

2.0 ZONING BYLAWS

2.1 PURPOSE AND ADMINISTRATION

2.1.1 Purpose

This Zoning Bylaw is enacted pursuant to, and under the authority of, Chapter 40A of the General Laws, and amendments thereto, and of Article 89 of the Amendments to the Constitution, for the purpose of guiding the sound development of the Town of Bolton.

2.1.2 Administration

2.1.2.1 Compliance Certification

No “development” shall be undertaken without certification by the Inspector of Buildings that such action is in compliance with the then applicable Zoning Bylaw, or without review by him regarding whether all necessary permits have been received from those governmental agencies from which approval is required by federal, state, or local law. "Development" for these purposes shall mean erecting, moving, substantially altering a building, sign, or other structure or constructing a driveway. Issuance of a Building Permit or Certificate of Use and Occupancy, where required under the Commonwealth of Massachusetts State Building Code, may serve as such certification.

2.1.2.2 Zoning Review

Materials submitted in application for such certification shall upon receipt be reviewed and forwarded by the Inspector of Buildings to the Board of Selectmen, which within 14 days of receipt by it shall determine whether or not the proposal is in compliance with all Bylaws and is otherwise eligible to proceed and shall so notify the Inspector of Buildings.

2.1.2.3 Enforcement

The Selectmen shall take all such action as may be necessary to secure full compliance with the provisions of the Bylaw, permits issued thereunder and variances granted under the Bylaw or applicable statutes.

2.1.2.4 Penalties

The penalty for violation of any provision of this Bylaw, or any of the conditions under which a permit is issued, or any decision rendered by the Board of Appeals shall be Fifty Dollars (\$50.00) for each offense. Each day that each violation continues shall constitute a separate offense.

The preceding paragraph notwithstanding, any person violating the provisions of any section of these zoning bylaws or condition to special permits and variances which is subject to a specific penalty may be penalized by a non-criminal disposition as provided in M.G.L. Chapter 40 Section 21D which

includes the giving, to the violators, a written notice to appear before the clerk of the district court.

2.1.3 Applicability

2.1.3.1 Other Laws

Where the application of this Bylaw imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants or agreements, the provisions of this Bylaw shall control.

2.1.3.2 Conformance

Construction or operations under a Building or Special Permit shall conform to any subsequent amendment of this Bylaw unless the use or construction is commenced within a period of six months after the issuance of the permit and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

2.1.3.3 Pre-existing Nonconforming Uses and Structures

(a) Extension or Alteration: As provided in Section 6 of Chapter 40A, G.L., a pre-existing nonconforming single or two-family dwelling may be altered or extended provided that doing so does not increase the nonconforming nature of said structure, and other pre-existing nonconforming structures or use may be extended or altered, on Special Permit from the Board of Appeals if the Board of Appeals finds that such extension or alteration will not be substantially more detrimental to the neighborhood than the existing nonconforming structures or use. Generally an increase of not over 100% from the original floor area of the building at the time of the adoption of the Zoning Bylaw on April 13, 1972, or not over 50% of the ground area in use at that time, shall be considered as not substantially more detrimental to the neighborhood. Once changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use.

(b) Restoration: Any legally pre-existing nonconforming building or structure may be reconstructed if destroyed by accidental or natural cause if reconstruction is begun within twelve months and completed within twenty-four months from the date of the catastrophe (unless a longer period is allowed through a Special Permit), or else such reconstruction must comply with this Bylaw.

(c) Abandonment: A pre-existing nonconforming use which has been abandoned, discontinued for a period of two years, or changed to a conforming use, shall not be re-established, and any future use of the premises shall conform with this Bylaw.

2.1.3.4 Nonconforming Lots ("The 1973 Amendment")

This section shall not prohibit the erection of a single-family residence on a lot or parcel of land located within the residential zone of the Town of Bolton as set forth in the Base Map if said lot or parcel does not meet the minimum requirements of this amendment provided however that, prior to the effective date in 1958 of the original Bylaw, the lot or parcel of land was in single or joint ownership by a deed and/or a plan recorded in the Worcester District Registry of Deeds or that the lot or parcel of land was in single or joint ownership by deed recorded in the Worcester District Registry or a plan recorded in the same registry between the effective date in 1958 of the original Bylaw and the effective date of 1973 amendment of this section, and that the plan or plans, as recorded, bear the proper approvals of the Planning Board of the Town of Bolton where required by law; and said deed or plans otherwise conform to the Bylaws existent between the effective date in 1958 of the original Bylaw and the effective date of the 1973 amendment, for use as a single family residential building lot.

2.1.4 Validity

The invalidity of any section or provisions of the Bylaw shall not invalidate any other section or provision hereof.

2.2 BOARD OF APPEALS

2.2.1 Establishment

A Board of Appeals of five members shall be appointed by the Selectmen in accordance with the provisions of Chapter 40A of the General Laws, as amended. The Board of Selectmen shall also appoint in like manner two associate members of the Board of Appeals; and in case of a temporary vacancy, absence, inability to act, or conflict of interest on the part of a member of said Board, his place may be taken by an associate member designated by the Chairman or Vice Chairman of the Board of Appeals.

2.2.2 Powers

The Board of Appeals shall have and exercise all the powers granted to it by Chapters 23B, 40A, 40B and 4I of the General Laws, and by this Bylaw, those powers being to hear and decide applications for Special Permits upon which the Board is empowered to act under this Bylaw; to hear and decide petitions for variance, excluding variances for use, to hear and decide other appeals from any aggrieved person, officer, or board; to issue comprehensive permits as provided by Sections 20-23, Chapter 40B, G.L.; in special cases to issue withheld building permits as provided by Section 81Y, Chapter 4I, G.L.; and to act on appeals under the Commonwealth of Massachusetts State Building Code, as provided by Section 23 of Chapter 23B, G.L.

2.2.3 Special Permits

2.2.3.1 Special Permit Granting Authority

Special Permit applications shall be heard and decided upon by the Board of Appeals, except in the case where some other Special Permit Granting Authority is specified by this Bylaw.

2.2.3.2 Criteria

Special Permits provided for in the Zoning Bylaws shall be granted only upon determination by the Special Permit Granting Authority that the activity may be carried out without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this Bylaw, upon consideration of environmental, economic, fiscal, traffic, public facility, visual, and social consequences. Such permits may also impose conditions, safeguards and limitations on time or use.

2.2.3.3 Expiration

Special Permits shall lapse twenty-four (24) months following grant thereof (excepting such time required to pursue or await the determination of an appeal referred to in Section 17, Chapter 40A, G.L.) if a substantial use or construction has not sooner commenced except for good cause.

2.2.3.4 Public Hearing

Special permits or any extension, modification, or renewal thereof shall only be issued following public hearings held within sixty-five (65) days after filing a complete application with the Town Clerk, a copy of which shall forthwith be filed by the applicant with the Special Permit Granting Authority (SPGA) or its agent. The decision of the SPGA regarding a special permit or any extension, modification, or renewal thereof, shall be made within ninety (90) days following the date of the close of the public hearing. Failure by the SPGA to take final action within said ninety (90) days or extended time, if applicable, shall be deemed to be a grant of the special permit in accordance with, and subject to, the requirements of the twelfth paragraph of Massachusetts General Laws, chapter 40A, section 9 (MGL c. 40A, s. 9). The required time limits for a public hearing and said action may be extended by written agreement between the applicant and SPGA, filed with the town clerk. Said decision shall be filed in writing at the Town Clerk's office within fourteen (14) days of the date the decision is made, and notice of the decision shall forthwith be mailed to the petitioner, applicant, or appellant, and to the parties in interest designated in MGL c. 40A, s. 11, and to every person present at the hearing who so requested and who stated the address to which said notice was to be sent.

2.2.3.5 Planning Board Associate Member

A majority of the joint members of the Board of Selectman and Planning Board may appoint an associate member of the Planning Board. Such associate member, when designated by the chairman of the Planning Board, may serve on the Planning Board for the purpose of acting upon a special permit application, in case of absence, inability to act, or conflict of interest on the part of any member of the Planning Board or in the event of a vacancy on the Board. Said associate member shall be appointed for a term of two years.

2.2.3.6 Rules and Regulations

Such Special Permit Granting Authority may adopt and from time to time amend rules and regulations and charge a fee relative to the issuance of such permits, and shall file a copy of said rules in the Office of the Town Clerk. Such rules may prescribe the application, size, form, contents, style and number of copies of plans and specifications and the procedure for submission and approval of such permits.

2.2.4 Design Review Criteria

In making a decision on proposals for Special Permits or Variances for business or industrial uses, the Board of Appeals shall consider the Design Review Guidelines in Section 2.5.5.7.

2.3 ZONING DISTRICT REGULATIONS

2.3.1 Location of Districts

Zoning Districts are hereby established as shown, located, defined and bounded on a map entitled Base Map and accepted by the Town at the Annual Town Meeting of May 4, 1992, signed by a majority of the Planning Board and filed with the Office of the Town Clerk; which map, together with explanatory matter thereon and all amendments made under this Bylaw, is hereby incorporated in and made a part of this Bylaw including the map referred to in the "Lot Frontage" definition.

2.3.2 Types of Districts and Permitted Uses

No Building or structure shall be erected or used except as set forth in this section or as exempted by Section 2.1.3.4, or by statute. The uses set forth in the following Districts are to be considered exclusive to the said District and are not to be considered mutual to any other District than that in which the allowed use appears. The use of land within the Town for disposal of solid waste derived from premises other than those of the owner or occupant is prohibited except for such operations as may be conducted by the Town of Bolton.

In all Districts uses which are municipal, rural, agricultural, conservation and/or open space are specifically permitted in addition to the uses set forth below:

(a) Flood Plain: as defined in Section 2.5.3 of the Bylaws of the Town of Bolton

(b) Residential: for single family residential uses.

(c) Business: for retail and service establishments where business is conducted wholly within an enclosed building.

(d) Limited Business: for retail and service establishments subject to Special Permit as required.

(e) Commercial: for uses set forth in (c) above, for removal or processing of earth materials to include stones, soil, loam, sand or gravel, and for retail, wholesale and service establishments where business is conducted wholly or partially outside a building, except restaurants which must be conducted wholly within an enclosed building.

(f) Industrial: for storage areas, office buildings, research and development laboratories, light manufacturing industries and compatible allied uses.

(g) Repealed Annual Town Meeting May 2006

(h) Limited Recreation Business District, as defined in Section 2.3.8 of the Bylaws of the Town of Bolton.

2.3.3 Mixed Uses

No business, commercial, or industrial building or outdoor storage (except for agriculture, horticulture, or floriculture) shall be established on a lot on which a dwelling exists.

2.3.4 The following schedule is included as a general reference schedule of permitted uses within the various districts, but in the event of any inconsistencies, the provisions of 2.3.2 and other provisions of this Bylaw shall be controlling.

In the schedule, "Yes" means a permitted use, "No" means a prohibited use, and "SP" means a use allowed on Special Permit acted on by the Planning Board pursuant to 2.5.5.5. "SSP" means a use allowed on Special Permit acted on by the Board of Selectmen.

* Except "yes" for buildings erected prior to March 2, 1970

** See definition

*** Except those listed in 2.3.8.4 and 2.3.8.5

**** Only with a 2.5.2.5 Agricultural/Business Use Special Permit

All uses in the Flood Plain District are subject to the provisions of this Bylaw specifically relating to such district.

When an activity might be classified under more than one of the uses, the more specific category shall govern; if equally specific, the more restrictive shall govern.

	TYPES OF USES		ZONING DISTRICTS				Limited Recreation Business
	Residential	Business	Limited Business	Commercial	Industrial		
Rural							
Agriculture, horticulture, floriculture	Yes	Yes	Yes	Yes	Yes	Yes	
Forestry, lumbering,	Yes	Yes	Yes	Yes	Yes	Yes	
Open space, conservation	Yes	Yes	Yes	Yes	Yes	Yes	
Residential							
Single-family dwelling	Yes	No	No	No	No	No	
Accessory apartment	Yes	No	No	No	No	No	
New two-family dwelling	No	No	No	No	No	No	
Conversion to two-family dwelling	No*	No	No	No	No	No	
Multi-family dwelling	No	No	No	No	No	No	
Mobile home** (see Section 2.5.1)	Yes	No	No	No	No	No	
Mobile home park**	No	No	No	No	No	No	
Assisted Living Housing	No	No	SP	No	No	No	
Congregate Living Housing	No	No	SP	No	No	No	
Nursing Care Facilities	No	No	SP	No	No	No	
Mercantile							
Restaurant (no drive-through service)	No	SP	SP	Yes	No	No	
Motel, Hotel	No	SP	SP	Yes	No	No	
Business-occupied trailer	No	No	No	No	No	No	
Office building	No	Yes	SP	Yes	Yes	No	
Other retail, wholesale or service:							
wholly within building	No	SP	SP	Yes	No	No	
wholly or partially outside a building	No	No	SP	Yes	No	No	
Used car sales	SSP	No	No	No	No	No	
Manufacturing & Processing							
Light manufacturing (see 2.5.5)	No	No	No	No	Yes	No	
Research & Development							
Laboratories	No	No	No	No	Yes	No	
Earth Removal (see Town Bylaw 1.10)	No	No	No	Yes	No	No	
Bulk storage**	No	No	No	Yes	Yes	No	
Industry-occupied trailer	No	No	No	No	No	No	

TYPES OF USES

ZONING DISTRICTS

	Residential	Business	Limited Business	Commercial	Industrial	Limited Recreation Business
Institutional						
Educational uses exempt from prohibition under S.3 Ch. 40A, G.L.	Yes	Yes	Yes	Yes	Yes	Yes
Religious uses	Yes	Yes	Yes	Yes	Yes	Yes
Library, Museums, Hospitals	Yes	Yes	Yes	Yes	Yes	Yes
Fraternal, Civic, Charitable organizations	No	Yes	Yes	Yes	Yes	Yes
Non-municipal solid waste disposal	No	No	No	No	No	No
Other municipal uses	Yes	Yes	Yes	Yes	Yes	Yes
Recreational						
Indoor tennis, health club, bowling	No	SP	SP	Yes	No	No
Extensive outdoor recre- ation** Golf course	Yes	Yes	Yes	Yes	Yes	No
Other	No	No	No	Yes	No	No
Municipally operated	Yes	Yes	Yes	Yes	Yes	No
Commercially operated	No	No	No	Yes	No	No
Primary Golf Course (see 2.3.8.5)	No	No	No	No	No	Yes
Trail Recreation (see 2.3.8.4)	No	No	No	No	No	Yes
Wireless Communication						
Wireless Communication Facility/ Tower/Communication Device	SSP*****	SSP	SSP	SSP	SSP	No
Accessory						
Agricultural/Business Use (see section 2.5.2.5)	SSP	SSP	SSP	SSP	SSP	SSP
Roadside produce stands	Yes	Yes	Yes	Yes	Yes	Yes
Home occupation (see section 2.5.2.1)	Yes	Yes	Yes	Yes	Yes	Yes
Other customary accessory uses	Yes	Yes	Yes	Yes	Yes	No***
Primary Golf Course Accessory Uses (see 2.3.8.5)	No	No	No	No	No	SSP
Trail Recreation accessory uses (see 2.3.8.4)	No	No	No	No	No	SSP
Wireless Communication						
Wireless Communication Facility/Towers/ Communication Device	SSP*****	SSP	SSP	SSP	SSP	No

2.3.5 Dimensional Regulations

2.3.5.1 General

No structure shall be erected or extended, or lot created or reduced in size, except through a public taking, unless in conformity with the requirements of this section, or unless specifically exempted by statute or this Bylaw.

