

## 1.0 ADMINISTRATIVE BYLAWS

### 1.1 GENERAL PROVISIONS

- 1.1.1 The following Bylaws shall regulate the administration of the affairs of the Town of Bolton, Massachusetts.
- 1.1.2 Any of the Bylaws under 1.0 may be repealed or amended or other Bylaws may be adopted by a majority vote, at any town meeting, an article or articles for that purpose having been inserted in the warrant for such meeting.
- 1.1.3 The Selectmen shall publish the Bylaws of the town at least once every five years.
- 1.1.4 Whoever violates any of the provisions of these Bylaws whereby any act or thing is enjoined or prohibited, shall, unless other provision is expressly made, forfeit and pay a fine of not more than Twenty Dollars (\$20.00) for each offense. Each day of violation shall constitute a separate offense.
- 1.1.5 The preceding sections notwithstanding, any person violating the provisions of any section of these bylaws which is subject to a specific penalty may be penalized by a non-criminal disposition as provided in M.G.L. Chapter 40 s 21D which includes the giving, to the violator, a written notice to appear before the clerk of the district court. The non-criminal method of disposition may also be used for violations of any rules or regulations of any town officer, board or department which is subject to a specific penalty. Without intending to limit the foregoing, the following bylaws, rules and regulations are to be included within the scope of this section, the specific penalties listed shall apply and in addition to police officers, who in all cases shall be enforcing officers, the Town personnel listed shall also be enforcing officers:

#### a) General Protective and Regulating Provisions of Section 1.9

Penalty: \$20.00 a day

Enforcing Officer:

Section 1.9.2	(hawkers and peddlers) - Police Department
Section 1.9.3	(junk dealers) - Police Department
Section 1.9.5	(tethering to a tree) - Director of Public Works
Section 1.9.7	(lumber piles) - Director of Public Works
Section 1.9.8	(digging in highway) - Director of Public Works
Section 1.9.10	(unregistered motor vehicle) - Police Department
Section 1.9.13	(town beach) - Police Department
Section 1.9.14	(motorized recreation vehicle) - Police Department
Section 1.9.19	(hunting and trapping) – Police Department

- b) Removal of Soil, Loam, Sand and Gravel Bylaw (Section 1.10)  
Penalty: \$50.00 a day  
Enforcing Officer: Board of Selectmen
- c) Protection of Groundwater Bylaw (Section 1.11)  
Penalty: \$50.00 a day  
Enforcing Officer: Board of Health
- d) Street Numbering Bylaw (Section 1.13)  
Penalty: \$10.00 a day  
Enforcing Officer: Police Department
- e) Violation of any provision of the Zoning Bylaws  
Penalty: \$50.00 a day  
Enforcing Officer: Board of Selectmen
- f) Violation of any condition of a Special Permit of Variance granted pursuant to the Zoning Bylaw or M.G.L. Chapter 40A.  
Penalty: \$50.00 a day  
Enforcing Officer: Board of Selectmen
- g) Discharge of Snow or ice onto Public Ways (Section 1.19)  
Penalty: \$100  
Enforcing Officer: Police Department
- h) Violation of Wetland Bylaw (Section 1.18)  
Penalty: \$300.00 for each offense, each day of violation shall be a separate offense.  
Enforcing Officers: Conservation Commission and Agent

1.1.6 Providing Holdover Status for Elected Officials Other Than Members of the Board of Selectmen as follows:

TOWN OF BOLTON  
HOME RULE BYLAW

WHEREAS, the Town Meeting is the Town of Bolton legislative body, and under Article LXXXIX of the amendments to the Constitution of the Commonwealth of Massachusetts (The Home Rule Amendment), the Town Meeting has the power to adopt legislation affecting the internal affairs of the Town; and

WHEREAS, the Town wishes to adopt legislation to allow it to provide “holdover” status to all elected Town officers, except to members of the Board of Selectmen, whose term of office terminates as a result of such officer’s physical relocation of his or her residence from the Town of Bolton to another municipality;

NOW, THEREFORE, the Town adopts the following bylaw pursuant to The Home Rule Amendment by amending Article 1.0 (Administrative Bylaws), Section 1.1 (General Provisions), by adding the following subsection 1.1.6, Holdover Status for Elected Officials Other Than Members of the Board of Selectmen, as follows:

1. In the event an individual holding an elected office in the Town, other than a member of the Board of Selectmen, ceases to be a resident of the Town of Bolton, the individual may remain in the elected office as a holdover until the Board of Selectmen, in a written document signed by the members of the Board of Selectmen, or by a majority of the members of said Board, and filed with the Town Clerk's office, appoint a temporary officer to hold the elected office and exercise the powers and perform the duties of that office until another individual is duly elected or appointed and qualifies under the law. In no case, however, shall an individual remain as a holdover in the elected office for more than ninety (90) days. This Section shall not apply to any member of the Board of Selectmen.
2. Within 10 days after his/her appointment, any temporary officer must be sworn and shall post a bond, if required, for the faithful performance of his/her duties. Failure to do so will result in a rescission of the appointment.

## 1.2 TOWN MEETINGS AND WARRANTS

- 1.2.1 The Annual Town Meeting for the transaction of business shall be on the first Monday in May at a time to be determined by the Board of Selectmen. The election of officers shall take place on the second Monday in May and commence at 12:01 p.m. and close at 8:00 p.m. of that day.
- 1.2.2 The Annual Town Meeting shall, unless a different time or method is prescribed by law, be called by posting an attested copy of the warrant, calling the same, at the Town Hall, at the Post Office and at two other public places in the Town seven days, at least, before the day appointed for said meeting, and by mailing a copy of the warrant to each household where one or more registered voters resides.

A Special Town Meeting shall, unless a different time or method is prescribed by law, be called by posting an attested copy of the warrant, calling the same, at the Town Hall, at the Post Office and at two other public places in the town fourteen days, at least, before the day appointed for said meeting, and by mailing a copy of the warrant to each household where one or more registered voters resides.

1.2.3 The presence of seventy-five (75) registered voters at a town meeting for the transaction of business shall be required to constitute a quorum except for a motion to adjourn for which no quorum shall be required.

1.2.4 When an article requiring an appropriation of money is presented in the warrant for a town meeting, said article must contain the request for the appropriation.

For all matters requiring a two thirds vote under Chapter 39, Section 15 of the Mass General Laws, a count need not be taken unless the vote so declared is immediately questioned by seven or more voters.

1.2.5 The Moderator shall have the power to require persons who are not registered voters to identify themselves and leave the floor of the hall when he shall deem this action necessary.

1.2.6 Articles for the warrant shall be acted upon in the order in which they stand, except that the Moderator may upon request and for reasons stated entertain the motion to take up an article out of this regular order.

1.2.7 No motion, the effect of which would be to dissolve a town meeting, shall be in order until every article in the warrant has been acted upon, but this shall not preclude the postponement of action on, or consideration of, any article to an adjournment of the meeting to a stated time.

When a question is before the meeting, the following motions, namely: to adjourn; to lay on the table; for the previous question; to postpone to a stated time; to commit, recommit or refer; to amend; to postpone indefinitely; shall be received and shall have precedence in the foregoing orders, and the first three shall be decided without debate.

No article in the warrant shall be again taken into consideration after having been disposed of unless ordered by a vote of two-thirds of the voters present and voting.

1.2.8 The Moderator may decline to put motions obviously frivolous or tending to disorder. A motion shall be presented in writing if the Moderator requests. The Moderator shall be governed in his rulings by these articles.

1.2.9 All committees unless otherwise specially directed by the meeting shall be appointed by the Moderator except as otherwise provided by law and all committees so appointed shall be directed to report within a definite time. If a committee does not report within the time stated, or at the first Annual Town Meeting thereafter, it shall be considered discharged. The Moderator shall not be a member of any committee appointed by him.

1.2.10 It shall be the duty of the appointing body promptly after every town meeting to notify all members of committees who shall be selected or appointed at such meeting.

### 1.3 ADVISORY COMMITTEE

- 1.3.1 The Advisory Committee shall consist of six citizens of the Town, which committee shall be appointed as provided in the following section, and no person holding an elective or appointive town office shall be eligible to serve on said committee.
- 1.3.2 The Moderator, Town Clerk and Chairman of the Board of Selectmen shall constitute the appointing committee, who shall, within 30 days of each annual meeting for the election of officers appoint from the citizens of the Town two members to serve for the term of three years. The terms of office of said members shall expire June 30. Said committee shall choose its own officers, and shall serve without pay excepting, however, the secretary thereof, who may receive such compensation as the Town may by vote provide. Said committee shall cause to be kept a true record of its proceedings.
- 1.3.3 To the Advisory Committee shall be referred for recommendations all articles in any warrant for a town meeting hereafter issued. It shall be the duty of the Board of Selectmen after drawing any warrant for a town meeting, to transmit immediately a copy thereof to the Chairman of the Advisory Committee, and said committee shall consider such articles. A public hearing on said articles may be held at the discretion of said committee, unless a public hearing by some other tribunal is required by law, and a notice of such hearing shall be given by posting a copy thereof in at least three public places in town. After due consideration of the subject matter in such articles, said committee shall report thereon, in print or otherwise, such information and recommendations as it shall deem best. All recommendations of the committee made to the Town shall be recommendations of a majority of the committee. In case of disagreement, all reports shall be reported back to the Town without recommendation. To the Advisory Committee shall also be referred the disposition of all tangible supplies and property, not including real property, the value of which exceeds \$1,000. The Advisory Committee shall dispose of all such supplies and property in compliance with applicable procurement requirements. The agency possessing tangible supplies and property, not including real property, the value of which is \$1,000 or less shall dispose of such supplies and property using sound business principals.
- 1.3.4 It shall be the duty of the Advisory Committee to consider the annual estimates and expenditures as prepared by the various town officers, boards, and committees charged with the expenditure of the Town's money, and add another column to the prepared statement giving the amount which in its opinion shall be appropriated for the ensuing year, and add thereto such explanations and suggestions in relation to the proposed appropriations as it may deem expedient, and report thereon, as provided in 1.3.3.

The Selectmen shall include in their estimates, separately, the salaries of all officers elected directly by the Town, and all other items not otherwise

provided for, and the salaries of all other persons shall be included in the estimates of officers, boards, or committees appointing them. The Treasurer shall include in his estimates the amount required for the payment of interest on the town debt and for the payment of such portions of the town debt as may become due during the succeeding year. Said estimates and explanations shall be filed with the Advisory Committee on or before the fifteenth day of January.

1.3.5 Whenever any vacancy shall occur in said committee - by resignation, removal from town, death, failing to qualify, or otherwise - said vacancy shall be filled by said committee. And if any member is absent from five consecutive meetings of said committee, except in case of illness, said committee shall consider the position vacant and proceed to fill the same. The term of office of all persons chosen as aforesaid, to fill vacancies, shall expire on June 30, succeeding such vacancy and a successor shall be appointed to fill out the unexpired term of each member whose office has been so vacated, in the same manner as the original appointment.

1.3.6 It shall be the duty of said committee to make an annual report of its doings, with recommendations relative to financial matters, to be printed with the annual reports of the other town officers.

#### 1.4 LEGAL AFFAIRS

1.4.1 The Selectmen shall have the general direction and management of the property and affairs of the Town in all matters not otherwise provided for by law or by these Bylaws.

1.4.2 The Selectmen together with two other citizens of the Town neither of whom shall hold an elective town office, shall constitute a Law Committee. The two members holding no elective office so serving with the Selectmen shall be appointed annually by the Moderator. This committee, except as otherwise provided by law or vote of the Town, shall have full and exclusive authority as agents of the Town to engage counsel, to institute, prosecute, defend, compromise and settle all claims, suits and actions brought by or against the Town or protect the Town with liability insurance from any or all claims, provided, however, that no claim or action against the Town, unless reduced to the form of an execution or decree of Court shall, except in cases which are covered by liability insurance, be compromised or settled by the payment of any amount in excess of Two Hundred Dollars (\$200.00) without a special vote of the Town.

1.4.3 It shall be the duty of the Law Committee to notify the citizens of the Town by posting in four public places as soon as possible notice of the fact that an action at law or suit in equity has been brought against the inhabitants of the Town, when the amount of the action or suit is Five Hundred Dollars (\$500.00) or more.

1.4.4 All conveyances of land or interests in land which may hereafter be authorized by vote of the Town, or otherwise, except land held under tax titles, shall be signed by a majority of the Board of Selectmen unless otherwise provided by law, or these Bylaws or by special vote of the Town, and the same shall be sealed with the town seal.

1.4.5 The Law Committee in their annual report shall state what actions have been brought against or on behalf of the Town, what cases have compromised or settled and the terms thereof, and the current standing of all suits of law involving the Town or any of its interests, and they shall give a summary of their activities and decisions during the past year.

## 1.5 FINANCIAL AFFAIRS

1.5.1 The Town Treasurer shall prescribe the methods of accounting and the forms to be used by the several officers, boards and committees of the Town pertaining to their receipts and disbursements, and shall provide that such methods and forms shall conform to the requirements prescribed by law or by any rules or regulations made thereon.

