

Article 6: Amendment to the Code of the Town of Bolton, Division I, Part III. Zoning Bylaw, Chapter 250. Zoning, Article V. Special Regulations, Section 250-27. Inclusionary Housing - to Amend Subsection L. (1)(a)

To see if the Town will vote to amend the Code of the Town of Bolton, Division I, Part III. Zoning Bylaw, Chapter 250. Zoning, Article V. Special Regulations, Section 250-27. Inclusionary housing, by amending Subsection L. (1)(a), as follows (deletions in *parenthesis and italics*) and additions underlined);

L. Donation of land and/or fees-in-lieu-of-affordable-housing-unit provision. As an alternative to the requirements of Subsection E, and as allowed by law, an applicant may contribute a fee or land to the Bolton Affordable Housing Trust Fund or other 501(c)(3) fund as designated by the SPGA to be used for the development of affordable housing in lieu of constructing and offering affordable units within the locus of the proposed development or off-site.

(1) Fees-In-Lieu-Of-Units.

(a) Calculation of Fees-In-Lieu-Of-Units. *(The applicant for development subject to this bylaw may pay fees in lieu of the construction or provision of affordable units, which fee is determined to be \$200,000 per unit. For example, if the applicant is required to construct two affordable income units, he/she may opt to pay \$400,000 in lieu of constructing or providing the units).* The applicant for development subject to this bylaw may pay fees in lieu of the construction or provision of affordable units to the Town. The fees shall be paid in increments prior to the issuance of a building permit for each and every unit, or otherwise at the sole discretion of the SPGA, based on the sales price of an affordable unit as calculated each year when Income Limits are published by the U.S. Dept. of Housing Urban Development (HUD). The sales price of an affordable unit shall be based on the Department of Housing and Community Development's (DHCD) LIP Price Calculator (using median income of a family of 4 at 70% of the median, as reported by HUD).

(b) *(Schedule of fees-in-lieu-of payments. Fees-in-lieu-of payments shall be paid according to the schedule set forth in Subsection F(3) above.)* Fee Schedule. The Fees-In-Lieu-Of-Units for each unit shall be equal to: $\frac{\text{Sales Price of Affordable Unit} \times \text{Total Number of Affordable Units subject to Fees-In-Lieu-Of-Units}}{\text{Total Number of units in the subject development}}$.

and further that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of Bolton; or take any other action relating thereto.

Sponsor: Planning Board

Summary: The genesis of this bylaw amendment was the Planning Board's desire to replace the current and outdated Fee-In-Lieu-Of-Units flat fee amount of \$200,000 with a formulaic approach which will be subject to future adjustment as determined by the Department of Housing and Community Development's (DHCD). The bylaw relates to the existing Section 250-27 Inclusionary Housing section within the Code of the Town of Bolton. The Planning Board is seeking to set this amount according to current affordable housing unit sale prices for present and future projects.

Board of Selectmen Recommendation:

Advisory Committee Recommendation:**Vote Required:** 2/3 Majority

Article 7: Amendment to the Code of the Town of Bolton, Division I, Part III. Zoning Bylaw, Chapter 250. Zoning, Article VI. Definitions, Section 250-28. Terms defined - to Amend definition of Fast Food

To see if the Town will vote to amend the Code of the Town of Bolton, Division I, Part III. Zoning Bylaw, Chapter 250. Zoning, Article VI. Definitions, Section 250-28. Terms defined, by amending the definition of Fast Food, as follows (deletions in *parenthesis and italics*) and additions underlined;

FAST FOOD

*(An establishment whose principal business is t)*The sale of prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the building or outside the building or off premises, or within a parked motor vehicle and usually requires ordering at a counter and whose principal method of operation includes sale of food and beverages in paper, plastic or other disposable containers. *(The foregoing shall not apply if such sales are wholly incidental and ancillary to a conventional restaurant or other allowed principal use;)* *(t)*This regulation shall not apply to ice cream parlors. The intent of the regulation is to address the adverse impacts of fast-food restaurants on Bolton's historic and adjacent residential areas as well as gateways to the Town. The proliferation of fast-food establishments has a negative impact on the Town's economy, historical relevance, unique character and economic vitality. These uses are therefore restricted in order for Bolton to maintain unique dining experiences. Fast-food establishments detract from the overall historic village experience and are found to be obtrusive and have substantial impacts to the public safety from increases in traffic, litter and childhood obesity. [Added 5-7-2012 ATM by Art. 24]

and further that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of Bolton; or take any other action relating thereto.

Sponsor: Planning Board

Summary: This bylaw amendment is related to the bylaw amendment immediately following. The purpose of this bylaw amendment is to simplify the definition of fast food under Section 250-28 Terms defined in the Code of the Town of Bolton. It eliminates the current definition's provision that currently allows fast food by right as an accessory use to a conventional restaurant or to any other allowed principal use. The Planning Board seeks to remove this as-of-right "loop hole" by instead allowing fast food as an accessory use only by Special Permit under Section 250-12 Schedule of permitted uses.

