ZONING BY-LAW

TOWN OF WILBRAHAM

1990 REVISION

Adopted: June 25, 1990
Approved: November 1, 1990
Effective: December 3, 1990

Office of Planning & Community Development
Town Office Building
240 Springfield Street
Wilbraham, Massachusetts, 01095

www.wilbraham-ma.gov

Revised Printing: November 2016

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for printing purposes.

PREFACE

This is the official Zoning By-Law of the Town of Wilbraham, Massachusetts, prepared by the Office of Planning & Community Development under the direction and supervision of the Wilbraham Planning Board.

The Wilbraham Zoning By-Law was adopted by Town Meeting on February 2, 1931. Subsequent revisions of the Zoning By-Law were approved by Town Meeting in 1946, 1964 and 1990. The 1990 Revision of the By-Law was adopted by Special Town Meeting on June 25, 1990, approved by the Attorney General on November 1, 1990, and enacted effective on December 3, 1990.

Amendments to the Zoning By-Law are listed in the Table of Amendments. The Zoning By-Law is published in a bound loose-leaf format to facilitate the incorporation of future amendments. Supplements to the By-Law will contain an instruction sheet directing the removal of obsolete pages and the insertion of replacement pages. The instruction sheet for the most current Supplement should be placed in the front of the volume, and it is recommended that deleted pages be saved and filed for historical reference.

Specific references are listed alphabetically by subject in a comprehensive index, which serves as a guidepost to quickly direct the user to the particular item of interest within the text. As necessary, particular subjects have been placed under several headings, and numerous cross references added within the index.

The Preface, the Introduction entitled "Laws and Regulations Governing Land Use", the Table of Contents, the Table of Amendments, the Appendices and the Index are included for convenience of reference only and do not constitute an official part of the Zoning By-Law.

Printed copies of the Zoning By-Law and related information about zoning matters may be obtained from the Planning Office as follows:

Planning & Community Development Office
Town Office Building
240 Springfield Street
Wilbraham, Massachusetts, 01095

PHONE: (413) 596-2800 Ext 203
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The complete text of the Zoning By-Law is also available in digital format and may be accessed via the internet on the Town of Wilbraham's official website which is located at the following address:

www.wilbraham-ma.gov

INFORMATION RELATING TO LAWS AND REGULATIONS GOVERNING LAND USE IN THE TOWN OF WILBRAHAM

Land use in the Town of Wilbraham is subject to regulation under various Town Bylaws and Statutes of the Commonwealth. Included among these are the Wilbraham Zoning By-Law, adopted pursuant to Chapter 40A, "The Zoning Act", of the General Laws of the Commonwealth of Massachusetts, and the following:

General By-Laws of The Town Of Wilbraham set forth regulation of public conduct relating to the use of land in Wilbraham.

Rules and Regulations Governing the Subdivision of Land set forth the Wilbraham Planning Board's procedures and standards to be followed in the subdivision of land, the construction of ways and the installation of public services.

State Building Code sets forth the regulations, administered by the Building Inspector, relative to the construction, reconstruction, alteration, repair, demolition, removal, inspection, issuance and revocation of permits and licenses, installation of equipment, classification and definition of buildings and structures and use or occupancy thereof.

State Environmental Code ("Title V") sets forth the minimum standards for the protection of public health and the environment where circumstances require the use of individual systems for the disposal of sanitary sewage in areas where municipal sewage systems are not available.

Wilbraham Board of Health Regulations set forth local rules and regulations pertaining to the construction, alteration or repair of individual, on-lot sewage disposal systems, swimming pools, the raising of livestock, etc.

State Wetlands Protection Act and the **Wilbraham Wetlands By-Law** are administered by the Wilbraham Conservation Commission and provides for public review of proposed projects which involve construction or other alterations of land in or near wetlands or land deemed subject to periodic flooding.

Massachusetts Environmental Policy Act (MEPA) sets forth regulations which establish thresholds, procedures and timetables for state review of the environmental impacts of land use decisions which require permits, financial assistance or land transfer from Commonwealth agencies.

Town of Wilbraham Sanitary Sewer Committee Rules and Regulations and the **Town of Wilbraham Water Department Rules and Regulations** regulate access to and use of the town's sewer system and public water supply, respectively.

TABLE OF CONTENTS

PREFACE i

INFORMATION RELATING TO LAWS AND REGULATIONS GOVERNING LAND USE ii

TABLE OF AMENDMENTS vii

SECTION 1 AUTHORITY, PURPOSE AND DEFINITIONS 1-1

1.1 AUTHORITY 1-1
1.2 PURPOSE 1-1
1.3 DEFINITIONS 1-2

SECTION 2 DIVISION INTO ZONING DISTRICTS 2-1

2.1 BASE ZONING DISTRICTS 2-1
2.2 OVERLAY ZONING DISTRICTS 2-1
2.3 ZONING MAP 2-2
2.4 BOUNDARY INTERPRETATION 2-2

SECTION 3 USE REGULATIONS 3-1

3.1 BASIC USE REGULATIONS 3-1
3.2 PROHIBITED USES 3-1
3.3 NON-CONFORMING USES AND STRUCTURES 3-2
3.4 PRINCIPAL USE REGULATIONS 3-4
3.4.1 Agricultural & General Uses 3-5
3.4.2 Residential Uses 3-7
3.4.3 Government & Public Service Uses 3-8
3.4.4 Institutional Uses 3-9
3.4.5 Business Uses 3-10
3.4.6 Industrial Uses 3-14
3.5 MIXED USES 3-17
3.5.1 Mixed Use Development 3-17
3.5.2 Heritage Farm Stand Development 3-17
3.6 SPECIAL USES 3-17
3.9 ACCESSORY USE REGULATIONS 3-25
3.9.1 General Uses 3-25
3.9.2 Residential Uses 3-29
3.9.3 Business Uses 3-35
3.9.4 Industrial Uses 3-37

TABLE OF CONTENTS

SECTION 4 SINGLE DWELLING RESIDENCE DISTRICTS 4-1

4.1 GENERAL REQUIREMENTS 4-1
4.2 PERMITTED USES 4-1
4.3 TWO FAMILY DWELLING CONVERSION 4-1
4.4 DIMENSIONAL REGULATIONS 4-2
4.5 MOTOR VEHICLES 4-6
4.6 FLEXIBLE SUBDIVISION REGULATIONS 4-7
4.7 FLEXIBLE NONSUBDIVISION REGULATIONS 4-9
4.8 PLANNED UNIT RESIDENTIAL DEVELOPMENT (PURD) REGULATIONS 4-11
4.9 ACCESS TO LOT OTHER THAN BY STREET FRONTAGE 4-19
4.10 ACCESSORY APARTMENT REGULATIONS 4-20
4.11 HERITAGE FARM STAND REGULATIONS 4-23

SECTION 5 RESIDENTIAL MULTIPLE DWELLING (RMD) DISTRICT 5-1

5.1 GENERAL REQUIREMENTS 5-1
5.2 PERMITTED USES 5-2
5.3 DIMENSIONAL REGULATIONS 5-2
5.4 DENSITY REGULATIONS 5-3
5.5 BUILDING AND SITE CRITERIA FOR MULTIPLE DWELLINGS 5-3

SECTION 6 NEIGHBORHOOD OFFICE (NO), NEIGHBORHOOD SHOPPING (NS) AND GENERAL BUSINESS (GB) DISTRICTS 6-1

6.1 GENERAL REQUIREMENTS 6-1
6.2 PERMITTED USES 6-1
6.3 DIMENSIONAL REGULATIONS 6-2
6.4 [DELETED] 6-3
6.5 RETAIL SALES OF AUTOMOBILES AND TRUCKS 6-3

SECTION 7 INDUSTRIAL, PROFESSIONAL OFFICE PARK AND GENERAL BUSINESS (I-POP-GB) DISTRICT 7-1

7.1 GENERAL REQUIREMENTS 7-1
7.2 GENERAL PERFORMANCE STANDARDS 7-2
7.3 PERMITTED USES 7-3
7.4 DIMENSIONAL REGULATIONS 7-3
7.5 PROFESSIONAL OFFICE PARK REGULATIONS 7-4
7.6 REGISTERED MARIJUANA DISPENSARY REGULATIONS 7-5

SECTION 8 ADULT CARE FACILITIES (ACF) DISTRICT 8-1

8.1 PURPOSE 8-1
8.2 USE REGULATIONS 8-1
8.3 APPLICATION 8-2

TABLE OF CONTENTS

8.4 DIMENSIONAL REGULATIONS 8-3
8.5 DENSITY REGULATIONS 8-4
8.6 BUILDING REQUIREMENTS 8-4
8.7 UTILITIES 8-4
8.8 PARKING & CIRCULATION REQUIREMENTS 8-4
8.9 LANDSCAPING REQUIREMENTS 8-5
8.10 PROJECT IDENTIFICATION 8-5
8.11 ENFORCEMENT 8-5

SECTION 9 OVERLAY DISTRICT REGULATIONS 9-1

9.1 FLOOD PLAIN DISTRICT 9-1
9.2 [DELETED] 9-5
9.3 RIDGELINE AND HILLSIDE DISTRICT 9-6

SECTION 10 GENERAL REGULATIONS 10-1

10.1 CORNER VISIBILITY 10-1
10.2 LANDSCAPED BUFFER STRIPS 10-1
10.3 [DELETED] 10-1
10.4 EARTH REMOVAL REGULATIONS 10-2
10.5 WIRELESS COMMUNICATIONS FACILITIES REGULATIONS 10-4
10.6 [DELETED] 10-11
10.7 LARGE-SCALE GROUND-MOUNTED SOLAR ENERGY SYSTEMS 10-12

SECTION 11 OFF-STREET PARKING AND LOADING REGULATIONS 11-1

11.1 GENERAL PARKING REQUIREMENTS 11-1
11.2 SCHEDULE OF OFF-STREET PARKING REQUIREMENTS 11-1
11.3 PARKING AREA DESIGN STANDARDS 11-3
11.4 LOADING AREAS 11-3
11.5 SURFACING REQUIREMENTS 11-3

SECTION 12 SIGN REGULATIONS 12-1

12.1 APPLICABILITY 12-1
12.2 DEFINITIONS 12-1
12.3 GENERAL STANDARDS 12-3
12.4 EXEMPTED SIGNS 12-5
12.5 RESIDENTIAL DISTRICTS 12-6
12.6 NEIGHBORHOOD OFFICE (NO) AND NEIGHBORHOOD SHOPPING (NS), DISTRICTS 12-7
12.7 GENERAL BUSINESS (GB) AND INDUSTRIAL-PROFESSIONAL OFFICE PARK-GENERAL BUSINESS (I-POP-GB) DISTRICTS 12-8
12.8 ADULT CARE FACILITIES (ACF) DISTRICT 12-10
12.9 ADDITIONAL STANDARDS FOR SPECIFIC SIGN TYPES 12-10

TABLE OF CONTENTS

12.10 OFF-PREMISES SIGNS 12-12
12.11 SIGN MASTER PLAN 12-13
12.12 NON-CONFORMING SIGNS 12-14

SECTION 13 LAND USE REVIEW PROCEDURES 13-1

13.1 GENERAL 13-1
13.2 PRE-APPLICATION REVIEW 13-1
13.3 SITE PLAN REQUIREMENTS 13-1
13.4 SITE PLAN DESIGN GUIDELINES/REVIEW CRITERIA 13-2
13.5 SITE PLAN APPROVAL 13-4
13.6 SPECIAL PERMITS 13-7

SECTION 14 MIXED USE DEVELOPMENT REGULATIONS 14-1

14.1 PURPOSE 14-1
14.2 AUTHORITY 14-1
14.3 APPLICATION & REVIEW PROCEDURES 14-1
14.4 USE REGULATIONS 14-2
14.5 DIMENSIONAL REGULATIONS 14-2
14.6 DENSITY REGULATIONS 14-2
14.7 FINDINGS 14-3
14.8 ENFORCEMENT 14-3

SECTION 15 ADMINISTRATION AND ENFORCEMENT 15-1

15.1 ENFORCEMENT AUTHORITY 15-1
15.2 PLANS AND PERMITS 15-1
15.3 PENALTIES FOR VIOLATION 15-2
15.4 PLANNING BOARD 15-3
15.5 BOARD OF APPEALS 15-4
15.6 AMENDMENT 15-6
15.7 REPETITIVE PETITIONS BEFORE TOWN MEETINGS 15-6
15.8 REPETITIVE PETITIONS BEFORE BOARD OF APPEALS 15-6
15.9 REPEAL 15-6
15.10 VALIDITY 15-6

APPENDIX A RULES RELATIVE TO THE ISSUANCE OF SPECIAL PERMITS A-1

APPENDIX B SWIMMING POOL REGULATIONS B-1

APPENDIX C SCENIC ROADS DESIGNATION C-1

INDEX Index-1

TABLE OF AMENDMENTS

These Zoning By-Laws were adopted by a unanimous vote of the Special Town Meeting held on June 25, 1990, approved by the Attorney General on November 1, 1990, and in effect as of December 3, 1990. Further amendments are as follows:

Annual Town Meeting - April 27, 1991
(Approved by the Attorney General - 10/9/91)

Art.	Section	Subject
24	1.3*	Revised existing definition of "Frontage"
25	1.3*	Revised existing definition of "Lot"
26	1.3*	Revised existing definition of "Building Height"
27	1.3*	Inserted new definition of "Story"
28	4.4.9*	Revised entire section 4.4.9 "Residential Height Limitations"
29	1.3*	Revised existing definition of "Accessory Building or Structure"
30	4.4.8*	Deleted entire section 4.4.8 "Location of Detached Accessory Buildings" and substituted therefor a new section 4.4.8 "Location and Size of Accessory Buildings"
31	4.5.1*	Revised entire section 4.5.1 "Unregistered Motor Vehicles in Residential Districts"
32	3.4.7.3*	Changed the code reference from "Y" to "ZBA" in the R-26, R-34, R-40 and the R-60 District columns under section 3.4.7.3 of the Schedule of Use Regulations table
33	15.6*	Revised entire section 15.6 "Amendment"
34	1.3*	Inserted new definition of "Public Vantage Point"
34	2.2*	Added "Ridgeline and Hillside District" to the list of Overlay Zoning Districts
34	2.3.2*	Revised entire section 2.3.2 to include the Ridgeline and Hillside Overlay District Map by reference as part of the official Building Zone Map
34	9.3*	Inserted a new section 9.3 "Ridgeline and Hillside District"

TABLE OF AMENDMENTS

Annual Town Meeting - June 12, 1993
(Approved by the Attorney General - 8/12/93)

Art.	Section	Subject
30	4.7.2(C)*	Revised the first sentence in section 4.7.2, paragraph C, regarding Flexible Non-Subdivision (Estate Lot) Open Space Requirements
31		Amended the Zoning Map by rezoning from R-26 to GB a parcel of land south of Boston Road between Nine Mile Pond and Main Street.
32		Amended the Zoning Map by rezoning from NO to NS a parcel of land located at #1-3 and #2 Crane Park Drive.
33	12.2.2*	Revised entire section 12.2.2 regarding bulletin board signs in residential districts

Annual Town Meeting - May 14, 1994
(Approved by the Attorney General - 8/29/94)

Art.	Section	Subject
29	1.3*	Revised the existing definition of "Frontage"
29	4.4.1*	Deleted the last sentence to conform with the new definition of frontage in section 1.3
29	5.3.2(B)*	Deleted the entire section to conform with the new definition of frontage in section 1.3
29	7.5.3*	Revised to conform with the new definition of frontage in section 1.3
29	12.4.3*	Revised the first sentence to conform with the new definition of frontage in section 1.3
30	1.3*	Revised the existing definition of "Usable Land Area"
31	1.3*	Revised the existing definition of "Farm"
31	3.4.1.1* 3.4.1.4* 3.4.1.6*	Revised the minimum acreage requirements to conform to agricultural exemption under the state zoning act (MGL Chapter 40A Section 3)

32	3.4.6.8*	Added "Motor vehicle towing & transportation business" to the Schedule of Use Regulations Table
33	4.4.8(B)*	Revised section 4.4.8(B) to exempt standard two-car detached garages from special permit requirement
34	4.4.11*	Revised entire section dealing with nonconforming lot exemptions
35	1.3*	Added new definitions for "Child Care Facility" and "Family Day Care Home"
35	3.4.4.4*	Revised "Child Care Facility" in the Schedule of Use Regulations Table to conform to exemption under the state zoning act (MGL Chapter 40A Section 3)
36	3.4.8* 3.5*	Renumbered section 3.4.8 as 3.5 (special uses)
36	3.4.7* 3.6*	Substituted a new section 3.6 for deleted section 3.4.7 dealing with accessory uses
36	1.3*	Added new definitions for "Accessory Apartment", "Bed & Breakfast Home", "Home Occupation", "Home Office, Private", and "Home Professional Office"
36	4.10*	Added a new section regarding accessory apartment regulations

Annual Town Meeting - May 1, 1995
(Approved by the Attorney General - 6/27/95)

Art.	Section	Subject
34		Amended the Zoning Map by rezoning from R-15 to G.B. the rear portion of a parcel of land located at 1985 Boston Road.
35		Amended the Zoning Map by rezoning from R-26 to N.O. a parcel of land located at 451 Main Street.
36	3.4.6.9*	Added "Bulk Materials Transfer Facility" to the Schedule of Use Regulations Table.

37	12.2.1* 12.2.6*	Technical corrections which revise table of use section numbers to conform with changes made at the 1994 Town Meeting.
37	13.6.6.3*	Eliminated entire section 13.6.6.3 that contained awkward and confusing language regarding signs and special permits.

Annual Town Meeting - April 29, 1996
(Approved by the Attorney General - 8/3/96)

Art.	Section	Subject
28	1.3* 3.4.2.6* 4.8*	Deleted existing Planned Unit Development (PUD) regulations and substituted therefor new Planned Unit Residential Development (PURD) regulations.

Annual Town Meeting - April 28, 1997
(Approved by the Attorney General - 6/16/97)

Art.	Section	Subject
33		Amended the Zoning Map by rezoning from R-26 to G.B. the southerly portion of a parcel of land located at 15 Main Street.
34	3.4.5.17* 3.6.3.3*	Added Seasonal Outdoor Dining as an accessory use to restaurants and food service establishments by special permit from the Zoning Board of Appeals.

Annual Town Meeting - May 4, 1998
(Approved by the Attorney General - 9/11/98)

Art.	Section	Subject
35	1.3*	Revised the existing definition of "Street" by deleting subparagraph (d)

36	4.5.1*	Revised the first sentence in section 4.5.1 "Unregistered Motor Vehicles in Residential Districts" by deleting the words "unregistered and inoperable" and substituting therefor the words "unregistered or inoperable"
37	4.9*	Deleted existing section 4.9 "Access to Lot Other than from Street Frontage" and substituted therefor a revised section 4.9
38	1.3*	Added new definitions for "Co-location", "lattice Tower", "Monopole" and "Wireless Communications Facilities"
38	3.4.3.6*	Added "Wireless Communications Facilities" to the Schedule of Use Regulations Table
38	10.5*	Added a new section 10.5 regarding Wireless Communications Facilities Regulations
39	1.3*	Added new definitions for "Adult Care Facilities", "Adult Day Care", "Assisted Living Residence", "Congregate Living Facility", "Continuing Care Retirement Community", "Custodial Care Facility", "Elderly Housing", "Group Care Facility", "Independent Living Facility" and "Long-term Care Facility"
39	2.1*	Deleted the existing references to "Limited Business District" and inserted a new reference to the "Adult Care Facilities District"
39	3.4*	Deleted all existing references to "Limited Business (LB)" in the Schedule of Use Regulations Table and substituted therefor "Adult Care Facilities (ACF)"
39	3.4.4.8*	Added "Adult Care Facilities (ACF)" to the Schedule of Use Regulations Table
39	6.0* 6.1* 6.3* 12.0* 12.3*	Deleted all existing references to "Limited Business District"
39	8.0*	Added a new section 8.0 entitled "Adult Care Facilities (ACF) District"

40		Amended the Zoning Map by rezoning from Limited Business (LB) and General Business (GB) to Adult Care Facilities (ACF) a parcel of land consisting of approximately 53.45 acres including all or a portion of land located at 2377R, 2379V, 2387V, 2391, 2399, 2407, 2417, 2423, 2431 and 2439 Boston Road.

Annual Town Meeting - May 1-2, 2000
(Approved by the Attorney General - 9/7/2000)

Art.	Section	Subject
16		Amended the Zoning Map by rezoning from GB, R-34 and R-26 to ACF a parcel of land consisting of approximately 72.74 acres located at 2301 Boston Road and 19 Brainard Road (Lot 15)
38	1.3*	Revised the existing definition of "Adult Care Facilities", "Building Envelope", and "Sign"; deleted the existing definition of "Motor Home", "Tent Type Trailer", "Trailer" and "Travel Trailer"; and inserted a new definition of "Clearing Envelope",
38	3.4.1* 3.4.2* 3.4.3* 3.4.4* 3.4.5* 3.4.6* 3.5*	Revised the entire existing "Table One: Schedule of Use Regulations"
38	3.6.2.2*	Revised section 3.6.2.2 to allow the parking or garaging of more than three (3) motor vehicles by special permit from the Planning Board as an accessory use to a residence.
38	3.6.2.16*	Inserted a new section 3.6.2.16 that prohibits helicopter landing areas as an accessory use to a residence.
38	3.6.3.2(B)*	Revised section 3.6.3.2(B) regarding area limitations on the accessory outdoor display of merchandise for retail sales.
38	3.6.3.4*	Inserted a new section 3.6.3.4 "special events" as a temporary accessory business use.
38	4.4.8*	Revised entire section 4.4.8 "Location and Size of Accessory Buildings".

38	4.5.2(B)*	Deleted section 4.5.2(B) regarding fines for motor vehicle zoning violations. Fines will now be covered under section 15.3.
38	4.6.2(C)*	Revised section 4.6.2(C) of flexible subdivision regulations by deleting "Building Envelope" and substituting "Clearing Envelope", and by deleting "building site" and substituting "Building Envelope".
38	4.6.2(E)*	Revised section 4.6.2(E) of the flexible subdivision regulations by changing the minimum open space requirement from fifteen (15) to twenty-five (25) percent of area of the total parcel.
38	4.7.2(D)*	Revised section 4.7.2(D) of the flexible nonsubdivision (estate lot) regulations by deleting "surveyed and dimensioned Building Envelope" with "a Building Envelope within a surveyed and dimensioned Clearing Envelope".
38	6.3 Ftn(d)*	Revised section 6.3 by deleting entire footnote (d) to eliminate confusing language regarding setback requirements for buildings on a common side lot line in the NS and GB Zoning Districts.
38	6.4*	Deleted entire section 6.4 "Retail Sales of Recreational Vehicles".
38	8.10* 8.11*	Renumbered existing section 8.10 "Enforcement" as section 8.11 and inserted a new section 8.10 "Project Identification".
38	9.1.2* 9.1.3.1* 9.1.3.2*	Adopted various technical amendments to the Flood Plain Overlay District regulations.
38	10.4.2(D)*	Revised section 10.4.2(D) of the Earth Removal Regulations by deleting the reference to the Industrial-Professional Office Park-General Business (I-POP-GB) District.
38	10.4.3*	Deleted section 10.4.3 of the Earth Removal Regulations regarding penalties for violations. Fines will now be covered under section 15.3.
38	12*	Revised entire section 12 "Sign Regulations".
38	15.3.1(A.)*	Revised section 15.3.1(A.) regarding "Penalties for Violations" by deleting "structure or sign"and substituting "structure, sign or use".
39	12.10.3*	Added new section 12.10.3 "Identification Signs on Private Property".

TABLE OF AMENDMENTS

Annual Town Meeting - May 7, 2001
(Approved by the Attorney General - 8/30/2001)

Art.	Section	Subject
15	3.4.1.3*	Revised section 3.4.1.3 of the Schedule of Use Regulations Table to allow commercial greenhouses in the "RMD", "NO", "NS", and "ACF" zoning districts with site plan approval from the Planning Board.
16	3.4.5.17*	Revised section 3.4.5.17 to allow restaurants and food service establishments in the GB and I-POP-GB zoning districts to offer drive through window service by special permit from the Planning Board.
17	1.3*	Added a new definition of "Automated Teller Machine (ATM) Kiosk".
17	3.6.3.5*	Added a new section 3.6.3.5 to allow a small, free standing ATM bank building as an accessory use in an office park or shopping center located in the GB and I-POP-GB zoning districts by special permit from the Zoning Board of Appeals.
18	10.5.2(F)* 10.5.2(G)* 10.5.2(I)* 10.5.2(M)* 10.5.2(O)* 10.5.3* 10.5.4* 10.5.5* 10.5.6*	Revised section 10.5 "Wireless Communications Facilities (WCF) Regulations".
19	11.2.11*	Deleted section 11.2.11 regarding parking requirements for recreational vehicle dealerships (no longer a permitted use).

Annual Town Meeting - May 6, 2002
(Approved by the Attorney General - 9/18/2002)

Art.	Section	Subject
18		Amended the zoning map in a comprehensive manner by deleting the existing zoning map in its entirety and by substituting therefor a new computer-generated version of the zoning map.

18	2.3.1* 2.3.2* 2.4.2* 2.4.3* 2.4.4* 9.1.3.3*	Revised sections 2.31, 2.3.2, 2.4.2, 2.4.3, 2.4.4 and 9.1.3.3 to reference the title and date of the new zoning map.
19	3.3.4* 7.5.7.1* 7.5.7.2*	Revised sections 3.3.4, 7.5.7.1 and 7.5.7.2 by correcting outdated cross-references to section 12 that inadvertently were not changed when section 12 was completely revised at the 2000 Annual Town Meeting.
20	12.5.1*	Revised section 12.5.1 to include provision for a free-standing sign up to six (6) square feet in size announcing the location of a nursing home in a residential zoning district.
21	15.11*	Deleted entire section 15.11 "Notice to Non-resident Owners".
22	1.3*	Revised the existing definition of "Usable Land" to include land only where slopes have a grade of 15 percent or less.
23	1.3*	Added a new definition of "Body Art Establishment".
23	3.4.5*	Added a new section 3.4.5 in the Schedule of Use Regulations Table to allow Body Art Establishments in the GB and I-POP-GB Districts by special permit from the Zoning Board of Appeals.
24		Amended the Zoning Map by rezoning from I-POP-GB to R-60 a parcel of land containing approximately 16.2 acres located at 7, 8 and 9 Red Bridge Road.
25		Amended the Zoning Map by rezoning from R-26 to NO a parcel of land containing approximately 92,488 square feet located at 360 & 380 Main Street.

TABLE OF AMENDMENTS

Annual Town Meeting - May 13, 2003
(Approved by the Attorney General - 8/28/2003)

Art.	Section	Subject
3	3.6.2.10(G)*	Revised section 3.6.2.10(G) by correcting outdated cross-reference to section 12 that inadvertently was not changed when section 12 was completely revised at the 2000 Annual Town Meeting.
3	3.3*	Revised entire section 3.3 “Non-conforming Uses and Structures”.
3	1.3*	Added new definitions for “Automatic Amusement Device”, “Automatic Amusement Facility, General” and “Automatic Amusement Facility, Family-Oriented”.
3	3.4.5.11* 3.6.3.6*	Revised section 3.4.5.11 and added a new section 3.6.3.6 covering the regulation of automatic amusement devices.
3	3.4.5.14*	Added a new section 3.4.5.14 to the Table of Use Regulations governing exercise facilities or health clubs.
3	11.1.4*	Added a new section 11.1.4 authorizing waivers to the Off Street Parking & Loading Regulations.
3	11.2.11*	Added a new section 11.2.11 specifying minimum off-street parking requirements for self-storage facilities.
4		Amended the Zoning Map by rezoning from R-26 to GB a parcel of land containing approximately 17,192 square feet located at the rear of 2797 Boston Road.

Annual Town Meeting - May 18, 2004
(Approved by the Attorney General - 7/12/2004)

Art.	Section	Subject
21	12.2* 12.9.4*	Added new definition and regulations for “Menu Board” signs.
21	12.6.6*	Revised regulations governing the lighting of signs in the NO and NS zoning districts

22	4.8.2* 4.8.3* 4.8.3(5)* 4.8.3(6)* 4.8.4* 4.8.5* 4.8.5.2* 4.8.5.4* 4.8.6* 4.8.7* 4.8.7.1* 4.8.7.4* 4.8.7.5* 4.8.7.6* 4.8.7.7* 4.8.7.8* 4.8.8* 4.8.8(B)* 4.8.8(C)* 4.8.8(D)* 4.8.9* 4.8.9(E)* 4.8.10* 4.8.11* 4.8.11(B)* 4.8.12* 4.8.12(A)* 4.8.13* 4.8.13(A)* 4.8.14* 4.8.15*	Comprehensive revision of Section 4.8, Planned Unit Residential Development (PURD) regulations, including a new requirement that such development be designed and occupied as age-restricted housing in accordance with federal and state law.

Special Town Meeting – January 11, 2005
(Approved by the Attorney General – 2/22/2005)

Art.	Section	Subject
1	12.2*	Added new definition for “Electronic Variable Message Signs”.
1	12.3.2(C)*	Added new language to clarify that Electronic Variable Message Signs are prohibited in all zoning districts except for such signs where allowed that indicate the current time and temperature.

2	3.4.5.1* 3.4.5.2* 3.4.5.5* 3.4.5.19*	Reorganized and revised section 3.4.5 of the schedule of use regulations table by renumbering section 3.4.5.2 as section 3.4.5.5 and section 3.4.5.5 as section 3.4.5.19, and by revising section 3.4.5.1 and by inserting a new section 3.4.5.2 which segregate the professional and business office use regulations into separate medical and non-medical categories.
2	8.2.1* 8.2.2*	Revised the use regulations governing medical office buildings allowed in the Adult Care Facilities Zoning District subject to site plan approval or special permit from the Planning Board.

Annual Town Meeting – May 17, 2005
(Approved by the Attorney General – 7/6/2005)

Art.	Section	Subject
20	1.3*	Revised the existing definition of “Frontage” in Section 1.3.
20	3.4.6.4*	Added a new section 3.4.6.4 in the Schedule of Use Regulations Table to allow a Contractor’s Yard in the I-POP-GB District by special permit from the Zoning Board of Appeals.
20	4.4.3*	Revised section 4.4.3 by replacing existing incorrect references to “Minimum Usable Lot Area” with correct references to “Minimum Usable Land Area”.
20	4.4.10*	Revised section 4.4.10, Schedule of Dimensional Regulations, by replacing existing references to “Minimum Usable Lot Area” with “Minimum Usable Land Area” and by replacing existing references to “Maximum Lot Coverage” with “Maximum Building Coverage”.
20	11.6*	Deleted section 11.6, Accessory Parking.
20	13.6.9*	Revised section 13.6.9 which regulates the modification, amendment or renewal of special permits.
20	13.6.10*	Added new section 13.6.10 which references enforcement action to remedy violations of special permit conditions.
23		Amended the Zoning Map by rezoning from R-15 to GB a parcel of land containing approximately 2.49 acres including all or a portion of land located at 20, 24, 28 and 88V Stony Hill Road.

TABLE OF AMENDMENTS

Annual Town Meeting – May 15, 2006
(Approved by the Attorney General – 7/17/2006)

Art.	Section	Subject
31		Amended the Zoning Map by rezoning from R-15 to GB a parcel of land containing approximately 16,463 square feet located at 12 Grove Street.

Annual Town Meeting – May 14, 2007
(Approved by the Attorney General – 8/28/2007)

Art.	Section	Subject
34	3.6.2.13(G)* 4.5.2*	Amended sections 3.6.2.13(G) and 4.5.2 by revising the existing regulations governing the parking or storage of trucks in residential zoning districts.
36	4.8.11*	Amended section 4.8.11 by revising the existing regulations governing open space requirements in Planned Unit Residential Developments (PURD).
37	1.3.*	Amended section 1.3 by deleting the existing definition of “Building Setback Line” and by revising the existing definitions of “Lot Line, Front” and “Setback”.
37	3.6.2.16*	Deleted existing section 3.6.2.16 of the accessory use regulations governing heliports, helipads and other facilities.
37	4.8.5.3* 4.8.7.6* 5.5.4* 12.4.1* 13.6.7.1*	Amended sections 4.8.5.3, 4.8.7.6, 5.5.4, 12.4.1 and 13.6.7.1 by correcting inconsistent or contradictory setback terminology.
37	11.2.13* 13.5.4.3(E)*	Amended sections 11.2.13 and 13.5.4.3(E) by correcting outdated and inaccurate cross-references.
37	12.6.4*	Amended section 12.6.4 of the regulations governing signage in the Neighborhood Office and Neighborhood Shopping Zoning Districts by deleting the existing reference to “Directional Signs” and substituting the correct reference to “Incidental signs”.

TABLE OF AMENDMENTS

Annual Town Meeting – May 12, 2008
(Approved by the Attorney General – 7/31/2008)

Art.	Section	Subject
33		Amended the Zoning Map by rezoning from R-15 to GB a portion of land known as Parcel B located at 88V Stony Hill Road.
34	3.3*	Revised entire section 3.3 “Non-conforming Uses and Structures”.
35	3.6.2.9*	Deleted existing section 3.6.2.9 of the accessory use regulations governing dwellings and housekeeping facilities for residential occupancy by employees or non-paying guests.

Annual Town Meeting – May 11, 2009
(Approved by the Attorney General – 8/25/2009)

Art.	Section	Subject
36	7.4*	Revised the “Dimensional Regulations” table for the I-POP-GB Zoning District in section 7.4 by increasing the “Maximum Building Coverage” requirement from 25 percent to 30 percent.
37	12.12.2*	Revised the regulations governing the maintenance of non-conforming signs in section 12.12.2 by eliminating language allowing the rewording of cinema signs, theater signs and signs with automatically changing messages.
38	15.4.3*	Added a new section 15.4.3 granting the Planning Board authority to adopt Rules & Regulations to govern the Board’s conduct and the administration of its duties under the Zoning By-Law.
39	15.5.3*	Added a new section 15.5.3 granting the Board of Appeals authority to adopt Rules & Regulations to govern the Board’s conduct and the administration of its duties under the Zoning By-Law.
40		Amended the Zoning Map by rezoning from ACF to GB the following seven adjoining parcels of land comprising approximately 27 acres: Parcel #582 (2407 Boston Road), Parcel #583 (2417 Boston Road), Parcel #589 (2423 Boston Road), Parcel # 591 (2431 Boston Road), Parcel #593 (2439 Boston Road), Parcel #594 (2443 Boston Road), and Parcel #1850 (34V Forest Street).

TABLE OF AMENDMENTS

Annual Town Meeting – May 17, 2010
(Approved by the Attorney General – 9/20/2010)

Art	Section	Subject
36	6.5.2*	Revised section 6.5.2 which governs the sale of used automobiles and trucks as an accessory use to an automobile dealership authorized by special permit from the Planning Board by eliminating language capping the number of used vehicles at 40 percent of the total number of vehicles (used and new) allowed on the premises.
37	3.6.2.2*	Revised the accessory residential garage use regulation in section 3.6.2.2 to require special permit approval from the Planning Board for dwellings with more than three garage doors or more than 1,100 square feet of garage space.
38	4.4.8*	Revised and reorganized the existing regulations governing the location and size of residential accessory buildings in section 4.4.8 for improved clarity and administration.
39	10.4.1*	Revised the earth removal permit regulations in section 10.4.1 to specify when projects will require earth removal permit approval from the Building Commissioner, Board of Appeals or Planning Board.
40	15.4.2*	Revised section 15.4.2 by changing the length of term of the appointed Associate Planning Board Member from one year to three years.
41	1.3* 3.5* 3.6* 14.0*	Added a new definition for “Mixed Use Development” in section 1.3; Renumbered existing section 3.5 (Special Uses) as section 3.6; inserted a new section 3.5 (Mixed Uses); inserted a new section 3.5.1 (Mixed Use Development) which is allowed by special permit from the Planning Board in the GB and I-POP-GB zoning districts; and added a new section 14 (Mixed Use Development Regulations).

Annual Town Meeting – May 16, 2011
(Approved by the Attorney General – 6/15/2011)

Art	Section	Subject
38		Amended the Zoning Map by rezoning from GB to R-15 approximately 2.31 acres of land located at 2555 Boston Road.

39		Amended the Zoning Map by rezoning from ACF to GB approximately 3.52 acres of land comprising the rear portion of land located at 2377, 2379 and 2391 Boston Road
40	3.4.4.4* 3.4.5.11* 3.4.5.17* 3.6* 4.4.8(B)* 4.4.8(C)* 4.4.8(D)* 4.5.2(C)* 12.5.4*	Renumbered existing section 3.6 (Accessory Use Regulations) as section 3.9 and revised sections 3.4.4.4, 3.4.5.11, 3.4.5.17, 4.4.8(B), 4.4.8(C), 4.4.8(D), 4.5.2(C) and 12.5.4 by changing all existing cross-references of accessory use section 3.6 to renumbered section 3.9.

Annual Town Meeting – May 14, 2012
(Approved by the Attorney General – 8/13/2012)

Art	Section	Subject
47	4.4.8(C)*	Revised section 4.4.8(C) of the regulations governing the location and size of detached accessory residential buildings to improve the clarity of the existing exemption which allows a larger detached garage to be built if the principal dwelling does not have an attached garage.
48	1.3* 3.5.2* 4.11*	Added a new definition for “Heritage Farm Stand Development” in section 1.3; inserted a new section 3.5.2 (Heritage Farm Stand Development); and added a new section 4.11 (Heritage Farm Stand Development Regulations).

TABLE OF AMENDMENTS

Annual Town Meeting – May 13, 2013
(Approved by the Attorney General – 9/7/2013)

Art	Section	Subject
51	3.4.3.1*	Revised the existing principal municipal use regulation in section 3.4.3.1 by clarifying that a municipal use of land is allowed by right in all zoning districts and that such use includes, but is not limited, to buildings.
52	4.5.1*	Deleted existing section 4.5.1 which contained regulations governing unregistered or inoperable motor vehicles in residential zoning districts and added an editorial comment that such vehicles are now regulated and enforced under section 632 of the Wilbraham General By-Laws.
53	9.1*	Revised the existing regulations for the Flood Plain Overlay Zoning District in section 9.1 to incorporate regulatory changes and new flood zone maps prepared by the Federal Emergency Management Agency (FEMA) in order to keep the Town in compliance with the requirements of the National Flood Insurance Program (NFIP) and to continue to make federal flood insurance available to the residents of Wilbraham.
54	1.3* 3.9.1.3*	Revised the existing definition for "Solar Energy System" in section 1.3 and revised the existing accessory use regulations for solar energy systems in section 3.9.1.3.
55	10.6*	Added a new section 10.6 imposing a temporary moratorium on Medical Marijuana Treatment Centers in all zoning districts

Annual Town Meeting – May 12, 2014
(Approved by the Attorney General – 6/19/2014)

Art	Section	Subject
55	12.2* 12.4.12* 12.9.2*	Revised the existing definition and use regulations for Special Event Signs in sections 12.2 and 12.9.2 and added temporary Grand Opening Signs to the list of exempted signs that are allowed by right without a sign permit in section 12.4.12.

57	1.3* 3.4.3.7* 3.9.1.3* 10.7*	Revised the existing definition of Building Height and added a new definition for Large-Scale Ground-Mounted Solar Energy Systems in section 1.3; revised the accessory use regulations governing solar energy systems in section 3.9.1.3; and added new use regulations for Large-Scale Ground-Mounted Solar Energy Systems in new sections 3.4.3.7 and 10.7
58	1.3* 3.4.5.21* 7.6* 10.6*	Repealed the temporary moratorium on Medical Marijuana Treatment Centers previously adopted at the May 2013 Town Meeting by deleting existing section 10.6; added a new definition for Registered Marijuana Dispensary (RMD) in section 1.3; added new use regulations for RMD facilities in new sections 3.4.5.21 and 10.6

Annual Town Meeting – May 11, 2015
(Approved by the Attorney General – 8/31/2015)

Art	Section	Subject
26	1.3* 3.9.2.13(l)*	Added a new definition for “Cottage Food Operation” in section 1.3 and added a new section 3.9.2.13(l) that provides a Cottage Food Operation exemption in the Home Occupation Regulations to allow a resident to use their home kitchen to prepare certain low-risk foods for off-premise sale to the consumer.
27		Amended the Zoning Map by rezoning from R-34 to R-26 approximately 14.15 acres of land comprising the rear portion of land located at 601 Main Street
28	3.4.5.4* 3.4.5.17*	Revised sections 3.4.5.4 and 3.4.5.17 to add retail sales and restaurant/food service establishments to the list of uses allowed in the NO Zoning District with special permit approval from the Zoning Board of Appeals.

