Any facility operated for the purpose of providing care, protection and guidance to individuals during only part of a 24-hour day. This term includes nursery schools, preschools, day care centers for individuals, and other similar uses but excludes public and private educational facilities for kindergarten and above or any facility offering care to individuals for a full 24-hour period.
Dwelling, Multi-Family	A building or portion thereof used for occupancy by three or more families living independently of each other and containing three or more dwelling units.
Dwelling, Single Family, Detached	A residential building containing not more than one dwelling unit entirely surrounded by open space on the same lot.
Dwelling, Two-Family	A building on a single lot containing two dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.
Dwelling Unit	One or more rooms physically arranged so as to create an independent housekeeping establishment for occupancy by one family with separate toilets and facilities for cooking and sleeping.
Earth Excavation	Commercial taking of sand, gravel, rock, soil or construction aggregate produced by quarrying, crushing or any other mining activity or such other naturally-occurring unconsolidated materials that normally mask the bedrock.
Family	An individual; or two or more persons related by blood, marriage or adoption; or not more than three (3) persons who are not related by blood, marriage or adoption occupying a dwelling unit as an individual housekeeping organization.
Farm	I. The word “farm” means any land, buildings or structures on or in which agriculture and farming activities are carried out or conducted and shall include the residence or residences of owners, occupants, or employees located on such land. Structures shall include all farm outbuildings used in the care of livestock, and in the production and storage of fruit, vegetables, or nursery stock; in the production of maple syrup; greenhouses for the production of annual or perennial plants; and any other structures used in operations named in paragraph II of this section.

II. The words “agriculture” and “farming” mean all operations of a farm, including:

- (a) (1) The cultivation, conservation, and tillage of soil.
 - 1.
 - (2) The use of and spreading of commercial fertilizer, lime, wood ash, sawdust, compost, animal manure, septage, and other lawful soil amendments where permitted by municipal and state rules and regulations.
 - (3) The use of and application of agricultural chemicals.
 - (4) The raising and sale of livestock, which shall include, but not be limited to, dairy cows and the production of milk, beef animals, swine, sheep, goats, as well as domesticated strains of buffalo or bison, llamas, alpacas, emus, ostriches, yaks, elk (*Cervus elephus canadensis*), allow deer (*Dama dama*), red deer (*Cervus elephus*), and reindeer (*Rangifer tarandus*).
 - (5) The breeding, boarding, raising, training, riding instruction, and selling of equines.
 - (6) The commercial raising, harvesting, and sale of fresh water fish or other aquaculture products.
 - (7) The raising, breeding, or sale of poultry or game birds.
 - (8) The raising of bees.
 - (9) the raising, breeding, or sale of domesticated strains of fur-bearing animals.
 - (10) The production of greenhouse crops.
 - (11)
- (b) Any practice on the farm incident to, or in conjunction with such farming operations, including, but not necessarily restricted to:
 - 1. Preparation for market, delivery to storage or to market, or to carriers for transportation to market of any products or materials from the farm.
 - 2. The transportation to the farm of supplies and materials.
 - 3. The transportation of farm workers.
 - 4. Forestry or lumbering operations.
 - 5. The marketing or selling at wholesale or retail, on-site and off-site, where permitted by local regulations, any products from the farm.
 - 6. Irrigation of growing crops from private water supplies or public water supplies where not prohibited by state or local rule or regulation.

III. A farm roadside stand shall remain an agricultural operation and not be considered commercial, provided that at least 35 percent of the product sales in dollar volume is attributable to products produced on the farm or farms of the stand owner.

IV. Practices on the farm shall include technologies recommended from time to time by the University of New Hampshire Cooperative Extension, the New Hampshire Department of

Agriculture, Markets and Food and appropriate agencies of the United States Department of Agriculture.

