

SECTION 9 OVERLAY DISTRICT REGULATIONS

SECTION 9.1	FLOOD PLAIN DISTRICT
SECTION 9.2	GROUND WATER PROTECTION DISTRICT
SECTION 9.3*	RIDGELINE AND HILLSIDE DISTRICT

9.1 FLOOD PLAIN DISTRICT

9.1.1 Purposes

The purposes of this district (in addition to those enumerated elsewhere in this Zoning By-Law) are:

9.1.1.1 To provide that lands in the Town of Wilbraham subject to seasonal or periodic flooding as described hereinafter shall not be used for residence or other purposes in such a manner as to endanger the health, safety or welfare of the occupants thereof, or of the public generally, or so as to burden the public with costs resulting from unwise individual choices of land use.

9.1.1.2 To assure the continuation of the natural flow pattern of the water course(s) within the Town, in order to provide adequate and safe floodwater storage capacity to protect persons and property against the hazards of flood inundation.

9.1.2* Scope of Authority

The Flood Plain District is herein established as an overlay district and shall be superimposed on other districts established by this By-Law. All regulations of the Wilbraham Zoning By-Law applicable to such underlying districts shall remain in effect, except that where the Flood Plain District imposes additional regulations, such regulations shall prevail.

All development in the Flood Plain District, including structural and non-structural activities, whether permitted by right or by special permit, must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and the Flood Resistant Construction Regulations of the State Building Code (Section 780 CMR 3107). Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

9.1.3 District Delineation

9.1.3.1* The Flood Plain District includes all special flood hazard areas designated as Zone A or Zone A1-30 on the Wilbraham Flood Insurance Rate Maps (FIRM) issued by the Federal Emergency Management Agency (FEMA), panel 250154-0005D dated June 15, 1988 and panel 250154-0010C dated July 10, 1981, as amended.

9.1.3.2* The regulatory floodway is designated on the Wilbraham Flood Boundary and Floodway Maps issued by the Federal Emergency Management Agency (FEMA), panel 250154-0005 dated June 15, 1988 and panel 250154-0010C dated July 10, 1981, as amended.

9.1.3.3* These maps as well as the accompanying Wilbraham Flood Insurance Study are incorporated herein by reference as part of the Zoning Map and are on file with the Town Clerk, Planning Board and Building Inspector.

9.1.3.4 Within Zone A, where the base flood elevation is not provided on the FIRM, the Building Inspector shall obtain and review existing base flood elevation data. If the data is sufficiently detailed and accurate it shall be relied upon to require compliance with this Zoning By-Law.

9.1.4 Permitted Uses

9.1.4.1 In the Flood Plain District no new buildings shall be erected or constructed, no existing buildings shall be enlarged or moved except as hereinafter provided, no dumping, filling or earth transfer or relocation shall be permitted, and no land or building shall be used for any purpose except:

- A.** Conservation of water, plants and wildlife;
- B.** Outdoor recreation, including play areas, nature study, boating, fishing and hunting where otherwise legally permitted, but excluding building and structures;
- C.** Wildlife management areas, foot, bicycle, and/or horse paths and bridges provided such uses do not affect the natural flow pattern of any water course;
- D.** Grazing and farming, including truck gardening and harvesting of crops;
- E.** Forestry and nurseries;
- F.** Temporary non-residential buildings used in connection with fishing or growing, harvesting, storage or sale of crops raised on the premises;
- G.** Buildings lawfully existing prior to the adoption of these provisions.

9.1.4.2 The portion of any lot within the area delineated in Section 9.1.3 above may be used to meet the area and yard requirements for the district or districts in which the remainder of the lot is situated.

9.1.5 Uses by Special Permit

9.1.5.1 A special permit shall not be issued for new habitable buildings to be erected within the Flood Plain District but a special permit may be granted for the reconstruction or addition up to a maximum of fifty (50) percent increase of the existing valuation, to buildings lawfully existing prior to adoption of these provisions so long as the Board of Appeals acting as the Special Permit Granting Authority finds all criteria in Section 9.1.5.2 has been complied with.

9.1.5.2 The Board of Appeals acting as the Special Permit Granting Authority in accordance with Section 13.6 of this By-Law, may consider and issue a special permit for a deviation from the regulations set forth in the Flood Plain District in this By-Law only upon finding all of the following:

- A.** A showing of good and sufficient cause;
- B.** A determination that failure to grant the special permit would result in exceptional hardship to the applicant;
- C.** A determination that the granting of a special permit will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws;
- D.** A determination that the special permit is the minimum necessary considering the flood hazard to afford relief.

9.1.5.3 The Board of Appeals acting as the Special Permit Granting Authority shall provide notice of any hearings hereunder to the Planning Board, Board of Health and the Conservation Commission and shall maintain a good record of all special permit actions, including justification for their issuance and report such special permits issued in the annual report submitted to the Federal Insurance Administration.

