

4.0 *GENERAL PROVISIONS AND PERFORMANCE STANDARDS*

This Chapter establishes controls to prevent land and structures, and the use thereof, from creating any potentially dangerous, injurious, noxious or otherwise objectionable condition that could adversely affect the health or safety of the Wilton community, the quality of the environment, or the use, enjoyment or value of surrounding property. It also addresses certain general requirements with respect to the use of land located in Wilton, as well as for the grant of a special exception under, or a variance from the requirements of, this Ordinance. Except as expressly set forth below, all (1) structures, existing or proposed, in the Town of Wilton, (2) uses thereof or of any land in the Town of Wilton, and (3) operation of any equipment, including, in each case, structures and uses permitted by right, special exception or variance, must comply with this Chapter, as well as with all other applicable requirements of this Ordinance, Section E of the Wilton Land Use Laws (the Building Code Ordinance), and State and Federal law. If there is a conflict between any such requirements, the most restrictive shall prevail. To the extent an existing structure or use is extended, enlarged, changed, moved, reconstructed or altered, it shall comply with this Chapter and all such other applicable requirements.

4.1 *Excavation, Drilling and Removal of Materials.*

Excavation of certain earth materials regulated under RSA 155-E is permitted only in the Gravel Excavation District under the restrictions of Chapter 9B of this Ordinance, except where exempted under RSA 155-E:2 and RSA 155-E:2-a. Otherwise, no excavation, mining, prospecting or drilling for oil, natural gas or similar substances shall be made on, and no materials shall be removed from, any site except as incidental to, and only as required by, the construction of permitted improvements thereon, and, upon completion, exposed areas shall be backfilled, and disturbed ground shall be graded, leveled, paved or landscaped in accordance with RSA:155-E.

4.2 *Sanitary Waste Disposal.*

All sanitary waste shall be properly disposed of in such a manner as to prevent all health hazards. New construction in areas serviced by the Town sewer system shall be required to connect to the system. All other construction shall be served by septic systems constructed, maintained and replaced in accordance with the standards set and enforced by the New Hampshire State Department of Health and Welfare and by the New Hampshire Water Supply and Pollution Control Division (WSPCD), as well as the following requirements and those otherwise set out in this Ordinance or required by the Planning Board:

- a. no system shall be located in poorly or very poorly drained soils;
- b. systems shall be set back from wetlands, water bodies, open water bodies and perennial streams as follows:

1. systems located entirely or partially in highly permeable soils (a permeability of six (6) inches per hour throughout as indicated in the USDA *Soil Survey of Hillsborough County, New Hampshire, Western Part*) - 125 feet;
 2. systems located entirely or partially in somewhat poorly drained soils, moderately well drained soils or soils with a restrictive layer and a slope of 8 percent or greater - 100 feet; and
 3. systems located in all other soils - 75 feet.
- c. Before covering, all systems shall be inspected by the State of New Hampshire at the sole cost of the owner.

4.3 Unregistered Motor Vehicles.

No more than two unregistered motor vehicles that are no longer in condition for legal use on public highways are permitted on a lot, except in connection with the operation of an approved business there.

4.4 Temporary Placement of Manufactured Homes and Non-residential Facilities.

4.4.1 Temporary Placement of Manufactured Homes.

The Building Inspector may grant a permit to locate a manufactured home for use as a temporary dwelling unit for a period of up to twelve months on the lot where a permanent dwelling is being constructed or substantially remodeled or reconstructed, subject to required setbacks. For good cause shown, the Building Inspector may grant one or more extensions to the permit. At the end of the twelve-month period or the last extension thereto, the manufactured home must be removed from the lot. The temporary dwelling unit shall be serviced by existing or new approved septic/sewer and water systems.

4.4.2 Temporary Placement of Non-residential Facilities.

The Building Inspector may grant a permit to erect or locate temporary office or other non-residential facilities, including, without limitation, on construction sites, for a period of up to six months on the lot where a permanent structure is being reconstructed after damage by fire or other natural cause. Such temporary facilities may not be used for manufacturing activities. Within 60 days following the issuance of a permit hereunder, an application for site plan review must be submitted to the Planning Board, showing the permanent location of all such facilities. For good cause shown, the Building Inspector may grant one or more extensions to the permit. At the end of the six-month period or the last extension thereto, the temporary facility must be removed from the lot. Temporary facilities shall be serviced by existing or new approved septic/sewer and water systems.