Forestry	The operation of timber tracts, tree farms, forest nurseries and the gathering of forest products.
Gas Station	A facility limited to retail sales to the public of gasoline, motor oil, lubricants, motor fuels, travel aides and minor automobile accessories. In addition, such a facility may provide minor vehicle servicing, minor repairs and maintenance, including engine rebuilding but not reconditioning of motor vehicles, collision services such as body, frame or fender straightening and repair, or overall painting of automobiles.
Government	Any department, commission, independent agency, or instrumentality of the United States, of a state, county, incorporated or unincorporated municipality, township, authority, district or other governmental unit.
Hotel	A facility offering transient lodging accommodations to the general public and providing additional services, such as restaurants, meeting rooms, entertainment and recreational facilities.
Industry, Heavy	A use engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of or manufacturing processes using flammable or explosive materials, or storage of manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.
Industry, Light	A use engaged in research and development or in the manufacture, predominately from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, distribution of such products, but excluding basic industrial processing, and which activities are conducted wholly within an enclosed building.
Inn	A commercial facility for the housing and feeding of transients. Typically the food services are available to the general public and not limited to the transients housed at the Inn. An Inn may host events such as weddings, small business meetings and family reunions.
Junk Yard	A place used for storing and keeping, or storing and selling, trading, or otherwise transferring old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste, or junked, dismantled, or wrecked motor vehicles, or parts thereof, iron, steel,

or other old or scrap ferrous or nonferrous material. The term includes, but is not limited to the following types of junk yards:

- a. Automotive recycling yards, meaning a motor vehicle junk yard, as identified in subparagraph (c), the primary purpose of which is to salvage multiple motor vehicle parts and materials for recycling for reuse;
- b. Machinery junk yards, as defined in RSA 236:112 paragraph III; and
- c. Motor vehicle junk yards, meaning any place, not including the principal place of business of any motor vehicle dealer registered with the director of motor vehicles under RSA 261:104 and controlled under RSA 236:126, where the following are stored or deposited in a quantity equal in bulk to 2 or more motor vehicles:
 - i. Motor vehicles which are no longer intended or in conditions for legal use according to their original purpose including motor vehicles purchased for the purpose of dismantling the vehicles for parts or for use of the metal for scrap; and/or
 - ii. Used parts of motor vehicles or old iron, metal, glass, paper, cordage, or other waste or discarded or secondhand material which has been a part, or intended to be a part, of any motor vehicle.

Kennel	Any place where five or more dogs, cats, or other animals over three months of age are boarded, bred, shown, sold, treated, or groomed for commercial purposes.
Manufactured Home	Any structure, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length, or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling. Within 90 days of placement the tow tongue and wheels are to be removed, skirting installed and required utilities including plumbing, heating and electrical systems contained therein are to be connected.
Motel	A building (or group of buildings) containing a living or sleeping accommodations used only for transient occupancy.
Non-profit	Any person(s), partnership, association, corporation, or other group whose activities are conducted for unselfish, civic, or humanitarian motives, or for the benefit of others, and not for the gain of any private individual or group and may include, but shall not be

limited to, patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, cultural, charitable, scientific, historical, athletic, or medical activities.

Nursing Home

A home for the aged or infirm in which three or more persons not of the immediate family are received, kept, or provided with food and shelter, or care for compensation; but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

Office, Professional

The office of a member of a recognized profession maintained for the conduct of that profession. A profession is a vocation, calling, occupation, or employment requiring training in the liberal arts or sciences, or combination thereof, requiring advanced study in a specialized field and any occupation requiring licensing by the state and maintenance of professional standards applicable to the field.

Personal Services

An establishment or place of business primarily engaged in the provision of frequent or recurrent needed services of a personal nature. Typical uses include, but are not limited to, beauty and barber shops, shoe repair shops, tailor shops, laundry pick-up agencies and self-service laundromats.

Physical Fitness Center

A building or portion of a building designed and equipped for the conduct of sports, exercise, leisure time activities, or other customary and usual recreational activities, operated for profit or not-for-profit and which can be open only to a bona fide members and guests of the organization and open to the public for a fee.

Presite Built Housing

A structure designed for residential use that is wholly or in substantial part made, fabricated, formed or assembled in an off-site manufacturing facility, is affixed to a permanent concrete foundation and required utilities including plumbing, heating and electrical systems contained therein are to be connected.