TABLE OF AMENDMENTS

Annual Town Meeting – May 16, 2016
(Approved by the Attorney General – 8/23/2016)

Art	Section	Subject
24	4.7*	Revised the Flexible Non-Subdivision (Estate Lot) Regulations in section 4.7 for improved clarity and administration.
24	2.2* 2.3.2* 9.2*	Deleted the references to the Ground Water Protection Overlay District in sections 2.2 and 2.3.2 and eliminated the Ground Water Protection District regulations deemed to be outmoded, unscientific and unnecessary by deleting section 9.2 in its entirety.
24	10.3*	Eliminated Gas and Oil Pipeline regulations deemed to be outmoded and unnecessary by deleting section 10.3 in its entirety.
24	13.5.1.3*	Revised section 13.5.1.3 by clarifying the specific criteria of applicability the Planning Board must follow when determining if a project is exempt from the requirement of site plan approval.
25		Amended the Zoning Map by rezoning from R-26 to N.O. approximately 32,940 square feet of land located at 384 Main Street.
26		Amended the Zoning Map by rezoning from R-15 to G.B. approximately 12,419 square feet of land being the southermost portion of land located at 4V Forest Street.
55	1.3*	Revised the definition of Family Day Care Home in section 1.3 by changing the maximum number of children allowed in a Family Home Day Care from six (6) to ten (10).

Special Town Meeting – October 24, 2016
(Approved by the Attorney General – 11/1/2016)

Art	Section	Subject
1	1.3*	Revised the definition of “Accessory Building or Structure” in section 1.3 by removing language which implied that accessory buildings must always being substantially smaller in size than the principal building.

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for printing purposes.

SECTION 1 AUTHORITY, PURPOSE AND DEFINITIONS

SECTION 1.1 AUTHORITY
SECTION 1.2 PURPOSE
SECTION 1.3 DEFINITIONS

1.1 AUTHORITY

The Town of Wilbraham hereby enacts this Zoning By-Law pursuant to and under the authority of the Zoning Act, Chapter 40A of the General Laws of the Commonwealth of Massachusetts, as amended.

1.2 PURPOSE

The purposes of this By-Law are:

1.2.1 To promote the health, safety, convenience and general welfare of the present and future inhabitants of the Town of Wilbraham;

1.2.2 To protect the community and the town's natural resources;

1.2.3 To secure safety from fire, flood, pollution, overcrowding and other dangers by regulating the location and use of structures and the open spaces around them;

1.2.4 To lessen congestion in the streets;

1.2.5 To permit and promote planned, orderly growth;

1.2.6 To conserve the value of land and buildings;

1.2.7 To facilitate the adequate provision of public services;

1.2.8 To preserve and increase the town's amenities;

1.2.9 To reconcile the need and desire of Wilbraham's diverse and growing population for adequate housing with the preservation of natural resources and the prevention of overcrowding of land and undue concentration of population;

1.2.10 To encourage compatible development and the most appropriate use of the town's land and resources;

1.2.11 To provide for the expansion of suitable, economically and environmentally sound business and industry within the town in order to diversify the local economy and the tax base;

1.2.12 To establish a fair and reasonable set of standards for evaluating each development proposal impartially, on its own merit;

1.2.13 To develop rational land development alternatives through an equitable and prescribed negotiation process so as to establish a balanced land use pattern that is responsive to the needs of property owners while minimizing the adverse effects of development; and

1.2.14 To provide the town with the full protection authorized by Chapter 40A of the General Laws as amended.

1.3 DEFINITIONS

[Note: Diagrams are for convenience of reference only and do not constitute part of the adopted By-Law.]

For the purpose of this By-Law, the following words shall have the meanings given hereinafter: where appropriate the singular shall include the plural and the plural the singular; the word "occupied" includes "designed, arranged, or intended to be occupied," and the word "used" includes "designed, arranged, or intended to be used."

Accessory Apartment.* A second dwelling unit that is contained within or added to the structure of a single-family dwelling for use as a separate, independently functioning housekeeping unit, complete with its own means of egress, sleeping, cooking and sanitary facilities. The second dwelling unit is an accessory use to the principal single-family dwelling unit.

Accessory Building or Structure.* A building or structure that is customarily incidental and subordinate to a lawful principal building and/or principal use, and which is located on the same lot or on an adjoining lot under the same ownership and is not attached to the principal building by any covered or roofed structure.

Accessory Use. The use of a building or premises which is customarily incidental and subordinate to a principal permitted use.

Adult Care Facilities.* Any of the various types of development designed to provide some form of assisted living to elderly adults, the disabled, or chronically ill. This includes Adult Day Care Facilities, Assisted Living Residences, Congregate Living Facilities, Continuing Care Retirement Communities, Custodial Care Facilities, Elderly Housing, Group Care Facilities, Hospices, Independent Living Facilities, Long-term Care Facilities, Nursing Homes and similar developments, as well as medical offices and other ancillary facilities appropriate to the principal use.

Adult Day Care.* A facility offering daytime care for elderly adults or the disabled, providing health care and assessment, personal care, social programs, recreational activities, meals and transportation, but not providing overnight or residential accommodations.

Alteration. A change in or addition to a structure.

Aquifer. A geologic formation composed of rock or sand and gravel that contains significant amounts of potentially recoverable potable water.

Assisted Living Residence.* A facility as defined by M.G.L. Chapter 19D, providing room and board, personal care services, and assistance with daily living activities. Assisted living facilities are for elderly and handicapped individuals who do not require 24-hour skilled nursing care. Assisted living residences are required to be certified by the Executive Office of Elder Affairs.

Automated Teller Machine (ATM) Kiosk.* A small, free standing building or structure, by whatever name, providing fully automated walk up and/or drive through banking services accessible to banking customers by means of a coded plastic card or similar device and including limited electronic banking transactions, such as cash deposits, withdrawals and balance inquiries.

Automatic Amusement Device.* Any mechanical or electronic automatic amusement device, whether coin-operated or not, as defined under but not limited to MGL Chapter 140, Section 177A, including video games and mechanical devices for use as game, entertainment or amusement; but not including private, in-home use of such devices, and not including jukeboxes, pool or billiard tables and bowling alleys.

Automatic Amusement Facility, Family-Oriented.* An establishment which offers for public use or private membership use more than six (6) automatic amusement devices on premises not serving or selling alcoholic beverages.

Automatic Amusement Facility, General.* An establishment which offers for public use or private membership use more than six (6) automatic amusement devices on premises serving or selling alcoholic beverages.

Bed and Breakfast Home.* An owner-occupied, single-family residence with guest rooms where overnight lodging and breakfast are provided for compensation on a short-term basis. In a bed and breakfast no meals other than breakfast shall be served to overnight guests. The bed and breakfast is an accessory use to the principal residence.

Body Art Establishment.* A facility, whether public or private, that has been granted a permit from the Board of Health of the Town of Wilbraham, where the practice of physical body adornment is performed, whether or not for profit, including, but not limited to, the techniques of body piercing, tattooing, cosmetic tattooing, branding and scarification in accordance with regulations promulgated by the Wilbraham Board of Health.

Building. A combination of any materials forming a permanent, rigid, roofed enclosure intended for the shelter of persons, animals, or property, including any part of a building and porches and accessory buildings attached thereto.

Building Coverage. The percentage which the aggregate area of all buildings on the lot bears to the area of the lot.

Building Envelope.* The area within the clearing envelope which demises the intended footprint of the principal structure.

Building Height.* The vertical distance measured from the mean elevation of the finished grade within ten (10) feet of the walls of the building to the highest point of any roof or parapet excluding radio and television antennae, solar energy system equipment, ventilators, cooling towers chimneys, spires, cupolas and similar appurtenances usually carried above the roof which do not enclose potentially habitable floor space and are not intended for human occupancy; except that in the Hillside and Ridgeline District, said vertical distance is measured from the mean elevation at the foundation perimeter of the natural grade existing prior to construction grading or filling.

Child Care Facility.* Centers which provide day care or school age programs as defined in Section 9 of Chapter 28A of the General Laws of the Commonwealth of Massachusetts.

Clearing Envelope.* The area within a lot which demises the area to be developed including structures, driveway, lawns, septic system and well as applicable. The clearing envelope represents the area where trees and natural vegetation may be cut down and removed. The balance of the lot beyond the clearing envelope is to remain in its undisturbed state. The limit of clearing is not intended to follow building setback requirements and will generally be a smaller area. The limit of clearing will normally not include wetland areas and their buffer zone without the approval of the Conservation Commission.

Co-location.* The use of a single tower mount on the ground by more than one wireless communications facility carrier (vertical co-location) and/or several antenna mounts on an existing building or structure by more than one carrier.

Congregate Living Facility.* A non-institutional, shared living facility providing housing and service needs to functionally impaired or socially isolated elders who are otherwise in good health, can maintain a semi-independent life style, and do not require constant supervision or intensive health care. Each resident shall have an independent bedroom and bathroom, and may have a separate living room, kitchen, or dining area, but may share living and dining facilities with other residents, such as a common dining facility.

Continuing Care Retirement Facility.* A facility that includes combinations of independent living, congregate living, assisted living and nursing home or long-term care within a single development, offering lifetime housing and a variety of health care, social, and recreational services.

Corner Lot. A lot with frontage on two (2) streets. A corner lot is considered to have two (2) front yards, two (2) side yards, and no rear yard.

Cottage Food Operation.* A person who prepares non-potentially hazardous (i.e., low-risk) food products such as cakes, cookies, breads and confectionaries in the home kitchen of that person's primary residence for off-premise sale to the consumer including through the internet or mail order.

Custodial Care Facility.* A facility that provides nonmedical care addressing the individual's personal needs, such as bathing, dressing, and eating. Such care may be provided by people without professional medical skills or training.

Dwelling. A building occupied as a residence by one or two families.

Dwelling Unit. One or more rooms providing complete facilities for living, sleeping, cooking, and bathing for the exclusive use of the occupants of the dwelling unit.

Elderly Housing.* Any residential premises available for lease by elderly or disabled persons which is financed or subsidized in whole or in part by state or federal housing programs established primarily to furnish housing rather than housing and personal services, and which was never licensed under M.G.L. Chapter 111.

Family. Any number of individuals related by blood, marriage, or adoption, living and cooking together as a single housekeeping unit, provided that a group of not more than four persons living and cooking together, but not necessarily related by blood or marriage each to the other, may be considered a family.

Family Day Care Home.* A private home whose resident family receives children under seven years of age (or under sixteen years of age if such children have special needs) for temporary custody and care during part of the day on a regular basis; provided that the total number of children shall not exceed ten (10), including participating children living in the residence. Family day care home is an accessory use to the principal use as a residence.

Farm.* A parcel or parcels of land under one ownership or lease, totaling more than five (5) acres, that is used primarily for the commercial, soil-dependent cultivation of agricultural crop production or the raising of livestock.

Frontage.* The continuous unbroken distance between the sidelines of a Lot measured along the street line at the common boundary between that portion of a "Lot" in the Town of Wilbraham and the right of way of a "Street" as defined hereinafter in this section, or in the case of a Corner Lot, the continuous unbroken distance between the side lot line and the intersecting street line (or the midpoint of the corner radius) measured on each street; and also provided that:

1. there are both legal rights of access and potential safe year-round practical vehicular access between the street line and a potential building site, that is unimpeded by:

   A. wetlands, unless a wetlands crossing has been approved by the Wilbraham Conservation Commission; or

   B. topography which prevents a proposed driveway from meeting the curb-cut requirements of the Town of Wilbraham; or

   C. other natural barriers;

2. access from the street line extended inward to the setback line is provided with a minimum lot width of not less than seventy-five (75%) of the required minimum lot frontage distance measured horizontally along lines which are parallel to or concentric with the street line; and

3. the street has been determined by the Planning Board to provide adequate access to the lot under the provisions of the Subdivision Control Law and the Town of Wilbraham Subdivision Regulations.

For zoning purposes, however, on the turning radius of a cul-de-sac, lot frontage may be considered as the distance between side lot lines measured at the setback line, provided that the distance measured on the street line shall be at least 75 percent of the minimum frontage required for the zone in which the lot is situated.

Garage, Private. A building or part thereof used for the storage of motor vehicles and accessory to a principal building on the same lot. No business or occupation carried on for profit is permitted in a private garage.

Ground Water. All the water found beneath the surface of the ground. In this By-Law the term refers to the slowly moving subsurface water present in aquifers and recharge areas.

Group Care Facility.* A type of group residence in which a group of individuals not related by blood, marriage, or adoption live together as a single housekeeping unit under a common housekeeping management plan in which some form of health care is provided.

Hazardous Material. A substance of material which has been determined by the Secretary of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce. Hazardous materials have been designated by the U.S. Department of Transportation under 49 C.F.R. parts 171.8 and 173.

Hazardous Waste. A solid, liquid, or combination of solid and liquid wastes, 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 reversible 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.

Heritage Farm Stand Development.* A Heritage Farm Stand Development is a mixed use development which derives from the adaptive reuse, restoration and economic revitalization of a historically significant farm stand structure and associated contiguous dwellings, barns and other accessory buildings which are located on land formerly in agricultural use that has been separated from its former productive land base.

Home Occupation.* The accessory use of a portion of a home or of a building or structure accessory thereto by a bonafide resident of the premises for the public conduct of a vocation, trade, small business, craft, art or profession which, by nature of its limited size and scope, does not cause any significant outward manifestation (such as traffic generation, parking congestion, noise or air pollution, materials storage, public service, utility demand, etc.) which is uncharacteristic of or an additional disturbance to the particular residential neighborhood in which said property is located.

Home Office, Private.* The accessory use of a portion of a home by a bonafide resident of the premises as an office, studio or work space for the private conduct of a profession or trade. Such occupations shall include minimal office-type activity, conducted by telephone, modem, fax and mail or the production of goods, services or work customarily conducted in residential areas, with no signs, no storage other than samples or assembly of products on the premises, no employees, and no commercial vehicles or customers visiting the premises.

Home Professional Office.* The accessory use of a portion of a home by a bonafide resident of the premises as an office or studio for the public conduct of a professional occupation. Such professions shall include physicians, surgeons, dentists, artists, musicians, accountants, lawyers, engineers, architects, teachers, insurance brokers, builders, real estate brokers, or other like persons.

Independent Living Facility.* A facility that provides residential accommodations for senior adults. These residences may include common areas, a common dining facility, and space for social and educational programs. Home health care or other community-based services may be used on an individual basis. Meals, linen and housekeeping services may be offered.

Landscaped Buffer Strip. See requirements in Section 10.2 hereafter.

Land Usable for Residential Construction. The number of lots found by the Planning Board at the time of application for a special permit, building permit or subdivision approval, to be suitable for the construction thereon of residential dwelling units under the applicable laws and by-laws and rules and regulations of the Town of Wilbraham and the Commonwealth of Massachusetts. Said lots shall be shown on a plan submitted by the applicant together with such percolation tests, and any other information deemed appropriate by the Planning Board. Said Planning Board shall make such determination after receiving recommendations from the Board of Health, Town Engineer, Conservation Commission and such other persons as it deems appropriate. Any proposed lot which does not satisfy the lot area, frontage, or yard requirement under Section 4.4 and any lot on a proposed site plan which does not pass a percolation test, in an area not served by Town sewers, shall not be deemed usable for residential construction.

Large-Scale Ground-Mounted Solar Energy System.* A solar energy system with solar panels structurally mounted on the ground in an array that occupies a total footprint area greater than 10,000 square feet of land, said footprint being measured as the total area of the vertical projection on the ground of all panels in the installation's most horizontal tilt position including all spaces between the panels.

Lattice Tower.* A type of structure upon which antennas and other wireless communications devices are mounted that is self-supporting with multiple legs and cross bracing of structural steel.

Leachable Wastes. Waste materials including solid wastes, untreated sewage, agricultural wastes, petroleum products, solid or liquid chemical products and fuels that are capable of releasing waterborne contaminants to the surrounding environment.

Livestock. Shall mean domestic animals including horses, ponies, cows, sheep and goats.

Long-term Care Facility.* An institution which is licensed or approved by the Massachusetts Department of Public Health to provide 24-hour health care under medical supervision to individuals who, by reason of advanced age, chronic illness, severe disability or infirmity are unable to care for themselves. For the purposes of this bylaw it includes: convalescent home, extended care facility, hospice, intermediate care facility, nursing home, and rest home.

Lot.* A continuous area or parcel of land in undivided common ownership, with legally definable boundaries, and not divided by a street. For zoning purposes, when a lot crosses the town boundary, only that portion of the lot situated in Wilbraham shall be considered in determining conformity to the dimensional requirements specified under this By-Law.

Lot Frontage. See the definition of "Frontage" above.

Lot Line. The established division line between lots or between a lot and a street.

Lot Line, Front.* All dividing lines between a street and the lot shall be considered front lot lines. The front lot line is also defined as the street line.

Lot Line, Side. The line or lines bounding a lot which extend from the street toward the rear in a direction approximately perpendicular to the street. In the case of corner lots, or through lots, all lines extending from streets shall be considered side lot lines.

Mixed Use Development.* The development of a tract of land under single ownership with vehicular access from an accepted public way which combines a variety of complementary and integrated uses, such as, but not limited to, residential, office, retail, civic, recreation or open space, located in a single building or group of buildings with a compact village design.

Mobile Home. Any vehicle or object whether resting on wheels, jacks or other foundation and having no motive power of its own, but which is drawn by, or used in connection with, a motor vehicle, and which is so designed and constructed as a dwelling unit which permits its transportation and relocation as a complete unit on its own wheels. This shall not include the type of vehicle known as a "travel trailer", "tent-type camp trailer" or "motor home".

Monopole.* The type of structure upon which antennas and other wireless communications devices are mounted that is self-supporting with a single shaft of wood, steel or concrete and a platform (or racks) for panel antennas arrayed at the top.

Motel-Motor Inn. A building designed and used for lodging transients in non-housekeeping units with not less than twelve (12) units in any one building. One permanent housekeeping dwelling unit is permitted for occupancy of a manager or custodian. Rooms for assembly, a swimming pool for the use of guests, and the serving of food shall be deemed to be accessory uses.

Multiple Dwelling. A building or structure occupied by more than two families.

Non-Conforming Building. A building legally existing at the effective date hereof, but which does not conform to all of the applicable requirements of this By-Law regarding area and width of lot, frontage of lot, percentage of building coverage, required yards and parking facilities and building height limit.

Non-Conforming Use. A use of land, building, or premises which is not a use permitted by the provisions of this By-Law for the district in which such land, building, or premises are situated, but which was legally existing at the effective date hereof.

Occupant. The word "occupant" shall include one or more individuals, a partnership, a business associate, an association and a corporation.

Open Space. Land set aside by an owner, to be retained in its natural state or used for agricultural, park or recreational purposes, or similar uses as specified in said special permit creating said open space. Said land shall be owned by the Town, a conservation trust, the owner (by way of a deed restriction) or some other entity and with such other conditions as are specified by the Planning Board. No building permit for a dwelling unit shall ever be issued thereafter for Open Space.

Penalties. A fine imposed for violation of the Zoning By-Law.

Planned Unit Residential Development.* A residential development on a tract of twenty (20) acres or more under single ownership with definite boundaries ascertainable from a recorded deed or plan, which consists of a mixture of residential uses and building types, including one family detached dwellings, two family dwellings, town houses, or multi-family dwellings, and which is planned and developed as an integral unit with a significant area of common open space and/or recreation land. The PURD includes streets, utilities, buildings and other site features and improvements for the common use by some or all of the occupants of the development, but which will not be provided, operated or maintained at general public expense.

Premises. The portion of a lot or building actually in use for the specific purpose or use under consideration.

Private Stable. A building or part of a building in which one or more horses or ponies are kept for the private use of the owner and in which no horses or ponies are kept for sale, rent, hire, breeding, or for commercial cartage, trucking, or other business purposes.

Public Vantage Point.* A view of land as seen from a public street or publicly identified and recognized public place (i.e., a view especially sensitive to visual change as viewed by the public).

Recharge Areas. Areas composed of permeable stratified sand and gravel and certain wetlands that collect precipitation or surface water and carry it to the underlying aquifer.

Registered Marijuana Dispensary (RMD).* A use operated by a not-for-profit entity registered and approved by the Massachusetts Department of Public Health under 105 CMR 725.000 and pursuant to all other applicable state laws and regulations, also known as a Medical Marijuana Treatment Center, that acquires, cultivates, possesses, processes, (including development of related products such as edible marijuana infused products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. RMD refers both to facilities where medical marijuana is grown, processed, and dispensed on the same site and to facilities where the medical marijuana is dispensed from a separate location that is off-site from the cultivating/processing facility but controlled and operated by the same registered and approved not-for-profit entity.

Septage. Liquid and solid material pumped from any individual on-site sewage disposal system.

Setback.* The minimum unoccupied space or horizontal distance which is required between a structure or other improvements and the related front, side or rear lot line.

Sewage. Any water carried putrescible waste resulting from the discharge of water closets, washing facilities, baths, showers and the like.

Sign.* Any permanent or temporary structure, device, letter, word, model, banner, pennant, insignia, trade flag, or representation use as, or which is in the nature of an advertisement, announcement, or direction, or is designed to attract the eye by means including intermittent or repeated motion of illumination.

Sludge. Accumulation of undigestible solids in water suspension removed from sewage during treatment.

Solar Energy System.* Any solar collector or other solar energy device, including appurtenances, mounted on a building or on the ground, the primary purpose of which is to provide for the collection, storage, conversion and distribution of solar energy for space heating or cooling, water heating or generation of electricity.

Solid Wastes. Discarded solid material with insufficient liquid content to be free-flowing. This includes but is not limited to rubbish, garbage, scrap materials, contained liquid or gaseous materials, inert fill material and landscape refuse.

Special Permit. A special permit is the permit granted by the Planning Board, the Board of Appeals or the Board of Selectmen acting as the Special Permit Granting Authority as hereinafter provided.

Special Permit Granting Authority. Special Permit Granting Authority shall mean the Board of Selectmen, Planning Board or the Board of Appeals as specified herein.

Story.* That portion of a building contained between any floor and the floor or roof next above it, but not to include the basement or attic.

Street.*

A. A public way or a way which the clerk of the town certifies is maintained and used as a public way; or

B. A way shown on a plan heretofore approved and endorsed in accordance with the subdivision control law, and actually constructed or to be constructed in accordance with said plan; or

C. The way in existence when the subdivision control law became effective in the town having, in the opinion of the Planning Board, sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby and for the installation of municipal services to serve such land and the building erected or to be erected thereon.

Street Line. The dividing line between a street and a lot, and in the case of a public street, the street line established by the public authority.

Structure. Any combination of materials located upon a lot and requiring pilings, footings, or a foundation for support. Swimming pools, tennis courts, basketball courts, and other similar recreational facilities, whether or not requiring foundations, shall be structures.

Subdivision. Including re-subdivision, shall be as defined in the Subdivision Control Law.

Swimming Pool. Any body of water greater than fifteen (15) feet in diameter, or equivalent area, and two (2) feet deep, above ground or below grade, contained in a natural, artificial, or semi-artificial ponded area, receptacle or container, for swimming or wading, whether permanent or temporary, and whether located indoors or outdoors.

Through Lot. A lot, other than a corner lot, which extends all the way between and abuts two (2) or more generally parallel streets. A through lot is considered to have two (2) front yards, two (2) side yards, and no rear yard.

Usable Land Area.* That portion of a lot which is not classified as a "wetland" as defined in Chapter 131, Section 40 of the Massachusetts General Laws and the regulations promulgated thereunder in 310 C.M.R. 10.00 and/or the Wilbraham Wetlands Bylaw and the regulations promulgated thereunder, and which does not consist of slopes having a grade of fifteen percent (15%) or greater.

Variance. A variance is an authorization by the Board of Appeals granting relief to owners of land or buildings from "substantial hardships" that arise from literal enforcement of the provisions of this Zoning By-Law. No variance may authorize a use or activity not otherwise permitted in the district in which the land or structure is located.

Wind Energy Conversion System. Any wind energy collecting device or system, the primary purpose of which is to provide for the collection, conversion, storage and/or distribution of wind energy for generation of electricity, water pumping or operating mechanical devices.

Wireless Communications Facilities.* The structures and devices designed to facilitate cellular telephone services, personal communications services and enhanced specialized mobile radio service as defined in Section 704 of the Federal Telecommunications Act of 1996. Included are towers, antennae mounted to towers or other structures, and accessory structures, such as sheds, which are directly required for facility operations. Not included in this definition are antennae and dishes used solely for residential television and radio reception; and amateur radio facilities used in accordance with the terms of any amateur radio service license issued by the Federal Communications Commission provided the tower is not used for commerce.

Yard. An open space, unoccupied except as hereinafter permitted, between a principal building and a street or a lot line. Any such space between a principal building and a street line shall be considered a front yard.

Zoning. The word "zoning" is used in this By-Law, adopted by the Town of Wilbraham, to regulate the use of land, buildings and structures to the full extent of the independent constitutional powers of the Town to protect the health, safety and general welfare of their present and future inhabitants.

SECTION 2 DIVISION INTO ZONING DISTRICTS

SECTION 2.1 BASE ZONING DISTRICTS
SECTION 2.2 OVERLAY ZONING DISTRICTS
SECTION 2.3 ZONING MAP
SECTION 2.4 BOUNDARY INTERPRETATION

2.1* BASE ZONING DISTRICTS

For the purpose of this By-Law, the total area of the Town of Wilbraham is divided into base zoning districts as follows:

Single Dwelling Residence Districts:

- R-15 Residence-15 District
- R-26 Residence-26 District
- R-34 Residence-34 District
- R-40 Residence-40 District
- R-60 Residence-60 District

Multiple Dwelling Residence District:

- RMD Residential Multiple Dwelling District

Business Districts:

- NO Neighborhood Office District
- NS Neighborhood Shopping District
- GB General Business District

Industrial, Professional Office Park, and General Business (I-POP-GB) District

- I-POP-GB

Adult Care Facilities (ACF) District

- ACF

2.2* OVERLAY ZONING DISTRICTS

For the purpose of this By-Law, the following districts are established as overlay districts and are considered superimposed over the base zoning districts:

- Flood Plain District
- Ridgeline and Hillside District

2.3 ZONING MAP

2.3.1* The location and boundaries of Base Zoning Districts are hereby established as shown on a map entitled "Zoning Map, Town of Wilbraham, Mass." prepared by the Town of Wilbraham Engineering Department, dated May 2002, as amended by vote of the Town Meeting.

2.3.2* The Flood Plain Overlay District as defined on maps described in Section 9.1.3 and the Ridgeline and Hillside Overlay District as described in Section 9.3.3 are incorporated herein by reference as part of the official Zoning Map.

2.3.3 All said maps and amendments thereto as shall be duly adopted are hereby declared to be an integral part of this By-Law and shall be on file in the Town Clerk's Office. Any change of the Zoning Map shall constitute an amendment to this By-Law and shall conform to the requirements for amending this By-Law.

2.4 BOUNDARY INTERPRETATION

2.4.1 Each zone district shall include land lying under any lake, pond, or stream therein. Where opposite sides of a stream lie in different zone districts, the zone boundary shall be deemed to be the center line of the stream.

2.4.2* Where a zone district boundary is clearly shown on the Zoning Map back from a street or railroad, it shall be deemed as being parallel to and at a distance shown by indicated figured measurements back from such street or railroad.

2.4.3* Where a zone boundary line as shown on the Zoning Map approximately follows property or lot lines, and the exact location of the boundary line is not indicated by means of figured measurements, then the property or lot line shall be the boundary line, with the exception of the Flood Plain District wherein boundaries shall always follow natural features and landscape contours shown on the maps.

2.4.4* Where distances are not specified on the Zoning Map nor otherwise determined from the above provisions, the scale of the map shall be used to determine the location of the zone district boundary.

2.4.5 In the case of a lot lying in more than one base zone district, the provisions of the less restrictive district may be applied for a distance of not more than twenty-five (25) feet into the more restrictive district provided the lot has frontage on a street in the less restrictive district.

SECTION 3 USE REGULATIONS

SECTION 3.1 BASIC USE REGULATIONS
SECTION 3.2 PROHIBITED USES
SECTION 3.3* NON-CONFORMING USES AND STRUCTURES
SECTION 3.4* PRINCIPAL USE REGULATIONS
SECTION 3.5* SPECIAL USE REGULATIONS
SECTION 3.6* ACCESSORY USE REGULATIONS

3.1 BASIC USE REGULATIONS

3.1.1 No structure, building or dwelling in any district shall be erected, constructed, established, altered, repaired, enlarged or moved, and no land shall be put to new use or shall be occupied except in conformity with the requirements and conditions established by this By-Law, as set forth in Section 3.4, Table One: Schedule of Use Regulations, or as specifically regulated or provided otherwise under other sections hereof.

3.1.2 When an activity may be classified under more than one use listed in the Schedule of Use Regulations, the more specific classification shall apply, and if equally specific, the more restrictive classification shall govern.

3.1.3 Any use allowed shall be in conformity with all the density and dimensional regulations and any other pertinent requirements of this By-Law.

3.2 PROHIBITED USES

Any use not specifically listed herein or otherwise permitted in a district shall, to the extent permitted by law, be prohibited, provided that:

3.2.1 In accordance with Massachusetts General Laws, Chapter 40A, and not withstanding any provisions to the contrary, this By-Law shall not prohibit, regulate or restrict the use of land or structures for religious purposes or educational purposes on land owned or leased by the Commonwealth, or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination or by a nonprofit educational corporation; provided, however, that such land or structures shall be subject to reasonable regulations, concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements, in accordance with the provisions of this By-Law.

3.2.2 This By-Law shall not prohibit, unreasonably regulate or require a special permit for the use of land for the primary purpose of agriculture, horticulture, floriculture or viticulture and shall not prohibit or unreasonably regulate the expansion or reconstruction of existing structures thereon for the primary purpose of agriculture, horticulture, floriculture or viticulture except that all such activities may be limited to parcels of more than five acres which are not zoned for agriculture,

horticulture, floriculture or viticulture, nor shall provisions of this By-Law exempt land or structures from floodplain or wetland regulations established pursuant to general law.

3.3* NON-CONFORMING USES AND STRUCTURES

Any structure, building or use of a structure, building or land, lawfully existing at the time of the adoption of this Zoning By-Law or any subsequent amendment thereto which does not conform to the regulations thereof may be continued but may not be changed or altered so as to increase or expand the nonconformity except as may be specifically authorized by this section in accordance with Chapter 40A, Section 6 of the General Laws. If such nonconforming situation is abandoned or terminated, as set forth below, it may not be resumed except in compliance with this By-Law.

3.3.1 Non-Conforming Uses

The Board of Appeals may authorize by special permit specified changes, extensions or alterations to preexisting nonconforming uses provided that no such change, extension or alteration shall be allowed unless there is also a finding by the Board of Appeals that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming use to the neighborhood.

3.3.2 Non-Conforming Structures

The Board of Appeals may authorize by special permit specified alterations, structural changes, additions, extensions, or reconstructions (collectively “alterations”) to preexisting nonconforming structures provided that no such alteration shall be allowed unless there is also a finding by the Board of Appeals that such alteration shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

3.3.3 Non-Conforming Single and Two Family Residential Structures

A non-conforming single-family or two-family residential structure in a Residential Zoning District may be altered, changed, added to, extended, or reconstructed (collectively “alterations”) without a proceeding before the Board of Appeals provided the Building Commissioner determines that the proposed alteration (1) does not constitute a change of use and (2) does not make the residential structure more non-conforming. A proposed alteration to such structure will not be considered more nonconforming and will be allowed by building permit from the Building Commissioner under the following circumstances:

A. Where the existing structure is located on a lot with insufficient frontage and/or lot area, but the existing structure complies with all current setback, building coverage and building height requirements, and the proposed alteration will also comply with all current setback, building coverage and building height requirements.

B. Where the existing structure encroaches upon one or more required setbacks, and the proposed alteration will not increase the footprint of the existing structure and will comply with building coverage and building height requirements. This provision shall apply regardless of whether the lot complies with the current minimum frontage or lot area requirement.

C. Where the existing structure encroaches upon one or more required setbacks, and the proposed alteration will increase the footprint of the existing building, the expanded portion of the footprint will comply with all current setback requirements, and the proposed alteration will comply with building coverage and building height requirements. This provision shall apply regardless of whether the lot complies with the current minimum frontage or lot area requirement.

D. Where the existing structure encroaches upon one or more required setbacks, and the proposed alteration will increase the footprint of the existing building so that it further encroaches upon the required setback area but to a distance no greater than the existing structure and will comply with building coverage and building height requirements. This provision shall apply regardless of whether the lot complies with the current minimum frontage or lot area requirement.

In the event the Building Commissioner determines that the nonconforming nature of such structure would be increased by the proposed change, extension, alteration or reconstruction, the Board of Appeals may authorize by special permit such change, extension, alteration or reconstruction provided the Board finds that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

3.3.4 Restoration

A lawfully non-conforming structure, building or use damaged or destroyed by fire, explosion, natural disaster or other accidental cause may be reconstructed or rebuilt to its former size on its former location, and the former use may be resumed, provided that such reconstruction or repair is in conformance with current State Building Code specifications and is substantially completed within one (1) year of the occurrence of said damage. This one year term may be extended for cause by the Board of Appeals.

3.3.5 Abandonment or Non-Use

Any non-conforming use which has been abandoned or has not been exercised for a period of twenty-four (24) consecutive months or more, shall not be resumed or reestablished, and all future uses shall conform to the requirements of this Zoning By-Law.

3.3.6 Reversion

Any nonconforming use which has been changed to a more restricted (less nonconforming) use, shall not revert to its original less restricted use.

Any non-conforming use which has been changed to a conforming use, shall not revert to a non-conforming use.

3.3.7 Non-conforming Signs - refer to section 12.12.

3.3.8 Non-conforming Residential Lots - refer to section 4.4.11.

3.4* PRINCIPAL USE REGULATIONS

The principal uses permitted in each district are set forth in Table One, Schedule of Use Regulations, which is supplemented by other sections of this By-Law.

In the Schedule of Use Regulations the following code shall apply:

"Y"	Use permitted as of right in the district indicated subject to such requirements as may be specified elsewhere in this By-Law.
"SPA"	Use permitted as of right in the district indicated subject to Site Plan Approval from the Planning Board in accordance with the provisions of Section 13.5 and furthermore subject to such requirements as may be specified elsewhere in this By-Law.
"ZBA"	Use permitted by Special Permit in the district indicated if granted by the Zoning Board of Appeals subject to the provisions of Section 13.6 and furthermore subject to such requirements as may be specified elsewhere in this By-Law.
"PB"	Use allowed by Special Permit in the district indicated if granted by the Planning Board subject to the provisions of Section 13.6 and furthermore subject to such requirements as may be specified elsewhere in this By-Law.
"N"	Use prohibited in the district indicated.