2.3.5.2 Dimensional Schedule.

	Residential Lot	*** Backland Lot (Residential)	Other Uses i.e. Business, Industrial or Commercial
Minimum lot area**	80,000 sq. ft.	4.5 acres	1.5 acres
Minimum lot frontage**	200 feet	50 feet	200 feet
Minimum depth:			
Front yard**	50 feet	50 feet	150 feet
Other yards**	20 feet	50 feet	50 feet
Minimum lot width for 100 feet back from street line	150 feet	2.3.5.5 (b)	150 feet
Maximum lot coverage**	N/A	N/A	see Notes A and B

** See definition

*** Refer to 2.3.5.5

Note A. Maximum lot coverage shall be 8% and the sum of all impermeable surfaces and other areas subjected to vehicle traffic or parking on a regular basis shall not exceed 50% of the total lot area within the zone of proposed use.

Note B. The definition of Lot Area set forth in Section 2.6, Definitions, shall apply, except that, in Limited Business Zones only, when a landowner has donated to the Town an easement in, or the Town has taken or purchased an easement in, any portion of a tract of land and said easement has been accepted by the Town for the relocation of an already existing public way, said portion of the tract of land shall be included in the calculation of the lot area of the tract for purposes of this bylaw, subject to the following requirements: the easement area is no greater than five (5) percent of the size of the tract; the tract remains the same dimensionally, and is not subdivided, divided, altered, or changed in any way; the boundary lines of said easement shall be considered lot lines for purposes of any setback measurements so that the easement area is not included in any calculations of setback requirements; and any use or structure complies with all other requirements of this bylaw.

2.3.5.3 One Building Per Lot

- (a) Residential Use: Not more than a single dwelling shall be erected or moved on a lot.
- (b) Other Uses: Not more than a single principal building, regardless of use, shall be erected or moved onto a lot.

2.3.5.4 Dimensional Nonconformancy

- (a) (Deleted 5/2/88 Art 9)
- (b) Two-dwelling lots. A single lot containing two or more lawfully existing dwellings less than forty (40) feet apart at the closest point of measurement may be divided into separate lots despite not meeting yard requirements, provided all other applicable provisions of this Bylaw are satisfied.

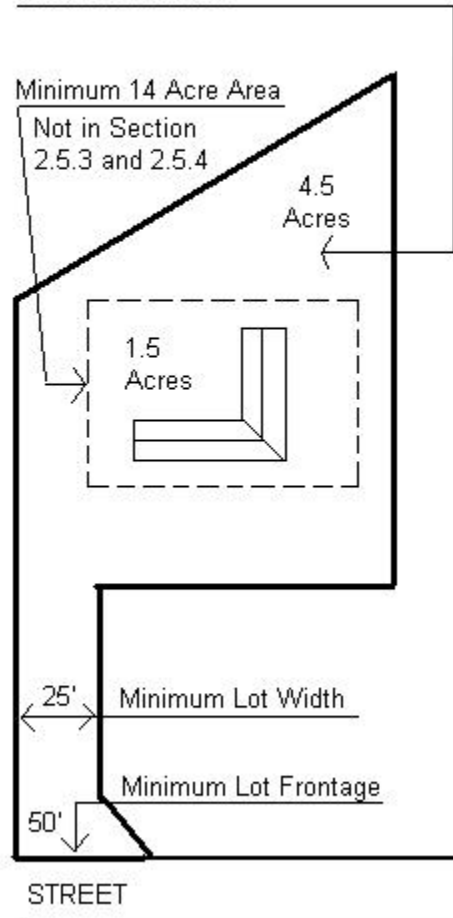
2.3.5.5 Backland Zoning

In Residential Districts backland or reduced frontage lots may be created by Special Permit issued by the Planning Board. Each such lot must meet the following criteria:

- (a) A minimum of street frontage on an accepted and/or approved town way of 50 feet.
- (b) The minimum allowable lot width between the dwelling site and the access to the public way is 25'. All plans for such lots shall show and indicate what the minimum lot width is in said plan though it may be in excess of 25'.
- (c) The minimum lot size shall be 4 1/2 acres.
- (d) Not more than one other Backland lot with frontage contiguous to it will be allowed. A Backland lot or lots as allowed under this Backland Zoning Bylaw shall be separated from any other Backland lot or lots by not less than two hundred feet (200') of frontage on an accepted and/or approved right-of-way.
- (e) No structure shall be erected within 50 feet of any lot line.
- (f) Once a Backland lot is created and approved by the Planning Board, it cannot be subsequently divided to less than four and one-half (4 1/2) acres.
- (g) At least 1 1/2 acres of contiguous land which is not in a:
 - (1) Flood Plain District (Section 2.5.3)
 - (2) Wetland Resource Areas as defined in the Wetlands Bylaw 1.18.2
- (h) Granting of a Special Permit under this Bylaw does not constitute a waiver of any other applicable Bylaw or statute.

BACKLAND LOT

Minimum Lot Size



2.3.5.6 Building Height

This bylaw is intended to limit new commercial, business or industrial buildings to a maximum of two stories, plus a basement, with either a flat or a pitched roof.

All buildings, except residential and agricultural uses, shall meet the following height limitations:

(a) The surface of the top occupiable floor, including mezzanines and balconies, shall be no more than fifteen (15) feet above the average ground elevation. Occupiable space as defined and as set forth in the State Building Code shall be the definitive standard of this bylaw.

(b) The highest portion of the roof, excluding spires, steeples, chimneys and antenna, shall be no more than thirty-two (32) feet above the average ground elevation.

The average ground elevation to be used in the above calculations shall be the lower of the average ground elevation on the street side of the building, or the average ground elevation on all sides of the building. In the case of built-up land, the ground elevations prior to such change in contour shall be used.

2.3.5.7 Lot Shape

a. The shape of all lots, except for the exceptions listed below, shall conform to the following formula:

$$16(A) / P^2 > 0.5$$

(Sixteen times the area in square feet divided by the square of the perimeter in feet must be greater than one-half) where:

A = Area of the lot in square feet; and,

P = Perimeter of the lot in feet.

b. Exceptions:

1. This requirement shall not apply to lots greater than four and one-half (4.5) acres in size.

2. This requirement shall not apply to backland lots created in accordance with Section 2.3.5.5, Backland Zoning.

3. The Planning Board may waive this requirement if it determines that a less stringent requirement will result in a better potential house siting, less environmental damage to the site, or better land use.

2.3.6 Farmland And Open Space Planned Residential Development

2.3.6.1 A Farmland and Open Space Planned Residential Development (FOSPRD) can be created for a residential development by using a special permit.

2.3.6.2 Purpose:

- (a) To preserve agriculture and open space
- (b) To preserve the rural and historic character of Bolton
- (c) To provide land owners with an alternative to traditional subdivisions that allows houses to be built in a way that is more in harmony with local site conditions, without increasing the density of new developments.

2.3.6.3 Prerequisites:

The entire FOSPRD must be in the Town of Bolton, in a residential zone. It must be at least 10 acres, or within fifty (50) feet of another FOSPRD.

2.3.6.4 Maximum Number of Dwellings:

- (a) The maximum number of dwellings which can be built in a FOSPRD is equal to the number of dwellings which, is demonstrated to the satisfaction of the Planning Board, could be built on the land in a traditional subdivision.
- (b) The applicant shall propose a number of dwellings to the Planning Board by submitting a preliminary plan showing how a traditional subdivision might be laid out, including: roads, lots, house locations and well and septic locations.
- (c) Evidence must be submitted to prove that the lots shown would satisfy Board of Health requirements for sewage treatment. This evidence must include a description of soil types and positive percolation tests. The percolation tests shall be done for all the proposed lots, but the Planning Board may waive testing of certain areas if the Planning Board decides that the local soil conditions are suitable for development.

2.3.6.5 Restricted Areas:

(a) Size of Restricted Areas

At least 33% of the area of the FOSPRD must be restricted with either a Farmland Restriction (FR) or an Open Space Restriction (OSR). The 33% requirement may be reached with FR land, OSR land, or some of each. The two types of restrictions are defined below in Sections C & D. No more than 25% of the minimum amount of restricted land can be a Wetland Resource Area as defined in the Wetlands Bylaw 1.18.2 or in a Flood Plain District, as defined in Sections 2.5.3.

(b) How Restricted Areas Are Selected

1. The Planning Board, after consultation with the applicant, Selectmen, Conservation Commission, Board of Health, abutters and general public, shall determine: location of FR land, location of OSR land, location of active use land within OSR land, location and amount of any footpaths. Active use is defined to include ballfields and playgrounds. The Planning Board shall balance the interests of conservation of natural resources, the value of land and existing buildings, and any demonstrated hardship, financial or otherwise that would affect the applicant in determining the location of the restricted area.

2. The intent of this bylaw is for the Planning Board to give preference to FR over OSR, for land that is being farmed or is good farming soils.

3. The required open space shall be configured to the extent practicable, so that it shall be aggregated into a contiguous area, or abut existing significant open space, or achieve one or more of the purposes described in Section 2.3.6.2.

c) Farmland Restriction (FR)

1. Only agricultural or horticultural uses are allowed in the FR area. These uses are defined in Mass General Laws Chapter 61A.

2. No buildings are allowed in the FR area, except 5% of the area can be covered with barns and other accessory farming buildings.

3. The FR land can be owned by either: the Town of Bolton, a conservation trust, a homeowners association of the residents of the FOSPRD, or other owner, such as a farmer. In no event may the FR in any manner be combined, included or joined with or considered as part of the individual dwelling lot area(s). No portion of the FR may be included in determining the minimum dwelling lot area(s) as prescribed in 2.3.5 or 2.3.6.7 a) 1). In all cases the land must be subject to an agricultural preservation restrictions under Mass General Law Chapter 184 s 31 & 32 and that the provisions of that restriction must be reviewed and approved by the Planning Board. The farming rights to the land owned by the Town of Bolton may be sold or leased to farmers.

4. If agricultural activities cease for 3 or more years, then the Town may mow to save any fields or orchards. Fifteen (15) years after the agricultural activity ceases, the Planning Board may, after public hearing and review, cause the FR to be converted to OSR land.

5. No septic systems are allowed in the FR area other than to serve any buildings mentioned in item (c2) above.

6. All five of the above restrictions must be written into the deed of the land in the FR area.

(d) Open Space Restriction (OSR):

1. No new buildings may be constructed on OSR land. No dwellings are allowed in the OSR area.

2. OSR land can be owned by: the Town of Bolton, a conservation trust, or a homeowners association of the residents of the FOSPRD. The restrictions are owned by the Town of Bolton. In no event may the OSR in any manner be combined, included or joined with or considered as part of the individual dwelling lot area(s). No portion of the OSR may be included in determining the minimum dwelling lot area(s) as prescribed in 2.3.5 or 2.3.6.7 a) 1).

3. The OSR land can be used for passive recreation or active recreation. Active recreational uses can not cover more than 10% of the OSR land.

4. The above 3 restrictions must be written into the deed of the land in the OSR area.

2.3.6.6 Roadways:

(a) When constructing new right-of-way, the applicant must file a subdivision plan and meet all the normal requirements, notwithstanding the other provisions of the zoning bylaw:

1. Street widths will be controlled by the Town of Bolton's Subdivision Rules and Regulations and in no case will be less than 18 feet in width.

2. Common driveways serving up to 5 (five) houses each may be obtained under 2.4.1.2 even if none of the lots are backland lots.

2.3.6.7 Dimensional Requirements:

(a) Must meet all dimensional requirements of the Bolton Zoning Bylaws (Section 2.3.5) except:

1. Minimum lot area reduced to 1 acre

2. Minimum lot frontage reduced to 25 feet

3. No "Minimum lot width at 100 feet back from the street" requirement

2.3.6.8 Approval Process:

(a) The Planning Board shall be the special permit granting authority for a FOSPRD. The applicant must comply with all the other zoning bylaws of the Town of Bolton.

(b) The Planning Board may issue regulations to go with this bylaw, which specify the application procedure and may charge a fee to cover engineering and legal review and other expenses.

(c) When considering whether or not to grant a special permit, the Planning Board should consider:

1. Whether the proposed plan restricts development on significant farms, farm soils, fields, orchards, hilltops, scenic vistas, stone walls, and other areas important to Bolton's rural character.

2. Whether the proposed plan results in the preservation of buildings with historic significance, which includes buildings more than 100 years old.

3. Whether the proposed plan serves the intent of this bylaw as described in Section 2.3.6.2 better than the alternative of a traditional subdivision.

2.3.6.9 Submission Requirements

The applicant shall submit to the Planning Board copies of the following:

- (a) A traditional Preliminary or Definitive Plan meeting the informational requirements of the Bolton Subdivision Rules and Regulations: and
- (b) A FOSPRD Preliminary or Definitive Plan meeting the informational requirements of the Bolton Subdivision Rules and Regulations

2.3.6.10 Relations to Subdivision Regulations:

In so far as a FOSPRD constitutes a subdivision (per M.G.L. C41, Section 81-L), both the subdivision and the special permitting approval processes may run concurrently. However, subsequent approval by the Planning Board of such portions of the development which constitutes a subdivision shall be required as set forth in the Bolton Subdivision Rules and Regulations, including the approval of the streets and utility system. A favorable action which may be made by the Board on a special permit application for a FOSPRD shall not, therefore, be deemed either to constitute subdivision approval under Bolton Subdivision Rules and Regulations, nor imply that such approval will be given.

