

6.04.0 OPEN SPACE AND CONSERVATION DISTRICT (2018)

6.04.1 PURPOSE

The Open Space and Conservation District is intended to encourage environmentally sound planning to permanently protect open space in order to retain and protect important natural and cultural features, and provide for efficient use of land and community services to advance the goals stated in the master plan. This section is being adopted pursuant to the authority of RSA 674:21 and it is expressly intended to establish an innovative land use provision that allows the Planning Board the discretion to establish the scope and intensity of a proposal under this section.

6.04.2 OBJECTIVES AND STANDARDS

The standards that shall guide the Planning Board in the administration of this section are set forth as follows:

- A. To create permanently protected open space without decreasing the allowable density of the site;
- B. To promote the preservation of and to minimize the adverse impacts on environmental resources and areas of highest ecological value, including but not limited to: streams, ponds, floodplains, wetlands, drinking water supplies, steep slopes, scenic views, open fields, farmland, forests, wildlife habitat, unfragmented blocks of undeveloped land, habitat of rare and endangered species, and historic, archaeological, and cultural sites and features;
- C. To enhance the quality of life with the provision of space for low impact passive recreation and aesthetic enjoyment;
- D. To promote development that incorporates efficient design and siting of the transportation network and infrastructure, to reduce the use of and the impact on natural resources and to minimize maintenance costs;
- E. To maintain rural character;
- F. To locate buildings and structures on those portions of the site that are the most appropriate for development, avoiding constraints such as, but not limited to: poor soil conditions, high water table, areas subject to frequent flooding and excessively steep slopes (greater than 25%).
- G. To create a contiguous network of open spaces or "greenways" by linking the common open spaces within the subdivision to open space on adjoining lands wherever possible.
- H. To reduce impacts on water resources by minimizing land disturbance, impervious surfaces and stormwater runoff.
- I. To minimize the impact of residential development on the municipality, neighboring properties, and the natural environment.
- J. To exclude high functioning wetlands from house lots when practicable.

6.04.3 GENERAL REGULATIONS

- A. Any plan submitted under the Open Space and Conservation District section of Milford's Zoning Ordinance (hereinafter Open Space Preservation Design or OSPD) shall mean a development in which the provisions of this Section are met.
- B. All Open Space shall be dedicated as permanently preserved from future development.
- C. The overall dwelling unit density shall not exceed that which would be allowed in the underlying zoning district.
- D. Open Space set asides are ineligible as contributing land area in any subsequent development.
- E. Permitted uses are the same as those allowed in the underlying zoning district.

6.04.4 LOCATION AND SCOPE OF AUTHORITY

- A. The Open Space and Conservation District is an overlay district which imposes additional requirements and restrictions to those of the underlying base zoning district established under the powers granted by NH RSA 674:21. In case of conflict between the requirements of 6.04.0 and the requirements presented elsewhere in the Milford Zoning Ordinance, the provisions of 6.04.0 shall apply. (2010)
- B. All subdivisions of land into five (5) or more residential lots, or developments of five (5) or more dwelling units, must incorporate the criteria in OSPD, except as set forth below. The Planning Board will examine the subdivision proposal using the list of resources desirable for preservation (see Open Space Design 6.04.6.D.1) to ensure that the proposed open space is consistent with the criteria set forth and the purpose of the zoning district. At the discretion of the Planning Board, and if the proposed development does not meet the criteria, the development may be required to incorporate the criteria of a conventional subdivision as permitted by the underlying zoning district.
- C. Properties with subdivision proposals of four (4) or fewer residential lots or for development of four (4) or fewer dwelling units will be examined by the Planning Board using the list of resources desirable for preservation (see Open Space Design 6.04.6.D.1). At the discretion of the Planning Board, these developments may be required to incorporate the criteria in OSPD.
- D. Developments of four (4) or fewer lots, or four (4) or fewer dwelling units, that have not been identified by the Planning Board as needing to comply with OSPD, are exempt from the OSPD requirement, provided there is no potential for further subdivision or development of any lots or dwelling units therein or of the parcel from which the four (4) or fewer lots or dwelling units have been subdivided.
- E. Residential subdivisions of land in any zoning district, where each lot is at least 5 times the size required in the underlying zoning district, shall be exempt from OSPD requirements, provided the deed and the subdivision plan for each lot(s) contains a restriction prohibiting the further subdivision of the lot(s).

- F. When a subdivision or development is proposed which includes a lot(s) which may be capable of further subdivision or development, the Planning Board may require that a conceptual, long range plan for the entire parent parcel be presented so that the Board may consider the entirety of a parcel and its impacts. This long-range plan is non-binding. Any future development of the lot or lots will be reviewed by the Planning Board with reference to this long-range plan.

In accordance with Section 5.011 of the Town of Milford Development Regulations, the Planning Board, with input from the Conservation Commission, may require the applicant to submit an 'Environmental Study'.