TABLE ONE: SCHEDULE OF USE REGULATIONS												
BY-LAW NUMBER	**LAND USE CLASSIFICATION WITH APPLICABLE STANDARDS & CONDITIONS**	**ZONING DISTRICT**										
		R15	**R26**	**R34**	**R40**	**R60**	**RMD**	**NO**	**NS**	**ACF**	**GB**	**IPG**
3.4.1*	**PRINCIPAL USES: AGRICULTURAL AND GENERAL**											
3.4.1.1	**Agriculture**, horticulture, floriculture, viticulture for home consumption by the owner on parcels of **five (5) acres or less** under single ownership, but not to include the keeping of farm livestock.	Y	Y	Y	Y	Y	N	N	N	N	N	N
3.4.1.2	**Agriculture**, horticulture, floriculture, viticulture for home or commercial consumption on parcels of **more than five (5) acres** under single ownership. Breeding, raising or keeping livestock shall be subject to all applicable regulations of the Wilbraham Board of Health. A livestock farm shall not include mink, rabbits or any other fur-bearing animals.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
3.4.1.3*	**Commercial greenhouse**, limited to parcels of more than five acres under single ownership in Residential Districts.	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA
3.4.1.4	**Roadside farm stand** on parcels of more than five (5) acres under single ownership. Provided that during the months of June, July, August and September of every year at least fifty percent (50%) of the agricultural or farm products for sale based on gross sales dollars or volume have been raised or produced on the premises or elsewhere in the Town of Wilbraham**.** **Temporary stands** for the sale of such products may be operated for a period not to exceed six (6) months in any one year and shall be taken down promptly at the end of said period. **Permanent stands** for the sale of such products are permitted subject to the off-street parking requirements of Section 11 of this By-Law.	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA

TABLE ONE: SCHEDULE OF USE REGULATIONS												
BY-LAW NUMBER	**LAND USE CLASSIFICATION WITH APPLICABLE STANDARDS & CONDITIONS**	**ZONING DISTRICT**										
		R15	**R26**	**R34**	**R40**	**R60**	**RMD**	**NO**	**NS**	**ACF**	**GB**	**IPG**
3.4.1.5	**Conservation land.**	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
3.4.1.6	**Forestry**, harvesting of forest products, tree farm or nursery on parcels of more than five (5) acres under single ownership. Any temporary saw mill may be used only for processing timber from the premises.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
3.4.1.7	**Low-density recreational and low-density athletic uses**, other than those permitted herein, consistent with the neighborhood in which said use is proposed. See also 3.4.4.6 (Public Park) and 3.4.5.11 (Public Recreation as a Business).	ZBA	ZBA	ZBA	ZBA	ZBA	N	N	N	N	ZBA	ZBA
3.4.1.8	**Removal of soil, loam, sand, gravel, stone or other earth materials** subject to the restrictions of Section 10.4.	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA

TABLE ONE: SCHEDULE OF USE REGULATIONS												
BY-LAW NUMBER	LAND USE CLASSIFICATION WITH APPLICABLE STANDARDS & CONDITIONS	ZONING DISTRICT										
		R15	R26	R34	R40	R60	RMD	NO	NS	ACF	GB	IPG
3.4.2*	**PRINCIPAL USES: RESIDENTIAL**											
3.4.2.1	**One family detached dwelling** but not a mobile home.	Y	Y	Y	Y	Y	N	N	N	N	N	N
3.4.2.2	**Conversion of an existing one family dwelling to a two family dwelling** subject to the restrictions in Section 4.3.	ZBA	ZBA	ZBA	ZBA	ZBA	N	N	N	N	N	N
3.4.2.3	**Multi-family dwelling**, subject to the restrictions in Section 5. See also 3.4.2.6 (Planned Unit Residential Development).	N	N	N	N	N	PB	N	N	N	N	N
3.4.2.4	**Flexible subdivision residential development** subject to the restrictions in Section 4.6.	PB	PB	PB	PB	PB	N	N	N	N	N	N
3.4.2.5	**Flexible non-subdivision (estate lot) development** subject to the restrictions in Section 4.7.	PB	PB	PB	PB	PB	N	N	N	N	N	N
3.4.2.6	**Planned Unit Residential Development (PURD)** subject to the restrictions in Section 4.8.	PB	PB	PB	PB	PB	N	N	N	N	N	N

TABLE ONE: SCHEDULE OF USE REGULATIONS												
BY-LAW NUMBER	LAND USE CLASSIFICATION WITH APPLICABLE STANDARDS & CONDITIONS	ZONING DISTRICT										
		R15	R26	R34	R40	R60	RMD	NO	NS	ACF	GB	IPG
3.4.3*	**PRINCIPAL USES: GOVERNMENT & PUBLIC SERVICE**											
3.4.3.1*	**Municipal use**.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
3.4.3.2	**Post Office**.	N	N	N	N	N	N	ZBA	ZBA	N	ZBA	ZBA
3.4.3.3	**Public Utility installations** provided there are no service or storage yards in conjunction therewith.	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA
3.4.3.4	**Public Utility office building**.	N	N	N	N	N	N	ZBA	ZBA	N	ZBA	ZBA
3.4.3.5	**Public Utility installations** including storage yards and electric substations but expressly excluding electric generation and gas manufacturing and storage plants.	N	N	N	N	N	N	N	N	N	ZBA	ZBA
3.4.3.6	**Wireless Communications Facilities subject to the restrictions in section 10.5.**	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB
3.4.3.7*	**Large-Scale Ground-Mounted Solar Energy Systems**.	N	N	PB	PB	PB	N	N	N	N	PB	SPA

TABLE ONE: SCHEDULE OF USE REGULATIONS												
BY-LAW NUMBER	LAND USE CLASSIFICATION WITH APPLICABLE STANDARDS & CONDITIONS	ZONING DISTRICT										
		R15	R26	R34	R40	R60	RMD	NO	NS	ACF	GB	IPG
3.4.4*	**PRINCIPAL USES: INSTITUTIONAL**											
3.4.4.1	**Public school, parish school,** or **nonprofit educational institution**. (See also section 3.4.5.8)	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA
3.4.4.2	**Church** or other place of worship, parish house, parsonage, rectory, convent or other religious use.	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA
3.4.4.3	**Public library, philanthropic institution** or **public museum**.	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA
3.4.4.4*	**Child care facility**. (See also 3.9.2.14)	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA
3.4.4.5	[intentionally omitted]											
3.4.4.6	**Public park** or **playground**. (See also section 3.4.1.7)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
3.4.4.7	**Hospital, sanatorium, convalescent home, nursing home,** or **rest home**. Not for the care of drug or liquor patients, nor for correctional purposes, nor for the care of the insane.	ZBA	ZBA	ZBA	ZBA	ZBA	N	N	N	PB	ZBA	ZBA
3.4.4.8	**Adult Care Facilities**, subject to the restrictions in section 8.0.	N	N	N	N	N	N	N	N	PB	N	N

TABLE ONE: SCHEDULE OF USE REGULATIONS												
BY-LAW NUMBER	LAND USE CLASSIFICATION WITH APPLICABLE STANDARDS & CONDITIONS	ZONING DISTRICT										
		R15	R26	R34	R40	R60	RMD	NO	NS	ACF	GB	IPG
3.4.5*	PRINCIPAL USES: BUSINESS											
3.4.5.1*	**Professional and business offices (medical)** including medical, dental, surgical, mental health, physical therapy, rehabilitation and other similar health care services that are provided on an out-patient basis as well as related support services, laboratories and other facilities incidental thereto.											
	A. An office building with a **gross floor area of 2,000 square feet or less** on a lot.	N	N	N	N	N	N	SPA	SPA	SPA	SPA	SPA
	B. An office building with a **gross floor area of more than 2,000 but less than or equal to 3,000 square feet** on a lot.	N	N	N	N	N	N	ZBA	ZBA	SPA	SPA	SPA
	C. An office building with a **gross floor area of more than 3,000 square feet** on a lot.	N	N	N	N	N	N	ZBA	ZBA	PB	ZBA	ZBA
3.4.5.2*	**Professional and business offices (non-medical)** including, but not limited to, architectural, engineering, legal, finance, banking, insurance and real estate.											
	A. An office building with a **gross floor area of 2,000 square feet or less** on a lot.	N	N	N	N	N	N	SPA	SPA	N	SPA	SPA
	B. An office building with a **gross floor area of more than 2,000 but less than or equal to 3,000 square feet** on a lot.	N	N	N	N	N	N	ZBA	ZBA	N	SPA	SPA
	C. An office building with a **gross floor area of more than 3,000 square feet** on a lot.	N	N	N	N	N	N	ZBA	ZBA	N	ZBA	ZBA

TABLE ONE: SCHEDULE OF USE REGULATIONS												
BY-LAW NUMBER	**LAND USE CLASSIFICATION WITH APPLICABLE STANDARDS & CONDITIONS**	**ZONING DISTRICT**										
		R15	**R26**	**R34**	**R40**	**R60**	**RMD**	**NO**	**NS**	**ACF**	**GB**	**IPG**
3.4.5.3	A permanent building, the principal use of which shall be **furnishing a business service or services**, but expressly excluding automobile fuel sales.	N	N	N	N	N	N	ZBA	ZBA	N	ZBA	ZBA
3.4.5.4	A permanent building, the principal use of which shall be **retail sales,** but expressly excluding motor vehicle and sales and motor vehicle fuel sales.	N	N	N	N	N	N	ZBA	ZBA	N	ZBA	ZBA
3.4.5.5*	**Barber** and **beauty shops**	N	N	N	N	N	N	ZBA	ZBA	N	ZBA	ZBA
3.4.5.6	**Mortuary**.	N	N	N	N	N	N	N	N	N	ZBA	ZBA
3.4.5.7	**Sales offices**. The premises may be used for display of goods only, not for the storage of goods.	N	N	N	N	N	N	ZBA	ZBA	N	ZBA	ZBA
3.4.5.8	**Private schools** offering instruction in the arts, sciences, and trades. (See also section 3.4.4.1)	N	N	N	N	N	N	N	N	N	ZBA	ZBA
3.4.5.9	**Cleaning and laundry service**, and washing machine rental establishment.	N	N	N	N	N	N	N	N	N	ZBA	ZBA
3.4.5.10	**Cleaning** and **laundry service dropoff and pickup establishment** , with no on-site cleaning facilities.	N	N	N	N	N	N	ZBA	ZBA	N	ZBA	ZBA

TABLE ONE: SCHEDULE OF USE REGULATIONS												
BY-LAW NUMBER	LAND USE CLASSIFICATION WITH APPLICABLE STANDARDS & CONDITIONS	ZONING DISTRICT										
		R15	R26	R34	R40	R60	RMD	NO	NS	ACF	GB	IPG
3.4.5.11*	**Public recreation operated as a business,** including facilities for assembly, dancing, billiards, bowling, soccer, tennis, gymnastics, roller skating and similar activities, including mechanical and electrical equipment, vending machines and automatic amusement devices used as accessory to the above listed uses. General Automatic Amusement Facilities & Family-Oriented Automatic Amusement Facilities as defined in section 1.3 are expressly prohibited as a principal or accessory use except as provided by Section 3.9.3.6.	N	N	N	N	N	N	N	N	N	ZBA	ZBA
3.4.5.12	**Motel or motor inn.** The lot area may not be less than two thousand (2,000) square feet for each rental unit.	N	N	N	N	N	N	N	N	N	ZBA	ZBA
3.4.5.13*	**Body Art Establishment**	N	N	N	N	N	N	N	N	N	ZBA	ZBA
3.4.5.14*	**Exercise facility or health club**	N	N	N	N	N	N	N	N	N	ZBA	ZBA
3.4.5.15	**Retail lumber** and similar **building material yards**. All material must be kept in a building or within a solid enclosure eight (8) feet high. Expressly prohibited is the bulk storage of cement, sand, gravel, and concrete mixing, and tanks above ground for storing petroleum products having a capacity of more than ten thousand (10,000) gallons.	N	N	N	N	N	N	N	N	N	ZBA	ZBA
3.4.5.16	**Motor vehicle repair services**.	N	N	N	N	N	N	N	N	N	ZBA	ZBA

TABLE ONE: SCHEDULE OF USE REGULATIONS												
BY-LAW NUMBER	LAND USE CLASSIFICATION WITH APPLICABLE STANDARDS & CONDITIONS	ZONING DISTRICT										
		R15	R26	R34	R40	R60	RMD	NO	NS	ACF	GB	IPG
3.4.5.17*	**Restaurant & food service establishments**. Customers shall be served and seated inside a completely enclosed building except as provided for in section 3.9.3.3. Catering and take out food sales are permitted as an accessory use. Drive through window service is prohibited except by special permit from the Planning Board in the GB and I-POP-GB Districts	N	N	N	N	N	N	ZBA	ZBA	N	ZBA	ZBA
3.4.5.18	**Wholesale trade, business and storage warehouse**. No manufacturing or other processing of materials for wholesale or retail sales.	N	N	N	N	N	N	N	N	N	ZBA	ZBA
3.4.5.19*	**Theaters** for indoor motion picture projection or stage production.	N	N	N	N	N	N	N	N	N	ZBA	ZBA
3.4.5.20	**Retail sales of automobiles and trucks, subject to the restrictions in Section 6.5**	N	N	N	N	N	N	N	N	N	PB	PB
3.4.5.21*	**Registered Marijuana Dispensary** as defined in Section 1.3 and subject to the restrictions in Section 7.6	N	N	N	N	N	N	N	N	N	N	PB

TABLE ONE: SCHEDULE OF USE REGULATIONS												
BY-LAW NUMBER	LAND USE CLASSIFICATION WITH APPLICABLE STANDARDS & CONDITIONS	ZONING DISTRICT										
		R15	R26	R34	R40	R60	RMD	NO	NS	ACF	GB	IPG
3.4.6*	**PRINCIPAL USES: INDUSTRIAL**											
3.4.6.1	**Research, scientific,** and **developmental laboratories.**											
	A. Manufacturing and assembling limited to research and developmental purposes, and not for the purpose of wholesale or retail sale of the product worked on	N	N	N	N	N	N	N	N	N	ZBA	ZBA
	B. Manufacturing and assembling not subject to limitations listed in 3.4.6.1(A.) above.	N	N	N	N	N	N	N	N	N	N	ZBA
3.4.6.2	**Wholesale business, storage, warehouse, distributing plant**.	N	N	N	N	N	N	N	N	N	N	ZBA
3.4.6.3	**Assembly of electrical appliances**, instruments, products and devices, including the manufacture of parts.	N	N	N	N	N	N	N	N	N	ZBA	ZBA
3.4.6.4*	**Contractor's Yard** or premises used by a building contractor, landscaper or similar tradesman for the fabrication of subassemblies or the storage of supplies and equipment. Provided that all disturbing dust, noise, odor, vibration or other objectionable effects are effectively confined to the premises and do not pose a threat to human health, safety or the environment.	N	N	N	N	N	N	N	N	N	N	ZBA

TABLE ONE: SCHEDULE OF USE REGULATIONS												
BY-LAW NUMBER	LAND USE CLASSIFICATION WITH APPLICABLE STANDARDS & CONDITIONS	ZONING DISTRICT										
		R15	R26	R34	R40	R60	RMD	NO	NS	ACF	GB	IPG
3.4.6.5	**Manufacture, treatment** (including machining and sintering), and **assembly of articles** made principally from the following materials: glass, metal, plastics, precious metals or stones, textiles, or wood. Scrapping and salvage of motor vehicles and parts is not permitted.	N	N	N	N	N	N	N	N	N	N	ZBA
3.4.6.6	Plants for the processing and distribution of milk, dairy and food products for human consumption, and for bottling or packaging of beverages.	N	N	N	N	N	N	N	N	N	N	ZBA
3.4.6.7	**Professional Office Park**, subject to the restrictions in Section 7.5.	N	N	N	N	N	N	N	N	N	ZBA	ZBA
3.4.6.8	**Motor vehicle towing and transportation business**. A. Temporary storage of motor vehicles shall be permitted as an accessory use and shall be limited to motor vehicles that have been towed or transported pending the reclamation or disposition of such vehicles. B. Motor vehicle sales shall be permitted as an accessory use only and shall be limited to motor vehicles that have been towed or transported and not reclaimed.	N	N	N	N	N	N	N	N	N	N	ZBA

TABLE ONE: SCHEDULE OF USE REGULATIONS												
BY-LAW NUMBER	LAND USE CLASSIFICATION WITH APPLICABLE STANDARDS & CONDITIONS	ZONING DISTRICT										
		R15	R26	R34	R40	R60	RMD	NO	NS	ACF	GB	IPG
3.4.6.9	**Bulk Materials Transfer Facility**. Land or building used for the collection, processing and transportation of construction and demolition materials for re-use or proper disposal. Bulk materials shall not be stored on-site on a long-term basis. Hazardous materials, hazardous waste, household waste, and the storage or salvage of motor vehicles and white goods are expressly prohibited.	N	N	N	N	N	N	N	N	N	N	ZBA

TABLE ONE: SCHEDULE OF USE REGULATIONS												
BY-LAW NUMBER	LAND USE CLASSIFICATION WITH APPLICABLE STANDARDS & CONDITIONS	ZONING DISTRICT										
		R15	R26	R34	R40	R60	RMD	NO	NS	ACF	GB	IPG
3.5*	**MIXED USES**											
3.5.1*	**Mixed Use Development** as defined in Section 1.3 and subject to the restrictions in Section 14.	N	N	N	N	N	N	N	N	N	PB	PB
3.5.2*	**Heritage Farm Stand Development** as defined in Section 1.3 and subject to the restrictions in Section 4.11.	N	PB	PB	PB	PB	N	N	N	N	N	N
3.6*	**SPECIAL USES** Any use substantially similar to or accessory to a permitted use which does not involve a more intense use than permitted herein in terms of traffic volume, type of use, and visual, air and noise pollution, always taking into account and observing the intentional differentiation of uses permitted between districts. Said use shall be subject to such additional requirements and safeguards as will protect the public health, safety and welfare with particular consideration to the impact of such use on the general character of the surrounding businesses, and the traffic generated on other property in the area.	N	N	N	N	N	N	ZBA	ZBA	PB	ZBA	ZBA

TABLE ONE: SCHEDULE OF USE REGULATIONS												
BY-LAW NUMBER	LAND USE CLASSIFICATION WITH APPLICABLE STANDARDS & CONDITIONS	ZONING DISTRICT										
		R15	R26	R34	R40	R60	RMD	NO	NS	ACF	GB	IPG
	<u>EDITOR'S NOTE</u>: ***SECTION 3.7 & 3.8*** ***AND PAGES 3-18 THROUGH 3-24*** ***ARE RESERVED FOR FUTURE USE***											

3.9* ACCESSORY USE REGULATIONS

Accessory uses other than those incident to farming shall be on the same lot as the principal use and shall be such as do not alter the character of the premises on which they are located or impair the neighborhood.

3.9.1 ACCESSORY USES: GENERAL

3.9.1.1 Uses accessory to farming.

The processing and sale of products are subject to the restrictions set forth in Section 3.4.1.4 above.

3.9.1.2 Signs.

In compliance with the special provisions and restrictions set forth in Section 12 Sign Regulations, and requiring a permit from the Building Inspector. All other signs are expressly prohibited.

3.9.1.3* **Solar Energy System** is permitted in all zoning districts as an accessory use to the principal use subject to the following requirements.

A. The Solar Energy System shall be designed for the primary purpose of supplying electrical or thermal power for the principal use and/or accessory use of the property on which the system is located, although this provision shall not prohibit a net metered solar energy system to be installed for the purpose of generating electricity on-site that is interconnected with the electric grid and which allows the on-site consumer to feed surplus electricity into the electrical grid with the approval of the local utility company.

B. Solar Energy System may only be constructed or materially modified after the issuance of a building permit by the Building Commissioner.

C. The Solar Energy System may be integrated into or attached to the principal structure and/or accessory building or mounted on the ground in accordance with the requirements of this by-law and all other applicable building and electrical codes.

D. Roof-Mounted Solar Energy Systems shall conform to height regulations specified for the applicable principal or accessory building type in the underlying zoning district or to such other height as is determined by the Building Commissioner to be essential for proper system operation provided that such height will not present any undue hardships on abutting

properties. A structural engineering report may be required by the Building Commissioner documenting the structural integrity of the structure and its ability to support the proposed roof-mounted solar facility.

E. Ground-mounted Solar Energy Systems shall be considered structures which must comply with the following standards:

1. Ground-mounted Solar Energy Systems must comply with all minimum setback requirements for the Zoning District where it is to be installed except that the rear yard setback for such Systems can be reduced by one-third of the required setback in the District.

2. Ground-mounted Solar Energy Systems shall be installed as close to the ground as practicable and shall not exceed twelve (12) feet in height.

3. Ground-mounted Solar Energy Systems must comply with the accessory structure regulations applicable to the Zoning District where it is located except that in Residential Districts the detached accessory structure restrictions imposed under section 4.4.8 shall not apply to Ground-mounted Solar Energy Systems that otherwise comply with the standards imposed in this section 3.9.3.1.

4. Ground-mounted Solar Energy Systems shall be designed and located to minimize adverse visual impacts on surrounding properties and, if necessary, the Building Commissioner may require that the property owner make reasonable efforts to screen the system from the view of streets and abutting residential property, where feasible and economically practicable, through the use of architectural features, earth berms, landscaping, or other screening which will harmonize with the character of the property and surrounding area.

5. Ground-Mounted Solar Energy Systems shall not be installed over existing septic systems or the septic system reserve area.

6. Ground-Mounted Solar Energy Systems with solar energy collector panels occupying a

total footprint of more than 1,000 square feet of land area shall require special permit approval from the Planning Board subject to the provisions of section 13.6 and the Planning Board may impose conditions reasonably appropriate to improve site design, protect the public health, safety and welfare and/or otherwise serve the purpose of this section. For the purpose of this regulation, such footprint shall be measured as the total area of the vertical projection on the ground of all panels in the installation's most horizontal tilt position including all spaces between the panels.

7. Large-scale Ground-mounted Solar Energy systems as defined in section 1.3 shall be considered a principal use which are subject to regulation under section 10.7.

F. Solar Energy Systems shall be maintained in good working order and the owner shall have it removed if the Building Commissioner determines it has become a nuisance or hazard.

G. The Planning Board acting as the Special Permit Granting Authority in accordance with Section 13.6 of this By-Law may consider and grant a special permit for Solar Energy Systems that deviate from the standards set forth in this Section 3.9.1.3 subject to a finding that:

1. The benefit of installing solar energy power at the installation site will not conflict with the public health, safety and welfare concerns that the regulations of this Section 3.9.1.3 are intended to protect; or

2. That the particular design, mitigation measures, offsets, agreements, or other provisions of the proposed installation address such concerns in an alternative and satisfactory manner.

3.9.1.4 **Wind energy conversion system** for the on-site use of and/or credit distribution of excess electricity to an electric utility, designed pursuant to applicable Town, State and Federal codes, regulations and statutes.

Height limitations shall not apply to wind energy conversion systems if such systems are in no way used for living purposes.

[Editor's Note: This page 3-28 has been intentionally left blank.]

3.9.2 ACCESSORY USES: RESIDENTIAL

3.9.2.1 **Parking or storage of motor vehicles** subject to the requirements of section 4.5.

3.9.2.2* **Private attached garage, detached garage and/or carport** accessory to a residential dwelling with a combined number of garage doors not to exceed three (3) and with combined garage space not to exceed 1100 square feet, unless so authorized by special permit from the Planning Board. The location and size of accessory garages shall also be subject to the requirements imposed under section 4.4.8. Parking or storage of motor vehicles shall be subject to section 4.5.

3.9.2.3 **Tennis court, basketball court, or similar structure** accessory to a residential dwelling and limited to the occupants and their guests.

3.9.2.4 **Swimming pool** accessory to a residential dwelling and limited to the occupants and their guests.

A. Subject to the requirements of the Board of Health [see Appendix B] and further provided that the swimming pool and a fence, if so required, shall conform to setback and yard requirements as set forth in Section 4.4.

B. Artificial lighting of the pool shall be shaded and directed in such a manner as to limit the lighting to the actual area of the pool, and in no way shall constitute a nuisance. Nothing in this section shall in any way affect present legally existing swimming pools.

3.9.2.5 **Private greenhouses, conservatories, and cold frames; children's playhouses and playground equipment; gazebos, enclosed patios or similar buildings for passive recreational use; tool and garden sheds for the storage or maintenance of yard equipment used on the premises; flagpoles; fences; shelters for household pets (but not a kennel); and other similar buildings and structures** which are used in conjunction with and incidental to a permitted principal residential use.

3.9.2.6 **Temporary mobile home** for residential occupancy for a period not to exceed twelve (12) months on a premises whose dwelling has been rendered uninhabitable by fire or accident with a permit from the Building Inspector.

3.9.2.7 **Private Stables** subject to the following conditions:

A. The location of the stable is not less than one hundred seventy-five (175) feet from any street line and not less than one hundred (100) feet from any side lot line and not less than fifty (50) feet from any rear lot line.

B. The minimum acreage required for a private stable shall be three (3) acres of which one and one-half (1.5) acres shall be suitable pasture land to permit a maximum of one horse or pony. One additional horse or pony shall be permitted for each additional two (2) acres of land of which one (1) acre shall be suitable pasture land.

C. Said animal or animals shall be kept under control by adequate fencing within the area specified. The fenced area shall be to the rear of the rear line of the dwelling of the owner or lessee except in cases where the frontage of the property is five hundred (500) feet or more on a public or private way.

3.9.2.8 **The taking of boarders** not to exceed four (4) by a resident family in an owner-occupied single-family dwelling by special permit from the Zoning Board of Appeals.

3.9.2.9* [section deleted – May 12, 2008]

3.9.2.10 **Bed and breakfast home** by special permit from the Zoning Board of Appeals provided that:

A. There shall be an owner who resides on the premises responsible for the operation.

B. There shall be not more than three (3) rooms available for occupancy by not more than six (6) guests at any one time.

C. Breakfast may be provided to overnight guests. However, there shall be no separate cooking facilities.

D. There shall be no substantial change to the exterior of the building.

E. One parking space shall be provided for each guestroom.

F. If such facility is to be served by an existing on-site septic system, the owner shall obtain a letter from the Board of Health or its agent that the sewage disposal system is adequate for the proposed use.

G.* Signage shall be limited to an announcement sign as permitted under Section 12.5.4.

H. Any permit shall be personal to the person or persons to whom it is issued and shall not be transferable.

3.9.2.11 Private home office or studio.

The use of a portion of a home by a bonafide resident of the premises as an office or studio for the private conduct of a profession or trade shall be considered accessory to the use of the residence, provided that:

A. The occupation is to be conducted in an office or studio in the principal dwelling, and is carried on only by members of the resident family living on the premises. Nonresidents shall not be employed on the premises in connection with such use.

B. The occupation is clearly incidental to and secondary to the use of the dwelling as a residence.

C. The area devoted to the conduct of the home occupation does not exceed 25 percent of the habitable floor area of the dwelling unit.

D. No external change is made which alters the residential appearance of the dwelling or the residential character of the lot.

E. There is no exterior display or visible storage or other outward evidence that the premises are being used for any purpose other than residential use.

F. No noise, vibration, smoke, dust, odor, heat, glare, unsightliness, electrical interference, or other nuisance is produced which is detectable to normal sensory perception beyond the property line in amounts exceeding those normal to residential property.

G. No articles are sold or offered for sale on the premises.

H. Deliveries to the premises shall be limited to occasional small packages.

I. Patrons, clients or customers are not permitted.

3.9.2.12 Home Professional Office.

The Zoning Board of Appeals may authorize by special permit an office or studio in the home of a physician, surgeon, dentist, artist, musician, accountant, lawyer, engineer, architect, teacher, insurance broker, builder, real estate broker, or other like person, provided that:

A. The occupation is clearly incidental to and secondary to the use of the dwelling as a residence.

B. Not more than two such persons may carry on such home activity, and both such persons must be members of the same immediate family residing on the premises.

C. All other persons employed on the premises, such as secretaries and nurses, shall be subordinate employees, incidental to the carrying on of said home activity and shall not exceed three in number.

D. Adequate parking for employees and visitors in connection with such home occupation shall be provided off the street and other than in the required front yard setback.

E. Any permit issued shall be personal to the person or persons to whom it is issued and shall not be transferable.

3.9.2.13 Home Occupation.

The Zoning Board of Appeals may authorize by special permit the use of a portion of the home or building accessory thereto as the work space of a resident craftsperson, beautician, dressmaker, photographer, repair person or other like person engaged in a customary home occupation, or as a place for incidental work and storage in connection with the off-premises trade by a resident builder, carpenter, electrician, painter, plumber, landscaper or similar person, provided that:

A. The occupation is to be carried on only by members of the resident family living on the premises. Nonresidents shall not be employed on the premises in connection with such use.

B. The occupation is clearly incidental to and secondary to the use of the dwelling as a residence.

C. No external change is made which alters the residential appearance of the dwelling or the residential character of the lot.

D. All operations, including incidental storage, are carried on within the principal or accessory buildings, and that there is no other outward evidence that the premises are being used for any purpose other than residential use, except for an accessory sign as permitted.

E. No noise, vibration, smoke, dust, odor, heat, glare, unsightliness, electrical interference, or other nuisance is produced which is detectable to normal sensory perception beyond the property line in amounts exceeding those normal to residential property.

F. No articles are sold or offered for sale on the premises.

G.* Vehicles and equipment used in connection with the occupation shall be garaged under cover or parked outdoors and screened from public view provided the Board finds that such parking will not, under the circumstances, be detrimental to the neighborhood, and further provided that such use may be allowed subject to conditions deemed necessary to safeguard the neighborhood, including, but not limited to, hours of operation, number of vehicles, weight or capacity of vehicles, and the location and manner of placement on the premises.

H. Any permit issued shall be personal to the person or persons to whom it is issued and shall not be transferable.

I.* Home-based Cottage Food Operation Exemption. A Cottage Food Operation as defined in section 1.3 is allowed as a home occupation subject to all the conditions listed herein under this section 3.9.2.13 except that such use shall not require special permit approval from the Board of Appeals as specified herein provided the resident operator is issued and maintains a valid Residential Kitchen Permit from the Wilbraham Board of Health and complies with the requirements imposed by the Massachusetts Department of Public Health regulations promulgated at 105 CMR 590.

3.9.2.14 **Family Day Care Home** by special permit from the Zoning Board of Appeals.

3.9.2.15 **Accessory Apartment** by special permit from the Planning Board.

Subject to the restrictions and limitations of section 4.10

3.9.2.16* [section deleted]

3.9.3 ACCESSORY USES: BUSINESS

3.9.3.1 Off-street parking and truck unloading areas.

In compliance with the restrictions and provisions set forth in Section 11, Off Street Parking and Loading Regulations.

3.9.3.2 Outdoor display of merchandise for retail sales as an accessory use to indoor display.

A. Display shall be to the rear of the front yard.

B.* The display shall not exceed ten percent (10%) of the building area.

3.9.3.3* The Zoning Board of Appeals may authorize by special permit **outdoor dining as a seasonal use** incidental and accessory to a permitted restaurant.

Outdoor dining areas shall not be located within a parking lot, driveway or public right of way or such other location that will create visibility problems or hazards for motorists and pedestrians or restrict access by emergency vehicles to the building or neighboring property. Where appropriate, walls, fencing or plantings shall be used to separate the outdoor dining area from traveled areas and parking areas. Additional parking at the rate specified by this By-law may be required for the added outdoor seating capacity.

3.9.3.4* Special Events

Tent sales, sidewalk sales, grand openings or other short-term promotions are considered special events and may be allowed by permit from the Building Inspector as a temporary use accessory to a lawfully permitted retail business establishment subject to the following conditions:

A. Special events shall not exceed ten (10) continuous days.

B. Not more than three (3) special events may occur per lot per calendar year.

C. A tent or other temporary structure associated with such special event may be erected no more than one (1) day prior to the event and must be removed within one (1) day of the conclusion of the event.

D. Special events related to retail uses or activities shall not generate additional parking demands beyond what can be accommodated by existing

on-site parking.

3.9.3.5* Automated teller machine (ATM) kiosks

The Zoning Board of Appeals may authorize by special permit a free-standing automated bank teller machine (ATM) kiosk incidental and accessory to a permitted office park and/or retail shopping center in the GB and I-POP-GB Districts. Said structure shall conform to the applicable setback dimensions except that, at the discretion of the Zoning Board of Appeals, said structure with a footprint less than two hundred (200) square feet in area may be located in the front yard if set back at least twenty (20) feet from the street line and ten (10) feet from the side lot line.

3.9.3.6* Family-Oriented Automatic Amusement Facilities

The Planning Board may authorize by special permit a Family-Oriented Automatic Amusement Facility as defined in section 1.3 as an accessory use to a public recreation business lawfully permitted under section 3.4.5.11. The special permit may stipulate the maximum number of automatic amusement devices permitted subject to the issuance of appropriate licenses in compliance with all applicable state and local law including section 627 of the General Bylaws of the Town of Wilbraham.

3.9.4 ACCESSORY USES: INDUSTRIAL

[Editor's Note: This page 3-38 has been intentionally left blank.]

SECTION 4 SINGLE DWELLING RESIDENCE DISTRICTS

SECTION 4.1 GENERAL REQUIREMENTS
SECTION 4.2 PERMITTED USES
SECTION 4.3 TWO FAMILY DWELLING CONVERSION
SECTION 4.4 DIMENSIONAL REGULATIONS
SECTION 4.5 MOTOR VEHICLES
SECTION 4.6 FLEXIBLE SUBDIVISION REGULATIONS
SECTION 4.7 FLEXIBLE NON-SUBDIVISION (ESTATE LOT) REGULATIONS
SECTION 4.8* PLANNED UNIT RESIDENTIAL DEVELOPMENT (PURD)
SECTION 4.9 ACCESS TO LOT OTHER THAN FROM STREET FRONTAGE
SECTION 4.10* ACCESSORY APARTMENT REGULATIONS

4.1 GENERAL REQUIREMENTS

In the R-15, R-26, R-34, R-40 and R-60, Districts no building or structure or part thereof shall be erected, altered or used, nor may any land be used except in conformance with the following regulations.

4.2 PERMITTED USES

Refer to Section 3 Use Regulations.

4.3 TWO FAMILY DWELLING CONVERSION

As provided for in Section 3.4.2.2, the Zoning Board of Appeals acting as the Special Permit Granting Authority may issue a special permit for the conversion of an existing one family dwelling for not more than two families under the following conditions:

4.3.1 Subject to all of the applicable general findings of Section 13.6.5.

4.3.2 The one family house shall have been erected prior to January 1, 1946.

4.3.3 The existing house is suitable and capable of being altered for the proper and convenient use of two families without materially altering the exterior appearance.

4.3.4 The Board shall require adequate plans setting forth the changes and improvements to be made.

4.3.5 The Board shall place such reasonable restrictions and conditions upon the special permit as they deem necessary under the purpose of the Zoning By-Law.

4.4 DIMENSIONAL REGULATIONS

Except as provided for in sections 4.6, 4.7 and 4.8 hereafter, no dwelling or structure shall be built in any single dwelling residence district except in conformance with the following requirements, and no lot or the building thereon shall be changed in size so as to violate the provisions hereof.

4.4.1* Minimum Lot Frontage

Land sold or subdivided shall provide for each dwelling or principal building not less than the minimum lot frontage required in the applicable residence district as listed in the schedule in section 4.4.10.

4.4.2 Minimum Lot Area

Land sold or subdivided shall provide for each dwelling or principal building not less than the minimum lot area required in the applicable residence district as listed in the schedule in section 4.4.10.

4.4.3* Minimum Usable Land Area

A specified percentage of the area required for zoning compliance, whether by special permit or otherwise, for any lot in a residence district shall consist of contiguous usable land area as defined in Section 1.3. Said percentage shall equal seventy-five (75) percent of said minimum requirement if it equals or exceeds 34,000 square feet and ninety (90) percent of said minimum requirement if it is less than 34,000 square feet.

4.4.4 Maximum Building Coverage

A. The total aggregate lot area covered by all principal and accessory buildings and structures shall not exceed the percentage specified in the applicable residence district, as listed in the schedule in section 4.4.10.

B. No part of any dwelling or principal building, excluding uncovered steps, may protrude into yards except that eaves, chimneys and other architectural features may project not more than 24 inches into yards.

4.4.5 Minimum Front Yard (Setback)

A. In single family residence districts no part of any building or other structure, including a porch, shall be erected or altered so as to be nearer to the street line than the nearest building located within two hundred and fifty (250) feet on either side of the lot facing the same street and located within the same block and district, but in no case can the setback required in this section be less than twenty five (25) feet nor need it exceed sixty (60) feet.

B. Setbacks for new buildings not otherwise controlled by Section 4.4.5.A. shall conform in minimum depth to the schedule in section 4.4.10.

C. In the case of a corner lot or a through lot, the above setback requirements shall apply on both streets.

4.4.6 Minimum Side Yard

Each principal building shall have a side yard between the building and each side lot line not less than is required in the applicable residence district, as listed in the schedule in section 4.4.10.

4.4.7 Minimum Rear Yard

Each principal building on an interior lot (that is a lot other than a corner lot or a through lot) shall have a rear yard not less than is required in the applicable residence district, as listed in the schedule in section 4.4.10.

4.4.8* Location and Size of Accessory Buildings

A. In residential districts, any permitted accessory building or structure shall be considered an integral part of the principal building if it is connected to the principal building, including by a covered passageway, and shall conform to the applicable setback for the principal building or use.

B.* In residential districts, any permitted detached accessory building or structure (except fences and retaining walls) shall conform to the applicable setback for the principal building or use, excepting that any accessory building not exceeding one hundred forty-four (144) square feet in area and not exceeding twelve (12) feet in height may be erected in a side yard if set back at least seventy five (75) feet from the street line and ten (10) feet from the side lot line, or in the rear yard if set back at least five (5) feet from the rear lot line. Private stables are further limited in Section 3.9.2.7.

C.* No detached accessory building shall be erected in excess of sixteen (16) feet in height, or in excess of three hundred (300) square feet in area on lots of 40,000 square feet or less, or in excess of four hundred and eighty (480) square feet on lots greater than 40,000 square feet, except that in cases where the principal structure does not include an attached garage an otherwise lawfully conforming detached garage accessory to a single family dwelling may be erected provided that such garage does not exceed twenty (20) feet in height and 700 square feet in area and further provided that such garage conforms to the applicable setback requirements of this section and complies with the requirements imposed under section 3.9.2.2 of the Zoning By-Law.

D.* An accessory building which exceeds the height and area limitations imposed under section 4.4.8 (C) may be erected with special permit approval from the Planning Board in accordance with the provisions of section 13.6 of the Zoning By-Law provided that such building conforms to the applicable setback requirements of this section and complies with the applicable requirements imposed under section 3.9.2.2 of the Zoning By-law.

E. The placement of more than one accessory building on a lot shall be governed by the total square footage of such buildings taken in the aggregate in accordance with the provisions of this section as summarized in the following table.

Total Building Area (square feet)	**Lot Size (≤ 40,000 square feet)**	**Lot Size (> 40,000 square feet)**
≤144	Y	Y
145 - 300	Y	Y
301 - 480	SP	Y
481 - 700	SP [exception for garage see § 4.4.8 (C)]	SP [exception for garage see § 4.4.8 (C)]
>700	SP	SP

Note: Y = Use allowed by building permit from Building Inspector
SP = Use allowed by special permit from Planning Board

F. The provisions of this section 4.4.8 regulating the size, height and number of accessory buildings on a residential lot shall not apply to accessory buildings used for agricultural purposes as defined by M.G.L. Chapter 40A Section 3 except that all such buildings shall be subject to the setback requirements set forth hereinabove.

4.4.9* Residential Height Limitations

A. In all residence districts except as otherwise provided in the Zoning Act, the limit of height shall not exceed two (2) stories, basement and attic, provided further that such attic space shall not be designed or used for human occupancy.

B. Building height shall not exceed thirty-five (35) feet, but this limitation of height shall not apply to farm buildings, nor chimneys.

4.4.10* Schedule of Dimensional Requirements

	ZONING DISTRICT				
	R-15	**R-26**	**R-34**	**R-40**	**R-60**
Minimum Lot Frontage (feet)	100	130	170	200	200
Minimum Lot Area (square feet)	15,000	26,000	34,000	40,000	60,000
Minimum Usable Land Area (square feet)	13,500	23,400	25,500	30,000	45,000
Minimum Front Yard (*1) (feet)	35	40	40	40	40
Minimum Side Yard (feet)	10	15	20	20	20
Minimum Rear Yard (feet)	30	40	40	50	50
Maximum Building Coverage (percent)	25	25	25	25	25
Maximum Building Height (stories)	2	2	2	2	2
Maximum Building Height (feet)	35	35	35	35	35

Note: (*1) See 4.4.5(A) as to exception hereto, except as otherwise provided in the Zoning Act.

4.4.11* Nonconforming Lot Exemptions

Increased requirements respecting lot area, frontage, yard, and similar dimensions provided in this Zoning By-Law or amendments thereto shall be subject to the exemptions provided in section 6, chapter 40A, of the Massachusetts General Laws, and shall not apply to a vacant lot for single family use which, at the time of recording or endorsement, whichever occurred sooner, was not held in common ownership with any adjoining land, conformed to the then existing requirements, and had less than the increased requirement but at least five thousand square feet of area and fifty feet of frontage.

4.5 MOTOR VEHICLES

4.5.1* Unregistered Motor Vehicles in Residential Districts

Editorial note:

[Section 4.5.1 was deleted from the Zoning-By-Law by vote of the Annual Town Meeting on May 13, 2013 (Article 52). Please refer to section 632 of the of the General By-Laws of the Town of Wilbraham for existing regulations governing unregistered or inoperable motor vehicles in Residential Districts.]

4.5.2* Parking or Storage Restrictions for Trucks and Buses in Residential Districts

The parking or storage of trucks, tractors, trailers for use with tractors, and buses, except for deliveries or other similar short-period parking, is prohibited in all residential districts except as follows:

A. Pick-up trucks, vans and sport utility vehicles (SUVs) which are used for non-business purposes may be kept on a lot by a resident provided:

1. The vehicle has a gross vehicle weight (manufacturer's rating) of 10,500 pounds or less;

2. The vehicle does not display lettering or signs advertising or identifying a business or professional affiliation; and

3. The vehicle does not have tools or equipment used for business purposes visible on the exterior of the vehicle.

B. Not more than one pick-up truck, van, light panel truck or similar service-type vehicle may be kept on a lot by a resident who carries on a trade or profession away from the premises provided:

1. The vehicle has a gross vehicle weight (manufacturer's rating) of 10,500 pounds or less;

2. The vehicle is kept parked within the confines of a lawfully permitted enclosed garage or accessory building; or if kept outdoors, the vehicle is parked in the driveway or designated off-street parking space on an adequate all-weather parking surface in a location outside the side yard and rear yard setbacks unless said parking location is screened from view at normal eye level from abutting residential property by a landscaped buffer strip and/or fencing. The vehicle is not to be parked on lawn or other landscaped areas;

3. Commercial lettering or signage on the vehicle is limited to the name and address of the business or trade, contact numbers, and any required contractor’s license information. The total area of said lettering or signage is

not to exceed eight (8) square feet per side and sixteen (16) square feet per vehicle; and

4. The vehicle is not loaded with flammable, noxious or dangerous material.

C.* Vehicles other than those allowed under Sections 4.5.2(A) and 4.5.2(B) hereinabove which are accessory to a home occupation may be kept on a lot if expressly authorized by special permit from the Board of Appeals in accordance with Section 3.9.2.13 of the Zoning By-Law.

D. This section shall not apply to farm vehicles and equipment in use on an active farm or to recreational vehicles parked or stored accessory to an allowed residential use in accordance with all applicable provisions of this Zoning By-Law.

4.6 FLEXIBLE SUBDIVISION REGULATIONS

For the purpose of promoting the more efficient use of land in harmony with its natural features, an owner of a tract of land situated within a Residence District, or other suitable applicant, may make application to the Planning Board, acting as the Special Permit Granting Authority, for a special permit exempting any or all of the lots to be created upon the subdivision of such land from the square foot, usable lot area, frontage, yard, and setback requirements of Section 4.4.

4.6.1 Such application shall be accompanied by a Site Plan and such other information as is required by Planning Board Subdivision Rules and Regulations.

4.6.2 After submission of fees by the applicant, publication of notice and a public hearing, the Planning Board may, after due consideration of the reports and recommendations of the Conservation Commission and the Board of Health, grant such special permit provided that:

A. The number of lots on which there is to be a single dwelling unit does not exceed the number of lots upon which dwellings could be constructed on the total land area of the tract which is Land Usable for Residential Construction;

B. Each of the lots shown on the plan has reasonable frontage on a Street deemed adequate by the Planning Board;

C.* Each lot is of a size and shape to provide a Building Envelope within a surveyed and dimensioned Clearing Envelope which shall be in harmony with the natural terrain and other features of the tract, as shown on an approved Site Plan;

D. The front, side and rear yards of each lot shall be shown on said approved site plan by dashed lines;

E.* At least twenty-five (25) percent of the area of the tract subject to said special permit (exclusive of land set aside for road area) shall be Open Space;

F. No lot shown on said Site Plan shall have less than 48,000 square feet in a R-60 District, 34,000 square feet in a R-40 District, or 30,000 square feet in a R-34 District, in all other residential districts the lot size shall not be reduced.

4.6.3 The Planning Board may impose further restrictions upon the tract as a condition to granting the special permit as the Planning Board shall deem appropriate to accomplish the purposes of this By-Law.

4.6.4 In connection with issuing or denying a special permit under this section, the Planning Board shall issue to the applicant and shall file with the Town Clerk a written decision which shall include as a minimum:

A. A determination of the area of the tract which is "Land Usable for Residential Construction";

B. A determination of the number of lots upon which dwellings could be constructed without regard to this section;

C. A general description of the neighborhood in which the tract lies and the effect of the plan on the area;

D. The relation of the plan to long range plans of the Town, if any;

E. Whether or not the plan is designed to take advantage of the natural terrain of the tract;

F. Whether or not the proposed Open Space is of a size and shape to provide adequate access to benefit the Town, or the creation of which is otherwise advantageous to the Town;

G. If the Planning Board grants the special permit, the findings required by Section 4.6.2 and Section 13.6.5;

H. If the Planning Board denies the special permits, its reasons for so doing;

I. If the Planning Board disagrees with the recommendations of the Conservation Commission or the Board of Health, it shall state its reasons therefor in writing.

4.6.5 No building lot shown on said Site Plan may be subdivided at any subsequent time into two or more building lots unless said right has been expressly reserved by Special Permit, and no variance may be issued by the Board of Appeals which creates an additional building lot.

4.6.6 If said Special Permit is issued, the applicant shall submit for approval a definitive plan of said tract of land which is substantially the same as said Site Plan, which shall be expeditiously processed by the Planning Board.