Recreational Vehicle

A vehicular type portable structure that can be towed, hauled, or driven and is designed primarily as a temporary living accommodation for recreational, camping, and travel use and including, but not limited to travel trailers, truck campers, pop-ups, and self-propelled motor homes (this definition is for all purposes except the Floodplain Ordinance).

Religious Facility

A structure or place in which worship, ceremonies, rituals, and education pertaining to a particular system of beliefs are held.

Restaurant	An establishment where food and drink are prepared, served, and consumed primarily within the principal building and does <u>not</u> include a drive-up or drive-through service facility.
Retail Sales	Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.
Riding Stable	A structure and/or land use in or on which equines are kept for sale or hire to the public. Breeding, boarding, or training of equines may also be conducted.
Roadway	Any road identified on the official Town map and used for vehicular travel and any road or street shown on a subdivision plan which has been approved by the Planning Board.
Sawmill	A facility where logs or partially processed cants are sawn, split, shaved, stripped, chipped, or otherwise processed to produce wood products, not including the processing of timber for use on the same lot by the owner or resident of that lot.
Self-Service Storage Facility	A building or group of buildings consisting of individual, self-contained units leased to individuals, organizations, or businesses for self-service storage of personal property.
Septage	The solid and liquid wastes removed from private sewage disposal systems.
Sign	A structure, building wall or other outdoor surface, or any device, used for visual communication.
Sludge	Solids removed from sewage during wastewater treatment and then disposed of by incineration, dumping, or burial.
Steep Slopes	Areas with greater than 25% slope (i.e. a 5-foot rise over a 20-foot run) over elevation changes greater than 20 feet.
Storage containment unit	A portable structure used for storage, including but not limited to PODs, SAMs, and box trailers.
Structure	Anything constructed, erected, or placed on the ground or attached to something on the ground. Among other things, structures include buildings, storage containment units, walls, billboards and poster panels. Excluded from the definition of a structure are: fences, stone walls, gates, lampposts, stairs not attached to a structure, walkways, animal shelters under 15 square feet, flagpoles, sand boxes,

playhouses and other playground equipment, signs and sign installation devices, tents for camping, and temporary tent structures used for functions and gatherings.

Theater	A building or part of a building devoted to showing motion pictures or for dramatic, dance, musical, or other live performances for admission to which entrance money is received.
Warehouse	A structure used for commercial purposes to store goods and materials.
Waterbody	Any permanent collection of water, either natural or artificial in origin, including lakes, ponds and impoundments.
Watercourse	Any natural or artificial stream, river, creek, ditch, channel, or waterway in which water flows continuously in a definite direction or course and has a definite channel, bed and banks.
Wetlands	An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for the life in saturated soil conditions.

ARTICLE XIV
HOME OCCUPATION/COTTAGE INDUSTRY ORDINANCE
Adopted March 11, 2003

Section I: Purpose

- A. To encourage home occupations and cottage industries in the Town of Wilmot.
- B. To maintain the property rights of abutters, the general public and home occupation/cottage industry owners.

Section II: General Provisions

- A. Home Occupations and Cottage Industries are permitted in all Zoning Districts. All persons intending to operate a business activity from their residence shall complete a Home Occupation/Cottage Industry Application before beginning business operations at that site.
- B. Home Occupations or Cottage Industry activities must be customary and incidental to the residential use of the property.
- C. Home Occupations or Cottage Industries shall comply with all zoning regulations, in particular:
 - 1. The prohibition of obnoxious or injurious uses (Article III Section XII);
 - 2. The sign ordinance (Article III Section XIV).

Section III: Definitions/Criteria

- A. A Home Occupation is any activity for financial gain carried on by a resident of a property that has little or no impact on the character of the neighborhood beyond that typically expected from residential use. A Home Occupation will have no more than

four employees on site (in addition to the business owner); will have non-employee traffic numbering no more than 12 business trips per day and will have no outside business storage visible to abutters and/or the public. Home Occupations will not require a Site Plan Review approval by the Planning Board and a Town Business Permit.