6.04.5 REVIEW PROCESS

All applicants for review of Open Space subdivisions are required to follow the review process stated in the Milford Development Regulations ARTICLE IV: PERMITTING PROCEDURE – SITE PLAN AND SUBDIVISION APPLICATIONS.

6.04.6 OPEN SPACE DESIGN

- A. Every OSPD shall avoid or minimize adverse impacts on and promote the protection and enhancement of the town's natural, cultural and historic resources by incorporating permanently protected Open Space into the design.
- B. **Minimum Required Open Space:**
1. Subdivisions in Residence A and B shall have a minimum of fifteen (15%) percent of the gross tract area placed into permanently protected open space. The amount to be included in open space shall include land deemed to serve the public's interest by the Planning Board. Features deemed in the public interest include but are not limited to: land for bike lanes, public walkways, trail connections, public transit stops, pocket parks, stormwater management, and high value natural resources such as the Souhegan River, its tributaries, wetlands and buffers.
 2. Subdivisions in Residence R shall place not less than forty (40) percent of the gross tract area into permanently protected open space.
- C. Of the minimum required Open Space fifty (50) percent must consist of non-wetland soils and soils with slopes less than twenty-five (25) percent. The remaining fifty (50) percent may consist of a mix of high value natural resources as listed in D.1 below and buildable land.
- D. **Design Standards:**
1. **List of Resources to Consider for Preservation:**
 - a. Open water, waterways, stream channels, floodplains and very poorly drained soils, including adjacent buffer areas as defined in 6.02.0 Wetland Protection District;
 - b. The habitat of species listed as endangered, threatened, or of special concern by the NH Natural Heritage Inventory or by the NH Fish & Game Department's Non-game & Endangered Wildlife Program;

- c. Moderate slopes, fifteen to twenty-five (15-25) percent, and steep slopes, greater than twenty-five (25) percent, particularly those adjoining water courses and ponds.
- d. Prime (Federal designation) and Important (State designation) Agricultural Soils, as shown on the Agricultural Soils Map in the current Milford Conservation Plan;
- e. Historic sites and features;
- f. Existing or planned trails connecting the tract to other locations, including, but not limited to, the trails on the town trails map maintained by the Milford Conservation Commission of formal and informal trails;
- g. Other space or resources as required by the Planning Board for low-impact recreational or public interest use consistent with Section 6.04.1.
- h. Scenic views and elements of the town's rural character such as forested margins and agricultural fields.
- i. Undeveloped frontage along existing roads to manage increased density by minimizing views of new development from existing roads.

2. Design and Use considerations for preserved Open Space:

- a. The preserved open space shall include as many of the resources listed in Section 6.04.6.D.1 (Resources to Consider for Preservation) as practical;
- b. The preserved open space shall be free of all structures except historic sites, features, and structures related to permitted open space uses;
- c. Subsurface disposal systems may not be placed in the preserved open space;
- d. Water supplies may be placed in the preserved open space;
- e. Stormwater management systems may, at the discretion of the Planning Board, be placed in the preserved open space;
- f. Preserved open space shall be accessible to all the lots or units within the development,
- g. Narrow open space strips (of less than fifty (50') feet) shall not be permitted unless the incorporation of the open space strips provides a logical and practical link to, or expansion of, existing or known planned adjacent preserved open space;
- h. Preserved open spaces shall be interconnected wherever possible to provide a contiguous network of open space lands within and adjoining to the development;
- i. Public access, regardless of ownership, shall be provided to trails within open space if they are linked to other publicly accessible pathway systems.

6.04.7 Protection and Ownership:

- A. All open space shall be permanently protected by a conservation easement or by covenants and restrictions in perpetuity, approved by the Planning Board after review by the Conservation Commission. The Planning Board may require further legal review of any documents submitted, the cost of which shall be borne by the applicant.
- B. All approved open space shall be marked in the field by the developer with signage approved by the Conservation Commission to distinguish these areas from house lots. The signage for a lot must be in place prior to issuance of a Certificate of Occupancy for that lot.

- C. The Planning Board will be responsible for providing a recommendation, with input from the Conservation Commission, on ownership of the preserved open space to the Board of Selectmen for its consideration and acceptance.
- D. At the completion of the project, the open space shall be owned in one of the following ways:
1. Owned by the Town of Milford and managed by the Conservation Commission.
 2. Owned by a Non-Profit Organization dedicated to conservation principles.
 3. Owned by a private individual or organization.

6.04.8 DENSITY AND DIMENSIONAL STANDARDS

A. Density:

1. The density of the proposed development shall be equal to or less than the density allowed in the underlying zoning district;
2. The maximum density of a proposed development shall be established by one of the following two methods. The method used is at the discretion of the Applicant:
 - a. Conventional Plan Approach:

A preliminary plan, based on accurate topographic field survey information, shall show the number of lots or units which could be laid out in a conventional subdivision or site plan without the need to obtain variances, special exceptions, and/or waivers for lot frontage, setbacks, area, road and driveway grades, and soil types for subsurface disposal systems (if used).