2.3.7 Major Residential Development

2.3.7.1 Applicability

Lands affected by this section 2.3.7 includes residentially zoned property, or set of contiguous properties, in common ownership, or in common ownership as of June 10, 1996. The term "common ownership" shall be defined as ownership by the same person or persons or legal entities, or ownership by any two or more persons or entities, as evidenced by control, pursuant to established law.

A Major Residential Development shall mean any division of land which in any five year period:

- a) comprises 15 acres or greater of new residential lots; and
- b) results in the creation of six or more residential lots.

Any subsequent division of land which, if approved, would result in total development in excess of any of the preceding thresholds in any five year period, shall itself be subject to this section 2.3.7, and shall cause any previously approved division(s) of land which contributed to the aforesaid threshold calculation to then also be subject to this section 2.3.7 as a part of that subsequent proposal to divide land.

2.3.7.2 Approval

Major Residential Development shall be allowed only through the special permit process set forth in Section 2.3.6 Farmland and Open Space Planned Residential Development and this section.

2.3.7.3 Purpose

The purpose of this section is to preserve the natural and cultural resources of Bolton by insuring the larger-scale conversion of land to residential use does not consume all of the town's woodlands, fields, farmlands, historic structures and landscapes, orchards, cart paths, rock walls, geologic formations, water courses, wetlands, riparian zones, groundwater recharge areas, hilltops, scenic vistas, and other significant open spaces.

2.3.7.4 Decision

The Planning Board shall make a decision for all Major Residential Developments whether the plan developed in accordance with Section 2.3.6 provides a superior alternative in consideration of the criteria set out in Section 2.3.7.5 in which case, the Planning Board may require that the development occur in accordance with the plan consistent with Section 2.3.6. If the Planning Board does not find that the plan consistent with Section 2.3.6. is superior, the proponent may select whether to pursue development under Section 2.3.6 or use other development options pursuant to Town Bylaws.

2.3.7.5 Decision Criteria

The Planning Board, in making its decision as to whether to require development in accordance with Section 2.3.6 or to allow a traditional division of land, shall evaluate both plans and choose the development method which best meets, in the opinion of the Planning Board, the purpose of this section and the criteria set forth in Section 2.3.6.8 (c).

2.3.8. Limited Recreation Business District

2.3.8.1 This district is intended to promote recreational businesses, to conserve and secure the public health and safety, to facilitate the adequate provision of water and water supply, aquifers and recharge areas, and to protect natural and landscaped conditions as well as open space for commercial use, education, recreation, and the general welfare.

The Special Permit Granting Authority for this district shall be the Board of Selectmen. Uses which are municipal, rural, agricultural, conservation and/or open space are permitted as of right without site plan review or special permit.

2.3.8.2 Acreage Required for District

Parcel(s) must be comprised of 80 or more contiguous acres when Trail Recreation is the principal use and 120 or more contiguous acres and an average density of six (6) acres or greater per hole when a Primary Golf Course is the principal use.

2.3.8.3 Primary Uses and Structures allowed as of Right, Subject to Site Plan Approval Process

- a) Trail Recreation including cross country ski trails, horseback riding trails, or trails used for similar non-motorized recreation, and/or
- b) A Primary Golf Course with a minimum of eighteen (18) holes and at least 5000 yards in length, including the use of golf carts.

A site plan shall be submitted in accordance with Section 2.5.5.6 with respect to the above uses.

2.3.8.4 Trail Recreation Accessory Uses and Structures

The following Accessory Uses and Structures may be allowed by Special Permit when Trail Recreation is the Principal Use:

- a) Function rooms, conference rooms, sale of related equipment, changing and shower rooms, snack bars, offices related to the business of the recreation area.
- b) Horse and storage barns, indoor and outdoor riding rings, and maintenance shops.

2.3.8.5 Primary Golf Course Accessory Uses and Structures

The following Accessory Uses and Structures may be allowed by Special Permit when a Primary Golf Course is the Principal Use:

- a) Additional golf courses measuring more than 2000 yards.
- b) Function rooms, conference rooms, sale of related equipment, health clubs, changing and shower rooms, offices related to the business of the recreation area, restaurants and snack bars. Overnight lodging rooms are allowed at the density of 20 double-occupancy rooms for every 100 acres in the parcel(s) applying for a Special Permit.
- c) Garages, cabanas, on-course structures, maintenance shops.
- d) Practice putting greens and driving ranges.
- e) Sporting uses, including structures, such as tennis, badminton, archery, bocci, racquet ball and shuffle board courts.
- f) Other sporting uses such as softball, baseball, basketball and soccer fields with non-permanent bleachers only.
- g) Indoor or outdoor swimming pools not exceeding Olympic size.

h) Cross-country ski trails, horseback riding trails or trails used for similar non-motorized recreation, including uses and structures as allowed under Section 2.3.8.4.

i) Other uses and structures determined by the Board of Selectmen to be customarily incidental to the Primary Use and in harmony with the intent and purpose of this bylaw 2.3.8. The applicant shall have the burden to prove by substantial evidence for Selectmen to make a finding that a use or structure is customarily incidental to the Primary Use.

2.3.8.6 Uses and Structures Disallowed include, but are not limited to, the following:

- a) Petting zoos
- b) Miniature golf course
- c) Indoor bowling
- d) Outdoor firing ranges
- e) Heliports or other aircraft landing areas
- f) Water parks, e.g. commercial water recreation establishment with slides, wave pools or similar equipment
- g) Camping facilities
- h) Sports stadiums
- i) Casinos or gambling facilities
- j) Snowmobiles
- k) New residential structures
- l) Motorized trail and/or racing vehicles

2.3.8.7 Definition of Uses & Structures

The definition of “Accessory Uses & Structures” in Bolton bylaw 2.6 shall not apply. For purpose of this bylaw (2.3.8 Limited Recreation Business District) accessory use or structures is a use or structure customarily incidental to and located on the same contiguous land area as the Primary Uses and Structures, and lot coverage requirements complies with Section 2.3.8.8 of this bylaw.

2.3.8.8 Requirements for Special Permit for Accessory Uses & Structures

A. Structures and Impermeable Surfaces

Structures (structures include buildings, sheds, garages, and roofed storage areas, heated or unheated) can occupy not more than three quarters of one percent (0.75%) of total area.

The sum of all impermeable surfaces (including structures, swimming pools, permanent sporting facilities, roads, paved trails and parking) shall not exceed twelve percent (12%) of the total area.

"Section 2.3.5.2 Note A" of Bolton bylaws shall not apply.

B. Structures

1. Bolton bylaw 2.3.5.3 (b), limiting principal structures to one per lot, shall not apply. The Selectmen may authorize more than one principal structure on a lot. An application for said authorization will be considered:

- a) if adequate access is assured for each structure and
- b) if the structure complies with Bolton bylaw 2.5.5.4, fire ponds, and
- c) if the structure complies with Bolton bylaw 2.3.5.6, structure height and uses comply with bylaw 2.5.5.2 activity regulations.

2. Section 2.5.5.3 (b) of the Bolton bylaw shall not apply. No structures shall be located within three hundred (300) feet of any property boundary or town right-of-way and shall be either naturally wooded or visually screened using densely planted evergreen trees large enough to reach five feet (5') in height in three years and of a type which will continue to grow in height. All equipment used in connection with the maintenance of the areas shall be stored in an enclosed structure.

C. Parking

1. Parking must be shielded from the public ways, drainage from parking must not pollute the groundwater, no single parking area shall contain more than sixty (60) parking spaces without a separation of landscaped islands, including shade trees, and the visibility of parking areas shall be limited through structure placements, grading, and landscaping but in no case shall parking areas be closer than two hundred (200) feet to a residential zone border or town right-of-way.

- a) Number of parking spaces will be guided by Bolton bylaw 2.4.1.3, Parking.
- b) Parking requirements may be reduced upon showing reasonable expected traffic volume and adequacy of provided spaces without any overflow into the town's roads.
- c) Bolton bylaw 2.4.1.3 b) shall not apply where the applicant prefers to provide grassed parking.
- d) Night lighting of parking areas shall not be visible at ground level from adjacent properties and shall be constructed with full cut-off fixtures.

2.3.8.9 Driveways

Bolton bylaw 2.4.1.1 a) regulating driveways shall not apply. Instead, the Board of Selectmen may require that shared egress onto town roads be arranged for in order to avoid driveways within two hundred fifty (250) feet of each other or of a street intersection.

2.3.8.10 Protection of Earth Materials

No earth materials shall be removed from the property.

2.3.8.11 Protection of Groundwater

A plan will be submitted for approval as part of the Site Plan that protects groundwater from contamination by fertilizers, herbicides, and pesticides.

2.3.8.12 Special Events

Special Permit may include a provision that Special Events may be permitted. Special Events, defined as a planned event(s) with a total expected attendance of 500 or greater persons using the golf course, trails, and/or facilities, may be permitted upon the issuance of written approval by the Selectmen. Written approval may be granted after recommendations from appropriate Town Boards. These Boards may include (but are not necessarily limited to) the Planning Board, Board of Health, Fire Chief, Building Inspector, and Police Chief. Approval shall consider, but not be limited to, the following criteria:

- i. provisions for adequate off-street parking,
- ii. provision for adequate wastewater disposal,
- iii. provision for traffic control measures for roads leading to the facilities,
- iv. provision for adequate refuse disposal,
- v. provision for crowd control and security and
- vi. provision for adequate fire protection.

Notice shall be given a minimum of forty-five (45) days in advance and the Selectmen will respond and/or call a hearing within twenty-one (21) days. An approval for a special event may be issued only after a finding that there would not be an adverse impact upon residents of the Town of Bolton, including consideration of cumulative impacts.

2.3.8.13 Rules, Regulations and Fees

The Selectmen may write rules and regulations relative to the issuance of special permits under this bylaw and may set fees to cover the expenses of administration. Selectmen may also request the applicant to pay for any special studies identified during the public hearings as needed for traffic control, groundwater protection, and other issues that may substantially impact the resources of the town.

2.3.8.14 Severability

Each provision of this bylaw shall be construed as separate, to the end that if any part of it shall be held invalid for any reason, the remainder shall continue in full force and effect.

2.4 GENERAL REGULATIONS

2.4.1 Driveways and Parking

Overview:

(a) In residential districts, single and shared driveways (driveways serving 2 lots) will be created by permit issued jointly by the Planning Board and the Building Inspector. Upon review of the completed Application for Driveway Permit, the Planning Board will make a determination if a public meeting is required between the Applicant and the Planning Board/Building Inspector to review the submitted driveway plan. Common Driveways (serving 3 to 5 lots) will continue to be administered by the Planning Board per Section 2.4.1.2 of the Bolton Zoning Bylaws.

2.4.1.1 Driveways

(a) Entrances and/or driveways to a given tract of land must be made from an accepted or an approved right-of-way within the extremities of the frontage required except that not more than two single-family dwellings or lots in the Residential Zoning District may maintain one Shared driveway provided that the driveway falls within the frontage of one or both of the lots, and all other provisions of this Bylaw are met.

(b) The slope of the driveway shall not be greater than ten (10) percent within twenty (20) feet of the edge of the street pavement. There shall be no hazardous or blind driveways.

(c) No person shall construct or maintain any driveway, conduit, or drain, so as to discharge water or filth upon the street pavement or into open waterways or ponds.

(d) No driveway shall be constructed which ties directly onto an accepted town way which in any manner inhibits the existing drainage system of the town way.

(e) No single dwelling driveway or Shared Driveway's centerline will be located within thirty five (35) feet of the centerline of any approved or constructed Common Driveway.

(f) The Applicant will be required to complete a Town of Bolton Application for Driveway Permit.

(g) The Planning Board shall issue regulations to go with this bylaw, including charging a filing fee adequate to cover legal review and construction inspection.

2.4.1.2 Common Driveways Serving 3 to 5 Houses

In residential districts, common driveways to serve 3, 4 or 5 lots may be created by Special Permit issued by the Planning Board. Each such common driveway must meet the following criteria:

- (a) A common driveway, approved under 2.4.1.2 may serve:
- three or four lots if at least one is a backland lot.
 - three, four or five lots if two or more are backland lots.

Backland Lots are as defined in and permitted by Special Permit issued under the Town of Bolton's Zoning Bylaw 2.3.5.5 Backland Zoning.

A lot served is any lot crossed by, whether or not any building or any dwelling on the lot, is actually accessed and/or served by this Common Driveway, or lot on which any building or any dwelling is accessed and/or served by this Common Driveway. All such lots must be included in the list and number of lots served.

(b) Each lot served by the common driveway must have permanent access to the Common Driveway pursuant to an Easement Agreement acceptable to the Planning Board and the Deed to each lot served on a Common Driveway must reference this Easement Agreement. The Easement Agreement is to be recorded along with the Special Permit with the Worcester Registry of Deeds or with the Worcester County Land Court.

(c) Any deeds of ownership of lots served by a common driveway shall require that the owners of said lots must be members of a maintenance association, whose purpose is to provide for maintenance of the common driveway, which shall include, but not be limited to, snow plowing and maintaining design specifications. This maintenance association must be created by a Maintenance Association Agreement acceptable to the Planning Board and the Deed to each lot served on a Common Driveway must reference this Maintenance Association Agreement. This Maintenance Association Agreement is to be recorded along with the Special Permit with the Worcester Registry of Deeds or with the Worcester County Land Court.

(d) The common driveway is defined as extending from the approved or accepted right-of-way to which it is attached, to the point it serves only one lot, the so-called terminus. A Common Driveway may have more than one terminus. The common driveway shall be connected to an approved or accepted right-of-way at one, and only one, point. The entire common driveway must lie within the lots served, and in the Town of Bolton.

(e) The common driveway must meet the design criteria of this bylaw, and any additional design criteria established by the Planning Board in regulations duly voted by said Board according to law. The design criteria of this bylaw are:

- Twelve (12) feet minimum width of wear surface.
- A minimum of eight (8) inches of gravel wear surface.