9.1.5.4 Under no circumstances shall a special permit be issued in the regulatory floodway.

9.1.6 Disclaimer of Liability

This Zoning By-Law does not imply that land outside the areas of the Flood Plain District or uses permitted within such district will be free from flooding or flood damage. This By-Law shall not create liability on the part of the Town of Wilbraham or by any official thereof for any flood damage that may result from reliance on this By-Law or any administrative decision lawfully made thereunder.

9.2 GROUND WATER PROTECTION DISTRICT

9.2.1 Purpose

To promote the health, safety, and general welfare of the Town by protecting the ground water supply underlying the Town from depletion and contamination, and thereby assuring that a quality source of ground water is available to meet the future needs of the Town.

9.2.2 Scope of Authority

The Ground Water Protection District is herein established as an overlay district and shall be superimposed on other districts established by this By-law. All regulations of the Wilbraham Zoning By-Law applicable to such underlying districts shall remain in effect, except that where the Ground Water Protection District imposes additional regulations, such regulations shall prevail.

9.2.3 District Delineation

The Ground Water Protection District is hereby established as comprising all the land in the Town of Wilbraham and is so delineated on a map entitled "Aquifer Protection District, Town of Wilbraham, Resource Protection Program, February 1980", as amended.

9.2.4 Restricted Uses

9.2.4.1 Underground Storage of Liquid Chemicals and Fuels.

- A.** The underground storage of liquid chemicals and fuels shall only be permitted in tanks constructed of fiberglass or other approved corrosion proof materials as prescribed by the Fire Chief of the Town of Wilbraham.
- B.** The minimum size tank for underground storage shall be five-hundred fifty (550) gallons.
- C.** All storage tank installations shall meet or exceed the existing and updated governmental regulations as administered by the Fire Chief of the Town of Wilbraham.

9.2.4.2 Industrial and Commercial Uses.

Industrial and commercial uses shall be subject to the issuance of a special permit. In addition to site plans and other information currently submitted to Town agencies, commissions and boards, an applicant shall submit to the Board of Selectmen information including but not limited to:

- A.** The approximate amount and composition of leachable wastes used, produced or handled and proposed methods of disposal of such wastes;

- B. The amount and composition of any hazardous materials that are used, produced, handled or transported on site;
- C. Copies of appropriate reports required by State and Federal regulatory agencies controlling water quality and handling of hazardous waste or hazardous materials.

9.2.5 Prohibited Uses

9.2.5.1 Hazardous Waste.

The storage of over ninety (90) days or disposal of hazardous wastes is prohibited except that a hazardous waste facility may be sited in the Industrial District where such activity may be permitted pursuant to the provisions of M.G.L. Chapter 40A, Sec. 11.

9.2.5.2 Solid Waste Landfill.

Expanding the area of the existing or siting of additional solid waste landfill operations are prohibited. The existing solid waste landfill operation shall be operated in accordance with the best available practices and shall be terminated as soon as feasible. If alternative means for solid waste disposal are not available, the Board of Selectmen shall request an amendment to this By-Law to authorize locating a new landfill area. The location shall be determined by the Town in conjunction with the Mass. Department of Environmental Quality Engineering and/or other technical experts and shall be in conformity with the intent and purposes of this By-Law.

9.2.5.3 Leachable Wastes.

Dumping in or upon the land of leachable wastes, oils, fuels, septage or other non-agricultural materials which may cause deterioration of ground water quality is prohibited.

9.2.5.4 Road Salt Storage.

Siting of additional road salt (sodium chloride) storage or loading facilities is prohibited. The existing road salt open storage shall be replaced with a suitable closed structure as soon as feasible. The use of road salt shall be minimized, consistent with public highway safety requirements.

9.2.6 Special Permit Granting Authority

The Board of Selectmen shall be the Special Permit Granting Authority (SPGA) for the purpose of this Section of the Zoning By-Law and shall promulgate appropriate procedure in accordance with the M.G.L. Chapter 40A and Section 13.6 of this By-Law.

9.2.7 Rules and Regulations

Within twelve (12) months of Town Meeting approval of this Section of the By-Law those Town governmental boards and commissions exercising jurisdiction over ground water quality shall establish rules and regulations for the equitable administration of the provisions herein, including but not limited to:

- A.** Policy on present and future solid waste disposal facilities;
- B.** Policy on the future storage of road salt (sodium chloride);
- C.** Procedure for Board of Selectmen issuance of special permits; and
- D.** Alternative means for disposal of leachable wastes by homeowners.