4.4.3 Compliance; Right to Remove.

The placement and use of all temporary facilities permitted under Section 4.4.1 or 4.4.2 shall comply with the setback and other requirements of this Ordinance, as well as other applicable law. In the event any such temporary facility is not timely removed upon expiration of the applicable permit, the Town may, upon notice to the owner, remove it at the owner's expense.

4.5 Private Aircraft Landings and Takeoffs.

Private aircraft shall not be permitted to land or take-off, nor shall any related equipment be operated, on any land located in the Town of Wilton, other than in connection with emergency situations.

4.6 Snow Storage or Removal.

All plans for proposed development in zoning districts other than the Residential and Residential/Agricultural districts shall address snow storage and/or removal, in accordance with applicable stormwater and other requirements, which shall not conflict with landscaping, visibility, or drainage requirements for the site.

4.7 Maintenance of Landscaping.

Landscaping required to be installed pursuant to an approved site plan or otherwise by this Ordinance shall be maintained as originally specified and approved. Failure to replace dead or diseased vegetation, shall be deemed a violation of this Ordinance and the Town may, upon notice to the owner, replace it at the owner's expense.

4.8 Wetlands Conservation District Setback.

All structures must be set back 50 feet from delineated wetlands and water bodies.

4.9 Wetlands Conservation District Buffer.

No fertilizer shall be applied to the vegetation or soils located within 25 feet of delineated wetlands or water bodies. Between 25 and 50 feet from the delineated wetland or water body, slow or controlled release fertilizer, as defined by the NH Department of Environmental Services, may be used. No chemicals, including pesticides or herbicides of any kind, shall be applied to ground, turf or established vegetation within 50 feet of the delineated wetland or water body, except if applied by a licensed horticultural professional.

4.10 Performance Standards.

The use or operation of any land, structure or equipment located in the Town of Wilton shall not produce conditions, including, without limitation, the following, that could (1) adversely affect the health or safety of the Wilton community, that of its neighbors, the quality or harmony of the environment, or the use, enjoyment or value of surrounding

property, or (2) violate this Ordinance, the Building Code Ordinance or any other applicable local, State or Federal requirements. For purposes of these performance standards, the term “property line” means the boundary of the property on which a structure or equipment is located or on which a use takes place.

4.10.1 Vibration and Ground Motion.

Except in connection with permitted excavation activities or the demolition, construction or reconstruction of a structure, no activity shall generate any vibration or other aperiodic ground motion inherently and recurrently transmitted through the ground that is perceptible without the aid of instruments at any point beyond the property line.

4.10.2 Noise.

No activity, or failure to act, shall generate or result in the generation of noise that could interfere with the reasonable enjoyment of life and property or the conduct of business or that would exceed the limits established below or pursuant to any permit issued by the Town.

No activity, or failure to act, shall cause the continuous sound level generated on a lot to exceed the following limits at the property lines of contiguous lots (receptor lots) in the following Land Use Zones, as measured in decibels by an acceptable instrument at the applicable property line:

Land Use Zone of Receptor Lot	Daytime (7:00 am-7:00 pm, excluding Sundays/Holidays)	Nighttime (7:01 pm – 6:59 am, and Sundays/Holidays)
Residential	55	45
Residential/Agricultural	55	45
Commercial	65	55
Industrial	75	75

For purposes of this section, the term “acceptable instrument” means one conforming to the specifications of the American National Standard (ANSI S1.4--1983) for Type 1 precision or Type 2 general purpose sound-level meters.

Notwithstanding an ambient sound level at the receptor lot line as high as the limits set out above, no activity, or failure to act, shall cause the continuous noise level at any given time to exceed such limits, or the level of the ambient sound level, if it is higher. For purposes of this section, the term “ambient sound level” means the noise level at a location from time to time produced by transportation vehicles, natural phenomena and distant activity not related to a local sound source.

