
APPENDICES

APPENDIX A

MASON MASTER PLAN VISION, 2007

Mason is a community, built upon hundreds of years of history and has generally been intact as a pristine rural community. The Town's past shaped not only the land, but the character of those who reside in Mason. Mason now lies on the edge of sprawling development from both the south and the east. Maintaining the rural character that attracted so many unique individuals over its many years is more of a challenge than ever before.

Dirt roads, vast forested areas, scenic views, historic landmarks, stone walls, pristine streams, and small town character are highly valued by the citizens of Mason. Our vision is one where all of these valuable assets are protected; for once they are lost, they cannot be replaced. We realize as a community that change will come. Therefore, our vision must guide us towards planned and thoughtful growth that will maintain the rural atmosphere so cherished by our community.

This Vision is a collection of the thoughts and ideas that were expressed during a number of community activities, which included a community visioning project in 2001, a community survey in 2005 and public meetings of the Master Plan Steering Committee. The following are the "desires articulated by the citizens" as determined during these community activities:

TO MAINTAIN AND NURTURE OUR COMMUNITY CHARACTER, MASON

...

- Will foster a sense of community and maintain the social fabric that makes Mason a great place to live.
- Will preserve the historic integrity of the Town Center and maintain it as the civic heart of the community.
- Recognizes that the visual character of the community comes from the many scenic views along its country roads. We will preserve and enhance the rural character of the Town as seen from its roads through the creation of clear and consistent policies on town roads and avoid scattered and premature development.
- Will develop and improve the use of planning tools such as a Capital Improvements Plan, accurate mapping, and growth monitoring.

TO ENSURE THE OPPORTUNITY FOR ECONOMIC DEVELOPMENT, IN CHARACTER WITH OUR RURAL COMMUNITY, MASON ...

- Will identify types of business and industry, potential locations, and desired attributes that are in keeping with the rural character of the Town.
- Will support efforts to bring viable access to DSL, Broadband and / or wireless internet accessibility to home-based and commercial businesses.
- Will create policies that control light, air, noise and water pollution, are in character with the structural and landscaping aesthetic of the community, create incentives for conservation, establish greenbelt requirements, control traffic, and address the potential impact of any permit issued.

TO PROTECT AND CONSERVE OUR NATURAL RESOURCES, MASON...

- Recognizes the value of natural resources in protecting our health, both physically and mentally, and the health of the environment as a whole. In order to protect those natural resources we will invest in protecting large tracts of land for wildlife habitat and water quality.
- Will create an Open Space Plan to determine sensitive environmental areas and help guide public policy regarding development and conservation.
- Will undertake a comprehensive initiative designed to protect water resources and water supplies.
- Will encourage the use of conservation easements with willing landowners to protect high priority lands.
- Work as a community to educate each other about land and limitations inherent in the land, such as soil types and depth to bedrock, and the impact that development has on land and water quality.

TO PRESERVE OUR HISTORY AND CULTURE, MASON ...

- Will maintain access to all public historic sites and structures.
- Will protect and preserve historic features both in and out of the designated historic district.
- Will improve communications with outside agencies engaged in historic preservation work such as the NH Department of Historic Resources in order to keep up to date on historic preservation techniques.
- Will promote the resources of the Mason Historical Society within the Town and surrounding communities.

- Will be proactive in identifying historic sites and consider places which may be viewed as historic in the future.

APPENDIX B: WORKFORCE HOUSING LAW – A SUMMARY

THE NEW HAMPSHIRE WORKFORCE HOUSING LAW – KEY PROVISIONS

RSA 674:58 THROUGH 61

THE LAW'S CORE MEANING

- All municipalities must provide reasonable and realistic opportunities for the development of workforce housing, including rental and multi-family housing.
- The collective impact of all local land use regulations adopted by a town under RSA 674 shall be considered to determine if such opportunities exist.
- Workforce housing of some type must be allowed in a majority of land areas where residential uses are permitted.
- Multi-family housing must be allowed in some, but not necessarily a majority, of land areas where residential uses are permitted.
- Existing housing stock shall be accounted for to determine if a municipality is providing its “fair share” of current and reasonably foreseeable regional need for workforce housing.
- Reasonable restrictions may be imposed on workforce housing proposals for environmental protection, water supply, sanitary disposal, traffic safety, and fire and life safety protection.

