

**PLANNING BOARD**  
**TOWN OF WILBRAHAM**  
240 Springfield Street  
Wilbraham, Massachusetts 01095

TOWN CLERK, WILBRAHAM MA

2026 FEB -5 A 11: 26

John McCloskey, Chair  
Bradley Gregory  
John H. Luttrell, Jr.  
Tracey Plantier  
James Rooney  
Bruce Williams, Associate



Michelle R. Buck, Planning Director  
Heidi Burnham, Admin. Assistant  
Phone: (413) 596-2800, Ext. 203

**WILBRAHAM PLANNING BOARD**

**PUBLIC HEARING**

In accordance with M.G.L. Chapter 40A, Section 5, the Wilbraham Planning Board will hold a Public Hearing on Wednesday, March 4, 2026 at 5:45PM in the Town Office Building, 240 Springfield Street, to give interested parties the opportunity to comment on proposed amendments to the Wilbraham Zoning By-Law described below:

- 1) To amend Section 4.10 of the Zoning Bylaw, Accessory Dwelling Unit (ADU) Regulations, to require 1 off-street parking space for all ADUs, except for ADUs within a 1/2 mile radius of a transit station.
- 2) To renumber and recaption the Zoning Bylaw by (a) designating the Zoning Bylaw as Chapter 250 of the Code of the Town of Wilbraham; (b) renumbering each section and subsection of the bylaw accordingly; (c) inserting article, section and subsection titles; and (d) updating internal references to reflect the new numbering system
- 3) To make the following changes to the renumbered and recaptioned Zoning Bylaw (Chapter 250):
  - a. General revisions to ensure consistency of terms and correction of typographical errors
  - b. Amend Section 250-1.3 to modify the following definitions: assisted living residence, building envelope, clearing envelope, family day care home, hazardous material, registered marijuana dispensary and sign
  - c. Amend Section 250-3.5B(14) to remove the special permit requirement for a family day care home consistent with recent changes to state law
  - d. Delete blank Section 3.9.4 "Accessory uses: industrial"
  - e. Amend Section 250-4.11.G. to remove a duplication of the word "snowplowing"
  - f. Amend Section 250-5.1 to clarify language in the Residential Multiple Dwelling District
  - g. Amend Section 250-6.5 to clarify applicable zoning districts for new vehicle sales
  - h. Amend Sections 250-6.5.I & 250-7.2G to change "American Standards Association" to "American National Standards Institute"
  - i. Amend Section 250-7.6 to reflect changes in state law and regulations related to Registered Marijuana Facilities
  - j. Amend Section 250-9.1 to correct and update legal and map references applicable to the Floodplain Overlay District
  - k. Amend Section 250-10.4 to make grammatical corrections and to change "Federal Aeronautics Administration" to "Federal Aviation Administration"
  - l. Amend Section 250-10.5 to correct terms related to civil engineers and land surveyors and to delete a reference to the MA Department of Environmental Protection "Division of Air Quality"
  - m. Amend Section 250-10.7 to correct scrivener errors
  - n. Amend Section 250-15.3 to increase the fine for violations from \$100 to \$300 for each offence.
  - o. Amend the appendix related to scenic roads to include the entirety of the language in MGL c. 40, Section 15C

The complete text of the proposed amendments is available for review in the Town Clerk's Office and the Planning Office during normal business hours and posted for public viewing on the Planning Board page of the Town of Wilbraham website at [www.wilbraham-ma.gov/123/Planning-Board](http://www.wilbraham-ma.gov/123/Planning-Board). All persons interested or wishing to be heard on this matter are urged to attend the public hearing.

Both in person and virtual participation are available. To participate virtually go to <https://meet.goto.com/684280605> or call 866-899-4679 (Access Code: 684-280-605).

James Rooney, Chair

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**Proposed Amendments to the Wilbraham Zoning By-Law  
Public Hearing – March 4, 2026**

**1. ACCESSORY DWELLING UNIT (ADU) AMENDMENT**

**Article \_\_\_\_.** To see if the Town will vote to amend Section 4.10 of the Wilbraham Zoning Bylaw, Accessory Dwelling Unit (ADU) Regulations, by inserting the following sentence at the beginning of the Subsection 4.10.2.E:

One (1) off-street parking space shall be provided for all ADUs, except for ADUs within a 0.5 mile radius of a transit station as defined by 760 CMR 71.02.

*[The existing Section 4.10 with the amendment shown is included as Attachment 1.]*

**2. ZONING BYLAW RENUMBERING & RECAPTIONING**

**Article \_\_\_\_:** To see if the Town will vote to renumber and recaption the Zoning Bylaw of the Town by (a) designating the Zoning Bylaw as Chapter 250 of the Code of the Town of Wilbraham; (b) renumbering each section and subsection of the bylaw accordingly; (c) inserting article, section and subsection titles; and (d) updating internal references to reflect the new numbering system, all as set forth in the Final Draft of the Code of the Town of Wilbraham dated January 2026, on file with the Town Clerk, or what it will do in relation thereto.

*[The modified Zoning Bylaw (Chapter 250) is included as Attachment 2.]*

**3. ZONING BYLAW IMPROVEMENTS & CORRECTIONS**

**Article \_\_\_\_:** To see if the Town will vote to adopt the following changes to the Zoning Bylaw as set forth in the Final Draft of the Code of the Town of Wilbraham dated January 2026, on file with the Town Clerk, or what it will do in relation thereto.

**General Revisions:**

- References to "Selectmen" are amended to read "Select Board."
- The word "by-law" is amended to read "bylaw."
- The term "occupancy permit" is amended to read "certificate of occupancy."

- The term "Floodplain District" is amended to read "Floodplain Overlay District."
- The terms "Ridgeline and Hillside District" and "Hillside and Ridgeline District" are amended to read "Ridgeline and Hillside Overlay District."
- The following terms are amended to read "Building Official": "Building Commissioner," "Building Inspector," and "Inspector of Buildings."
- References to the Massachusetts General Laws are standardized to the following format: MGL c. \_\_, § \_\_.
- Minor typographical errors in spelling, punctuation, and grammar have been corrected.

### Specific Revisions:

#### Section 250-1.3.

The definition of "assisted living residence" is amended as indicated: "Assisted living residences are required to be certified by the ~~Executive Office of Elder Affairs~~ Executive Office of Aging and Independence."

The definition of "building envelope" is amended as indicated: "The area within the clearing envelope which ~~demises~~ comprises the intended footprint of the principal structure."

The definition of "clearing envelope" is amended as indicated: "The area within a lot which ~~demises~~ comprises the area to be developed, including structures, driveway, lawns, septic systems and wells, as applicable."

The definition of "family day care home" is amended as indicated:

A private home whose resident family receives children under seven years of age (or under 16 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 10, including participating children living in the residence. Family day care home is an accessory use to the principal use as a residence. (Includes both a family child care home and a large family child care home as those terms are defined in MGL c. 15D, § 1A.)

The definition of "hazardous material" is amended as indicated: "Hazardous materials have been designated by the U.S. Department of Transportation under ~~49 C.F.R. parts 171.8 and 173~~ 49 CFR 171.8 and 173."

The definition of "registered marijuana dispensary" is amended as indicated:

A use operated by a ~~not-for-profit entity registered and approved by the Massachusetts Department of Public Health under 105 CMR 725.000~~ an entity licensed and approved by the Cannabis Control Commission under 935 CMR 501.000 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~~ licensed and approved ~~not-for-profit~~ entity.

The definition of "sign" is amended as indicated:

Any permanent or temporary structure, device, letter, word, model, banner, pennant, insignia, trade flag, or representation or 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.

**Section 250-3.5B(14)** is amended as indicated: "Family day care home ~~by special permit from the Zoning Board of Appeals.~~"

Original **Sec. 3.9.4**, Accessory uses: industrial, is deleted.

**Section 250-4.11G** is amended as indicated:

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, snowplowing, trash disposal, upkeep of buildings and landscaping, ~~snowplowing~~, outdoor lighting, and signage.

**Section 250-5.1.**

Subsection B is amended as indicated: "After establishment of a Residential Multiple Dwelling District, the use of land therein shall be subject, except where otherwise indicated in the Schedule of Use Regulations in § 250-3.4B, to a special permit issued by the Planning Board acting as the special permit granting authority in conformance with the requirements of Article V and § 250-13.6."

Subsection C(1)(b) is amended as indicated:

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~~ sewage 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;

**Section 250-6.5.**

The lead-in paragraph is amended as indicated: "Retail sales by a franchised dealer of new automobiles and new trucks are permitted in GB and I-POP-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:"

Subsection I is amended as indicated: "Measurements will be made with a sound level meter and associated octave sound filter manufactured in accordance with the ~~American Standards Association~~ American National Standards Institute."

**Section 250-7.2G** is amended as indicated: "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~~ American National Standards Institute."

**Section 250-7.6.**

Subsection C(2) is amended as indicated:

The RMD facility shall be properly ~~registered with the Massachusetts Department of Public Health (DPH) pursuant to 105-CMR-725.000~~ licensed with the Cannabis Control Commission pursuant to 935 CMR 501.000 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 an RMD that is not properly ~~registered with the Massachusetts DPH~~ licensed with the Cannabis Control Commission.