## 1.6 PURCHASING AND CONTRACTS

1.6.1 All procurement, for which appropriations have been made or monies otherwise legally provided, shall be made in compliance with MGL, c. 30B, the Uniform Procurement Act; MGL c. 7, ss. 38A ½-38O, Design Services; MGL c. 149, ss. 44A-44J, Public Building Construction; MGL c. 30, ss. 39A-40A, Public Works Construction; and all other relevant laws, as they may be amended from time to time. It shall be the responsibility of each department and designated committee to determine if funds are available before making commitments.

Each expenditure shall be approved by the head of the department or a majority of the committee having control. Bills presented by vendors for services shall be approved and signed by a majority of the department officers or committee responsible and also by a majority of the Board of Selectmen. Bills shall then be passed to the Town Treasurer for payment.

It shall be the responsibility of each department or committee to keep total expenditures within monies legally available. The Town Treasurer shall pay only up to the total amount authorized for the designated purpose or department or committee requirements.

1.6.2 Deleted April 9, 2001, Article 2

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1.6.4 Any person or firm requiring the services of the Tree Warden and/or Moth Superintendent shall pay for services at an hourly rate equal to the hourly rate

of the General Foreman of the Forestry Division Department of Public Works. Said compensation shall be paid directly to said Tree Warden and/or Moth Superintendent.

## 1.7 RECORDS AND REPORTS

1.7.1 All officers, boards and committees of the Town shall cause records of their doings and accounts to be kept in suitable books. Said books shall be kept in their respective places in the Town, and shall not be removed therefrom. Said books, shall unless otherwise provided by law, be open to public inspection at any reasonable time, but shall remain during such inspection under supervision of the officer, board or committee having custody thereof.

1.7.1.1 All boards, committees, commissions of the Town, elected or appointed, shall compile and maintain minutes of all posted and emergency meetings and shall file a copy of said minutes with the Town Clerk within one week of approval. Minutes of executive sessions need not be filed with the Town Clerk until such time as the reason for the session is no longer valid.

1.7.2 All officers, boards and standing committees, and special committees of the Town having charge of the expenditure of town money shall annually report thereon in writing so as to give the citizens a fair and full understanding of the objects and methods of such expenditures, referring, however, to the report of the Town Treasurer for statements in detail of receipts and payments, and may make therein such recommendations as they deem proper. Such reports shall be submitted to the Selectmen for inclusion in the Annual Town Report on or before the 10th day of January of each year. All reports shall be signed by at least a majority of the board. The Selectmen shall cause these reports, together with a list of town officers and other matter usually published, to be printed and placed in the hands of the Town Clerk, ready for distribution, two months, at least, before Annual Town Meeting in May.

1.7.3 The Annual Town Report shall contain, in addition to the reports of officers, boards and committees as herein before provided, a detailed report of all monies received into and paid out of the town treasury in the year next preceding, showing separately payments made from the proceeds of loans as capital outlays for permanent improvements, the report of the Collector of Taxes, of receipts, payments and statements; statements of all funds belonging to the Town or held for the benefit of its inhabitants; a statement of the liabilities of the Town on bonds, notes, certificates of indebtedness authorized but not incurred, and the purposes thereof; a statement of transfers made to or from any appropriation; abstracts of the records of the meetings of the Town held since the publication of the last annual report; and such other matters as the said report is required by law to contain, or as may be inserted by the Selectmen under the discretion granted by law.



- 1.7.4 The several boards of town officers shall file with the Board of Selectmen at the end of each calendar year a schedule of all property in their charge. These schedules shall be open to public inspection.
- 1.7.5 The Selectmen, or the Town may direct that the Assessors' valuation list, the Bylaws and standing votes of the town and the rules and regulations adopted by any officer, board or committee, be printed either separately or as a part of the annual report.
- 1.7.6 The Town Clerk shall conduct an annual census.

## 1.8 CEMETERIES

- 1.8.1 The Town of Bolton will accept from any person any sum of money not less than One Hundred Dollars (\$100.00), the interest whereof shall be applied to the care and repair of such lot or lots in the public burial ground of the Town as the person depositing the money shall designate, in accordance with Section 25 of Chapter 114 of the General Laws (Ter. Ed.).
- 1.8.2 All such money shall be deposited by the Town Treasurer to the credit of the burial fund. The Treasurer shall keep the account of burial lot fund in a book showing the date of each deposit, the amount deposited, the name of the depositor, the name of the cemetery containing the lot and the number of the lot.
- 1.8.3 The treasurer shall give the depositor a receipt in the following form:

Date_____
This certifies that _____ has deposited with me the sum of _____ Dollars, the interest of which is to be forever applied in accordance with the provisions of Section 25, Chapter 114, General Laws (Ter. Ed.), for the care of lot number _____ on the plan of the _____ Cemetery.
Treasurer, Town of Bolton

- 1.8.4 The Cemetery Committee shall not be required to expend the interest on each deposit annually but may, at its discretion, allow it to accumulate in order to do more satisfactory work.
- 1.8.5 Lots in the cemeteries shall be free to inhabitants of the Town of Bolton.
- 1.8.6 The assignment of lots shall convey only the right of burial. The Title to all lots shall be vested in the Town.
- 1.8.7 No lots shall be graded, nor shrubbery or trees planted, nor monuments erected, in any cemetery, except with the approval of the Cemetery Committee.

- 1.8.8 Any grave opened in Bolton cemeteries shall be paid for at the rate of no less than \$150.00 for regular hours. The rate for overtime or weekends shall be no less than \$250.00 and holiday hours shall be no less than \$500.00.

Winter burial shall be at the discretion of the Cemetery Committee and if done with extra equipment (i.e. compressor, plowing, sanding) shall be paid for by the deceased's account.

This money to revert to the Town Treasury and shall be used in accordance with Sections 15 and 25 of Chapter 114 of the General Laws (Ter.Ed.).

- 1.8.9 Within thirty (30) days after the closing of a grave a flush marker shall be placed on such grave under the direction of the Cemetery Committee.

## 1.9 PROTECTIVE AND REGULATING PROVISIONS

### 1.9.1 DOG AND KENNEL BYLAW

- 1.9.1.1 The Town of Bolton adopts this Dog and Kennel Bylaw in accordance with, and to conform with, Sections 136A through 174D of Chapter 140 of the Massachusetts General Laws.

- 1.9.1.2 For the purposes of this Section 1.9  
“**Kennel**” shall be defined as one (1) pack or collection of more than three (3) dogs six (6) months old or older on a single premises, whether maintained for breeding, boarding, sale, training, hunting, or other purposes.  
“**At Large**” shall be defined as any dog off the premises of its owner or keeper, and not under the direct control of a person demonstrating the ability to properly control the dog.

- 1.9.1.3 At no time shall a person owning or keeping a dog in the Town allow such dog to be unlicensed, uncollared, untagged, or to become a “public nuisance” to others within the Town Limits. A dog shall be deemed a “public nuisance” for, but not limited to, the follow reasons:

- attacking or chasing persons or domestic animals
- damaging property of others beyond its owner/keepers property
- interfering with or disrupting organized school or public activities
- interfering with the use of a public right-of-way
- chasing moving vehicles
- exhibiting a vicious disposition
- barking or howling excessively resulting in complaints to the Police or Animal Control Officer
- running at large
- creating other disturbance

- 1.9.1.4 Every person owning or keeping a dog that is six (6) months old or older shall obtain a dog license from the Town Clerk, and every person maintaining a kennel shall obtain a kennel license from the Town Clerk, as required by

Section 137 and 137A of Chapter 140 of the Massachusetts General Laws. Every such dog and kennel license shall be valid for one year beginning on April first and ending on March thirty-first. Each license shall contain the name, address, and telephone number of the owner or keeper of the dog, and such other information as the Town Clerk deems appropriate; in addition, each kennel license shall include the number of dogs maintained in the kennel. Each license shall be issued upon the condition that the owner or keeper shall comply with the provisions of this bylaw and any law, rule, or regulation relating to the ownership and control of dogs.

- 1.9.1.5 As allowed by Section 173 of Chapter 140 of the Massachusetts General Laws, all owners or keepers of dogs kept in the Town of Bolton, who on the first day of May of each year have not licensed said dog or dogs as prescribed by Section 137 and 137A of Chapter 140 of the Massachusetts General Laws, and this bylaw, shall be required to pay an additional fee of twenty-five (\$25.00), payable to the Town of Bolton. If still unlicensed, uncollared, and untagged after June 1<sup>st</sup> the Board of Selectmen shall, by June 11<sup>th</sup>, issue a warrant directing the Animal Control Officer to seek out, catch, and confine all such dogs; and to enter and prosecute a complaint in district court against the owners or keepers, if known, of said dogs, in accordance with said Chapter 140, Section 151A.
- 1.9.1.6 Every holder of a kennel license shall maintain the kennel in a sanitary and humane manner, and shall keep a record of all dogs kept in the kennel, including their license numbers.
- 1.9.1.7 The Board of Selectmen, the Chief of Police, or the Animal Control Officer, or their designees, may at any time inspect, or cause to be inspected, any kennel licensed under these kennel provisions, and if, in their judgment, the kennel is not being maintained in a sanitary or humane manner, or if records are not properly kept as required by this bylaw or other applicable law, or if the kennel is in violation of any provision of this Section 1.9.1, the Board of Selectmen shall by order revoke or suspend, and, in the case of suspension, may reinstate, such license.
- 1.9.1.8 Deleted May 5, 2008, Article 10
- 1.9.1.9 Violations of Section 1.9.1 and Section 1.9.4 or Massachusetts General Laws Chapter 140, Section 136A through 174D shall be subject to impoundment of the animal by the Animal Control Officer, and/or a fine upon the owner or keeper of a dog or livestock so found to be at large, dangerous or a public nuisance; and/or by criminal or non-criminal disposition as provided in said Chapter 140, Sections 151A, 157, and 173A. Such fines shall not be more than twenty-five dollars (\$25.00) for the first offense, no more than fifty dollars (\$50.00) for the second offense and not more than the maximum allowed by law for subsequent offense(s). Any violation resulting in impoundment shall also require payment to the Town of Bolton of a pick-up fee of ten dollars (\$10), plus normal boarding fees.

- 1.9.2 No person shall hawk or peddle fish, fruit or vegetables within the limits of the Town, except as otherwise authorized by law, without obtaining a license therefore from the Selectmen upon payment of a fee at a rate to be set annually by the Selectmen.
- 1.9.3 No dealer in junk, old metals or second hand articles, shall collect or keep such articles in the Town of Bolton except as otherwise authorized by law, without a license from the Board of Selectmen. The Selectmen, after notice, and hearing, may revoke any such license for cause. The fee for such license shall be at a rate set annually by the Selectmen.
- 1.9.4 No livestock, including but not limited to horses, swine, sheep, goats, cattle, or llamas shall be allowed to run at large in any roadway of the Town.
- 1.9.5 No person shall tie a horse or other animal to any tree, nor to any structure protecting such tree, in the public streets of the Town.
- 1.9.6 (Moved to 2.4.2 on 6/12/78)
- 1.9.7 No person shall place or pile any wood, lumber or other material within the limits of the highway or sidewalks without a written permit from the Selectmen, and then only for a limited period.
- 1.9.8 No person except officers of the Town and their duly authorized agents in the lawful performance of their duties, shall break up or dig up the ground in any highway of the Town, or set up any post, pole, fence, tree, structure, or any other obstruction, without a written permit from the Selectmen.
- 1.9.9 Any project involving major construction and/or taking of public or private property shall be explained to the inhabitants of the town through a Public Hearing. Such Public Hearing shall be called by the Selectmen by posting notices thereof in three public places including the outside of the Town Hall at least seven days before the time of said hearing.
- 1.9.10 Unregistered motor vehicles which are unfit for use, permanently disabled, or have been dismantled or are otherwise inoperative, shall not be stored, parked, or placed upon any land in the Town unless the same shall be within a building or in an area unexposed to the view of the public or abutters or are in an area properly approved for the keeping of the same by licensed junk dealers or automobile dealers.
- 1.9.11 The penalty for violation of the provisions of this Article shall not be less than Ten Dollars (\$10.00) nor more than Twenty Dollars (\$20.00) for each offense. Each day that each violation continues shall constitute a separate offense.
- 1.9.12 (Moved to 2.5.2.2 on 6/12/78)

- 1.9.13 The Selectmen shall from time to time establish regulations as necessary to insure safe and proper operation and conduct at the Town Beach, such regulations to be enforced by the Police Department and failure to comply shall be subject to fines under this Division.
- 1.9.14 No person shall use or operate a motorized recreation vehicle including motorcycles, trail bikes, minibikes, snow vehicles, all-terrain vehicles, and similar types, on public or private property, within the confines of the Town of Bolton, except with the consent of the owner thereof or his duly authorized representative. In the case of public land, consent shall be obtained from the appropriate Town Board.
- 1.9.15 The practice of going in and upon private residences of the town by commercial agents, selling agents, solicitors and canvassers, transient vendors and itinerant merchants for the purpose of soliciting orders for services or for the sale of goods, wares, and merchandise by means of samples, lists, catalogues or otherwise, without having been requested or invited to do so by the owner or occupant of said private residences, is prohibited and hereby declared a nuisance.