- B. A Cottage Industry is any activity for financial gain carried on by a resident of a property that has or may have an impact on the character of the neighborhood beyond that typically expected from residential use. A Cottage Industry will have no more than nine employees on site (in addition to the business owner); will have non-employee traffic numbering no more than 20 business trips per day and may have outside storage visible to abutters and/or the public. Cottage Industries will require Site Plan Review approval by the Planning Board and a Town Business Permit.

Section IV: Procedures

- A. The business owner completes a Home Occupation/Cottage Industry Application (available at the Town Office) with the appropriate fee (as specified in the Fee Schedule). If the business owner is not the property owner, signed authorization from the property owner is required. The application will be placed on the agenda for the next regular meeting of the Planning Board.
- B. At a regular meeting, the Planning Board reviews the Application to determine if the business is a Home Occupation, a Cottage Industry or some other Use.
- C. If the business is determined to be a Home Occupation, the Planning Board shall issue a Notice of Decision. The Planning Board may impose reasonable conditions on a Home Occupation to ensure that the business has little or no impact on the character of the neighborhood beyond that typically expected from residential use.
- D. If the business is determined to be a Cottage Industry, the business owner shall:
 - a. Apply for Site Plan Review through the Planning Board.
- E. Any change in volume or type of business activity that is inconsistent with the Planning Board's final approval shall require reapplication by the business owner.
- F. If there is a change of ownership/tenancy of the property where a Home Occupation or Cottage Industry has been approved by the Planning Board and the new business owner proposes to continue the same business, then the new business owner shall conduct the business in the same manner and under the same conditions as originally approved by the Planning Board. If the new business owner proposes any significant change in volume or type of business activity, the business owner shall file a new application.

ARTICLE XV FLOODPLAIN ORDINANCE

Adopted March 13, 1990

Certain areas of the Town of Wilmot, New Hampshire are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968. Therefore, the town of Wilmot, New Hampshire has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as detailed in this Floodplain Management Ordinance.

The ordinance establishes a permit system and review procedure for development activities in the designated flood hazard areas of the town of Wilmot, New Hampshire.

This ordinance, adopted pursuant to the authority of RSA 674:16, shall be known as the Town of Wilmot Floodplain Development Ordinance. The regulations in this ordinance shall overlay and supplement the regulations in the Town of Wilmot Zoning Ordinance, and shall be considered part of the Zoning Ordinance for purposes of administration and appeals under state law. If any provision of this ordinance differs or appears to conflict with any provision of the Zoning Ordinance or other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.

The following regulations in this ordinance shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Rate Maps dated April 1, 1986 which are declared to be a part of this ordinance and are hereby incorporated by reference.

Section I: The following definitions shall apply only to this Floodplain Development Ordinance, and shall not be affected by the provisions of any other ordinance of the Town of Wilmot.

<u>Term</u>	<u>Definition</u>
Area of Special Flood Hazard	The land in the floodplain within the Town of Wilmot subject to a one-percent or greater possibility of flooding in any given year. The area is designated on the FIRM as Zone A.
Base Flood	The flood having a one-percent possibility of being equaled or exceeded in any given year.
Basement	Any area of a building having a floor sub grade on all sides.
Building	See “Structure”
Development	Any man-made change to improved or unimproved real estate, including but no limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operation or storage of equipment or materials.
FEMA	The Federal Emergency Management Agency
Flood or Flooding	A general and temporary condition of partial or complete inundation of normally dry land areas from: <ol style="list-style-type: none">1. the overflow of inland or tidal waters, or2. the unusual and rapid accumulation or runoff of surface waters from any source.
Flood Insurance	

Rate Map (FIRM)	An official map incorporated with this ordinance, on which FEMA delineated both the special flood hazard areas and the risk premium zones applicable to the Town of Wilmot.
Flood Insurance Study (FIS)	FIS means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.
Floodplain or Flood-prone area	Any land area susceptible to being inundated by water from any source (see definition of “Flooding”).
Flood proofing	Any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.
Floodway	See “Regulatory Floodway”
Functionally Dependent use	A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking and port facilities that are necessary for the loading/unloading of cargo or passengers, and ship building/repair facilities but does not include long-term storage or related manufacturing facilities.
Highest adjacent Grade	The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
Historic Structure	Any structure that is: <ul style="list-style-type: none"> a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - i. By an approved state program as determined by the Secretary of the Interior, or
 - ii. Directly by the Secretary of the Interior in states without approved programs.