Subsection C(7)(b) is amended as indicated: "The 500-foot distance shall be measured in a straight line from the ~~nearest property line of the lot containing~~ geometric center of the entrance to any of the above-listed structures or uses to the ~~nearest point of~~ geometric center of the entrance to any principal building housing the proposed RMD."

Subsection C(8) is amended as indicated:

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~~ License Issued by the MA Cannabis Control Commission Required" in text two inches in height.

Subsection E(2) is amended as indicated:

An RMD special permit granted under this section shall lapse if the permit holder ceases operation of the RMD and/or the permit holder's ~~Massachusetts Department of Public Health Registration~~ Massachusetts Cannabis Control Commission license 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.

Subsection E(3) is amended as indicated:

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~~ Massachusetts Cannabis Control Commission license or immediately following revocation or voiding of its ~~DPH Registration~~ CCC license.

### **Section 250-9.1.**

Subsection B(3) is amended as indicated:

All development in the Floodplain Overlay District, including structural and nonstructural activities, whether permitted by right or by special permit, must be in compliance with MGL c. 131, § 40, 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)~~ Standard Requirements for the Siting, Construction, Inspection, Upgrade and Expansion of On-Site Sewage Treatment and Disposal Systems and for the Transport and Disposal of Septage (currently 310 CMR 15.00, Title 5), and the Flood Resistant Construction Regulations of the state Building Code (~~Section 780~~ CMR).

Subsection C.

The definitions of "functionally dependent use" and "new construction" are amended to change "ASCE 24-14" to "ASCE/SEI 24-24."

The definition of "substantial repair of a foundation" is amended as indicated:

Applications determined by the Building Official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR (as amended by MA in ~~9th Edition~~ the current edition BC).

The definition of "violation" is amended as indicated:

A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in ~~§44 CFR~~ 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided (44 CFR Part 59).

Subsection D(1) is amended as indicated:

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) dated ~~September 17, 2014~~ June 7, 2023, for the administration of the National Flood Insurance Program. 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 ~~September 17, 2014~~ June 7, 2023.

Subsection D(5) is amended as indicated:

If the Town/~~City~~ acquires data that changes the base flood elevation in the FEMA-mapped special flood hazard areas, the Town/~~City~~ will, within six months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s).

Subsection G(2) is amended as indicated: "A variance from ~~these floodplain bylaws~~ this floodplain section must meet the requirements set out by state law and may only be granted if:"

#### **Section 250-10.4.**

Subsection B(10) is amended as indicated in the last sentence: "The Planning Board may impose reasonable conditions to ensure this result, including but ~~are~~ not limited to structural design, painting, lighting, and landscaping standards."

Subsection B(12) is amended to change "Federal Aeronautics Administration" to "Federal Aviation Administration."

#### **Section 250-10.5.**

Subsection E is amended as indicated: "All plans and maps to be submitted must be drawn at appropriate scales and shall be prepared, stamped and signed by a professional civil engineer or ~~registered~~ land surveyor ~~licensed to practice~~ registered in the Commonwealth of Massachusetts."

Subsection E(7)(a) is amended as indicated:

Blueprints or drawings of the large-scale ground-mounted solar energy system signed by a professional engineer ~~licensed to practice~~ registered in the Commonwealth of Massachusetts, showing the proposed layout of the installation and the estimated solar power generation capacity indicated as wattage in both direct current (MW DC) and alternating current (MW AC).

Subsection G(5) is amended as indicated:

Noise generated by large-scale ground-mounted solar energy systems and associated equipment and machinery shall conform, at a minimum, to applicable state and local noise regulations, including the Massachusetts Department of Environmental Protection ~~Division of Air Quality~~ noise regulations, 310 CMR 7.10, and the Planning Board may require additional screening or shielding of inverters and other equipment if after operation the Planning Board determines that the operating noise level is detectable beyond the property line and deemed to be excessive.

#### **Section 250-10.7.**

Subsection C(2) is amended as indicated:

The construction, operation, and decommissioning of all battery ~~storage~~ energy storage systems shall be consistent with all applicable local, state, and federal requirements, including but not limited to all applicable environmental, safety, construction, fire, and electrical requirements.

Subsection H is amended as indicated:

Any site plan approval or special permit issued by the Planning Board shall automatically lapse if the battery energy storage system is not installed and operating within two years of the date of

issuance or if the ~~large-scale ground-mounted solar energy~~ battery energy storage system is abandoned as defined herein.

**Section 250-15.3.**

Subsection A(4) is amended as indicated: "Unless otherwise provided in this bylaw, the penalty for each offense shall be ~~\$100~~ \$300."

Subsection B is amended as indicated in the second sentence: "The fine for any violation disposed of through this procedure shall be ~~\$100~~ \$300 for each offense."

**Appendix C, Scenic Road Designation**, attached to the Zoning Bylaw, is amended as indicated

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; provided, however, that a numbered route may be designated by a city or town as a scenic road if its entire length is contained within the boundaries of said city or town, and no part of said route is owned or maintained by the commonwealth.

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, or if there is no planning board, the selectmen of a town, or the city council of a city, 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; provided, however, that when a public hearing must be held under the provisions of this section and under section three of chapter eighty-seven prior to the cutting or removal of a tree, such hearings shall be consolidated into a single public hearing before the tree warden and the planning board, or if there is no planning board, the selectmen of a town, or the city council of a city, and notice of such consolidated public hearing shall be given by the tree warden or his deputy as provided in said section three of chapter eighty-seven. Any city or town making said scenic road designation may make an ordinance or by-law establishing that a violation of this paragraph shall be punished by a fine not to exceed three hundred dollars.

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.

**Existing Wilbraham ADU Zoning Bylaw (adopted May 2025), with proposed amendment shown:**

**4.10 ACCESSORY DWELLING UNIT REGULATIONS**

**4.10.1** The purpose of the Accessory Dwelling Unit (ADU) bylaw is to:

- A. Allow for ADUs consistent with MGL c. 40A §1A and §3.
- B. Provide homeowners with a means of obtaining, through tenants in ADUs, rental income, companionship, security and services, and thereby to enable them to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave;
- C. Provide a mix of housing that responds to changing family needs and smaller households; and
- D. Provide a broader range of accessible and more affordable housing.

**4.10.2** Accessory Dwelling Unit Standards

- A. The ADU shall be clearly subordinate in size to the principal dwelling. It shall be no larger in gross floor area than half the gross floor area of the principal dwelling unit on the property or 900 square feet, whichever is smaller.
- B. The ADU shall comply with all frontage, yard (setback), height and building coverage requirements as may be applicable to dwellings, as contained in Section 4.4.10. In the case of a corner lot, the ADU shall be located behind the closest building wall of the principal dwelling to the lot line, or in compliance with the minimum front yard requirement of Section 4.4.10, whichever is less (see Definition of Corner Lot in Section 1.3).
- C. The ADU shall be a complete, separate housekeeping unit that functions as a separate unit from the principal dwelling.
- D. The exterior appearance of the accessory dwelling unit shall be reasonably compatible with the character and scale of the principal dwelling and the character of the neighborhood.
- E. One (1) off-street parking space shall be provided for all ADUs, except for ADUs within a 0.5 mile radius of a transit station as defined by 760 CMR 71.02. Parking may be in a driveway or a garage. The construction of a new garage to serve an ADU shall require a special permit from the Planning Board under Section 4.4.8 and/or or Section 3.9.2.2 as applicable.
- F. The ADU shall be serviced with adequate water supply and sewer or septic service. The applicant for an ADU shall provide documentation of such adequacy from the Department of Public Works or the Board of Health or its agent, as applicable.
- G. ADUs shall conform to the Town of Wilbraham Stormwater Bylaw and Regulations as applicable.
- H. ADUs may not be used as Short-Term Rentals, as such term is defined in M.G.L. c. 64G, §1 or otherwise rented for a period shorter than thirty-one (31) days.
- I. No more than one ADU may be placed on a lot.
- J. A mobile home or any other temporary structure shall not be used or classified as an ADU.
- K. ADUs exceeding the dimensional requirements specified herein or otherwise not in conformance with Section 4.10 or the definition of Accessory Dwelling unit in Section 1.3 are prohibited.

**4.10.3** Site Plan Approval

- A. All ADUs are required to obtain Site Plan Approval from the Planning Board pursuant to the Site Plan requirements and procedures in Section 13.3 (Site Plan Requirements) and 13.5 (Site Plan Approval) of this Zoning Bylaw. Site Plan Approval criteria shall be limited to review of consistency with the standards and requirements of this Section 4.10. Sections 13.5.4.3 and 13.5.5 shall not apply.
- B. The Planning Board may request reasonable plan modifications of the Site Plan for an ADU and may impose reasonable conditions that are not inconsistent with this bylaw or the provisions of MG.L. c. 40A, §3, including but not limited to requirements for screening from abutting properties.

**Chapter 250 of the Code of the Town of Wilbraham (Zoning)**

Town of Wilbraham, MA  
Friday, January 30, 2026  
Printed from a Code in progress

## Chapter 250. Zoning

[HISTORY: Adopted by the Town Meeting of the Town of Wilbraham 6-25-1990; as amended through 6-3-2024 ATM. Subsequent amendments noted where applicable.]