- The first forty (40) feet of the common driveway from an approved or accepted right-of-way must have a slope of four (4%) percent or less.
- Suitable drainage appurtenances to prevent excessive erosion. These Drainage appurtenances must further ensure to the satisfaction of the Planning Board that all proposed activity and all development, including the construction of dwellings, lawns and other impervious areas for all lots to be served by this Common Driveway, in no manner contribute to additional drainage onto any abutting property or onto any accepted or approved right of way.
- A maximum slope of twelve (12%) percent.
- The centerline intersection with an approved or accepted right-of-way must be sixty (60) degrees or more.
- A turnaround located near each terminus, which location must be acceptable to the Planning Board, of at least forty (40) feet width and thirty (30) feet depth.
- An intercept width with the approved or accepted right-of-way of at least fifty (50) feet.
- A staging area of at least forty (40) feet in length and a minimum of twenty (20) feet in width at the streetline, tapering to a minimum of twelve (12) feet in width at forty (40) feet from the streetline.
- Passing turnouts must be constructed which provide a total width of at least eighteen (18) feet along a distance of at least twenty five (25) feet, spaced no more than three hundred (300) feet between turnouts or at a lesser interval where in the Planning Board's opinion a lesser distance is warranted for safety considerations.
- The length must be such that the distance along the Common Driveway centerline to each building or dwelling served by the Common Driveway will not exceed 1800 feet from the street sideline, and that the length along any of its individual driveways measured from the centerline of the Common Driveway to any building or dwelling served by the Common Driveway shall not exceed 800 feet.
- Signs to direct emergency access must be installed at the streetline and at each driveway intersection with the Common Driveway.
- The centerline of the Common Driveway cannot be located closer than thirty five (35) feet to the centerline of any approved or constructed single dwelling driveway or Shared Driveway.

When deciding whether or not to grant a special permit to create a common driveway, the Planning Board should consider:

- the safety of the common driveway as designed, for normal use.
- the safety of the intersection with the town way.
- the adequacy of the legal agreements for maintenance and access.
- the adequacy of the common driveway to provide access to vehicles carrying materials which are potentially hazardous if spilled, such as home heating oil.
- the environmental impact on wetlands and water resource areas.

(f) Granting of a Special Permit under this bylaw does not constitute a waiver of any other applicable Bylaw or Statute.

The Planning Board shall issue regulations to go with this bylaw, including charging a filing fee adequate to cover both legal review and construction inspection.

The driveway shall be sufficiently constructed for access before issuance of any building permit.

2.4.1.3 Parking

(a) A parking area, (not including access ways) of at least one square foot for each one square foot of business and commercial building area and one square foot for each two square feet of industrial building floor area, and three square feet for each one square foot of retail building floor area shall be provided on each lot of land used as an industrial, commercial or business area.

The parking area is defined to include the parking spaces and any aisles between the spaces, but not any driveways leading to the parking area.

The parking area shall not come within thirty feet (30') of the edge of the street paving.

(b) Parking areas and driveways on business, industrial or commercial sites shall be improved to at least the equivalent of eight inches (8") gravel over sub-grade and shall be pitched to drain.

2.4.2 Sign Regulations.

After January 25, 1971 no person shall place or cause to be placed, posters, handbills, placards, advertising matter or signs advertising or indicating the location of a personal, industrial or commercial enterprise or products anywhere in the Town except by written permission of the Board of Selectmen and:

2.4.2.1 No sign shall exceed thirty six (36) square feet.

2.4.2.2 No sign shall be oscillating, flashing, operated with moving parts or display the illusion of motion. No sign shall be internally lit.

2.4.2.3 No sign shall be closer than twenty (20) feet from the road pavement.

2.4.2.4 No sign including standards shall be more than eight (8) feet in height.

2.4.2.5 Signs in Residential Zones.

(a) Residences may have by permit, one sign, non-illuminated and of area not greater than two square feet for the purpose of announcement of professional or home occupation or for the announcement of the occupants of the dwelling. The sign shall be limited to one back-ground color which shall be white, natural wood or the color of the principal structure or its trim and any color for all lettering and other designs. The lettering on the sign shall not exceed three inches in height. The sign must not be closer than twenty feet from the side lot line. The sign must not be closer than ten feet from the road pavement.

(b) Pre-existing non-conforming uses in residential zones desiring a new sign not conforming under section (a) may apply under the general Bylaw.

2.4.2.6 Temporary signs, pertaining only to the lease or sale of land or building on which the sign is located, will be allowed in all zones subject to the following restrictions:

(a) The sign shall not exceed six square feet in area.

(b) The sign shall not be illuminated.

(c) The addition of the word "sold" is not allowed.

Signs which do not conform to this section must apply under the General Sign Bylaws (Section 2.4.2.).

2.4.2.7 If literal enforcement results in substantial hardship and if no harm to the public good is evident, waivers may be granted by the Board of Selectmen.

2.5 SPECIAL REGULATIONS

2.5.1 Trailers and Mobile Homes

2.5.1.1 Bylaw Applicability

All trailer coaches or mobile homes, used for dwelling, commercial, business or industrial purposes, parked in any area of the Town for more than ninety (90) days shall conform to all Bylaws and regulations applying to permanent dwellings or buildings except in emergencies as provided by the fourth paragraph of Section 3, Chapter 40A of the General Laws.

2.5.1.2 Time Restriction

The use of trailers or mobile homes for dwelling, commercial, business or industrial purposes in the Town for more than a period of one year shall be prohibited.

2.5.2 Accessory Uses

2.5.2.1 Home Occupations

In all Districts professional office or customary home occupation uses are permitted provided that:

- (a) The profession or home occupation is conducted by a resident of the premises.
- (b) The use is clearly incidental to and secondary to the use of the premises for residential purposes and the external character of the premises is that of a one-family residence.
- (c) Not more than two (2) persons other than the residents of the dwelling and not more than a total of four (4) are employed at any one time on the premises in the home occupation.
- (d) No noise, vibration, dust, heat, odors, glare, traffic congestion, unsightliness or other nuisance results which is discernible from other properties, or which is detrimental to the environment.

2.5.2.2 Swimming Pools

No person shall erect or construct a permanent swimming pool in the Town of Bolton without a building permit. Outdoor swimming pools shall be protected by a fence, wall, building, enclosure or solid wall of durable material of which the pool itself may be constructed, or any combination thereof. Artificial barriers shall be constructed at least four (4) feet in height so as to be impenetrable by toddlers. These barriers should either completely encircle the pool or the yard in which the pool is located. Any entrances must be equipped with a self-closing and positive self-latching closure mechanism at a height of 42 inches or more, and provided with hardware for permanent locking.

2.5.2.3 Accessory Scientific Uses

Scientific research or development may be allowed on Special Permit as an accessory use in any district, as provided in paragraph 9, Section 9, Chapter 40 A, General Laws.

2.5.2.4 Accessory Apartments

Construction of an accessory apartment is allowed, either in, or attached to, a new or existing dwelling subject to the following requirements:

- (a) The residence must be owner-occupied.
- (b) Size of the accessory apartment is to be limited to no larger than one-third of the floor space of living area of the residence.
- (c) The outside appearance of the premises shall remain that of a single family residence.
- (d) All applicable federal, state and local building and health codes must be satisfied including all bylaws of the Town of Bolton.
- (e) The accessory apartment shall have its own separate entrances from the outside.
- (f) The accessory apartment shall have its own complete kitchen and complete bath and toilet facilities.
- (g) There will be only one accessory apartment per residence.
- (h) A certified drawing showing the above shall be filed with the Board of Selectmen either for new construction or the creation of an accessory apartment in an existing dwelling.

2.5.2.5 Agricultural /Business Use

The Town of Bolton finds that in order to protect and preserve agricultural, horticultural, floricultural, or viticultural lands, to preserve natural resources and maintain land in active agricultural, horticultural, floricultural, or viticultural use, it is necessary to allow the owners of said lands to conduct an accessory business to supplement income from said uses. Agricultural/Business Use may be allowed by Special Permit issued by the Board of Selectmen under Section 2.2.3 as an accessory use in any district.

a) Allowable Agricultural/Business Uses. Allowable accessory uses are the following:

- 1) retail sales of farm products, crafts and similar retail products, as well as newspapers or magazines, including serving and consumption of baked goods and other prepared foods on the premises during hours of operation as defined in the Special Permit;
- 2) large and small animal veterinary services;
- 3) hosting or staging of revenue-generating events, tours, weddings, and functions which are appropriate in scale to the premises and surrounding residential area, including the preparation and serving of food and beverages for such events
- 4) Wireless Communication Facility(s), as defined in 2.5.7 Wireless Communication Bylaw, and any accessory structure(s) and or building(s)

replaced, constructed, installed and or maintained pursuant to Special Permit(s) issued under 2.5.2.5 Agricultural/Business Use and 2.5.7 Wireless Communication Bylaw.

b) Prohibited Uses. Specific uses which are not allowed on residentially-zoned agricultural land are the following:

- 1) Gas stations or retail or wholesale fuel storage or delivery;
- 2) Retail stores such as drug, department, pastry, hardware, and clothing stores; and
- 3) Manufacture of non-agricultural products.

All other uses must meet the requirements of Section A. above.

c) Eligibility. An owner may apply for an Agricultural/Business Use Special Permit if the owner has not fewer than 20 acres on one or more contiguous parcels or 75 contiguous acres as specifically required by 2.5.2.5 e) Wireless Communication Accessory/Business Use within the Town of Bolton which is:

- 1) being actively farmed, or which has a specific farming plan submitted with the application, and
- 2) which has a state, town, or privately held perpetual agricultural preservation restriction or conservation restriction or an application for such a restriction pending before the appropriate approving authority for the restriction. The restriction must apply to at least 20 acres, but the accessory use may be on un-restricted land contiguous to the agricultural land. Any special permit granted regarding land which is the subject of a pending restriction will be issued conditionally upon approval of the restriction.

d) Criteria. The proposed agricultural/business use must be clearly accessory to the principal use of the premises. The special permit shall be granted only upon the determination that:

- 1) the use meets the definition of Section A above and is not one of the excluded uses in Section B. above; and
- 2) the use is reasonably related to the primary use and serves to promote the primary use and its products beyond merely bringing in additional revenue; and
- 3) the use is not detrimental to the primary use of the land; and
- 4) total annual projected sales from the accessory use when fully operational do not exceed total sales derived from agriculture, horticulture, floriculture, or viticulture; and
- 5) facilities and structures constructed for the accessory use are compatible with other agricultural facilities on the property in function, visually, and in scale such that the total footprint of all accessory facilities does not exceed 50% of the footprint of all agricultural facilities on the property; and
- 6) the accessory use is:
 - (a) appropriate to the site;
 - (b) meets all of the requirements of Section 2.2.3.2 of the bylaws;

- (c) does not substantially adversely affect the surrounding residential properties as compared with the primary use as to sound, light, odor, noise, and other disturbances;
- (d) does not pose a threat to traffic safety; and
- (e) does not adversely affect the Town's ability to provide municipal and public safety services to the premises by way of existing roads and with the use of existing town equipment.

e) Wireless Communication Agricultural/Business Use. An Agricultural/Business Use Special Permit to construct a Wireless Communication Facility(s) pursuant to this bylaw may be issued if in addition to the above, the owner and the parcel(s) on which the Wireless Communication Facility(s) is (are) located have complied with the following:

- 1) a Special Permit issued under 2.5.7 Wireless Communication Bylaw has previously or is contemporaneously granted; and
- 2) the property has (i) an Agricultural Preservation Restriction with the Commonwealth of Massachusetts in perpetuity pursuant to Massachusetts General Laws, or (ii) an Agricultural Development Restriction with the Town of Bolton, or (iii) an application for such a restriction pending before the appropriate approving authority.

An Agricultural Development Restriction is a restriction granted to the Town of Bolton that is administered by the Board of Selectmen and recorded with the Worcester Registry of Deeds or with the Land Court that prohibits the subdivision, development or other non-agricultural use of any part of the restricted property. The Agricultural Development Restriction must contain wording that specifies that the Board of Selectmen will not release any of the restricted property until they have determined that the property has been restored to substantially the same condition as it was in prior to the construction of the Wireless Communication Facility. The Agricultural Development Restriction must further convey to the Town of Bolton in perpetuity a right of first refusal to acquire the restricted property.

Any Special Permit granted which is the subject of a pending restriction will be issued conditionally upon approval of the restriction. The executed restriction must be recorded with the Worcester Registry of Deeds; and

- 3) for each Wireless Communication Facility, the Agricultural Preservation Restriction or the Agricultural Development Restriction must apply to contiguous parcel(s) of at least seventy-five (75) contiguous acres within the Town of Bolton and 2.5.2.5 c) 2) does not apply. More than one Wireless Communications Facility or Tower may be situated on a contiguous parcel(s). For each additional Tower after the first Tower on a contiguous parcel(s), the contiguous property under either an Agricultural Preservation Restriction or the Agricultural Development Restriction must be increased by a multiple equal to at least the number of additional

- Towers times a minimum of seventy-five (75) contiguous acres within the Town of Bolton; and
- 4) no portion of the property included in the area restricted pursuant to 2.5.2.5 e) 2 can be included or considered as part of any other Agricultural Preservation Restriction for any other allowable Agricultural/Business Use application or Special Permit under 2.5.2.5.
 - 5) all of the Wireless Communication Facility(s) must be located wholly within the contiguous restricted property; and
 - 6) the restricted property must have at least 200 feet of continuous frontage on an approved or accepted right of way within the Town of Bolton; and
 - 7) any Wireless Communication Facility must be set back from any:
 - i) property line, other than a property line immediately bordering Rt. 495, by not less than 600 feet. From a property line bordering Rt. 495 the setback shall be at least one (1) time the height of the Wireless Communication Facility, including any appurtenant equipment or Communication Device(s) attached thereto; and
 - ii) the centerline of an approved or accepted right of way, other than Rt. 495, by not less than 800 feet. Adjacent to Rt. 495 the property line setback will apply; and
 - iii) the Wireless Communication Bylaw 2.5.7.6 Required Findings For A Special Permit 8(i) and 8(ii) do not apply; and
 - iv) At the time of the Special Permit Application, from any residence which has been built or for which a building permit has been granted or from the site of any residence shown on a plan of land approved by the Town of Bolton or under consideration for approval by the Town of Bolton by not less than 1,000 feet.
 - 8) the requirements of 2.5.2.5 d) 2) and 2.5.2.5 d) 5) shall not apply.