The provisions of this Bylaw shall not apply to officers or employees of the Town, County, State or Federal governments; hawkers and peddlers registered by the State and the Town under appropriate laws and regulations, candidates for public office or political parties recognized by the Commonwealth; religious organizations for the purpose of spreading the teachings of their religious beliefs, but not for the purpose of selling or soliciting; and nonprofit, charitable organizations upon registration by the President or Treasurer with the Chief of Police. Such registrations must be renewed yearly.

- 1.9.16 **Gas Inspector**  
The Board of Selectmen shall appoint each year an Inspector of Gas Piping and Gas Appliances whose duty shall be the enforcement of the rules and regulations adopted by the board established under Section 12H of Chapter 25 of the General Laws.
- 1.9.17 **Plumbing Inspector**  
The Inspector of Buildings in accordance with the provisions of Chapter 142, Section 11 of the General Laws, shall appoint annually an Inspector of Plumbing, who shall carry out his duties as set forth in said statute.
- 1.9.18 **Inspector of Buildings**  
The Board of Selectmen shall appoint each year an Inspector of Buildings. His responsibilities are described in Section 2.1.2 Administration.
- 1.9.19 **Hunting, Trapping and Firearms Regulations**  
a) No person shall fire or discharge any firearms, or set traps, on any property without the written consent of the owner or legal occupant.

- b) No person shall fire or discharge any firearm, hunt, or set traps, on any public property without the written consent of the officials, or their agent for this purpose, charged with the management of the particular public property. For the purposes of this bylaw, regulations promulgated by state agencies having jurisdiction over public property within the Town of Bolton specifically authorizing hunting, fishing thereon shall constitute written consent.
- c) This Bylaw shall not apply to the lawful defense of life and property nor any Law Enforcement Officer in the performance of his duties.

1.9.20 Fire Protection Systems

Pursuant to Section 98 of Chapter 143 of the General Laws, the Selectmen may adopt regulations relative to fire protection systems with the approval of the Fire Chief after consultation with the Planning Board.

- 1.9.21 The Town of Bolton may use employees of the Highway Department as flag persons for traffic control during any road maintenance or repair project being performed by the Town.

1.10 REMOVAL OF SOIL, LOAM, SAND AND GRAVEL

- 1.10.1 The removal of soil, loam, sand or gravel from any parcel of land not in public use in the Town of Bolton, except as hereinafter provided, shall be allowed only after a written permit therefore is obtained from the Board of Selectmen after a Public Hearing of which due notice is given.

- 1.10.2.1 The Board of Selectmen shall fix a reasonable time for the hearing for a removal permit and shall cause the notice of the time and place of such hearing thereof and of the subject matter, sufficient for identification, to be published in a newspaper of general circulation in the Town. Such publication to be not less than seven (7) days before the day of the hearing, or by posting such notice in a conspicuous place in the Town for a period of not less than seven days before the day of such hearing, and also send notice by mail, postage prepaid, to the petitioner and to the owners of all property deemed by the Board to be affected thereby including the abutters notwithstanding that the abutting land is located in another city or town, as they appear on the most recent tax lists. The publication required by this section shall contain the following printed in bold face type:

- a) the name of the petitioners;
- b) the location of the area or premises which are subject of the petition; and
- c) the date and place of the Public Hearing.

- 1.10.2.2 No permit shall be required for the removal of soil, loam, sand or gravel from any parcel of land when incidental to and in connection with the construction of a building on the parcel. No permit shall be required by a home owner or farmer for the transfer of loam, sand, or gravel from one part of his own lot to another part thereof for the improvement of his own lot. Nor shall any permit

be required for removal of loam, sand or gravel in connection with the improvement or construction of any road over a lot provided such loam, sand or gravel so removed is used on said lot to improve the same and is not contrary to the regulations of this Bylaw as adopted. No permit shall be required by quarries operating at the time this Bylaw is adopted so long as the sale of soil, loam and gravel is not involved.

- 1.10.2.3 A permit shall be issued without hearing by the Board of Selectmen for the removal of sand or gravel from any lot within the Town wherein the removal operation can be proven by the owner to said Board to have been in continuous operation since October 10, 1956.
- 1.10.2.4 All permits in force as of the effective date of this Bylaw, are subject to said Bylaw and the holders thereof are required to submit applications for permits in accordance with the terms of this Bylaw for hearings to be held at least one (1) week prior to the anniversary date of the presently issued permit. Permits will be granted as recited in this Bylaw for a period not to exceed three years and all procedures shall be followed as set forth in this Bylaw concerning hearings prior to the issuance of permits.
- 1.10.3 In issuing a permit under this Bylaw, the Board of Selectmen may impose such conditions not specifically provided therein as it may deem necessary for the adequate protection of the neighborhood and the Town. Any conditions imposed by the Board shall be attached to and made a part of the permit. The Board may, in its discretion, require a bond, certified check, or other security for compliance with such conditions or as evidence of good faith as to the completion of any proposed construction. The Board may, after a Public Hearing on proof of violation of any condition, revoke any permits so issued. No permit shall be issued under the provisions of this Bylaw for a period of more than three years.
- 1.10.4 Sand and gravel may be removed from any parcel of land except within 300 feet of a street or way, and the Board shall issue a permit therefore provided, however, that the Board shall impose such reasonable conditions as to the disposition of topsoil and the re-establishment of ground levels and grades as it may deem necessary.
- 1.10.5 Soil or loam may be removed and sold from any parcel of land within such parcel determined by the Board to be unsuited to agricultural use, and the Board may issue a permit for such removal, provided, however; that the Board shall in making such decision, obtain the recommendations of the appropriate Soil District Supervisor and the County Extension Director or Agent or their successors, and their recommendations shall be made a part of the records of the Board. In issuing a permit, the Board may impose reasonable conditions as to the re-establishment of ground levels and grades.
- 1.10.6 Notwithstanding the provisions of the above, the Board may issue a permit for the removal of soil or loam from any parcel of land in the Town where such

removal is necessarily incidental to and in connection with the construction of a road or other facility involving a permanent change in the use of the land. The Board shall issue no such permit unless it is reasonably satisfied that the construction will be completed and evidence thereof shall be made part of the records of the Board.

1.10.7 Sand or gravel may be removed from any parcel of land within such parcel lying within 300 feet of any street or way, provided a permit therefore has been issued by the Board after satisfactory evidence that such removal will not be seriously detrimental or injurious to the neighborhood provided further that the Board shall impose reasonable conditions as to the method of removal, the re-establishment of ground levels and grades and the planting of the area to suitable cover, as it may deem necessary.

1.10.8 The penalty for violation of the provisions within this division (or article) shall be as follows. For each offense: Fifty Dollars (\$50.00); and each day that each violation continues shall constitute a separate offense.

#### 1.11 PROTECTION OF GROUNDWATER

In order to protect, preserve, and maintain the existing and potential groundwater supply and groundwater recharge areas within the Town of Bolton, no person shall alter the quality of any surface water or groundwater without first filing with the Board of Health and obtaining and complying with a groundwater alteration permit. For the purposes of this Bylaw, the following activities are allowed without permit:

- a) Application of fertilizer and pesticides in accordance with manufacturers' recommended procedures or standards approved by state, federal, or local agency.
- b) Non-injection sewage disposal (e.g. typical domestic septic systems) in accordance with Title 5 of the State Environmental Code.
- c) Construction of single family dwellings, additions and accessory buildings.

This Bylaw should in no way be interpreted to limit or restrict the authority of the Board of Health.

##### 1.11.1 Permit

The Board of Health shall issue and improve regulations which shall govern filing procedures and other matters related to carrying out the requirements of this Bylaw.

The Board of Health shall, within 21 days of receipt of all required information, determine at a public meeting whether the proposed alteration will have a significant effect on the groundwater quality, groundwater recharge or groundwater elevation. If the Board of Health determines that insufficient



information has been provided by the applicant or that additional technical consultation is required it may delay the determination until the required information and/or consultation can be provided.

#### 1.11.2 Performance Standards

Any alteration subject to the permit requirements of this Bylaw shall comply with the following minimum performance standards.

- a) All hazardous material shall be retained in product-tight containers and removal and disposal off-site shall be directed by the Board of Health. No hazardous material shall be present in wastes disposed of on-site.
- b) Process wastes from operations other than personal hygiene and food for residents, patrons, and employees shall be treated so that contaminant levels in groundwater resulting from such disposal will not exceed background levels of individual constituents. Process wastes shall be disposed of in a separate location from wastes generated from personal hygiene and food for residents, patrons, and employees or from building and parking area drainage.
- c) All chemicals, fuel, fertilizers, pesticides or other potentially contaminating substances shall be stored and handled in such a way that will prevent the release of leachate to (surface or) groundwater. Storage and handling measures shall include protection from vandalism, accidental damage or corrosion.
- d) All underground tanks shall meet the initial and periodic inspection requirements as promulgated in Board of Health underground tank regulations. Underground tanks of 300 gallons or less shall not be inspected more than once every four years.
- e) All runoff from artificial impervious surfaces shall be recharged where possible on the site, diverted toward areas covered with vegetation for surface infiltration. Dry wells shall be used only where the above methods are infeasible, and shall be preceded by grit chambers to facilitate removal of contaminated solids. No discharge directly into surface waters without intervening mitigative measures, including trapped catch basins and oil absorbents, will be allowed.
- f) New commercial earth removal operations shall be limited to a minimum of 4 feet above maximum ground water and exposed land shall be returned to its natural vegetative state as of the date of implementation of the Bylaw when excavation is complete.
- g) An erosion and sedimentation plan shall be provided to control the effects of construction to maximize on-site recharge.

- 1.11.3 The Board of Health, its agents, offices and employees may enter upon the land on which an alternative is proposed in response to a filing or application, and/or for the purposes of carrying out its duties under this Bylaw, and may make or cause to be made such examination or survey as it deems necessary.
- 1.11.4 This Bylaw shall not apply to emergency projects necessary for the protection of the health and safety of the residents of Bolton and ordered or performed by an administrative agency of the town, state or federal government.
- 1.11.5 Appeal from this Bylaw shall be to the Superior Court within 15 days of the issuance of a decision by the Board of Health.
- 1.11.6 Fine for violation of this Bylaw shall be Fifty Dollars (\$50.00) for each offense, each day of violation to be a separate offense.
- 1.11.7 The invalidity of any section(s) or provision(s) of this Bylaw shall not invalidate any other provision or section thereof.
- 1.11.8 Definitions
- a) Alter: As used in this Bylaw shall mean the undertaking of any activity or construction which will change the existing drainage patterns, recharge characteristics or recharge, ground or surface water constituents, either temporarily or permanently, or which, through production, storage, or transportation of toxic or hazardous substances in any amounts beyond those necessary for normal household use, may foreseeably result in accidental introduction of those substances into ground or surface waters.
  - b) Hazardous Material: A material or combination of material, which because of its quantity, concentration, or physical, chemical or infectious characteristics may:
    - 1) Cause or significantly contribute to an increase in mortality or an increase in serious, irreversible, or incapacitating illness; or
    - 2) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.
  - c) Maximum Groundwater Elevation: The height of the groundwater table when it is at its maximum level of elevation as stated in State Environmental Code, Title 5.
  - d) Person: As used in this Bylaw shall include: Any individual, group of individuals, association, partnership, corporation, company, business, organization, trust estate, the commonwealth or political subdivision thereof, administrative agency, public or quasi-public corporation or body, or any other legal entity or its legal representatives, agents or assigns.

## 1.12 COUNCIL ON AGING

The Council on Aging shall consist of nine registered voters of the Town and shall be appointed by the Board of Selectmen for terms not to exceed four years for any member. Said terms shall be staggered so that not more than three appointments shall be made in any calendar year. Members can be re-appointed for consecutive terms. Failure to attend seven (7) out of the regularly scheduled ten (10) monthly meetings may result in termination of membership on the Council.

### 1.12.1 The duties of said Council on Aging shall be to:

- a) identify the total needs of the community's elderly population;
- b) educate the community and enlist support and participation of all citizens concerning these needs;
- c) design, promote or implement services to fill these needs, or coordinate present existing services in the community;
- d) promote and support any other programs which are designed to assist elderly programs in the community.

### 1.12.2 Said Council on Aging shall coordinate with the Commonwealth of Massachusetts Office of Elderly Affairs and shall be cognizant of all state and federal legislation concerning funding, information exchange, and program planning which exists for better community programming for the elderly.

### 1.12.3 Said Council on Aging shall give an annual report to the Board of Selectmen with a copy of that report directed to the Commonwealth of Massachusetts Office of Elderly Affairs.