DEFINITIONS

- Reasonable and realistic opportunities
 - Makes economically viable workforce housing feasible.
 - Takes into consideration the collective impact of land use *ORDINANCES* and regulations.
 - Realizes that natural features and market considerations may be beyond the control of the municipality.
- Workforce housing—housing that’s “affordable” for
 - Owner family of 4 making 100% of Area Median Income (\$87,400).
 - For Mason, this means housing valued at \$262,000 or less.
 - Renter family of 3 making 60% of Area Median Income (\$54,000).
 - For Mason, this means rental housing available at \$1180 per month or less.
 - Age-restricted housing is not considered workforce housing

- Affordable
 - No more than 30% of income should be spent on housing.
 - For home owners, mortgage principal and interest, taxes, and insurance.
 - For renters, rent plus utilities.
- Multi-family housing – 5 or more dwelling units in a structure

LAND USE BOARD PROCESS

- As part of the application, the developer must notify the board that a workforce housing development is being proposed.
- Planning board RSA 676:4 plat review proceeds according to normal procedures and the board renders a decision on the application.
- The developer may appeal the decision within 30 days.

APPEALS

- To superior court if application is denied or has conditions that have a substantial adverse effect on the project's viability.
- Burden is on developer to show how the municipality's actions violated the Workforce Housing statute (an as-applied test).
- Hearing on the merits of the appeal within 6 months.
- If the court finds the municipality has not provided reasonable and realistic opportunities for workforce housing, the "Builder's Remedy" allows the developer to proceed with the project with no restriction from local land use regulations.

EFFECTIVE DATE

January 1, 2010.

NEW HAMPSHIRE REVISED STATUTES ANNOTATED

TITLE LXIV PLANNING AND ZONING

CHAPTER 674 LOCAL LAND USE PLANNING AND REGULATORY POWERS

WORKFORCE HOUSING

SECTION 674:58

674:58 Definitions. –

In this subdivision:

I. "Affordable" means housing with combined rental and utility costs or combined mortgage loan debt services, property taxes, and required insurance that do not exceed 30 percent of a household's gross annual income.

II. "Multi-family housing" for the purpose of workforce housing developments, means a building or structure containing 5 or more dwelling units, each designed for occupancy by an individual household.

III. "Reasonable and realistic opportunities for the development of workforce housing" means opportunities to develop economically viable workforce housing within the framework of a municipality's ordinances and regulations adopted pursuant to this chapter and consistent with RSA 672:1, III-e. The collective impact of all such ordinances and regulations on a proposal for the development of workforce housing shall be considered in determining whether opportunities for the development of workforce housing are reasonable and realistic. If the ordinances and regulations of a municipality make feasible the development of sufficient workforce housing to satisfy the municipality's obligation under RSA 674:59, and such development is not unduly inhibited by natural features, the municipality shall not be in violation of its obligation under RSA 674:59 by virtue of economic conditions beyond the control of the municipality that affect the economic viability of workforce housing development.

IV. "Workforce housing" means housing which is intended for sale and which is affordable to a household with an income of no more than 100 percent of the median income for a 4-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. "Workforce housing" also means rental housing which is affordable to a household with an income of no

more than 60 percent of the median income for a 3-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. Housing developments that exclude minor children from more than 20 percent of the units, or in which more than 50 percent of the dwelling units have fewer than two bedrooms, shall not constitute workforce housing for the purposes of this subdivision.

Source. 2008, 299:2, eff. July 1, 2009.

SECTION 674:59

674:59 Workforce Housing Opportunities. –

I. In every municipality that exercises the power to adopt land use ordinances and regulations, such ordinances and regulations shall provide reasonable and realistic opportunities for the development of workforce housing, including rental multi-family housing. In order to provide such opportunities, lot size and overall density requirements for workforce housing shall be reasonable. A municipality that adopts land use ordinances and regulations shall allow workforce housing to be located in a majority, but not necessarily all, of the land area that is zoned to permit residential uses within the municipality. Such a municipality shall have the discretion to determine what land areas are appropriate to meet this obligation. This obligation may be satisfied by the adoption of inclusionary zoning as defined in RSA 674:21, IV(a). This paragraph shall not be construed to require a municipality to allow for the development of multifamily housing in a majority of its land zoned to permit residential uses.

II. A municipality shall not fulfill the requirements of this section by adopting voluntary inclusionary zoning provisions that rely on inducements that render workforce housing developments economically unviable.

III. A municipality's existing housing stock shall be taken into consideration in determining its compliance with this section. If a municipality's existing housing stock is sufficient to accommodate its fair share of the current and reasonably foreseeable regional need for such housing, the municipality shall be deemed to be in compliance with this subdivision and RSA 672:1, III-e.

IV. Paragraph I shall not be construed to require municipalities to allow workforce housing that does not meet reasonable standards or conditions of approval related to environmental protection, water supply, sanitary disposal, traffic safety, and fire and life safety protection.

Source. 2008, 299:2, eff. July 1, 2009.

SECTION 674:60

674:60 Procedure. –

I. Any person who applies to a land use board for approval of a development that is intended to qualify as workforce housing under this subdivision shall file a written statement of such intent as part of the application. The failure to file such a statement shall constitute a waiver of the applicant's rights under RSA 674:61, but shall not preclude an appeal under other applicable laws. In any appeal where the applicant has failed to file the statement required by this paragraph, the applicant shall not be entitled to a judgment on appeal that allows construction of the proposed development, or otherwise permits the proposed workforce housing development to proceed despite its nonconformance with the municipality's ordinances or regulations.