Sufficient grounds for the immediate revocation of the Agricultural/Business Use Special Permit for a Wireless Communication Agricultural/Business Use shall include the discontinuation of the agricultural use of the restricted property.

Administration. Such permit may also impose conditions, safeguards and limitations on time and use. Changes to the accessory use and/or increases to and/or size of agricultural facilities which result in increases in the number or size of accessory facilities require submission of a new Special Permit application to the Special Permit granting authority.

f). Enforcement. The Special Permit granting authority shall monitor conduct of agricultural/ business accessory uses for compliance with the terms of the special permit and any conditions attached thereto. The Special Permit granting authority shall impose as a condition that the permit holder must provide, if requested, annual sales information for the accessory agricultural/business and primary agricultural use of land. If the Special Permit granting authority determines that

the permit conditions have been violated, the permit may be revoked following notice and public hearing.

2.5.3 Flood Plain District

2.5.3.1 The Flood Plain District is hereby established as an overlay district. The underlying permitted uses are allowed provided that they meet the following additional requirements as well as those of the Massachusetts State Building Code dealing with construction in flood plains. The Flood Plain District includes all special flood hazard areas within the Town of Bolton designated as Zone A, and AE, on the Worcester County Flood Insurance Rate Maps (FIRMs) and the Flood Boundary and Floodway maps, issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Worcester County FIRMs that are wholly or partially within the Town of Bolton are panel numbers 25027C0457E, 25027C0459E, 25027C0466E, 25027C0467E, 25027C0476E, 25027C0478E, 25027C0479E, 25027C483E, 25027C0486E, 25027C0488E and 25027C0489E, dated July 4, 2011. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Worcester County Flood Insurance Study (FIS) report dated July 4, 2011. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Board of Health, Conservation Commission and Building Inspector.

2.5.3.2 Development Regulations

The following requirements apply in the Flood Plain District:

- (a) Within Zone A, where the base flood elevation is not provided on the FIRM, the applicant shall obtain any existing base flood elevation data and it shall be reviewed by the Building Inspector for its reasonable utilization toward meeting the elevation of flood proofing requirements, as appropriate, of the State Building Code.
- (b) In the floodway, designated on the Flood Boundary and Floodway Map, the following provisions shall apply:
 - 1. All encroachments, including fill, new construction, substantial improvements to existing structures, and other development are prohibited unless certification by a Registered Professional Engineer is provided by the applicant demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the 100-year flood.
 - 2. Any encroachment meeting the above standard shall comply with the flood plain requirements of the State Building Code.
- (c) In Zones A, and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

- (d) Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, within unnumbered A zones.
- (e) Notification of Watercourse Alteration

In a riverine situation, the Building Inspector shall notify the following of any alteration or relocation of a watercourse:

- Adjacent Communities
- NFIP State Coordinator
Massachusetts Department of Conservation and Recreation
251 Causeway Street, Suite 600-700
Boston, MA 02114-2104
- NFIP Program Specialist
Federal Emergency Management Agency, Region I
99 High Street, 6th Floor
Boston, MA 02110

(f) Other Use Regulations

All subdivision proposals must be designed to assure that:

- a) such proposals minimize flood damage;
- b) all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
- c) adequate drainage is provided to reduce exposure to flood hazards.

2.5.3.3 Reference to Existing Regulations

The Flood Plain District is established as an overlay district to all other districts. All development in the district, including structural and nonstructural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:

- Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMR 120.G, "Flood Resistant Construction and Construction in Coastal Dunes");
- Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
- Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);
- Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);

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.

- 2.5.3.4 Applicability
Nothing contained in this section shall limit the authority of the Board of Health, Conservation Commission, and Planning Board with respect to premises in the Flood Plain District or affect the applicability of any other Bylaw to any building activity in the Flood Plain District.

- 2.5.4 Deleted Annual Town Meeting May 1, 2006 (Water Resource Protection District)

- 2.5.5 Business, Commercial and Industrial Regulations

- 2.5.5.1 General

Any structure or outdoor storage for business, commercial or industrial use shall comply with the following requirements:

- 2.5.5.2 Activity Regulations

No such use shall:

- (a) Store or use volatile poisonous liquids in excess of 20,000 gallons.
- (b) Operate slaughter houses commercially.
- (c) Store or produce explosives.
- (d) Wreck or store junk or wreckage of any kind.
- (e) Store or produce fertilizers.
- (f) Store or produce any product which might be noxious, pungent, or create ugly refuse.
- (g) Produce objectionable noise, dust or dirt.
- (h) Produce a product or by-product emitting harmful radiation.
- (i) Create any form of environmental pollution.
- (j) Involve the sale of new or used motor vehicles, with the exception of uses authorized by a Special Permit granted by the Board of Selectmen for the sale of used motor vehicles in residential districts subject to the following restrictions.
 - (a) Limit of no more than two (2) vehicles for sale on a property at any one time.
 - (b) The grant of a special permit may be conditioned upon time and use.

- (c) Is conducted by the resident of the premises.
- (d) The use is clearly incidental to and secondary to the use of the premises for residential purposes and the external character of the premises is that of a one-family residence.
- (e) Not more than two (2) persons other than the residents of the dwelling and not more than a total of four (4) are employed at any one time on the premises.
- (f) No noise, vibration, dust, heat, odors, glare, traffic congestion, unsightliness or other nuisance results which is discernible from other properties, or which is detrimental to the environment.
- (g) The requirement of 2.4.2.5 Signs in Residential Zones applies.
- (h) In the Residential District, the pre-existing non-conforming use of property for the sale of used motor vehicles as of the effective date of this bylaw, which use does not conform to this bylaw, may continue subject to 2.1.3.3 of the Zoning Bylaws.

2.5.5.3 Greenspace Regulations

- (a) Landscaping: All areas not covered by structures or used for access or parking shall be protected by grass, trees, shrubbery, or equivalent cover.
- (b) Buffer: Structure or outdoor storage shall be separated from any lot residentially used or zoned by a buffer zone either naturally wooded for fifty feet (50') in width, or if approved by the Board of Selectmen, by a narrower buffer providing equivalent visual screening through densely planted evergreen trees large enough to reach five feet (5') in height in three years and of a type which will continue to grow in height.

2.5.5.4 Firefighting Water

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.

2.5.5.5 Special Permits For Zoning Use

For those uses identified in Section 2.3.4 of the Bolton Zoning By-laws as requiring a special permit from the Planning Board, the following factors shall be considered by the Planning Board in granting, denying, or considering renewal of any special permit:

- (a) the existence of safe vehicle access to and from the right-of-way;
- (b) the existence of safe pedestrian access to and from the site;
- (c) the adequacy of provisions to reduce or eliminate undesirable visual, noise, odors or similar impacts upon adjoining properties and the public;
- (d) the adequacy of provisions for controlling and cleaning up on-site and off-site litter and debris;
- (e) the existence of water and waste management plans for the premises which will minimize any adverse impact on natural and community resources;
- (f) the adequacy of proper controls for containment of exhaust fumes or other emissions from the premises;

- (g) the degree to which the project will recycle waste materials, will utilize recycled materials, and will utilize water conserving and energy efficient appliances;
- (h) the degree to which the project design is in harmony with the neighborhood and the environment and the degree to which the project meets the design review criteria set forth in Section 2.5.5.7, and any Design Review Guidelines hereafter adopted by the Planning Board pursuant to this section; and.
- (i) whether in all other respects the proposed project will be in harmony with the general purpose and intent of the Bolton Zoning by-law and not detrimental to the neighborhood or the Town.

Any special permit granted under this section may contain such conditions, restrictions or requirements as the Planning Board deems appropriate to accomplish the purposes and intent of this Zoning By-law and to assure that the proposed use will satisfy the criteria set forth above.

In addition to the special permit required under this section, the applicant shall also meet the requirements of the Site Plan Approval Process before the Board of Selectmen as set forth in Section 2.5.5.6 of the Bolton Zoning Bylaws.

2.5.5.6 Site Plan Approval Process.

To assist in assuring compliance with the Zoning Bylaw and other provisions of the law, any use subject to Site Plan approval shall be established or expanded in ground area and any building for such use shall be erected or externally altered only in conformity with a Site Plan approved by the Board of Selectmen with the advice of the Planning Board. Site Plan approval will be required of all non-residential uses in the Limited Business, Limited Recreation Business, Business, Industrial, and Residential Districts, exempting agricultural, horticultural, floricultural and viticultural uses.

All Site Plans (four copies) shall be submitted directly to the Board of Selectmen. When the Board of Selectmen receives a Site Plan for its approval, it shall deliver a copy to the Planning Board for advice. The Board of Selectmen shall act on the Site Plan only after the Planning Board has submitted its advice, or has allowed thirty (30) days to pass without acting. Where a Site Plan is required, the Inspector of Buildings shall issue a building permit only on receipt of an approved Site Plan and a Certificate of Occupancy shall not be issued until completion of all improvements and compliance with the approved Site Plan. The Board of Selectmen and the Inspector of Buildings shall maintain permanent files of Approved Site Plans. The Board of Selectmen shall either approve or note deficiencies within fourteen days of receipt of Planning Board review. Where appropriate, the Board of Selectmen, with advice of the Planning Board may waive the requirements for the Site Plan application.

The Site Plan shall show information as needed to determine compliance with the Zoning Bylaw and shall be prepared by a Registered Professional Engineer, Land Surveyor, Architect, and/or Landscape Architect.

In reviewing the Site Plan, the Planning Board and the Board of Selectmen shall consider the following matters:

- (a) Protection of adjoining premises against detrimental uses by provision for surface water drainage, sound and sight buffers, generation of electrical machine interference, preservation of views, light and air;
- (b) Convenience and safety of vehicular and pedestrian movement within the site, the location of driveway openings in relation to traffic or to streets serving the site, and when necessary, compliance with other regulations for the handicapped, minors and the elderly, including the location of pedestrian access adjacent to the site;
- (c) Adequacy and the arrangement of parking and loading spaces in relation to the proposed uses of the premises and the abutting property;
- (d) Adequacy of the methods of disposal of refuse and other wastes resulting from the uses permitted on the site;
- (e) Relationship of structures and open spaces to the natural and planned landscape, existing buildings and other community assets in the area and compliance with other requirements of the Zoning Bylaws;
- (f) Demands on the Town's resources including effect on the Town's water supply, fire protection, police enforcement and highway department;
- (g) Location, size, lighting and appearance of all site signage, traffic and parking lights, fencing, petroleum and chemical storage facilities, fire and life safety equipment.
- (h) And may impose such appropriate conditions, limitations, and safeguards as will insure compliance with the terms of the approval.
- (i) Regulations and a filing fee may be adopted by the Board of Selectmen.
- (j) Design Review Criteria: In making a decision on a proposal for Site Plan Approval, the Board of Selectmen shall consider the Design Review Criteria in Section 2.5.5.7.
- (k) Development Impact Study: To facilitate the Site Plan Approval by the Selectmen, and, where needed, Special Permit Review by the Planning Board and Zoning Board of Appeals, the developer of all new commercial or industrial development, or expansions of existing development, may be required to submit as part of their application, a written analysis of the impact of their project on the community. This Development Impact Statement (DIS) shall include, but will not be limited to any of the following studies as determined by the appropriate permitting authority, and shall be prepared by registered professional engineers or other qualified professionals with expertise in the relevant subject matter areas:
 - Environmental Impact Assessment (i.e., light, noise, storm water, groundwater, utilities, odor, vibration, sight lines etc.)

- Fiscal Impact Assessment (i.e., Municipal Facilities and Services, school population, impact on adjacent public and private properties)
- Community Impact Assessment (i.e., Open space preservation, residential privacy, recreation and pedestrian impact, scale and character)
- Traffic, Parking and Transportation Assessment

This analysis shall be reviewed by the Town's consulting engineer(s) at the applicant's expense. The appropriate permitting authority may waive in part, or in whole the requirement for the DIS. The intent of the DIS is to enable the town to determine and evaluate those methods to be used by the applicant to determine the project's impact on the town and to promote the environmental health of the community, and to minimize the environmental degradation of the Town's natural resources.

Where a Site Plan as submitted requires, revision and deficiencies shall be indicated to the applicant clearly in writing, but Site Plan approval shall not be granted until all required changes have been incorporated on a resubmitted plan; any resubmitted plan shall be subject to the procedure outlined in paragraph 2 above. Site Plan approval shall expire if any work thereunder is not begun within twelve (12) months after issuance of the building permit and not diligently carried through to completion.

2.5.5.7 Design Review Criteria:

The Planning Board shall consider the following additional design criteria in conducting Special Permit Review for all developments of business or mixed use properties subject to Special Permit Review under the Town of Bolton Zoning Bylaw. The Board of Selectmen may also use these criteria in undertaking Site Plan Review for all business projects in the Town of Bolton subject to Site Plan Review. The Board of Appeals shall also consider these criteria in review of special permits and variances for all business and industrial uses. The Planning Board, from time to time, may adopt additional Design Review Guidelines Regulations to advance the goals of this section and to provide more detailed examples for prospective developers.

Design Goals:

Buildings and renovations shall be of a design similar to or compatible with traditional architecture in the Town of Bolton in terms of scale, massing, roof shape, spacing and exterior materials. The design standards are intended to promote quality development consistent with the Town's sense of history, human scale and pedestrian-oriented village character.

Building Scale:

The size and detailing of buildings shall reflect the community preference for moderate-scale structures that resemble houses or barns, and do not resemble "big box shopping centers". New buildings and/or substantial alterations shall incorporate features to add visual interest while reducing the appearance of bulk or mass. Such features include varied facades,

rooflines and roof heights; materials; awnings; dormers; roof overhangs; pitched roofs; well-proportioned windows and details such as brick chimneys or shutters.

Buildings shall relate to the pedestrian scale by:

- Including appropriate architectural details to add visual interest along the ground floor of all facades that face streets, squares, pedestrian pathways, parking lots, or other significant pedestrian spaces.
- Articulate the base, middle, and top of the facade separated by cornices, string cornices, step-backs or other similar features.
- Continuous lengths of flat, blank walls adjacent to streets, pedestrian pathways, or open spaces shall not be permitted.