The purpose of the conventional subdivision or site plan is to provide the applicant at the completion of the design review stage a maximum number of lots or dwelling units to proceed to final design. However, if more detailed final engineering indicates the maximum number of lots/dwelling units approved at the design review stage cannot be reasonably incorporated into the final plan based on the elements noted above, the Planning Board reserves the right to reduce the allowable number of lots/units in the final design.

- b. Formula Approach: Under the formula approach, the base number of dwelling units is determined by the following formula:

$$[\text{Total Area of Parcel} - (\text{Wetlands} + \text{Steep Slopes})] \times \text{Factor} \div \text{Minimum Lot Size} = \text{Maximum Number Dwelling Units}$$

Table 6.04-1

Percentage of Parcel that is Wetlands and/or Steep Slopes* [*≥25%]	Factor
0 – <10%	0.75
10 – <20%	0.70
20– <30%	0.65
30% or more	0.60

B. Dimensional Standards:

1. Lot Size

Once the maximum number of lots has been determined utilizing one of the methods outlined above, the actual minimum size of the individual lots in the subdivision may be determined by the Planning Board which may establish lots in sizes smaller than the prevailing minimum lot size requirement applicable in the underlying zoning district; provided, nevertheless, all such approved lots shall have the required area to meet applicable safety and health requirements.

2. Other Dimensional Standards:

All lots, including lots the size of which is reduced pursuant to Section B.1, above, shall comply with the following additional dimensional standards provided; nevertheless, the Planning Board, at its discretion, may expressly waive any of the other dimensional requirements set forth (below):

- a. The minimum lot frontage shall be fifty (50) feet.
- b. The building shall be setback at least thirty (30) feet from the front property line. The building shall be at least fifteen (15) feet from the side and rear property lines.

3. Waiver Process

The Planning Board, when exercising the discretion to establish minimum lot sizes under Section B.1, above and to waive otherwise applicable dimensional standards under Sections B.2, above, shall consider evidence relating to the same at a noticed public hearing and, pursuant thereto, shall grant such waivers and/or reduce the minimum lot sizes, only after the Planning Board determines that the waiver and/or reduction, if allowed, will meet the standards set forth in Section 6.04.2.

C. Miscellaneous Requirements:

1. Village Plan alternatives as outlined in NH RSA 674:21.VI shall be permitted. No increase in density will be permitted.
2. The Planning Board may require site plans for individual lots containing slopes greater than fifteen (15) percent, soils rated as having "severe" limitations for septic systems if not on municipal sewer (as determined by the USDA), very poorly drained soils, or when the Board questions the adequacy of a proposed lot to support a dwelling unit and related structures.

6.05.0 NASHUA AND ELM STREETS CORRIDOR DISTRICT (2012)

6.05.1 AUTHORITY

- A. Title: This Ordinance shall be known as the Nashua and Elm Streets Corridor District. (2012)
- B. Authority: The Planning Board is hereby authorized to administer this Ordinance under the provisions set forth in NH RSA 674:21, Innovative Land Use Controls.

6.05.2 PURPOSE

The purpose of this Ordinance is to implement the Town of Milford's vision for the future as set forth in the Community Character Chapter of the Master Plan 2007 Update:

Goal No. 2: Foster the traditional character of Milford's neighborhoods by encouraging a human scale of development that is similar in setbacks, size and height, and that is comfortable and safe for pedestrians and non-motorized vehicles while allowing for an efficient and safe roadway network.

In carrying out this goal, this Ordinance is designed to accomplish the following:

- A. Promote development that reflects the intended character of Milford's residential, commercial, and industrial neighborhoods relative to height, lot coverage, and setbacks.
- B. Encourage the development of entryway corridors and gateways relative to architectural and historic heritage, landscaping, stormwater management, traffic management, and parking.
- C. Preserve and enhance the architectural and visual character of the corridors.
- D. Encourage development to reflect the historic pattern of development in Town and enhance Milford's sense of community and place.
- E. Encourage attractive pedestrian scale development.
- F. Improve the overall streetscape of major corridors.
- G. Improve transportation efficiency.
- H. Promote alternative modes of transportation, particularly pedestrian and biking.

The following standards are tools that create a flexible framework to guide the appearance of future development that is compatible with the historic nature of Milford, while allowing for innovation and architectural creativity in order to enhance a special place.

6.05.3 FINDINGS

- A. The Nashua and Elm Streets corridor is becoming increasingly congested due to additional curb cuts and traffic from both local and regional development.
- B. Access management will increase the efficiency, safety and mobility of the corridor.