II. If a land use board approves an application to develop workforce housing subject to

conditions or restrictions, it shall notify the applicant in writing of such conditions and restrictions and give the applicant an opportunity to establish the cost of complying with the conditions and restrictions and the effect of compliance on the economic viability of the proposed development. The board's notice to the applicant of the conditions and restrictions shall constitute a conditional approval solely for the purpose of complying with the requirements of RSA 676:4, I(c)(1). It shall not constitute a final decision for any other purpose, including the commencement of any applicable appeal period.

III. Upon receiving notice of conditions and restrictions under paragraph II, the applicant may submit evidence to establish the cost of complying with the conditions and restrictions and the effect on economic viability within the period directed by the board, which shall not be less than 30 days.

(a) Upon receipt of such evidence from the applicant, the board shall allow the applicant to review the evidence at the board's next meeting for which 10 days' notice can be given, and shall give written notice of the meeting to the applicant at least 10 days in advance. At such meeting, the board may also receive and consider evidence from other sources.

(b) The board may affirm, alter, or rescind any or all of the conditions or restrictions of approval after such meeting.

(c) Subject to subparagraph (d), the board shall not issue its final decision on the application before such meeting, unless the applicant fails to submit the required evidence within the period designated by the board, in which case it may issue its final decision any time after the expiration of the period.

(d) If an applicant notifies the board in writing at any time that the applicant accepts the conditions and restrictions of approval, the board may issue its final decision without further action under this paragraph.

Source. 2008, 299:2, eff. July 1, 2009.

SECTION 674:61

674:61 Appeals. —

I. Any person who has filed the written notice required by RSA 674:60, and whose application to develop workforce housing is denied or is approved with conditions or restrictions which have a substantial adverse effect on the viability of the proposed workforce housing development may appeal the municipal action to the superior court under RSA 677:4 or RSA 677:15 seeking permission to develop the proposed workforce housing. The petition to the court shall set forth how the denial is due to the municipality's failure to comply with the workforce housing requirements of RSA 674:59 or how the conditions or restrictions of approval otherwise violate such requirements.

II. A hearing on the merits of the appeal shall be held within 6 months of the date on which the action was filed unless counsel for the parties agree to a later date, or the court so orders for good cause. If the court determines that it will be unable to meet this requirement, at the request of either party it shall promptly appoint a referee to hear the appeal within 6 months. Referees shall be impartial, and shall be chosen on the basis of qualifications and experience in planning and zoning law.

III. In the event the decision of the court or referee grants the petitioner a judgment that allows construction of the proposed development or otherwise orders that the proposed development may proceed despite its nonconformance with local regulations, conditions, or restrictions, the court or referee shall direct the parties to negotiate in good faith over assurances that the project will be maintained for the long term as workforce housing. The court or referee shall retain jurisdiction and upon motion of either party affirming that negotiations are deadlocked, the

court or referee shall hold a further hearing on the appropriate term and form of use restrictions to be applied to the project.

Source. 2008, 299:2, eff. July 1, 2009.

APPENDIX D: REVIEW OF LOCAL ORDINANCES AND REGULATIONS

The following is a guidance document provided by the Nashua Regional Planning Commission.

What to look for when reviewing Ordinances and Regulations

- Communities should review local zoning ordinances to make sure they do not exclude or unreasonably limit **multi-family housing options** or run afoul of the provisions of RSA 674:32 regarding siting **manufactured housing**.
- Communities should **assess lot size and frontage requirements** with an eye toward regulations that protect environmentally sensitive areas, but do not result in unreasonable barriers to affordable housing opportunities.
- Communities should be **cautious about growth control regulations** to ensure that they are not motivated by a desire to raise the drawbridge, but only by a need to control the timing of growth in order for the municipality to manage the financial burdens of expanding the capacity of municipal services.
- Communities should look to the **innovative zoning techniques** permitted under RSA 674:21 as a means of taking new approaches to land use regulation. Among these innovative land use controls is “**inclusionary zoning**,” which are regulations that provide incentives to property owners to produce affordable housing units. Inclusionary zoning techniques include but are not limited to density bonuses, growth control exemptions and a streamlined application process.
- Implement mechanisms like **incentive zoning**, which allow new housing developments to include a certain amount of housing for low and moderate income households, or mixed-use zoning that allows a blend of commercial and residential development in a town center.
- Recognize the importance of an adequate and balanced housing supply to your community’s economic well-being and ensure that your community’s planning, zoning and land use regulations and practices permit and encourage the **development of a range of housing types** that will adequately meet the region’s and state’s housing needs.
- Ensure that local regulatory policies, such as **building and fire codes**, do not unnecessarily add to the cost of creating new workforce housing.