## 1.13 STREET NUMBERING

### 1.13.1 All houses, businesses and structures shall properly display at the front thereof, in a position easily observed from the street on a year round basis, the proper number of the building assigned by the Town. Assignment of numbers shall be obtained from the Building Inspector at the time the building permits are approved. Owners of houses, businesses and structures without numbers at the time of passage of this bylaw shall obtain the proper number from the Building Inspector as soon as possible.

### 1.13.2 In cases where a house, business or structure is not visible from the street, or the distance is too great for a reasonable size number to be easily seen from the street, a sign, no larger than twelve (12) inches by twelve (12) inches with numbers not less than three (3) inches in height and one and one quarter (1.25) inches in width, shall be posted at the street end of the driveway, and on the same side of the street, in such a way as to be seen by emergency vehicles approaching from either direction. This sign may be substituted by numbers

not less than three (3) inches in height and one and a quarter (1.25) inches in width on both sides of the mailbox only if the mailbox is located at the end of the appropriate driveway and on the same side of the road.

- 1.13.3 In cases where more than one house, business or structure shares a common or shared driveway, or the buildings are not visible from the street, or the distance is too great for a reasonable size number to be easily seen from the street, a sign shall be posted at the street end of the driveway on the same side of the street in such a way as to easily be seen by emergency vehicles approaching from either direction. This sign shall designate the range of numbers for which the driveway serves.

This sign may not exceed the twelve (12) inch by twelve (12) inch dimension in order to accommodate the full set of numbers in a way easily seen from emergency vehicles. The numbers shall not be less than three (3) inches in height and one and a quarter (1.25) inch in width. The owner(s) will be notified by the Building Inspector by letter if this is necessary. Each driveway branching off of the common or shared driveway, and all subsequent branchings, must have additional sign(s), dimensioned and visible as outlined above, at that immediate junction indicating which number(s) are served by that driveway.

- 1.13.4 In all cases each figure shall be at least three (3) inches in height and shall be clearly visible. Said numbers shall contrast with their background. Numbers placed on signs must be placed at a height of not less than three (3) feet from ground level and not exceed five (5) feet from ground level. Signs must be kept clear of brush and other obstacles that would limit visibility of said sign by emergency vehicles.

- 1.13.5 In cases where a house, business or structure remains unnumbered, or where the numbering may have been lost or destroyed as to be illegible, the owner shall replace the numbering within twenty (20) days after official notification by the Board of Selectmen.

- 1.13.6 Any violation of Section 1.13.5 beyond the twenty (20) day limit will result in a fine of not more than \$10.00 per day. No permit or Certificate of Compliance of any kind (i.e. occupancy, building, electrical, Smoke Detector Certificate of Compliance) shall be issued by the Town to the owners if their building, dwelling, business or structure is in violation, and does not have a number visible in compliance with this bylaw.

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#### 1.14.1 Authorization

Pursuant to the provisions of the Massachusetts General Laws (M.G.L.) Chapter 41, Sections 108A and 108C and other enabling acts, the town establishes plans that authorize a Classification Plan classifying positions in the service of the town into groups and classes doing substantially similar work or having substantially similar responsibilities, except for the following:

1. those under the control of the school district
2. those covered by collective bargaining agreement
3. those filled by popular election; and
4. those with individual contracts with the town.

#### 1.14.2 Administration of Personnel Bylaw

This Personnel Bylaw shall be administered by the Town Administrator under the general direction of the Board of Selectmen. The Board of Selectmen may establish policies and procedures as necessary for the administration of this Personnel Bylaw. The Town Administrator shall periodically review the Bylaw and make recommendations to the selectmen for any changes, as appropriate.

It shall be the responsibility of the Town Administrator to research and recommend to the Board of Selectmen the appropriate agencies for the review of the town's Classification and Compensation Plans at reasonable intervals.

#### 1.14.3 Equal Employment Opportunity

The provisions of this bylaw shall be applied equally to all employees covered by the Classification Plan without discrimination as to race, sex, color, handicap, national origin, military status, religion, age (as defined by law), ancestry, sexual orientation (as defined by law) and genetic information consistent with federal and state law.

The town of Bolton is an equal opportunity employer. All employment decisions are made on a non-discriminatory basis as defined by the M.G.L. Chapter 151B, Section 4, Item 1 (Unlawful Practices) as well as without regard to political beliefs, military status, or any other factors which cannot lawfully be the basis for an employment decision.

#### 1.14.4 Sexual Harassment

Sexual harassment is a form of behavior which adversely affects the employment relationship. It is prohibited by state and federal law. Sexual harassment of individuals occurring in the workplace or in other settings in which individuals of the town may find themselves in connection with their employment is unlawful and will not be tolerated by the town. The town also condemns and prohibits sexual or other harassment by any applicant, client,

vendor or visitor.

In accordance with the M.G.L. Chapter 151B, Section 3A, the town has established a Sexual Harassment policy which shall apply to all elected officials, department heads, and town employees, a copy of which is detailed in a separate policy. This policy shall be issued annually to all town employees and new hires, and is available upon request from the Town Administrator.

#### 1.14.5 Harassment

Harassment on the basis of race, color, religious creed, national origin, sex, ancestry, sexual orientation (as defined by law) or on the basis of age (as defined by law), disability, genetic information, or military status (hereafter referred to as “protected class harassment”) is a form of behavior that adversely affects the employment relationship.

In accordance with the M.G.L. Chapter 151B, Section 4, the town has established a Harassment Policy which shall apply to all elected officials, department heads, and town employees, a copy of which is detailed in a separate policy. This policy shall be issued to all town employees and new hires, and is available upon request from the Town Administrator.

#### 1.14.6 Alcohol and Drug Free Workplace Policy

Employees shall not manufacture, distribute, dispense, possess or use a controlled substance while in the employ of the town. The possession or use of alcohol while at work or the reporting for work under the influence of alcohol is prohibited.

The town is authorized to establish an Alcohol and Drug-Free Workplace policy, a copy of which is detailed in a separate policy.

#### 1.14.7 At-Will Employment

Employees of the town of Bolton covered by the Classification Plan shall serve “at will” and may be terminated by the town or may terminate their employment at any time, with or without notice, absent a limiting statute or contractual agreement between the town and the employee.

#### 1.14.8 Definition of Employee Categories

The following are the definitions of Employee Categories for positions covered by the Classification Plan:

- a) BENEFITS-ELIGIBLE EMPLOYEE is an employee who works 20 hours or more on a regular basis throughout the year.
- b) NON-BENEFITS-ELIGIBLE EMPLOYEE is an employee who works fewer than 20 hours per week throughout the year.

- c) TEMPORARY EMPLOYEE is an employee who works a schedule of hours on a short-term basis.
- d) SEASONAL EMPLOYEE is an employee who works temporarily during a specific season.
- e) EXEMPT EMPLOYEE is an individual who is paid on a salary basis at a rate not less than \$455 per week and is employed as a bona fide executive, administrative, or professional employee, and is not entitled to overtime compensation under the federal Fair Labor Standards Act or state law if she/he meets the following criteria:
  - 1) Executive - primary duty is to manage a department;
  - 2) Administrative - primary duty is office or non-manual work directly related to management policies, or directly assisting an executive; or
  - 3) Professional - primary duty requires advanced knowledge acquired by specialized study, work is intellectual and the result is not standardized.
- f) NON-EXEMPT EMPLOYEE is an employee, whether paid a salary or hourly wage, whose primary duty is not executive, administrative, or professional in nature. A non-exempt employee is entitled to overtime pay under certain conditions.

#### 1.14.9 Recruitment and Appointment Policy

The town is authorized to establish a Recruitment and Appointment Policy, a copy of which is detailed in a separate policy and which is available upon request from the Town Administrator.

#### 1.14.10 Overtime/Compensatory Time

Payment for overtime shall be in accordance with the terms of the Fair Labor Standards Act of 1938 as amended. If an assignment requires actual work in excess of 40 hours per week, such overtime work must be authorized in advance by the Department Head. Non-exempt employees shall be paid one and one-half times their regular hourly rate for hours actually worked beyond 40 in the workweek. Compensatory time may be taken in lieu of overtime pay, at the rate of time and one-half, only by mutual agreement of both employee and supervisor prior to overtime hours being worked. If such agreement is made, then compensatory time should be taken within a reasonable time of being earned. Supervisory, administrative, professional, and managerial employees are exempt employees under the Fair Labor Standards Act and are not eligible for overtime pay. An employee is eligible to be paid for any unused compensatory time upon termination or retirement.



#### 1.14.11 Interruption of Service

Any regular employee who leaves town service while in good standing may be rehired by the appointing authority and, upon successful completion of one year's service, will be given credit for prior time actually employed by the town.

#### 1.14.12 Fringe Benefits

a) Vacation Time - All benefits-eligible employees shall be entitled to paid vacation in accordance with the following schedule:

<b><u>SERVICE</u></b>	<b><u>VACATION</u></b>
Less than 5 years year (up to 59 months)	2 weeks per (10 days)
5 years to less than 10 years (60 months to 119 months)	3 weeks per year (15 days)
10 years to less than 20 years (120 months to 239 months)	4 weeks per year (20 days)
20 years plus (240 months plus)	5 weeks per year (25 days)

Based on the above schedule, an employee shall accrue 1/12 of eligible yearly vacation time per month. Vacation earned is posted on the first day of each month following the completion of the previous month's employment (e.g. a 40 hour-per-week employee eligible for two (2) weeks vacation per year would earn .83 vacation days per month or 10 days divided by 12 months). Vacation, however, may not be taken during the first 90 days of employment. The accrual of vacation benefits shall be based on actual service in the employ of the town.

An employee shall request and receive approval for vacation leave from his or her Department Head in writing.

Benefits-eligible employees (those who work an average of at least 20 hours per week) are entitled to vacation leave in the same proportion that the employee's service relates to full-time service, excepted on a prorated basis. Temporary, seasonal, and non-benefits-eligible employees are not entitled to accrue vacation days with pay.

Employees are required to take vacation on a regular basis to allow for the proper rest from the rigors of work. With prior approval of the Department Head and Town Administrator, and after validation of available earned

days by the Town Treasurer, employees may be allowed to carry over no more than five (5) days of unused vacation into the following fiscal year.

A benefits-eligible employee who has accrued vacation under this policy, and whose employment ends for any reason prior to usage of such vacation, shall be paid for any accrued vacation time remaining.

At the Department Head level, the Board of Selectmen shall have the authority to consider prior relevant employment when establishing vacation time.

#### b) Sick Leave

All benefits-eligible employees shall accumulate sick leave at the rate of one and one quarter day for each month of employment (15 days per fiscal year). Unused sick leave may be accumulated up to a maximum of 120 working days. Sick leave is intended for use in time of illness only and as such carries no “buy-back” or “cash-in” valuation.

New employees are entitled to sick leave after completing one month of service.

Benefits-eligible employees who do not work an average of 40 hours per week are entitled to sick leave and may accumulate sick leave on a pro-rated basis.

Sick leave is generally for protection of employees against loss of pay due to personal illness. However, sick leave may be used by an employee for illness of a dependent child, spouse, or other immediate relative, with the approval of his or her Department Head.

In the event that any employee exhausts his or her accumulated sick time, each benefits-eligible employee of the town of Bolton, with the permission of his or her Department Head, may donate up to six (6) days of his or her sick time accumulated to that employee in a given fiscal year. The affected employee must first exhaust all personal, vacation time, and sick leave in order for this to occur.

For an illness or injury that exceeds five (5) consecutive days, the employee shall provide the Department Head with medical certification of such illness. Department heads may verify the use of sick leave by employees.

Accrued sick leave may be used for maternity leave purposes.

#### c) Personal Leave

All benefits-eligible employees, on each July 1 (beginning of the fiscal year) shall receive three (3) paid personal leave days which may be taken during the following 12 months as requested by the employee and approved by the Department Head.