9.3* RIDGELINE AND HILLSIDE DISTRICT

9.3.1 Purpose

The purposes of the Ridgeline and Hillside District (in addition to those enumerated elsewhere in this Zoning By-Law) are:

- 9.3.1.1** To preserve and protect the natural scenic beauty and related natural resources of the upland areas in the Town of Wilbraham.
- 9.3.1.2** To regulate new construction, the removal of natural vegetation, especially large trees, and the excavation and alteration of land, in order to minimize any danger of erosion, sedimentation, flooding, water pollution, and other adverse impacts of development within the District or any adjacent low lying area.
- 9.3.1.3** To insure that development within the District does not reduce property values within said District or adjacent thereto by unnecessarily detracting from the natural visual setting or obstructing significant views.

9.3.2 Scope of Authority

The Ridgeline and Hillside District is herein established as an overlay district and shall be superimposed on other districts established by this By-Law. All regulations of the Wilbraham Zoning By-Law applicable to such underlying districts shall remain in effect, except that where the Ridgeline and Hillside District imposes additional regulations, such regulations shall prevail.

9.3.3 District Delineation

The Ridgeline and Hillside District includes all land in the Town of Wilbraham at an elevation of five hundred and fifty (550) or more feet above sea level as delineated on a map entitled "Ridgeline and Hillside Overlay District, Town of Wilbraham, MA, March 1991", as amended.

9.3.4 Development Subject to Ridgeline and Hillside District Review

Notwithstanding other provisions of this By-Law, no land development within the Ridgeline and Hillside District shall be permitted and no building permit, special permit or approval of a definitive subdivision plan under the Subdivision Control Law shall be issued until the provisions of Ridgeline and Hillside District Review have been fulfilled and site plans approved by the Ridgeline and Hillside District Review Board. Activities constituting development and subject to review within said district include the following:

- A.** The construction of a new dwelling or principal structure.
- B.** A significant addition or alteration to any dwelling or other structure, if such action affects the exterior appearance. A significant addition or alteration is defined as an alteration which increases the assessed value by fifteen (15) percent, or which adds to the height of the structure, or which substantially alters the visual profile of the property or structures thereon.
- C.** The removal, filling, excavation or alteration of earthen materials or the construction of an access road, if such action changes pre-existing drainage characteristics or sedimentation patterns, or alters the topographic or visual profile of the property.
- D.** The construction of a windmill, tower, satellite dish, antenna or other visually prominent accessory structure.
- E.** Any subdivision which requires approval under the Subdivision Control Law, M.G.L., Chapter 41.
- F.** The removal or destruction of trees, if such action results in a clear cutting or denuding of the forest cover, or an observable visual modification to the forest canopy as viewed from a public way or Public Vantage Point. Selective timber cutting shall be permitted within the area of a designated building envelope wherein principal and accessory structures have been approved. Timber cutting for the purpose of clearing land for legitimate agricultural purposes shall be permitted subject to satisfactory evidence of such intended use.

9.3.5 Ridgeline and Hillside District Review Board

The Ridgeline and Hillside District Review Board shall be the Planning Board. The Ridgeline and Hillside District Review Board shall adopt, and may periodically amend by majority vote, after a public hearing, Rules and Regulations relating to the procedures and administration of Ridgeline and Hillside District Review not inconsistent with the provisions of this By-Law or Chapter 40A of the General Laws, and shall file a copy of said Rules and Regulations with the Town Clerk.

9.3.6 Application Information

The Ridgeline and Hillside Review Board shall require the following application information unless same is waived as hereinafter provided.

9.3.6.1 Application forms are available in the Planning Office.

9.3.6.2 All applications shall include all information and fees required by the Rules and Regulations of the Ridgeline and Hillside Review Board, as applicable, in addition to any other information that is required under this By-Law as part of an application for building permit, site plan approval, special permit or subdivision approval.

9.3.6.3 Applications must be accompanied by a site plan. If the development site occupies only a small portion of a parcel of land, the Ridgeline and Hillside Review Board may specify that only a portion of the parcel of land in question be identified on any site plan so submitted. The site plan shall contain the required information listed under section 13.3 as well as the following additional information:

- A.** The placement, height, physical characteristics, and architectural rendering of all existing and proposed buildings and structures on the development site including building envelopes if so required.
- B.** View Points: Photographs of the site of development taken from at least three (3) significant Public Vantage Points exterior to the project together with a map to indicate the location of points and approximate distance to the proposed development.
- C.** Measures to be undertaken during and after construction to prevent erosion, sedimentation, flooding or water pollution.
- D.** Vegetation: Existing and proposed vegetation, all proposed landscaping improvements including plans depicting the type, bulk, and height of trees and shrubs.
- E.** Any other information that is necessary for the proper consideration of the application.