Board of Selectmen Recommendation:**Advisory Committee Recommendation:****Vote Required:** 2/3 Majority

Article 8: Amendment to the Code of the Town of Bolton, Division I, Part III. Zoning Bylaw, Chapter 250. Zoning, Article III. Zoning District Regulations, Section 250-12. Schedule of permitted uses
To see if the Town will vote to amend the Code of the Town of Bolton, Division I, Part III. Zoning Bylaw, Chapter 250. Zoning, Article III. Zoning District Regulations, Section 250-12. Schedule of permitted uses, as follows (deletions in *parenthesis and italics*) and additions underlined;

Types of Uses	Residential	Business	Limited Business	Industrial	Limited Recreation Business
Accessory					
Agricultural/ Business use (see (§250-21E)	SSP	SSP	SSP	SSP	SSP
Roadside produce stands	Yes	Yes	Yes	Yes	Yes
Home Occupation (See §250-21A)	Yes	Yes	Yes	Yes	Yes
Other customary accessory uses	Yes	Yes	Yes	Yes	No
Primary golf course accessory uses (see §250-16E)	Yes	Yes	Yes	Yes	SSP
Trail Recreation Accessory uses (See §250-16D)	No	No	No	No	SSP
<u>Fast Food (no drive-through service)</u>					
	<u>No</u>	<u>SP</u>	<u>SP</u>	<u>No</u>	<u>No</u>

and further that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of Bolton; or take any other action relating thereto.

Sponsor: Planning Board

Summary: The purpose of this bylaw amendment is to reflect fast food as an accessory use within the schedule of permitted uses (Section 250-12), where it currently is not depicted. Prior to this bylaw amendment, fast food as an accessory use is only discussed within the definition of Fast Food (Section 250-28 Terms Defined). Further, according to its current definition, fast food is allowed by right as an accessory use to a conventional restaurant or other allowed principal use. This bylaw amendment would provide additional regulation by requiring a Special Permit acted on by Planning Board for any fast food as an accessory use. Of note, fast food as a principal use would remain not allowed in Bolton.

Board of Selectmen Recommendation:

Advisory Committee Recommendation:

Vote Required: 2/3 Majority

Article 9: Amendment to the Code of the Town of Bolton, Division I, Part III. Zoning Bylaw, Chapter 250. Zoning, Article VI. Definitions, Section 250-28. Terms defined - to Amend definition of Accessory Building or Use

To see if the Town will vote to amend the Code of the Town of Bolton, Division I, Part III. Zoning Bylaw, Chapter 250. Zoning, Article VI. Definitions, Section 250-28. Terms defined, by amending the definition of Accessory Building or Use, as follows (deletions in *(parenthesis and italics)* and additions underlined);

(ACCESSORY BUILDING OR USE)

(A building or use customarily incidental to and located on the same lot with the principal building or use, except that if more than 50% of the lot area is occupied by such use, it shall no longer be considered accessory.)

ACCESSORY BUILDING

A detached building, which is located on the same lot with the main building or use and which is subordinate and customarily incidental to the use of the main building or land.

ACCESSORY USE

Any use which is subordinate and customarily incidental to a principal use.

and further that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of Bolton; or take any other action relating thereto.

Sponsor: Planning Board

Summary: This bylaw amendment addresses two modifications to the definition of Accessory Building or Use under Section 250-28 Terms Defined in the Code of the Town of Bolton. First, the change eliminates the concept of 'lot area' from the definition: the current bylaw indicates that if more than 50% of the lot area is occupied by an accessory use or accessory building, it will no longer be deemed 'accessory'; this is problematic as (a) lot area cannot be applied when addressing uses that are contained wholly within a building, and (b) in accordance with Section 250-13 Dimensional Regulations, maximum building coverage can only be 8% of the lot area, rendering the 50% reference moot. Second, this bylaw amendment separates Accessory Use and Accessory Building for clarity in understanding and applying the bylaw. The current bylaw combines accessory use and accessory building.

Board of Selectmen Recommendation:

Advisory Committee Recommendation:

Vote Required: 2/3 Majority

Article 10: Amendment to the Code of the Town of Bolton, Division I, Part III. Zoning Bylaw, Chapter 250. Zoning, Article VI. Definitions, Section 250-28. Terms defined - to Amend definition of Base Map

To see if the Town will vote to amend the Code of the Town of Bolton, Division I, Part III. Zoning Bylaw, Chapter 250. Zoning, Article VI. Definitions, Section 250-28. Terms defined, by amending the definition of Base Map, as follows (deletions in *(parenthesis and italics)* and additions underlined);

BASE MAP

The Base Town Map and Zoning District Map shall be known as and referred to in the Town of Bolton Zoning Bylaws as the "Base Map." The Base Map is the map prepared by Ducharme &

Dillis Civil Design Group, Inc., revised (*May 2012*) September 2016 and on file with the Town Clerk.^[1]

[Added 5-4-1998 ATM by Art. 18; amended 5-4-2004 ATM by Art. 22; 11-14-2005 STM by Art. 4; 7-14-2008 STM by Art. 1; 5-7-2012 ATM by Art. 26]

and further that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of Bolton; or take any other action relating thereto.