- Exempt affordable housing from **fees and building caps**, and **create flexibility in other requirements – such as density standards** – to reduce the cost of housing development.
- Support the work of **local non-profit housing providers** to help meet your community's housing needs and consider transferring municipally-owned land and buildings suitable for residential use to non-profit housing providers.

APPENDIX E: WORKFORCE HOUSING INCOME LIMITS (2008)

SB 342 - Workforce Housing Income Limits

	Ownership			Renters		
	100% of 2008 HUD Median Area Income Family of four	60% of 2008 HUD Median Area Income Adjusted for a family of three	Estimated Affordable	Estimated Affordable	Income	Monthly Rent ²
HUD Metropolitan Fair Market Rent Areas (HMFA):						
Boston-Cambridge-Quincy MA-NH	85,800	258,000			46,330	1,160
Hillsborough Co. NH (Part)	74,000	223,000			39,960	1,000
Lawrence, MA-NH	80,600	242,000			43,520	1,090
Manchester, NH	76,400	232,000			41,260	1,030
Nashua, NH	87,400	262,000			47,200	1,180
Portsmouth-Rochester, NH	77,300	236,000			41,740	1,040
Western Rockingham Co., NH	90,600	273,000			48,920	1,220
County Fair Market Rent Areas (Non Metro):						
Belknap County	65,700	198,000			35,480	890
Carroll County	61,300	185,000			33,100	830
Cheshire County	61,800	179,000			33,370	830
Coos County	55,200	170,000			29,810	750
Grafton County	69,100	212,000			37,310	930
Merrimack County	69,900	207,000			37,750	940
Sullivan County	62,800	189,000			33,910	850

¹ Estimated maximum price using 30% of income, 5% down payment, 30 year mortgage at 6.34%, 0.4 points, PMI, and estimated taxes and hazard insurance.

² Estimated gross monthly rental cost, using 30% of income.

2009 Workforce Housing Purchase and Rent Limits, RSA 674:58 - 61

This is an update to information that New Hampshire Housing provided to the Legislature in 2008 as it deliberated on the Workforce Housing statute. The purpose of this table is to assist municipalities in implementing the NH Workforce Housing statute, RSA 674:58 - 61. This analysis incorporates statutory requirements, and includes reasonable market assumptions for the targeted households' income levels such as interest rate, downpayment, mortgage term, taxes, and insurance.

	Ownership			Renters		
	100% of 2009 HUD Median Area Income		Estimated Affordable	60% of 2009 HUD Median Area Income Adjusted for a family of three		Monthly Rent ²
	Family of four	Estimated Affordable		Income	Purchase Price ¹	
HUD Metropolitan Fair Market Rent Areas (HMFA):						
Boston-Cambridge-Quincy MA-NH	\$90,200	\$290,000		\$48,710		\$1,220
Hillsborough Co. NH (Part)	\$77,000	\$228,000		\$41,580		\$1,040
Lawrence, MA-NH	\$84,800	\$256,000		\$45,790		\$1,140
Manchester, NH	\$76,800	\$234,000		\$41,470		\$1,040
Nashua, NH	\$90,000	\$271,000		\$48,600		\$1,220
Portsmouth-Rochester, NH	\$80,000	\$244,000		\$43,200		\$1,080
Western Rockingham Co., NH	\$95,200	\$289,000		\$51,410		\$1,290
County Fair Market Rent Areas (Non Metro):						
Belknap County	\$67,300	\$211,000		\$36,340		\$910
Carroll County	\$63,400	\$211,000		\$34,240		\$860
Cheshire County	\$68,300	\$199,000		\$36,880		\$920
Coos County	\$54,800	\$164,000		\$29,590		\$740
Grafton County	\$67,800	\$209,000		\$36,610		\$920
Merrimack County	\$74,900	\$224,000		\$40,450		\$1,010
Sullivan County	\$64,300	\$194,000		\$34,720		\$870

¹ Estimated maximum price using 30% of income, 5% down payment, 30-year mortgage at 5.74%, 0.7 points, PMI, and estimated taxes and hazard insurance.

² Estimated maximum gross monthly rental cost (rent + utilities), using 30% of income.

APPENDIX G: ACCESSORY DWELLING UNITS

ACCESSORY DWELLING UNITS FOR MASON

An Accessory Dwelling Unit (ADU) is a second dwelling unit which is permitted by a land use regulation to be located on the same lot as the principal dwelling unit. It is a complete housekeeping unit with independent cooking, living, sanitary and sleeping facilities.

A number of New Hampshire towns allow ADUs. Typically, the ADU must be similar in appearance to the main dwelling unit and not change the character of the main unit as a single family residence. Only one ADU is allowed per main dwelling and lot, and the ADU must be smaller than the main dwelling.