Roof Form:

New construction, including new development above existing buildings and/or substantial alterations, shall incorporate gables or other traditional pitched roof forms which will be consistent with the historic architecture of the Town of Bolton. Flat roofs are discouraged.

Mechanical equipment located on roofs shall be screened, organized and designed as a component of the roof design, and not appear to be a leftover or add-on element.

Entrances:

For all primary business and business/residential structures fronting on a public way, the building entrances shall be visible from the right-of-way and the sidewalk, and shall have an entrance directly accessible from the sidewalk; front entrances should be well defined and face the main street. To increase accessibility, structures may also have entrances that provide more direct access to the parking areas beside or behind the structure. Doors shall not extend beyond the exterior facade into pedestrian pathways.

External Materials and Appearance:

Predominant wall materials shall have the appearance of wood, brick or stone that, if painted, shall be painted or coated in a non-metallic finish. Cladding materials should be consistent on all facades, or shall be an appropriate mix found in historic architecture in Bolton (e.g., clapboard front with shingled sides), with the exception of special design elements such as gables or dormers.

Awnings and canopies over windows and doors shall be compatible with the architectural style of the building. Colors and patterns used for awnings and canopies shall be subdued and compatible with any existing awnings on adjacent buildings.

Except for minor trim, the building shall avoid the appearance of reflective materials such as porcelain enamel or sheet metal. Window panes shall be non-reflective.

Ground floor commercial building facades facing streets, squares, or other significant pedestrian spaces shall contain transparent windows and other appropriate architectural details to add visual interest; the amount of windows may vary according to the architectural

style of the structure and shall be appropriate to the building style and the intended use, with a general goal of 15 – 25 % fenestration of the first floor facade surface.

Historic Resources:

Wherever possible, existing historic structures on the site shall be preserved and renovated for use as part of the development. Any alteration of or addition to an existing historic structure shall employ materials, colors and textures as well as massing, size, scale and architectural features that compliment the original structure. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved. The addition to, or new construction adjacent to, an historic structure should not necessarily be a copy of the historic structure. See the most recent edition of the Secretary of the Interior's Standards for the Treatment of Historic Properties, and any accompanying guideline documents, for guidance related in particular to additions to historic structures.

Other historic resources on the site, such as stone walls, shall, to the maximum extent feasible, be protected and incorporated into the proposed development.

Fencing and Screening:

Parking areas, dumpsters and ground level mechanical equipment shall be screened from view from all adjacent residential areas by adequate vegetative screening or fencing. Landscaping and vegetative screening shall be preferred over fencing. A solid, year-round, evergreen hedge which will grow to six feet within three years, or a substantial, opaque fence at least six feet high, or the equivalent, shall be installed and maintained in good condition. A strip of dense vegetation of shrubs and trees not less than 50 feet deep may be considered an equivalent. Parking areas shall be reasonably screened and landscaped to minimize the adverse views from the public way. No wall, fence, structure, planting or other obstruction to a driver's vision may be permitted at eye level, defined as three (3) to eight (8) feet above street grade, within twenty five (25) feet from the intersection of street side lines, unless the town has adopted a separate line-of-sight bylaw, in which case that bylaw shall prevail.

Landscaping:

To the maximum extent possible, projects shall provide pedestrian-friendly amenities, such as public gathering/sitting areas, designated on-site sidewalks/pathways, sidewalks along the public road frontage of the parcel, and appropriate internal walkways. Links/sidewalks designed to connect parking areas with adjacent developments are encouraged to further the goal of providing safe pedestrian access to businesses within Bolton. Site landscaping shall be maximized, per Section 2.5.5.3 Greenspace Regulations. Mature trees, bioswales and infiltration strips should be included to provide shade, reduce heat-island effect, and to manage storm water. Only native species shall be used in landscaping; no invasive species shall be allowed. The Planning Board may require that trees removed as part of the development be replaced on-site or off-site. All vegetation included in the site plan shall be maintained and if necessary replaced from time to time to maintain the overall landscape design approved by the Planning Board.

The Planning Board, from time to time, may adopt additional landscaping guidelines as part of the Design Review Guidelines to advance the goals of this section and to provide more detailed examples for prospective developers.

Service Areas, Utilities and Equipment:

Service and loading areas and mechanical equipment and utilities shall be unobtrusive or sufficiently screened so that they are not visible from streets, adjacent residential zoning districts or primary public open spaces, and shall incorporate effective techniques for noise buffering from adjacent uses.

Lighting:

Building or area lighting for any business, commercial, industrial or other nonresidential private use shall be so arranged as to direct the light away from any street and from any premises residentially used or zoned. The applicant shall coordinate lighting fixture assembly with the surrounding architecture. Such exterior lights shall be mounted and shielded, such that light sources and lenses shall not be visible from any residential district. Luminaries shall be cutoff (downlight) type, with the mounting height not to exceed twenty (20) feet. Light overspill shall not create shadowing discernible without instruments on any residentially zoned premises. With the exception of limited security or safety lighting, all lighting shall be shut off during times outside of business operations. This section shall not apply to reasonable seasonal holiday lighting displays that shall be in place for 30 days or less.

Signage Restrictions:

All proposed signs included in the development shall meet the requirements section 2.4.2.

Sustainable Building and Site Design:

It is desirable that new buildings constructed in the Town of Bolton comply with the current Leadership in Energy and Environmental Design (LEED) criteria, as promulgated by the U.S. Green Building Council to the maximum extent feasible. All site design shall follow, to the maximum extent feasible, the provisions of Low Impact Development (LID) techniques, as described by the Massachusetts Executive Office of Energy and Environmental Affairs, which defines LID as a suite of landscaping and design techniques that attempt to maintain the natural, pre-developed ability of a site to manage rainfall. LID techniques capture water on site, filter it through vegetation, and let it soak into the ground.

Parking:

To the maximum extent feasible, parking areas:

- shall be located behind or to the side of structures, and shall be strongly discouraged between the structure and the public right-of-way
- shall be screened with appropriate landscaping
- shall be designed to minimize heat-island effects by including appropriate internal landscaping, with a minimum of one tree per 10 parking spaces and associated shrubs and other plantings that shall be incorporated into Low Impact Development storm-water infiltration facilities

Bicycle Parking:

Bicycle parking shall be provided for all new development, shall be at least 50 percent sheltered from the elements, and shall be located as close as possible to the building entrance(s). Any property may establish a shared bicycle parking facility with any other property owner within 150 feet.

Appointment of Design Advisory Team (DAT):

The Planning Board may, at its option, appoint a Design Advisory Team to assist in the review of any project being reviewed under this bylaw. Members of the DAT may include: one or more Planning Board member(s); Bolton Energy Committee member(s); Bolton Conservation Commission member(s); professional architects(s); landscape architect(s) or design related professionals(s); Historical Commission member(s); business owner(s); and other boards or committee member(s). Members shall be a resident of the Town of Bolton.

The DAT will provide advisory professional design review assistance to the Planning Board, Zoning Board of Appeals and Board of Selectmen.

The DAT may also submit a written report to the Planning Board, Zoning Board of Appeals, and Board of Selectmen. The DAT will be appointed at a regularly scheduled meeting where public notice has been provided.

At the direction of the Planning Board, a project applicant may be required to meet with the DAT to discuss resolution of design standards.

2.5.6 Scenic Roads

Acting under Section 15C, Chapter 40 of the General Laws, the following roads are designated as Scenic Roads:

Ballville	Old Bay
Bear Hill	Old Harvard
Berlin	Old Sugar
Bolton St.Rd.No.1	Quaker
Burnam	Randall
Century Mill	Sampson
Corn	Sargent
East End	Sawyer
Flanagan	South Bolton
Forbush Mill	Spectacle
Frye	Sugar
Golden Run	Teele
Green	Town Farm
Jordan	Vaughn Hill
Lewis	Warner
Lively	Wattaquadock (From Old Bay to Main)
Long Hill	West Berlin
Manor	Wheeler

Meadow
Moore
Nourse

Whitcomb
Wilder
Willow

Designation as a Scenic Road allows the Town to preserve the qualities and character of the town ways. Any repair, maintenance, reconstruction, or paving work done with respect thereto, of a Scenic Road shall not involve or include the cutting or removal of trees, or the tearing down or destruction of stone walls, or portions thereof, except with the prior written consent of the Planning Board after a Public Hearing duly advertised.

In granting or refusing such consent the Planning Board shall consider, among other things, the public safety, scenic views, preservation of historic and regional characteristics, and preservation and enhancement of natural and aesthetic qualities of the environment.

The Planning Board may adopt reasonable further standards relative to Scenic Roads not inconsistent with this Bylaw and the General Laws.

2.5.7 Wireless Communication Bylaw

2.5.7.1 Purpose

The purpose of the Wireless Communication Bylaw is to establish predictable and balanced regulations for the siting of wireless communication equipment in order to accommodate the growth of wireless communication systems within the Town of Bolton while protecting the public against adverse impacts upon the Town's aesthetic resources and the public welfare and to:

1. Promote the public health, safety, general welfare, quality of life and rural character of the Town of Bolton;
2. Guide sound development;
3. Conserve the value of lands, natural resources, residences and buildings;
4. Encourage the most appropriate use of the land;
5. Minimize the adverse aesthetic and visual impact of wireless communication facilities;
6. Minimize the number of wireless communication facility sites;
7. Encourage co-location of licensed wireless communication carriers;
8. Ensure that wireless communication facilities are sited, designed and screened in a manner that is sensitive to the surrounding neighborhood and the Town of Bolton;
9. Avoid damage to and limit the impact upon abutting properties.

2.5.7.2 Definitions

Communication Device - Any antennae, dish or panel or similar equipment mounted out of doors on a tower, building or structure used by a licensed commercial telecommunications carrier(s) to provide telecommunication(s)

services. The term Communication Device does not include a tower. High gain point to point antenna are not permissible.

Tower - Any equipment mounting structure that is used primarily to support any reception equipment, transmission equipment or Communication Device that measures twelve (12) feet or more in its longest vertical dimension. The definition of tower shall include, but not be limited to, monopole and lattice structures.

Wireless Communication Facility - Any and all construction, installation, expansion, extension or use of any Communication Device(s), Tower(s), materials, equipment, storage structures, accessory buildings, dishes and antennas used by a licensed commercial telecommunication carrier(s), the Town of Bolton's municipal public safety services and/or the Town of Bolton's public schools to provide telecommunication services including personal wireless communication.

2.5.7.3 Applicability and Special Permit

No Wireless Communication Facility shall be erected, installed, modified, replaced or maintained except upon the grant of a Special Permit in compliance with the provisions of this Wireless Communication Bylaw. The provisions of the Wireless Communication Bylaw will apply to all Wireless Communication Facilities whether as a principal use or an accessory use and to any and all modification, extensions, and additions to, or replacements of existing Wireless Communication Facilities.

All modifications, extensions and additions to, or replacements of a Wireless Communication Facility shall be subject to a modification of the Wireless Communication Bylaw Special Permit following the same requirements as required for an original application.

The Wireless Communications Overlay District is an overlay district mapped over other districts with regard to specific locations. All requirements of the underlying zoning district shall remain in full force and effect, except as may be specifically superseded herein. Any Wireless Communication Facility to be constructed, installed, replaced, maintained and/or used in the Wireless Communication Facility Overlay District must be in compliance with the provisions of this Wireless Communication Bylaw and upon the grant of a Special Permit. The Wireless Communication Overlay District shall be superimposed on the Town of Bolton Zoning Map so as to indicate the extent and location thereof.

Wireless Communication District A.

This overlay district consists of all land located within the business, limited business, commercial and industrial zoning districts as shown on the official zoning map for the Town of Bolton.

Wireless Communication District B.

This overlay district consists of land designated on the Bolton Assessors Maps as:

Location	Parcel ID
41 Main Street	Map 5E, Parcel 9
96 Hudson Road	Map 3D, Parcel 15A
Main Street	Map 4C, Parcel 38A
Forbush Mill Road	Map 5A, Parcel 19

Wireless Communication District C.

This overlay district consists of the residential zoning district as specifically provided for in conformance with 2.5.2.5 Agricultural/Business Use and in compliance with the provisions of this Wireless Communication Bylaw and upon the grant of a Special Permit.

No Wireless Communication Facility shall be erected, installed, modified, replaced, maintained and/or used in a Wetland Resource Area as defined in the Wetlands Bylaw 1.18.2.

2.5.7.4. Jurisdiction

The Board of Selectmen is authorized to grant and modify Special Permit(s) pursuant to Massachusetts General Laws Chapter 40A, for Wireless Communication Facility(s) within the Town of Bolton. The Board of Selectmen are further authorized to grant or modify Special Permit(s) for the construction, installation, replacement, maintenance and/or use of Wireless Communication Device(s) and Wireless Communication Facility(s) on already existing buildings or structures in the residential, business, limited business, commercial or industrial zoning districts.

The Wireless Communication Bylaw Special Permit will establish (i) the intensity of use, including the number, type and location of Wireless Communication Device(s), (ii) periodic monitoring and reporting and (iii) other provisions as determined by the Board of Selectman.

A Wireless Communication Facility shall not be required to be sited on its own lot as required by 2.3.5.3 One Building Per Lot.

To facilitate the administering of this Wireless Communication Bylaw, the Board of Selectmen may establish and amend: (i) rules and regulations, (ii) application fees, requirements and procedures, (iii) engineering, consulting,

review, and periodic monitoring fees, and (iv) reasonable Special Permit license fees.

2.5.7.5 Expiration

Any Wireless Communication Special Permit granted or renewed pursuant to this Bylaw shall expire five (5) years after the date of the decision of the Board of Selectmen or the determination of an appeal as referred to in Massachusetts General Laws, Chapter 40A, Section 17.

An application to renew or extend a Special Permit granted pursuant to this bylaw will be considered and administered as a new Special Permit application.