Sponsor: Planning Board

Summary: This bylaw amendment serves to update the definition of Base Map under Section 250-28 Terms Defined with the most recent copy of Bolton's Base Town Map and Zoning District Map modified September 2016, pursuant to Bolton's annual Town Meeting 2016.

Board of Selectmen Recommendation:

Advisory Committee Recommendation:

Vote Required: 2/3 Majority

Article 11: Amendment to the Code of the Town of Bolton, Division I, Part III. Zoning Bylaw, Chapter 250. Zoning, Article IV. General Regulations – to add Section 250-19.1. Firefighting water supply

To see if the Town will vote to amend the Code of the Town of Bolton, Division I, Part III. Zoning Bylaw, Chapter 250. Zoning, Article IV. General Regulations, by adding Section 250-19.1. Firefighting water supply, as follows (deletions in *parenthesis and italics*) and additions underlined);

§ 250-19.1. Firefighting water supply.

- A. The requirements of this section shall apply whenever an applicant constructs three (3) or more residential buildings on a single lot or contiguous lots or one (1) industrial or commercial building(s), in any event located more than one thousand (1,000) feet beyond a reliable source of water for fire suppression as defined by the Fire Department. Determination of the 1,000-foot distance shall be the distance from the source of water to the farthest point of the farthest building on the subject property, along a route that fire apparatus would be expected to travel as the same is determined by the Fire Department.
- B. The design and capacity of any new firefighting water supply shall be subject to the approval of the Planning Board with consultation from the Fire Department.
- C. The Planning Board may adopt Rules and Regulations relating to firefighting water supply and shall be informed by then-current requirements set forth by the National Fire Protection Association.

and further that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of Bolton; or take any other action relating thereto.

Sponsor: Planning Board

Summary: This bylaw amendment serves to create a firefighting water supply bylaw that meets current National Fire Protection Association requirements. As a rural community, Bolton relies upon static water supplies for fire

protection. The bylaw amendment is written in such a way as to be informed by current national standards relative to firefighting.

Board of Selectmen Recommendation:

Advisory Committee Recommendation:

Vote Required: 2/3 Majority

Article 12: Amendment to the Code of the Town of Bolton, Division I, Part III. Zoning Bylaw, Chapter 250. Zoning, Article V. Special Regulations, Section 250-23. Business, commercial and industrial regulations - to Amend Subsection D

To see if the Town will vote to amend the Code of the Town of Bolton, Division I, Part III. Zoning Bylaw, Chapter 250. Zoning, Article V. Special Regulations, Section 250-23. Business, commercial and industrial regulations, by amending Subsection D, as follows (deletions in *parenthesis and italics*) and additions underlined);

D. Firefighting water. Refer to § 250-19.1. *(An accessible tank, reservoir, or water hole containing at least one gallon of water for each square foot of total floor area of buildings of combustible material and one gallon of water for each two square feet of total floor area of buildings of noncombustible material shall be provided and maintained within 1,000 feet of each industrial or commercial building unless said building is located within 1,000 feet of an existing equivalent body of water.)*

and further that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of Bolton; or take any other action relating thereto.

Sponsor: Planning Board

Summary: This bylaw amendment is to replace current firefighting water requirements under Section 250-23 Business, Commercial and Industrial regulations with reference to Article 6 - new Section 250-19.1 Firefighting water supply bylaw. The current requirements of the bylaw are not informed by national standards, but are rather set at a static formula.

Board of Selectmen Recommendation:

Advisory Committee Recommendation:

Vote Required: 2/3 Majority

Article 13: Amendment to the Code of the Town of Bolton, Division I, Part III. Zoning Bylaw, Chapter 250. Zoning, Article IV. General Regulations, Section 250-17. Driveways and Parking - to Add Subsection A.(8)

To see if the Town will vote to amend the Code of the Town of Bolton, Division I, Part III. Zoning Bylaw, Chapter 250. Zoning, Article IV. General Regulations, Section 250-17. Driveways and parking, by adding Subsection A.(8), as follows (deletions in *parenthesis and italics*) and additions underlined);

A. Driveways.

[Amended 5-3-1999 STM by Art. 13]

(8) Existing driveways shall be required to meet the provisions of this bylaw where existing dwellings are razed and new dwellings are constructed with the exception of dwellings affected by natural disasters including fire. A waiver may be granted at the discretion of

the Planning Board if the applicant can demonstrate it is impractical or impossible to meet this requirement.

and further that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of Bolton; or take any other action relating thereto.