### **ATTACHMENTS**

**Attachment 1 - Appendix B, Regulations for Swimming Pools** 

**Attachment 2 - Appendix C, Scenic Road Designation** 

## Article I. Authority, Purpose and Definitions

### § 250-1.1. Authority.

The Town of Wilbraham hereby enacts this Zoning Bylaw pursuant to and under the authority of the Zoning Act, MGL c. 40A, as amended.

### § 250-1.2. Purpose.

The purposes of this bylaw are:

- A. To promote the health, safety, convenience and general welfare of the present and future inhabitants of the Town of Wilbraham;
- B. To protect the community and the Town's natural resources;
- C. 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;
- D. To lessen congestion in the streets;
- E. To permit and promote planned, orderly growth;
- F. To conserve the value of land and buildings;
- G. To facilitate the adequate provision of public services;
- H. To preserve and increase the Town's amenities;
- I. 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;
- J. To encourage compatible development and the most appropriate use of the Town's land and resources;
- K. 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;

- L. To establish a fair and reasonable set of standards for evaluating each development proposal impartially, on its own merit;
- M. 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
- N. To provide the Town with the full protection authorized by MGL c. **40A**, as amended.

## § 250-1.3. Definitions and word usage.

For the purpose of this bylaw, 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." (Note: Diagrams are for convenience of reference only and do not constitute part of the adopted bylaw.)

### **ACCESSORY DWELLING UNIT**

an attached or detached self-contained housing unit, inclusive of sleeping, cooking and sanitary facilities on the same lot as a principal dwelling, subject to otherwise applicable dimensional and parking requirements, that maintains a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the State Building Code for safe egress; and is not larger in gross floor area than 1/2 the gross floor area of the principal dwelling or 900 square feet, whichever is smaller (MGL c. 40A, § 1A).

[Amended 5-12-2025 ATM by Art. 34]

### **ACCESSORY BUILDING OR STRUCTURE**

A building or structure that is customarily incidental and subordinate to a lawful principal building and/or principal use, not to include storage containers, 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.

### **AGRICULTURE**

"Agriculture" shall mean farming (cultivating the soil, growing crops, raising livestock) in all of its branches, including floriculture, horticulture and viticulture.

### **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 MGL c. 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 twenty-four-hour skilled nursing care. Assisted living residences are required to be certified by the Executive Office of Aging and Independence.<sup>[1]</sup>

### **AUTO BODY SHOP**

An establishment providing repair services to motor vehicle bodies and frames, including repair or replacement of damaged parts, painting and undercoating.

### **AUTOMATED TELLER MACHINE (ATM) KIOSK**

A small, freestanding 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 c. 140, § 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 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 automatic amusement devices on premises serving or selling alcoholic beverages.

### **BATTERY or BATTERIES**

A single cell or a group of cells connected together electrically in series, in parallel, or a combination of both, which can charge, discharge, and store energy electrochemically. For the purposes of this bylaw, batteries utilized in consumer products are excluded from these requirements.

### **BATTERY ENERGY STORAGE SYSTEM**

A physical container providing secondary containment to one or more battery cells for storing electrical energy derived from solar or sourced directly from the grid that is equipped with cooling, ventilation, fire suppression, and an electronic battery management system. It may be a primary use or accessory to a solar energy facility, power generation facility, an electrical substation, or other similar uses. A battery energy storage system can be classified as a Tier 1, Tier 2, or Tier 3 battery energy storage system, as follows:

- A. "Tier 1 battery energy storage systems" are defined as those that have an aggregate energy capacity equal to 20 kWh and greater and whose purpose is to store energy from residential solar energy systems; if in a room or enclosed area, consist of only a single energy storage system technology. The facility must comply with the state's Electrical Code (527 CMR 12.00) and the state's Fire Code (527 CMR 1.00).
- B. "Tier 2 battery energy storage systems" are defined as those that are interconnected to utility distribution lines and have an aggregate energy capacity greater than 20 kWh but less than or equal to 10 megawatts. The facility must comply with the State's Electrical Code (527 CMR 12.00) and the State's Fire Code (527 CMR 1.00).
- C. "Tier 3 battery energy storage systems" are defined as those that are interconnected to high-voltage transmission lines and have an aggregate energy capacity greater than 10 megawatts. The facility must comply with the State's Electrical Code (527 CMR 12.00) and the State's Fire Code (527 CMR 1.00).

### **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.

#### **BREW PUB**

Food service establishment licensed under the relevant state and federal statutes to produce and sell beer and ale at the location and whose primary business is the sale and preparation of food to be consumed on the premises, but which also produces beer and ale on the premises, of which not more than 25% of the production capacity may be sold wholesale to other establishments.

#### **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 comprises the intended footprint of the principal structure.<sup>[2]</sup>

#### **BUILDING HEIGHT**

The vertical distance measured from the mean elevation of the finished grade within 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 Ridgeline and Hillside Overlay 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 MGL c. 15D, § 1A.

#### **CLEARING ENVELOPE**

The area within a lot which comprises 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.<sup>[3]</sup>

#### **CO-LOCATION**

The use of a single tower mounted 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.

#### **COMMERCIAL GASOLINE STATION**

An establishment providing fuel products for sale to the general public, including, but not limited to, gasoline, diesel fuel and biofuel, as well customary related accessory uses such as a car wash or mini convenience store.

#### **CONGREGATE LIVING FACILITY**

A noninstitutional, 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 streets. A corner lot is considered to have two front yards, two 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 confectioneries in the home kitchen of that person's primary residence for off-premises 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 MGL c. 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 16 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 10, including participating children living in the residence. Family day care home is an accessory use to the principal use as a residence. (Includes both a family child care home and a large family child care home as those terms are defined in MGL c. 15D, § 1A.)<sup>[4]</sup>

#### **FARM**

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

#### **FRONTAGE**

A. 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 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<sup>[5]</sup> and the Town of Wilbraham Subdivision Regulations.
- B. 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% 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.

**GROSS VEHICLE WEIGHT RATING (GVWR)**

Is the maximum operating weight/mass of a vehicle as specified by the manufacturer, which typically includes the vehicle's chassis, body, engine, engine fluids, fuel, accessories, driver, passengers and cargo, but excludes that of any trailers.

**GROUNDWATER**

All the water found beneath the surface of the ground. In this bylaw, 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 or 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 CFR 171.8 and 173.<sup>[6]</sup>

**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:

- A. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or
- B. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, 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 bona fide 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 bona fide resident of the premises as an office, studio or workspace 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 bona fide 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.

## **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 bylaws 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 § 250-4.4 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.

## **LANDSCAPED BUFFER STRIP**

See requirements in § 250-10.2 hereafter.

## **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**

"Livestock" shall mean domesticated animals kept or raised for use, pleasure or profit, including, but not limited to, horses, ponies, donkeys, mules, cattle, goats, llamas, alpacas, swine, sheep and poultry, but shall not include domesticated animals that are commonly kept as a companion pet and housed with human occupants in a residential dwelling such as cats, dogs, and various species of rodents, birds, reptiles, fish and amphibians.

#### **LONG-TERM CARE FACILITY**

An institution which is licensed or approved by the Massachusetts Department of Public Health to provide twenty-four-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 bylaw.

#### **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.

#### **MARIJUANA ESTABLISHMENT**

"Marijuana establishment" shall mean a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business as defined in MGL c. 94G.

#### **MICROBREWERY**

A facility licensed under the relevant state and federal statutes where up to a maximum of 15,000 barrels (a barrel being equivalent to 31 gallons) of specialty beer, malt liquor or ale is produced annually and prepared for sale on-premises and/or for sale off-premises through wholesale distribution.

#### **MIXED USE**

A combination of residential and nonresidential uses occupying the same structure or lot, each of which is independent of and unrelated to the other.

#### **MIXED-USE BUILDING**

A building in which the ground floor is used for commercial use as allowed in the applicable zoning district and the upper floor is used for one or more dwelling units.

#### **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 or MOTOR INN**

A building designed and used for lodging transients in nonhousekeeping units with not less than 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.

**MOTOR VEHICLE RENTAL SERVICE**

An establishment renting motor vehicles for limited travel or moving purposes.

**MOTOR VEHICLE REPAIR SERVICES**

An establishment where motor vehicles are serviced and repaired in a work area enclosed within a building, including repairing or rebuilding engines, routine maintenance services such as oil changes, repair to exhaust systems and other general repair, but not including motor vehicle body work or the sale of gasoline or other fuel products.

**MULTIPLE DWELLING**

A building or structure occupied by more than two families.

**NANOBREWERY**

A facility licensed under the relevant state and federal statutes where up to a maximum of 6,000 barrels (a barrel being equivalent to 31 gallons) of specialty beer, malt liquor or ale is produced annually and prepared for sale on-premises and/or for sale off-premises through wholesale distribution. A nanobrewery is considered to be a scaled-down version of a microbrewery that produces beverages in very small batches.

**NONCONFORMING BUILDING**

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

**NONCONFORMING USE**

A use of land, building, or premises which is not a use permitted by the provisions of this bylaw 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 Bylaw.