2.5.7.6 Required Findings For A Special Permit

The Board of Selectmen may grant or modify a Wireless Communication Bylaw Special Permit only if they find:

1. That there is no existing or approved Wireless Communication Facility(s), Tower(s), or other structure(s) reasonably available that could accommodate the Wireless Communication Facility or could reasonably provide the service(s) or a reasonable alternative service.
2. That the applicant demonstrated to the satisfaction of the Board of Selectmen that the siting and proposed location of the Wireless Communication Facility is critical and cannot be reasonably accommodated by co-locating on existing Wireless Communication Facilities.
3. That the applicant and all tenants hold at the time of application all necessary Federal, State and FCC telecommunications licenses required to operate the Wireless Communication Facility.
4. That the applicant has certified to the Board of Selectmen that they are in compliance with all applicable Federal, State and local laws and regulations including any amendment(s) thereto.
5. That the size and height of the Wireless Communication Facility is the minimum necessary to accommodate all users thereon and that any Tower, including all appurtenant equipment, Wireless Communication Device(s) and or Communication Device(s) shall:
 - i) Not exceed seventy-five (75) feet above the average grade of the existing terrain at the tower's base, unless the applicant demonstrates to the satisfaction of the Board of Selectmen that a taller structure is required.
 - ii) In no event exceed a height of one hundred and fifty (150) feet above the average grade of the existing terrain at the tower's base; and
 - iii) In no event be of such a height or location as to require aviation warning lighting.
6. That the Wireless Communication Facility has been designed in all respects to accommodate multiple licensed telecommunication carriers and that the applicant has agreed to and will permit other licensed telecommunications carriers to co-locate on the facility at commercially reasonable terms.

7. That the Wireless Communication Facility will not have a material adverse impact upon any Bolton viewshed as determined solely by the Board of Selectmen.
8. That any Wireless Communication Facility in the business, limited business, commercial, wireless overlay, residential or industrial zoning districts is set back from:
 - i) Any property line, other than a property line immediately bordering Rt. 495, the greater of 400 feet or a distance equal to two (2) times the height of the Wireless Communication Facility, including any appurtenant equipment, device(s) or Wireless Communication Device(s) attached thereto. From a property line bordering Rt. 495 the setback shall be at least one (1) time the height of the Wireless Communication Facility, including any appurtenant equipment, device(s) or Wireless Communication Device(s) attached thereto; and
 - ii) The centerline of an approved or accepted right of way, other than RT. 495, by not less than 500 feet; and
 - iii) Any residence which has been built or for which a building permit has been granted at the time of the application, or from the site of any residence shown on a plan of land approved by the Town of Bolton or under consideration for approval by the Town of Bolton at the date of application, by not less than 1,000 feet.
9. That any Tower has been designed, using the best available technology to blend in to the surrounding environment through the use of color, camouflaging techniques, or other architectural treatments. Monopole construction is preferred.
10. That the Wireless Communication Facility includes a provision(s) for the reasonable co-location at no cost to the Town of Bolton of communication systems to support the Town's emergency and safety services and its municipal public schools.
11. That the Wireless Communication Facility complies with the following minimum design requirements:
 - a) that the Wireless Communication Facility has been so sited so as to make use of natural vegetative screening and that an adequate replacement of vegetation providing a noise buffer to neighboring properties is provided for, and
 - b) that to the greatest extent practical the clearing of existing vegetation and the impact on the site's natural resources and topography is minimized, and
 - c) that any clearing of existing on-site vegetation will preserve such vegetation to the maximum extent practicable and that any disturbed areas will be restored to the maximum extent practicable, and
 - d) that access to any Wireless Communication Facility has been engineered and will be built to ensure that the Town of Bolton's emergency services can respond safely to the site, and
 - e) that emergency access to the site is available at all times to the Town of Bolton's emergency services, and

- f) that any emergency backup generators will be installed such that they only cycle periodically during non-holiday weekdays, between 8:00AM and 5:00PM, and
- g) that any wireless communication facility or tower is fenced so as to control access to the facility and that any fencing is designed so as to be as unobtrusive as possible, and
- h) that only signage acceptable to the Board of Selectman will be visibly posted. At a minimum an announcement sign, a no trespassing sign and a sign giving a phone number where the owner or operator can be reached on a twenty-four hour basis, and
- i) that any accessory buildings and structures (i) do not exceed one story in height, (ii) contain no more than 300 square feet in floor area for each user, (iii) is located within the fenced in area, and (iv) is compatible in appearance.

2.5.7.7 Non Use

The operator must provide immediate acceptable written notice to the Board of Selectmen in the event of any change of ownership in any wireless communication facility, tower, communication device, accessory building, or of the underlying property. The operator or the property owner must provide immediate notice to the Board of Selectmen if the use of any wireless communication facility, tower, communication device or accessory structure is discontinued. Any unused wireless communication facility, tower, communication device and/or accessory structure, shall be removed from the Town of Bolton within one (1) year of cessation of use and the property shall be restored to substantially the same condition as it was in prior to the alteration.

To secure compliance with this provision, the Board of Selectmen may require that the applicant post adequate and acceptable surety as determined solely by the Board of Selectmen.

All unused wireless communication facility(s), tower(s), communication device(s), accessory structure(s) and or any parts thereof, which have not been used for two years and which have not been removed from the Town of Bolton, may be dismantled, removed and the site restored to substantially the same condition as it was in prior to the alteration by the Town of Bolton. All costs incurred by the Town of Bolton directly related to and incidental to any such dismantling, removal and restoration shall be payable by the owner of the property.

As conditions to any Special Permit granted under this Wireless Communication Bylaw the property owner shall be required (i) to enter into an agreement with the Town of Bolton whereby the property owner is liable for all costs set forth in the preceding sentence and agrees to the conditional lien

on the property as set forth below; (ii) to execute a document creating a lien on the property which by its terms shall become effective in the event that the Wireless Communication Facility has not been used for two years and has not been removed and the site restored within thirty days of written notice by certified mail to the owner; and (iii) to execute a Notice of Contract regarding the real estate. Both the lien document and the Notice of Contract shall be in a form suitable for recording at the Registry of Deeds. The Notice of Contract shall be recorded at the time of recording the Special Permit; the lien document shall be recordable upon the attachment of an affidavit signed by the Chair of the Board of Selectmen that the Wireless Communication Facility was unused for two years and has not been removed by the owner and setting forth as the amount of the lien a sum equal to all costs incurred by the Town of Bolton to dismantle and remove the facility and restore the property.

2.5.7.8 Compliance

The failure of the applicant, owner, owner of the property, and or any licensed telecommunications carrier tenant to comply with the Bylaws of the Town of Bolton or with any section of the Wireless Communication Bylaw Special Permit shall be sufficient grounds for the immediate revocation or non-renewal of the Special Permit.

2.5.7.9 Exemptions

The following are exempted from this Wireless Communication Bylaw:

1. Amateur radio tower or communications device(s). An amateur radio tower or communications device(s) defined as a Tower or Communication Device(s) used solely in accordance with the terms of an amateur radio license(s) issued by the Federal Communications Commission. In order to qualify for this exemption, the Tower and any Communication Device(s):

- i) must not be used or licensed for any commercial purposes; and
- ii) must be immediately dismantled if the amateur radio license is revoked or not renewed by the FCC.

2. Wireless Communication Facility(s), Tower(s) or Communication Device(s) erected and maintained by the Town of Bolton and/or the Town of Bolton's public schools solely for the Town of Bolton's municipal emergency and safety communication purposes. In the event that any Wireless Communication Facility(s), Tower(s) or Communication Device(s) exempted by this section is no longer used, or any part thereof is no longer used, the unused portion must be removed within one (1) year as provided for and in compliance with Section 2.5.7.7 Non Use.

Lawfully preexisting Wireless Communication Facility(s), Tower(s) or Communication Device(s) and any accessory structure(s) may not be modified, replaced, extended or added to except in accordance with 2.1.3.3. Pre-existing Nonconforming Uses and Structures and, if applicable, this Wireless

Communication Bylaw. For any pre-existing nonconforming Wireless Communication Facility(s), Tower(s) or Communication Device(s) the provisions in 2.1.3.3. a) Extension or Alteration that considers any increase of not over 100% from the original floor area of the building at the time of the adoption of the Zoning Bylaw on April 13, 1972, or not over 50% of the ground area in use at that time as not substantially more detrimental to the neighborhood will not apply. Any increase will need to conform with the requirements of 2.5.7 Wireless Communication Bylaw.

2.5.8 RATE OF DEVELOPMENT

2.5.8.1 Purpose and Intent

The purpose of this bylaw is to ensure orderly growth and development consistent with the Town's historic rate of residential growth for a limited period of time to permit the Town of Bolton to comprehensively address issues created by residential and commercial growth through the creation of a Master Plan and the implementation of necessary zoning by-law changes identified by that Master Plan.

2.5.8.2 Applicability

This bylaw shall apply to the issuance of all building permits for construction of new dwellings, except for those exemptions and exceptions set forth in subsections 2.5.8.5 and 2.5.8.6.

2.5.8.3 New Dwelling Unit Limitation

Commencing upon the date of adoption of this bylaw, building permits shall not be issued for the construction of, or conversion to, more than thirty-seven (37) new dwelling units in any twelve (12)-month period. Following adoption of this bylaw, the number of units to be allowed in such period shall be determined by subtracting from the thirty-seven (37)-unit limit the total number of permits authorized, minus those permits withdrawn or expired without use.

Building permit applications refused because of this limitation shall be held and acted upon in chronological sequence, based upon the date of receipt by the Building Inspector. In order to ensure a fair distribution of permits, building permits granted to any one (1) applicant in any twelve (12) month period shall be limited to a total of six (6) new dwelling units, unless a special permit is granted pursuant to subsection 2.5.8.6.

2.5.8.4 Procedures and Permit Phasing

No applicant may have more than two (2) complete applications for a new single family building permit before the Building Inspector in any given month. Building permits shall not be issued to any applicant authorizing the construction of more than six (6) new single family dwelling units (exclusive of unused authorizations that have lapsed or have been withdrawn) in any twelve (12)-month period for any lots that are, as of date of adoption of this bylaw, contiguous or held in the same ownership, unless the Planning Board has granted an exemption from this requirement pursuant to a special permit, as provided in subsection 2.5.8.6.

The procedures for issuing the new single family building permits referred to herein shall be as follows:

- a. Applications for a building permit must be completed and filed. Improperly filed or rejected permits shall not be deducted from the available units to be authorized in any month, will not be included in the chronological sequence described in 2.5.8.4, and will require a new submittal.
- b. The Building Inspector must process and issue permits for all complete and properly filed permit applications pursuant to this bylaw, in the chronological sequence in which such applications are received.
- c. To assist the Building Inspector, the Planning Board shall establish procedures, and may adopt reasonable rules and regulations, to ensure the proper administration of this bylaw and the orderly phasing of residential development associated with building permits for any land subdivided pursuant to the provisions of MGL Chapter 41, the Subdivision Control Law.

2.5.8.5 Exemptions

The permit limitation provided in this bylaw shall not apply to building permits for the construction of the following:

- a. Any housing unit to be built under any program or statute intended to assist in the construction of low or moderate income or elderly housing as defined in any applicable statute or regulation, including Town bylaws.
- b. Reconstruction of an existing dwelling after catastrophic loss, or repairs, expansion, alteration or historic restoration to an existing dwelling.
- c. Applications for permits that have been exempted from the limitations of this bylaw, as provided in subsection 2.5.8.6 below.
- d. The construction of a single family dwelling on land that, as of the effective date of this bylaw, was part of a lot held in separate ownership and containing one single-family dwelling, provided that only one (1) such new dwelling may

be constructed in any year, and provided that no more than two (2) dwellings may be created from the original lot, with the existing and new dwelling each on separate lots, complying with all zoning requirements of the district in which they are located.

e. Permits for non-residential purposes.

2.5.8.6 Special Permit for More Rapid Development

For purposes of this bylaw, the Planning Board shall be the special permit granting authority. Notwithstanding the requirements of subsections 2.5.8.3 and 2.5.8.4 above, the Planning Board may issue a special permit authorizing the immediate issuance of a building permit for up to ten (10) single-family dwelling units upon making all of the following determinations and findings:

a. A salient and unmet housing need would be addressed by the granting of such permit; and

b. Adequate infrastructure and other mitigating measures are being provided to ensure that municipal services will not be overburdened; and

c. Expected benefits to the community outweigh anticipated adverse impacts upon municipal service or public facilities associated with the issuance of a Special Permit.

2.5.8.7 Duration

This by-law shall remain in effect until the earlier of (a) two years after the adoption by the Town of Bolton of a Master Plan or (b) December 31, 2008

2.5.8.8 Zoning Change Protection

The protection against subsequent zoning change provided by MGL c. 40A, §6, to land in a subdivision shall, in the case of a residential development whose completion has been limited by subsection 2.5.8.3 above, be extended by a time period to enable completion.

2.5.8.9 Severability

Each provision of this bylaw shall be construed as separate, to the end that if any part of it shall be held invalid for any reason, the remainder shall continue in full force and effect.

2.5.9 INCLUSIONARY HOUSING

2.5.9.1 Purpose and Intent

The purpose of this Bylaw is to outline and implement a coherent set of policies and objectives for the development of affordable housing in compliance with the Bolton Affordable Housing Plan, MGL c. 40B sec. 20-23 and ongoing programs within the Town of Bolton to promote a reasonable percentage of housing that is affordable to moderate income buyers. It is intended that the Affordable Housing Units (AHU) that result from this Bylaw be considered as Local Initiative Program (LIP) dwelling units in compliance with the requirements for the same as specified by the Department of Community Affairs, Division of Housing and Community Development and that said units count toward the Town's requirements under MGL c. 40B, sec. 20-23.

2.5.9.2 Definitions

1. Affordable Housing Unit (AHU). A dwelling unit available at a cost of no more than 30% of gross household income of households at or below 80% of The Metropolitan Statistical Area (MAS) which includes the Town of Bolton (the Bolton MSA) median income as reported by the U.S. Department of Housing and Urban Development, including units listed under MGL 40B sections 20-24 and the Commonwealth's Local Initiative Program.
2. Qualified affordable housing unit purchaser. An individual or family with household incomes that do not exceed 80% of the median income, with adjustments for household size, as reported by the most recent information from the United States Department of Housing and Urban Development (HUD) and/or the Massachusetts Department of Housing and Community Development (DHCD).
3. Special Permit Granting Authority (SPGA). The SPGA shall either be the Planning Board (if the project is a regular Major Residential Subdivision, FOSPRD or regular development on a combination of ANR and/or Backland lots (and the affordable units considered as Local Initiative Program (LIP) dwelling units) or the Zoning Board of Appeals (ZBA) if the project is brought forth as a "friendly 40B" project and is required to follow Comprehensive Permit guidelines.
4. Off-Site. Off-site shall mean fully buildable lots not contiguous to the primary development as of the date of transfer or application, whichever is applicable, located within the Town of Bolton.
5. Rehabilitated. Pre-existing legal housing stock (no non-conforming pre-existing structures shall be allowed in this definition) located in Bolton that is not under affordable guidelines that has been renovated to current State Building Codes and Bolton Board of Health Rules and Regulations as may be required for the purpose of use as an Affordable Housing Unit.