Lowest Floor	The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.
Manufactured Home	A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "Manufactured Home" includes park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 days.
Manufactured Home Park or Subdivision	A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
Mean sea level	The National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.
New Construction	For the purposes of determining insurance rates, structures for which the start of construction commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
100-year Flood	See "Base Flood"
Recreational Vehicle	A vehicle that is: <ul style="list-style-type: none"> a. built on a single chassis; b. 400 square feet or less when measured at the largest horizontal projection;

- c. designed to be self-propelled or permanently tow able by a light duty truck; and
- d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use (this definition applies only to the Floodplain Ordinance:.

Regulatory Floodway	The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
Special Flood Hazard area	(See – “Area of Special Flood Hazard”)
Structure	For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.
Start of Construction	Includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on site, such as the pouring of slab or footings, the installation of piles , the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure.
Substantial damage	Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
Substantial Improvement	Any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds 50 percent of the market value of the structure. The market value of the structure should equal: <ul style="list-style-type: none"> (1) the appraised value prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring.

For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures which have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alterations of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

Violation The failure of a structure or other development to be fully compliant with the community’s flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required under Section V or Section VIII (2)(b) of this ordinance is presumed to be in violation until such time as that documentation is provided.

Water surface elevation The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains).

Section II: All proposed development in any special flood hazard area shall require a permit.

Section III: The Board of Selectmen shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in a special flood hazard area, all new construction or substantial improvements shall:

- (1) be designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy,
- (2) be constructed with materials resistant to flood damage,
- (3) be constructed by methods and practices that minimize flood damages,
- (4) be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

Section IV: Where new or replacement water and sewer systems (including on site systems) are proposed in a special flood hazard area the applicant shall provide the Board of Selectmen with assurance that these systems will be designed to minimize or eliminate infiltration of flood waters, and on-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.

Section V: For all new or substantially improved structures located in special flood hazard areas, the applicant shall furnish the following information to the Board of Selectmen:

- (1) the as-built elevation (in relation to NGVD) of the lowest floor (including basement) and include whether or not such structures contain a basement.
- (2) If the structure has been flood proofed, the as-built elevation (in relation to NGVD) to which the structure was flood proofed.
- (3) Any certification of flood proofing.

The Board of Selectmen shall maintain for public inspection, and shall furnish such information upon request.

Section VI: The Board of Selectmen shall not grant a building permit until the applicant certifies that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C 1334.

Section VII:

1. In riverine situations, prior to the alteration or relocation of a watercourse, the applicant for such authorization shall notify the Wetlands Bureau of the New Hampshire Department of Environmental Services and submit copies of such notification to the Board of Selectmen, in addition to the copies required by RSA 482-A:3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Board of Selectmen, including notice of all scheduled hearings before the Wetland Bureau.
2. The applicant shall submit to the Board of Selectmen certification provided by the registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.
3. The Board of Selectmen shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that all development location in Zone A meet the following requirement:
No encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge.