**PLANNED UNIT RESIDENTIAL DEVELOPMENT**

A residential development on a tract of 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, townhouses, or multifamily 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.

#### **POULTRY**

"Poultry" shall mean domesticated birds typically kept or raised for their eggs or meat, including, but not limited to, chickens, ducks, swans, geese, guinea fowls, and turkeys as well as exotic and game birds.

#### **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 an entity licensed and approved by the Cannabis Control Commission under 935 CMR 501.000 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 licensed and approved entity.<sup>[7]</sup>

#### **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 or 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.<sup>[8]</sup>

#### **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 Select Board acting as the special permit granting authority, as hereinafter provided.

### **SPECIAL PERMIT GRANTING AUTHORITY**

"Special permit granting authority" shall mean the Select Board, 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,<sup>[9]</sup> 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 resubdivision, shall be as defined in the Subdivision Control Law.<sup>[10]</sup>

### **SWIMMING POOL**

Any body of water greater than 15 feet in diameter, or equivalent area, and two feet deep, aboveground or below grade, contained in a natural, artificial, or semiartificial 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 or more generally parallel streets. A through lot is considered to have two front yards, two side yards, and no rear yard.

### **USABLE LAND AREA**

That portion of a lot which is not classified as a "wetland" as defined in MGL c. 131, § 40, and the regulations promulgated thereunder in 310 CMR 10.00 and/or the Wilbraham Wetlands Bylaw and the regulations promulgated thereunder, and which does not consist of slopes having a grade of 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 Bylaw. 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.<sup>[11]</sup> 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 bylaw, 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.

- [1] *Editor's Note: Amendment pending.*
- [2] *Editor's Note: Amendment pending.*
- [3] *Editor's Note: Amendment pending.*
- [4] *Editor's Note: Amendment pending.*
- [5] *Editor's Note: See MGL c. 41, §§ 81K to 81GG.*
- [6] *Editor's Note: Amendment pending.*
- [7] *Editor's Note: Amendment pending.*
- [8] *Editor's Note: Amendment pending.*
- [9] *Editor's Note: See MGL c. 41, §§ 81K to 81GG.*
- [10] *Editor's Note: See MGL c. 41, §§ 81K to 81GG.*
- [11] *Editor's Note: See 47 U.S.C. § 332.*

## **Article II. Division Into Zoning Districts**

### **§ 250-2.1. Base zoning districts.**

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

- A. Single-dwelling residence districts:
  - (1) R-15, Residence-15 District.
  - (2) R-26, Residence-26 District.
  - (3) R-34, Residence-34 District.
  - (4) R-40, Residence-40 District.

- (5) R-60, Residence-60 District.
- B. Multiple-dwelling residence district:
  - (1) RMD, Residential Multiple Dwelling District.
- C. Business districts:
  - (1) NO, Neighborhood Office District.
  - (2) NS, Neighborhood Shopping District.
  - (3) GB, General Business District.
- D. Industrial, Professional Office Park, and General Business (I-POP-GB) District.
  - (1) I-POP-GB.
- E. Adult Care Facilities (ACF) District.
  - (1) ACF.

## § 250-2.2. Overlay zoning districts.

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

- A. Floodplain Overlay District.
- B. Ridgeline and Hillside Overlay District.

## § 250-2.3. Zoning Map.

- A. 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.
- B. The Floodplain Overlay District as defined on maps described in § **250-9.1D** and the Ridgeline and Hillside Overlay District as described in § **250-9.2C** are incorporated herein by reference as part of the Official Zoning Map.
- C. All said maps and amendments thereto as shall be duly adopted are hereby declared to be an integral part of this bylaw and shall be on file in the Town Clerk's office. Any change of the Zoning Map shall constitute an amendment to this bylaw and shall conform to the requirements for amending this bylaw.

## § 250-2.4. Boundary interpretation.

- A. 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.
- B. 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.

- C. 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 Floodplain Overlay District wherein boundaries shall always follow natural features and landscape contours shown on the maps.
- D. 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.
- E. 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 25 feet into the more restrictive district, provided the lot has frontage on a street in the less restrictive district.

## Article III. Use Regulations

### § 250-3.1. Basic use regulations.

- A. 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 bylaw, as set forth in § **250-3.4**, Table One: Schedule of Use Regulations, or as specifically regulated or provided otherwise under other sections hereof.
- B. 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.
- C. Any use allowed shall be in conformity with all the density and dimensional regulations and any other pertinent requirements of this bylaw.

### § 250-3.2. 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:

- A. In accordance with MGL c. **40A**, and notwithstanding any provisions to the contrary, this bylaw 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 bylaw.
- B. This bylaw 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 five or more acres in area (or two or more qualified acres in area) which are not zoned for agriculture, horticulture, floriculture or viticulture, nor shall provisions of this bylaw exempt land or structures from floodplain or wetland regulations established pursuant to general law.

### § 250-3.3. Nonconforming 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 Bylaw 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 MGL c. 40A, § 6. If such nonconforming situation is abandoned or terminated, as set forth below, it may not be resumed except in compliance with this bylaw.

- A. Nonconforming 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.
- B. Nonconforming 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.
- C. Nonconforming single- and two-family residential structures.
  - (1) A nonconforming 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 Official determines that the proposed alteration (1) does not constitute a change of use and (2) does not make the residential structure more nonconforming. A proposed alteration to such structure will not be considered more nonconforming and will be allowed by building permit from the Building Official 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.
  - (2) In the event the Building Official 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.

D. Reconstruction after catastrophe.

- (1) A lawfully nonconforming building or structure or a building or structure devoted to a nonconforming use (whether in whole or in part) that is damaged or destroyed by fire, explosion, natural disaster or other accidental cause may be repaired or reconstructed to its former size on its former location, and the former use may be resumed, as of right upon the issuance of a building permit and without the need to appear before the Board of Appeals, provided that such repair or reconstruction shall be performed in conformance with current State Building Code<sup>[1]</sup> specifications and such work shall commence within one year of the occurrence of said damage and be substantially completed within two years of the date of said damage. Such time for reconstruction may be extended by the Board of Appeals for good cause.

[1] *Editor's Note: See 780 CMR.*

- (2) This subsection authorizes an expedited right to reconstruct after catastrophe under the limited conditions specified herein and shall not be construed as precluding reconstruction in a different manner either as of right or by special permit finding in accordance with the other applicable provisions of this § **250-3.3**.

E. Abandonment or nonuse. Any nonconforming use which has been abandoned or has not been exercised for a period of 24 consecutive months or more shall not be resumed or reestablished, and all future uses shall conform to the requirements of this Zoning Bylaw.

F. Reversion.

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

G. Nonconforming signs: Refer to § **250-12.12**.

H. Nonconforming residential lots: Refer to § **250-4.4K**.

## § 250-3.4. Principal use regulations.

[Amended 5-12-2025 ATM by Art. 34 and Art. 36]

A. 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 bylaw.

B. In the Schedule of Use Regulations, the following code shall apply:

*(click here to view the full table)*

"Y"	Use permitted as of right in the district indicated, subject to such requirements as may be specified elsewhere in this bylaw.
"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 § <b>250-13.5</b> and, furthermore, subject to such requirements as may be specified elsewhere in this bylaw.
"ZBA"	Use permitted by special permit in the district indicated if granted by the Zoning Board of Appeals, subject to the provisions of § <b>250-13.6</b> and, furthermore, subject to such requirements as may be specified elsewhere in this bylaw.
"PB"	Use allowed by special permit in the district indicated if granted by the Planning Board, subject to the provisions of § <b>250-13.6</b> and, furthermore, subject to such requirements as may be specified elsewhere in this bylaw.
"N"	Use prohibited in the district indicated.

*(click here to view the full table)*

Table One: Schedule of Use Regulations

Entry No.	Land Use Classification With Applicable Standards and Conditions	Zoning District											
		R15	R26	R34	R40	R60	RMD	NO	NS	ACF	GB	IPG	
1	Principal Uses: Agricultural and General See § 250-3.2B for agricultural activities exempt from local zoning under MGL c. 40A, § 3												
1.1	Agriculture, horticulture, floriculture, viticulture for home consumption by the resident family on parcels of less than 5 acres in area under single ownership. Breeding, raising or keeping of livestock is prohibited except for the stabling of horses or goats as a residential accessory use, subject to the provisions of § 250-3.5B(7) and the keeping of backyard chickens as a residential accessory use, subject to the provisions of § 250-3.5B(9)	Y	Y	Y	Y	Y	N	N	N	N	N	N	N
1.2	Agriculture, horticulture, floriculture, viticulture for home consumption or commercial use on parcels of 5 or more acres in area under single ownership or lease Breeding, raising or keeping livestock shall be subject to all applicable regulations of the Wilbraham Board of Health	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
1.3	Commercial greenhouse, limited to parcels of 5 or more acres under single ownership in residential districts	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA

**Table One: Schedule of Use Regulations**

Entry No.	Land Use Classification With Applicable Standards and Conditions	Zoning District											
		R15	R26	R34	R40	R60	RMD	NO	NS	ACF	GB	IPG	
1.4	Roadside farm stand on parcels of 5 or more acres under single ownership, provided that during the months of June, July, August and September of every year, at least 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 6 months in any 1 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 Article XI of this bylaw	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA
1.5	Conservation land	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
1.6	Forestry, harvesting of forest products, tree farm or nursery on parcels of 5 or more acres under single ownership; any temporary sawmill may be used only for processing timber from the premises	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
1.7	Low-density recreational and low-density athletic uses, other than those permitted herein, consist-	ZBA	ZBA	ZBA	ZBA	ZBA	N	N	N	N	ZBA	ZBA	ZBA

**Table One: Schedule of Use Regulations**

Entry No.	Land Use Classification With Applicable Standards and Conditions	Zoning District										
		R15	R26	R34	R40	R60	RMD	NO	NS	ACF	GB	IPG
	tent with the neighborhood in which said use is proposed; see also Entry 4.6 (Public park), and Entry 5.11 (Public recreation as a business)											
1.8	Removal of soil, loam, sand, gravel, stone or other earth materials, subject to the restrictions of § 250-10.3	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA
2	Principal Uses: Residential											
2.1	One-family detached dwelling but not a mobile home	Y	Y	Y	Y	Y	N	N	N	N	N	N
2.2	Conversion of an existing one-family dwelling to a two-family dwelling, subject to the restrictions in § 250-4.3	ZBA	ZBA	ZBA	ZBA	ZBA	N	N	N	N	N	N
2.3	Multifamily dwelling, subject to the restrictions in Article V Also see Entry 2.6 (Planned unit residential development)	N	N	N	N	N	PB	N	N	N	N	N
2.4	Flexible subdivision residential development, subject to the restrictions in § 250-4.6	PB	PB	PB	PB	PB	N	N	N	N	N	N
2.5	Flexible nonsubdivision (estate lot) development, subject to the restrictions in § 250-4.7	PB	PB	PB	PB	PB	N	N	N	N	N	N
2.6	Planned unit residential development (PURD), subject to the restrictions in § 250-4.8	PB	PB	PB	PB	PB	N	N	N	N	N	N
2.7	Dwelling units above street-level commercial											

**Table One: Schedule of Use Regulations**

Entry No.	Land Use Classification With Applicable Standards and Conditions  See § 250-3.5C	Zoning District										
		R15	R26	R34	R40	R60	RMD	NO	NS	ACF	GB	IPG
2.8	Accessory dwelling unit, subject to the restrictions in § 250-4.10	SPA	SPA	SPA	SPA	SPA	N	N	N	N	N	N
3	Principal Uses: Government and Public Service											
3.1	Municipal use	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
3.2	Post office	N	N	N	N	N	N	ZBA	ZBA	N	ZBA	ZBA
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	Public utility office building	N	N	N	N	N	N	ZBA	ZBA	N	ZBA	ZBA
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
3.6	Wireless communications facilities, subject to the restrictions in § 250-10.4	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB
3.7	Large-scale ground-mounted solar energy systems, subject to the restrictions in § 250-10.5	N	N	PB	PB	PB	N	N	N	N	PB	SPA
3.8	Battery energy storage systems co-located with on-site solar generation, subject to restrictions in §§ 250-10.5 and 250-10.7	N	N	PB	PB	PB	N	N	N	N	PB	SPA
3.9	Battery energy storage system, stand-alone (not associated with on-site solar generation), subject to restrictions in	N	N	N	N	N	N	N	N	N	PB	PB

**Table One: Schedule of Use Regulations**

Entry No.	Land Use Classification With Applicable Standards and Conditions  §§ 250-10.5 and 250-10.7	Zoning District										
		R15	R26	R34	R40	R60	RMD	NO	NS	ACF	GB	IPG
4	Principal Uses: Institutional											
4.1	Public school, parish school, or nonprofit educational institution (see also Entry 5.8)	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA
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
4.3	Public library, philanthropic institution or public museum	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA
4.4	Child care facility [see also § 250-3.5B(14)]	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA
4.5	(Intentionally omitted)											
4.6	Public park or playground (see also Entry 1.7)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
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
4.8	Adult care facilities, subject to the restrictions in Article VIII	N	N	N	N	N	N	N	N	PB	N	N
5	Principal uses: business											
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 outpatient basis, as well as related support ser-											

**Table One: Schedule of Use Regulations**

Entry No.	Land Use Classification With Applicable Standards and Conditions	Zoning District											
		R15	R26	R34	R40	R60	RMD	NO	NS	ACF	GB	IPG	
	vices, 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	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	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	ZBA
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	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	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	ZBA
5.3	A permanent building, the principal use of which shall be furnishing a business	N	N	N	N	N	N	ZBA	ZBA	N	ZBA	ZBA	ZBA

**Table One: Schedule of Use Regulations**

Entry No.	Land Use Classification With Applicable Standards and Conditions	Zoning District											
		R15	R26	R34	R40	R60	RMD	NO	NS	ACF	GB	IPG	
	service or services, but expressly excluding automobile fuel sales												
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	
5.5	Barber- and beauty shops	N	N	N	N	N	N	ZBA	ZBA	N	ZBA	ZBA	
5.6	Mortuary	N	N	N	N	N	N	N	N	N	ZBA	ZBA	
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	
5.8	Private schools offering instruction in the arts, sciences, and trades (see also Entry 4.1)	N	N	N	N	N	N	N	N	N	ZBA	ZBA	
5.9	Cleaning and laundry service; washing machine rental establishment	N	N	N	N	N	N	N	N	N	ZBA	ZBA	
5.10	Cleaning and laundry service drop-off and pickup establishment, with no on-site cleaning facilities	N	N	N	N	N	N	ZBA	ZBA	N	ZBA	ZBA	
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	N	N	N	N	N	N	N	N	N	ZBA	ZBA	

Table One: Schedule of Use Regulations

Entry No.	Land Use Classification With Applicable Standards and Conditions	Zoning District										
		R15	R26	R34	R40	R60	RMD	NO	NS	ACF	GB	IPG
	General automatic amusement facilities and family-oriented automatic amusement facilities as defined in § 250-1.3 are expressly prohibited as a principal or accessory use except as provided by § 250-3.5C(6)											
5.12	Motel or motor inn The lot area may not be less than 2,000 square feet for each rental unit	N	N	N	N	N	N	N	N	N	ZBA	ZBA
5.13	Body art establishment	N	N	N	N	N	N	N	N	N	ZBA	ZBA
5.14	Exercise facility or health club	N	N	N	N	N	N	N	N	N	ZBA	ZBA
5.15	Retail lumber and similar building material yards All material must be kept in a building or within a solid enclosure 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 10,000 gallons	N	N	N	N	N	N	N	N	N	ZBA	ZBA
5.16	Motor vehicle repair services	N	N	N	N	N	N	N	N	N	ZBA	ZBA
5.17	Restaurant and food service establishments Customers shall be served and seated inside a completely enclosed building except as provided for in § 250-3.5C(3); catering and take out	N	N	N	N	N	N	ZBA	ZBA	N	ZBA	ZBA

Table One: Schedule of Use Regulations

Entry No.	Land Use Classification With Applicable Standards and Conditions	Zoning District										
		R15	R26	R34	R40	R60	RMD	NO	NS	ACF	GB	IPG
	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											
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
5.19	Theaters for indoor motion-picture projection or stage production	N	N	N	N	N	N	N	N	N	ZBA	ZBA
5.20	Retail sales of automobiles and trucks, subject to the restrictions in § 250-6.5											
A.	New automobile and truck sales	N	N	N	N	N	N	N	N	N	PB	PB
B.	Used automobile and truck sales (§ 250-6.5K)	N	N	N	N	N	N	N	N	N	ZBA	ZBA
5.21	Registered marijuana dispensary as defined in § 250-1.3 and subject to the restrictions in § 250-7.6; for non-medical (recreational) marijuana, see marijuana establishments in Entry 5.22	N	N	N	N	N	N	N	N	N	N	PB
5.22	Marijuana establishments as defined in § 250-1.3 are expressly prohibited in the Town of Wilbraham as further specified in § 250-10.6; for medical marijuana, see registered marijuana dispensary in Entry 5.21	N	N	N	N	N	N	N	N	N	N	N

**Table One: Schedule of Use Regulations**

Entry No.	Land Use Classification With Applicable Standards and Conditions	Zoning District										
		R15	R26	R34	R40	R60	RMD	NO	NS	ACF	GB	IPG
5.23	Commercial gasoline station	N	N	N	N	N	N	N	N	N	PB	PB
5.24	Motor vehicle rental service	N	N	N	N	N	N	N	N	N	ZBA	ZBA
5.25	Car wash facility	N	N	N	N	N	N	N	N	N	ZBA	ZBA
5.26	Auto body shop	N	N	N	N	N	N	N	N	N	ZBA	ZBA
5.27	Self-service storage facility	N	N	N	N	N	N	N	N	N	ZBA	ZBA
5.28	Veterinary establishment	N	N	N	N	N	N	ZBA	ZBA	N	ZBA	ZBA
5.29	Brewpub	N	N	N	N	N	N	N	N	N	ZBA	ZBA
5.30	Microbrewery With approval from the special permit granting authority and subject to state and local licenses if required, a microbrewery may include the following uses: a tap room where beverages produced on the premises may be sold for consumption, a restaurant and/or food service establishment, food truck service, outdoor dining, live music and entertainment, and catering services for off-premises events	N	N	N	N	N	N	N	N	N	ZBA	ZBA
5.31	Nanobrewery With approval from the special permit granting authority and subject to state and local licenses if required, a nanobrewery may include the following uses: a tap room where beverages produced on the premises may be sold for consumption, a restaurant and/or food service establishment, food truck service, outdoor din-	N	N	N	N	N	N	ZBA	ZBA	N	ZBA	ZBA