ACCESSORY DWELLING UNITS CAN BE GOOD FOR MASON

An ADU can provide a safe place for an elderly or disabled relative to live independently but close by, or an ADU can provide a starter apartment for a young person. ADUs can provide extra income to a property owner. When people retire and begin living on a fixed income, or when someone loses a job, an ADU can provide the income that makes it possible for them to continue living in their home.



By providing more types of housing options, ADUs will improve Mason's compliance with the state Workforce Housing law, which says that all municipalities must provide reasonable and realistic opportunities for the development of workforce housing.

WHAT'S IN AN ACCESSORY DWELLING UNIT ORDINANCE?

Towns derive the authority to allow ADUs from the New Hampshire Planning and Zoning statute RSA 674:21, Innovative Land Use Controls. The state statutes make no specific requirements of ADUs, so a town has a number of choices to make when defining the requirements an ADU must meet.

- ◆ Types of ADUs. An interior ADU is located fully within the main dwelling, an attached ADU extends beyond the main dwelling and a detached ADU is located in an

accessory building apart from the main dwelling. Towns may allow some or all of these types.

- ◆ Tenancy. Towns may restrict the number of tenants in the ADU. Towns may allow rental to any person, or may restrict ADU tenants to extended family members or older citizens. However, restricting ADUs to only family members or to only older citizens does not qualify as providing workforce housing.
- ◆ Owner occupancy. A town can require that the owner of record of the lot reside in the main dwelling unit, or reside in either the main or accessory dwelling unit, or not require the owner to reside in either unit.
- ◆ Zone, lot size and setbacks. A town may allow ADUs in any zone or only in designated zones, and may impose additional minimum lot size and setback requirements.
- ◆ Size of ADU. Towns typically specify the minimum and maximum size an ADU can be. The maximum size can be specified as a number of square feet or as a percentage of the size of the main unit. Towns may also require that establishing the ADU must not reduce the size of the main unit below a specified number of square feet.
- ◆ Access. Two means of ingress and egress are required. For attached and interior ADUs, a town usually requires one interior direct access between the ADU and the main unit, and one exterior access. It may require the exterior access to be at the side or rear of the main dwelling unit for aesthetic reasons. Detached ADUs must have two exterior means of access.
- ◆ Vehicular access. Provision must be made for safe ingress, egress, turning around and parking for vehicles. A town may require that specific off-street parking places be designated for one or more vehicles, and may require these to be located at the side or rear of the main dwelling unit.
- ◆ Establishing and discontinuing an ADU. Most towns allowing ADUs require a property owner to apply for a Special Exception to establish an ADU. The Special Exception will typically expire when the property is sold to a new owner, unless the new owner takes action to continue it. Many towns specify that the ADU must be designed to allow it to be reincorporated into the main dwelling unit when its use as an ADU is discontinued.

A TOWN-BY-TOWN COMPARISON

What are other towns doing? Here is a chart comparing the ADU requirements in five small to medium size towns in New Hampshire.

	Atkinson	Brookline	Deering	Francesstown	Rindge	Mason ?
Type of ADU Allowed	Interior, Attached	Interior, Attached, Detached	Interior, Attached, Detached	Interior, Attached	Not specified	Interior, Attached, Detached
Tenants	Extended family members only	Not limited	Not limited	Max. 2	Not limited	Not limited
Owner	Must occupy main residence	Must occupy main residence	Must occupy main unit or ADU	Must occupy main unit or ADU	Must occupy main residence	Must occupy main unit or ADU
Zone	Any zone	Specified zones. Detached ADU only if lot is 2 x min. lot size	Any zone	Any zone, min. 3 acre lot	Specified zones	Any zone
Size of ADU	Max. 500 sq. ft.	Min. 350, max. 1000 sq. ft.	Min. 350, max. 1000 sq. ft.	Not specified	Min. 300 sq. ft.	Min. 350, max. 1000 sq. ft.
Maximum % ADU size compared to the main unit	Not specified. [Main unit must not be reduced to less than 1200 sq. ft]	Less than 40% of total heated above grade floor area of main unit	Less than 40% of total heated above grade floor area of main unit	Less than 30% of floor area of main unit	Less than 25% of floor area of main unit plus ADU	Less than 40% of total heated above grade floor area of main unit

APPENDIX H: PROPOSED ACCESSORY DWELLING UNIT ORDINANCE

The following is a proposed amendment to the Town of Mason Planning Ordinance of 1967.

ARTICLE XIX: ACCESSORY DWELLING UNIT ORDINANCE

An Accessory Dwelling Unit (ADU) is a second dwelling unit permitted by this ordinance to be located on the same lot as the principal dwelling unit. It is a complete housekeeping unit with independent cooking, living, sanitary and sleeping facilities.