Section VIII:

1. In Zone A the Building Inspector shall obtain, review, and reasonably utilize any 100-year flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site plan approvals).
2. The Board of Selectmen's 100 year flood elevation determination will be used as criteria for requiring in Zone A that:
 - a. All new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the 100 year flood elevation;

- b. That all new construction or substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the 100 year flood level; or together with attendant utility and sanitary facilities shall:
 - i. Be flood proofed so that below the 100 year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - ii. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
 - iii. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section;
- c. All manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the 100 year flood elevation; and be securely anchored to resist floatation, collapse. Or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors;
- d. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements:
 - i. The enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage;
 - ii. The area is not a basement;
 - iii. Shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.
- e. All recreational vehicles placed on sites within Zone A shall either:
 - i. Be on the site for fewer than 180 consecutive days;
 - ii. Be fully licensed and ready for highway use; or
 - iii. Meet all standards of Section II of this ordinance and the anchoring requirements for “manufactured homes” in Section VIII 2 (c) of this ordinance.

Section IX: Variances and Appeals

1. Any order, requirement, decision or determination of the Board of Selectmen made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.
2. If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I(b), the applicant shall have the burden of showing in addition to the usual variance standards under state law:
 - a. That the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.

- b. That if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result; and
 - c. That the variance is the minimum necessary, considering the flood hazard, to afford relief.
3. The Zoning Board of Adjustment shall notify the applicant in writing that:
- a. The issuance of a variance to construct below the base flood level will result in increase premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and
 - b. Such construction below the base flood level increases risks to life and property.
 - c. Such notification shall be maintained with a record of all variance actions.
4. The community shall
- a. Maintain a record of all variance actions, including their justification for their issuance, and
 - b. Report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

ARTICLE XVI
WIRELESS COMMUNICATIONS FACILITIES ORDINANCE
 Adopted March 14, 2000

Section I: Purpose

To provide for the communication needs of the community consistent with the requirements of Federal law while protecting the public safety and general welfare, the Town determines that these regulations are necessary in order to:

- 1. Facilitate the deliver of wireless communication services to residents and businesses of the town;
- 2. Minimize adverse visual effects of wireless communication facilities through carefully considered design and siting standards to achieve compatibility with the visual, historic, and cultural features of Wilmot, such as by use of alternative mount structures;
- 3. Minimize adverse economic impact on property values;
- 4. Minimize the potential for damage to adjacent properties or risk to public safety by means of setback requirements;
- 5. Encourage co-location of wireless communication services to the extent that it is technically feasible;
- 6. Provide for testing of radio frequency emissions from wireless communication facilities; and
- 7. Provide for removal of telecommunication facilities upon abandonment or discontinuation of use.

Section II: Wireless Communication Definitions

<u>Term</u>	<u>Definition</u>
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Alternative Mount	
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Structure	Innovative siting techniques such as artificial trees, clock towers, bell towers, steeples, light poles, and similar alternative structures that camouflage or conceal the presence of mounts or antennas.
Antenna	A device intended for the radiation and/or reception of electromagnetic waves of any frequency.
Average Tree Canopy Height	The average height found by inventorying the height of trees over 20 feet in height for a radius of 150 feet from the proposed wireless communication site.
Co-location	The use of an existing facility for multiple purposes or users.
Height	The distance measured from ground level to the highest point on the mount or other structure, including antennas.
Independent Engineer	An engineer with no regular employment relationship with the applicant, any subsidiaries, or related entities.
Mount	A structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including but not limited to, self-supporting lattice towers, guyed towers, or mono-pole towers.
Scenic Vista	A view including beautiful, spectacular, or dramatic features of the surrounding landscape.
Secondary Use	A use of land or of a building or portion thereof which is unrelated to the principal use of the land or building.
Wireless Communication Facility	(Hereafter referred to as WCF) Any structure (including accessory buildings), antenna, mount, or other device that provides or supports services such as, commercial mobile wireless, unlicensed wireless, cellular phone, specialized mobile radio communications, personal communications, and common carrier wireless exchange access.

Section III: Applicability

This ordinance applies to all WCFs except:

1. This ordinance shall not govern facilities owned and operated by federally-licensed amateur radio station operator. This adopts the provisions and limitations as referenced in NH RSA 674:16, IV;
2. This ordinance shall not govern antennas for non-commercial TV/Radio reception; and
3. This ordinance shall not govern commercial TV/Radio broadcast facilities.