**Table One: Schedule of Use Regulations**

Entry No.	Land Use Classification With Applicable Standards and Conditions	Zoning District										
		R15	R26	R34	R40	R60	RMD	NO	NS	ACF	GB	IPG
6	Principal Uses: Industrial											
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	N	ZBA ZBA
	B. Manufacturing and assembling not subject to limitations listed in Entry 6.1A above	N	N	N	N	N	N	N	N	N	N	ZBA
6.2	Wholesale business, storage, warehouse, distributing plant	N	N	N	N	N	N	N	N	N	N	ZBA
6.3	Assembly of electrical appliances, instruments, products and devices, including the manufacture of parts	N	N	N	N	N	N	N	N	N	N	ZBA ZBA
6.4	Contractor's yard or premises used by a building contractor, landscaper or similar tradesman for the fabrication of sub-assemblies 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**

Entry No.	Land Use Classification With Applicable Standards and Conditions	Zoning District										
		R15	R26	R34	R40	R60	RMD	NO	NS	ACF	GB	IPG
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
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
6.7	Professional office park, subject to the restrictions in § 250-7.5	N	N	N	N	N	N	N	N	N	ZBA	ZBA
6.8	Motor vehicle towing and transportation business 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 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
6.9	Bulk materials transfer facility	N	N	N	N	N	N	N	N	N	N	ZBA

Table One: Schedule of Use Regulations

Entry No.	Land Use Classification With Applicable Standards and Conditions	Zoning District										
		R15	R26	R34	R40	R60	RMD	NO	NS	ACF	GB	IPG
	Land or building used for the collection, processing and transportation of construction and demolition materials for reuse 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											
7	Mixed Uses											
7.1	Mixed-use development as defined in § 250-1.3 and subject to the restrictions in Article XIV	N	N	N	N	N	N	N	N	N	PB	PB
7.2	Heritage farm stand development as defined in § 250-1.3 and subject to the restrictions in § 250-4.11	N	PB	PB	PB	PB	N	N	N	N	N	N
7.3	The conversion and expansion of an existing building to a mixed-use building in compliance with § 250-6.4	N	N	N	N	N	N	PB	PB	N	N	N
8	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	N	N	N	N	N	N	ZBA	ZBA	PB	ZBA	ZBA

Table One: Schedule of Use Regulations												
Entry No.	Land Use Classification With Applicable Standards and Conditions	Zoning District										
		R15	R26	R34	R40	R60	RMD	NO	NS	ACF	GB	IPG
	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											

### § 250-3.5. Accessory use regulations.

[Amended 5-12-2025 ATM by Art. 34]

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.

A. Accessory uses: general.

- (1) Uses accessory to farming. The processing and sale of products are subject to the restrictions set forth in § 250-3.4B, Entry 1.4, above.
- (2) Signs. In compliance with the special provisions and restrictions set forth in Article XII, Sign Regulations, and requiring a permit from the Building Official. All other signs are expressly prohibited.
- (3) A 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) The solar energy system may only be constructed or materially modified after the issuance of a building permit by the Building Official.
  - (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 bylaw 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 Official 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 Official, 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 they are to be installed except that the rear-yard setback for such systems can be reduced by 1/3 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 12 feet in height.
  - [3] Ground-mounted solar energy systems must comply with the accessory structure regulations applicable to the zoning district where they are located except that in residential districts, the detached accessory structure restrictions imposed under § **250-4.4H** shall not apply to ground-mounted solar energy systems that otherwise comply with the standards imposed in this § **250-3.5A(3)**.
  - [4] Ground-mounted solar energy systems shall be designed and located to minimize adverse visual impacts on surrounding properties, and if necessary, the Building Official 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 § **250-13.6**, 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 § **250-1.3** shall be considered a principal use which are subject to regulation under § **250-10.5**.
- (f) Solar energy systems shall be maintained in good working order and the owners shall have them removed if the Building Official determines they have become a nuisance or hazard.
- (g) The Planning Board acting as the special permit granting authority in accordance with § **250-13.6** of this bylaw may consider and grant a special permit for solar energy systems that deviate from the standards set forth in this § **250-3.5A(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 § **250-3.5A(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.

- (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.

B. Accessory uses: residential.

- (1) Parking or storage of motor vehicles, subject to the requirements of § 250-4.5.
- (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, and with combined garage space not to exceed 1,100 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 § 250-4.4H. Parking or storage of motor vehicles shall be subject to § 250-4.5.
- (3) Tennis court, basketball court, or similar structure accessory to a residential dwelling and limited to the occupants and their guests.
- (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<sup>[1]</sup>), and further provided that the swimming pool and a fence, if so required, shall conform to setback and yard requirements as set forth in § 250-4.4.

[1] *Editor's Note: Appendix B is included as an attachment to this chapter.*
  - (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 subsection shall in any way affect present legally existing swimming pools.
- (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.
- (6) Temporary mobile home for residential occupancy for a period not to exceed 12 months on a premises whose dwelling has been rendered uninhabitable by fire or accident, with a permit from the Building Official.
- (7) Private stables, subject to the following conditions:
  - (a) The location of the stable is not less than 175 feet from any street line and not less than 100 feet from any side lot line and not less than 50 feet from any rear lot line.
  - (b) The minimum acreage required for a private stable shall be three acres, of which 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 acres of land, of which one acre shall be suitable pasture land.
  - (c) With respect to the keeping of goats, the minimum acreage required for a private stable shall be three acres, of which 1 1/2 acres shall be suitable forage land to permit a maximum of two goats. One additional goat shall be permitted for each additional one acre of suitable forage land.
  - (d) 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 500 feet or more on a public or private way.

- (8) The taking of boarders not to exceed four by a resident family in an owner-occupied single-family dwelling by special permit from the Zoning Board of Appeals.
- (9) The raising and keeping of backyard chickens is permitted as an accessory residential use on parcels of five or more acres in area and on parcels of less than five acres in area, subject to the limitations and regulations imposed under Chapter **82**, Article **II**, of the General Bylaws of the Town of Wilbraham. All chickens shall be raised and kept in a safe and humane manner consistent with best agricultural practices in accordance with all applicable state and local laws.
- (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 rooms available for occupancy by not more than six 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 guest room.
  - (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 § **250-12.5D**.
  - (h) Any permit shall be personal to the person or persons to whom it is issued and shall not be transferable.
- (11) Private home office or studio. The use of a portion of a home by a bona fide 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% 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.

- (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.
- (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 workspace 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 § 250-1.3 is allowed as a home occupation, subject to all the conditions listed herein under this § 250-3.5B(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**.

(14) Family day care home.<sup>[2]</sup>

[2] *Editor's Note: Amendment pending.*

(15) Accessory dwelling unit, subject to site plan approval from the Planning Board.

(16) Heliports, helipads and other facilities that are intended to provide a noncommercial, private, restricted landing area, either at ground level or elevated on a structure, for the landing and takeoff of helicopters are expressly prohibited in all residential zoning districts except for helicopter landing areas duly authorized for temporary use for emergency purposes such as air ambulance, search and rescue, firefighting and similar public safety operations.

(17) Construction dumpsters and storage containers (including those commonly known as "PODS<sup>®</sup>") shall not be permitted for longer than a sixty-day period without permission of the Building Official.

C. Accessory uses: business.

(1) Off-street parking and truck unloading areas in compliance with the restrictions and provisions set forth in Article **XI**, Off-Street Parking and Loading Regulations.

(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 10% of the building area.

(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 bylaw may be required for the added outdoor seating capacity.

(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 Official as a temporary use accessory to a lawfully permitted retail business establishment, subject to the following conditions:

(a) Special events shall not exceed 10 continuous days.

(b) Not more than three 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 day prior to the event and must be removed within one 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.

(5) Automated teller machine (ATM) kiosks. The Zoning Board of Appeals may authorize by special permit a freestanding 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 200 square

feet in area may be located in the front yard if set back at least 20 feet from the street line and 10 feet from the side lot line.

- (6) Family-oriented automatic amusement facilities. The Planning Board may authorize by special permit a family-oriented automatic amusement facility as defined in § **250-1.3** as an accessory use to a public recreation business lawfully permitted under the § **250-3.4B**, Entry 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 Chapter **79**, Amusements, of the General Bylaws of the Town of Wilbraham.<sup>[3]</sup>

[3] *Editor's Note: Original Sec. 3.9.4, Accessory uses: industrial, which immediately followed, was deleted (amendment pending).*

## Article IV. Single Dwelling Residence Districts

### § 250-4.1. 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.

### § 250-4.2. Permitted uses.

Refer to Article **III**, Use Regulations.