PURPOSE AND INTENT

1. To provide expanded housing opportunities for family members or nonrelated people in a second dwelling unit on a single residential lot.
2. To provide flexibility in household arrangements to the benefit of elderly persons or extended family members.
3. To preserve the single-family residential character of the neighborhood by ensuring that the accessory dwelling unit preserves the appearance of the principal dwelling unit as a residence, is permitted only on owner-occupied property, and does not endanger the health, safety and welfare of the public.

REQUIREMENTS AND LIMITATIONS

1. An accessory dwelling unit shall be secondary and accessory to a principal single family dwelling unit.
2. One ADU shall be allowed per principal dwelling unit and / or lot.
3. Accessory dwelling units may be established in the General Residential, Agricultural and Forestry zone (GRAF), the Village Residential zone (VR) or the Historic Preservation district (HP).
4. Accessory living units shall be allowed only on lots containing single family detached housing.
5. The ADU shall be similar in appearance to the principal dwelling unit and not change the character of the principal dwelling unit as a single family residence.
6. An ADU may be located:
 - a. Interior to the principal dwelling.
 - b. Attached to the principal dwelling.
 - c. In a detached accessory structure on the same lot as the principal dwelling.
7. Attached accessory dwelling units shall be designed to allow for reincorporation with the principal dwelling unit.

8. The owner of record of the principal dwelling unit must reside in either the principle dwelling unit or the accessory dwelling unit.
9. Size limitations:
 - a. The gross living area of an ADU shall not be less than 350 square feet and not greater than 1000 square feet.
 - b. Attached accessory dwelling units shall occupy no more than 40% of the total heated above grade floor area of the principal dwelling.
 - c. The above grade gross living area of the principal dwelling shall not be reduced to less than 1200 square feet.
10. Access:
 - d. Attached and interior ADUs shall have one interior direct access between the ADU and the principal dwelling unit, and one exterior access.
 - e. Detached ADUs shall have two exterior means of access.
 - f. If an exterior access requires stairs to a level higher than the entry level of the principal dwelling unit, it shall be at the side or rear of the ADU.
11. Vehicular access:
 - g. Adequate space shall be provided within the property for ingress, turning around and egress of vehicles.
 - h. Adequate off street parking shall be provided for the combined needs of the principal dwelling unit and the accessory dwelling unit.
12. Health and Safety:
 - i. An accessory dwelling unit shall meet all fire and building safety codes.
 - j. The existing, replacement or proposed septic system shall be certified by a licensed septic designer or engineer as adequate to support the accessory dwelling unit and principal dwelling unit in accordance with New Hampshire RSA 485A:38 regulations.

PROCEDURAL REQUIREMENTS

An accessory dwelling unit shall be granted a Special Exception by the Board of Adjustment provided the Board of Adjustment finds the complete set of plans for the accessory dwelling unit to be in compliance with all requirements specified in Section B of this article.

13. Establishment of an accessory dwelling unit requires:
 - k. A Special Exception for an accessory dwelling unit must be granted to the owner of record of the principal dwelling unit by the Board of Adjustment before a building permit can be obtained. The Special Exception is valid only for as long as the owner of record personally owns and resides on the property.
 - l. A Building Permit for an accessory dwelling unit must be approved and issued by the Building Inspector prior to the construction of an accessory dwelling unit.

- m. A Certificate of Occupancy must be approved and issued by the Board of Selectmen before any tenant can reside in an accessory dwelling unit.
- 14. If the owner of record of the property ceases to reside on the property, the Special Exception and Certificate of Occupancy shall expire in 30 days.
 - n. Owners who are temporarily absent from the property, such as members of the armed forces called to active duty, may apply for relief from this provision to the Board of Selectmen. (Reference: Servicemembers Civil Relief Act, Public Law 108-189, December 2003.)
- 15. If the property is conveyed to a new owner, the new owner must apply to renew the Special Exception and Certificate of Occupancy within 30 days, or the Special Exception and Certificate of Occupancy shall expire.

ENFORCEMENT AUTHORITY

The Board of Selectmen shall be the final authority on compliance and enforcement of this article.

APPENDIX I: MILFORD, NEW HAMPSHIRE

OPEN SPACE PRESERVATION DESIGN ORDINANCE

[Home](#) | [Agenda](#) | [Minutes](#) | [Conservation Plan](#) | [P&P Manual](#) | [Wetland Protection](#) | [Milford Regulations](#) | [Trails & Land](#) | [Town of Milford](#)

From Milford Master Plan revised 1999

"The Town should develop a new zoning overlay district and/or necessary zoning techniques that will clearly and reasonably provide guidelines to enable greater preservation and protection of open space and conservation areas. This overlay district should promote flexibility in subdivision and site plan design that accomplishes both Town goals and respects the rights of landowners to develop their property."