Benefits-eligible employees who work a minimum of 20 hours per week shall receive personal leave days in the same proportion that the employee's service relates to full-time service (i.e. on a prorated basis). Personal days may not be carried over into the next fiscal year, or paid in wages to the employee if not used.

d) Bereavement Leave

All benefits-eligible employees may be granted up to three days of Bereavement Leave for the purpose of arranging for and attending the funeral of a member of the employee's immediate family, as defined as the employee's spouse or partner, mother, father, mother-in-law, father-in-law, sister, brother, child, grandchild, grandparent, or other relative residing in the employee's household. An employee may be granted up to one day of Bereavement Leave for the purpose of attending the funeral of an aunt, uncle, niece, nephew, or other close relative. The Department Head shall have the discretion and authority to approve an employee's request for bereavement leave.

e) Holidays

All benefits-eligible employees whose compensation is based on a weekly rate, will receive one day at regular straight-time compensation (on a prorated basis for benefits-eligible employees working less than 40 hours) for the following holidays:

One-Half Floating Day  
New Year's Day  
Martin Luther King Day  
Presidents' Day  
Patriots' Day  
Memorial Day  
Independence Day  
Labor Day  
Columbus Day  
Veterans' Day  
Thanksgiving Day  
Day after Thanksgiving Day  
Christmas Day

Each holiday will be observed by the town of Bolton on the day designated by state law.

f) Jury Duty

In the event that an employee is summoned for jury duty, he or she will be excused from work after providing his or her Department Head with a copy of the jury duty notice. An employee shall report for work when not required to report to court on his or her regularly scheduled work day. An employee who is summoned for jury duty shall be paid at his or her regular straight time wages for jury duty during scheduled work, for up to the first three days of jury duty. After three days of jury duty, the employee shall be paid the difference between his or her wages and the jury fees. In order to receive jury duty pay, the employee must present a statement of jury service to his or her Department Head, who shall submit the request to the Town Treasurer with the corresponding payroll. Paid jury duty after 30 days of such service is subject to the approval of the Town Administrator. The town will comply with any applicable state and federal law or regulation regarding jury duty.

g) Military Leave

All town employees are covered under Massachusetts General Laws, Chapter 149, Section 52A. An absence for military training shall not affect the employee's right to receive normal vacation, sick leave, bonus, advancement and other advantages of his or her employment normally to be anticipated in his or her particular situation.

For military service, the town shall provide such leave as required by the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA).

h) Leave of Absence

The town abides by all federal and state laws regarding employee leaves of absence, including, but not limited to, Family and Medical Leave Act (FMLA), Massachusetts Maternity Leave Act (MMLA), and Small Necessities Leave Act (SNLA), copies of which are detailed in separate policies. These policies shall be issued to all Town employees and new hires, and are available upon request from the Town Administrator.

If an employee is in need of a leave of absence, he or she shall consult with his or her Department Head, who shall bring such request to the Town Administrator for review of the options available.

i) Longevity Pay

All benefits-eligible employees who work an average of 40 hours per week shall receive longevity payments according to the following schedule:

Length of Service	Annual Amount
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10 years	\$250
15 years	\$350
20 years	\$450
25 years	\$550

Benefits-eligible employees who do not work an average of 40 hours per week shall receive longevity payments on a pro-rated basis.

On an annual basis the selectmen should review any benefits-eligible employee who has accumulated over 20 years of service to the town and may award a meritorious award up to \$100 for this service.

This amount shall be paid in one lump sum in the first pay period following the anniversary of the employee's date of hire. The date of hire shall be considered the date when the employee began working for the town at least 20 hours per week on a continuous basis.

Temporary, seasonal, and non-benefits-eligible are not entitled to longevity pay.

Longevity pay shall be paid annually and shall be based only on actual service for the prior year.

#### j) Insurance Benefits

##### 1. Health Insurance

##### a. Benefits-Eligible Employees

Health insurance is offered in accordance with Chapter 32B of the Massachusetts General Laws. The town contributes to the cost of the health insurance premium at a rate as set by the Board of Selectmen. Health insurance is offered at the time of employment and during the annual open enrollment period. Benefits-eligible employees, working a minimum of 20 hours per week, totaling a minimum of 1040 hours on a fiscal year basis, are entitled to join the town's health insurance plan. The town currently offers a variety of health insurance programs.

Open enrollment is offered once a year. At that time, employees shall have the opportunity to change their current benefits plans and coverage. Employees will be notified by the Treasurer's office of the dates of the open enrollment period and when changes will become effective. Active benefits-eligible employees 65 years of age or over may remain on the current active health plan until retirement. However, at age 65, Medicare-eligible employees must apply for Medicare coverage through Social Security and defer Part B coverage until retirement.

Under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), an employee or his or her eligible dependents may be entitled to continued coverage in the town's group health insurance plan in the event the employee resigns or is terminated or an event occurs that renders the employee no longer eligible for health insurance benefits. Under such COBRA coverage, the employee will be required to pay the full cost of his or her monthly insurance premium, plus a 2% administration fee, for the employee and his or her dependents. Specific information is available from the Town Treasurer's office.

b. Benefits-Eligible Retired Employees

Retired employees under the age of 65 on the town's health insurance plans will be covered on active health plans until age 65. Retirees must enroll in Medicare if eligible to do so, and then will be required to enroll in one of the senior plans offered if they choose to remain covered by the town. It is the town's intention to cover the cost of Medicare Part B for any retiree or employee who was hired prior to May 7, 2007. Retired employees not eligible for Medicare will remain on their current active plan upon providing proof they are ineligible for Medicare.

2. Basic Life Insurance

The town of Bolton offers basic life insurance coverage to employees upon hire, with the town sharing equally the cost of the premium with employees. Retirees may continue their coverage at reduced coverage and cost.

k) Workers' Compensation/Injured on Duty

Police and Fire uniformed employees are covered under the provisions of M.G.L Chapter 41, Sections 100 and 111F, and are entitled to the rights and benefits of these laws. All other employees are covered under the Massachusetts Worker's Compensation Law, M.G.L., Chapter 152, and are entitled to the benefits and provisions of the law.

l) Pension

All benefits-eligible employees are required to join the Worcester Regional Retirement System, with payroll deductions made in accordance with state law and date of hire.

m) Educational Assistance

All benefits-eligible employees who have worked with the town at least one year are eligible for reimbursement for tuition and registration fees for

work-related courses which serve to improve their knowledge and skills and enhance their job performance with the town.

Approval for a particular course must be requested by the employee to his or her Department Head prior to enrollment in the course. The Department Head shall submit the request to the Town Treasurer who shall approve the request contingent upon available funds in the current year's Educational Assistance budget.

Reimbursement shall be made upon successful completion of the course or program, with a minimum grade of "B" or equivalent. The employee must provide the Department Head with proof of successful course completion, including grade received, and proof of course payment, which shall be submitted to the Town Treasurer for processing.

The town may require the employee to sign an agreement to remain in employment with the town for a period of up to two years after the completion of the course, or else be required to reimburse the town for such reimbursement.

#### n) Mileage Reimbursement

When employees have prior approval from their Department Head to use their personal vehicle for town business, they may be reimbursed for that business travel at the approved per-mile rate set by the Treasurer based on the U.S. General Services Administration's Privately Owned Vehicles Reimbursement Rates. The Treasurer will notify all departments of any changes in this rate. Reimbursement will be paid to and from the work site location, not from the employee's home.

### 1.14.13 Personnel Records

The Town Administrator shall be responsible for maintaining and administering personnel records as may be required by law, and as necessary for effective personnel management.

#### a) Contents of records

The Town Administrator shall maintain or cause to be maintained a personnel record for each employee in compliance with Massachusetts General Laws, Chapter 149, Section 52C. A personnel record shall not include information of a personal nature about a person other than the employee if disclosure of the information would constitute a clearly unwarranted invasion of such other person's privacy.

Without limiting the applicability or generality of the foregoing, all of the following written information or documents regarding an employee shall be included in the personnel record for that employee: the name, address,

date of birth, job title and description; rate of pay and any other compensation paid to the employee; starting date of employment; the job application of the employee; resumes or other forms of employment inquiry submitted to the town in response to the town's advertisement by the employee; all employee performance evaluations, including but not limited to, employee evaluation documents; written warnings of substandard performance; lists of probationary periods (if any); waivers signed by the employee; copies of dated termination notices; any other documents relating to disciplinary action regarding the employee. A personnel record shall be maintained in typewritten or printed form, or may be handwritten in indelible ink.

b) Confidentiality and Access to Records

Personnel records shall be confidential and access to an employee's records shall be limited to the Appointing Authority, the Town Administrator, who shall be charged with administering the personnel system, and the Town Treasurer on a need-to-know basis. Appointing authorities and/or the employee's Department Head may directly access a report contained in an employee's personnel file upon request to the Town Administrator. Any employee may upon written request to the Town Administrator review his or her personnel file. Such review shall be in the presence of the Town Administrator. An employee may also obtain a copy of his/her personnel file upon five (5) days written notice.

c) Location of Records

A central file for all employees covered under the Personnel Bylaw shall be located at Town Hall. On behalf of the town, the Town Administrator shall maintain custody of all personnel records.

d) Release of Information

Unless written authorization is received from an employee, except to verify employment dates, job title, and/or gross salary, no other information concerning an employee shall be released.

1.14.14 Performance Reviews

Appointing authorities and/or Department Heads shall from time to time conduct performance reviews of their employees.

1.14.15 Grievance Procedure

A grievance is a dispute between an employee and the appointing or supervisory authority arising out of an application for the benefits under this bylaw. The town has established a Grievance Procedure, a copy of which is detailed in a separate document. This procedure shall be issued



to all town employees and new hires, and is available upon request from the Town Administrator.

#### 1.14.16 Rules and Regulations

Subject to the approval of the Board of Selectmen, the Town Administrator may, from time to time, issue rules and regulations concerning the administration of this Personnel Bylaw.

#### 1.14.17 Severability Clause

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.

## 1.15 HOUSING AUTHORITY

### 1.15.1 Purpose

For the creation, development and management of housing and housing programs in the Town of Bolton.

### 1.15.2 Membership

There will be 5 members, 4 of whom are elected by the town. The fifth is appointed by the Executive Office of Communities and Development (EOCD). At creation of authority, members will be appointed by the Board of Selectmen, these individuals will serve until members are elected at the next town election. Terms are as follows:

Individual receiving highest # of votes:	5 year term
Individual receiving 2nd highest # of votes:	4 year term
Individual receiving 3rd highest # of votes:	2 year term
Individual receiving 4th highest # of votes:	1 year term

The individual appointed by EOCD will serve an initial term of 3 years.

As terms expire, successor will be appointed or elected in same way, but for a term of five years. Membership is restricted to residents of the town. Vacancies, aside from the expiration of terms will be filled/appointed by the Board of Selectmen until new members can be elected at the next town election.

## 1.16 LICENSES AND PERMITS OF DELINQUENT TAXPAYERS

1.16.1 The Tax collector, or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the tax collector, shall annually furnish to each department, board, commission, or division, hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve month period, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.

1.16.2 The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the tax collector, provided, however, that written notice is given to the party and the tax collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The tax collector shall have the right to intervene in any hearing

conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the tax collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the municipality as the date of issuance of said certificate.

- 1.16.3 Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.
- 1.16.4 The Board of Selectmen may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in section one of chapter two hundred and sixty eight in the business or activity conducted in or on said property.
- 1.16.5 This section shall not apply to the following licenses and permits: open burning, S 13 of C 48; bicycle permits, S 11A of C 85; sales of articles for charitable purposes, S 33 of C 101; children work permits, S 69 of C 149; clubs, associations dispensing food or beverage licenses, S 21E of C 140; dog licenses, S 137 C 140; fishing hunting, trapping licenses, S 12 of Ch 131; marriage licenses, S 28 of C 207; theatrical events, public exhibition permits S 181 C 140.

## 1.17 DEMOLITION DELAY BYLAW

### 1.17.1 Intent and Purposes

The purpose of this bylaw is to establish a procedure for reviewing requests to demolish significant buildings in order to preserve, when possible, the historical, cultural and architectural heritage of Bolton.

### 1.17.2 Definitions

- 1.17.2.1 Building- a structure capable of being used to shelter persons, animals, materials or equipment.

- 1.17.2.2 Commission- the Bolton Historical Commission

- 1.17.2.3 Demolition- any voluntary act of pulling down, destroying, burning, removing, or razing of a building in whole or in part; commencing the work of destruction; or allowing the same to be done by others.
- 1.17.2.4 Applicant- person or persons filing an application for review under this bylaw. If the person submitting the application is not the owner, the owner will be required to indicate his/her assent to the filing of the notice or application.
- 1.17.2.5 Significant building- any building which is historical by reason of its age (in whole or in part seventy-five (75) or more years) *and* is determined by the Commission to be either (1) associated with a person or event contributing to the cultural, political, economic, social or architectural history of the town, commonwealth or the United States of America; or (2) historically or architecturally important (in terms of period, style, construction, or association with an architect or builder), either by itself or in the context of a group of buildings.
- 1.17.2.6 Preferably preserved significant building- any significant building for which it is determined after hearing to be in the public's interest to preserve or rehabilitate rather than demolish under this bylaw.
- 1.17.2.7 Demolition permit- any permit (demolition, alteration, building) issued by the Building Inspector, as required by the State Building Code, which authorizes the demolition of a building (excluding interior demolition).
- 1.17.2.8 Building Inspector- Bolton Inspector of Buildings or person(s) otherwise authorized to issue demolition permits.
- 1.17.2.9 Day- any calendar day, including Saturdays, Sundays and holidays.
- 1.17.3 Procedure
  - 1.17.3.1 No demolition permit shall be issued for a significant building without first fully complying with the provisions of this bylaw.
  - 1.17.3.2 A written demolition permit application shall be filed with the Building Inspector.
  - 1.17.3.3 If the demolition permit application is for a building which is seventy-five (75) or more years old, the building's historical significance will be determined by the Commission within fourteen (14) days of the Commission's receipt of the application. The Commission will notify the Building Inspector and applicant in writing of this initial determination. If the building is not determined to be significant, the Building Inspector may issue a permit to demolish in accordance with all applicable procedures.
  - 1.17.3.4 If the building is determined to be significant, the Commission shall hold a public hearing within thirty (30) days of this initial determination to further

determine whether the demolition of the building will be detrimental to the historical, cultural or architectural heritage of the town. Notice of the time, place and purpose of the hearing shall be given twice in a local newspaper, the first notice at least fourteen (14) days before and the second notice at least seven (7) days before such hearing and by posting a notice in the Town Hall for a period of at least fourteen (14) days before such hearing and by mailing a notice of hearing to the applicant.