4.7* FLEXIBLE NON-SUBDIVISION (ESTATE LOT) REGULATIONS

The Planning Board, acting as the Special Permit Granting Authority may grant approval to a non-subdivision plan which includes the creation of lots having less frontage on a street as defined in Section 1.3 under sub-definitions (a) (b) and (c) than is otherwise provided for in this By-Law, for the purpose of preserving open space and of reducing visual and traffic density, provided that the following conditions are met.

4.7.1 Such application shall be accompanied by a Site Plan and such other information as is required by Planning Board Subdivision Rules and Regulations.

4.7.2 After submission of fees by the applicant, publication of notice and a public hearing, the Planning Board may, after due consideration of the reports and recommendations of the Conservation Commission and the Board of Health grant such Special Permit provided that:

A. The total parcel consists of at least 320,000 square feet before division into separate lots, of which no more than forty (40) percent is wetland.

B. Any lot which does not satisfy the frontage requirements has a total area which is at least equal to three hundred (300) percent of the minimum lot size requirement as set forth in Section 4.4. If the lot is located in two residential zoning districts, the district in which the house is to be located shall determine the minimum lot size requirement.

C. Any lot which does not satisfy the frontage requirements has a Minimum Usable Land Area as defined in section 1.3 and set forth in Section 4.4. If the lot is located in two residential zoning districts, the district in which the house is to be located shall determine the Minimum Usable Land Area requirement.

D. As a result of the approval of said plan, Open Space equal to at least 200,000 square feet for each lot having less than the required frontage is being created thereby on that lot or on other adjacent land. The purpose of this requirement is to avoid increasing density on tracts of land which could otherwise be developed as a formal subdivision by providing for a more limited form of development which results in substantially less overall density than would occur if said parcel was to be developed as a subdivision under this By-Law.

E. Such Site Plan shall provide for a Building Envelope within a surveyed and dimensioned Clearing Envelope with respect to any such lot created so as to ensure that the siting of such houses is suitable to the neighborhood.

4.7.3 The Planning Board may impose further restrictions upon the tract as a condition to granting the Special Permit as the Planning Board shall deem appropriate to accomplish the purposes of this By-Law.

4.7.4 In connection with the issuing or denying of a special permit under this section, the Planning Board shall issue to the applicant and file with the Town Clerk a written decision which shall include as a minimum:

A. For each lot established by the approval of said plan having less than the minimum frontage requirement, a determination that the total area of the lot, the area of the lot which is Usable Land Area, and the area of Open Space set forth on the lot or adjacent land are in conformance with the requirements of this section;

B. A general description of the neighborhood in which the tract lies and the effect of the plan on the area;

C. The relationship of the plan to long range plans of the Town, if any;

D. Whether or not the plan is designed to take advantage of the natural terrain of the tract;

E. Whether or not the proposed open space is of a size and shape to either provide adequate access to benefit the Town or the creation of which is otherwise advantageous to the Town;

F. If the Planning Board grants the Special Permit, the findings required by Section 4.7.2 and Section 13.6.5;

G. If the Planning Board denies the Special Permit, its reasons for so doing; and

H. If the Planning Board disagrees with the recommendations of the Conservation Commission or the Board of Health, it shall state its reasons therefor in writing.

4.7.5 No building lot shown on said Site Plan may be subdivided at any subsequent time into two or more building lots unless said right has been expressly reserved by said Special Permit and no variance may be issued by the Board of Appeals which creates an additional building lot.

4.8* PLANNED UNIT RESIDENTIAL DEVELOPMENT (PURD)

The Planning Board, acting as the Special Permit Granting Authority, may authorize a Planned Unit Residential Development (PURD) as defined by section 1.3 by special permit in conformance with the procedures specified in section 4.8 and section 13.6. Such PURD shall be subject to rules, regulations and criteria as officially promulgated by the Planning Board.

4.8.1 Purpose

It is the purpose of this section to allow for greater variety and flexibility in the development of housing types and to facilitate the construction and maintenance of streets, utilities and public services in a more economical and efficient manner while at the same time conserving important natural site features and permanently preserving open space.

4.8.2* Age-Restricted Occupancy

Unless expressly waived by the Planning Board, the PURD shall provide age-restricted housing comprised of dwelling units limited to use and occupancy primarily by persons at least 55 years of age or older, who are able to maintain an active, independent lifestyle without the help of additional onsite support services, in accordance with federal and state fair housing laws (42 U.S.C. Section 3607(b) and M.G.L. Chapter 151B, respectively), as amended.

4.8.2.1 Not more than three (3) residents shall occupy any dwelling unit.

4.8.2.2 All occupants of a dwelling unit shall be age fifty-five (55) or older except as follows:

A. A spouse or cohabitating partner of an occupant age fifty-five (55) or older.

B. An occupant pursuant to 4.8.2.2 (A.) who survives his or her spouse or partner.

C. Not more than one child residing with his or her parent(s), provided said child is eighteen (18) years of age or older.

4.8.2.3 The owner of the development shall publish and follow policies and procedures that demonstrate the intent to be housing for persons fifty-five (55) and older including federal Housing and Urban Development (HUD) rules for verification of occupancy.

4.8.3* Application

A. The applicant for a PURD special permit shall submit to the Planning Board a written application on the prescribed form containing all the information required hereafter including the following materials:

(1) A Development Statement listing the development team, setting forth the development concept, including in tabular form the number of units, type, size (number of bedrooms, amount of living space, gross floor area), ground coverage and summary showing the area of residential development and common open space as percentage of the total area.

(2) A Development Site Plan of the entire tract in accordance with the requirements of this section and section 13.3 and meeting, to the extent applicable, the requirements set forth for a definitive plan in the Wilbraham Subdivision Regulations.

(3) Architectural rendering of the site plans and typical structures including floor plans and elevations.

(4) A traffic study of the area as it may be affected by the proposed development, including present and anticipated traffic counts, flow patterns, and capacity analysis of present and proposed intersections and entrances serving the development.

(5)* An engineering report regarding the adequacy of sewage disposal, water supply and storm water drainage including the impact of the proposed design on the existing municipal utility infrastructure of the Town.

(6)* Marketing and management information including proposed unit selling prices, construction schedule, phasing schedule, and drafts of policies and procedures that demonstrate the intent to be housing for persons fifty-five (55) and older including federal Housing and Urban Development (HUD) rules for verification of occupancy.

B. Said application shall contain sufficient information so that the Planning Board can determine the applicability of said application for the following items:

(1) Is consistent with the Master Plan of Development of the Town;

(2) Preserves and protects the character of the Town and especially the immediate neighborhood, giving due consideration to such features as public safety, including traffic control and traffic impact upon surrounding roads; development of adequate recreational facilities for the use of the residents of said proposal; adequate fire protection; public health including sewerage disposal, drainage and water supply; and the compatibility of the size, location, architecture, and landscaping of said project with the adjacent neighborhood and the Town;

(3) Minimizes potential adverse environmental impacts upon the Town;

(4) Is likely to result in a financially stable, soundly and attractively constructed and well managed and maintained project; and

(5) Conforms to the specific provisions of this By-Law, including the design guidelines of this section and section 13.4.

C. Said permit shall not be issued unless the Planning Board affirmatively determines that each of the above listed criteria is met by said applicant.

4.8.4* Use Regulations

The following uses shall be permitted in a PURD:

A. One family detached dwellings;

B. Two family detached dwellings;

C.* Townhouses or multiple dwellings not exceeding six (6) units per building;

D. Recreational uses and community facilities such as parks, gardens, swimming pools, tennis courts, clubhouses and community buildings;

E. Accessory uses customarily incidental and subordinate to the principal uses listed above, but expressly excluding any commercial or retail enterprises.

4.8.5* Dimensional Regulations

Property for PURD use shall comply with the following dimensional requirements:

4.8.5.1 **Minimum Parcel Size.** The total parcel shall have a minimum area of not less than twenty (20) acres. A minimum of ten (10) acres of the total area required for zoning compliance shall consist of usable land as defined in Section 1.3.

4.8.5.2* **Minimum Parcel Frontage**. The total parcel shall have a minimum frontage on a public way of at least one hundred (100) feet. There shall be no frontage requirements within the PURD.

4.8.5.3* **Front, Side and Rear Yards**. The minimum front yard, side yard and rear yard requirements shall be eighty (80) feet and shall pertain only to the periphery of the PURD.

4.8.5.4* **Buffer Area**. A landscaped buffer strip not less than thirty (30) feet wide, as described in Section 10.2, shall be provided along the perimeter of the property. The buffer area shall be counted as part of the front, side and

rear yards. Additional buffering may be required in sensitive areas at the discretion of the Planning Board. The Planning Board may modify or waive the buffering requirement where variations in topography, natural features, or compatible land uses obviate the need for such a buffer.

4.8.6* Density Regulations

The maximum number of dwelling units permitted within any PURD shall be determined by the Planning Board to assure compliance with the purpose and intent of these PURD regulations, and in any event shall not exceed an average of eight (8) dwelling units per acre of usable land area if connected to the municipal sewerage system or an approved privately owned small sewage treatment facility or four (4) dwelling units per acre of usable land area if on an individual or group subsurface sewerage disposal system.

4.8.7* Building Requirements

4.8.7.1* **Building Character**. The PURD shall be a an architecturally integrated development. An architectural theme shall be carried out by the use of common building materials, color, exterior detailing, bulk and/or roof lines. Rigidity in design shall be avoided by variations in building type and location, landscaping and building coverage. Design characteristics shall be stated in the development application and shall include, but not be limited to, building materials, architectural design, and street furniture, which shall require Planning Board approval.

4.8.7.2 **Building Location**. Building location and orientation shall reflect:

A. Relationship to the street line and to other buildings in the development if in close proximity, in order to protect privacy and create visual coherence;

B. Views, solar access, and access to common open space, in order to enhance occupant's interests;

C. Organization of large developments into recognizable sub-areas in order to provide scale and identity;

D. Avoidance of major topographic change and destruction of significant natural site features including removal of native trees and vegetation in order to preserve and protect the environment;

E. Reduction of visual intrusion into abutting properties in order to protect existing character. To the extent practicable, the multifamily units of

the PURD shall be developed more towards the interior rather than the periphery of the tract so that the one family and two family detached residences, if any, border adjacent properties, acting as a buffer between the development and pre-existing one family neighborhoods.

4.8.7.3 **Maximum Building Height**. The maximum height of structures shall be two (2) stories and thirty-five (35) feet above the ground.

4.8.7.4* **Maximum Number of Bedrooms.** The maximum number of bedrooms or rooms used primarily for sleeping purposes per dwelling unit shall be two (2).

4.8.7.5* **Minimum Floor Area**. The minimum floor area for any single dwelling unit shall be nine-hundred (900) square feet.

4.8.7.6* **Minimum Separation Distance Between Buildings**. Proposed buildings shall relate harmoniously to each other with adequate light, air, circulation and separation between buildings. The minimum separation distance between any two buildings shall be forty (40) feet.

4.8.7.7* **Community Facility.** Unless waived by the Planning Board, the development shall establish a community room or facility for use by the residents. Such facility shall provide community space for mail, indoor recreation, meetings, and other functions held by the residents.

4.8.7.8* **Accessibility Design**. Dwelling units and common areas shall be designed to comply with federal and state requirements of the Americans with Disabilities Act (ADA).

4.8.8* **Utilities**

A. Each dwelling in a PURD shall be provided with access, drainage and utilities that are functionally equivalent to that provided under the Planning Board's Subdivision Regulations. All utilities shall be placed underground.

B.* All dwelling units shall be serviced by a public water supply deemed adequate for fire protection and domestic use.

C.* All dwelling units shall be connected to public sewers if available. If public sewers are not available, all dwelling units shall be serviced with onsite sewage disposal systems which shall be designed to meet the requirements of approval from the Wilbraham Board of Health and/or the Massachusetts Department of Environmental Protection as necessary.

D.* All outdoor lighting in the development shall be designed to improve visibility, safety and a sense of security, while minimizing energy use, operating costs, glare and light pollution. Outdoor lighting shall be designed to prevent misdirected or excessive artificial light. Building areas shall not be floodlit. Roadways, parking areas, walkways, and other public areas shall be illuminated only by properly positioned, high-efficiency, "full-cutoff shielded" lighting fixtures not higher than fifteen (15) feet in height.

4.8.9* Parking and Circulation Requirements

A. There shall be an adequate, safe, and convenient arrangement of pedestrian circulation, roadways, driveways and parking.

B. Vehicular access to the PURD shall be provided from an existing public way which in the opinion of the Planning Board is adequate to service the proposed development. As a matter of public safety, an alternate emergency access may be required.

C. Roads within the PURD shall be privately owned and maintained and shall be designed with sufficient width, suitable grade and adequate construction to safely provide for the needs of vehicular traffic generated by the development. Access roads shall be designed and constructed according to the requirements of the Wilbraham Subdivision Regulations or as otherwise modified by the Planning Board.

D. Garages or off-street parking spaces, or a combination thereof, shall be provided for all occupants, employees, and visitors, and shall be not less than two (2) spaces per dwelling unit.

E.* The development shall be served by sidewalks designed and constructed in accordance with ADA requirements and the Planning Board's Subdivision Regulations. The use of exterior stairs and raised curbing in area where there will be pedestrian activity shall be minimized.

4.8.10* Landscaping Requirements

A. A coordinated landscape design for the entire project area, including landscaping of structures, parking areas, driveways and walkways, and buffer strips, shall be submitted for approval by the Planning Board.

B. Wherever possible, existing trees and vegetative cover shall be conserved and integrated into the landscape design.

C. Proper maintenance of the landscaping, including the buffer strip, shall be the responsibility of the owner, and shall be a condition of conformance with the Zoning By-Law.

4.8.11* Open Space Requirements

A. The PURD shall contain an area of open space equal to at least fifty percent (50%) of the Usable Land Area of the PURD tract.

Of the total open space provided, at least eighty percent (80%) shall be set aside as Undisturbed Open Space and a maximum of twenty percent (20%) may be set aside as Common Open Space as further described herein. The submitted plan shall clearly distinguish the two types of open space by location and acreage.

(1) Undisturbed Open Space shall either be contiguous on the parcel or of such a magnitude in separate sections that, in the opinion of the Board, the overall Undisturbed Open Space meets the following standards:

a. To the extent possible, the open space should be contiguous with existing town-owned or privately protected open space areas.

b. Shall provide reasonable bulk and shape so as to enhance environmental amenities on the site and on adjacent properties.

c. Shall, to the fullest extent reasonably possible, remain in its natural or undeveloped state or, if historically significant, its original state subject to reasonable use and care provisions (such as maintaining active agricultural land or existing historic uses).

d. Shall provide reasonable public access for suitable conservation and outdoor recreation purposes (e.g., hiking & skiing trails).

(2) Common Open Space shall consist of suitable and usable outdoor recreation areas provided for the exclusive use of the residents of the PURD. Common Open Space may include land for community gardens, hiking/jogging paths, tennis courts or similar facilities.

B. Further subdivision of open land or its use for other than recreation, conservation, or agriculture, except for easements for underground utilities, shall be prohibited.

C. Provision shall be made that so that the open space shall be owned in common and readily accessible to the owners and residents of all units in the development; or by membership corporation, trust or association whose members are the owners and residents of the units; or by the Town; or otherwise as the Board may direct. In all cases, the open space shall be subject to a perpetual restriction running to or enforceable by the Town which shall be recorded in respect to such land. Such restriction shall be in such form and substance as the Board shall prescribe and may contain such additional restrictions on development and the use of open space as the Planning Board may deem appropriate.

4.8.12* Community Association

A.* An owners' association shall be established, requiring membership of each lot or unit owner in the PURD. The association shall be responsible for the permanent maintenance of communal water, sewage, recreational and thoroughfare facilities. An association agreement or covenant shall be submitted with the Special Permit application guaranteeing the continuing maintenance of such common utilities, land and facilities, assessing each unit a share of maintenance expenses. Such agreement shall be subject to the review and approval of Town Counsel and the Planning Board as part of the Special Permit and shall be recorded in the Hampden County Registry of Deeds.

B. Such agreements or covenants shall provide that in the event that the association fails to maintain the common facilities in reasonable order and condition in accordance with the agreement, the Town may, after notice to the association and public hearing, enter upon such land and maintain it in order to preserve the taxable value of the properties within the development and to prevent the common land from becoming a public nuisance. The covenants shall also provide that the cost of such maintenance by the Town shall be assessed ratably against the properties within the development.

4.8.13* Project Identification

A.* As a condition of its approval, the Planning Board may permit a sign showing the project name to be permanently affixed at each entrance to the development which shall be designed to be compatible with the character of the development and the surrounding neighborhood. Each sign shall be of a size and design to be approved by the Planning Board provided that no such sign shall exceed twenty five (25) square feet in size.

B. All streets shall be posted with standard street signs and all street names shall be approved by the Planning Board. Dwelling Units shall be assigned street numbers as assigned by the Assessors Office.

4.8.14* Enforcement

A. As a condition of its approval, the Planning Board may establish time limits for any development or phases thereof.

B. Before any building permits are issued for buildings in a given phase, the developer may be required to provide the Town with performance security in a form and amount satisfactory to the Planning Board to guarantee the construction of required site improvements.

4.8.15* Waivers

The Planning Board, acting as the special permit granting authority, may waive or modify any requirement of this section 4.8 for compelling reasons of safety, aesthetics or site design.

4.9* ACCESS TO LOT OTHER THAN FROM STREET FRONTAGE

In a residence district, vehicular access to and from the lot shall be across the front lot line subject to the following exception. The Planning Board acting as the Special Permit Granting Authority may authorize by Special Permit access to a single lot or up to three (3) adjacent lots across the side lot line or rear lot line from a single or common driveway. Such access is not intended for a lot which would otherwise be inaccessible or undevelopable and the Planning Board will not issue a Special Permit in those circumstances. Such access is intended for otherwise bonafide building lots when a common driveway will improve safety or convenience of access. It is also intended for use in new Flexible Subdivisions (Section 4.6) and new Flexible Non-Subdivisions (Estate Lots) (Section 4.7). Issuance of a Special Permit shall be subject to the following conditions:

4.9.1 Approval shall be subject to the applicable findings required under section 13.6.5;

4.9.2 Each lot shall have the proper frontage on an approved way and meet the applicable requirements for lot size;

4.9.3 For safety reasons, if the single or common driveway has its entrance off another way, then the address for the parcels(s) must be the entrance drive location and not the frontage;

4.9.4 A plan of the parcel(s) shall be submitted to the Planning Board for approval and prior to endorsement must be annotated to state that further subdivision of the parcel is prohibited if such subdivision would reduce the frontage on the public way below the minimum required.

4.9.5* Common driveways shall be constructed to meet the following minimum standards which may be made more stringent at the discretion of the Planning Board where appropriate:

A. Minimum turning radius of fifty (50) feet;

B. Minimum width of fourteen (14) feet;

C. Driveway surface able to support a minimum of sixty five thousand (65,000) pounds of gross vehicle weight; and

D. Turnoff provided for every five hundred (500) feet of driveway length.

4.10* ACCESSORY APARTMENT REGULATIONS

The purpose of this section is to provide an opportunity for home owners who cannot physically or financially maintain their single-family homes to remain in homes they might otherwise be forced to leave, and to provide more diversity of housing to meet the needs of Town residents while protecting the stability, property values, and the single-family residential character of the Town. The intent is to provide for the use of a group of rooms in a single-family residence as an apartment with its own kitchen and bathroom facilities, for the use of persons related to the resident family, subject to special precautions with respect to privacy, safety, numbers of occupants, and adequacy of water supply and sewage disposal; where the owner is a resident of the premises; and where the use of such a group of rooms is clearly accessory to the principal use of the premises as a single-family residence. It is further the intent that the structural changes, if any, necessary to effect the accessory apartment use be sufficiently modest that such use could be terminated, and reconverted to use exclusively as a single-family residence, without substantial hardship in reconstruction.

4.10.1 The Planning Board, acting as the Special Permit Granting Authority, may authorize an accessory apartment by special permit provided that the following standards and criteria are met:

A. The accessory apartment shall be contained within or added to the structure of the single-family dwelling, and shall function as a separate housekeeping unit from the single-family dwelling, complete with its own means of egress, sleeping, cooking and sanitary facilities.

B. Only one apartment shall be created within a single-family home.

C. The owner of the premises must occupy either the principal single-family dwelling or the accessory apartment. The other unit shall be occupied only by a family member. For purposes of this section, family member shall be defined as one of the relatives of the home owner or spouse such as mother, father, sister, brother, son, daughter, uncle, aunt, grandmother, grandfather and/or their spouses.

D. Not more than two (2) persons shall occupy the accessory apartment.

E. The accessory apartment shall be designed so that the overall building retains the appearance of a single-family residence. An addition to an existing single-family dwelling may be permitted provided that the addition is reasonably compatible with the character and scale of the existing building. In general, new entrances shall be located on the side or rear of the building. Any exterior changes must conform with the single family character of the neighborhood.

F. The accessory apartment shall be clearly subordinate to the single-family dwelling. It shall be no greater than seven hundred (700) square feet, shall have no more than two (2) bedrooms, and shall occupy no more than one-third (1/3) of the total floor space of the principal single-family dwelling.

G. The lot and structures thereon shall comply with all other applicable provisions of this Zoning By-Law.

H. Water supply and sewage disposal facilities shall be adequate to serve the proposed use as determined by the Town Engineer. Before a special permit is issued for an accessory apartment to be served by an existing on-site septic system, the owner shall obtain a letter from the Board of Health or its agent that the sewage disposal system is adequate for the principal dwelling unit and the proposed accessory apartment.

I. Suitable permanent off street parking shall be provided in accordance with section 11.2.

J. The construction of any accessory apartment shall require a building permit and shall be constructed in conformity with State Building Code requirements.

K. The Planning Board may allow reasonable deviation from the conditions stated herein under special and appropriate circumstances when, in the judgment of the Planning Board, such action is in the public interest and not inconsistent with the purpose and intent of this section or where necessary to install features that facilitate access and mobility for disabled and handicapped individuals.

4.10.2 The procedure for the submission and approval of a special permit for an Accessory Apartment in an Owner-Occupied, Single-Family Dwelling shall be as described in Section 13, except that it shall include a notarized letter of application from the owner(s) stating that the owner(s) will be occupying one of the units and that the other unit will be occupied only by family members as defined herein. Such letter shall state the name and family relationship of all occupants to be living on the premises.

4.10.3 Upon receiving a special permit, the owner(s) shall file on subject property a Declaration of Covenants at the Hampden County Registry of Deeds. A time stamped copy of this recorded Declaration shall be provided to the Planning Board and the Building Inspector prior to applying for a building permit. The recorded Declaration shall include the following requirements which shall appear as conditions of all special permits issued under this section:

A. That the owner(s) shall occupy one of the units on said premises and that the other unit shall be occupied only by family members as defined by this section of the By-Law.

B. At the beginning of each calendar year, the owner(s) shall file a notarized statement with the Planning Board listing the name and family relationship of all occupants residing on the premises.

C. The special permit for the accessory apartment in said owner-occupied, single-family home shall terminate upon any change in occupancy in violation of the terms of the special permit. In such event, the owner(s) of the altered dwelling must dismantle the cooking facilities for the accessory apartment and restore the dwelling to a single-family residence forthwith. Except that relief from enforcement of this Zoning By-Law shall be accorded by the Planning Board upon a showing of hardship by the Petitioner.

D. The special permit for the accessory apartment in said owner-occupied, single-family home shall also terminate upon the sale of the property or transfer of the title of the dwelling. In such event, the owner(s) of the altered dwelling must dismantle the cooking facilities for the accessory apartment and restore the dwelling to a single-family residence as a condition of sale or transfer of title, unless a new special permit is obtained from the Planning Board.

4.10.4 An accessory apartment authorized by special permit may be continued as a lawful use under new ownership if the new owner(s) apply for re-approval of the special permit and the Planning Board determines that conditions imposed under the original special permit remain unchanged. Minor changes may be approved without a hearing by the Planning Board. However, the Planning Board in its sole discretion at the time of reapplication by a new owner, may require compliance with all the procedures under this section 4.10.

4.11* HERITAGE FARM STAND DEVELOPMENT REGULATIONS

The Planning Board, acting as the Special Permit Granting Authority, may authorize a Heritage Farm Stand Development (HFSD) as defined in section 1.3 by special permit in conformance with the procedures specified in this section 4.11.

4.11.1 Purpose

The purpose of the Heritage Farm Stand Development regulations is:

A. To foster the adaptive reuse, restoration, rehabilitation and economic revitalization of historically significant farm stands formerly operated in locations that have been separated from the productive land base and thereby rendered nonconforming as an agricultural use under zoning;

B. To promote, support and sustain the agricultural heritage of the Town of Wilbraham by providing residents and visitors access to a farm stand oriented marketplace featuring locally produced agricultural products with complementary commercial activities and services that serve to support and improve the economic viability of agriculture in our community and the Commonwealth of Massachusetts; and

C. To ensure that such development is designed and operated in a manner that will be compatible with the surrounding neighborhood and in harmony with the character of the community.

4.11.2 Application & Review Procedures

The procedure of making application for and obtaining approval of a Heritage Farm Stand Development Special Permit shall be governed by the applicable provisions of this section 4.11 of the Zoning By-Law. Heritage Farm Stand Development special permit review shall be consistent with the provisions of section 13.6 of the Zoning By-Law with respect to procedures for public hearings, conduct of review, findings and actions.

4.11.3 Adaptive Reuse Site Design Criteria

It is the intent of these regulations that a Heritage Farm Stand Development shall involve the adaptive reuse of the existing structure or group of contiguous structures at an applicable farm stand location based on a master plan of development for the entire site and which incorporates an integrated site design and consists of complementary land uses that work together as a whole.

4.11.3.1 The existing structure or group of contiguous structures in a Heritage Farm Stand Development may be conforming or non-conforming and may contain a mixture of uses and a variety of building types not otherwise allowed in the zoning district and such

deviations may be allowed under circumstances where the Planning Board determines it to be sufficiently advantageous and appropriate to grant such approval in accordance with the intent and purpose of this section of the Zoning By-Law.

4.11.3.2 The Planning Board may authorize the architectural modification or removal of existing structures and the construction of new structures in a Heritage Farm Stand Development. New structures shall blend in with the historical and architectural integrity of the entire site and the existing structures located thereon and the environmental integrity of the entire site shall be maintained.

4.11.3.3 Adequate onsite parking spaces shall be provided in an amount and layout to be determined by the Planning Board. The placement of parking areas and walkways shall allow convenient and safe passage for motor vehicles and pedestrians. Parking areas shall be landscaped to buffer the parking from the sight of neighboring properties.

4.11.3.4 Landscaping for the site shall be designed, installed and maintained to enhance the character of the development in harmony with the surrounding neighborhood.

4.11.3.5 A Sign Master Plan shall be approved by the Planning Board to govern all signage located on the property and the Planning Board may expressly authorize signs under the Sign Master Plan that would otherwise not be allowed by the applicable sign regulations in Section 12 of the Zoning By-Law. Such Sign Master Plan shall provide for a consistent design theme in terms of standardized location, lighting and general design. Signage shall be tasteful and in keeping with the essential character of the surrounding neighborhood.

4.11.3.6 Outdoor lighting in the development shall be designed to improve visibility, safety and a sense of security, while minimizing energy use, operating cost, glare and light pollution. Outdoor lighting shall be designed to prevent misdirected or excessive artificial light. Parking areas, walkways, and other public areas shall be illuminated only by properly positioned, high-efficiency, “full-cutoff” shielded lighting fixtures not higher than fifteen (15) feet in height.

4.11.3.7 The applicant for a Heritage Farm Stand Development shall submit a detailed site plan depicting a master plan of development for the adaptive reuse of the entire site

in compliance with the design criteria listed in this section.

4.11.4 Use Regulations

4.11.4.1 The Heritage Farm Stand Development may contain a mixture of uses but the main principal use shall be the retail farm stand market which shall function and serve as the anchor tenant for the development. It is the intent of these regulations that the retail farm stand market shall specialize in offering for sale agricultural products which have been grown or produced in our local region, but not necessarily on the premises; value-added items made on the premises from agricultural products which have been grown or produced in our local region; and other complementary, but not necessarily locally produced products, including deli items, baked goods, ice cream, confectionary items, specialty foods and limited non-agricultural grocery items.

While nothing herein shall be interpreted as authorizing the establishment of a traditional retail grocery or convenience store, it is the expressed intent of these regulations that the farm stand market approved herein shall not be limited by or required to meet the strict tests for seasonal or annual production of products imposed under the statutory exemption of farm stand agricultural uses in M.G.L. Chapter 40A Section 3.

4.11.4.2 The following principal and accessory uses may be allowed in a Heritage Farm Stand Development with Special Permit approval granted by the Planning Board:

A. Any agricultural or non-agricultural use permitted by right or special permit in the underlying zoning district as specified in the Schedule of Use Regulations Table in section 3.4 of the Zoning By-Law

B. Nursery, greenhouse or garden center

C. Food service establishment serving food for consumption on the premises including take-out service but excluding drive-thru facilities

D. Food catering service

E. Art gallery, hobby shop, artisans and crafters market

F. Gift shop, antique sales, bookstore

G. Artist live/work space

H. Shop of a dressmaker, tailor, weaver or similar

craftsperson

I. Farm museum or agritourism enterprise

J. Bed and breakfast establishment

K. Shop or studio of a carpenter, woodworker, stained glass artist or similar craftsperson

L. Repair shop for bicycles, lawn mower and garden equipment, household appliances or electronic equipment;

M. Residential apartment, single-family dwelling and multi-family dwelling

N. A use not specifically listed herein may be authorized with a finding by the Planning Board that said use will be complementary to the other uses proposed in the Heritage Farm Stand Development under this section 14.11.4 and will be in harmony with the purpose and intent of this section of the zoning By-Law.

4.11.5 Dimensional Regulations

Heritage Farm Stand Developments shall comply with the dimensional requirements of the zoning district in which they are located except as follows:

14.11.5.1 The minimum land area shall be at least ten (10) acres on a single lot or group of contiguous lots in common ownership.

14.11.5.2 The minimum frontage on a public street shall be not less than three hundred and fifty (350) feet.

14.11.5.3 The Planning Board may allow existing nonconforming structures to be altered or expanded to facilitate the adaptive reuse of existing buildings.

14.11.5.4 The Planning Board may vary the dimensional requirements imposed by the underlying zoning district if, in its opinion, such change will result in an improved design and is consistent with the purpose and intent of this section of the Zoning By-Law.

14.11.6 Density Regulations

The Heritage Farm Stand Development may contain a limited number of subordinate residential uses including existing dwelling units as well as new dwelling units as authorized in section 14.11.4. The maximum number of dwelling units permitted in any Heritage Farm Stand Development shall be determined by the Planning Board to assure compliance with the purpose and intent of these regulations and to adequately protect the public safety and welfare.

14.11.7 Management Plan

It is the intent of these regulations that the Heritage Farm Stand Development shall be under single ownership and unified management. A comprehensive management plan may be required as a condition of approval by the Planning Board to ensure the proper operation and maintenance of the Heritage Farm Stand Development including, but not limited to, hours of operation, parking, snow plowing, trash disposal, upkeep of buildings and landscaping, snow plowing, outdoor lighting, and signage.

14.11.8 Required Findings

A special permit may be issued under this section if the Planning Board finds that the proposed Heritage Farm Stand Development is in harmony with the purpose and intent of the Zoning By-Law and meets the specific provisions set forth for such development under section 4.11 of the Zoning By-Law. In evaluating the appropriateness of a Heritage Farm Stand Development, consideration shall be given to the following factors:

A. Determination that the proposed development site constitutes a historically significant location as required under the definition of Heritage Farm Stand Development in section 1.3 of the Zoning By-Law;

B. The relationship to the Master Plan of Development of the Town;

C. The nature and type of surrounding development and the character of existing neighborhoods;

D. Impact on highways and other public facilities, including utilities;

E. Special Permit findings required by section 13.6.5.

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SECTION 5 RESIDENTIAL MULTIPLE DWELLING (RMD) DISTRICT

SECTION 5.1 GENERAL REQUIREMENTS
SECTION 5.2 PERMITTED USES
SECTION 5.3 DIMENSIONAL REGULATIONS
SECTION 5.4 DENSITY REGULATIONS
SECTION 5.5 BUILDING AND SITE CRITERIA FOR MULTIPLE DWELLINGS

5.1 GENERAL REQUIREMENTS

5.1.1 No land shall be used for multiple dwelling purposes, and no building shall be altered, enlarged, or erected for multiple dwelling use except in a Residential Multiple Dwelling (RMD) District, established after a public hearing and a town meeting under the Zoning Act.

5.1.2 After establishment of a Residential Multiple Dwelling District, the use of land therein shall be subject to a special permit issued by the Planning Board acting as the Special Permit Granting Authority in conformance with the requirements of section 5 and section 13.6.

5.1.3 The applicant for a multiple dwelling permit in a Residential Multiple Dwelling District shall submit to the Planning Board acting as the Special Permit Granting Authority an application on the prescribed form together with a site plan, topographic map, floor plans and elevations of all structures and data containing all the information required hereafter. All public improvements and new public streets shall be provided under the Rules and Regulations Governing the Subdivision of Land in the Town of Wilbraham. Said application shall contain sufficient information so that the aforesaid Special Permit Granting Authority can determine the applicability of said application for the following items:

A. Is consistent with the Master Plan of Development of the Town;

B. Preserves and protects the character of the Town especially the neighborhood, giving due consideration to such features as public safety, including traffic control and traffic impact upon surrounding roads; development of adequate recreational facilities for the use of the residents of said proposal; adequate fire protection; public health including sewerage disposal; drainage and water supply; and the compatibility of the size, location, architecture, and landscaping of said project with the adjacent neighborhood and the Town;

C. Has no adverse environmental impact upon the Town after taking into account the analysis of the Environmental Impact Report prepared and submitted by the applicant or the Conservation Commission;

D. Is likely to result in a financially stable, soundly and attractively constructed and well managed and maintained project; and

E. Conforms to the specific provisions of this By-Law, including the design guidelines of section 13.4.

Said permit shall not be issued unless the aforesaid Special Permit Granting Authority affirmatively determines that each of the criteria is met by said applicant.

5.1.4 No building permit shall be issued for a multiple family dwelling or accessory building except in strict conformance with the site plan endorsed with the approval of the Planning Board acting as the Special Permit Granting Authority. A Certificate of Occupancy shall not be issued for a multiple family dwelling until all of the requirements of this Section 5 have been met, unless uncompleted public improvements not essential to the occupancy and utilization of said premises, in the opinion of the Planning Board acting as the Special Permit Granting Authority, and protective provisions are covered by a performance bond filed with and acceptable to the Special Permit Granting Authority.

5.2 PERMITTED USES

In Residential Multiple Dwelling Districts no part of any building or structure shall be used except for:

5.2.1 Buildings and group buildings designed and used for multiple dwelling purposes, provided no single building or group of connected buildings contain less than four dwelling units.

5.2.2 Uses accessory to multiple dwelling use, but expressly excluding any commercial or retail enterprises.

5.3 DIMENSIONAL REGULATIONS

Property for multiple family use shall comply with the following minimum requirements:

5.3.1 Lot Size

A. The minimum area of the parcel shall be not less than ten (10) acres.

B. A minimum of seven and one-half (7.5) acres of the area required for zoning compliance shall consist of usable land as defined in Section 1.3.

5.3.2* Lot Frontage

A. The minimum frontage on a public street shall be at least two hundred and fifty (250) feet.

5.3.3 Front Yard (Setback)

A. On a parcel with not less than five hundred (500) feet of frontage on a public street, the minimum front yard shall be not less than fifty (50) feet.

B. On a parcel with less than five hundred (500) feet but more than two hundred and fifty (250) feet of frontage on a public street, the minimum front yard shall be not less than eighty (80) feet.

C. In the case of a corner lot or through lot, the above setback requirements shall apply on both streets.

5.3.4 Side Yard

A. The minimum side yard shall be not less than eighty (80) feet.

B. A landscaped buffer strip not less than thirty (30) feet wide within the side yard, as described in Section 10.2, shall be provided along the side lot lines of abutting property.

5.3.5 Rear Yard

A. The minimum rear yard shall be not less than eighty (80) feet.

B. A landscaped buffer strip not less than thirty (30) feet wide within the rear yard, as described in Section 10.2, shall be provided along the rear lot lines of abutting property.

5.4 DENSITY REGULATIONS

5.4.1 The maximum number of dwelling units per acre shall average eight (8) if on an approved municipal sewerage system.

5.4.2 The maximum number of dwelling units per acre shall average four (4) if on an individual or group subsurface sewerage disposal system.

5.5 BUILDING AND SITE CRITERIA FOR MULTIPLE DWELLINGS

5.5.1 Dwelling Units Per Building

No building shall contain less than four (4) dwelling units.

5.5.2 Building Height

No building shall exceed two (2) stories in height above the ground.

5.5.3 Building Length

A. No single building or group of connected buildings shall have a total length which is more than six (6) times its height.

B. Where the walls of two (2) buildings or two (2) wings of a group building are parallel or substantially parallel, the length of the walls where opposite each other shall not exceed twice the height of the building.

5.5.4* Separation Distance Between Buildings

Buildings shall be so grouped that the walls of any building are not less than sixty (60) feet in a straight line from the walls of a separate unconnected building or substantially parallel wings of a connected building.

5.5.5 Dwelling Unit Floor Area

5.5.5.1 Each dwelling unit shall contain not less than the following minimum floor area:

A. Minimum size, one or two room: four hundred and fifty (450) square feet.

B. For each additional room: add one hundred and twenty five (125) square feet.

Except that this shall not require a floor area greater than seven hundred and sixty eight (768) square feet for any dwelling unit.

5.5.5.2 In computing the required minimum floor area, only the area devoted to the exclusive use of the dwelling unit for living purposes shall be considered. No area shall be counted or used as a bedroom unless said area constitutes an identifiable separate room, with one (1) outside window and four (4) walls which separate said room from other rooms. Outside balconies, storage area separate from the dwelling unit, public halls and other areas used in common with other tenants shall not be included.

5.5.6 Maximum Number of Bedrooms

The maximum number of bedrooms or rooms used primarily for sleeping purposes per dwelling unit shall be two (2).

5.5.7 Garages or Off-Street Parking Spaces

Garages or off-street parking spaces, or a combination thereof, shall be provided for all occupants, employees, and visitors, and shall be not less than one and one-half (1 1/2) car spaces per dwelling unit, and not less than one (1) such parking space per unit shall be located with convenient access to the rear entrances to buildings.

A. Parking areas for more than twenty (20) cars shall have at least two (2) means of access to a public street or to a service driveway connecting with a public street.

B. Garages, parking spaces, and driveways shall be not less than twenty (20) feet from a wall with one or more windows or doors nor less than six (6) feet from a blank wall in a principal building.

C. Parking shall not be permitted in front of the rear line of any building unless approved by the Planning Board acting as the Special Permit Granting Authority as set forth in Section 5.1.2.

D. All parking requirements shall conform to the requirements of Section 11.

E. Access roads shall be of adequate width to insure safety and located so as to provide a logical traffic pattern.

F. A one-way driveway shall be not less than nine (9) feet wide and a two-way driveway shall be not less than eighteen (18) feet wide.

5.5.8 Outdoor Recreational Area

A suitable and usable outdoor recreational area or areas shall be provided for the outdoor use of tenants, adequately landscaped or fenced apart from service areas, buildings, driveways and parking areas, and streets.

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SECTION 6* NEIGHBORHOOD OFFICE (NO), NEIGHBORHOOD SHOPPING (NS) AND GENERAL BUSINESS (GB) DISTRICTS

SECTION 6.1 GENERAL REQUIREMENTS
SECTION 6.2 PERMITTED USES
SECTION 6.3 DIMENSIONAL REGULATIONS
SECTION 6.4 [DELETED]
SECTION 6.5 RETAIL SALES OF AUTOMOBILES AND TRUCKS

6.1* GENERAL REQUIREMENTS

In Neighborhood Office (NO), Neighborhood Shopping (NS) and General Business (GB) Districts, the existing uses of land and building shall not be changed, altered, or enlarged, and no new uses of land or construction of new buildings will be permitted except in conformance with the provisions of Section 6 of this By-Law.

6.1.1 Landscaped buffer strips shall be provided as required in Section 6.3 and shall conform to the requirements of Section 10.2, and their proper maintenance shall be assured.

6.1.2 Entrance driveways and vehicular movement shall be designed to lessen congestion in the streets, with due regard to driveways to other properties and to safe pedestrian travel.

6.1.3 Off-street parking and truck unloading shall conform to the requirements of Section 11 of the Zoning By-Law.

6.1.4 Signage shall conform to the requirements of Section 12 of the Zoning By-Law.

6.1.5 Where a landscaped buffer strip does not limit to the premises the light source of all exterior lighting then such lighting shall be so shaded that the source of light shall not be visible off the premises.