Sponsor: Planning Board

Summary: This bylaw amendment brings driveway standards within Section 250-17 Driveways and Parking, including those relative to managing storm-water runoff onto public roads without sufficient drainage, to existing driveways that provide access to new dwellings built in place of existing dwellings (tear-downs).

Board of Selectmen Recommendation:

Advisory Committee Recommendation:

Vote Required: 2/3 Majority

Article 14: Amendment to the Code of the Town of Bolton, Division I, Part III. Zoning Bylaw, Chapter 250. Zoning, Article V. Special Regulations – to add Section 250-23.3. Temporary moratorium on recreational marijuana establishments and marijuana retailers

To see if the Town will vote to amend the Code of the Town of Bolton, Division I, Part III, Zoning Bylaw, Chapter 250. Zoning, Article V, Special Regulations, by adding new Section 250-23.3. Temporary moratorium on recreational marijuana establishments and marijuana retailers, as follows (deletions in *parenthesis and italics*) and additions underlined);

§ 250-23.3. Temporary Moratorium on Recreational Marijuana Establishments

A. Purpose.

By vote at the State election on November 8, 2016, the voters of the Commonwealth approved a law entitled the “Regulation and Taxation of Marijuana Act” (the “Act”), regulating the sale, cultivation, distribution, possession and use of marijuana for recreational purposes. The law provides that it is effective on December 15, 2016 and the Cannabis Control Commission is required to issue regulations regarding implementation by March 15, 2018.

Currently under the Zoning Bylaw, a “marijuana establishment”, as defined in the Act, and other types of marijuana related businesses and operations allowed under the Act are not permitted uses in the Town. Any regulations promulgated by the Cannabis Control Commission are expected to provide guidance to the Town in regulating marijuana establishments and recreational marijuana sales and distribution.

The regulation of recreational marijuana and marijuana establishments raises novel and complex legal, planning, and public safety issues. The Town needs time to study and to consider the regulation of recreational marijuana and marijuana establishments and address such novel and complex issues. The Town needs time to address the potential impact of the Act and the Cannabis Control Commission’s regulations on local zoning, and to undertake a planning process to consider amending the Zoning Bylaw regarding regulation of recreational marijuana, marijuana establishments and other uses related to marijuana under the Act. The Town intends to adopt a temporary moratorium (the “Temporary Moratorium”) on the use of land and structures in the Town for recreational marijuana establishments to allow the Town sufficient time to

engage in a planning process to address the effects of such structures and uses in the Town and to enact a Zoning Bylaw in a manner consistent with sound land use planning goals and objectives.

B. Definitions.

As used in this Section 250-23.3, the terms “Marijuana”, “Marijuana Establishment”, “Marijuana Products”, “Marijuana Retailer”, “Marijuana Cultivator”, “Marijuana Testing Facility” and “Marijuana Product Manufacturer” shall have the same meanings as set forth in the Act.

C. Temporary moratorium.

For the reasons set forth above and notwithstanding any other provision of the Zoning Bylaw to the contrary, the Town hereby adopts a Temporary Moratorium on the use of land or structures as a primary or accessory use, as a marijuana establishment, marijuana retailer, marijuana cultivator, marijuana testing facility, marijuana product manufacturer, or any other type of marijuana related business or operation allowed under the Act. The Temporary Moratorium shall be in effect through December 31, 2018. During the time that the Temporary Moratorium is in effect, the Town shall undertake a planning process to address the potential impacts of recreational marijuana in the Town, consider the Cannabis Control Commission’s regulations, and shall consider adopting a new Zoning Bylaw to address the impact of recreational marijuana, marijuana establishments and any other type of marijuana related business or operation allowed under the Act.

D. Effect on Registered Marijuana Dispensaries

This Section 250-23.3 shall have no effect on the dispensing of marijuana and marijuana products to registered qualifying patients by a Registered Marijuana Dispensary, as defined in Section 250-28 of the Zoning Bylaw and governed by Section 250-23.1 of the Zoning Bylaw.

and further that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of Bolton; or take any other action relating thereto.

Sponsor: Planning Board

Summary: The Planning Board seeks to adopt a temporary moratorium on recreational marijuana establishments and marijuana retailers to allow sufficient time to engage in a planning process to address the effects of such structures and uses and to adopt provisions of the Zoning Bylaw in the Code of the Town of Bolton in a manner consistent with sound land use planning goals and objectives.

Board of Selectmen Recommendation:

Advisory Committee Recommendation:

Vote Required: 2/3 Majority