1.17.3.5 A determination shall be made by the Commission within seven (7) days of the close of the public hearing. The applicant, Building Inspector and the Town Clerk shall be provided with a copy of the determination.

1.17.3.6 If the Commission determines the demolition of the building in question is not detrimental to the historical, cultural or architectural heritage of the town, the applicant may apply for the necessary permits to begin work.

1.17.3.7 If the Commission determines the demolition of the building in question is detrimental to the historical, cultural or architectural heritage of the town, the building shall be deemed a preferably preserved significant building and no further demolition permits may be applied for or issued for a period of six (6) months from the date of such determination.

1.17.3.8 During the six (6) month period, the Commission will invite the applicant (and owner of record, if different from applicant) to participate in an investigation of alternatives to demolition. If acceptable alternatives are agreed upon by the Commission and the applicant, the Commission will file a copy of said agreement with the Building Inspector and Town Clerk and the applicant may apply for necessary permits to begin work. Work shall only be done in accordance with the terms of the agreement unless and until new permit applications are filed and processed hereunder.

1.17.3.9. If the Commission is satisfied that there is no feasible alternative to demolition, the Commission may so advise the applicant, Building Inspector and Town Clerk in writing, at any time during this six (6) month period, and the Building Inspector may issue a permit to demolish in accordance with all applicable procedures.

#### 1.17.4 Emergency Demolitions

1.17.4.1 Nothing in this bylaw restricts the demolition of a significant building determined by the Building Inspector to present a danger to public safety which only demolition can prevent. Such a determination shall be made in accordance with the applicable provisions of the State Building Code and after consultation with the Commission Chairperson or designee. Whenever an emergency demolition permit is issued under the provisions of this section, a written report must be filed with the Commission describing the condition of the building and the basis for the determination.

#### 1.17.5 Enforcement and Remedies

1.17.5.1 The Commission and the Building Inspector are each authorized to enforce the provisions of this bylaw.

1.17.5.2 The Building Inspector shall not issue a permit pertaining to any property on which a significant building has been demolished voluntarily in whole or in part without first fully complying with the provisions of this bylaw for a period of two (2) years from the date of demolition.

1.17.5.3 The provisions of this bylaw may be enforced by a non-criminal disposition pursuant to Section 1.1.5 of the Administrative Bylaws of the Town of Bolton.

#### 1.17.6 Administration

1.17.6.1 The Commission may adopt such rules and regulations as are necessary to administer the terms of this bylaw.

1.17.6.2 The Commission is authorized to adopt a schedule of fees to cover the costs associated with the administration and review of any application which is filed under this bylaw.

#### 1.17.7 Severability

1.17.7.1 If any provision of this bylaw is determined to be invalid or unconstitutional by any court, every other section shall continue in full force and effect.”

### 1.18 WETLANDS BYLAW

#### 1.18.1 Purpose

The purpose of this Bylaw is to conserve and protect the resource areas, the resource interests, and natural resource services, in the Town of Bolton by regulating activities deemed by the Conservation Commission (“Commission”) likely to have a significant or cumulative adverse effect upon resource interests. Protected resource interests include, but are not limited to: flood control, storm damage prevention, public and private water supplies, ground water, water quality, prevention of pollution and sedimentation, fisheries, wildlife habitat, rare species habitat including rare plant species, agriculture, aquaculture, adjoining land areas and recreation deemed important to the community. Natural resource services may be classified as either ecological service --the physical, chemical, or biological functions that one resource provides for another; or public service --the public uses of natural resources or functions of natural resources that benefit the public. This Bylaw is intended to utilize the Home Rule authority of the Town of Bolton to conserve and protect additional resource areas, with additional standards and procedures stricter than those of the Wetlands Protection Act, (M.G.L. Ch. 131, Section 40) and Regulations thereunder, (310 CMR 10.00).

### 1.18.2 Jurisdiction

Unless excepted in Section 1.18.3 or pursuant to a Wetlands Bylaw Permit, no person shall commence to remove, fill, dredge, build upon, degrade, pollute, discharge into, or otherwise alter the following resource areas: any freshwater wetlands; marshes; wet meadows; bogs; swamps; vernal pool habitat, including but not limited to state certified vernal pools; banks; fresh water seeps; reservoirs; lakes; rivers; streams and creeks, whether perennial or intermittent; riverfront areas which are (a) lands within two hundred feet (200') of perennial rivers or streams; beaches; lands under water bodies; lands subject to flooding or inundation by ground water or surface water; and land within twenty-five feet (25') of the above resources areas, except for riverfront areas (collectively the "wetland resource areas" protected under this bylaw) and adjacent upland resource areas (collectively the "adjacent upland resource areas" protected under this bylaw). This 25-foot prohibition, however, shall not apply to crossings essential to access upland areas. Said resource areas shall be protected whether or not they border surface waters.

Adjacent upland resource areas shall include all lands within seventy-five feet (75') of wetland resource areas enumerated above, except for perennial streams and rivers for which the adjacent upland resource area extends for two hundred feet (200') from the top of the bank.

Except as expressly permitted by the Commission or as provided in this Bylaw, no person shall commence to remove, fill, dredge, build upon, degrade, pollute, discharge into, or otherwise alter a wetland resource area, or an adjacent upland area, as described above.

Where a proposed activity involves work within a resource area, the Commission shall presume that the area is significant to protect the resource interests, enumerated in Section 1.18.1.

Where the proposed activity involves work within the riverfront area, the Commission shall presume the area is significant to protect the riverfront area and its resource interests. This 200-foot presumption does not apply to the redevelopment of those portions of riverfront areas regarded as "previously developed" or "degraded" or to "paths". Orders of Conditions for redevelopment and paths are granted at the discretion of the Commission.

These presumptions are rebuttable and may be overcome by a preponderance of the evidence showing that the resource area does not play a role in the protection of one or more of these interests. In the event that the presumption is deemed to have been overcome as to the protection of all the resource interests, the Commission shall make a written determination to this effect, setting forth its grounds.

Where the applicant provides information that the resource area at the site of activity does not play a role in the protection of an interest, the Commission may determine that the presumption for that interest has been rebutted. Where

the applicant provides information that site of the activity plays a partial role in the protection of an interest, the Commission may determine that the presumption for that interest has been partially rebutted and the presumption of significance is partially overcome.

#### 1.18.3 Applicability, Limitations, and Exceptions

Where the presumption set forth in Section 1.18.2 is not overcome, the applicant shall prove by a preponderance of the evidence that there are no practicable and substantially equivalent economic alternatives to the proposed project with less adverse effects on the interests identified in Section 1.18.1. Further, the applicant shall prove that the work including proposed mitigation will have no significant adverse or cumulative adverse effect on the resource areas or resource interests. In the event that the Commission finds that the applicant has failed to make either of said proofs, it shall make a written determination setting forth its grounds in an Order of Conditions that shall impose conditions that will protect the interests which make the resource area significant or shall in a written determination deny the activity as it cannot be conditioned to protect the interests of the Bylaw and/or its regulations.

To prevent the loss of resource areas, applicants shall be required to avoid, where feasible, altering a resource area; minimize alteration of a resource area; and, where alteration is unavoidable, complete full mitigation. Replication of resource areas may be required as a form of mitigation.

Exceptions to the Bylaw shall be limited to: maintaining, repairing or replacing, adding to, but not substantially changing or enlarging, an existing single-family residential structure, septic system or appurtenance; maintaining landscaping and gardens accessory to an existing single-family residential structure; lands lawfully in agriculture (commercial and non-commercial) at the time the work takes place; forest cutting (as defined in 310 CMR 10.04, 'Agriculture'(b) 14); maintaining or repairing, but not substantially changing or enlarging, an existing structure in a resource area, such as drainage structures, culverts, bridges, driveways or roadways; maintaining or repairing, but not substantially changing or enlarging, fire protection water holes, artificial ponds; clearing of water courses, conservation and outdoor recreation; existing orders and filings before the Commission prior to the effective date of this Bylaw; public utilities (as defined in 310 CMR part 10.53 section (3)(d)); projects carried out under the direction of the U.S. Natural Resource Conservation Service; and emergency projects necessary for the protection of the health and safety of the public and subject to the provisions and conditions of 310 CMR part 10.06.

No activities other than the excepted activities shall commence without receiving and complying with a permit issued pursuant to this Bylaw. No work proposed in any Wetlands Bylaw Permit application shall be undertaken until the Wetlands Bylaw Permit issued has been recorded in the registry of deeds, or if the land is registered land, filed in the appropriate land court, and until the holder of the Wetlands Bylaw Permit certifies in writing that the Wetlands



Bylaw Permit has been recorded. Such certification shall include the book and page or instrument number and date.

- 1.18.4 Applications for Wetlands Bylaw Permit and Requests for Determination  
Any person desiring to know whether a proposed activity is excepted or an area is subject to this Bylaw may request a determination from the Commission by filing a Request for Determination of Applicability (RFD). Such a Request for Determination of Applicability shall include information and plans as required by the Commission.

Written application shall be filed with the Commission to perform activities within the resource areas protected by this Bylaw. The Wetlands Bylaw Permit application shall include such information and plans as deemed necessary by the Commission to describe proposed activities and their effects on the resources areas. Where appropriate, the Commission may accept the Notice of Intent and plans filed under the Wetlands Protection Act and the Regulations as the Wetlands Bylaw Permit application and plans under this Bylaw.

At the time of a request for determination or a Wetlands Bylaw Permit application, the applicant shall pay a filing fee specified in the Regulations of the Commission. The fee is in addition to that required by the Wetlands Protection Act (G.L. Ch 131 Section 40) and Regulations (310 CMR 10.00). The fee shall be deposited in a dedicated account, for use only for wetland protection activities. Town, county, state and federal projects are exempt from the filing fee.

The Commission is authorized to require the applicant to pay for the reasonable costs and expenses borne by the Commission for specific expert engineering or for other outside consultant services in order to reach a final decision on the application.

The Commission may require that the applicant's performance and observance of the Order of Conditions, including mitigation, be secured wholly or in part by one or more of the methods set forth in the regulations. This security shall be in addition to any security required by any other town or state board, agency or official.

- 1.18.5 Notice and Hearings  
Wetlands Bylaw Permit applications shall be filed with the Commission subject to the provisions and conditions of 310 CMR part 10.00 and the Commission may, in an appropriate case continue a public hearing for good cause and may combine its hearing under this Bylaw with the hearing conducted pursuant to the Wetlands Protection Act, M.G.L. Ch 131, Section 40 and Regulations, 310 CMR 10.00.

1.18.6 Wetlands Bylaw Permits, and Certificates of Compliance

Within 21 days of the close of the hearing the Commission shall issue or deny a Wetlands Bylaw Permit for the activities requested. If a Wetlands Bylaw Permit is issued, the Commission shall impose conditions, which the Commission deems necessary or desirable to protect resource areas, resource interests and natural resource services, and all activities shall be done in accordance with those conditions.

Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.

Wetlands Bylaw Permits issued hereunder shall expire three years from the date of issuance and may be renewed by the applicant for additional one year periods only where a written request for renewal is received by the Commission not less than 30 days prior to the expiration of the Wetlands Bylaw Permit and that good cause has been shown for said extension and that there is no likely significant or cumulative adverse effect upon any of the resource area or resource interests.

Notwithstanding the above, a Wetlands Bylaw Permit may contain requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all owners of the land.

If the activity has been completed in accordance with said Wetlands Bylaw Permit, the Commission shall, within 21 days after a request, issue a Certificate of Compliance evidencing such determination, which may be combined with the Certificate of Compliance under the Wetlands Protection Act. A Certificate of Compliance may specify conditions, which will continue to apply for a fixed number of years or permanently and shall apply to all owners of the land. The Certificate of Compliance shall be recorded in the Registry of Deeds, or if the land is registered land, in the appropriate land court, and the Commission notified in writing by the holder of the Wetlands Bylaw Permit that the Certificate of Compliance has been recorded. Such notification shall include the book and page or instrument number and date.

Violations of this Bylaw, submission of false information or new information that substantially alters the likely impact of the project on the resource areas may cause the Commission to revoke or modify a Wetlands Bylaw Permit or determination issued under this Bylaw after notice to the holder of the Wetlands Bylaw Permit or determination, notice to the public, abutters and town boards, pursuant to Section 1.18.5 and a public hearing.

Appeal from this Bylaw shall be to the Superior Court.

