6.04.0 OPEN SPACE AND CONSERVATION DISTRICT (2011)

6.04.1 PURPOSE

The Open Space and Conservation District is intended to encourage environmentally sound planning to conserve open space, 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.

6.04.2 OBJECTIVES

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, archaeologic, 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.

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 6.04.5.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 6.04.5.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.

6.04.5 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. **Minimum Required Open Space:**

1. Subdivisions in Residence A and B shall have a maximum 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. (2015)

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 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 low-impact recreational or public interest use consistent with Section 6.04.1.

2. **Design and Use considerations for preserved Open Space:**

   a. The preserved open space shall include as many of the resources listed in Section 6.04.5.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 the lots or units within the development, and if publicly owned to the general public;

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.

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.

6.04.6 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:

[Total Area of Parcel – (Wetlands + Steep Slopes)] x *Factor* ÷ Minimum Lot Size =
Maximum Number Dwelling Units

Percentage of Parcel that is Wetlands and/or Steep Slopes* [*≥25%]	Factor
0 – <10%	0.75
11 – <20%	0.70
21– <30%	0.65
31% or more	0.60

Table 6.04-1

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 6.04.6.B.2, 3,and 4 (below) relative to frontage and setback requirements.

2. The minimum lot frontage shall be fifty (50) feet.

3. 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.

4. Village Plan alternatives as outlined in NH RSA 674:21.VI shall be permitted. No increase in density will be permitted.

5. 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.

6. 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.