### § 250-4.3. Two-family dwelling conversion.

As provided for in § **250-3.4B**, Entry 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:

- A. Subject to all of the applicable general findings of § **250-13.6E**.
- B. The one-family house shall have been erected prior to January 1, 1946.
- C. 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.
- D. The Board shall require adequate plans setting forth the changes and improvements to be made.
- E. The Board shall place such reasonable restrictions and conditions upon the special permit as it deems necessary under the purpose of this Zoning Bylaw.

### § 250-4.4. Dimensional regulations.

Except as provided for in §§ **250-4.6**, **250-4.7** and **250-4.8** 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:

- A. 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 § **250-4.4J**.

- B. 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 § **250-4.4J**.
- C. 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 § **250-1.3**. Said percentage shall equal 75% of said minimum requirement if it equals or exceeds 34,000 square feet and 90% of said minimum requirement if it is less than 34,000 square feet.
- D. Maximum building coverage.
- (1) 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 § **250-4.4J**.
  - (2) 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.
- E. Minimum front yard (setback).
- (1) 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 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 subsection be less than 25 feet nor need it exceed 60 feet.
  - (2) Setbacks for new buildings not otherwise controlled by § **250-4.4E(1)** shall conform in minimum depth to the schedule in § **250-4.4J**.
  - (3) In the case of a corner lot or a through lot, the above setback requirements shall apply on both streets.
- F. 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 § **250-4.4J**.
- G. 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 § **250-4.4J**.
- H. Location and size of accessory buildings.
- (1) 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.
  - (2) 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 (see § **250-4.4J**), except that for any accessory building not exceeding 240 square feet in area and not exceeding 12 feet in height, the following setbacks apply:
    - (a) Front: behind the front building wall of the primary structure. [Note: In the case of a corner lot, behind the closest building wall of the primary structure to the lot line, or in compliance with the minimum front yard requirement of § **250-4.4J**, whichever is less (see definition of "corner lot" in § **250-1.3**).]
    - (b) Side: 10 feet.
    - (c) Rear: five feet.

(d) Private stables are further limited in § **250-3.5B(7)**.

- (3) No detached accessory building shall be erected in excess of 16 feet in height, or in excess of 300 square feet in area on lots of 40,000 square feet or less, or in excess of 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 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 § **250-3.5B(2)** of this Zoning Bylaw.
- (4) An accessory building which exceeds the height and area limitations imposed under § **250-4.4H(3)** may be erected with special permit approval from the Planning Board in accordance with the provisions of § **250-13.6** of the Zoning Bylaw provided that such building conforms to the applicable setback requirements of this subsection and complies with the applicable requirements imposed under § **250-3.5B(2)** of the Zoning Bylaw.
- (5) 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 subsection as summarized in the following table.

Total Building Area (square feet)	Lot Size (≤ 40,000 square feet)	Lot Size (> 40,000 square feet)
≤ 240	Y	Y
241 to 300	Y	Y
301 to 480	SP	Y
481 to 700	SP [exception for garage; see § <b>250-4.4H(3)</b> ]	SP [exception for garage; see § <b>250-4.4H(3)</b> ]
>700	SP	SP

**Note:**

- Y = Use allowed by building permit from Building Official
- SP = Use allowed by special permit from Planning Board

- (6) The provisions of this § **250-4.4H** 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 MGL c. 40A, § 3, except that all such buildings shall be subject to the setback requirements set forth hereinabove.

I. Residential height limitations.

- (1) In all residence districts except as otherwise provided in the Zoning Act,<sup>[1]</sup> the limit of height shall not exceed two stories, basement and attic, provided further that such attic space shall not be designed or used for human occupancy.

[1] *Editor's Note: See MGL c. 40A.*

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

J. Schedule of Dimensional Requirements.

Dimension	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

Dimension	Zoning District				
	R-15	R-26	R-34	R-40	R-60
Minimum usable land area (square feet)	13,500	23,400	25,500	30,000	45,000
Minimum front yard <sup>(1)</sup> (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 § 250-4.4E(1) as to exception hereto, except as otherwise provided in the Zoning Act.

K. Nonconforming lot exemptions. Increased requirements respecting lot area, frontage, yard, and similar dimensions provided in this Zoning Bylaw, or amendments thereto, shall be subject to the exemptions provided in MGL c. 40A, § 6, 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 5,000 square feet of area and 50 feet of frontage.

## § 250-4.5. Motor vehicles.

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. Noncommercial vehicles. Pickup trucks, vans and sport utility vehicles (SUVs) which are used for nonbusiness purposes may be kept on a lot by a resident, provided:
- (1) The vehicle has a gross vehicle weight rating (GVWR) of 12,400 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. Commercial vehicles.
- (1) Not more than one pickup truck may be kept on a lot for each resident who carries on a trade or profession away from the premises.
  - (2) Not more than one van, light panel truck, light-duty box truck, or similar service type vehicle per lot is permitted, except that the Board of Appeals may authorize by special permit up to three commercial vehicles per lot if more than one resident on the premises carries on a trade or profession away from the premises. Commercial vehicles related to home occupations are regulated separately under § 250-4.5D, below.
- C. Commercial vehicle standards. The commercial vehicles listed above are allowed provided that:
- (1) The vehicle has a gross vehicle weight rating (GVWR) of 12,400 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 shall not be illuminated, moving, flashing or animated or contain reflective elements that sparkle in the sunlight and shall not obstruct or impair traffic visibility; and
  - (4) The vehicle is not loaded with flammable, noxious or dangerous material.
- D. Vehicles other than those allowed under § **250-4.5A** and **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 § **250-3.5B(13)** of this Zoning Bylaw.
  - E. 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 Bylaw.

## § 250-4.6. 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 § **250-4.4**.

- A. Such application shall be accompanied by a site plan and such other information as is required by Chapter **300**, Subdivision of Land.
- B. 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:
  - (1) 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;
  - (2) Each of the lots shown on the plan has reasonable frontage on a street deemed adequate by the Planning Board;
  - (3) 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;
  - (4) The front, side and rear yards of each lot shall be shown on said approved site plan by dashed lines;
  - (5) At least 25% of the area of the tract subject to said special permit (exclusive of land set aside for road area) shall be open space;
  - (6) 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.
- C. 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 bylaw.
- D. 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:

- (1) A determination of the area of the tract which is land usable for residential construction;
  - (2) A determination of the number of lots upon which dwellings could be constructed without regard to this section;
  - (3) A general description of the neighborhood in which the tract lies and the effect of the plan on the area;
  - (4) The relation of the plan to long-range plans of the Town, if any;
  - (5) Whether or not the plan is designed to take advantage of the natural terrain of the tract;
  - (6) 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;
  - (7) If the Planning Board grants the special permit, the findings required by §§ **250-4.6B** and **250-13.6E**;
  - (8) If the Planning Board denies the special permits, its reasons for so doing;
  - (9) 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.
- E. 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.
- F. 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.

## § 250-4.7. Flexible nonsubdivision (estate lot) regulations.

- A. The Planning Board, acting as the special permit granting authority, may grant approval to a nonsubdivision plan which includes the creation of lots having less frontage on a street as defined in § **250-1.3**, under Subsections **A**, **B** and **C** of the definition, than is otherwise provided for in this bylaw for the purpose of preserving open space and of reducing visual and traffic density, provided that the following conditions are met:
- (1) Such application shall be accompanied by a site plan and such other information as is required by Chapter **300**, Subdivision of Land.
  - (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 40% is wetland.
    - (b) Any lot which does not satisfy the frontage requirements has a total area which is at least equal to 300% of the minimum lot size requirement as set forth in § **250-4.4**. 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 § **250-1.3** and set forth in § **250-4.4**. 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 bylaw.
  - (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.
- B. 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 bylaw.
  - C. 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:
    - (1) 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;
    - (2) A general description of the neighborhood in which the tract lies and the effect of the plan on the area;
    - (3) The relationship of the plan to long-range plans of the Town, if any;
    - (4) Whether or not the plan is designed to take advantage of the natural terrain of the tract;
    - (5) 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;
    - (6) If the Planning Board grants the special permit, the findings required by §§ **250-4.7A(2)** and **250-13.6E**;
    - (7) If the Planning Board denies the special permit, its reasons for so doing; and
    - (8) 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.
  - D. 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.

## § 250-4.8. 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 § **250-1.3**, by special permit in conformance with the procedures specified in §§ **250-4.8** and **250-13.6**. Such PURD shall be subject to rules, regulations and criteria as officially promulgated by the Planning Board.

- A. 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.
- B. 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 on-site support services, in accordance with federal and state fair housing laws [42 U.S.C. § 3607(b) and MGL c. 151B, respectively], as amended.

- (1) Not more than three residents shall occupy any dwelling unit.
- (2) All occupants of a dwelling unit shall be age 55 or older except as follows:
  - (a) A spouse or cohabitating partner of an occupant age 55 or older.
  - (b) An occupant pursuant to § 250-4.8B(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 18 years of age or older.
- (3) The owner of the development shall publish and follow policies and procedures that demonstrate the intent to be housing for persons 55 and older, including federal Housing and Urban Development (HUD) rules for verification of occupancy.