6.1.6 All public improvements and new public streets shall be provided under the applicable Rules and Regulations Governing the Subdivision of Land of the Town.

6.1.7 Subject to site plan approval by the Planning Board, it may be permissible for adjacent property owners to use a common entrance in order to minimize curb cuts.

6.2 PERMITTED USES

Refer to Section 3, Use Regulations.

6.3* DIMENSIONAL REGULATIONS

In Neighborhood Office (NO), Neighborhood Shopping (NS) and General Business (GB) Districts, no land shall be used and no building shall be constructed or altered except in conformance with the following schedule:

	ZONING DISTRICT		
	NO	**NS**	**GB**
Minimum Lot Frontage (feet)	100	200	150
Minimum Lot Area (square feet)	20,000	60,000	30,000
Minimum Front Yard (feet)	40 *(a)*	25 *(a) (b)*	50 *(a)*
Minimum Side Yard (feet)	15 *(c)*	15 *(c)*	12 *(c)*
Minimum Rear Yard (feet)	30 *(c)*	30 *(c)*	20 *(c)*
Maximum Building Coverage (percent)	20	25	30
Maximum Building Height (stories)	1	1	3
Maximum Building Height (feet)	25	25	40

Footnotes from the Table:

(a)* In the NO, NS and GB Districts, the required front yard shall contain a landscaped buffer strip as described in Section 10.2 which shall be no less than ten (10) feet in width. The remaining part of the front yard may be used for off street parking.

(b) In the NS District, front yards across the street from a residential district shall contain a landscaped buffer strip as described in Section 10.2 which shall be no less than twenty (20) feet wide.

(c)* In the NO, NS and GB Districts, side and rear yards abutting a residential district shall contain a landscaped buffer strip as described in Section 10.2 which shall be no less than twenty (20) feet wide.

6.4* [DELETED]

6.5 RETAIL SALES OF AUTOMOBILES AND TRUCKS

Retail sales by a franchised dealer of new automobiles and new trucks are permitted in GB Districts when authorized by a Special Permit issued by the Planning Board acting as the Special Permit Granting Authority subject to the following restrictions:

6.5.1 Subject to all of the applicable general findings required in Section 13.6.5.

6.5.2* Retail sales of used automobiles and used trucks are only permitted as an ancillary use.

6.5.3 Notwithstanding the provisions of Section 6.3 of the Zoning By-Law, no special permit shall be issued unless said lot has a minimum lot frontage of three hundred (300) feet on a public way; a minimum lot area of two hundred thousand (200,000) square feet and an average depth of at least four hundred (400) feet. In addition, at least twenty-five (25) percent of the total area of said lot shall remain unoccupied by buildings, storage or parking.

6.5.4 No special permit shall be issued unless a building is constructed or located on said lot which consists of at least one thousand (1,000) square feet of ground space utilized for the purpose of displaying new automobiles or trucks, and aggregate ground floor space of at least seventy-five hundred (7500) square feet. Repairs of new and used automobiles and trucks shall take place inside of said building.

6.5.5 Indoor display of automobiles and trucks is permitted as a principal use, without limitation as to the number of units.

6.5.6 Outdoor display of automobiles and trucks is permitted as a principal use provided that no automobiles or trucks shall be displayed or stored within the front yard, side yard or rear yard setback requirements. If said lot abuts against a residential zone, said storage or display of automobiles and trucks shall be effectively screened from view from said adjacent residential district by a natural or artificial barrier in accordance with Section 10.2 of said Zoning By-Law.

6.5.7 No such special permit shall be granted unless the following additional conditions are met:

A. No retail sales of gasoline to the general public shall be permitted;

B. Off-street loading and unloading shall be required at all times;

C. All signs shall conform to Section 12 of said Zoning By-Law and in addition no flags, banners, ribbons, and similar advertising and display devices shall be permitted;

D. There shall be at least one separate entrance and exit divided by a traffic island, unless otherwise required by the Special Permit Granting Authority;

E. The site plan shall contain adequate provisions for customer parking.

6.5.8 All open air surface parking areas shall be landscaped in the following manner:

A. Parking areas with a capacity of twenty-five (25) parking spaces or less shall be excluded from the provisions of this subsection;

B. Parking areas with a capacity of more than twenty-five (25) spaces shall have a minimum of two (2) percent of the gross parking area devoted to landscaped open space. All such landscaped areas must both: (1) contain live shade and/or ornamental trees with adequate spaces being left unpaved for their growth, and (2) place such landscaped areas so they are not contiguous to the edge of parking lot;

C. These landscaped areas must be in addition to the front, rear, and side yard setbacks required by this Zoning By-Law.

6.5.9 The sound pressure level measured at one thousand cycles per second (1,000 CPS) on the lot lines will not exceed eighty decibels (80 dB) during normal working hours or seventy decibels (70 dB) at other times. Measurements will be made with a sound level meter and associated octave sound filter manufactured in accordance with the American Standards Association.

6.5.10 All other provisions of the Zoning By-Law shall apply except as expressly modified herein.

SECTION 7 INDUSTRIAL, PROFESSIONAL OFFICE PARK, AND GENERAL BUSINESS (I-POP-GB) DISTRICT

SECTION 7.1 GENERAL REQUIREMENTS
SECTION 7.2 GENERAL PERFORMANCE STANDARDS
SECTION 7.3 PERMITTED USES
SECTION 7.4 DIMENSIONAL REGULATIONS
SECTION 7.5 PROFESSIONAL OFFICE PARK REGULATIONS
SECTION 7.6* REGISTERED MARIJUANA DISPENSARY REGULATIONS

7.1 GENERAL REQUIREMENTS

In the Industrial, Professional Office Park, and General Business (I-POP-GB) District the existing uses of land and buildings shall not be changed, altered, or enlarged, and no new uses of land or construction of new buildings will be permitted except in conformance with the provisions of Section 7 of this By-Law.

7.1.1 Landscaped buffer strips shall be provided as required in Section 7.4 and shall conform to the requirements of Section 10.2, and their proper maintenance shall be assured.

7.1.2 Entrance driveways and vehicular movement shall be designed to lessen congestion in the streets, with due regard to driveways to other properties and to safe pedestrian travel.

7.1.3 Off-street parking and truck unloading shall conform to the requirements of Section 11 of the Zoning By-Law.

7.1.4 Signage shall conform to the requirements of Section 12 of the Zoning By-Law.

7.1.5 Where a landscaped buffer strip does not limit to the premises the light source of all exterior lighting then such lighting shall be so shaded that the source of light shall not be visible off the premises.

7.1.6 All public improvements and new public streets shall be provided under the applicable Rules and Regulations Governing the Subdivision of Land of the Town.

7.1.7 Subject to site plan approval by the Planning Board, it may be permissible for adjacent property owners to use a common entrance in order to minimize curb cuts.

7.2 GENERAL PERFORMANCE STANDARDS

The following standards of performance and use shall apply in the I-POP-GB District.

7.2.1 Where an industrial use is located beyond the service area of public water supply, adequate provision for fire protection in the judgment of the Fire Chief of Wilbraham shall be made.

7.2.2 The storage of flammable or explosive materials shall be in a manner approved by the Fire Chief of Wilbraham, who may require any precautionary measures necessary in his judgment to eliminate serious exposure hazards to life and property.

7.2.3 The use shall emit no offensive odors perceptible at any property line of the lot on which the operation is located, and shall emit no noxious, toxic, or corrosive fumes or gases.

7.2.4 The use shall not exhaust or waste into the air dust created by an industrial operation in excess of one cubic centimeter of settled matter per cubic meter of air, or produce heat or glare perceptible from any property line of the lot on which the operation is located for a period exceeding three continuous minutes.

7.2.5 Industrial and exterior lighting shall not produce glare on public highways or neighboring property, or conflict with any traffic signals.

7.2.6 Smoke or other air contaminant shall not be discharged into the atmosphere from any single source of emission for a period or periods aggregating more than three minutes in any one hour, which is as dark or darker in shade than as designated as No. 2 on the Ringelman Chart, as published by the United States Bureau of Mines, or which is of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke designated as No. 2 on the Ringelman Chart.

7.2.7 The use shall be operated in conformance with the following performance standards governing noise. Between the hours from 7 p.m. Friday and 7 a.m. the following Monday, and between the hours of 7 p.m. and 7 a.m. on other days, no sound pressure level shall exceed the decibel levels in the designated octave bands shown below. Sound levels shall be measured at the zone boundary lines within which the subject use is located, and with a sound level meter and associated octave band filter manufactured in accordance with the American Standards Association. Measurements shall be made using the flat network of sound level meter.

[refer to chart on following page]

PERFORMANCE STANDARDS PLANNED DEVELOPMENT ZONES - INDUSTRY		
Maximum Permitted Sounds Levels		
OCTAVE BAND (cycles per second)	ABUTTING RESIDENCE ZONES (decibels)	ABUTTING OTHER ZONES (decibels)
75	72	79
75-150	67	74
150-300	59	66
300-600	52	59
600-1200	46	53
1200-2400	40	47
2400-4800	34	41
Above 4800	32	39

7.2.7.1 The Chief of Police of Wilbraham may issue permits for exceptions to this noise requirement as to hours and days.

7.3 PERMITTED USES

Refer to Section 3 Use Regulations.

7.4* DIMENSIONAL REGULATIONS

In Industrial Districts no land shall be used and no building shall be constructed or altered except in conformance with the following schedule:

MINIMUM LOT AREA	40,000 square feet
MINIMUM LOT FRONTAGE	150 feet
MINIMUM FRONT YARD	60 feet (see 7.4.1)
MINIMUM SIDE YARD	30 feet (see 7.4.2)
MINIMUM REAR YARD	50 feet (see 7.4.2)
MAXIMUM BUILDING COVERAGE	30 percent
MAXIMUM BUILDING HEIGHT	3 stories
MAXIMUM BUILDING HEIGHT	40 feet

7.4.1 The required front yard shall contain a landscaped buffer strip as described in Section 10.2 which shall be no less than ten (10) feet in width. The remaining part of the front yard may be used for off street parking.

7.4.2 Side and rear yards abutting a residential district shall contain a landscaped buffer strip as described in Section 10.2 which shall be no less than twenty (20) feet wide.

7.5 PROFESSIONAL OFFICE PARK REGULATIONS

Professional Office Parks are allowed when authorized by a special permit subject to the following restrictions:

7.5.1 Subject to all of the applicable general findings required in Section 13.6.5.

7.5.2 Professional offices shall include but not be limited to the following: offices of accountants, architects, brokers/market analysts, chiropractors, dentists, doctors, engineers, lawyers, photographers, planners/landscape architects, real estate agents, travel consultants, insurance agents, banks and governmental agencies.

7.5.3* Notwithstanding the provisions of Section 7.4 of the Zoning By-Law, no special permit shall be issued unless said lot has a minimum lot frontage of two hundred (200) feet and a minimum lot area of sixty thousand (60,000) square feet.

7.5.4 The minimum size building permitted shall consist of at least four thousand (4,000) square feet of ground floor area.

7.5.5 Open air surface parking shall be provided on the basis of one (1) space per two hundred (200) square feet of building floor area exclusive of basements, stairs, garages, and area used solely for utility and storage purposes.

7.5.6 A minimum of five (5) percent of the total parking and circulation area shall be landscaped open space. Said landscaped open space shall provide:

A. A minimum of two (2) shade trees or four (4) shrubs, or a combination thereof, per ten (10) parking spaces or fraction thereof. Such trees shall be a minimum of one and one-half (1 1/2) to two (2) inches in diameter at the time of planting. Such shrubs shall be from eighteen (18) to twenty-four (24) inches in diameter and/or height at the time of planting. In no case shall less than two (2) trees and four (4) shrubs be provided.

B. Landscaped areas shall be placed so they are not contiguous to the edge of the parking lot.

C. Landscaped areas shall be in addition to the front, rear, and side yard setbacks required by this Zoning By-Law.

7.5.7 Signs shall conform to Section 12 of the Zoning By-Law.

7.5.7.1* Notwithstanding the provisions of Section 12.7 of the Zoning By-Law, the total area of a sign or signs affixed to a building shall not exceed three (3) percent of the total area of the building wall on which the sign or signs are mounted. The total area of a free-standing sign shall not exceed forty (40) square feet. A free-standing sign shall not exceed fifteen (15) feet in height.

7.5.7.2* Notwithstanding the provisions of Section 12.7 of the Zoning By-Law, not more than one (1) free-standing sign is allowed for each two hundred (200) feet of frontage regardless of the number of tenants or occupants of the property.

7.6* REGISTERED MARIJUANA DISPENSARY REGULATIONS

The Planning Board, acting as the Special Permit Granting Authority, may authorize a Registered Marijuana Dispensary (RMD) as defined in Section 1.3 in the I-POP-GB District by a special permit in conformance with the requirements specified in this Section 7.6.

7.6.1 Purpose

The purpose of the Registered Marijuana Dispensary regulations is to provide for the establishment of RMD facilities in appropriate locations and under reasonable standards in accordance with state law and regulation. It is recognized that the nature of the substance cultivated, processed and/or sold by Registered Marijuana Dispensaries may have objectionable operational characteristics and should be designed and located in such a way as to ensure the health, safety and general well-being of the public as well as patients seeking treatment while minimizing adverse impacts on adjacent properties and existing residential neighborhoods and business districts. The specific and separate regulation of Registered Marijuana Dispensaries is necessary to advance these purposes and to ensure that such facilities are located where there is convenient public access, where they may be readily monitored by law enforcement for health and public safety purposes, and where they will not be within close proximity of minors or other potentially incompatible land uses.

7.6.2 Application & Review Requirements

In addition to the standard special permit application and review requirements under Section 13.6 of the Zoning By-Law, an application for a Registered Marijuana Dispensary Special Permit shall include the following:

A. The name and address of each owner of the RMD facility/operation;

B. Copy of the RMD registration issued to the applicant by the

Commonwealth of Massachusetts and any of its agencies for the facility;

C. Evidence that the Applicant has site control and the right to use the site for a RMD facility in the form of a deed or valid purchase and sale agreement, or, in the case of a lease, a notarized statement from the property owner and a copy of the lease agreement;

D. A notarized statement signed by the RMD organization's Chief Executive Officer and corporate attorney disclosing all of its designated representatives, including officers and directors, shareholders, partners, members, managers, directors, officers or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of all such responsible individual persons;

E. In addition to what is normally required in a site plan pursuant to Section 13.3, details showing all proposed exterior security measures for the premises, including lighting, fencing, gates and alarms, to ensure the safety of employees and patrons and to protect the premises from theft or other criminal activity;

F. A detailed floor plan of the RMD facility identifying the functional uses;

G. Architectural drawings of exterior building facades and all proposed signage for the RMD facility; and

H. A Management Plan including a description of all activities that are to occur on site, including all provisions for the delivery of medical marijuana and related products to off-site facilities or off-site direct delivery to patients.

7.6.3 Use Regulations

A. The RMD facility authorized under this section shall be limited to uses permitted under the definition in Section 1.3 of this Zoning By-Law and may not contain other businesses or services in the same building including offices of a physician or any other professional practitioner authorized to prescribe the use of medical marijuana.

B. The RMD facility shall be properly registered with the Massachusetts Department of Public Health (DPH) pursuant to 105 CMR 725.000 and shall comply with all applicable state and local public health regulations and all other applicable state and local laws, rules and regulations at all times. No building permit or certificate of occupancy shall be issued for a RMD that is not properly registered with the Massachusetts DPH.

C. No marijuana shall be smoked, burned, eaten or otherwise consumed or ingested on or within the premises of a RMD facility.

D. The hours of operation shall be set by the Special Permit Granting Authority, but in no event shall a facility be open to the public, nor shall any sale or other distribution of marijuana occur upon the premises or via delivery from the premises between the hours of 8:00 p.m. and 8:00 a.m.

E. All aspects of the RMD relative to the growing, processing and dispensing of marijuana, products containing marijuana, and related supplies or educational materials must take place at the approved location within a fully enclosed building and shall not be visible from the exterior of the business. No outside storage of marijuana, related supplies or educational materials is permitted.

F. All facilities shall be ventilated with filters, scrubbers or such other manner to ensure that:

(1) No pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere, and

(2) No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell outside the facility or at any adjoining use or property.

G. No registered medical marijuana dispensary shall be located within five hundred (500) feet of any of the following structures or uses in existence on the date of RMD special permit application:

- residential use;
- school of any type attended by students under the age of 18;
- licensed child care facility;
- public park, athletic field or recreation facility where children commonly congregate on an ongoing, organized basis.

The 500-foot distance shall be measured in a straight line from the nearest property line of the lot containing any of the above-listed structures or uses to the nearest point of any principle building housing the proposed RMD.

The 500-foot separation distance may be waived or reduced if the Planning Board, acting as the Special Permit Granting Authority, determines that the above-listed uses or structures will be sufficiently buffered or separated from the proposed RMD facility such that occupants of the above-listed facilities will not be adversely impacted by the operation of the RMD.

H. All signage shall be approved by the Planning Board acting as the Special Permit Granting Authority and shall conform to the applicable requirements of Section 12 of the Zoning By-Law unless expressly authorized by the Planning Board. A number of signs determined to be sufficient by the Special Permit

Granting Authority shall be displayed on the exterior of the facility's entrance in plain sight of clients stating that "Registration Card Issued by the MA Department of Public Health Required" in text two inches in height.

7.6.4 Reporting Requirements

A. The special permit holder of an RMD facility shall provide the Wilbraham Police Department, Fire Department, Building Commissioner, Board of Health, and the Special Permit Granting Authority with the name, phone number, mailing address and email address of a main contact person and two back-up contact persons to whom notice can be given if there are operating problems associated with the RMD. All such contact information shall be updated as needed to keep it current and accurate.

B. The designated contact persons shall notify the Police Department, Fire Department, Building Commissioner, Board of Health, and Special Permit Granting Authority in writing:

(1) A minimum of thirty (30) days prior to any change in ownership or management of a facility regulated under this section, and

(2) A minimum of twelve (12) hours following a violation, a potential violation or any attempts to violate any applicable law, or any criminal, potential criminal, or attempted criminal activities at a facility regulations under this section.

C. The designated contact persons shall be required to respond by phone or email within twenty-four (24) hours of the time of contact and inquiry regarding operation of the facility by a Town official to the telephone number or email address provided as the contact for the business.

D. The special permit holder of an RMD facility shall file an annual report with the Special Permit Granting Authority no later than January 31st of each year, providing a copy of all current applicable state licenses for the owners and facilities, to demonstrate continued compliance with the conditions of the Special Permit.

E. Information regarding the security measures to be implemented to deter and prevent unauthorized entrances and protect the premises, dispensary agents and registered qualifying patients or their caregivers shall be provided to the Wilbraham Police Department, including updates and amendments.

F. The Special Permit Holder shall allow for periodic inspections by the Wilbraham Police Department, the Building Commissioner, and/or the Board of Health during the hours when the premises are open for business. The purpose of the periodic inspections

is to determine if the licensed premises are operated in accordance with the requirements of the special permit and the conditions outlined therein.

7.6.5 Issuance/Transfer/Discontinuance of Use

A. A RMD Special Permit granted under this section is non-transferable and shall have a term limited to the duration of the applicant's ownership/control of the premises as a RMD.

B. A RMD Special Permit granted under this shall lapse if the permit holder ceases operation of the RMD and/or the permit holder's Massachusetts Department of Public Health Registration expires or is terminated. The permit holder shall notify the Zoning Enforcement Officer and the Special Permit Granting Authority within 48 hours of such lapse, cessation, discontinuance or expiration.

C. Any RMD permitted under this section shall be required to remove all material, plants, equipment and other paraphernalia in compliance with state regulations prior to the expiration of its Massachusetts Department of Public Health Registration or immediately following revocation or voiding of its DPH Registration.

7.6.6 Required Findings

In addition to the findings for a Special Permit required under Section 13.6.5 of the Zoning By-Law, the Special Permit Granting Authority shall also find that the proposed use:

A. Meets a demonstrated need;

B. Meets all of the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will as proposed be in compliance with all applicable state laws and regulations.

C. Meets all of the conditions and requirements of this section and all other applicable Sections of the Zoning By-Law;

D. Is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest.

E. Provides a secure indoor waiting area for patients.

F. Provides an adequate pick-up/drop-off area.

G. Provides adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals, and that the storage and/or location of cultivation of marijuana is adequately secured in enclosed, locked facilities.

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SECTION 8* ADULT CARE FACILITIES (ACF) DISTRICT

SECTION 8.1 PURPOSE
SECTION 8.2 USE REGULATIONS
SECTION 8.3 APPLICATION
SECTION 8.4 DIMENSIONAL REGULATIONS
SECTION 8.5 DENSITY REGULATIONS
SECTION 8.6 BUILDING REQUIREMENTS
SECTION 8.7 UTILITIES
SECTION 8.8 PARKING AND CIRCULATION REQUIREMENTS
SECTION 8.9 LANDSCAPING REQUIREMENTS
SECTION 8.10 PROJECT IDENTIFICATION
SECTION 8.11 ENFORCEMENT

8.1 PURPOSE

It is the purpose of this section to permit and regulate, for the public health, safety, convenience, and welfare of the citizens of the Town of Wilbraham, development of any of a wide variety of facilities designed to provide some form of assisted living to elderly adults, the disabled or chronically ill.

8.2 USE REGULATIONS

The following uses shall be permitted in the Adult Care Facilities (ACF) District:

8.2.1* Medical office buildings as specified in section 3.4.5.1 with a gross floor area of three thousand (3,000) square feet or less subject to site plan approval from the Planning Board in conformance with the procedures specified in section 13.5.

8.2.2* Medical office buildings as defined in section 3.4.5.1 with a gross floor area exceeding three thousand (3,000) square feet by special permit from the Planning Board in conformance with the procedures specified in section 13.6.

8.2.3* Adult Care Facilities (ACF) as defined in section 1.3 by special permit from the Planning Board in conformance with the procedures specified in Section 8.0 and Section 13.6. In the interest of providing a broad diversity in the type of adult care facilities developed within the district, the Planning Board may deny a special permit for a particular use if in its judgment such use is already adequately represented within the district.

8.3 APPLICATION

A. The applicant for an ACF special permit shall submit to the Planning Board a written application on the prescribed form containing all the information required hereafter including the following materials:

1. A Development Statement setting forth the development concept, including the particular type of Adult Care Facility, number of dwelling units, care rooms or beds, type and size of units, staff facilities, common areas, ground floor coverage of the site, and parking as related to both gross building area and number of units or beds. The Development Statement shall list the development team and affiliated companies, and shall identify prior experience by name, type, and specific location.

2. A Development Site Plan of the entire tract in accordance with this section and Section 13.3, and a Development Site Plan delineating the proposed development in relation to any other development within the ACF District.

3. Floor plans and elevations of all proposed buildings.

4. A traffic study of the area as it may be affected by the proposed development, including present and anticipated traffic counts, flow patterns, and capacity analysis of present and proposed intersections and entrances serving the development.

5. An engineering report regarding the adequacy of sewage disposal, domestic water supply and storm water drainage for the site and as the proposed design relates to existing utilities of the Town.

6. A marketing and operational study of the proposed development including any studies, proposals, or licensing materials provided to, required by, or issued by the Commonwealth or other governmental authority.

B. Said application shall contain sufficient information so the Planning Board can make determination on the findings required in Section 13.6.5, as well as on the following items:

1. The project is consistent with the Master Plan of Development of the Town, as well as the development concept of the ACF District;

2. The project preserves and protects the character of the Town and especially the other developments within the district;

3. The development minimizes potentially adverse environmental impacts on the Town;

4. The development is likely to result in a financially stable, soundly and attractively constructed and well-managed and maintained project; and

5. The development conforms to the specific provisions of this bylaw, including the design guidelines of this section and section 13.4.

C. Said permit shall not be issued unless the Planning Board affirmatively determines that each of the above-listed criteria is met by said applicant.

8.4 DIMENSIONAL REGULATIONS

Properties in the ACF District shall comply with the following dimensional requirements:

A. Minimum Lot Area

The minimum lot area shall be sixty thousand (60,000) square feet, except that the Planning Board shall have the option of approving smaller parcels under the site plan approval process or the special permit process, when in its judgment the smaller size is appropriate for the proposed development including the required parking.

B. Minimum Frontage

The parcel shall have two hundred (200) feet of frontage on a public way, subject to the following exception. In order to best serve the welfare, safety, and convenience of the public, the Planning Board desires to see a new public or private street developed within the ACF District. Under the special permit process the Planning Board may modify or waive the normal frontage requirement if it deems access to a proposed development is safe and adequate, and furthers the development of such new street.

C. Minimum Front Yard

The minimum front yard shall be forty (40) feet, and shall contain a landscaped buffer strip as described in section 10.2 of not less than ten (10) feet. The remainder of the front yard may be used for off-street parking.

D. Minimum Side Yard

The minimum side yard shall be fifteen (15) feet, except that side yards abutting a residential district shall be not less than sixty (60) feet and contain not less than a fifty (50) foot landscaped buffer strip as described in section 10.2.

E. Minimum Rear Yard

The minimum rear yard shall be eighty (80) feet. Rear yards abutting a residential district shall contain not less than a fifty (50) foot landscaped buffer strip as described in section 10.2.

F. Maximum building coverage

The proposed building shall cover not more than thirty five percent (35%) of the site.

G. Maximum building dimensions

No proposed building shall be more than two (2) stories nor more than forty (40) feet in height.

8.5 DENSITY REGULATIONS

The maximum number of dwelling units or care rooms permitted in any development within the ACF District shall be determined by the Planning Board to assure compliance with the purpose and intent of these regulations and to adequately protect the public safety and welfare.

8.6 BUILDING REQUIREMENTS

A. Building Design

Buildings within any development shall be architecturally compatible with other buildings within the ACF District.

B. Building Location

Building location and orientation shall reflect:

1. Relationship to the street line and to other buildings in the area, in order to protect privacy and create visual coherence;

2. Views, solar access, and access to open space;

3. Organization of large developments into recognizable sub-areas in order to provide proper scale and identity;

4. Preservation of the environment by avoidance of major topographic change and by protection of significant natural site features including native trees and vegetation;

5. Reduction of visual intrusion into abutting properties in order to protect the existing character of the abutters.

8.7 UTILITIES

A. All utilities shall be placed underground.

B. Each facility within the ACF District shall be connected to a public water supply and a public sewer system.

8.8 PARKING AND CIRCULATION REQUIREMENTS

A. There shall be an adequate, safe, and convenient arrangement of sidewalks, roadways, driveways, parking, and vehicle and pedestrian circulation.

B. Each development within the ACF District shall design its roadway system in conformance with and in furtherance of the new street to be developed for internal circulation within the district. Even though a development parcel has adequate frontage on Boston Road the Planning Board may at its discretion require that primary or sole access to the facility be from the new street. Such requirement will serve both to improve cohesiveness of development within the district and minimize curb cuts on Boston Road.

C. Each facility shall provide on-site parking in conformance with Section 11 of this by-law, subject to the following exception. Because of the diversity in type of development permitted in this district, the Planning Board shall have the right as part of the special permit process to either increase or decrease the required parking for a specific facility, to a level which in its judgment best serves the needs of the development and the community.

8.9 LANDSCAPING REQUIREMENTS

A. A coordinated landscape design for the entire project area, including landscaping of structures, parking areas, driveways, walkways, and buffer strips, shall be submitted to the Planning Board for approval.

B. Wherever possible, existing trees and vegetative cover shall be conserved and integrated into the landscape design.

C. Proper maintenance of the landscaping, including buffer strips, shall be the responsibility of the owner, and shall be a condition of the special permit.

8.10* PROJECT IDENTIFICATION

A. All signage shall be in accordance with the provisions of Section 12.8.

B. All streets shall be posted with standard street signs and all street names shall be approved by the Planning Board. Dwelling Units shall be assigned street numbers by the Assessors Office.

8.11* ENFORCEMENT

A. As a condition of its approval, the Planning Board may establish time limits for any development or phases thereof.

B. Before any building permits are issued, the developer may be required to provide the Town with performance security in a form and amount satisfactory to the Planning Board to guarantee the construction of required streets and site improvements.

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SECTION 9 OVERLAY DISTRICT REGULATIONS

SECTION 9.1* FLOOD PLAIN DISTRICT
SECTION 9.2* [DELETED]
SECTION 9.3* RIDGELINE AND HILLSIDE DISTRICT

9.1* FLOOD PLAIN DISTRICT

9.1.1 Purposes

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

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

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

9.1.2 Scope of Authority

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

All development in the Flood Plain District, including structural and non-structural activities, whether permitted by right or by special permit, must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws, the Wetlands Protection Regulations (currently 310 CMR 10.00), the Inland Wetlands Restrictions (currently 310 CMR 13.00), the Minimum Requirements for the Subsurface Disposal of Sanitary Sewage (currently 310 CMR 15, Title 5), and the Flood Resistant Construction Regulations of the State Building Code (Section 780). Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

9.1.3 District Delineation

9.1.3.1 The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Wilbraham designated as Zone A or AE on the Hampden County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Hampden County FIRM that are wholly or partially within the Town of Wilbraham are listed in the following chart:

Panel Number	Map Number	Date
236	25013C0236E	July 16, 2013
237	25013C0237E	July 16, 2013
240	25013C0240E	July 16, 2013
241	25013C0241E	July 16, 2013
242	25013C0242E	July 16, 2013
245	25013C0245E	July 16, 2013
430	25013C0430E	July 16, 2013
435	25013C0435E	July 16, 2013

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 Hampden County Flood Insurance Study (FIS) report dated July 16, 2013. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, and Building Inspector.

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

9.1.3.3 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.

9.1.3.4 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.

9.1.4 Permitted Uses

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

A. Conservation of water, plants and wildlife;

B. Outdoor recreation, including play areas, nature study, boating, fishing and hunting where otherwise legally permitted, but excluding building and structures;

C. Wildlife management areas, foot, bicycle, and/or horse paths and bridges provided such uses do not affect the natural flow pattern of any water course;

D. Grazing and farming, including truck gardening and harvesting of crops;

E. Forestry and nurseries;

F. Temporary non-residential buildings used in connection with fishing or growing, harvesting, storage or sale of crops raised on the premises;

G. Buildings lawfully existing prior to the adoption of these provisions.

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

9.1.5 Uses by Special Permit

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

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

A. A showing of good and sufficient cause;

B. A determination that failure to grant the special permit would result in exceptional hardship to the applicant;

C. A determination that the granting of a special permit will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws;

D. A determination that the special permit is the minimum necessary considering the flood hazard to afford relief.

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

9.1.5.4 Under no circumstances shall a special permit be issued in the regulatory floodway. In Zone AE, along watercourses within the Town of Wilbraham that have a regulatory floodway designated on the Hampden County FIRM, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

9.1.5.5 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.

9.1.6 Notification of Watercourse Alteration

In a riverine situation the Wilbraham Conservation Commission or its designee shall notify the following of any alteration or relocation of a watercourse:

- Adjacent Communities
  (East Longmeadow, Hampden, Ludlow, Monson,
  Palmer and Springfield)
- 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

9.1.7 Disclaimer of Liability

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

9.2* [*SECTION DELETED*]

[Editor's Note: Former Section 9.2 (Ground Water Protection District) was deleted by vote of Town Meeting on May 16, 2016.

9.3* RIDGELINE AND HILLSIDE DISTRICT

9.3.1 Purpose

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

9.3.1.1 To preserve and protect the natural scenic beauty and related natural resources of the upland areas in the Town of Wilbraham.

9.3.1.2 To regulate new construction, the removal of natural vegetation, especially large trees, and the excavation and alteration of land, in order to minimize any danger of erosion, sedimentation, flooding, water pollution, and other adverse impacts of development within the District or any adjacent low lying area.

9.3.1.3 To insure that development within the District does not reduce property values within said District or adjacent thereto by unnecessarily detracting from the natural visual setting or obstructing significant views.

9.3.2 Scope of Authority

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

9.3.3 District Delineation

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

9.3.4 Development Subject to Ridgeline and Hillside District Review

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

A. The construction of a new dwelling or principal structure.

B. A significant addition or alteration to any dwelling or other structure, if such action affects the exterior appearance. A significant addition or alteration is defined as an alteration which

increases the assessed value by fifteen (15) percent, or which adds to the height of the structure, or which substantially alters the visual profile of the property or structures thereon.

C. The removal, filling, excavation or alteration of earthen materials or the construction of an access road, if such action changes pre-existing drainage characteristics or sedimentation patterns, or alters the topographic or visual profile of the property.

D. The construction of a windmill, tower, satellite dish, antenna or other visually prominent accessory structure.

E. Any subdivision which requires approval under the Subdivision Control Law, M.G.L., Chapter 41.

F. The removal or destruction of trees, if such action results in a clear cutting or denuding of the forest cover, or an observable visual modification to the forest canopy as viewed from a public way or Public Vantage Point. Selective timber cutting shall be permitted within the area of a designated building envelope wherein principal and accessory structures have been approved. Timber cutting for the purpose of clearing land for legitimate agricultural purposes shall be permitted subject to satisfactory evidence of such intended use.

9.3.5 Ridgeline and Hillside District Review Board

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

9.3.6 Application Information

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

9.3.6.1 Application forms are available in the Planning Office.

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

9.3.6.3 Applications must be accompanied by a site plan. If the development site occupies only a small portion of a parcel of land, the Ridgeline and Hillside Review Board may specify that only a portion of the parcel of land in

question be identified on any site plan so submitted. The site plan shall contain the required information listed under section 13.3 as well as the following additional information:

A. The placement, height, physical characteristics, and architectural rendering of all existing and proposed buildings and structures on the development site including building envelopes if so required.

B. View Points: Photographs of the site of development taken from at least three (3) significant Public Vantage Points exterior to the project together with a map to indicate the location of points and approximate distance to the proposed development.

C. Measures to be undertaken during and after construction to prevent erosion, sedimentation, flooding or water pollution.

D. Vegetation: Existing and proposed vegetation, all proposed landscaping improvements including plans depicting the type, bulk, and height of trees and shrubs.

E. Any other information that is necessary for the proper consideration of the application.

9.3.7 Design Standards

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

9.3.7.1 Siting of Structures and Building Characteristics

A. The placement of buildings and structures shall not detract from the site's scenic qualities or obstruct significant views.

B. Building sites shall be placed downgrade of the ridgeline where possible and shall be located in a manner as not to break the view or exceed the elevation of the ridgeline as viewed from Public Vantage Points.

C. Foundations shall be constructed to reflect the natural slope of the terrain.

D. Roof lines and roof surfaces should be an important part of the building design and shall reflect the natural slope of the terrain.

E. Building materials and exterior colors shall blend with the natural landscape.

F. Where public views will be unavoidably affected by a structure, the building height shall not exceed twenty-five (25) feet.

9.3.7.2 Landscaping

A. The removal of native vegetation, especially large trees, shall be minimized. Trees may only be removed for construction of streets, driveways or structures. Selective clearing for lawns and septic systems shall be designated on the site plan.

B. Landscaping and plantings shall be utilized to screen buildings in open or prominent areas from significant views. Landscaping and plantings shall be generally compatible with native vegetation.

9.3.7.3 Grading

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

9.3.7.4 Utilities

Utilities shall be constructed and routed underground.

9.3.7.5 Erosion and Sedimentation Control

A. Post development runoff shall not exceed pre-development levels. All runoff from impervious surfaces shall be retained on site, and if necessary, shall be diverted to infiltration basins covered by natural vegetation which shall be designed to handle a minimum 25 year storm.

B. Appropriate sediment and erosion control measures shall be employed to minimize the impacts during and after construction.

9.3.7.6 Accessory Structures

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

9.3.8 District Review Criteria

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

9.3.8.1 Development is designed and located on the site to sensitively relate with the natural terrain and vegetation in order to preserve the visual character of the site so as not to interfere with or degrade its scenic attractiveness as viewed from either a public highway or Public Vantage Point.

9.3.8.2 Safeguards have been employed so that land development will not result in flooding or water pollution or cause soil erosion or sedimentation, in order to prevent the creation of a dangerous or unhealthy condition.

9.3.8.3 Where public views will be unavoidably affected by the proposed development, architectural and landscaping measures have been employed so as to minimize the impact.

9.3.9 Review Procedure

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

9.3.9.1 Conference.

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

9.3.9.2 Time Schedule.

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

9.3.9.3 Decision of the Review Board

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

A. Approval of the site plan based on a determination that the proposed project meets the requirements of this section.

B. Approval of the site plan subject to such conditions, modifications and reasonable restrictions as the Review Board may deem necessary to ensure compliance with the requirements of this section.

C. Denial of the site plan based on a determination that either:

1. Insufficient information was submitted with the application for the Board to adequately review the proposal; or

2. The project does not meet the requirements of this section.

9.3.10 Waiver of Compliance.

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

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

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

F. Where public views will be unavoidably affected by a structure, the building height shall not exceed twenty-five (25) feet.

9.3.7.2 Landscaping

A. The removal of native vegetation, especially large trees, shall be minimized. Trees may only be removed for construction of streets, driveways or structures. Selective clearing for lawns and septic systems shall be designated on the site plan.

B. Landscaping and plantings shall be utilized to screen buildings in open or prominent areas from significant views. Landscaping and plantings shall be generally compatible with native vegetation.

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

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B. Appropriate sediment and erosion control measures shall be employed to minimize the impacts during and after construction.

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9.3.8.2 Safeguards have been employed so that land development will not result in flooding or water pollution or cause soil erosion or sedimentation, in order to prevent the creation of a dangerous or unhealthy condition.

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

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B. Approval of the site plan subject to such conditions, modifications and reasonable restrictions as the Review Board may deem necessary to ensure compliance with the requirements of this section.

C. Denial of the site plan based on a determination that either:

1. Insufficient information was submitted with the application for the Board to adequately review the proposal; or

2. The project does not meet the requirements of this section.

9.3.10 Waiver of Compliance.

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

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

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

SECTION 10 GENERAL REGULATIONS

SECTION 10.1 CORNER VISIBILITY
SECTION 10.2 LANDSCAPED BUFFER STRIPS
SECTION 10.3* [DELETED]
SECTION 10.4 EARTH REMOVAL REGULATIONS
SECTION 10.5* WIRELESS COMMUNICATIONS FACILITIES REGULATIONS
SECTION 10.6* [DELETED]
SECTION 10.7* LARGE-SCALE GROUND-MOUNTED SOLAR ENERGY SYSTEMS

10.1 CORNER VISIBILITY

Between the lines of streets intersecting at an angle of less than one hundred thirty-five (135) degrees and a line joining points on such lines twenty-five (25) feet distant from that point of intersection, no building or structure may be erected and no vegetation may be maintained between a height of three (3) feet and a height of eight (8) feet and above the plane through their average grades.

10.2 LANDSCAPED BUFFER STRIPS

10.2.1 A landscaped buffer strip is intended to provide within a reasonable period of time a visual barrier between different land uses. Except for pedestrian and vehicular passways, the area shall be used only for the planting of deciduous and evergreen trees and shrubs, with lawn or other suitable and appropriate ground cover. Suitable existing growth may be incorporated into the planting. A planting plan showing the types, sizes, and location of material to be used shall be submitted.

10.2.2 The Special Permit Granting Authority may waive the requirements of the visual barrier where it deems it to be advisable, for example, where a street is the dividing line between different land uses. Proper maintenance of a required landscaped buffer strip shall be the responsibility of the owner, and shall be a condition of conformance with the Zoning By-law. Where considered appropriate, walls and/or fences may be used in lieu of plantings upon issuance of a special permit.

10.3* [SECTION DELETED]

[Editor's Note: Former Section 10.3 (Gas and Oil Pipe Lines) was deleted by vote of Town Meeting on May 16, 2016.]

10.4 EARTH REMOVAL REGULATIONS

The purpose of this section is to preserve a cover-crop on the land to prevent erosion, and to control any excavation operations that may create a safety or health hazard to the public or the adjacent property owners, or be detrimental to the immediate neighborhood or to the Town of Wilbraham. The covering of excavations may be done with the top six (6) inches of soil removed therefrom, and furnishing new top soil or loam from off the premises will not be required. Excavations which uncover ledge or rock outcrops need not be covered or seeded.

10.4.1* Earth Removal Permits

Except as otherwise provided in this section, there shall be no removal from the premises of earth, loam, sand, gravel, clay or quarry stone in any zoning district except as follows.

A. The Building Commissioner may issue a permit for the removal of not more than 250 cubic yards of surplus material from a single lot in any Residential Zoning District, provided such material results from the excavation of a foundation for a residence, swimming pool, driveway or similar accessory residential structure for which a building permit has been issued.