1.18.7 Regulations

After public notice and public hearing, the Commission may promulgate rules and regulations to effectuate the purpose of this Bylaw effective when voted and filed with the Town Clerk. Failure to promulgate such rules and regulations or a legal declaration of their invalidity by court of law shall not act to suspend or invalidate the effect of this Bylaw.

1.18.8 Definitions

Except as otherwise provided in this Bylaw or in regulations of the Commission, the definitions of terms in this Bylaw shall be as set forth in the Wetlands Protection Act, M.G.L. Ch 131 Section 40, and Regulations 310 CMR 10.00.

1.18.9 Enforcement

The Commission shall have the authority to enforce this Bylaw, its regulations, and Wetlands Bylaw Permit issued thereunder by violation notices, administrative orders, and civil and criminal court actions. Any person who violates provisions of this Bylaw, its regulations and/or Wetlands Bylaw Permits may be ordered to restore the property to its original condition, pay damages and take other action deemed necessary to remedy such violations, or may be fined, or both.

Any person, who violates any provisions of this Bylaw or regulations, Wetlands Bylaw Permits or administrative orders issued thereunder, may be served with a Notice of Violation enumerating the alleged violations. As an alternative to criminal prosecution, the Commission may elect to utilize the non-criminal disposition procedure set forth in M.G.L. Ch 40, Section 21D.

The violator shall pay any and all costs including reasonable attorney fees incurred by the Town. The fine for a violation of this Bylaw shall be Three Hundred Dollars (\$300.00) for each offense; each day of the violation shall be a separate offense. Enforcement will be done in accordance with Step Enforcement Policy Against Alleged Violations of the Wetlands Protection Act and other-Local By-laws under the jurisdiction of the Bolton Conservation Commission, dated May 2, 2005.

Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.

1.18.10 Severability

The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any Wetlands Bylaw Permit or determination, which previously has been issued.

1.19 DISCHARGE OF SNOW OR ICE ONTO PUBLIC WAYS

No person other than an employee in the service of the Town of Bolton, or an employee in the service of an independent contractor acting for the Town of Bolton, shall pile, push, or blow snow or ice onto a public way that is plowed and sanded by the Town.

Whoever violates this provision shall be punished by a fine of one hundred dollars (\$100). This provision is to be enforced by the Police Department.

1.20 TOWN ADMINISTRATOR

- 1.20.1 The Board of Selectmen may appoint a Town Administrator for a three-year term in accordance with Mass. Gen. Laws Chapter 41, Section 23A. The Town Administrator shall be appointed on the basis of executive and administrative qualifications and shall be especially fitted by education, training and previous experience in public administration to perform the duties of the office. The Town Administrator, under the direction and supervision of the Board of Selectmen, shall be responsible for handling the day-to-day administrative affairs of the Town and for implementing the policies set forth by the Board of Selectmen. The Town Administrator shall act for the Board of Selectmen in any matter that it may assign to the Town Administrator. With the approval of the Board of Selectmen, the Town Administrator may perform other duties as may be requested by any other Town Officer, Board, Committee or Commission. The administrator shall be responsible for coordinating and implementing general office operating policies that shall apply to all elected and non-elected employees as may be agreed upon by the Board of Selectmen and other boards. The Town Administrator shall receive such compensation for all services performed as the Board of Selectmen shall determine; said compensation shall not exceed the amount appropriated therefore by the Town. The Board of Selectmen may remove the Town Administrator at its discretion.

## 1.21 AGRICULTURAL PRESERVATION BYLAW

### 1.21.1 Legislative Purpose and Intent

The purpose and intent of this Bylaw is to state with emphasis the Right to Farm granted to all citizens of the Commonwealth under Article 97 of the Constitution, and all state statutes and regulations thereunder including but not limited to Massachusetts General Laws Chapter 40A, Section 3, Paragraph 1; Chapter 90, Section 9; Chapter 111, Section 125A; and Chapter 128 Section 1A. We the citizens of Bolton restate and republish these rights pursuant to the Town's authority conferred by Article 89 of the Articles of Amendment of the Massachusetts Constitution, ("Home Rule Amendment").

This General Bylaw encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmlands within the Town of Bolton by allowing agricultural uses and related activities to function with minimal conflict with abutters and Town agencies. This Bylaw shall apply to all jurisdictional areas within the Town.

### 1.21.2 Definitions

The word "FARM" shall include any parcel or contiguous parcels of land, or water bodies used for the purpose of agriculture, or accessory thereto.

The words "AGRICULTURE" or "FARMING" or their derivatives shall include, but not be limited to the following:

- farming in all its branches and the cultivation and tillage of the soil;
- dairying;
- production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities;
- growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations;
- 4-H or The National FFA Organization projects; and
- keeping and/or raising of livestock which includes but is not limited to horses, poultry, swine, cattle, sheep, goats, ratites (such as emus, ostriches and rheas), camelids (such as llamas and alpacas), and other domesticated animals, including bees and fur-bearing animals

"FARMING" shall encompass activities including, but not limited to, the following:

- operation and transportation of slow-moving farm equipment over roads within the Town;
- control of pests, including, but not limited to, insects, weeds, predators and disease organism of plants and animals;
- application of manure, fertilizers and pesticides;
- conducting agriculture-related educational and farm-based recreational activities, including agri-tourism, provided that the

activities are related to marketing the agricultural output or services of the farm;

- processing and packaging of the agricultural output of the farm and the operation of a farmer's market or farm stand including signage thereto;
- maintenance, repair, or storage of seasonal equipment, or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management, or sale of the agricultural products; and
- on-farm relocation of earth and the clearing of ground for farming operations.

#### 1.21.3 Right To Farm Declaration

The Right to Farm is hereby recognized to exist within the Town of Bolton. The above-described agricultural activities may occur on holidays, weekdays, and weekends by night or day and shall include the attendant incidental noise, odors, dust, and fumes associated with normally accepted agricultural practices. It is hereby determined that whatever impact may be caused to others through the normal practice of agriculture is more than offset by the benefits of farming to the neighborhood, community, and society in general. The benefits and protections of this Bylaw are intended to apply to those agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. Moreover, nothing in this Agricultural Preservation Bylaw shall be deemed as acquiring any interest in land, or as imposing any land use regulation, which is properly the subject of state statute, regulation, or local zoning law.

#### 1.21.4 Agricultural Commission

For the furtherance of the goals of this Bylaw, there is hereby established an Agricultural Commission, to consist of five (5) members, appointed by the Board of Selectmen, at least three (3) of whom shall be representative of the Bolton farming community and one (1) from the non-farming, residential community. The term of appointment shall be for three (3) years, timed to coincide with the Town's fiscal year. At the time said Commission is first appointed, one member shall be appointed for one (1) year, two members for a term of two (2) years, and two members for a term of three (3) years; all subsequent appointments shall be made for terms of three (3) years. The appointing authority shall fill any occurring vacancy based on the unexpired term being vacated.

The Agricultural Commission shall be authorized:

- To act as a spokesperson for the Bolton farming community;
- To present written or oral testimony in the context of public hearings before any Town Board or Committee;
- On its own initiative, to advise any Town Board or Committee on matters pertinent to the particular area of jurisdiction of that Board or Committee, insofar as the issue relates to the interests of agriculture;

- To advise the Board of Selectmen and/or any other Town Board on any Town-wide issues relating to agriculture which, in the opinion of the Agricultural Commission, require a concerted Town action or response;
- To respond to any request for information or advice from any Town Board or Committee;
- To provide public information or public education services regarding agriculture and the practice of agriculture in Bolton, or in general;
- To provide education and information for farmers in residential areas on how to minimize their impact on their neighbors;
- To serve, at the written request of any Town Officer, Board, or Committee, as an arbitrator or negotiator in the resolution of disputes relating to agricultural issues, provided that no order or decision on the particular matter in question has already been issued by any Town entity legally authorized to do so; and that any resulting decision or recommendation shall be strictly advisory, and shall have no legal standing or definitive nature beyond the voluntary agreement of the parties to abide by it;
- To promote farming business and agriculture in Town, to create awareness through education, and the promotion of agriculture and its benefits to Bolton.

The Agricultural Commission, *per se*, is specifically not authorized:

- To acquire or hold property, real or personal;
- To act as an agent or representative of any individual or entity in any matter pending before any Town or State agency;
- To interfere with, litigate, or serve in any way as a conduit, agent, or forum for appeals relating to any decision made by a legally authorized Town Officer or agency.

#### 1.21.5 Disclosure Notification

##### Right to Farm Notification

"It is the policy of this community to conserve, protect and encourage the maintenance and improvement of agricultural land for the production of food, and other agricultural products, and also for its natural and ecological value. This disclosure notification is to inform residents that Bolton is a Right to Farm community where farming activities occur. Such farming activities may include, but are not limited to, activities that cause noise, dust and odors. Residents and property owners are also informed that the location of their property within the Town may be impacted by agricultural operations including the ability to access water services for such property under certain circumstances."

A copy of this disclosure notification shall be posted by the Town to residents and property owners each fiscal year by mail in the Town census and in one or more of the following forms: annual report, official Town website, transfer station, or library.

1.21.6 Resolution of Disputes

Any person who seeks to complain about the operation of a farm may, notwithstanding pursuing any other available remedy, file a grievance with the Board of Selectmen, the Zoning Enforcement Officer, or the Board of Health, depending upon the nature of the grievance. The filing of the grievance does not suspend the time within which to pursue any other available remedies that the aggrieved may have. The Zoning Enforcement Officer or Board of Selectmen may forward a copy of the grievance to the Agricultural Commission or its agent, which shall review and facilitate the resolution of the grievance, and report its recommendations to the referring Town authority within an agreed upon timeframe.

The Board of Health, except in cases of imminent danger or public health risk, may forward a copy of the grievance to the Agricultural Commission or its agent, which shall review and facilitate the resolution of the grievance, and report its recommendations to the Board of Health within an agreed upon timeframe.

1.21.7 Severability

In the event that any part of this Bylaw is, for any reason, held to be unconstitutional, invalid, or void by any court or agency of competent jurisdiction, it shall not be construed to affect the validity or the continuation and implementation of all other elements of this Bylaw.



## 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				
	Residential	Business	Limited Business	Commercial	Industrial	Limited Recreation Business
Rural						
Agriculture, horticulture, floriculture	Yes	Yes	Yes	Yes	Yes	Yes
Forestry, lumbering, 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
<b>Institutional</b>						
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
<b>Recreational</b>						
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
<b>Wireless Communication</b>						
Wireless Communication Facility/ Tower/Communication Device	SSP*****	SSP	SSP	SSP	SSP	No
<b>Accessory</b>						
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
<b>Wireless Communication</b>						
Wireless Communication Facility/Towers/ Communication Device	SSP*****	SSP	SSP	SSP	SSP	No

	Residential	Business	Limited Business	Commercial	Industrial	Limited Recreation District
Commercial Solar Photovoltaic Energy Renewable Installation	SP	SP	SP	SP	SP	SP
Fast Food Restaurants	N	N	N	N	N	N

### 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.

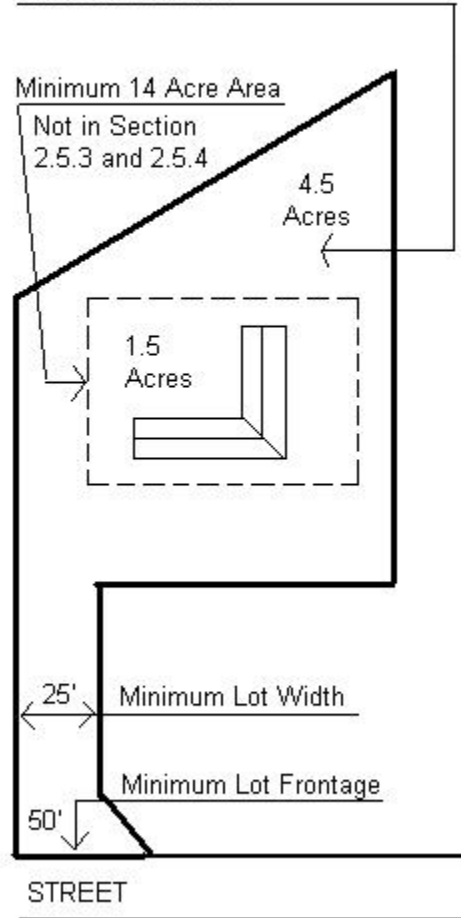
### 2.3.5.5 Backland Zoning

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.

2.4.3 Line of Sight at Intersections

2.4.3 The purpose of this bylaw is to provide a mechanism by which obstacles that threaten the public safety of the Town roads can be prevented. This bylaw is aimed at keeping safe sight lines open at intersections and other locations in which obstacles impede the line of sight.

2.4.3.1. Definitions

2.4.3.1.1.1. The term "street" shall include all Town roads both adopted and not yet adopted and roads serving private multi dwelling developments. It shall not include private shared and private common driveways.