Section IV: Essential Services and Public Utilities

WCFs shall not be considered infrastructure, essential services, or public utilities, as defined or used elsewhere in the Town's Ordinances and Regulations. Siting for WCFs, is a use of land and is subject to the Town's Zoning Ordinance and all other applicable ordinances and regulations.

Section V: General Provisions

All new WCFs and all additions and/or alterations to existing WCFs shall require a permit from the Wilmot Selectmen and Site Plan Review by the Wilmot Planning Board and shall be subject to all applicable federal, state and local regulations. In addition, approval shall be subject to the following requirements:

1. Compliance

All WCFs, including accessory buildings, must comply with the applicable height and setback standards required in General Provisions [b.) and c.)]. For purposes of determining compliance with these standards, the dimensions of the entire lot shall control, even though the facility may be located on leased parcels within such lot; The party responsible for erection of the WCF must furnish a certificate from an independent licensed professional engineer indicating compliance with all applicable regulations and proof of structural integrity. This is to be received within 14 days after completion of the WCF and before operation; and

The WCF owner shall be required to submit a report to the Wilmot Selectmen from a qualified independent engineer that radio frequency emissions are below those levels set by the FCC. This report is to be submitted upon completion of the WCF and annually thereafter, within two weeks of the anniversary of the initial operation of the facility.

2. Height

WCFs shall be no higher than needed for the intended purpose, no higher than 25 ft. above the average tree canopy height, and, under no conditions, higher than 100 feet.

3. Setback

WCFs shall be sited no less than 300 feet from any adjoining lot line; and For protection from mount collapses, falling telecommunication hardware, and falling ice, the WCFs shall be no closer than 1.25 times the height of the WCF to any occupied structure or public use area/facility such as, but not limited to, public roads, parks, playgrounds, or trails.

4. Screening

Depending on safety and aesthetic considerations, fencing and/or screening may be required.

5. Visual Impact

All WCFs shall be of a character, color and design which blends with the background and surroundings. In determining this, the Board shall consider the following criteria:

- a. The impact of the WCF on the community scale, as determined by the height, mass and proportion of the facility relative to the proposed surroundings;
- b. The extent to which the WCF changes the visual elements of the setting by contrasting with the existing background;
- c. The extent to which the colors, textures, and materials used in the WCF blend with those in the existing background; and

- d. The extent to which the WCF will adversely impact the scenic vistas, historical sites, and cultural sites in Wilmot.
Where appropriate, alternative mounts may be required.
6. Lighting
Lighting shall be installed in such a way that it cannot be seen from abutting properties.
7. Noise
Noise emanating from the facility shall not be noticeable at the boundary of the site.
8. Advertising
No commercial advertising shall be allowed on any WCF.
9. Access Roads
All access roads to the WCF shall not exceed 12 ft. in width and must have a minimal impact on the terrain, vegetation, and erosion potential of the area.
10. Supervision of Construction
During construction of the WCF, the owner is responsible for the proper supervision of all construction, vehicles, personnel, subcontractors, and other services. This is to ensure that construction is proceeding professionally and to the specifications demanded in this ordinance and by the Town of Wilmot Selectmen.
11. Use
WCFs may be considered either principal or secondary uses. A different existing use or an existing structure on the same lot shall not preclude the installation of a WCF on such lot.
12. Nonconforming Use
WCFs that are constructed and antennas that are installed, in accordance with the provisions of this ordinance, on a nonconforming lot or in conjunction with a nonconforming structure or use shall not be deemed to constitute an expansion of that nonconforming structure or use.

Section VI: Districts Permitted

Village – WCFs are not permitted in the Village District.

Residential – WCFs shall be permitted in the Residential District by Special Exception only and sited only on the slopes of hills.

Commercial – WCFs shall be permitted in the Commercial District by Special exception only.

Siting shall take into consideration the visual impact of the facility and the density of the surrounding population.

Section VII: Payment of Costs

In the event that the Town deems it necessary, the applicant shall reimburse the Town for expenses incurred to:

- a. Hire experts to provide technical understanding of the proposed new or modified WCF and alternatives; and
- b. Hire experts to interpret test results for the radio frequency emissions, at the time of completion of the WCF and annually thereafter.