2.5.9.3 Applicability

1. Division of Land. This Bylaw shall apply to the division of contiguous land held in single or common ownership into eight (8) or more lots. The conditions of this Bylaw will apply to the special permit required and issued for land divisions under MGL c. 40A sec. 9 as well as for "conventional" or "grid" divisions allowed by MGL c. 41 sec. 81-L and sec. 81-U, including those divisions of land that do not require subdivision

approval. This bylaw therefore applies to Section 2.3.6 (Farmland and Open Space Planned Residential Development) and Section 2.3.7 (Major Residential Development) of the Zoning Bylaws.

2. Multiple Dwelling Units. This Bylaw shall apply to the constructions of eight (8) or more dwelling units, whether on one or more contiguous parcels, and shall require a special permit from the Board of Appeals.
3. The provisions of Section 2.5.9.3(2) shall apply to the construction of eight (8) or more dwelling units on individual lots if said eight (8) or more lots held in single or common ownership.
4. To prevent the intentional segmentation of projects designated to avoid the requirements of this Bylaw, parcels held in single or common ownership and are subsequently divided into eight (8) or more lots cannot later defeat the requirements of this Bylaw.

2.5.9.4 Mandatory Provision of Affordable Units

The SPGA, as a condition of approval of any development referred to in Sections 2.5.9.3, require that the applicant for special permit approval comply with the obligation to provide affordable housing pursuant to this Bylaw and more fully described in Section 2.5.9.5.

2.5.9.5 Provision of Affordable Units

The SPGA shall deny any application for a special permit for development if the Applicant for special permit approval does not comply, at a minimum, with the following requirements for affordable units:

1. The maximum housing cost for affordable units created under this Bylaw is as established by the Commonwealth's Division of Housing and Community Development or as revised by the Town.
2. One (1) in every eight (8) buildable lots in a division of land or one (1) in every eight (8) units in a multiple unit development subject to this Bylaw shall be established as AHU's in any one or combination of methods provided below. Fractions of a lot or dwelling unit will not be rounded up to the next whole number. For reference, the following schedule is provided for allocating affordable units given a particular range of total lots in a subdivision or total units in a multiple unit development. This schedule is given for reference:

Total Lots / Units	Affordable Lots / Units Established
8 to 15	1
16 to 23	2
24 to 31	3
32 to 39	4
40 to 47	5
48 to 55	6
56 to 63	7
64 to 71	8
and so on...	

3. The AHU(s) shall be constructed or rehabilitated on the locus subject to the special permit.
4. The AHU(s) constructed or rehabilitated on a locus different than the one subject to the special permit (see Section 2.5.9.9).
5. an equivalent fees-in-lieu of payment and/or donation of land in fee simple may be made (See Section 2.5.9.12, below).

The applicant may offer, and the SPGA may accept, any combination of the Section 2.5.9.5.(3)-(5) requirements provided that in no event shall the total number of units or land area provided be less than the equivalent number or value of affordable units required by this Bylaw.

2.5.9.6 Provisions Applicable to AHU's On- and Off-Site

1. Siting of AHU's - All affordable units created under this Bylaw shall be situated within the development so as not to be in less desirable locations than market-rate units in the development and shall, on average, be no less accessible to public amenities, such as open space, as the market-rate units.
2. Minimum design and construction standards for affordable units – AHU's within market rate developments shall be integrated with the rest of the development, shall be externally undistinguishable from the market rate units and compatible construction and quality of materials with other units.
3. Timing of construction or provision of affordable units or lots. The SPGA will impose conditions on the special permit requiring construction of affordable housing according to a specified time table, so that, affordable housing units shall be provided coincident to the development of market-rate units, but in no event shall the development of affordable units be delayed beyond the schedule noted below:

Development Schedule:

MARKET-RATE UNIT (% BUILT)	AFFORDABLE HOUSING UNIT (% COMPLETED)
Up to 30%	None required
30% to 50%	At least 30%
50% to 75%	At least 75%
75% or more	100%

Fractional units will be rounded up to the nearest whole number. The actual development schedule for the availability of affordable units and/or the donation of land / fees-in-lieu will be detailed in the special permit decision rendered by the SPGA.

2.5.9.7 Local Preference

The SPGA shall require the applicant to comply with local preference requirements, if any, as established by the Board of Selectmen and/or the Bolton Affordable Housing Partnership.

2.5.9.8 Marketing Plan for Affordable Units

Applicants under this Bylaw shall submit a marketing plan or other method approved by the SPGA, to the SPGA for approval, which describes how the affordable units will be marketed to potential homebuyers. This plan shall include a description of the lottery or other process to be used for selecting buyers. The plan shall be in conformance to DHCD rules and regulations.

2.5.9.9 Provision of Affordable Housing Units Off-Site

As an alternative to the requirements of Section 2.5.9.5(2)-(3), and subject to the approval of the SPGA, an applicant subject to the Bylaw may develop, construct or otherwise provide affordable units equivalent to those required by Section 2.5.9.5(2)-(3) on an alternate site in the Town Of Bolton and approved by SPGA. All requirements of this Bylaw that apply to on-site provision of affordable units, shall apply to provision of off-site affordable units. In addition, the location of the off-site units to be provided shall be approved by the SPGA as an integral element of the special permit review and approval process.

2.5.9.10 Maximum Incomes and Selling Prices: Initial Sale

To ensure that only eligible households purchase AHU's, the purchaser of an affordable unit shall be required to submit copies of the last three years' federal and state income tax returns and certify, in writing and prior to transfer of title, to the developer of the housing units or his/her agent, and within thirty (30) days following transfer of title, to the Bolton Housing Authority or to another authority as determined by the SPGA, that his/her or their family's annual income level does not exceed the maximum level as established by the Commonwealth's Division of Housing and Community Development, and as may be revised from time to time.

The maximum price of the AHU'(s) created under this Bylaw is established by DHCD under the Local Initiative Program (LIP) guidelines in effect at the time the unit(s) is built.

2.5.9.11 Preservation of Affordability; Restrictions on Resale

Each affordable unit created in accordance with this Bylaw shall have the following limitations governing its resale. The purpose of these limitations is to preserve the long-term affordability of the unit and to ensure its continued availability for affordable income households. The resale controls shall be established through a deed restriction, acceptable to DHCD, on the property, recorded at the Worcester County Registry of Deeds or the Land Court, and shall be in force for a period of ninety-nine (99) years.

1. AHU'(s) Resale Price: Sales beyond the initial sale to a qualified purchaser shall not exceed the maximum sales price as determined by the DHCD for affordability within the Town of Bolton at the time of resale.
2. Right of first refusal to purchase - The purchaser of an AHU developed as a result of this Bylaw shall agree to execute a deed rider prepared by the Town, granting, among other things, the Town of Bolton's right of first refusal for a period not less than one hundred and eighty (180) days to purchase the property or assignment thereof, in the event that, despite diligent efforts to sell the property, a subsequent qualified purchaser cannot be located.
3. The SPGA shall require, as a condition for special permit approval under this Bylaw, that the deeds to the AHU's contain a restriction that any subsequent renting or leasing of said AHU shall not exceed the maximum rental price as determined by the DHCD for affordability within the Town of Bolton.
4. The SPGA shall require, as a condition for special permit approval under this Bylaw, that the applicant comply with the mandatory set-asides and accompanying deed restrictions on affordability, including the execution of the deed rider noted in this Section 2.5.9.11. The Zoning Enforcement Officer shall not issue a building permit for any affordable unit until the deed restriction is recorded at the Worcester County Registry of Deeds or the Land Court.
5. The Bolton Housing Authority or other 501 (C)(3) fund as determined by the SPGA will be the authority that will monitor, oversee and administer the details for all resale of any affordable units created under this Bylaw.

2.5.9.12 Donation of Land and/or Fees-in-Lieu of Affordable Housing Unit Provision

As an alternative to the requirements of Section 2.5.9.5, 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. Calculation of fees-in-lieu of units. The applicant for development subject to this by-law may pay fees in lieu of the construction or provision of affordable units 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.
2. Schedule of fees-in-lieu of payments. Fees in lieu of payments shall be paid according to the schedule set forth in Section 2.5.9.6(3) above.
3. An applicant may offer, and the SPGA, in concert with the Board of Selectmen, may accept, donations of land in fee simple, on or off-site, that the SPGA determines are suitable for the construction of affordable housing units concurrently or in the future. The value of donated land shall be equal to or greater than 115% of the construction or set-aside of affordable units.

The SPGA shall require, prior to accepting land as satisfaction of the requirements of this by-law, that the applicant submit two (2) appraisals of the land in question (future values may be taken into account in this appraisal), as well as other data relevant to the determination of equivalent value. The applicant must also supply certified information that the land to be donated will support the required number of dwelling units per current Bolton Zoning Bylaws, Bolton Board of Health regulations and Bolton Conservation Commission requirements as of the date of transfer (i.e.; the land is buildable).

2.6 DEFINITIONS:

In this Bylaw the following terms, unless a contrary meaning is required by the context or is specifically prescribed, shall have the following meanings:

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.

Assisted Living Housing - Housing units and associated facilities for the elderly, 55 and older, who require daily assistance but who do not require nursing home care. Associated or shared facilities may include common dining facilities, housekeeping services and common space for indoor and outdoor social, educational and recreational activities. Associated facilities may provide additional services beyond Congregate Housing, including daily meals and personal services, medical monitoring and supervision.

Backland Lot - In the Residential Zoning District a lot as permitted by 2.3.5.5 Backland Zoning

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 July, 2008 and on file with the Town Clerk.

Building - A structure having walls and a roof, including porches covered or uncovered, capable of being used to shelter persons, animals, materials or equipment.

Bulk Storage - Outdoor storage of sand, lumber, coal or other large volume materials, and storage of liquids in tanks except underground as an accessory use, except customary storage in connection with residential use.

Common Driveway - In the Residential Zoning District a driveway serving no more than five single family dwellings or lots as permitted by 2.4.1.2 Common Driveways Serving 3 to 5 Houses.

Congregate Living Housing - Housing units and associated facilities for the elderly, 55 and older, who do not require constant supervision. A Congregate Living Housing unit consists of a room or group of rooms for one or more persons with provisions for living and sleeping for the exclusive use of the individual or household unit. The Congregate Living Housing unit may provide exclusive cooking and sanitary facilities. Associated or shared facilities may include common dining facilities, housekeeping services and

common space for indoor and outdoor social, educational and recreational activities.

Dwelling - A building containing one (1) or more rooms with cooking, living, sanitary and sleeping facilities arranged for the use of one (1) or more persons living together as a single housekeeping unit.

Extensive Outdoor Recreation - Premises comprising 10 acres or more used principally for standard golf course, skiing, snowmobiling, horseback riding, camping, or similar extensive recreation, with structures occupying not more than 2% of lot area.

Home Occupation - An occupation or profession engaged in within a dwelling, or accessory building, by a resident thereof as a use accessory thereto.

Lot - a portion of subdivided land, shown on a plan submitted by a Registered Land Surveyor, which conforms to the bylaws of the Town of Bolton.

Lot Area - the horizontal area of the lot exclusive of any area in a street or recorded way open to public use within the Town of Bolton. The minimum lot area for permitted uses within the Town of Bolton must be met by contiguous horizontal area within the Town of Bolton. However, see exception in Note B of Section 2.3.5.2.

Lot Coverage - Percentage of total lot area, within the zone of proposed use, that is covered by structures or roofed.

Lot Frontage - That portion of a lot fronting upon and providing rights of access to a street shown on the Base Map, and listed on the Schedule of Town Roads on file with the Town Clerk, or to an approved or accepted new right-of-way laid out in accordance with the Rules and Regulations Governing the Subdivision of Land in the Town of Bolton, to be measured continuously along a single street line. Owners of lots fronting upon two streets may select that which shall be considered "frontage". On a corner lot frontage shall be measured to the point of intersection of the extension of the side lines of the streets. The minimum frontage for permitted uses within the Town of Bolton must be met by contiguous frontage within the Town of Bolton on an approved or accepted right-of-way in the Town of Bolton.

Mobile Home - A moveable or portable dwelling unit built on a chassis, designed for connection to utilities when in use, and designed without necessity of a permanent foundation for year round living.

Mobile Home Park - Premises which have been planned and improved for the placement of two or more mobile homes for non-transient use.

Municipality - The Town of Bolton.

Nursing Care Facilities - Intermediate and skilled care nursing facilities to provide an intensive level of nurse and medical care for patients.

Parcel - A portion of subdivided land, shown on a plan submitted by a Registered Land Surveyor, which does not conform to the bylaws of the Town of Bolton. The parcel shall be noted as a non-buildable parcel on said plan.

Principal Building or Use - A building or use which is not an accessory use.

Right-of-Way - A public way, or a way which the Town Clerk certifies is maintained and used as a public way, or a way approved and endorsed by the Planning Board in accordance with the Subdivision Control Law, or a way in existence when the Subdivision Control Law became effective in the Town of Bolton.

Shared Driveway - In Residential Zoning District a driveway serving no more than two single-family dwellings or lots as permitted by 2.4.1 Driveways

Sign - Any device displaying, or any display of, any letter, word, picture, symbol, or object designed to inform or attract the attention of persons not on the premises on which such device or display is located, including bill-boards and any such internally or decoratively illuminated building surface other than an unobstructed window.

Structure - A combination of materials assembled by man, the use of which requires fixed location on the ground, or attachment to something on the ground. Structures include buildings, dwellings, towers, masts, sheds, roofed storage areas, mechanical equipment, swimming pools, permanent sporting facilities and signs. Structures do not include fences, walls, driveways, walkways, or other paved areas.

Yard - An area open to the sky, located between a street or other property line and any structure or element thereof other than a fence, wall, other customary yard accessory, or projection allowed to encroach on building lines by the Commonwealth of Massachusetts State Building Code. Depth is to be measured perpendicularly to the street or property line.

Yard, Front - A yard extending between lot side lines across the front of a lot adjacent to each street the lot adjoins.