SECTION 6.040 OPEN SPACE AND CONSERVATION ZONING DISTRICT REVISED 2004

6.041 PURPOSE

- 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 negative impact on environmental resources, including but not limited to: streams, ponds, floodplains, wetlands, steep slopes, scenic views, open fields, farmland, wildlife habitat, habitat of rare and endangered species, and historic sites and features;

- C. To enhance the quality of life with the provision of space for walking, passive recreation, and aesthetic enjoyment;
- D. To provide for low impact active recreational opportunities, where appropriate. Low impact, for the purpose of this ordinance, shall preclude formal recreation fields or structures intended for year round use;
- E. To provide greater flexibility and efficiency in the siting and design of roads and services;
- F. To discourage sprawling, land-consuming forms of development.

6.042 GENERAL REGULATIONS

- A. Any plan submitted under the Open Space and Conservation Zoning District section of the Town 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 density shall not exceed that which would be allowed in the underlying 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 district.

6.043 LOCATION AND SCOPE OF AUTHORITY

- A. The Open Space and Conservation Zoning District is an overlay district which imposes additional requirements and restrictions to those of the underlying base district established under the powers granted under NH RSA 674:21. In cases of conflict between the requirements of this district and the requirements presented elsewhere in the Town of Milford's Zoning Ordinance, the provisions of this District shall apply.
- 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 6.044:D.1) to ensure that the proposed open space is consistent with the criteria set forth and the purpose of the 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 6.044: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 District, where each lot is at least 5

times the size required in the underlying 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.

6.044 OPEN SPACE DESIGN

- A. Every OSPD shall avoid or minimize adverse impacts on the town's natural, cultural and historic resources by incorporating permanently protected Open Space into the design.
- B. The Minimum Required Open Space for all OSPD's is thirty (30) percent of the gross tract area.
- C. Of the minimum required Open Space one-hundred (100) percent must consist of non-wetland soils and soils with slopes less than twenty-five (25) percent. Open Space dedicated in excess of the minimum required area may contain any percentage of wetland soils or steep slopes. If the OSPD is an Elderly, Retirement, and Assisted Living Development, as defined in Section 7.070 of the Zoning Ordinance, the green space requirements of Section 7.074.E shall apply.
- 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 6.020 Wetland Protection District;
 - b. The habitat of species listed as endangered, threatened, or of special concern by the NH Natural Heritage Inventory and / 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 Wide 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 recreational use consistent with Section 6.041.
 2. Design and Use considerations for preserved Open Space:
 - a. The preserved open space shall include as many of the resources listed in Section 6.044.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, unless privately owned, be accessible to the lots or units within the development, and to the general public if publicly owned;
- g. Narrow open space strips shall not be permitted unless the incorporation of the open space strips provides a logical and practical link to, or expansion of, either existing or known planned adjacent preserved open space;
- h. Preserved open spaces shall be interconnected wherever possible to provide a continuous network of open space lands within and adjoining the development;
- i. Public access, regardless of ownership, shall be provided to trails if they are linked to other publicly accessible pathway systems.

E. Protection and Ownership:

1. 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.
Ownership of the Open Space may be held by:
 - a. A homeowners association or other legal entity under New Hampshire State Statutes, or
 - b. Private ownership, protected by a conservation easement and limited to not-for-profit parks, and not-for-profit recreation areas or commercial agriculture and forestry; or
 - c. A non-profit organization, the principal purpose of which is the conservation of Open Space; or
 - d. The Town of Milford, through the deeding process, subject to approval of the Planning Board and Board of Selectmen, with a trust clause insuring that it be maintained as Open Space in perpetuity.
2. Open space ownership shall be at the discretion of the Board of Selectmen, in consultation with the Planning Board, Conservation Commission and other Town Boards and Departments as deemed necessary. The Planning Board will be responsible to provide a recommendation on ownership of the preserved open space to the Board of Selectmen for its consideration and acceptance.