Section VIII: Removal of Abandoned WCFs

Any WCF that is not operated for a continuous period of twelve (12) months shall be considered abandoned and hazardous to the public health and safety. The owner shall remove the abandoned structure within ninety (90) days of the receipt of a declaration of abandonment from the Town. A declaration of abandonment shall be issued following a public hearing, noticed according to NH RSA 676:4, with notice to abutters and the last known owner/operator of the facility. If the abandoned facility is not removed within ninety (90) days, the Town may execute the security and have the facility removed. If there are two or more users of a single WCF, this provision shall not become effective until all users cease using the facility.

Section IX: Bonding Security and Insurance

Recognizing the extremely hazardous situation presented by abandoned and unmonitored WCFs, the Planning Board shall set form and amount of security that represents the cost of removal and disposal of the facilities in the event of abandonment and the owner's incapacity and/or unwillingness to remove the facility. The amount of the security shall be based upon the removal cost plus, fifteen percent (15%) as certified by an independent licensed professional engineer. The owner of the facility shall provide the Selectmen with a revised removal cost estimate prepared by an independent licensed professional engineer every five (5) years from the date of approval of the site plan. If the cost has increased more than fifteen percent then the owner of the facility shall provide additional security in the amount of the increase.

Furthermore, the Planning Board shall require submission of proof of adequate insurance covering accident or damage.

ARTICLE XVII ACCESSORY DWELLING UNITS Revised 08/04/08

Section I. Purpose

The intent of this regulation is to encourage housing options in Wilmot, particularly for families and caregivers, while ensuring residents' health and safety and preserving the rural and village character of the town.

Section II. Definition

Accessory Dwelling Unit: A second dwelling unit, subordinate to the primary structure, either in, added to, or detached from an existing or proposed single family dwelling, which may be used as an independent dwelling unit with provisions for cooking, sanitation and sleeping.

Section III. General Requirements for Dwelling Units

1. Only one (1) Accessory Dwelling Unit is allowed per primary single-family dwelling unit. Accessory dwelling units are only

- allowed with a primary structure, either in, added to, or detached from an existing or proposed single-family dwelling.
2. The Accessory Dwelling Units must be clearly incidental and subordinate to the use of the primary dwelling unit.
 3. Accessory Dwelling Units are permitted in all Zoning Districts, subject to compliance with the provisions of the Zoning Ordinance and this Article, including the following requirements:
 - a. The Accessory Dwelling Unit and the primary dwelling unit must meet all applicable zoning regulations specific to the zoning district in which they are located except that no additional acreage or road frontage shall be required for the accessory dwelling unit.
 - b. An Accessory Dwelling Unit will not have more than one bedroom and will not exceed 750 square feet of floor area.
 - c. The Accessory Dwelling Unit must have safe and adequate ingress and egress.
 - d. The Accessory Dwelling Unit, if attached, must be designed so that the appearance of the building remains essentially that of a single-family dwelling. If the accessory unit is detached, its design should appear as an accessory structure to the primary dwelling unit in order to maintain the character of the neighborhood.
 - e. Adequate off-street parking must be provided to support the residents' vehicles of both the primary residence and the Accessory Dwelling Unit.
 - f. The owner must provide a State approved septic system design for use in the event of failure of the existing system, adequate to address the needs of both the primary dwelling unit and the Accessory Dwelling Unit.
 - g. The Accessory Dwelling Unit must have its own street number.
 4. An Accessory Dwelling Unit shall remain under the same ownership as the primary residence.
 5. The purchaser of a home with a previously approved Accessory Dwelling Unit must comply with all conditions of the previously granted permit.
 6. All non-conforming Accessory Dwelling Units pre-existing when this Article is adopted are "grandfathered."

Section IV. Procedure

All persons intending to create an Accessory Dwelling Unit must apply to the Board of Selectmen for a Building Permit before any construction begins.