B. The Zoning Board of Appeals may, after a public hearing, issue a special permit for the removal of surplus material resulting from other bona fide construction, landscaping or site work being executed on the premises, provided that no rock crushing will be permitted in a Residential Zoning District. The Zoning Board of Appeals shall impose the conditions set forth in Section 10.4.2 where appropriate and necessary for the protection of the health, safety and welfare of the inhabitants of the Town.

C. The Zoning Board of Appeals may, after a public hearing at which the Planning Board and Conservation Commission may submit a report, issue a special permit for the removal and/or processing of earth, loam, sand, gravel, clay or quarry stone in any zone other than a Residence District subject to the conditions in Section 10.4.2.

D. The Planning Board shall be the special permit granting authority for the export, import and/or re-grading of earth material on any parcel of land in connection with the construction of streets and the installation of municipal services as shown on a subdivision plan or a plan submitted pursuant to Section 4.6 Flexible Subdivision; Section 4.7, Flexible Nonsubdivision; Section 4.8, Planned Unit Residential Development; Section 5, Residential Multiple Development; and Section 8, Adult Care Facilities.

10.4.2 Standards and Conditions

A. The applicant shall submit a plan prepared by a registered professional engineer and registered land surveyor. This plan must show existing grades on the parcel of land from which the

above material is to be removed, and essential grades on abutting parcels of land, together with proposed grades at the conclusion of the operation.

B. The plan shall provide for proper drainage of the area during the period of operation and after completion. In residence districts, every slope or bank above or below natural grade must be prepared at the end of each working day so that it does not exceed one foot of vertical distance in each two feet of horizontal distance. In other districts, on completion of the operation, no bank shall exceed a slope of one foot of vertical distance in each two feet of horizontal distance.

C. At the conclusion of the operation, or of any substantial portion thereof, the whole area where removal takes place shall be covered with not less than six (6) inches of top soil and seeded with a suitable cover crop.

D.* No stone crusher or other machinery not required for actual removal of the material shall be used, unless permitted by the Zoning Board of Appeals.

E. Before a permit is granted under this section the applicant shall post a bond in an amount approved by the Zoning Board of Appeals as sufficient to guarantee conformity with the provisions of the permit issued hereunder.

F. In passing on such applications, the Zoning Board of Appeals shall consider the effect of such removal on surrounding property and the future usefulness of the premises when the operation is completed.

G. The Zoning Board of Appeals shall impose such additional conditions as may in its sole judgment be for the protection of health, safety, and welfare of the inhabitants of the Town. Such conditions may include restrictions on use of roads and routing of vehicles; hours of operation; storage of operating equipment; restrictions on impoundment of water and slopes of banks; minimum distance of the operation from any residential lot line; and fences and other safety measures required during the period of operation.

H. The Town Engineer or other agent designated by the Zoning Board of Appeals shall inspect each operation at least once a month and report on his inspection to the Zoning Board of Appeals. The costs to the Town of such inspections shall be billed to and paid for by the holder of the permit.

10.4.3* [deleted]

10.4.4 Expiration

Earth removal permits shall be issued for a period of one year. A public hearing shall be held before a permit is renewed by the Zoning Board of Appeals.

10.5* WIRELESS COMMUNICATIONS FACILITIES REGULATIONS

The purpose of this subsection of the Zoning By-Law is to establish appropriate siting criteria and standards for wireless communications facilities, to minimize the adverse impact on adjacent properties, to preserve scenic views, to limit the number and height of such facilities, to promote the shared use of existing facilities to reduce the need for new facilities, and to provide maximum wireless coverage as mandated by Section 704 of the Federal Telecommunications Act of 1996, while protecting the historic and residential character of the Town of Wilbraham, the property values of the community and the health and safety of citizens.

10.5.1 General Use Restrictions

A. No wireless communications facilities as defined in section 1.3 shall be erected or installed except by Special Permit from the Planning Board, acting as the Special Permit Granting Authority, in accordance with the procedures specified in section 10.5 and section 13.6 as well as such rules and regulations as officially promulgated by the Planning Board.

B. Any proposed modification to an existing wireless communications facility erected or installed by Special Permit from the Planning Board including but not limited to the addition or replacement of cells, antennae or panels shall be subject to these provisions and shall require a new application. The Planning Board may waive, at its discretion, any application requirements for such modifications.

C. Wireless communications facilities in existence at the time of adoption of these Regulations including guyed towers, lattice towers and utility towers may be reconstructed, altered, extended or replaced on the same site by Special Permit, provided that the Planning Board finds that such reconstruction, alteration, extension or replacement will not be substantially more detrimental to the neighborhood and/or the Town than the existing structure. In making such a determination, the Planning Board shall consider whether the proposed reconstruction, alteration, extension or replacement will create public benefits such as opportunities for co-location, improvements in public safety, and/or reduction in visual and environmental impacts.

10.5.2 Design Guidelines

The following guidelines shall be used when preparing plans for the siting and construction of wireless communications facilities.

A. To the extent feasible, wireless communications facilities shall be located on existing structures, including but not limited to buildings, water towers, telecommunications towers, utility poles and related facilities, provided that such installation preserves the character and integrity of those structures. The applicant

shall have the burden of proving that there are no feasible existing structures upon which to locate.

B. To the extent feasible, wireless communications facilities shall be located so as to be as visually unobtrusive as possible from all views to the greatest extent possible. An applicant proposing a wireless communications facility shall demonstrate to the satisfaction of the Planning Board that the applicant has endeavored to minimize the visual and aesthetic impacts of the proposed facility on residential abutters; and, that the facility must be located at the proposed site due to technical, topographical or other unique circumstances.

C. To the extent feasible, wireless communications facilities shall be designed to accommodate the maximum number of users technologically practical. The intent of this requirement is to reduce the number of towers which will be required within the community. New towers shall be considered only upon a finding by the Planning Board that existing or approved towers cannot adequately fulfill the applicant's service requirements or accommodate the wireless communications equipment planned for the proposed tower.

D. All building-mounted facilities shall be designed and located so to appear as an integral part of the existing architecture of the building. No such facility shall project more than ten feet above the existing roof line of the building, or more than ten feet above the top of the existing structure upon which it is mounted, or more than five feet out from the plane of the existing wall or facade to which it is attached, provided that such projections do not otherwise violate existing yard dimensions or setback requirements.

E. Only free standing monopoles, with associated antennae and panels are allowed in new locations. Lattice style towers or any tower requiring guy wires for support are not allowed unless pre-existing on the location.

F.* No new wireless communications tower shall be located closer than two miles to any other existing tower location unless the Applicant demonstrates to the satisfaction of the Planning Board that:

1. The proposed tower placement is critical to the provision of services and co-location is not feasible on existing towers for technical reasons; or
2. The proposed tower placement will result in a significantly lower tower, will significantly facilitate co-location on the tower or will significantly improve protection of the viewshed in furtherance of the purposes of this section.

G.* All wireless communications towers shall be constructed to the minimum height necessary to accommodate the immediate proposed use but shall be designed with a supporting base structure that is capable of accommodating any further increase in height associated with the anticipated future expansion in use, if any, approved by the Planning Board, provided that:

1. In residential zoning districts, wireless communications facilities shall not exceed one hundred (100) feet in height as measured from ground level at the base of the tower, unless the Applicant demonstrates to the satisfaction of the Planning Board that a taller tower will permit multiple users without significantly increasing the impact upon the viewshed and/or that the Applicant will be unable to provide service with a shorter tower. However, in no event shall the tower height exceed one hundred fifty (150) feet.

2. In the Ridgeline and Hillside Overlay Zoning District, wireless communications facilities shall not project above the height of the existing tree canopy unless camouflaged or otherwise screened from public view.

H. All wireless communications towers shall be pre-engineered to fail at a pre-determined height and "fold in half" in the event of catastrophic failure.

I.* The setback of a wireless communications tower from the property line of the lot on which it is located shall be at least equal to the tower's height. Further, the tower shall be located a minimum of 500 feet from any existing building that is used as a residence, school, or child care facility.

J. All wireless communications facilities shall be painted, colored, and/or constructed of materials that minimize the visual impact of the wireless communications facilities on adjacent abutters, residential neighbors and other areas of Town, and owners of wireless communications facilities shall endeavor to install said facilities in a manner that blends them into the structure, building, tower and/or landscape where they are located. The Planning Board may impose reasonable conditions to ensure this result including but are not limited to structural design, painting, lighting, and landscaping standards.

K. Fencing shall be provided to control unauthorized access by the public to wireless communications facilities and shall be compatible with the scenic character of the Town and of abutting properties and shall not be of barbed or razor wire unless completely blocked from view by shrubs or other landscaping. A landscape buffer of evergreen shrubs or tree planting shall be provided on the outside of the fenced area. All landscape plantings must be continually maintained.

L. Lighting shall be limited to the lighting required for emergency and for Federal Aeronautics Administration (FAA) compliance. All lighting shall be shielded to prevent undue impact on surrounding properties.

M.* Accessory structures housing support equipment for wireless communications facilities shall be designed and constructed to be as unobtrusive as possible in accordance with the following guidelines:

1. If feasible, equipment shelters may be located in underground vaults.
2. Equipment shelters located above grade shall not exceed four hundred (400) square feet in area and fifteen (15) feet in height, and if more than one such building are placed on-site they shall be designed and constructed to be architecturally similar and compatible with each other.
3. If mandated by the Planning Board, equipment shelters shall be screened from view behind an effective year-round landscaped buffer and/or wooden fence to lessen adverse visual impacts on the surrounding neighborhood.
4. If mandated by the Planning Board, equipment shelters shall be designed and constructed to be consistent with traditional New England architectural styles and materials (pitched roof and wood clapboard or shingle siding) to preserve the architectural and historic character of the surrounding neighborhood.

N. Signs shall be restricted to warning/no-trespassing signs and an identification sign displaying the Federal Communications Commission (FCC) registration number of the facility, the owner/operator, and an emergency telephone number where the owner/operator can be reached on a twenty-four (24) hour basis. All signs shall comply with the requirements of the Wilbraham Zoning Bylaw.

O.* To the extent feasible, all network interconnections from the communications site shall be via land lines and all utility lines serving the facility shall be installed underground.

P. Existing on-site vegetation shall be preserved to the maximum extent practicable. Clearing of land shall be performed in a manner, which will maximize preservation of natural beauty and conservation of natural resources.

10.5.3* Submission Requirements

The applicant or co-applicant for a Wireless Communications Facilities special permit must be a licensed carrier who has authority from the Federal Communications Commission to provide wireless communications services for the facility being proposed. Other co-applicants shall include the company proposing to construct the

facility, other licensed carriers and tenants for the facility, and the landowner of the subject property. The applicant shall submit to the Planning Board a written application on the prescribed form containing all of the following information:

A. A site plan in accordance with the requirements of this section and section 13.3, which shall show all property lines, the exact location of the proposed facilities, streets, landscape features, residential dwellings and buildings within five hundred (500) feet of the facility.

B. A color photograph or rendition of the proposed wireless communications facilities including, but not limited to, the proposed tower with its antenna and/or panels. A rendition shall also be prepared illustrating a view of the facility from the nearest street or streets.

C. A technical report prepared by a radiofrequency engineer, professional engineer or other appropriate professionals containing:

1. "coverage maps" detailing the applicant's plans for providing wireless communications service to the Town of Wilbraham;
2. a description of the proposed wireless communications facility including the technical, economic and other reasons for the proposed location, height and design;
3. a survey of all pre-existing structures, buildings or towers which are capable of supporting the equipment necessary to provide the intended service, and a technical report which demonstrates why any such structure, building or tower cannot be used by the applicant;
4. a description of the capacity of the proposed facility including the number and type of panels, antenna and/or transmitter receivers that it can accommodate and the basis for these calculations;
5. a description of the special design features utilized to minimize the visual impact of the proposed wireless communications facilities; and
6. certification of compliance with all applicable state and federal standards.

D. A landscape plan showing the proposed site before and after development including topography and screening proposed to protect abutters.

E. If required by the Planning Board, after submitting an application for any new tower or extension in height thereto, the applicant shall schedule with the Planning Board a "crane test" at the proposed site, at the expense of the applicant, to illustrate the height and visibility of the proposed facility in accordance with

the following procedures. The applicant shall arrange to erect a crane (or alternate temporary mast) to the maximum height at the location of the proposed tower and shall arrange to fly a balloon upon the crane (or temporary mast) at the maximum height at the location of the proposed tower. The balloon shall be of size (minimum three-foot diameter) and bright color that is capable of being seen for a distance of one (1) mile. In cases where topography, forest cover or other site conditions make a crane test impractical, the Planning Board may allow the floating of a tethered balloon (a "balloon test") in lieu of the crane test. Such test shall be conducted prior to the public hearing on a weekend day beginning at 8 AM and continuing for a minimum of 8 consecutive hours. The date, time and location of the field test (and an alternative date in case of unsuitable weather conditions) shall be posted with the Town Clerk and advertised at the applicant's expense in a newspaper of general circulation in Wilbraham at least seven (7) days before the field test. In addition, written notice shall be provided to all abutters of record.

F. If the proposed facility will extend above the tree canopy, the applicant shall prepare a visual impact analysis of the proposed facility which report shall include:

1. A viewshed map. For the purposes of this section, viewshed shall mean the areas in Wilbraham which are likely to have views of the proposed facility. The viewshed shall be delineated through analysis of topographic contours to determine line-of-sights surrounding the proposed facility under the assumption that existing vegetation and structures do not exist.

2. Identification of key viewpoints of the proposed facility. Said viewpoints shall, to the extent feasible, be taken from existing vantage points commonly used by the public, such as nearby residences, public buildings, noteworthy scenic or historic resources, public roads, etc.

3. Photographic analysis of the key viewpoints of the proposed facility using unaltered photographs taken from eye level (five feet above grade) which show the existing (baseline) condition of these viewpoints, as well as accurate scale perspective elevation drawings, computer-altered photographs or other accurate representation showing said viewpoints with the facility in place.

G. Proof of ownership of the proposed site, or proof of a contract or lease with the owner of the site establishing the applicant's right to construct a facility on the site.

H. Documentation of the Carrier's legal right to install and use the proposed facility in the form of a license from the Federal Communications Commission (FCC).

I. In addition to the application fee, the Planning Board retains the right to commission independent consultants to review and analyze the application for compliance with zoning requirements. The cost for retaining such experts shall be paid by the applicant and the applicant shall pay a project review fee if so required by the Planning Board in accordance with the Rules and Regulations for Special Permits of the Planning Board.

10.5.4* Monitoring and Maintenance

A. Pre-testing. Prior to beginning operation of the facility, the applicant shall hire a qualified independent professional to monitor the background levels of electromagnetic frequency (EMF) radiation around the proposed facility site. A report of monitoring results shall be prepared by the independent consultant and submitted to the Planning Board and the Building Inspector.

B. Post-Testing. Within thirty (30) days from the date of operation of the facility and at annual intervals from the date of issuance of the special permit, the Planning Board shall require that the applicant hire a qualified independent professional to measure existing levels of electromagnetic frequency (EMF) radiation from the facility. A report of the monitoring results shall be submitted to the Planning Board stating whether the results are accurate and in compliance with the standards of the Federal Communications Commission and the American National Standards Institute.

C. The applicant shall operate and maintain the facility in good condition and in compliance with the requirements of this section and the conditions of the special permit issued hereunder.

D. The Building Inspector may annually require proof of certification demonstrating compliance with the standards of the Federal Communications Commission, Federal Aviation Administration, and the American National Standards Institute and required maintenance.

E. Failure to comply with the provisions of this section 10.5 or special permit granted under this section shall be grounds for revocation of the special permit.

10.5.5* Cessation of Use and Obsolescence

A. Providers of wireless Communications service shall report to the Building Inspector, any cessation in the use or operation of any wireless communications facility that exceeds thirty (30) days, and such facilities shall be dismantled and removed at the owner's expense within one (1) year of cessation of use or operation.

B. Prior to issuance of a building permit for a Wireless Communications Tower, the applicant shall post with the Town

performance security in the amount set by the Planning Board. The amount shall be sufficient to cover demolition, removal and disposal of the tower and its accessories as well as the remediation of the landscape in the event the Building Inspector condemns the tower or any part accessory thereto, or deems it unused for more than one year. The applicant shall authorize and, as necessary, shall obtain the authorization of the owner of the property to allow the Town to enter upon the subject property to remove the facility in the event of condemnation or cessation of use. The Building Inspector shall give the tower's owner forty-five (45) days written notice by registered mail before demolition commences. In the event that the posted amount of performance security does not cover the cost of demolition and/or removal, the Town may place a lien upon the property covering the difference in cost.

10.5.6* Waivers & Modifications

A. The Planning Board may waive one or more of the application filing requirements of this section if it finds that such information is not needed for a thorough review of a proposed wireless communications facility.

B. The Planning Board may modify any provision or requirement of this section if it can be demonstrated (1) that it is technically infeasible to meet said requirement or (2) that its effect is to prohibit the proposed use throughout the Town or (3) that such modification will promote public benefits such as opportunities for co-location, improvements in public safety, reductions in visual and environmental impacts and/or otherwise promote the purposes of this section.

10.6* [*SECTION DELETED*]

[Editor's Note: Former Section 10.6 (Temporary Moratorium on Medical Marijuana Treatment Centers) was deleted by vote of Town Meeting on May 12, 2014. Please refer to Sections 3.4.5.21 and 7.6 for current Registered Marijuana Dispensary Use Regulations.]

10.7* LARGE-SCALE GROUND-MOUNTED SOLAR ENERGY SYSTEMS

10.7.1 Purpose

The purpose of this section of the Zoning By-Law is to promote and facilitate the orderly development of Large-Scale Ground-Mounted Solar Energy Systems in the Town of Wilbraham by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such systems, to protect public safety, to minimize impacts on scenic, natural and historic community resources, and to provide adequate financial assurance for the eventual decommissioning of such systems.

10.7.2 Applicability

A. This section applies to the construction and operation of Large-Scale Ground-Mounted Solar Energy Systems as defined in section 1.3. This section also pertains to physical modifications that materially alter the type, configuration or size of Large-Scale Ground-Mounted Solar Energy Systems or related equipment throughout the useful life of the system.

B. The requirements of this section shall apply to a Large-Scale Ground-Mounted Solar Energy System regardless of whether it is the primary use of property or an accessory use.

C. Large-Scale Ground-Mounted Solar Energy Systems may only be constructed or materially modified after the issuance of site plan approval or a special permit from the Planning Board in accordance section 3.4.3.7

D. Municipal facilities owned, operated by, or developed for and on behalf of the Town of Wilbraham are allowed as-of-right in all zoning districts with site plan approval from the Planning Board.

E. Ground-Mounted Solar Energy Systems with a footprint size less than 10,000 square feet in area that are an accessory structure to an existing use do not need to comply with this section but shall require a building permit and must comply with Section 3.9.1.3 of the Wilbraham Zoning By-Law as applicable.

10.7.3 General Requirements

A. **Compliance**. The construction, maintenance, operation, modification and removal of the Large-Scale Ground-Mounted Solar Energy System shall comply with all applicable local, state, and federal requirements.

B. **Building Permit and Inspection**. No Large-Scale Ground-Mounted Solar Energy System shall be constructed, installed or modified, as provided in this Section, without first obtaining a building permit.

C. Fees. The application for a Large-Scale ground-Mounted Solar Energy System must be accompanied by the required fee.

10.7.4 Site Control

The applicant shall demonstrate legal access to and control over the proposed site sufficient to allow for the construction and operation of the proposed Large-Scale Ground-Mounted Solar Energy System.

10.7.5 Utility Notification

The applicant shall demonstrate that it has notified the operator of the electric grid that it intends to connect the Large-Scale Ground-Mounted Solar Energy System to the electric grid. Off-grid installations are exempt from this requirement.

10.7.6 Filing Requirements

Applicants seeking to construct or modify a Large-Scale Ground-Mounted Solar Energy System shall submit the following information to the Planning Board. All maps to be submitted must be drawn at appropriate scales and be signed by a registered professional engineer or licensed surveyor. The Planning Board may, in its discretion, waive any of the filing requirements.

A. Contact Information – Provide the applicant's and property owner's name, address, phone number, email address, and signature.

B. Site Identification – Provide the address and the map, lot and block number of the proposed site.

C. Site Plans – Provide site plans showing the following:

(1) Property lines of the proposed site.

(2) Outlines of all existing and proposed buildings and structures on the proposed site, including distances from the proposed Large-Scale Ground-Mounted Solar Energy System.

(3) Existing and proposed access roads, driveways, public ways, private ways, and recreational trails on the proposed site.

(4) Detailed layout of the proposed Large-Scale Ground-Mounted Solar Energy System, including but not limited to panel mounts, foundations, appurtenant equipment and fencing.

(5) Detailed layout of the electric infrastructure to connect the Large-Scale Ground-Mounted Solar Energy System to the electric grid or net metering equipment.

(6) Delineation of all wetland resources and associated buffer areas.

(7) Locations of rare, threatened or endangered species existing on the site.

(8) Proposed changes to the site, including grading, cut and fill, landscaping, native vegetation for screening and vegetation to be removed or altered.

(9) Engineering controls at the site and on the access road to control erosion and sedimentation both during construction and after construction as a permanent measure. Such engineering controls shall conform to the Massachusetts Department of Environmental Protection's Stormwater Policy.

D. Technical Information – Provide the following information:

(1) Blueprints or drawings of the Large-Scale Ground-Mounted Solar Energy System signed by a professional engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the installation and any potential shading from nearby trees or structures.

(2) One or three line electrical diagram detailing the solar photovoltaic installation, appurtenant equipment and electrical interconnection methods with all National Electric Code compliant devices.

(3) Documentation of the major Large-Scale Ground-Mounted Solar Energy System components to be used, including but not limited to PV panels, panel mounts and inverter.

E. Operation & Maintenance Plan. Provide a plan for the operation and maintenance of the Large-Scale Ground-Mounted Solar Energy System which shall include measures for maintaining safe access to the installation, proper security, vegetation and stormwater controls, and general procedures for operations and maintenance of the system.

F. Liability Insurance. Provide proof of liability insurance.

10.7.7 Design Requirements & Performance Standards

A. Lot Size. The minimum lot size for Large-Scale Ground-Mounted Solar Energy Systems shall be five (5) acres.

B. Setbacks. Large-Scale Ground-Mounted Solar Energy Systems shall maintain a minimum front yard setback distance of 75 feet and a minimum side yard and rear yard setback distance of 50 feet. Where a proposed Large-Scale Ground-Mounted Solar Energy System does not abut a residential zoning district or use, the Planning Board may reduce the

above-listed minimum setback distances as provided in subsection 10.7.13.

C. **Height.** The height of the solar panels in a Large-Scale Ground-Mounted Solar Energy System shall not exceed fifteen (15) feet in height above finished grade.

D. **Appurtenant Structures**. All appurtenant structures to Large-Scale Ground-Mounted Solar Energy Systems, including but not limited to, equipment shelters, storage facilities, transformers and substations, shall be architecturally compatible with each other and subject to reasonable regulations concerning the bulk and height of such structures, setbacks, parking and building coverage requirements.

E. **Lighting** – Lighting shall be limited to that required for safety and operational purposes and shall be reasonably shielded so as not to be intrusive to abutting properties. Lighting shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

F. **Screening.** Whenever reasonable and practical, the Large-Scale Ground-Mounted Solar Energy Systems shall be screened year round from all adjoining properties in residential use and public and private ways. If the applicant provides information that the visual buffer would have a detrimental impact on the ability to generate power, the Planning Board may grant a waiver to reduce or eliminate the screening requirement as provided in subsection 10.7.13.

G. **Vegetation Clearing** – The clearing of vegetation shall be limited to that which is necessary for the construction, operation, maintenance, modification and removal of the Large-Scale Ground-Mounted Solar Energy System.

H. **Habitat Fragmentation** – All Large-Scale Ground-Mounted Solar Energy Systems shall to the fullest extent practicable be clustered and located in or adjacent to areas of the site where the land has already been cleared to avoid habitat fragmentation. The facility shall be designed to minimize impacts to agricultural and environmentally sensitive land and to be compatible with continued agricultural use of the land whenever possible.

I. **Signs**. Signs shall comply with section 12 of the Wilbraham Zoning By-Law. A sign consistent with Wilbraham's sign regulations shall be required to identify the owner and provide a 24-hour emergency contact phone number.

J. **Noise**. Noise generated by Large-Scale Ground-Mounted Solar Energy Systems and associated equipment and machinery shall conform to applicable state and local noise

regulations, including the Massachusetts DEP's Division of Air Quality noise regulations, 310 CMR 7.10

K. **Utility Connections**. All utility connections from the Large-Scale Ground-Mounted Solar Energy System to existing overhead utilities shall be underground, unless the Planning Board determines that soil conditions, topography or other site factors make such connection unreasonable or unfeasible or the utility provider determines that such connection to be unsafe or impractical. Electrical transformers for utility interconnections may be above ground only if required by the utility provider.

L. **Stormwater management**. Best management practices shall be used for controlling and managing stormwater run-off and drainage from the Large-Scale Ground-Mounted Solar Energy System in compliance with all applicable federal, state and local regulations.

M. **Security Measures.** Large-Scale Ground-Mounted Solar Energy Systems shall be constructed to prevent unauthorized persons from accessing the Large-Scale Ground-Mounted Solar Energy System.

N. **Emergency Access.** Large-Scale Ground-Mounted Solar Energy Systems and access roads shall be constructed and maintained to allow for safe access by local emergency vehicles. Access roads shall be constructed to minimize grading, removal of stone walls or street trees and to minimize impacts to environmental or historic resources.

O. **Emergency Response Plan.** Upon the request of the fire chief, the owner/operator of the Large-Scale Ground-Mounted Solar Energy System shall cooperate with all local public safety officials to develop and occasionally update an emergency response plan.

10.7.8 Technical Review

Upon receipt of an application for a Large-Scale Ground-Mounted Solar Energy System, the Planning Board may engage professional and technical consultants, at the applicant’s expense, pursuant to M.G.L. Chapter 44 § 53G and its Home Rule Authority to assist the Planning Board with its review of application materials. The Planning Board may direct the applicant to deposit funds with the Planning Board for such review at the time the application is accepted and to add additional funds as needed upon notice. Failure to comply with this section shall be good grounds for denying the special permit application. Upon the approval or denial of the application, any excess amounts in the account attributable to the application process, including any interest accrued shall be refunded to the applicant.

10.7.9 Procedures and Approval Criteria

The Planning Board shall review and act upon a proposed application to construct or materially modify a Large-Scale Ground-Mounted Solar Energy System in accordance with Section 13.5 for site plan approval or in accordance with Section 13.6 for special permits, as applicable, and also taking into consideration the reasonable fulfillment of the following objectives:

A. Conformance with the provisions of this section of the Zoning By-Law;

B. Protection of Town resources and abutting properties by minimizing any undue disturbance from noise, traffic, lighting, hazardous materials, signage, glare or stormwater runoff. The Planning Board may request a study if any of these disturbances appear to pose a particularly significant risk.

C. Integration of the proposed site plan development into the existing landscape through design features such as vegetative buffers and retention of open space and agricultural land.

10.7.10 Operation & Maintenance

The owner/operator of the Large-Scale Ground-Mounted Solar Energy System shall maintain the facility site in good condition. This includes, but is not limited to the maintenance of access roads, stormwater control measures, security measures and vegetation screening.

10.7.11 Decommissioning or Abandonment

A. **Removal Requirements**. Any Large-Scale Ground-Mounted Solar Energy System, or any substantial part thereof, that has reached the end of its useful life or that has discontinued operations shall be removed. The owner or operator shall physically remove the system no later than one hundred eighty (180) days after the date of discontinued operations. The owner or operator shall notify the Planning Board and Building Inspector by certified mail of the proposed date of shutdown and the anticipated schedule for removal and site restoration along with a site plan indicating the site conditions after the decommissioning is completed, including topography at the same contour interval that was provided in the initial site plan approval, if topographical changes will be made. At a minimum, decommissioning shall consist of:

1. Physical removal from the site of the solar panels, structures, equipment, security barriers, and electrical transmission lines.

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 Building Inspector may allow the owner or operator to leave landscaping, below-grade foundations, and/or access roads in place in order to minimize erosion and disruption of vegetation.

B. **Abandonment**. Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the Large-Scale Ground-Mounted Solar Energy System shall be considered abandoned when it fails to operate for more than one (1) year without the written consent of the Planning Board. If the owner or operator fails to remove the Large-Scale Ground-Mounted Solar Energy System in accordance with the requirements of this section within one hundred eighty (180) days after either abandonment or the proposed date of decommissioning, the Town may, to the extent it is otherwise duly authorized by law, enter the property and physically remove the system at the owner's expense. As a condition of Site Plan or Special Permit approval, an applicant shall agree to allow entry to remove an abandoned or decommissioned Large-Scale Ground-Mounted Solar Energy System. The cost for the removal will be charged to the property owner in accordance with the provisions of 139, Section 3A as a tax lien on the property.

C. **Financial Surety**. The operator of the Large-Scale Ground-Mounted Solar Energy Systems shall provide a form of surety, either through escrow account, 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 Planning Board. Such surety will not be required for municipal or state-owned facilities. 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.

10.7.12 Lapse of Approval

Any special permit or site plan approval shall automatically lapse if the Large-Scale Ground-Mounted Solar Energy System is not installed and functioning within two (2) years or the Large-Scale Ground-Mounted Solar Energy System is abandoned.

10.7.13 Waivers

The Planning Board may grant requested waivers from the dimensional or design requirements of this section upon a finding that such waiver(s) will not derogate from the intent of this By-Law or be detrimental or injurious to the public health, safety and welfare concerns that the regulations of this Section 10.7 are intended to protect.

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SECTION 11 OFF-STREET PARKING AND LOADING REGULATIONS

SECTION 11.1 GENERAL PARKING REQUIREMENTS
SECTION 11.2 SCHEDULE OF OFF-STREET PARKING REQUIREMENTS
SECTION 11.3 PARKING AREA DESIGN AND LOCATION
SECTION 11.4 LOADING AREAS
SECTION 11.5 SURFACING REQUIREMENTS

11.1 GENERAL PARKING REQUIREMENTS

11.1.1 In all districts, in conjunction with the construction, conversion and/or expansion of any structure, as well as upon the expansion of any use, parking facilities sufficient to accommodate the motor vehicles of all occupants, employees, customers, and other persons normally visiting the premises at any one time, shall be provided and maintained on the lot and off the street way.

11.1.2 In granting a special permit for any use, the Special Permit Granting Authority may require off-street parking spaces, standards, or conditions in addition to those set forth in this By-Law, as it deems necessary for the use.

11.1.3 Any specific, more stringent provision in any section of this By-Law relating to parking shall prevail over provisions in this section.

11.1.4* In granting either site plan approval or a special permit for any use, the appropriate authority may waive or modify any requirement of this section 11 for compelling reasons of safety, aesthetics or site design.

11.2 SCHEDULE OF OFF-STREET PARKING REQUIREMENTS

Unless parking facilities are otherwise specifically approved by the Board of Appeals, every new structure, the enlargement of an existing structure or the development of a new use of land shall provide not less than the following minimum parking spaces, with unobstructed driveway access to each space:

	Permitted Use:	Required Minimum Parking Spaces:
11.2.1	Single and two family dwelling units.	One (1) space for each dwelling unit located to the rear of the front yard.
11.2.2	For single and two family houses renting rooms.	One (1) space for each rented room in addition to the dwelling unit requirements located to the rear of the front yard.
11.2.3	For home professional offices and roadside stands.	Two (2) spaces not limited to location in addition to dwelling unit requirements to the rear of the front yard.
11.2.4	For multi-family dwelling units.	One and one-half spaces (1 1/2) per dwelling unit. (Refer to Section 5.5.7).

	Permitted Use:	Required Minimum Parking Spaces:
11.2.5	In Neighborhood Office and Neighborhood Shopping Districts.	One (1) space for each one hundred (100) square feet of floor space devoted to the principal use exclusive of storage and service areas.
11.2.6	For a theater, assembly hall, or auditorium having fixed seats.	One (1) parking space for each four (4) seats.
11.2.7	For other places of public assembly, public recreation, and for industrial plants.	One (1) parking space for each four (4) legal occupants.
11.2.8	For a motel, inn, or tourist home.	One (1) space for each rental unit or guest room plus two (2) spaces.
11.2.9	For a hospital or convalescent home.	One (1) parking space for each two (2) beds.
11.2.10	For business offices and financial institutions.	One (1) parking space for each one hundred and sixty (160) square feet of building floor area, above the basement, excluding storage areas and stairs.
11.2.11*	Self-storage facility	Adequate spaces to accommodate under normal circumstances the vehicles of employees, customers and visitors to the premises, but not less than six (6) spaces.
11.2.12	For retail sale of automobiles and trucks.	Refer to section 6.5.
11.2.13*	For professional office parks.	Refer to section 7.5.5 and 7.5.6.
11.2.20	For any other business or industrial use.	One (1) parking space for each two hundred (200) square feet of ground floor area, and one (1) parking space for every four hundred (400) square feet of floor area or fraction thereof above the first floor.

11.3 PARKING AREA DESIGN STANDARDS

11.3.1 Parking spaces for dwellings may be provided in a garage or as open parking spaces.

11.3.2 A required parking space shall contain not less than one hundred and eighty (180) square feet in the case of a parking lot, or at least one hundred and thirty (130) square feet in the case of garage parking, with free access to each space.

11.4 LOADING AREAS

11.4.1 Provision shall be made for the loading and unloading of all trucks off the street and highway right-of-way, and without encroachment of required parking areas. The adequacy of space, and suitability of location shall be determined among other things by expected volume, building use, and relation to streets and access driveways.

11.4.2 Not less than one loading space, ten (10) feet by twenty five (25) feet with fourteen (14) feet height clearance, shall be required for a building with a gross floor area of ten thousand (10,000) square feet or more.

11.5 SURFACING REQUIREMENTS

Required parking and loading areas and access driveways shall have an adequate all-weather paved surface capable of allowing free and safe movement of all vehicles customarily using the facility. Nothing herein shall require the use of a hard surface on the parking space or driveway required for dwellings.

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SECTION 12* SIGN REGULATIONS

SECTION 12.1 APPLICABILITY
SECTION 12.2 DEFINITIONS
SECTION 12.3 GENERAL STANDARDS
SECTION 12.4 EXEMPTED SIGNS
SECTION 12.5 RESIDENTIAL DISTRICTS
SECTION 12.6 NEIGHBORHOOD OFFICE (NO) AND NEIGHBORHOOD SHOPPING (NS) DISTRICTS
SECTION 12.7 GENERAL BUSINESS (GB) AND INDUSTRIAL-PROFESSIONAL OFFICE PARK-GENERAL BUSINESS (I-POP-GB) DISTRICT
SECTION 12.8 ADULT CARE FACILITY (ACF) DISTRICT
SECTION 12.9 ADDITIONAL STANDARDS FOR SPECIFIC SIGN TYPES
SECTION 12.10 OFF-PREMISES SIGNS
SECTION 12.11 SIGN MASTER PLAN
SECTION 12.12 NON-CONFORMING SIGNS

12.1 APPLICABILITY

The provisions of this section shall apply to the construction, erection, alteration, use, location, and maintenance of all signs, as defined in Section 1.3, which are located out-of-doors or affixed on any part of a building for the express purpose of being visible from the exterior of the building.

12.2 DEFINITIONS

As used herein this section 12, the following words and terms shall have and include the following respective meanings.

Banner: A temporary sign, typically promoting special civic events sponsored by public or private not-for-profit organizations, usually made of lightweight fabric, plastic or other flexible materials and mounted on the face of a building or hung from a pole or suspended over a street.

Boston Road Business Corridor Enhancement Sign: A banner sign hung from poles that are privately owned, privately maintained and located on privately owned land along the Boston Road Business Corridor in Wilbraham, and which is designed to delineate and give coherence to the Business Corridor in a uniform fashion as part of a comprehensive effort to promote the Business Corridor as a regional marketplace in synergy with the adjacent portion of the Boston Road Corridor in the city of Springfield.

Canopy Sign. A sign painted on or incorporated into the cover of an awning, canopy or other fixed or retractable protective cover attached to a building or structure, and typically located over a door, entrance, window or outdoor service area.

Directory Sign. An on-premises sign identifying individual tenants or occupants of a building or group of buildings and that may indicate their respective professions or business activities.

Electronic Variable Message Sign.* An electrically activated sign or portion thereof whose alphabetic, pictographic or symbolic informational content can be changed or altered at intermittent intervals on a fixed display surface by means of computer-programmed electronic impulses, remote control or similar technology.

Free-standing Sign. A self-supporting sign not attached to any building, wall, or fence, but in a fixed location. This does not include portable or trailer type signs.

Identification Sign. An off-premises sign which indicates the direction, distance to or general site location of a building, business development or geographic area. An Identification Sign may contain the name, address, logo, trademark or other generic identifying symbol of the building or development, but it does not list or advertise individual businesses or commercial enterprises within the development.

Illuminated Sign. Any sign that is artificially illuminated, either internally or externally, by means of electricity, gas, oil, or fluorescent paint.

Incidental Sign. A permanent sign or group of signs, which may aggregate no more than two (2) square feet, which has a purpose secondary to the use of the premises, such as “open,” “vacancy,” “no parking,” “entrance/exit,” “telephone,” “credit cards accepted” and other similar directives. No sign with a commercial message having letters larger than two (2) inches in height shall be considered an “incidental sign.”

Menu Board.* A sign located on the premises of a food service establishment offering drive through window service lawfully permitted by the Planning Board which displays menu items and prices.

Movable Sign. A sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including but not limited to: portable signs mounted on a chassis and wheels; signs supported by legs including A frames or T frames; menu and sandwich board signs; and balloons and other inflatable devices used as signs. Movable signs are classified as temporary signs.

Off-Premises Sign. Any sign that directs attention to an occupant, business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located.

On-Premises Sign. Any sign that that directs attention to an occupant, business, commodity, service, or entertainment conducted, sold, or offered at a location on which the sign is erected or maintained.

Pennants/Flag. A flag or similar device hung on a pole or on the face of a building, decorated with graphics, designs, artwork, symbols and/ or lettering. “Pennants” which contain no commercial advertising

messages, logos or symbols are not considered signs under this article. Bunting and patriotic flags, such as United States, Massachusetts or Town flags, are not considered signs and are exempt from this article.

Roof Sign. A sign which is located above, or projected above, the lowest point of the eaves or the top of the parapet wall of any building, or which is painted on or fastened to a roof or parapet wall.

Special Event Sign.* An on-premises sign or banner that is temporarily affixed to a building, tent or other enclosure, pole or fence which advertises an upcoming or current event at that location.

Temporary Sign. Any sign, including its support structure, that is not permanently mounted and is intended to be maintained for a reasonably short or definite period.

Wall Sign. Any sign which is painted on, incorporated into, or affixed parallel to the wall of a building.

Window Sign. A sign affixed to the surface of a window (inside or outside) or displayed behind a window so as to attract attention from the outside.

12.3 GENERAL STANDARDS

12.3.1 Permitted Signs

Signs that are accessory to a permitted use under Section 3.4 are allowed, provided such signs conform to the provisions of this Section. All signs not conforming to the provisions of this Section are specifically prohibited.

12.3.2 Prohibited Signs

The following prohibitions shall apply to all signs in the Town of Wilbraham.

A. Billboards, movable signs, projecting signs and roof signs are not permitted.

B. Streamers, pennants, ribbons, balloons and other inflatable objects, spinners or other similar devices shall not be constructed, posted or erected. Exceptions include flags and buntings exhibited to commemorate national patriotic holidays, and temporary banners announcing charitable or civic events.

C.* Moving, flashing or animated signs including signs containing reflective elements which sparkle in the sunlight are not permitted. Electronic variable message signs are not permitted except that such signs indicating only the current time and/or temperature are allowed provided they meet all other provisions of this Section.

D. No sign shall be designed in shape, color, placement or display characteristics to resemble traffic signals or traffic control signs nor otherwise impair or cause confusion of vehicular or pedestrian traffic.

E. Any sign advertising or identifying a business or organization which is either defunct or no longer located on the premises is not permitted and shall be removed.

F. Except as expressly provided for elsewhere in this Section, off-premises signs are prohibited.

G. No sign shall be erected or maintained in such manner as to create a hazard or disturbance to the health, safety and welfare of the general public.

H. No sign shall obstruct or impair traffic visibility for the motorist at a street corner, intersection or driveway entrance or exit.

I. No sign shall be placed on Town property or within the right-of-way of the Town without approval from the Board of Selectmen.

12.3.3 Measurement of Sign Area

A. The area of a sign shall be considered to include all lettering, wording, and accompanying designs and symbols, together with the background on which they are displayed, any frame around the sign and any “cutouts” or extensions, but shall not include any supporting structure or bracing.