6.045 DENSITY AND DIMENSIONAL STANDARDS

A. Density:

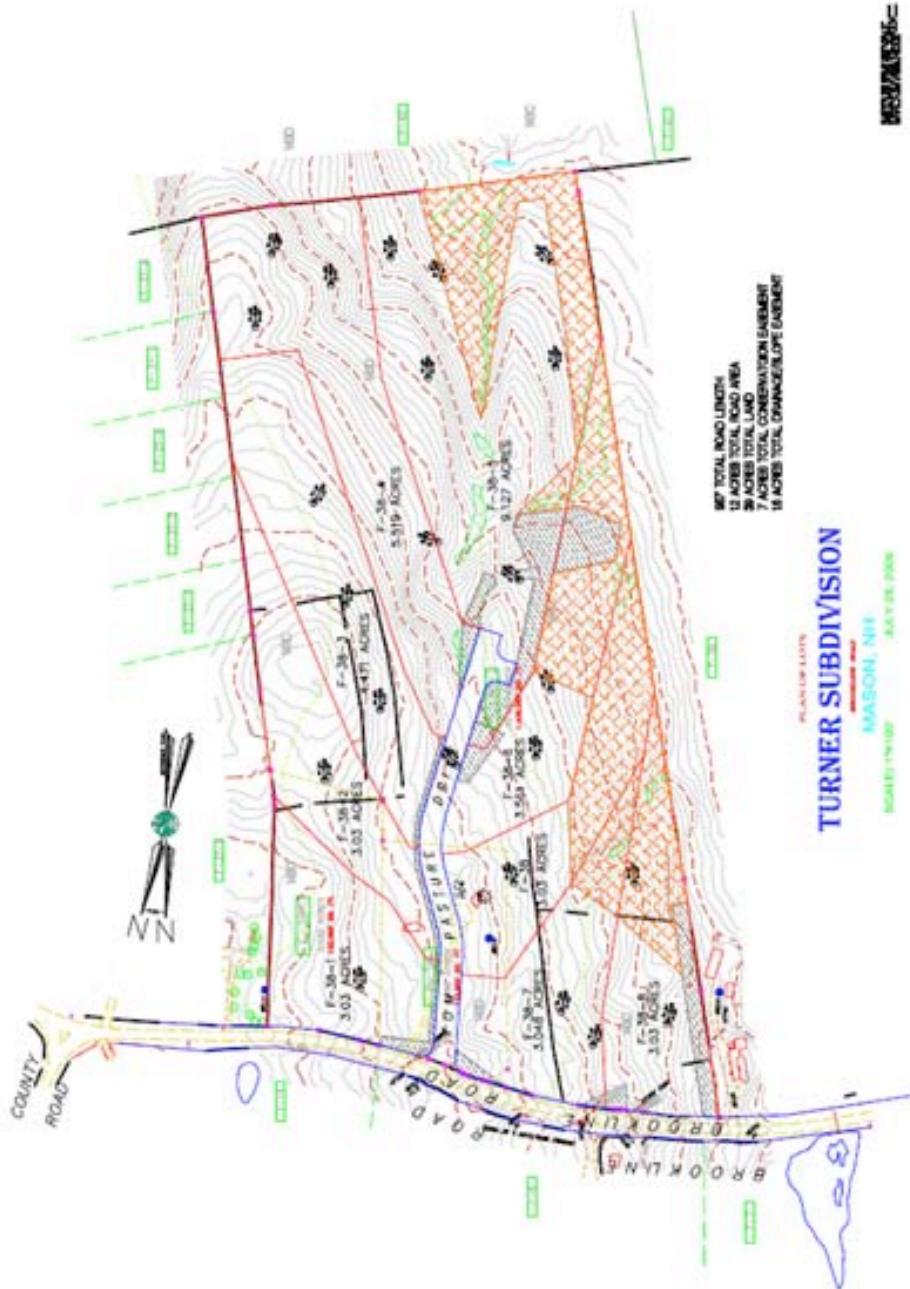
1. The density of the proposed development shall be equal to or less than the density allowed in a conventional development;
2. The maximum density of the proposed development shall be established by a preliminary plan showing the number of lots or units which could be constructed in a conventional subdivision without any special exceptions and /or waivers for lot frontage, area, road and

driveway grades, dead-end road length, and soil types suitable for subsurface disposal systems (if used).

B. Dimensional Standards:

1. Lot size, frontage, and setbacks will be project specific and are subject to the approval of the Planning Board. Individual lot size, frontage, building envelopes, and setbacks shall be tabulated on the plan. At its discretion, the Planning Board may waive Sections 6.045.B.2, 3, and 4 relative to frontage and setback requirements.
2. The minimum lot frontage shall be fifty (50) feet.
3. The minimum lot width with the building envelope shall be seventy-five (75) feet. For the purpose of this section of the Zoning Ordinance, the building envelope shall be defined as the building area to fifteen (15) feet outside of the proposed building footprint, including attached walkways, porches, decks, retaining walls, and other such appurtenances that are necessary or desired for construction of the building.
4. The building shall be setback at least thirty (30) feet from the front and rear property lines. The building shall be at least fifteen (15) feet from the side property lines.
5. Village Plan alternatives as outlined in RSA 674:21.VI shall be permitted. No increase in density will be permitted.
6. All lots and/or structures within the OSPD, built adjacent to a perimeter boundary of the development or with frontage on or adjacent to an existing public road shall conform to all building setbacks and lot frontages as required in the underlying zoning district.
7. 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), and very poorly drained soils.

APPENDIX J: MASON OPEN SPACE NEIGHBORHOODS USING EXISTING ORDINANCES



APPENDIX K: MASON OPEN SPACE NEIGHBORHOODS USING OPEN SPACE DESIGN TECHNIQUES