No activity, or failure to act, shall cause an impulsive sound level that exceeds the following limits, as measured in decibels by an acceptable instrument at the property line in applicable locations:

Land Use Zone	Daytime (7:00 am-7:00 pm, excluding Sundays/Holidays)	Nighttime (7:01 pm – 6:59 am, and Sundays/Holidays)
Residential	60	45
Residential/Agricultural	60	45
Commercial	75	55
Industrial	85	75

For purposes of this section, the term “impulsive sound” means a repeated sound of short duration characterized by an abrupt onset and rapid decay and occurring at the rate of less than one per second.

The requirements of this section shall not apply to the operation or conduct of (1) temporary on-site generators providing emergency power during electrical outages; (2) customary equipment used during daytime construction of permitted structures, such as air compressors or generators; (3) power tools for intermittent residential use and maintenance, such as mowers, chainsaws, snow removal equipment, etc.; (4) permitted events conducted during the prescribed time period; (5) emergency vehicles or equipment or alarm systems; (6) customary agricultural activities during normal working hours; (7) school or church bells or chimes; and (8) blasting activity conducted in accordance with permit requirements.

4.10.3 Odors.

A non-agricultural activity shall not generate any odor that could reasonably be considered objectionable or offensive to persons of average sensibilities in concentrations perceptible at any point beyond the property line.

4.10.4 Smoke and Airborne Particulates.

Subject to Section 4.10.5 below, no activity shall result in the emission or discharge, from any source whatever, of any smoke or particulate matter, such as dust, dirt or ash, that may become airborne, with a density greater than that described as No. 1 on the Ringelmann chart, measured at the point of emission into the atmosphere or other point of discharge. Particulate matter shall not be visible to the human eye at any point beyond the property line. No person shall cause or permit any materials to be handled, transported, or stored in a manner that would allow any particulate matter to become airborne.

These requirements shall not apply to (1) the operation of residential heating equipment and systems in accordance with applicable requirements and manufacturers’ specifications, (2) permitted outdoor fires, (3) customary agricultural activities, or (4) use of residential fireplaces.

4.10.5 Discharge of Hazardous or Toxic Materials, Gases or Liquids.

No (1) hazardous or toxic materials, liquids or gases, (2) hazardous radioactive materials or emission, or (3) other non-toxic substance that nevertheless could harm the public health, its safety or the environment in combination with other activities or substances, may be discharged or emitted into the air, soil or groundwater, the Town sewer system, any septic system or any stormwater system.

These requirements shall not apply to (1) agricultural activities conducted in accordance with local, State and Federal requirements, and best management practices promulgated from time to time by State agricultural agencies; (2) smoke emitted in compliance with, or from sources excepted from, Section 4.10.4 above, or (3) customary residential chemical applications by licensed providers or in compliance with manufacturers' specifications and other best practices.

4.10.6 Lighting and Glare.

Lighting or structural elements installed on a private site shall comply with the requirements of this Ordinance, and in particular, Chapter 16A, and shall not, in any event, cast or reflect glare or light beyond the property line.

These requirements shall not apply to emergency safety lighting.

4.10.7 Signage.

Signage installed on a private site shall comply with the requirements of this Ordinance, and in particular, Chapter 16, and shall not, in any event, detract from the visual environment of the Town of Wilton, endanger, confuse or mislead individuals, or obstruct vision necessary for traffic safety.

4.10.8 Electromagnetic Radiation.

Activity producing electromagnetic radiation that causes abnormal degradation, by reason of proximity, primary field, blanketing, spurious radiation, conducted energy in power or telephone systems or harmonic content, of other electromagnetic receptors of quality and proper design located beyond the property line is prohibited. "Abnormal degradation" and "of quality and proper design" shall be determined in accordance with standards established from time to time by the American Institute of Electrical Engineers or such other group that provides standards more specifically for the type of interference at issue.

4.10.9 Materials Creating a Fire or Explosion Hazard.

Storage or use of flammable liquids or gases, or other explosive materials, shall be permitted only in compliance with this Ordinance and other applicable local, State and Federal requirements, including, without limitation, those imposed from time to time by the Fire Chief of the Town of Wilton.