2.4.3.1.1.2. The term "commercial driveway" shall include any public entrance into or out of a place of business including non-residential uses in a residential district.

2.4.3.1.1.3. The "restricted area" or "sight triangle" is at the intersection of any street or where a commercial driveway intersects with a street and is within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection

of the street lines, or in the case of a rounded property corner from the intersection of the property lines extended.

- 2.4.3.2. In the case where property lines are not related to the travelled way, a distance of 10 feet from the edge of the pavement or other distance defining the Town Right of Way on record at the DPW shall be used to define the Restricted Area.
- 2.4.3.3. Any dimensional requirements herein will be subject to the consideration of the impact on safety of intersecting road topology, curvature and gradient of roads and proximity of other intersections.
- 2.4.3.4. If the topology of an intersection or high traffic volume warrant special consideration Sight Triangles can alternatively be defined using the methods described in Chapter 9 of the “Policy on Geometric Design of Highways and Streets (2004)” published by the American Association of State Highway and Transport Officials (AASHTO).
- 2.4.3.5. Exemptions
  - 2.4.3.5.1.1. Existing buildings, existing stone walls, historic and other existing structures are exempt from these requirements.
  - 2.4.3.5.1.2. Existing fences, walls and signs are exempt from these requirements
  - 2.4.3.5.1.3. Trees are exempt from these requirements
- 2.4.3.6. Restrictions
  - 2.4.3.6.1.1. No new fence, wall, sign or structure, hedges, brush and other vegetation which impedes sight lines at elevations between 3 feet and 8 feet above the roadways shall be installed or permitted to remain in the restricted area.
- 2.4.3.7. Permit
  - 2.4.3.7.1.1. Any new fence, wall, sign or other structure installed in the restricted area will be subject to the issuance of a permit by the Building Inspector.
- 2.4.3.8. Remedies
  - 2.4.3.8.1.1. If any fence, wall or sign, hedges, brush and other vegetation is determined to prevent or impede a safe view of the intersection or oncoming vehicles or pedestrians approaching the intersection, the Board of Selectmen may request that the property owner bring the fence, wall, sign, hedges, brush and other vegetation into compliance within a period determined by the Board of Selectmen.
  - 2.4.3.8.1.2. If the situation is not brought into compliance within such period, the Board of Selectmen may enforce the provisions of this bylaw by noncriminal disposition in accordance with Section 2.1.2.4 of the General Zoning Bylaws, or by any other means authorized bylaw.

## 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 Review Board (DRB):**

The Planning Board may, at its option, appoint a Design Review Board to assist in the review of any project being reviewed under this bylaw. Members of the DRB 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 DRB will provide advisory professional design review assistance to the Planning Board, Zoning Board of Appeals and Board of Selectmen.

The DRB may also submit a written report to the Planning Board, Zoning Board of Appeals, and Board of Selectmen. The DRB 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 DRB 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	Wattaquaddock (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:

<b>Location</b>	<b>Parcel ID</b>
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 COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATIONS**

### **2.5.8.1 Purpose**

The purpose of this bylaw is to provide a permitting process and standards for the creation of new COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATIONS by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address and protects public safety, minimizes undesirable impacts on residential property and neighborhoods, protects scenic, natural and historic resources, protects and/or provides for wildlife corridors, and does not diminish abutting property values and provides adequate financial assurance for the eventual decommissioning of such installations.

The provisions set forth in this section shall apply to the construction, operation, and/or repair of COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATIONS.

### **2.5.8.2 Applicability**

No COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATIONS shall be erected or installed except in compliance with the provisions of this Section and other applicable Sections of the Zoning Bylaw, as well as state and federal law. Such use shall not create a nuisance, which is discernible from other properties by virtue of noise, vibration, smoke, dust, odors, heat, glare and radiation, unsightliness or other nuisance as determined by the Special Permit and Site Plan Approval Granting Authorities.

#### **2.5.8.2.1 The construction and use of a COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATIONS with 250 kW or larger of rated nameplate capacity within the Industrial, Limited Business, Business, Limited Recreation District and Residential District shall undergo site plan review by the Board of Selectmen and shall be subject to Special Permit by the Planning Board prior to construction, installation or modification as provided in this section.**

2.5.8.2.2 This section also pertains to physical modifications that materially alter the type, configuration or size of these installations or related equipment throughout the useful life of the system or where alterations may impact abutters.

### 2.5.8.3 GENERAL REQUIREMENTS

#### 2.5.8.3.1 Lot Requirements

A COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION may be permitted on a lot, which contains an area of not less than four (4) acres and meets the setbacks and maximum lot coverage under Other Uses of the Dimensional Regulations Section 2.3.5.

#### 2.5.8.3.2 Visual Impact

The visual impact of the COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION, including all accessory structures and appurtenances, shall be mitigated. All accessory structures and appurtenances shall be architecturally compatible with each other. Structures shall be shielded from view and/or joined and clustered to avoid adverse visual impacts as deemed necessary by and in the sole opinion of the Special Permit and Site Plan Approval Granting Authorities. Methods such as the use of landscaping, natural features and opaque fencing shall be utilized.

#### 2.5.8.3.3 Compliance with Laws, Ordinances and Regulations

The construction and operation of all COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATIONS shall be consistent with all applicable local regulations and bylaws, and state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of A SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION shall be constructed in accordance with the State Building Code.

#### 2.5.8.3.4 Utility Notification

No COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION shall be constructed until evidence has been given to the Special Permit and Site Plan Approval Granting Authorities that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar photovoltaic installation owner or operator's intent to install an interconnected customer-owned generator. Proof of a mutual agreement with the utility company shall be provided to the Special Permit and Site Plan Approval Granting Authorities. Off-grid systems shall be exempt from this requirement. If the COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION goes on grid, it shall comply with this requirement.

#### 2.5.8.3.5 Maintenance

The COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief, Police Chief, Emergency Medical Services and Special Permit and Site Plan Approval Granting Authorities. The owner or operator shall be responsible for the cost of maintaining the solar photovoltaic installation and any access road(s), unless accepted as a public way.

2.5.8.3.6

Emergency Services

The COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local Fire Chief. The owner or operator shall provide an emergency response plan. The emergency response plan is subject to the approval of the Special Permit and Site Plan Approval Granting Authority, the Fire Department and the Police Department, and shall include at a minimum, explicit instructions on all means of shutting down the COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION, which shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

2.5.8.3.7

Safety and Security

Safety and measures of security shall be subject to the approval of the Special Permit and Site Plan Approval Granting Authorities, the Fire Department and the Police Department and owner or operator shall be required to provide emergency services with training on all equipment and procedures referenced in the emergency response plan or might otherwise be necessary for emergency services to operate or perform.

The owner or operator shall be required to provide a Knox Box (a secure, tamper proof storage box for keys or other access tools) at each locked entrance to the facility and maintain a complete set of all keys or devices required to gain emergency access to all areas, buildings and equipment of the facility in each Knox Box.

2.5.8.4

Design Standards

2.5.8.4.1

Lighting

Lighting of the COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION, including all accessory structures and appurtenances shall not be permitted unless required by the Special Permit and Site Plan Approval Granting Authorities, Special Permit and Site Plan Approval Decision or required by the State Building Code. Where used,

lighting shall be so arranged as to direct the light away from any street and from any premises residentially used or zoned. 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 (down light 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.

2.5.8.4.2 Signs and Advertising

Section 2.4.2 (Signs) of the Zoning Bylaw does not apply to this Section. Signage for COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATIONS shall be limited in size as determined by the Special Permit and Site Plan Approval Granting Authority.

COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATIONS shall not be used for displaying any advertising except for reasonable identification of the owner or operator of the COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION and emergency contact information.

2.5.8.4.3 Utility Connections

All utility connections from the COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATIONS shall be underground unless specifically permitted otherwise by a Special Permit and Site Plan Approval Decision. Electrical transformers, inverters, switchgear and metering equipment to enable utility interconnections may be above ground if required by the utility provider.

2.5.8.4.4 Land Clearing, Soil Erosion and Habitat Impacts

Clearing of natural vegetation and trees shall be limited to what is necessary for the construction, operation and maintenance of the COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION or otherwise prescribed by applicable laws, regulations and bylaws and meet the soil erosion and habitat impacts as required under the Solar Regulations.

2.5.8.4.5 Structures and Panels

All structures and panels and all associated equipment and fencing including COMMERCIAL SOLAR PHOTOVOLTAIC RENEWAL ENERGY INSTALLATIONS shall be subject to all applicable bylaws and regulations concerning the bulk and height of structures, lot area setbacks, open space, parking and building and lot coverage requirements and may not exceed 50% of the total lot area.

2.5.8.5 MODIFICATIONS

All substantive material modifications to a COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION made after

issuance of the Special Permit and Site Plan Approval Decision shall require modification to the Special Permit and Site Plan Approval Decision.

2.5.8.6 Abandonment and Removal

2.5.8.6.1 Abandonment

Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION shall be considered abandoned when it fails to operate for more than one year without the written consent of the Special Permit and Site Plan Approval Granting Authorities. If the owner or operator of the COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town may enter the property and physically remove the installation.

2.5.8.6.2 Removal Requirements

Any COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION, which has reached the end of its useful life or has been abandoned, shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Special Permit and Site Plan Approval Granting Authorities by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

1. Physical removal of all COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION, structures, equipment, security barriers and transmission lines from the site.
2. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
3. Stabilization or re-vegetation of the site as necessary to minimize erosion. The Special Permit and Site Plan Approval Granting Authorities may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

2.5.8.7.1 Financial Surety

Proponents of COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION projects shall provide a non-cancellable surety bond or other form of surety approved by the Planning Board to cover the cost of removal in the event the town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Special Permit and Site Plan Approval Granting Authorities, but in no event to exceed more than 150 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent. The project proponent shall submit a fully inclusive estimate of the costs associated with



removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

Before issuance of any building permits for the COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION, such construction and installation shall be secured in accordance with this bylaw and/or any regulations adopted pursuant to the COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION Bylaw for this purpose.

2.5.8.8 Special Permit and Site Plan Approval Decisions

Special Permit and Site Plan Approval decisions shall conform to the requirements of this Section, section 2.5.5.5 and 2.5.5.6 of the Zoning Bylaw and other relevant Sections of the Zoning Bylaw.

2.5.8.9 The Planning Board may utilize provisions of Chapter 44, Section 53G to hire consultants to assist the Planning Board in review of the proposed developments. In addition, the Planning Board may at its option ask the Bolton Energy Committee to assist in review of the project. The Planning Board may adopt Regulations to implement the purpose of this bylaw.

ALL COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION Special Permit and Site Plan Approval Decisions shall be valid for a twelve (12) month period unless renewed or extended by the Special Permit and Site Plan Approval Granting Authorities following application made by the applicant. There is no limit to the number of renewals or extensions the Special Permit and Site plan Approval Granting Authorities may grant for a COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION.

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 and shall be integrated with the rest of the development and situated within the development so as not to be in a less desirable location than the market rate units in the development, and no less accessible to public amenities such as open space than the market rate units. The AHU(s) must be compatible in design, appearance, construction and quality of materials as the market rate units.
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. Subject to the approval of the Planning Board, 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) if the Planning Board determines:
  - (a) that the fee or donation of land will sufficiently aid in addressing the goals of the Town's Affordable Housing mission; or
  - (b) the provision of Affordable Units would result in a hardship such as rendering the Project economically infeasible,

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 May, 2012 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.

Fast Food - An establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer in a ready to consume state for the consumption either within the building or outside the building or off premises, or within a parked motor vehicle and usually requires ordering at a counter and whose principal method of operation includes sale of food and beverages in paper, plastic or other disposable containers. The foregoing shall not apply if such sales are wholly incidental and ancillary to a conventional restaurant or other allowed principal use; this regulation shall not apply to ice cream parlors.

The intent of the regulation is to address the adverse impacts of fast food restaurants on Bolton's historic and adjacent residential areas as well as gateways to the town. The proliferation of fast food establishments has a negative impact on the Town's economy, historical relevance, unique character and economic vitality. These uses are therefore restricted in order for Bolton to maintain unique dining experiences. Fast food establishments detract from the overall historic village experience and are found to be obtrusive and have substantial impacts to the public safety from increases in traffic, litter and childhood obesity.

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

Live / Work Space – A dwelling unit in which up to 50% of the floor area is used for the production, showing and sale of art of handcrafted artisan crafts.

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.

Mixed Use - A combination of residential and business uses, arranged vertically (in multiple stories of a structure) or horizontally (adjacent to one another in one or more buildings on a lot)

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.

Restaurant - An establishment whose principal use is for serving food within a building, or portion thereof, containing tables and/or booths which is designed, intended and used for the indoor sales and consumption of food prepared on the premises, except that food may be consumed outdoors in landscaped terraces, designed for dining purposes as approved by the Planning Board under Special Permit. The term "restaurant" shall not include "fast food restaurants".

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.