9.3.7 Design Standards

Development in the Hillside and Ridgeline District shall be designed to blend harmoniously with the natural terrain and vegetation in order to preserve and protect the scenic character and the environmental quality of the site in accordance with the following standards:

9.3.7.1 Siting of Structures and Building Characteristics

- A.** The placement of buildings and structures shall not detract from the site's scenic qualities or obstruct significant views.
- B.** Building sites shall be placed downgrade of the ridgeline where possible and shall be located in a manner as not to break the view or exceed the elevation of the ridgeline as viewed from Public Vantage Points.
- C.** Foundations shall be constructed to reflect the natural slope of the terrain.
- D.** Roof lines and roof surfaces should be an important part of the building design and shall reflect the natural slope of the terrain.
- E.** Building materials and exterior colors shall blend with the natural landscape.
- F.** Where public views will be unavoidably affected by a structure, the building height shall not exceed twenty-five (25) feet.

9.3.7.2 Landscaping

- A.** The removal of native vegetation, especially large trees, shall be minimized. Trees may only be removed for construction of streets, driveways or structures. Selective clearing for lawns and septic systems shall be designated on the site plan.
- B.** Landscaping and plantings shall be utilized to screen buildings in open or prominent areas from significant views. Landscaping and plantings shall be generally compatible with native vegetation.

9.3.7.3 Grading

Any grading or earth moving operation is to be planned and executed in such a manner that final contours appear to be consistent with the existing terrain, both on and adjacent to the site.

9.3.7.4 Utilities

Utilities shall be constructed and routed underground.

9.3.7.5 Erosion and Sedimentation Control

- A. Post development runoff shall not exceed pre-development levels. All runoff from impervious surfaces shall be retained on site, and if necessary, shall be diverted to infiltration basins covered by natural vegetation which shall be designed to handle a minimum 25 year storm.
- B. Appropriate sediment and erosion control measures shall be employed to minimize the impacts during and after construction.

9.3.7.6 Accessory Structures

Construction of a tower, satellite dish, windmill, antenna, or other similar installation shall not obstruct the view of or from a public way, or an abutter's dwelling. Storage areas, equipment sheds, above-ground swimming pools, and similar accessory structures shall be screened from public view by dense evergreen plantings or landscaped, low earthen berms where necessary.

9.3.8 District Review Criteria

A Ridgeline and Hillside District application shall be approved where consistent with the following criteria:

- 9.3.8.1** Development is designed and located on the site to sensitively relate with the natural terrain and vegetation in order to preserve the visual character of the site so as not to interfere with or degrade its scenic attractiveness as viewed from either a public highway or Public Vantage Point.
- 9.3.8.2** Safeguards have been employed so that land development will not result in flooding or water pollution or cause soil erosion or sedimentation, in order to prevent the creation of a dangerous or unhealthy condition.
- 9.3.8.3** Where public views will be unavoidably affected by the proposed development, architectural and landscaping measures have been employed so as to minimize the impact.

9.3.9 Review Procedure

The Ridgeline and Hillside Review Board shall review all applications subject to the provisions of this section and shall make recommendations to the appropriate decision making body concerning conformance with the design review standards contained herein.

9.3.9.1 Conference.

The applicant shall be given written notice of the public meeting at which its application will be reviewed, and shall be given an opportunity to be heard on the application.

9.3.9.2 Time Schedule.

The Ridgeline and Hillside Review Board shall review the application and issue its decision within forty-five (45) days of the receipt of the application.

9.3.9.3 Decision of the Review Board

The concurring vote of a simple majority of the Ridgeline and Hillside Review Board shall be required for any decision, and the Board's written decision shall consist of either:

- A.** Approval of the site plan based on a determination that the proposed project meets the requirements of this section.
- B.** Approval of the site plan subject to such conditions, modifications and reasonable restrictions as the Review Board may deem necessary to ensure compliance with the requirements of this section.
- C.** Denial of the site plan based on a determination that either:
 - 1.** Insufficient information was submitted with the application for the Board to adequately review the proposal; or
 - 2.** The project does not meet the requirements of this section.

9.3.10 Waiver of Compliance.

It is recognized that there will be numerous instances of development within said district which do not conflict with any of the goals of this By-Law and that a waiver should therefore be promptly and expeditiously granted by the Review Board. Such waiver may be granted where the proposed development is not extensive enough or intrusive enough to justify intervention under this By-Law, or where the land in question being developed is located in an area of the District which does not require the protection of this By-Law because of topography or other considerations. It is expressly intended that said waivers may be partially or fully granted with a minimum of expense and delay to the applicant.

To simplify the procedure for determination in cases where an applicant believes he or she is entitled to a waiver as to some or all of the filing requirements, the applicant may submit to the Ridgeline and Hillside Review Board such information as the Board shall require in order to determine whether or not the provisions of the By-Law require a detailed submission.

If the Ridgeline and Hillside Review Board, after a review of the information presented by the Applicant, is satisfied that the provisions of this By-Law do not require further action hereunder, a waiver shall be promptly issued.