B. The area of a sign consisting of individual letters or symbols attached to or painted on a surface, building, wall, canopy or window, shall be considered to be that of the smallest quadrangle or a triangle which encompasses all of the letters and symbols.

C. The area of a sign consisting of a three-dimensional object shall be considered being the area of the largest vertical cross-section of that object.

D. In computing the area of signs with two (2) faces placed back-to-back, the area shall be taken as the area of either face, and if the faces are unequal, the larger shall determine the area.

12.3.4 Illumination of Signs

The following standards apply to all signs illuminated internally or externally by electric power.

A. Lighting shall be steady and not moving or intermittent or designed to attract attention by a change in intensity or by repeated motion.

B. Any illumination provided shall be white only.

C. The light source of any illuminated sign shall be shielded from view off the premises so that no direct light extends above ground level beyond the property lines on which the sign is located.

D. No sign shall constitute a hazard to pedestrian or vehicular traffic because of the intensity or direction of illumination.

12.3.5 Sign Permits

Except as expressly provided for under Section 12.4, no sign shall be erected, altered, or relocated in any zoning district without first obtaining a permit from the Building Inspector.

12.4 EXEMPTED SIGNS

The following types of signs are authorized by right and may be erected and maintained without the necessity of a permit from the Building Inspector provided such signs comply with the general requirements of this Zoning By-Law. Such signs are not included in computing total sign area allowed by any part of this Section.

12.4.1* Signs displaying the street number and/or name of the occupant of the premises. Such signs shall not exceed three (3) square feet and may be attached to the building or may be on a post located behind the property line.

12.4.2 Incidental Signs

12.4.3 Signs necessary to warn of danger such as "High Voltage". Signs necessary to prohibit trespassing and hunting that do not exceed two (2) square feet in area may be posted not to exceed one sign per fifty feet of frontage.

12.4.4 [reserved]

12.4.5 Signs erected or posted or maintained for public safety and welfare pursuant to any governmental function, law or other regulation.

12.4.6 Temporary signs advertising property for sale or lease shall be permitted provided:

A. Only one sign shall be erected and it shall not exceed six (6) square feet in area.

B. Such signs shall be located only on the property for sale or lease.

C. The sign shall be removed within fifteen (15) days of sale or lease.

12.4.7 Temporary Sign of an architect, engineer or contractor erected during the period such person is performing work on the premises on which such sign is erected shall be permitted provided that such sign shall not exceed six (6) square feet in surface area.

12.4.8 Political signs providing that:

A. Such signs are permitted only on private property.

12.4.9 Decorative flags of a non-commercial nature displayed accessory to a residential use.

12.4.10 Window Signs provided that such signs shall not exceed twenty-five (25) percent of the total window area in which they are displayed.

12.4.11 Temporary signs, banners or flags displayed for special events sponsored by religious, governmental or legitimate charitable organizations. Such signs shall be removed immediately following the advertised activity.

12.4.12* A temporary sign that announces the opening of a new business subject to the limitations as to size, location and duration of special event signs as authorized under section 12.9.2.

12.5 RESIDENTIAL DISTRICTS

In all residence districts, signs that comply with the provisions hereinafter set forth are permitted. Unless otherwise specifically provided elsewhere in this Section 12, all other signs are expressly prohibited.

12.5.1* Bulletin boards or signs not to exceed six (6) square feet in area necessary to nursing homes, churches, other places of worship, private schools, public libraries, public museums, public parks, playgrounds and similar uses as customarily used therewith, except that one bulletin board or sign not to exceed thirty-two (32) square feet in area necessary to public schools and municipal buildings may be erected by governmental authority subject to site plan approval from the Planning Board.

12.5.2 Real estate sign of not over six (6) square feet in area advertising the sale of real estate in a subdivision or real estate development under written annual permits from the Building Inspector.

A. Signs are to be located within the subdivision or if located outside of the original subdivision the location must be approved by the Planning Board.

B. If a subdivision has nearby outlets to more than one main thoroughfare or more than one outlet from streets within the subdivision into a main thoroughfare, more than one sign may be permitted or approved by the Planning Board.

C. No permit or approval shall be granted for a sign or signs to be located on premises not owned by the applicant unless written permission from the owner of record of the premises or adequate proof of other legal right to such use of the premises is furnished to the Building Inspector.

12.5.3 A permanent sign identifying only the name given to the existing subdivision, real estate development or area, and intended to

replace the sign referred to in Section 12.5.2 subject to written approval of the Planning Board.

12.5.4* An announcement sign on any premises for which a special permit has been granted for a rooming or boarding house under Section 3.9.2.8, a Bed and Breakfast Home under Section 3.9.2.10, a Home Professional Office under Section 3.9.2.12, a Home Occupation under Section 3.9.2.13 or a Family Day Care Home under Section 3.9.2.14, not larger than eighteen (18) inches by twenty-four (24) inches in size stating only the name and/or profession/business of the resident.

12.5.5 No colored lights shall be used on any sign for any purpose. Any illumination provided for signs shall be white, external illumination only and shall conform to the requirements of Section 12.3.4 above.

12.6 NEIGHBORHOOD OFFICE (NO) AND NEIGHBORHOOD SHOPPING (NS) DISTRICTS

In the Neighborhood Office (NO) and the Neighborhood Shopping (NS) Districts, signs that comply with the provisions hereinafter set forth are permitted. Unless otherwise specifically provided elsewhere in this Section 12, all other signs are expressly prohibited.

12.6.1 Signs shall be limited to the name and/or profession of the occupant and the product sold and services rendered on the premises.

12.6.2 Signs must be securely affixed flat to only one wall of the building. Such signs shall be parallel with and not project more than one (1) foot from the face of such wall and shall not project beyond or above the face of any other wall or the roof of the building.

12.6.3 The total area of a sign or signs affixed to a building shall be limited to one (1) sign per occupant, not to exceed twelve (12) square feet for the first forty (40) feet of building frontage plus two (2) square feet for each additional ten (10) linear feet of frontage on the street.

12.6.4* If more than one sign is affixed to the building, signs must be uniform in dimensions and attractive in appearance. In addition to the principal signs herein before referred to there may be one directory sign not to exceed an area of twelve (12) inches by eighteen (18) inches for each additional occupant of the premises. Incidental signs without advertising not to exceed one-half (1/2) square foot in area are permitted in addition to the above signs.

12.6.5 No sign shall be painted or posted directly on the exterior surface of any wall, including windows and doors. All signs must be painted, posted or otherwise securely affixed to a substantial intermediary removable surface and such surface shall be securely affixed to the wall of the building. The foregoing, however, shall not prevent installation of a sign by individual

letters or devices cut into or securely affixed to the exterior wall of a building, provided that such letters or devices have a minimum depth or projection of one-fourth (1/4) of an inch. The material of the sign and intermediary surface and the manner of affixation of the sign to the intermediary surface and of the intermediary surface to the wall of the building shall be subject to the approval of the Building Inspector for the purpose of protecting the safety of the public.

12.6.6* No colored lights shall be used on any sign for any purpose. Any illumination provided for signs shall be from an external light source which shall provide light directed solely onto the sign, which shall be shaded, shielded or positioned such that the light source cannot be seen from a public way, and which shall be maintained at a sufficiently low intensity and brightness to avoid glare and unnecessary light pollution in conformance with the requirements of Section 12.3.4 above. Internally illuminated or back-lit signs are prohibited. No sign shall be illuminated between the hours of 11PM and 6AM unless the business is open for sales or service at the time.

12.7 GENERAL BUSINESS (GB) AND INDUSTRIAL-PROFESSIONAL OFFICE PARK-GENERAL BUSINESS (I-POP-GB) DISTRICTS

In the General Business and the Industrial-Professional Office Park-General Business (I-POP-GB) Districts, signs that comply with the provisions hereinafter set forth are permitted. Unless otherwise specifically provided elsewhere in this Section 12, all other signs are expressly prohibited.

12.7.1 Signs may be either affixed to the building or free-standing.

12.7.2 Affixed Signs.

12.7.2.1 Signs attached to a building must be securely affixed to, parallel with and not project more than eighteen (18) inches from the face of the building wall, and shall not project above the height of the wall or the roof of the building.

12.7.2.2 No sign shall be painted or posted directly on the exterior surface of any wall, including windows and doors. All signs must be painted, posted, or otherwise securely affixed to a substantial intermediary removable surface and such surface shall be securely affixed to the wall of the building. The foregoing, however, shall not prevent installation of a sign by individual letters or devices cut into or securely affixed to the exterior wall of a building, provided that such letters or devices have a minimum depth or projection of one-fourth (1/4) of an inch. The material of the sign and intermediary surface and the

manner of affixation of the sign to the intermediary surface and of the intermediary surface to the wall of the building shall be subject to the approval of the Building Inspector for the purpose of protecting the safety of the public.

12.7.2.3 If more than one sign is affixed to the building, signs must be uniform and attractive in appearance. Total area of all affixed signs must conform with Section 12.7.2.4.

12.7.2.4 The total area of a sign or signs affixed to a building shall not exceed ten (10) percent of the area of the building frontage wall, not to exceed a maximum of one hundred (100) square feet. The building frontage wall area is defined as the exterior surface of a building other than the roof that faces or is parallel to the front yard. The building frontage wall area shall be measured in a vertical plane and is calculated as the length of the building multiplied by the average height from the ground line to the bottom of the roof line at the eaves. The sides of any jogs or projections will not be included in this measurement; but doors and window openings are counted as area for this measurement. In the case of buildings located on corner or through lots, the building frontage wall calculation shall be limited to the wall fronting on the primary street.

12.7.3 Free Standing Signs

12.7.3.1 No part of a free standing sign is to be located closer than ten (10) feet from the property line.

12.7.3.2 A free standing sign shall be no taller than the height of the principal building/structure or twenty (20) feet, whichever is the lesser.

12.7.3.3 The total area of a free-standing sign shall not exceed one-third (1/3) of a square foot for each linear foot of frontage, not to exceed a maximum of one hundred (100) square feet.

12.7.3.4 Not more than one (1) free-standing sign may be erected on any lot, regardless of the number of tenants or occupants of the property; provided that the Planning Board acting as Special Permit Granting Authority may grant a special permit for one (1) additional free-standing sign if such additional sign is determined necessary due to the specific combination of uses on the lot.

12.7.3.5 The provisions of 12.7.3.4 not withstanding, a free-

standing, off-premises sign locating a business that does not have frontage on a public way is permitted subject to receipt of a special permit from the Planning Board. Such signs may be six (6) square feet maximum and shall not exceed six (6) feet in height.

12.7.3.6 Free standing signs may be lighted on both sides. Any illumination provided for signs shall conform to the requirements of Section 12.3.4 above.

12.7.4 Boston Road Business Corridor Enhancement Signs

A. Boston Road Business Corridor Enhancement Signs may be erected and maintained in the General Business (G.B.) District and Industrial-Professional Office Park -General Business District (I-POP-G.B.) District by Special Permit from the Planning Board.

B. The application for the Special Permit must contain a plan of proposed sign locations, sign design, pole design and placement.

C. The sign permit application shall contain proof of easement rights for the pole sign and maintenance access.

D. The placement of poles and signs are to be done without obstructing views or creating safety hazards.

12.8 ADULT CARE FACILITIES (ACF) DISTRICT

The Planning Board, acting as the Special Permit Granting Authority, shall approve the size, design and location of signs within the Adult Care Facilities District in accordance with the following provisions.

12.8.1 There may be not more than (1) freestanding sign at the main entrance to the development site for the purpose of identifying the adult care facilities located within the district as well as such other directional and informational signs as may be deemed necessary within the development.

12.8.2 The Planning Board may require a Sign Master Plan in accordance with Section 12.11 if multiple buildings are to be located together in a development on the same lot, or if two (2) or more developments on contiguous lots are to share a common entrance way.

12.9 ADDITIONAL STANDARDS FOR SPECIFIC SIGN TYPES

12.9.1 Canopy Signs

A. Canopy Signs are allowed where business wall signs are permitted. The Canopy Sign area shall be considered as part of the wall sign area calculation

B. Canopy signs may be located only on the first floor level.

C. The Canopy Sign area shall not exceed 25 percent of the total surface of the canopy.

D. The Canopy shall be restricted to a maximum of two colors - background color with letters and related graphics in a contrasting color.

E. Canopy signs may be illuminated.

12.9.2* Special Event Signs

A. A sign permit is required from the Building Inspector and the permit will indicate the location of the sign and the duration of the special event and will stipulate timing for erection and removal of the Special Event Sign which shall not exceed thirty (30) consecutive days.

B. Special Event Signs may not exceed 20 square feet in area.

C. Pennants, Movable signs, balloons and other inflatable items are not permitted as a Special Event Sign.

D. No part of a Special Event Sign can be higher than the roof line at the eaves of the adjacent building on the lot or twenty (20) feet, whichever is less.

E. A business or organization is allowed to display one sign per special event with a maximum of two special event signs per calendar year provided that in situations where there are more than one business located on the same lot then not more than two separate special event signs shall be permitted on the same lot at any one time.

F. A Special Event Sign which obstructs the visibility of traffic, or becomes unsightly, or flaps or makes noise for any reason shall be promptly removed, relocated or replaced.

12.9.3 Directory Signs

A. Directory Signs may be free standing or affixed to building and are not intended to replace other permitted signage. Directory signs shall be treated separately and shall not be counted against the aggregate allowed sign area specified elsewhere herein.

B. Directory Signs shall not exceed six (6) feet in height and twenty-four (24) square feet in sign area.

C. A sign permit is required prior to erection of signs. The permit application must contain a design of sign, size and lighting proposed. Prior to the approval of this permit the Building Inspector will review the application with the Planning Board.

12.9.4* Menu Board Signs

A. Menu Board signs may be free standing or affixed to the building and are not intended to replace other permitted signage. Menu Board signs shall be treated separately and shall not be counted against the aggregate allowed sign area specified elsewhere herein.

B. Only one Menu Board Sign may be erected on the premises of a food service establishment.

C. Menu Board signs shall not exceed six (6) feet in height and thirty (30) square feet in area.

D. The design, size, location and lighting of the Menu Board sign must be approved by the Planning Board.

12.10 OFF-PREMISES SIGNS

12.10.1 Street Banner Signs

A Banner Sign may be placed above or across a public way with the written permission of the Board of Selectmen upon such terms and conditions as the Board shall determine.

12.10.2 Identification Signs on Town Property

An Identification Sign may be erected and maintained on Town owned land in any district with the written permission of the Board of Selectmen upon such terms and conditions as the Board shall determine.

12.10.3* Identification Signs on Private Property

An Identification Sign may be erected and maintained on private property in any district by Special Permit from the Planning Board where the Planning Board finds such sign will serve the public convenience, will not endanger the public safety, and will be of such size, location and design as will not be detrimental to the neighborhood.

A. The size and design of the sign shall:

1. Not exceed thirty-six (36) inches in total width;

2. Not exceed twenty-four (24) inches in total height;

3. Not exceed seven (7) feet in entire height if placed on a single pole;

4. Not exceed forty-two (42) inches in entire height if placed closed to the ground on double poles;

5. Shall be set back ten (10) feet from the edge of the travelled way;

6. Shall be consistent with the character of the surrounding area.

B. Identification signs can be lighted. Hours and type of lighting will be part of the special permit process.

C. The application for the special permit shall be accompanied by the following:

1. A plot plan showing sign location

2. Design plans and sizes

3. Lighting plans

4. Written permission from the landowner of property where sign is to be located

5. A petition signed by a majority of the businesses who would benefit from such an identification sign, who have agreed on the name to be designated on the sign, and who agree to maintain the sign in proper order. The petition shall be on file with the Town Clerk prior to the public hearing for the Special Permit.

12.11 SIGN MASTER PLAN

Where groups of three (3) or more commercial or industrial units are to be located together in a development on the same lot, or where two (2) or more individual businesses on contiguous lots so elect to be considered together as a planned development, the Planning Board may waive certain restrictions of these Sign Regulations and approve by special permit a Sign Master Plan to govern signage in the planned development. The intent of this section is to promote a uniform and aesthetic message presentation that is designed to provide information to the general public through its design and coordination of elements.

12.11.1 Signs shall be designed to be compatible with the surrounding and appropriate to the architectural character of the building on which they are placed. Sign panels and graphics should relate with and not cover architectural features, and should be in proportion to them.

12.11.2 Signs should be appropriate to the types of activities they represent.

12.11.3 The layout of signs should be orderly and graphics should be of simple shape, such as rectangle, circle or oval.

12.11.4 The number of colors used should be the minimum consistent with the design and must provide a reference or relationship to the enterprise or activity being advertised.

12.11.5 Illumination should be appropriate to the character of the sign and surrounding and shall bear a relationship to the operating hours of the enterprise or activity being advertised.

12.11.6 Groups of related signs shall express uniformity, create a harmonious appearance, and provide a visual and aesthetic coordination of the information presented to the public.

12.11.7 Height and physical placement shall be consistent throughout the master planned area.

12.11.8 The Sign Master Plan, including a site plan, shall be approved by the Planning Board, at a public hearing, and shall detail placement, design, color coordination, visibility, information messages and compatibility with the general design of the development.

12.11.9 Directory Signs for the convenience of the general public and for the purpose of directing persons to a business, activity, service or community facility operating within the Town of Wilbraham may be erected as part of the Sign Master Plan.

12.12 NON-CONFORMING SIGNS

12.12.1 Continuance.

A non-conforming sign lawfully existing at the time of adoption or subsequent amendment to this section may continue, although such sign does not conform to the provisions of this section.

12.12.2* Maintenance.

Any lawfully existing sign cannot be enlarged, redesigned or altered in any way including repainting in a different color, except to conform to the requirements of this section. Any sign which has deteriorated to such an extent that the cost of restoration would exceed 35 per cent of the replacement cost shall not be repaired, rebuilt or altered except to conform to the requirements of this section.

12.12.3 Replacement.

Any sign replacing a non-conforming sign shall conform with the provisions of this section, and the non-conforming sign shall no longer be displayed.

SECTION 13 LAND USE REVIEW PROCEDURES

SECTION 13.1 GENERAL
SECTION 13.2 PRE-APPLICATION REVIEW
SECTION 13.3 SITE PLAN REQUIREMENTS
SECTION 13.4 SITE PLAN REVIEW DESIGN GUIDELINES/CRITERIA
SECTION 13.5 SITE PLAN APPROVAL
SECTION 13.6 SPECIAL PERMITS

13.1 GENERAL

No application shall be filed for a building permit for the construction, exterior alteration, relocation, or change in any use requiring either site plan approval or a special permit as set forth in section 3.4 or any other applicable section of this By-Law until the provisions of this section have been fulfilled and a site plan approved by the appropriate authority as set forth herein.

13.2 PRE-APPLICATION REVIEW

Prior to the formal filing of an application for site plan approval or a special permit, applicants are strongly encouraged to schedule a conference with the Planning Board or its representative to informally discuss the application and jointly cooperate in developing a site plan that will conform with the requirements of this Zoning By-Law and the established planning goals of the Town.

13.3 SITE PLAN REQUIREMENTS

Unless waived because of the scale or character of the development, site plans shall be prepared by a registered professional engineer, architect, landscape architect and/or land surveyor, and shall show, as a minimum:

13.3.1 The name and address of the project, date, north arrow, and graphic scale;

13.3.2 The name and address of the owner of record, developer, and seal of the engineer, architect, landscape architect and/or land surveyor;

13.3.3 The location and boundaries of the lot, easements, adjacent streets, ways, or other matters of record,

13.3.4 The location and names of owners of all adjacent properties within three hundred (300) feet of the property line;

13.3.5 Existing and proposed topography at two foot contour interval including the location of wetlands, streams, water bodies, drainage swales, areas subject to flooding, and unique natural land features;

13.3.6 Existing and proposed buildings or structures, including dimensions, elevations, all exterior entrances/exits, and the approximate locations of existing buildings located on adjoining property within fifty (50) feet of the development site;

13.3.7 The location of parking and loading areas, driveways, walkways, access and egress points;

13.3.8 The location and description of all existing and proposed utilities, sewage disposal systems including percolation tests where necessary, water supply systems, surface water drainage systems, refuse and other waste disposal methods;

13.3.9 The location, dimensions, height and characteristics of proposed signs;

13.3.10 The location type and intensity of proposed and existing lighting;

13.3.11 Proposed landscaping features including the location and description of buffers, screening, fencing and plantings, including the size and type of plant materials;

13.3.12 Location and type of monumentation at property corners;

13.3.13 Zoning district boundaries, lot area, frontage, setbacks, and other zoning requirements;

13.4 SITE PLAN DESIGN GUIDELINES/REVIEW CRITERIA

The following guidelines and criteria shall be considered in the review and evaluation of the site plan, consistent with a reasonable use of the site for the purposes permitted by the regulations of the district in which the site is located:

13.4.1 Preservation of the Landscape

13.4.1.1 The landscape shall be preserved in its natural state insofar as practicable by minimizing tree, soil, and vegetation removal; minimizing the use of wetlands, steep slopes, hilltops and floodplains;

13.4.1.2 Special care shall be taken to preserve unique or important natural, historic or scenic features.

13.4.2 Relation of Buildings to Environment

Proposed development shall be related harmoniously to the terrain and to the use, scale, and proportions of existing and proposed buildings in the vicinity that have functional or visual relationship to the proposed buildings.

13.4.3 Interrelationship of Buildings

If more than one building is proposed, the buildings shall be related harmoniously to each other with adequate light, air, circulation, privacy, and separation between buildings.

13.4.4 Vehicular and Pedestrian Circulation

13.4.4.1 The site shall be designed to provide for the convenience and safety of vehicular and pedestrian movement both within the site and in relation to adjoining ways and properties.

13.4.4.2 The location and number of cuts shall be such to minimize turning movements and hazardous exits and entrances.

13.4.4.3 The location and design of parking spaces, drive aisles, loading areas and sidewalks shall be provided in a safe and convenient manner.

13.4.4.4 Provision for access to adjoining properties shall be provided as appropriate.

13.4.4.5 Where possible and practicable, driveways located in commercial and business districts shall be located opposite each other.

13.4.4.6 Joint access driveways between adjoining driveways shall be encouraged subject to Planning Board approval.

13.4.5 Surface Water Drainage

13.4.5.1 The proposed drainage system within and adjacent to the site shall be adequate to handle the increased runoff resulting from the development.

13.4.5.2 Special attention shall be given to proper discharge of surface water drainage so that removal of surface waters will not adversely affect neighboring properties, streams, wetlands or the public storm drainage system.

13.4.5.3 Surface water in all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic, and will not create puddles in the paved areas.

13.4.6 Utility Service

13.4.6.1 The proposed water supply system and methods of sanitary sewage disposal and solid waste disposal to and from all buildings shall be indicated and adequate to serve the proposed use.

13.4.6.2 The development shall not place excessive demands on Town services or infrastructure.

13.4.6.3 Electric, telephone, cable television and other such lines and equipment shall be underground where practical and environmentally feasible.

13.4.7 Signs

The size, location, design, color, texture, lighting and materials of all signs shall not detract from the use and enjoyment of proposed buildings and structures and the surrounding properties.

13.4.8 Screening and Landscaping.

13.4.8.1 Landscaped buffer strips shall be provided where required by this By-Law and shall conform to the requirements of Section 10.2 to shield the business and light industrial uses of land from any adjoining residential property.

13.4.8.2 Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures and similar accessory areas and structures shall be subject to such setbacks, screen plantings or other screening methods as shall reasonably be required to prevent their being incongruous with the existing or contemplated environment and the surrounding properties.

13.4.8.3 The intrusion of lighting, including parking lot and building exterior lighting, onto adjacent properties shall be minimized, through the use of light shields, lowered height of light poles, screening or similar solutions.

13.4.9 Compliance with the By-Law.

The Site Plan shall comply with all zoning requirements established for signage, parking, loading, dimensions (lot size, yard, frontage, height, building coverage, etc.), commercial and industrial performance standards, and all other provisions of this By-Law.

13.5 SITE PLAN APPROVAL

Site plan approval is hereby enacted to further accomplish the purposes set forth in Section 1.1 of this By-Law by providing for a review of plans for uses and structures, which although permitted by right, may still have significant impacts on pedestrian and vehicular traffic, public services and utilities, and environmental quality. The purpose of site plan approval is to ensure that the design and layout of new development complies with the purpose and intent of this By-Law and does not result in a detriment to the neighborhood, community or environment.

13.5.1 Applicability

No building permit application shall be filed or granted for the construction, exterior alteration, relocation, or change in any use requiring site plan approval from the Planning Board as set forth in Section 3.4, until the provisions of this section have been fulfilled and an application for site plan approval approved by the Planning Board.

13.5.1.1 The Planning Board shall adopt, and may periodically amend by majority vote, after a public hearing, Rules and Regulations relating to the procedures and administration of site plan approval not inconsistent

with the provisions of this By-Law or Chapter 40A of the General Laws, and shall file a copy of said Rules and Regulations with the Town Clerk.

13.5.1.2 The Planning Board may waive any or all of the requirements for site plan approval it judges to be unnecessary to the review of a particular plan.

13.5.1.3* No Site Plan Approval shall be required in those instances where a lawful change in use subject to site plan approval is proposed if the Planning Board determines that no physical changes (other than signs) will occur to the site or building exterior, that no new or additional requirements of the Zoning By-Law must be met for the proposed use, and that the proposed change in use will not result in a more intense use of the site.

13.5.2 Application

Each application for site plan approval shall be submitted on the proper form to the Planning Board by the current owner of record, accompanied by all fees and any additional information as may be required, including a site plan conforming to the requirements set forth in Section 13.3.

13.5.2.1 The dimensions, scale, form, contents, and style of plans, fee schedule, and other information required as part of an application for a site plan approval shall be subject to such Rules and Regulations as may from time to time be promulgated by the Planning Board.

13.5.2.2 Misrepresentation of any of the required site plan items shall be cause to revoke site plan approval.

13.5.3 Review Procedure

13.5.3.1 The Planning Board shall transmit copies of the application and site plan to appropriate Town Boards, Committees and Departments which may include: the Town Engineer, Building Inspector, Fire Chief, Police Chief, Conservation Commission, Board of Health, Board of Water Commissioners, Sanitary Sewer Commission and others as necessary. These Boards and departments shall have thirty-five (35) days to report in writing their findings and recommendations to the Planning Board. Failure to so report in the allotted time shall constitute approval by that Board or Department of the application submitted.

13.5.3.2 After giving proper legal notice, the Planning Board shall hold a public hearing within sixty-five (65) days of the receipt of application and after due consideration shall take final action within ninety (90) days from the time of the hearing.

13.5.4 Decision of the Planning Board

The Planning Board shall render a decision within ninety (90) days of the public hearing and shall file its written decision with the Town Clerk's office and other appropriate parties in accordance with the provisions of M.G.L. Chapter 40A. The concurring vote of a simple majority of the Board shall be required for any decision on a site plan application. The Board's written decision shall consist of either:

13.5.4.1 Approval of the site plan based on a determination that the proposed project meets the requirements of this section.

13.5.4.2 Denial of the site plan based on a determination that either:

A. Insufficient information was submitted with the application in order for the Board to adequately review the proposal; or

B. A determination that the project does not meet the requirements of this section.

13.5.4.3 Approval of the site plan subject to conditions, modifications and reasonable restrictions necessary to ensure compliance with the requirements of this section. Such conditions may include the following:

A. Controls on the location and type of access to the site.

B. Requirements to reduce the traffic impact of the proposed development.

C. Requirements to minimize impacts on the capacities of infrastructure serving the site, but not limited to water, sewer, storm drains and siteways.

D. Requirements to minimize any environmental degradation during construction.

E.* Other conditions designed to ensure compliance with the criteria and guidelines of section 13.4.

13.5.5 Performance Security

For the purpose of securing the performance of all proposed work, the Board may require performance security in an amount determined by the Board to be sufficient to cover the cost of any part or all of the required improvements.

13.5.6 Expiration

Any site plan approved under this section shall expire in two (2) years if substantial and continuous construction has not begun by such date.

13.5.7 Appeal

Decisions of the Planning Board regarding site plan approval may be appealed as set forth in M.G.L. Chapter 40A, Section 17.

13.5.8 Changes, Alterations, Expansion

Once approved, Site Plans may be modified with the approval of the Planning Board, which shall hold a hearing with appropriate notice, unless it deems such modification to be of a minor nature.

13.5.9 Violations

Violations of the approved site plan or conditions of approval shall be subject to section 15.3 of this By-Law.

13.6 SPECIAL PERMITS

Special permits are intended to provide detailed review of certain uses and structures which may have substantial impact upon abutters, traffic, utility systems, the character of the Town, and public services. The special permit review process is intended to ensure a harmonious relationship between proposed development and its surroundings, and ensure that proposals are consistent with the purpose and intent of this By-Law.

13.6.1 Applicability

No building permit application shall be filed or granted for the construction, exterior alteration, relocation, or change in use for any use requiring a special permit as set forth in Section 3.3 or any other applicable section of this By-Law until the provisions of this section have been fulfilled and an application for a special permit approved by the appropriate Special Permit Granting Authority.

13.6.2 Special Permit Granting Authorities

13.6.2.1 The Special Permit Granting Authority shall be either the Planning Board, the Board of Appeals, or the Board of Selectmen of the Town of Wilbraham as specified herein.

13.6.2.2 Special permits shall be issued by the Special Permit Granting Authority according to the provisions of Section 9, Chapter 40A of the Massachusetts General Laws.

13.6.2.3 The Special Permit Granting Authority shall adopt, and may periodically amend, after a public hearing, Rules and Regulations relating to the procedures and administration of special permits not inconsistent with the provisions of this By-Law or Chapter 40A of the

General Laws, and shall file a copy of said Rules and Regulations with the Town Clerk.

13.6.3 Application

The applicant for a Special Permit shall submit to the Special Permit Granting Authority an application on the prescribed form accompanied by all required fees and other pertinent data, including a site plan conforming to the requirements set forth in Section 13.3.

13.6.3.1 The dimensions, scale, form, contents, and style of plans, fee schedule, and other information required as part of an application for a special permit shall be subject to such Rules and Regulations as may from time to time be promulgated by the Special Permit Granting Authority.

13.6.3.2 Misrepresentation of any of the required site plan items shall be cause to revoke a special permit.

13.6.4 Review

13.6.4.1 Upon receipt of an application for a special permit, the Special Permit Granting Authority shall transmit copies thereof to the Building Inspector, Planning Administrator, and Planning Board, and may at its discretion, transmit copies to the Town Engineer, Fire Chief, Police Chief, Board of Health, Conservation Commission, Board of Water Commissioners, Sanitary Sewer Commission and such other boards, departments or committees as it may deem necessary and appropriate for their written reports. Any such board or agency to which applications are referred shall respond with written recommendations to the Special Permit Granting Authority as they deem appropriate.

13.6.4.2 Special permits shall only be issued after a public hearing held by the Special Permit Granting Authority. The public hearing must be held within sixty-five (65) days after the effective date of filing of a special permit application.

13.6.4.3 Prior to a public hearing on such application held by the Zoning Board of Appeals acting as the Special Permit Granting Authority, the Planning Board shall make a report with recommendations to the Board of Appeals which report shall cover:

A. The relationship of the proposal to the Master Plan of Development of the Town;

B. The adequacy of the provisions to protect and preserve the character of the neighborhood; and

C. The conformance of the site plan to the general provisions of this By-Law and the specific design standards set forth in section 13.4.

13.6.4.4 The Special Permit Granting Authority shall take final action on an application within ninety (90) days following the public hearing. Failure to do so shall constitute approval.

13.6.5 Required Findings

Where a special permit may be authorized by the Special Permit Granting Authority under this By-Law, said Authority may grant, upon written application, such special permit if it finds, when applicable, that:

13.6.5.1 The proposed use is in harmony with the general purpose and intent of this By-Law;

13.6.5.2 The proposed use is suitably located in the neighborhood in which it is proposed and/or the entire Town;

13.6.5.3 The proposed use is reasonably compatible with the character and scale of other uses permitted in the same district;

13.6.5.4 The proposed use will not constitute a nuisance due to air and water pollution, excessive noise, dust, vibration, lights, or visually offensive structures and accessories;

13.6.5.5 The proposed use provides convenient and safe vehicular and pedestrian movement within the site in relation to adjacent streets, property or improvements, and will not create a significant traffic hazard or result in excessive traffic congestion;

13.6.5.6 Adequate and appropriate facilities will be provided for the proper operation of the proposed use;

13.6.5.7 The proposal will be in conformance with the sign regulations of Section 12;

13.6.5.8 The proposal conforms to the off-street parking and loading requirements of Section 11 and provides adequate space for off-street parking and unloading of vehicles;

13.6.5.9 The design of the project provides for adequate methods of disposal and/or storage of sewage, refuse and other wastes generated by the proposed uses on the site;

13.6.5.10 The design of the project provides for adequate surface water drainage and the proposed use will not

create a significant adverse impact to the quality of surface water or groundwater during or after construction;

13.6.5.11 The proposed use complies with all other additional special permit criteria or zoning requirements imposed on the use by other sections of this By-Law.

13.6.6 Granting Of Special Permits

13.6.6.1 The granting of special permits shall be completely discretionary with the Special Permit Granting Authority.

A. The Board of Appeals or Board of Selectmen, when acting as the Special Permit Granting Authority, shall, in order to render a favorable decision, have three (3) of the three (3) members voting affirmatively.

B. The Planning Board, when acting as the Special Permit Granting Authority, shall, in order to render a favorable decision, have four (4) of the five (5) members voting affirmatively.

13.6.6.2 No special permit shall authorize a use expressly prohibited by this Zoning By-Law.

13.6.7 Conditions, Safeguards and Limitations

In granting a special permit, the special permit granting authority may impose conditions, safeguards, and limitations which shall be in writing and may include but are not limited to the following:

13.6.7.1* Front, side and rear yard setbacks greater than the minimum required in this By-Law.

13.6.7.2 Limitations of size, number of occupants, method or time of operation or extent of facilities.

13.6.7.3 Additional parking, loading or traffic requirements beyond the minimum required in the By-Law.

13.6.7.4 Measures to protect against environmental pollution.

13.6.7.5 Performance security to ensure that the project meets the conditions specified in the special permit.

13.6.7.6 Screening of parking areas or other parts of the premises from adjoining properties or from streets by the use of walls, fences, plantings, earthen berms or other such devices.

13.6.8 Expiration

A special permit issued pursuant to Section 13.6.6 shall lapse if substantial and continuous usage or construction has not commenced within two (2) years. The two (2) year period during which the special permit is valid shall not commence until the final decision has been rendered in the event of any appeal from the issuance of said special permits.

13.6.9* Modification, Amendment or Renewal

Building permits shall be issued only in strict conformance with the terms and conditions of the special permit approved and endorsed by the Special Permit Granting Authority. No changes to the approved site plan shall be made during construction or operation without prior approval of the Special Permit Granting Authority.

The Special Permit Granting Authority shall have the authority to modify, amend or renew the terms and conditions of special permit approval upon written application of the owner, lessee, or mortgagee of the premises, or upon the Special Permit Granting Authority's own motion; provided, however, that such action is consistent with the purposes and intent of this Bylaw.

Special Permits may be amended with the approval of a supermajority of the Special Permit Granting Authority which shall hold a public hearing with appropriate notice unless it deems such modification to be of a minor nature and therefore does not require an amendment to the special permit.

13.6.10* Enforcement

Violations of the conditions of special permit approval shall be subject to enforcement action as provided in section 15.3 of this By-Law.

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SECTION 14* MIXED USE DEVELOPMENT REGULATIONS

SECTION 14.1 PURPOSE
SECTION 14.2 AUTHORITY
SECTION 14.3 APPLICATION & REVIEW PROCEDURES
SECTION 14.4 USE REGULATIONS
SECTION 14.5 DIMENSIONAL REGULATIONS
SECTION 14.6 DENSITY REGULATIONS
SECTION 14.7 FINDINGS
SECTION 14.8 ENFORCEMENT

14.1 PURPOSE

It is the purpose of this section to establish regulations that will encourage and facilitate mixed use development in appropriate areas of the Town while protecting the public health, safety, and general welfare. Other objectives of mixed-use development in this section include:

A. Providing a community revitalization strategy for job creation and economic growth;

B. Promoting opportunities for people to work, meet, shop and utilize services in the vicinity of their residences;

C. Promoting a positive pedestrian environment while discouraging the visual and physical dominance of the automobile, thus minimizing travel distances, traffic, air pollution and energy consumption;

D. Expanding and diversifying housing opportunities to meet existing and future housing needs;

E Establishing development standards and smart growth guidelines to promote a high level of design quality; and

F. Facilitating the use of public and private open spaces.

14.2 AUTHORITY

The Planning Board shall be the Special Permit Granting Authority for all Mixed Use Developments as defined by section 1.3 in conformance with the procedures specified in section 14 and section 13.6. Such Mixed Use Development shall be subject to rules and regulations and criteria as officially promulgated by the Planning Board.

14.3 APPLICATION & REVIEW PROCEDURES

The procedure of making application for and obtaining approval of a Mixed Use Development Special Permit shall be governed by the applicable provisions specified by the Zoning By-Law and the applicable rules and regulations for Mixed Use Development promulgated by the Planning Board. Mixed Use Development special permit review shall be consistent with the provisions of section 13.6 of this Zoning By-Law with respect to procedures for public hearings, conduct of review, findings, and actions.

14.4 USE REGULATIONS

It is the intent of these regulations that a Mixed Use Development may contain a mixture of uses and a variety of building types not otherwise allowed in a given underlying zoning district and that such deviations may be allowed under circumstances where the Planning Board determines it to be sufficiently advantageous and appropriate to grant such permission to depart from the normal requirements of the applicable zoning district.

The following uses may be allowed in a Mixed Use Development with the approval of a Special Permit granted by the Planning Board:

14.4.1 Any use permitted by right or special permit in the underlying zoning district as specified in the Schedule of Use Regulations Table in section 3.4 of the Zoning By-Law;

14.4.2 Residential apartments and multi-family dwellings;

14.4.3 Artist live/work space; and

14.4.4 A use not specifically allowed in the underlying zoning district per section 14.4.1 hereinabove may be authorized with a finding by the Planning Board that said use will be complementary to the other uses proposed in the Mixed Use Development under section 14.4 and will be in harmony with the purpose and intent of this section of the zoning By-Law.

14.5 DIMENSIONAL REGULATIONS

Mixed Use Developments shall comply with the dimensional requirements of the underlying zoning district in which they are located unless specifically modified by the Planning Board. The Planning Board may vary the dimensional requirements imposed by the underlying zoning district if, in its opinion, such change will result in an improved design and is consistent with the purpose and intent of this section of the Zoning By-Law.

14.6 DENSITY REGULATIONS

The maximum number of dwelling units permitted in any Mixed Use Development shall be determined by the Planning Board to assure compliance with the purpose and intent of these regulations and to adequately protect the public safety and welfare.

14.7 FINDINGS

A special permit may be issued under this section if the Planning Board finds that the proposed Mixed Use Development is in harmony with the purpose and intent of this section of the Zoning By-Law and that it contains a compatible mix of uses sufficiently advantageous to the Town to render it appropriate to depart from the requirements otherwise applicable to the zoning district in which the development is located. In evaluating the appropriateness and proposed density of a Mixed Use Development, consideration shall be given to the following factors:

A. The relationship to the Master Plan of Development of the Town;

B. The nature and type of surrounding development;

C. The relationship and proximity to dedicated or preserved areas of open space and access to recreational and other community facilities;

D. Availability of existing or potential public transportation;

E. Impact on highways and other public facilities, including utilities;

F. Preservation of the character of existing neighborhoods;

G. Consistency with the purpose of this section and the design criteria and performance standards established thereto; and

H. Satisfaction of any other standards as determined by this Special Permit Granting Authority.

14.8 ENFORCEMENT

A. As a condition of its approval, the Planning Board may establish time limits for any development or phases thereof.

B. Before any building permits are issued, the developer may be required to provide the Town with performance security in a form and amount satisfactory to the Planning Board to guarantee the construction of required streets and site improvements.

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SECTION 15 ADMINISTRATION AND ENFORCEMENT

SECTION 15.1 ENFORCEMENT AUTHORITY
SECTION 15.2 PLANS AND PERMITS
SECTION 15.3 PENALTIES FOR VIOLATION
SECTION 15.4 PLANNING BOARD
SECTION 15.5 BOARD OF APPEALS
SECTION 15.6 AMENDMENT
SECTION 15.7 REPETITIVE PETITIONS BEFORE TOWN MEETINGS
SECTION 15.8 REPETITIVE PETITIONS BEFORE BOARD OF APPEALS
SECTION 15.9 REPEAL
SECTION 15.10 VALIDITY

15.1 ENFORCEMENT AUTHORITY

15.1.1 This By-Law shall be enforced by the Building Inspector who shall be appointed by the Board of Selectmen.

15.1.2 The Building Inspector shall approve no applications for permits required under this By-Law for a building or structure of any kind for which plans and specifications and intended use are not in all respects in conformity with this By-Law. Where site plan approval from the Planning Board or a special permit from the Special Permit Granting Authority is required pursuant to the provisions of this By-Law, the Building Inspector shall issue no permit except in accordance with the written decision of said Board.