4.10.10 Stormwater Management.

All new construction, development, reconstruction and other activity that disturbs the soil shall be designed to minimize stormwater runoff from the site in excess of the natural preexisting conditions, including location and volume, and shall comply with the requirements of this Ordinance and in particular, Section H, Stormwater Management and Erosion Control Regulations. Where activity is within the Watershed Protection District, the Aquifer Protection District, or any other aquifer or wellhead protection area, all surface stormwater shall be kept on-site and handled in such a manner as to allow the water to infiltrate into the ground before leaving the site.

4.10.11 Structure Design.

Proposed structures shall relate harmoniously to the terrain and to existing structures in the vicinity, in keeping with the characteristics of the neighborhood. To the extent practicable, structures shall be designed based on existing topography, vegetation and drainage characteristics and the site shall retain significant and/or unique features, such as historic resources, existing ponds or streams, and mature trees.

4.10.12 Exception for Pre-existing Structures, Installations or Use.

The requirements of this Section 4.10 shall not apply to structures, installations or uses in place prior to adoption of this Ordinance, except in situations where the public health or safety is threatened or as otherwise required by applicable local, State or Federal law. To the extent an existing structure or use is extended, enlarged, changed, moved, reconstructed or altered, it shall comply with this Chapter and all such other applicable requirements.

4.11 Applications and Approval.

All applications for subdivision, site plan review, special exceptions or building permits shall demonstrate compliance with the requirements of this Chapter. The Planning Board, Zoning Board of Adjustment or Building Inspector, as appropriate, shall grant approvals only upon a determination that the resulting use, development or installation will comply with this Chapter, or will not increase any existing non-compliance.

If the Planning Board, Zoning Board of Adjustment, or Building Inspector, as applicable, determines that reasonable grounds exist to believe that the use, development or installation may result in noncompliance, it may require the applicant, at the applicant's sole expense, to submit evidence sufficient to enable an objective determination to be made, including, without limitation: documentation of the performance of similar facilities or processes on other sites with sufficiently similar conditions;

- a. specifications for the equipment, mechanism or techniques proposed;
- b. certification of compliance by a State-licensed engineer or other professional reasonably acceptable to the Planning Board, Zoning Board of Adjustment or Building Inspector, as the case may be; and/or

- c. other studies evaluating the impact of the project, including, without limitation, on traffic, background noise, environmental conditions and/or property value.

In addition, the Town may, upon notice to the applicant, and at the applicant's expense, obtain itself such information, or commission such studies, as necessary in its discretion to allow it to make an objective determination.

4.12 Special Exceptions.

Any Special Exceptions permitted by this Ordinance may be granted by the Zoning Board of Adjustment only upon a finding that the proposed use, structure or activity:

- a. is not permitted by the Ordinance in the absence of a Special Exception;
- b. is consistent with and will not substantially affect the character of the neighborhood in which it is proposed;
- c. will comply with Sections 4.10 - 4.10.11 inclusive of this Chapter and will not jeopardize the health or safety of anyone on or off the site;
- d. will not cause diminution of surrounding area property values;
- e. will not have an unacceptable effect on traffic in the neighborhood or in the Town;
- f. will have available adequate off-street parking, if required;
- g. will not be detrimental to the attractiveness of the Town;
- h. is consistent with the spirit of this Ordinance; and
- i. meets all other criteria enumerated in the Section that permits the particular Special Exception.

4.13 Variances.

The Zoning Board of Adjustment may grant a variance from the requirements of this Ordinance, as permitted by, and in accordance with, State law, including, without limitation, RSA 674:33, from time to time in effect, upon appropriate findings and in a written decision complying with State requirements.

4.14 Notification of Abutters.

Applications to the Zoning Board of Adjustment and Planning Board shall require notification of the property owner(s), applicant(s), all persons required under RSA 676:4 I.(d), and RSA 676:7 I (a), and all property owners separated by a railroad right-of-way.

4.15 Enforcement.

In addition to action the Town may pursue as described above or by applicable law, the Building Inspector shall enforce the requirements of this Chapter as set forth in Chapter 19 of this Ordinance.