15.1.3 The Building Inspector shall have full authority to prosecute in any court of competent jurisdiction any action, suit or proceeding for the enforcement of this By-Law and the Building Inspector shall have all powers vested by M.G.L. Chapter 40A relative to the Zoning Enforcement Officer.

15.2 PLANS AND PERMITS

15.2.1 No tent, no foundation, no building, and no structure shall be erected or substantially altered without a building permit issued by the Building Inspector. A record of such applications and the survey and plans herein referred to and action taken thereon shall be kept on file in the Town Office by the Building Inspector.

15.2.2 No building permit shall be issued until the following requirements are met:

A. A survey of the lot, in duplicate, drawn by a registered land surveyor to scale showing the dimensions of the lot and location and size of buildings or structures existing on the lot.

B. Duplicate plans of the proposed buildings or structures with sufficient detail to show conformity to the By-Law.

C. All corners of the lot marked with iron pins, or stone bounds.

D. Approved percolation test under Board of Health Rules and Regulations.

E. The above requirements may be modified or waived where in the judgment of the Building Inspector they are not applicable to the work proposed and where it is clearly demonstrated, through deeds, surveys, documents or other supporting information, that they are not necessary to establish compliance with the Zoning By-Law.

F. A building permit which involves construction shall be valid for a period of six (6) months from date of issuance. If construction is not commenced and being carried out in a continuous and expeditious manner, at the end of said six (6) month period the permit shall expire. If the permit lapses and a new permit is issued on substantially the same plans, the Building Inspector may waive the building permit fee for that second submission.

15.2.3 No newly erected or altered structure for which a building permit is required under this By-Law shall be occupied or used without an occupancy permit, which permit shall be applied for in writing to the Building Inspector before the building is occupied. It shall be signed by the Building Inspector, and shall be issued when the building and its uses and accessory uses comply in all respects with this By-Law. Any building not described as a residence or dwelling in the application for building permit, and any building not built as a dwelling prior to the adoption of this By-Law, may not hereafter be used for living purposes without an occupancy permit.

15.3 PENALTIES FOR VIOLATION

All persons who violate this Zoning By-Law shall be subject to fines imposed pursuant to the following rules and specifications.

15.3.1 For each violation of the Zoning By-Law, a fine shall be imposed subject to the following rules and specifications:

A.* Violators shall include the owners and/or occupants of the property and their agents who have taken any part in the creation or installation of any structure, sign or use which violates the Zoning By-Law.

B. Fines shall be assessed separately against those owners and/or occupants of the property and their agents who are responsible for the creation or continuance of the violation for which said fine or fines are being assessed.

C. Prior to the imposition of any fine, written notice of the nature of the violation shall be given to the person or persons against whom the fine is to be imposed. Said notice shall state the first date upon which a fine shall be imposed for a continuing violation of this By-Law, which date shall not be

less than seven (7) days from receipt of said notice and which shall also contain reference to each specific Section of the By-Law which is being violated together with a statement of the penalty for said violation.

D. Unless otherwise provided in the By-Law, the penalty for each offense shall be one hundred (100) dollars. Each day that a violation continues shall be deemed a separate offense. Each separate violation of any Section of the By-Law, as listed in said notice, shall also constitute a separate offense.

15.3.2 In addition to the procedures for enforcement as described above, the provisions of this By-Law, the conditions of a permit granted under this By-Law or any decision rendered by the Zoning Board of Appeals or Planning Board under this By-Law, may be enforced by the Building Inspector by non-criminal complaint pursuant to the provisions of Chapter 40, Section 21D of the Massachusetts General Laws. The fine for any violation disposed of through this procedure shall be one hundred dollars ($100.00) for each offense. Each day such violation continues shall be deemed a separate offense.

15.4 PLANNING BOARD

15.4.1 There shall be a Planning Board consisting of five (5) members, one of whom shall be elected each year for a term of five (5) years.

15.4.2* Pursuant to Chapter 40A, Section 9 of the General Laws of the Commonwealth and Section 308 of the General Bylaws of the Town of Wilbraham, there may also be appointed one (1) associate member authorized to serve as an alternate voting member on special permit applications.

15.4.2.1 The associate member shall be nominated by the Planning Board and appointed by majority vote of the Planning Board and the Board of Selectmen in accordance with the provisions of Chapter 41, Section 81-A of the General Laws of the Commonwealth.

15.4.2.2 The associate member shall be appointed for a three (3) year term, or, in the case of an unexpired term, for the balance of said term. The associate member shall be reappointed or replaced as provided for in Section 15.4.2.1.

15.4.2.3 The associate member shall serve on the Board as an alternate voting member on special permit applications in the case of absence, inability to act, or conflict of interest on the part of a regular Board member, or in the event of a vacancy on the Board.

15.4.2.4 The Planning Board Chair shall authorize the associate member to sit on the Board as an alternate voting member when necessary and in accordance with the above circumstances. However, it is also expected that the associate member will attend regular meetings of the Planning Board and may participate as a non-voting member in discussions and other matters before the Board.

15.4.3* The Planning Board shall adopt, and may periodically amend by majority vote after a public hearing, Rules and Regulations as may be necessary to carry out its administrative responsibilities under this By-Law including the establishment of reasonable administrative fees and application fees as well as project review fees as authorized by M.G.L. Chapter 44 Section 53G to defray the cost of hiring outside consultants when needed for the technical review of site plan approvals, special permits and ridgeline and hillside reviews. A copy of said Rules and Regulations shall be filed with the Town Clerk.

15.5 BOARD OF APPEALS

15.5.1 Establishment

There shall be a Board of Appeals consisting of three (3) members appointed for terms of such length and so arranged that the term of one appointee shall expire each year. There shall also be appointed two (2) associate members for a term of three years. No person holding an elective town office shall be eligible to serve as a member or associate member of the Board of Appeals.

15.5.2 Powers and Duties

15.5.2.1 To hear and decide applications for special permits upon which the Board is empowered to act by this By-Law.

15.5.2.2 To hear and decide petitions for variances from the terms of this By-Law with respect to particular land or structures, but not to include variances for use. Such variance shall be granted only in cases where the Board of appeals finds <u>all</u> of the following:

A. A literal enforcement of the provisions of this By-Law would involve a substantial hardship, financial or otherwise, to the petitioner.

B. The hardship is owing to circumstances relating to the soil conditions, shape or topography of such land or structure and especially affecting such land or structures but not affecting generally the zoning district in which it is located.

C. Desirable relief may be granted without substantial detriment to the public good.

D. Desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of this chapter.

15.5.2.3 To hear and decide appeals from:

A. Any person aggrieved by reason of that person's inability to obtain a permit or enforcement action from any administrative officer under the provisions of Chapter 40A of the Massachusetts General Laws; or

B. The Pioneer Valley Regional Planning Commission; or

C. Any person including an officer or board of the Town of Wilbraham or of any abutting city or town, if aggrieved by any order or decision of the Building Inspector or other administrative official, in violation of any provision of Chapter 40A of the Massachusetts General Laws or this By-Law as adopted thereunder.

15.5.2.4 To issue comprehensive permits as authorized by Chapter 40B, Sections 20 - 23, of the Massachusetts General Laws.

15.5.2.5 To issue building permits withheld by the Building Inspector under Chapter 41, Section 81Y of the Massachusetts General Laws.

15.5.3* Rules and Regulations

The Board of Appeals shall adopt, and may periodically amend by majority vote after a public hearing, Rules and Regulations as may be necessary to carry out its administrative responsibilities under this By-Law including the establishment of reasonable administrative fees and application fees as well as project review fees as authorized by M.G.L. Chapter 44 Section 53G to defray the cost of hiring outside consultants when needed for the technical review of variances, administrative appeals, special permits and comprehensive permits. A copy of said Rules and Regulations shall be filed with the Town Clerk.

15.6* AMENDMENT

This Zoning By-Law may be amended from time to time at an Annual or Special Town Meeting in accordance with the provisions of Section 5 of Chapter 40A of the General Laws, as amended.

A proposed amendment to the By-Law may be initiated by the Board of Selectmen, the Planning Board, the Board of Appeals, the Pioneer Valley Planning Commission, individuals owning land to be affected by the amendment, or registered voters of the Town pursuant to Section 10 of Chapter 39 of the General Laws.

The Planning Board, after giving proper legal notice, shall hold a public hearing for the consideration of any amendment to this By-Law, and shall report to town meeting its recommendations as to what action should be taken. Petitioners seeking to amend the Zoning By-Law may be charged reasonable fees sufficient to cover the administrative costs of holding the public hearing as may be established under the Rules and Regulations of the Planning Board.

15.7 REPETITIVE PETITIONS BEFORE TOWN MEETINGS

No proposed by-law making a change in this zoning by-law which has not been favorably acted upon by the Town Meeting shall be considered on its merits by the Town Meeting within two (2) years after the date of such action unless adoption of such proposed by-law is recommended in the final report of the Planning Board, as required by the General Laws.

15.8 REPETITIVE PETITIONS BEFORE BOARD OF APPEALS

No appeal or petition for a variance from the terms of this By-Law with respect to a particular parcel of land, and no application for a special exception to the terms of this By-Law, which has been unfavorably acted upon by the Board of Appeals shall be considered on its merits by said Board within two (2) years after the date of such unfavorable action except with the consent of all the members of the Planning Board.

15.9 REPEAL

Any existing By-law or any parts thereof inconsistent with this By-Law are hereby repealed.

15.10 VALIDITY

The invalidity of any section or provision of the by-law shall not invalidate any other section or provision thereof.

APPENDIX A

RULES RELATIVE TO THE ISSUANCE OF SPECIAL PERMITS

RULES & REGULATIONS FOR THE PLANNING BOARD ACTING AS THE SPECIAL PERMIT GRANTING AUTHORITY (SPGA)

Adopted under the provisions of Chapter 40A, Section 9, M.G.L.

A. A request for a special permit for a use or activity requiring such permit from this Board under the Zoning By-Laws of the Town of Wilbraham shall include the following:

1. An application on an approved form with a copy filed with the Town Clerk;

2. A fee of one hundred dollars ($100) to cover the cost of the public hearing expenses;

3. Ten (10) copies of plans and specifications;

4. Copies of all documentation required by either the Zoning By-Laws or the Rules & Regulations Governing Subdivision of Land of this Board.

B. An application will not be accepted until all of the information required by Statute, Zoning By-Laws or Subdivision Rules & Regulations is on file in the Board Office.

C. The Board will schedule a public hearing at the earliest possible date, but no later than 65 days after filing of the application depending on the availability of needed information and response from other interested boards and agencies, and publication time as required by Chapter 40A, Section 11.

D. The notice of the public hearing shall include:

1. Name of the applicant;

2. Location of the area or premises including a street address;

3. Subject matter of the hearing;

4. Date, time and place of hearing.

E. Notice of the public hearing shall be:

1. Published in a newspaper of general circulation in the Town once in each of two successive weeks, the first publication of which shall not be less than 14 days before the day of the hearing;

2. Posted on the Bulletin Board in the Town Office for a period of not less than 14 days before the day of the hearing;

3. Mailed to "Parties in Interest" which shall include: the applicant, abutters, owners of land directly opposite on any public or private street or way, the owners of land within 300 feet of the property lines, and the Planning Boards of every abutting city or town. (The Assessors shall certify the names and addresses of "Parties in Interest"); and

4. Mailed to other interested individuals, boards or agencies as deemed advisable by this Board.

F. If this Board has requested a review of special permit applications by other boards or agencies, these boards or agencies shall make their recommendations, if any comments are desired, by submittal in writing to the Board within thirty-five (35) days after receipt of the application by them.

G. Within ninety (90) days following the date of the public hearing, the SPGA shall take final action. If this Board fails to take final action within the ninety (90) day limit, the special permit shall be deemed granted.

NOTE: The issuance of a special permit requires a vote of at least four (4) members of a five (5) member board.

H. Before granting a special permit, this Board shall find that the proposed use or activity is in compliance with all provisions and requirements of the Zoning By-Laws, and in harmony with its general purpose and intent.

I. Special permits may be issued subject to such conditions, safeguards, or limitations on time or use as the Board may impose for the protection of neighboring uses or otherwise serving the purposes of the By-Laws. Such conditions, safeguards and limitations shall be imposed in writing.

J. This Board will keep a detailed record of its proceedings, which record will indicate:

1. Vote of each member upon each questions, including whether the member was absent or failed to vote;
2. Reason or reasons for Board's decision; and
3. Official action taken.

K. Upon the granting of a special permit, this Board shall:

1. File a copy of the decision with the record of its proceedings and plans with the Town Clerk;
2. Mail a certified copy of its decision to the owner and to the applicant, if other than the owner; and
3. Send a notice of the decision to the "Parties in Interest" and to persons who requested a notice at the public hearing.

L. A special permit shall not take effect until:

1. Town Clerk certifies on a copy of the Decision, issued by this Board to the owner, that twenty (20) days have elapsed without the filing of an appeal or that any appeal filed has been dismissed or denied; and
2. A certified copy of the Decision has been recorded at the owner's expense in the Hampden County Registry of Deeds, indexed in the grantor index under the name of the record owner, and noted on the owner's certificate of title.

M. If an application is unfavorably acted upon, the applicant may not reapply within 2 years except by:

1. First requesting the Board's consent to such action;
a. The Board, before voting on whether to give such consent, shall notify all "Parties of Interest" of the time and place when the question of such consent will be considered;
b. All but one of the Members of the Board must consent.
2. The Board may allow reapplication after making findings of specific material changes in the conditions upon which the unfavorable action was based, and must describe such changes in the record of its proceedings.

N. Any application for a special permit may be withdrawn without prejudice by the petitioner prior to the publication of the first public hearing notice. Once the notice has been published, a withdrawal without prejudice may only be with the approval of this Board.

WILBRAHAM PLANNING BOARD
ADOPTED: 6-25-80

APPENDIX B

WILBRAHAM BOARD OF HEALTH

REGULATIONS FOR SWIMMING POOLS

Every owner of a swimming pool in the Town of Wilbraham other than natural pools, shall be required to provide an enclosure to prevent unauthorized persons and animals from entering the pool area. Minimum adequate enclosure is regulated by the Massachusetts State Building Code. Please consult with the Building Inspector's Office regarding specific regulations and requirements.

No swimming pool shall be constructed, installed, enlarged or altered unless a permit has been obtained from the Building Inspector. All pools over fifteen (15) feet in diameter and two (2) feet deep are required to obtain a building permit. All electrical installations to a swimming pool must have a permit granted by the Electrical Inspector.

All persons who do not comply with the above shall be in violation of the Zoning By-Law.

THE WILBRAHAM BOARD OF HEALTH

ADOPTED: SEPTEMBER 29, 1964
AMENDED: June 22, 1965
August 1, 1967

MINIMUM SETBACKS

Front Yard, Side Yard, Rear Yard - Same as principal structure
10 Feet From House
10 Feet From Septic Tank
20 Feet From Leach Field

APPENDIX C

SCENIC ROAD DESIGNATION

In order to preserve the qualities and character of the town's ways, the following are designated as Scenic Roads under the provisions of Chapter 40, Section 15C, of the General Laws:

Beebe Road
Bennett Road
Bolles Road
Branch Road
Burleigh Road
Chilson Road
Crane Hill Road
East Longmeadow Road
Faculty Street
Glendale Road
Hollow Road
Main Street
Maple Street
Maynard Road
Monson Road
Mountain Road
Ridge Road
Soule Road
Springfield Street (from Main Street to Faculty Street)
Stony Hill Road
Tinkham Road (from Main Street to Bolles Road)

Article 36
Annual Town Meeting of March 23, 1974
Approved (100-62)

M.G.L. CHAPTER 40, SECTION 15C:

Upon recommendation or request of the Planning Board, Conservation Commission, or Historical Commission of any city or town, such city or town may designate any road in said city or town, other than a numbered route or state highway, as a scenic road.

After a road has been designated as a scenic road any repair, maintenance, reconstruction, or paving work done with respect thereto 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 twice in a newspaper of general circulation in the area, as to time, date, place and purpose, the last publication to occur at least seven days prior to such hearing.

Designation of a road as a scenic road shall not affect the eligibility of a city or town to receive construction or reconstruction aid for such road pursuant to the provisions of Chapter Ninety.

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INDEX

A

Access, Lot
Other Than from Street Frontage 4.9
See Frontage, Definition of
See Street, Definition of
See Common Driveway
Accessory Apartment 3.9.2.15
Definition 1.3
Regulations 4.10
Accessory Building, Definition 1.3
Accessory Building, Residential 4.4.8
See Stable
See Garage, Private
Accessory Use, Definition 1.3
Accessory Use, Regulations 3.9
Business 3.9.3
General 3.9.1
Industrial 3.9.4
Residential 3.9.2
Adult Care Facilities 3.4.4.8
Definition 1.3
Regulations (See Adult Care Facilities District)
Adult Care Facilities District 8
Adult Day Care, Definition 1.3
See Adult Care Facilities
Age-Restricted Housing (PURD) 4.8.2
Agriculture, Five Acres or Less 3.4.1.1
Agriculture, More Than Five Acres 3.4.1.2
See Farm and Farming
See Exemption, State Zoning
Alteration
Definition 1.3
Of Non-Conforming Structure or Use 3.3
Amendment
General Procedures 15.6
List of Amendments vii
Zoning Map 2.3.3
Aquifer, Definition 1.3
Assembly of Electrical Appliances 3.4.6.3
Assisted Living Residence, definition 1.3
See Adult Care Facilities
Authority 1.1

Automatic Amusement Device
Definition 1.1
Accessory to Public Recreation Business 3.4.5.11
See Automatic Amusement Facility, Family-Oriented
See Automatic Amusement Facility, General
Automatic Amusement Facility, Family-Oriented 3.4.5.11
Definition 1.1
Accessory Use to Public Recreation Business 3.9.3.6
Automatic Amusement Facility, General 3.4.5.11
Definition 1.1
Automated Teller Machine (ATM) Kiosk
Definition 1.1
Accessory Business Use 3.9.3.5
Automobile Dealership (see Retail Sales of Automobiles)

B

Bank 3.4.5.1
ATM Kiosk 3.9.3.5
Banner (Sign)
Definition 12.2
Street Banner (see Street Banner Sign)
Barber Shop 3.4.5.5
Basketball Court 3.9.2.3
Beauty Shop 3.4.5.5
Bed and Breakfast Home 3.9.2.10
Definition 1.3
Sign 12.5.4
Billboards 12.3.2.A
Boarding House 3.9.2.8
Parking Requirement 11.2.3
Board of Appeals 15.5
Rules & Regulations 15.5.3
Special Permit Granting Authority 13.6.2.1
Body Art Establishment 3.4.5.13
Definition 1.3
Boston Road Business Corridor Enhancement Sign
Definition 12.2
Standards 12.7.4
Buffer (see Landscaped Buffer Strip)
Building, Definition 1.3
Building Coverage, Definition 1.3
See Maximum Building Coverage

Building Envelope
Definition 1.3
Flexible Non-Subdivision Plan Requirement 4.7.D
Flexible Subdivision Plan Requirement 4.6.2.C
Building Height (Feet), Definition 1.3
See Minimum Building Height (Feet)
Building Height (Stories), Definition, 1.3
See Minimum Building Height (Stories)
Building Material Yards 3.4.5.15
Building Permits 15.2
Building Setback Line, Definition 1.3
See Minimum Front Yard
Bulk Materials Transfer Facility 3.4.6.9
Buses (see Motor Vehicles)
Business Offices
Medical 3.4.5.1
Non-medical 3.4.5.2
Business Services 3.4.5.3

C

Canopy Sign
Definition 12.2
Standards 12.9.1
Carport 3.9.2.2
Child Care Facility 3.4.4.4
Definition 1.3
Church 3.4.4.2
See Exemption, State Zoning
Signs, Residential Districts 12.15.1
Cleaning Service 3.4.5.9
Clearing Envelope
Definition 1.3
Flexible Non-Subdivision Plan Requirement 4.7.D
Flexible Subdivision Plan Requirement 4.6.2.C
Co-location, Definition 1.3
Common Driveway
Single Residence Dwelling Districts 4.9
NO, NS, and GB Districts 6.1.7
I-POP-GB District 7.1.7
Community Association
Planned Unit Residential Development 4.8.12
Congregate Living Facility, Definition 1.3
See Adult Care Facilities

Conservation Land 3.4.1.5
Contractor's Yard 3.4.6.4
Continuing Care Retirement Facility 1.3
See Adult Care Facilities
Convalescent Home 3.4.4.7
See Adult Care Facilities
Corner Lot, Definition 1.3
Corner Visibility 10.1
Cottage Food Operation
Definition 1.3
Regulations (Home Occupation Exemption) 3.9.2.13(l)
Custodial Care Facility, Definition 1.3
See Adult Care Facilities

D

Definitions 1.3
Density Regulations
Planned Unit Residential Development 4.8.6
Residential Multiple Dwelling Districts 5.4
Adult Care Facilities District 8.5
Detached Garage (see Garage, Detached)
Dimensional Regulations, Schedule of
Single Dwelling Residence Districts 4.4
Planned Unit Residential Development 4.8.5
Residential Multiple Dwelling District 5.3
Neighborhood Office District 6.3
Neighborhood Shopping District 6.3
General Business District 6.3
I-POP-GB District 7.4
Adult Care Facility District 8.4
Directory Sign
Definition 12.2
Standards 12.9.3
Distribution Plant 3.4.5.18
Drainage (see Surface Water Drainage)
Drive Through Window Service 3.4.5.17
Dwelling, Definition 1.3
Dwelling Unit, Definition 1.3
See One Family Detached Dwelling
See Multiple Dwelling Unit
See Two Family Dwelling (Conversion)

E

Earth Materials, Removal of 3.4.1.8
Regulations 10.4
Earth Removal Permit 10.4.1
Electronic Variable Message Sign
Definition 12.2
Regulations 12.3.2(C)
Enforcement 15.1
Estate Lot (see Flexible Non-Subdivision)
Exemptions, State Zoning 3.2
Exercise Facility 3.4.5.14
Exterior Lighting
NO, NS, and GB Districts 6.1.5
I-POP-GB District 7.1.5, 7.2.5

F

Family, Definition 1.3
Family Day Care Home 3.9.2.14
Definition 1.3
Sign 12.5.4
Farm, Definition 1.3
Farming 3.9.1.1
See Exemption, State Zoning
Farm Stand, Roadside 3.4.1.4
Parking Requirements 11.2.3
Flag (Sign)
Definition 12.2
Decorative Flag Exemption 12.4.9
Prohibited Signs 12.3.2.B
Flexible Non-Subdivision Development 3.4.2.5
Regulations 4.7
Flexible Subdivision Residential Development 3.4.2.4
Regulations 4.6
Flood Plain Overlay District
Overlay District Map 2.3.2; 9.1.3
Regulations 9.1
Food Service Establishments (see Restaurants)
Food Service Plant 3.4.6.6
Forestry 3.4.1.6
Free-standing Sign
Definition 12.2
Regulation 12.7.3

Front Lot Line (see Lot Line, Front)
Front Yard (see Setback)
Frontage (see Lot Frontage)

G

Garage, Private
Definition 1.3
Attached to Residential Dwelling 3.9.2.2; 4.4.8(A)
Detached Residential Accessory Use 3.9.2.2; 4.4.8
Multiple Dwelling Residence Districts 5.3.7
Garage, Repair (see Motor Vehicle Repair Services)
Garden Shed (see Shed)
Gas and Oil Pipelines [deleted]
Gazebo 3.9.2.5
General Regulations 10
Grand Opening Sign 12.4.12
Gravel Permit (see Earth Materials, Removal of)
Greenhouse, Commercial 3.4.1.3
Greenhouse, Private (Residential Accessory Use) 3.9.2.5
Ground Water, Definition 1.3
Ground Water Protection Overlay District [deleted]
Group Care Facility, Definition 1.3
See Adult Care Facility

H

Hazardous Material 9.2.4.2
Definition 1.3
Hazardous Waste 9.2.5.1
Definition 1.3
Health Club 3.4.5.14
Heliport 3.9.2.16
Heritage Farm Stand Development 3.5.2
Definition 1.3
Regulations 4.11
Home Occupation 3.9.2.13
Definition 1.3
Parking Requirements 11.2.3
Sign 12.5.4
Home Office, Private 3.9.2.11
Definition 1.3

Home Office, Professional 3.9.2.12
Definition 1.3
Parking Requirements 11.2.3
Sign 12.5.4
Home Studio, Private 3.9.2.11
Home Studio, Professional 3.9.2.12
Parking Requirements 11.2.3
Hospital 3.4.4.7
Parking Requirements 11.2.9

I

Identification Sign
Definition 12.2
Located on Private Property 12.10.3
Located on Town Property 12.10.2
Illuminated Sign
Definition 12.2
Incidental Sign
Definition 12.2
As an Exempted Sign 12.4.2
Independent Living Facility, Definition 1.3
See Adult Care Facilities
Industrial - POP - General Business District 7

K

Kennel 3.9.2.5

L

Land Usable for Residential Construction
Definition 1.3
In Flexible Subdivisions 4.6.2.A
In Flexible Non-subdivisions 4.6.2.E
Land Use Review Procedures 13
Landfill 9.2.5.2

Landscaped Buffer Strip
Definition 1.3
General Regulations 10.2
Planned Unit Residential Development 4.8.5.4
Residential Multiple Dwelling District 5.3.4
Requirements in NO, NS, and GB Districts 6.3
I-POP-GB District 7.4.1, 7.4.2
Adult Care Facilities 8.4
Landscaping Requirements
Adult Care Facilities 8.9
Planned Unit Residential Development 4.8.10
Professional Office Park 7.5.6
Ridgeline and Hillside District 9.3.7.2
Site Plan Design Guidelines 13.4.8
Large-Scale Ground-Mounted Solar Energy System 3.4.3.7
Definition 1.3
Regulations 10.7
Lattice Tower, Definition 1.3
Laundry Service Dropoff 3.4.5.10
Laundrymat 3.4.5.9
Leachable Wastes 9.2.4.2
9.2.5.3
Definition 1.3
Livestock, Definition 1.3
Loading Area, Off Street 11.4
Long-term Care Facility, Definition 1.3
See adult care facilities
Lot, Definition 1.3
Lot Access (see Access, Lot)
Lot Area
See Minimum Lot Area
See Usable Lot Area
Lot Frontage, Definition 1.3
See Minimum Lot Frontage
Lot Line, Definition 1.3
Lot Line, Front (Definition) 1.3
Lot Line, Side (Definition) 1.3
Low-Density Athletic Uses 3.4.1.7
Low-Density Recreational Uses 3.4.1.6

M

Manufacturing 3.4.6.5
Maximum Building Coverage
Single Dwelling Residence Districts 4.4.4, 4.4.10
Residential Multiple Dwelling District 5.3.3
Neighborhood Office District 6.3
Neighborhood Shopping District 6.3
General Business District 6.3
I-POP-GB District 7.4
Adult Care Facility District 8.4.F
Medical Marijuana (See Registered Marijuana Dispensary)
Medical Office Building
Use regulations 3.4.5.1
Adult Care Facility District 8.2.1, 8.2.2
Menu Board Sign
Definition 12.2
Standards 12.9.4
Minimum Building Height (Feet)
Single Dwelling Residence Districts 4.4.9B, 4.4.10
Planned Unit Residential Development 4.8.7.3
Neighborhood Office District 6.3
Neighborhood Shopping District 6.3
General Business District 6.3
I-POP-GB District 7.4
Adult Care Facility District 8.4.G
Minimum Building Height (Stories)
Single Dwelling Residence Districts 4.4.9.A, 4.4.10
Planned Unit Residential Development 4.8.7.3
Residential Multiple Dwelling District 5.5.2
Neighborhood Office District 6.3
Neighborhood Shopping District 6.3
General Business District 6.3
I-POP-GB District 7.4
Adult Care Facility District 8.4.G
Ridgeline and Hillside District 9.3.7.1.F
Minimum Front Yard (Setback)
Single Dwelling Residence Districts 4.4.5, 4.4.10
Planned Unit Residential Development 4.8.5.3
Residential Multiple Dwelling District 5.3.3
Neighborhood Office District 6.3
Neighborhood Shopping District 6.3
General Business District 6.3
I-POP-GB District 7.4
Adult Care Facility District 8.4.C

Minimum Lot Area
Single Dwelling Residence Districts 4.4.2, 4.4.10
Planned Unit Residential Development 4.8.5.1
Residential Multiple Dwelling District 5.3.1
Neighborhood Office District 6.3
Neighborhood Shopping District 6.3
General Business District 6.3
I-POP-GB District 7.4
Adult Care Facility District 8.4.A
Minimum Lot Frontage
Single Dwelling Residence Districts 4.4.1, 4.4.10
Planned Unit Residential Development 4.8.5.2
Residential Multiple Dwelling District 5.3.2
Neighborhood Office District 6.3
Neighborhood Shopping District 6.3
General Business District 6.3
I-POP-GB District 7.4
Adult Care Facility District 8.4.B
Minimum Rear Yard
Single Dwelling Residence Districts 4.4.7, 4.4.10
Planned Unit Residential Development 4.8.5.3
Residential Multiple Dwelling District 5.3.5
Neighborhood Office District 6.3
Neighborhood Shopping District 6.3
General Business District 6.3
I-POP-GB District 7.4
Adult Care Facility District 8.4.E
Minimum Side Yard
Single Dwelling Residence Districts 4.4.6, 4.4.10
Planned Unit Residential Development 4.8.5.3
Residential Multiple Dwelling District 5.3.4
Neighborhood Office District 6.3
Neighborhood Shopping District 6.3
General Business District 6.3
I-POP-GB District 7.4
Adult Care Facility District 8.4.D
Minimum Usable Land Area
Single Dwelling Residence Districts 4.4.3, 4.4.10
Planned Unit Residential Development 4.8.5.1
Mixed Use Development 3.5.1
Definition 1.3
Regulations 14
Mixed Uses 3.5
Mobile Home
Definition 1.3
Temporary Accessory Residential Use 3.9.2.6
Monopole, Definition 1.3
Mortuary 3.4.5.6

Motel-Motor Inn 3.4.5.12
Definition 1.3
Parking Requirements 11.2.8
Motor Vehicles, Parking or Storage of
Unregistered or Inoperable Vehicles in Residential Districts 4.5.1
Accessory Residential Use 3.9.2.1
Trucks and Buses in Residential Districts 4.5.2
Motor Vehicle Repair Services 3.4.5.16
Motor Vehicle Towing and Transportation Business 3.4.6.8
Movable Sign
Definition 12.2
Prohibited 12.3.2.A
Municipal Buildings 3.4.3.1
Signs, Residential Districts 12.15.1
Multiple (family) Dwelling, Residential 3.4.2.3
Definition 1.3
Parking Requirements 11.2.4
See Residential Multiple Dwelling District
Museum, Public (see Public Museum)

N

Neighborhood Office, Neighborhood Shopping and General Business Districts 6
Non-Conforming Building 3.3
Definition 1.3
Non-conforming Lot
Exemption for single dwelling residence districts 4.4.11
Non-conforming Sign, Regulation of 12.12
Non-conforming Structure (see nonconforming building)
Non-conforming Uses 3.3
Definition 1.3
Nonprofit Educational Institution 3.4.4.1
See also Exemption, State Zoning
Nursing Home 3.4.4.7
Parking requirements 11.2.9
Signs, Residential Districts 12.15.1

O

Occupant, Definition 1.3
Off-premises Sign
Definition 12.2
Regulations 12.10
Office
See Business Offices
See Home office
See Professional Office Park
See Professional Offices
On-Premises Sign
Definition 12.2
One Family Dwelling, Residential 3.4.2.1
Parking Requirement 11.2.1
See Single Dwelling Residence Districts
Open Space
Definition 1.3
Flexible Non-Subdivision Requirement 4.7.C
Flexible Subdivision Requirement 4.6.2.E
Planned Unit Residential Development 4.8.11
Outdoor Display of Merchandise 3.9.3.2
Outdoor Dining 3.9.3.3
Overlay Zoning District(s) 2.2
Overlay Zoning District Regulations 9
See Flood Plain District
See Ground Water Protection District
See Ridgeline and Hillside District

P

Parking, Off-Street
Accessory Business Use 3.9.3.1
Adult Care Facilities District 8.8
Garage (Residential) 3.9.2.2
Planned Unit Residential Development 4.8.9
Professional Office Park 7.5.5
Regulations 11
Residential Multiple Dwelling Districts 5.5.7
Waivers 11.1.4
Penalties (Zoning Violations) 15.3
Definition 1.3
Pennants
Definition 12.2
Prohibited Sign 12.3.2.B

Performance Security
Planned Unit Residential Development 4.8.14.B
Performance Standards, Industrial Use 7.2
Permits
See Building Permit
See Earth Removal Permit
Pet Shelter 3.9.2.5
Philanthropic Institution 3.4.4.3
Planned Unit Residential Development 3.4.2.6
Definition 1.3
Regulations 4.8
Planning Board 15.4
Associate (Alternate Voting) Member 15.4.2
Ridgeline and Hillside Review Board 9.3.5
Rules and Regulations 15.5.3; Appendix A
Special Permit Granting Authority 13.6.2.1
Playground Equipment, Accessory Residential Use 3.9.2.5
Political Signs 12.4.8
Pool Shed (see shed)
Post Office 3.4.3.2
Premises, Definition 1.3
Principal Use Regulations 3.4
Agricultural and General Uses 3.4.1
Business Uses 3.4.5
Government & Public Service Uses 3.4.3
Industrial Uses 3.4.6
Institutional Uses 3.4.4
Residential Uses 3.4.2
Private School 3.4.5.8
Signs, Residential Districts 12.15.1
Professional Office Park 3.4.6.7
Parking Requirements 11.2.13
Regulations 7.5
Professional Offices
Medical 3.4.5.1
Non-medical 3.4.5.2
Prohibited Signs 12.3.2
Prohibited Uses 3.2
Project Identification
Adult care facilities 8.10
Planned unit residential development 4.8.13
Public Library 3.4.4.3
Signs, Residential Districts 12.15.1
Public Museum 3.4.4.3
Signs, Residential Districts 12.15.1
Public Park 3.4.4.6
Signs, Residential Districts 12.15.1

Public Playground 3.4.4.6
Signs, Residential Districts 12.15.1
Public Recreation Operated as a Business 3.4.5.11
Public School 3.4.4.1
Signs, Residential Districts 12.15.1
Public Utility Installation (no storage yard) 3.4.3.3
Public Utility Installation (with storage yard) 3.4.3.5
Public Utility Office Building 3.4.3.4
Public Vantage Point
Definition 1.3
Ridgeline and Hillside District Requirements 9.3.6.3
Purpose 1.2

R

Real Estate Sign
Temporary Real Estate Sign 12.4.6
Residential Districts 12.5.2
Recharge Area, Definition 1.3
Registered Marijuana Dispensaries (RMD) 3.4.5.21
Definition 1.3
Regulations 7.6
Repetitive Petitions
Before Board of Appeals 15.8
Before Town Meetings 15.7
Residential Height Limitations 4.4.9
Residential Kitchen Permit (see Cottage Food Operation)
Residential Multiple Dwelling District 5
Rest Home 3.4.4.7
Restaurant 3.4.5.17
Drive through window service 3.4.5.17
Outdoor dining as seasonal accessory use 3.9.3.3
Restrictions, Scientific, and Developmental Laboratories 3.4.6.1
Retail Lumber Yard 3.4.5.15
Retail Sales of Automobiles and Trucks 3.4.5.20
Regulations 6.5
Parking Requirements 11.2.12
See also Used Car Sales
Ridgeline and Hillside District 9.3
Overlay District Map 2.3.2; 9.3.3

Roof Sign
Definition 12.2
Prohibited Sign 12.3.2.A
Rules and Regulations, Planning Board Appendix A

S

Sales Offices 3.4.5.7
Sanatorium 3.4.4.7
Scenic Roads Appendix C
School, Private (see Private School)
School, Public (see Public School)
Self-storage facility
Parking requirements 11.2.11
Septage, Definition 1.3
Setback
Definition 1.3
See Minimum Front Yard 1.3
Wireless Communications Tower 10.5.2
Sewage, Definition 1.3
Shed 3.9.2.5
Dimensional Regulations 4.4.8
Side Lot Line (see Lot Line, Side)
Sign
Accessory Uses 3.9.1.2
Definition 1.3
Regulations (see Sign Regulations)
Sign Area, Measurement of 12.3.3

Sign Definitions (see separate listings as follows)
Banner
Boston Road Business Corridor Enhancement Sign
Billboards
Canopy Sign
Directory Sign
Electronic Variable Message Sign
Flag
Free-standing Sign
Grand Opening Sign
Identification Sign
Illuminated Sign
Incidental Sign
Menu Board Sign
Moveable Sign
Off-premises Sign
On-premises Sign
Pennants
Political Sign
Real Estate Sign
Roof Sign
Special Event Sign
Street Banner Sign
Temporary Sign
Wall Sign
Window Sign
Sign Master Plan 12.11
Sign Permits 12.3.5
Sign Regulations (General) 12
Affixed Signs (Building Signs) 12.7.2
Exempted Signs 12.4
Free-standing Signs (see Free-standing Sign) 12.3
General Standards 12.3
Illumination 12.3.4
Non-Conforming Signs (See Non-Conforming Sign)
Permitted Signs 12.3.1
Prohibited Signs 12.3.2
Wireless Communications Facilities 10.5.2.N
Sign Regulations (by Zoning District) 12
Adult Care Facility Districts 12.8
I-POP-GB District 12.7
NO, and NS District 12.6
Professional Office Park 7.5.7
Residential Districts 12.5
Single Dwelling (See One Family Dwelling)
Single Dwelling Residence Districts 4

Site Plan Approval 13.5
Site Plans
Design Guidelines 13.4
Requirements 13.3
Review Criteria 13.4
Slope, See Usable Land Area
Sludge, Definition 1.3
Solar Energy System
Definition 1.3
Accessory Use Regulations 3.9.1.3
Solar Energy System, Large-Scale Ground Mounted
(See Large-Scale Ground-Mounted Solar Energy System)
Solid Waste, Definition 1.3
See Landfill
Special Event Sign
Definition 12.2
Standards 12.9.2
Special Events 3.9.3.4
Special Permits 13.6
Special Permit Granting Authority
Definition 1.3
Procedures 13.6.2
Special Uses 3.6
Stables, Private 3.9.2.7
Definition 1.3
Story, Definition 1.3
See Building Height, Stories
Street, Definition 1.3
Street Banner Sign 12.10.1
Street Line, Definition 1.3
Structure, Definition 1.3
Studio (see home studio)
Subdivision, Definition 1.3
Swimming Pool 3.9.2.4
Definition 1.3
Regulations Appendix B
Pool Shed (see shed)

T

Temporary Sign
Definition 12.2
Temporary Mobile Home 3.9.2.6
Tennis Court 3.9.2.3
Theaters 3.4.5.5
Through Lot, Definition 1.3
Tool shed (see shed)
Tractors (see Motor Vehicles)
Trailers (see Motor Vehicles)
Trucks (see Motor Vehicles)
Truck Unloading Areas 3.9.3.1
Two Family Dwelling Conversion 4.3

U

Underground Storage Tanks 9.2.4.1
Usable Land Area, Definition 1.3
See Minimum Usable Lot Area
Used Car Sales 6.5.2
Use Regulations 3
See Accessory Use Regulations
See Non-Conforming Uses
See Mixed Uses
See Principal Use Regulations
See Prohibited Uses
See Special Uses

V

Validity 15.10
Variance
Definition 1.3
Required findings 15.5.2.2
Violations, Zoning 15.3

W

Waivers
- Planned Unit Residential Development 4.8.15
- Adult Care Facility Minimum Frontage Requirement 8.4.B
- Ridgeline & Hillside District Review 9.3.10
- Wireless Communications Facilities 10.5.6
- Parking Requirements 11.1.4
- Site Plan Approval Requirements 13.5.1.2

Wall Sign, Definition 12.2
Warehouse 3.4.5.18
Wholesale Business 3.4.5.18
Wind Energy Conversion System 3.9.1.4
- Definition 1.3

Window Sign
- Definition 12.2
- Exempt Sign Regulation 12.4.10

Wireless Communications Facilities 3.4.3.6
- Definition 1.3
- Regulations 10.5

Y

Yard, Definition 1.3

Z

Zoning Board of Appeals (see Board of Appeals)
Zoning, Definition 1.3
Zoning Districts
- Base zoning districts 2.1
- Overlay zoning districts 2.2

Zoning Map 2.3.1
- Boundary Interpretation 2.4