#### C. Application.

- (1) 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:
  - (a) 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.
  - (b) A development site plan of the entire tract in accordance with the requirements of this section and § 250-13.3 and meeting, to the extent applicable, the requirements set forth for a definitive plan in Chapter 300, Subdivision of Land.
  - (c) Architectural rendering of the site plans and typical structures, including floor plans and elevations.
  - (d) 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.
  - (e) An engineering report regarding the adequacy of sewage disposal, water supply and stormwater drainage, including the impact of the proposed design on the existing municipal utility infrastructure of the Town.
  - (f) 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 55 and older, including federal Housing and Urban Development (HUD) rules for verification of occupancy.
- (2) Said application shall contain sufficient information so that the Planning Board 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 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;

- (c) Minimizes potential adverse environmental impacts upon the Town;
  - (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 bylaw, including the design guidelines of this section and § **250-13.4**.
- (3) Said permit shall not be issued unless the Planning Board affirmatively determines that each of the above-listed criteria is met by said applicant.
- D. Use regulations. The following uses shall be permitted in a PURD:
- (1) One-family detached dwellings;
  - (2) Two-family detached dwellings;
  - (3) Townhouses or multiple dwellings not exceeding six units per building;
  - (4) Recreational uses and community facilities such as parks, gardens, swimming pools, tennis courts, clubhouses and community buildings;
  - (5) Accessory uses customarily incidental and subordinate to the principal uses listed above, but expressly excluding any commercial or retail enterprises.
- E. Dimensional regulations. Property for PURD use shall comply with the following dimensional requirements:
- (1) Minimum parcel size. The total parcel shall have a minimum area of not less than 20 acres. A minimum of 10 acres of the total area required for zoning compliance shall consist of usable land as defined in § **250-1.3**.
  - (2) Minimum parcel frontage. The total parcel shall have a minimum frontage on a public way of at least 100 feet. There shall be no frontage requirements within the PURD.
  - (3) Front, side and rear yards. The minimum front yard, side yard and rear yard requirements shall be 80 feet and shall pertain only to the periphery of the PURD.
  - (4) Buffer area. A landscaped buffer strip not less than 30 feet wide, as described in § **250-10.2**, 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.
- F. 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 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 dwelling units per acre of usable land area if on an individual or group subsurface sewerage disposal system.
- G. Building requirements.
- (1) Building character. The PURD shall be an architecturally integrated development. An architectural theme shall be carried out by the use of common building materials, color, exterior detailing, bulk and/or rooflines. 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.
  - (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 subareas 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 preexisting one-family neighborhoods.
- (3) Maximum building height. The maximum height of structures shall be two stories and 35 feet above the ground.
  - (4) Maximum number of bedrooms. The maximum number of bedrooms or rooms used primarily for sleeping purposes per dwelling unit shall be two.
  - (5) Minimum floor area. The minimum floor area for any single dwelling unit shall be 900 square feet.
  - (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 40 feet.
  - (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.
  - (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).

H. Utilities.

- (1) Each dwelling in a PURD shall be provided with access, drainage and utilities that are functionally equivalent to that provided under Chapter 300, Subdivision of Land. All utilities shall be placed underground.
- (2) All dwelling units shall be serviced by a public water supply deemed adequate for fire protection and domestic use.
- (3) All dwelling units shall be connected to public sewers if available. If public sewers are not available, all dwelling units shall be serviced with on-site 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.
- (4) 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 15 feet in height.

I. Parking and circulation requirements.

- (1) There shall be an adequate, safe, and convenient arrangement of pedestrian circulation, roadways, driveways and parking.
- (2) 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.
- (3) 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 Chapter **300**, Subdivision of Land, or as otherwise modified by the Planning Board.
- (4) 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 spaces per dwelling unit.
- (5) The development shall be served by sidewalks designed and constructed in accordance with ADA requirements and Chapter **300**, Subdivision of Land. The use of exterior stairs and raised curbing in areas where there will be pedestrian activity shall be minimized.

J. Landscaping requirements.

- (1) 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.
- (2) Wherever possible, existing trees and vegetative cover shall be conserved and integrated into the landscape design.
- (3) Proper maintenance of the landscaping, including the buffer strip, shall be the responsibility of the owner and shall be a condition of conformance with this Zoning Bylaw.

K. Open space requirements.

- (1) The PURD shall contain an area of open space equal to at least 50% of the usable land area of the PURD tract. Of the total open space provided, at least 80% shall be set aside as undisturbed open space and a maximum of 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.
  - (a) 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:
    - [1] To the extent possible, the open space should be contiguous with existing Town-owned or privately protected open space areas.
    - [2] Shall provide reasonable bulk and shape so as to enhance environmental amenities on the site and on adjacent properties.
    - [3] 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).
    - [4] Shall provide reasonable public access for suitable conservation and outdoor recreation purposes (e.g., hiking and skiing trails).
  - (b) 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.

- (2) Further subdivision of open land or its use for other than recreation, conservation, or agriculture, except for easements for underground utilities, shall be prohibited.
- (3) 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.

L. Community association.

- (1) 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.
- (2) 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.

M. Project identification.

- (1) 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 25 square feet in size.
- (2) 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.

N. Enforcement.

- (1) As a condition of its approval, the Planning Board may establish time limits for any development or phases thereof.
- (2) 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.

- O. Waivers. The Planning Board, acting as the special permit granting authority, may waive or modify any requirement of this § **250-4.8** for compelling reasons of safety, aesthetics or site design.

## § 250-4.9. 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 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 bona fide building lots when a common driveway will improve safety or convenience of access. It is also intended for use in new flexible subdivisions (§ **250-4.6**) and new flexible nonsubdivisions (estate lots) (§ **250-4.7**). Issuance of a special permit shall be subject to the following conditions:

- A. Approval shall be subject to the applicable findings required under § **250-13.6E**;
- B. Each lot shall have the proper frontage on an approved way and meet the applicable requirements for lot size;
- C. 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;
- D. 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.
- E. 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:
  - (1) Minimum turning radius of 50 feet;
  - (2) Minimum width of 14 feet;
  - (3) Driveway surface able to support a minimum of 65,000 pounds of gross vehicle weight; and
  - (4) Turnoff provided for every 500 feet of driveway length.

## § 250-4.10. Accessory dwelling unit regulations.

[Amended 5-12-2025 ATM by Art. 34]

- A. The purpose of the accessory dwelling unit (ADU) section is to:
  - (1) Allow for ADUs consistent with MGL c. 40A, §§ **1A** and **3**;
  - (2) Provide homeowners with a means of obtaining, through tenants in ADUs, rental income, companionship, security and services, and thereby to enable them to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave;
  - (3) Provide a mix of housing that responds to changing family needs and smaller households; and
  - (4) Provide a broader range of accessible and more affordable housing.
- B. Accessory dwelling unit standards.
  - (1) The ADU shall be clearly subordinate in size to the principal dwelling. It shall be no larger in gross floor area than half the gross floor area of the principal dwelling unit on the property or 900 square feet, whichever is smaller.
  - (2) The ADU shall comply with all frontage, yard (setback), height and building coverage requirements as may be applicable to dwellings, as contained in § **250-4.4J**. In the case of a corner lot, the ADU shall be located behind the closest building wall of the principal dwelling to the lot line, or in compliance with the minimum front yard requirement of § **250-4.4J**, whichever is less (see definition of "corner lot" in § **250-1.3**).
  - (3) The ADU shall be a complete, separate housekeeping unit that functions as a separate unit from the principal dwelling.

- (4) The exterior appearance of the accessory dwelling unit shall be reasonably compatible with the character and scale of the principal dwelling and the character of the neighborhood.
- (5) Parking may be in a driveway or a garage. The construction of a new garage to serve an ADU shall require a special permit from the Planning Board under § **250-4.4H** and/or or § **250-3.5B(2)**, as applicable.
- (6) The ADU shall be serviced with adequate water supply and sewer or septic service. The applicant for an ADU shall provide documentation of such adequacy from the Department of Public Works or the Board of Health or its agent, as applicable.
- (7) ADUs shall conform to Chapter **196**, Stormwater Management, and the Town of Wilbraham Stormwater Regulations, as applicable.
- (8) ADUs may not be used as short-term rentals, as such term is defined in MGL c. 64G, § **1**, or otherwise rented for a period shorter than 31 days.
- (9) No more than one ADU may be placed on a lot.
- (10) A mobile home or any other temporary structure shall not be used or classified as an ADU.
- (11) ADUs exceeding the dimensional requirements specified herein or otherwise not in conformance with § **250-4.10** or the definition of "accessory dwelling unit" in § **250-1.3** are prohibited.

C. Site plan approval.

- (1) All ADUs are required to obtain site plan approval from the Planning Board pursuant to the site plan requirements and procedures in § **250-13.3**, Site plan requirements, and § **250-13.5**, Site plan approval, of this Zoning Bylaw. Site plan approval criteria shall be limited to review of consistency with the standards and requirements of this § **250-4.10**. Section **250-13.5D(3)** and **E** shall not apply.
- (2) The Planning Board may request reasonable plan modifications of the site plan for an ADU and may impose reasonable conditions that are not inconsistent with this bylaw or the provisions of MGL c. 40A, § **3**, including but not limited to requirements for screening from abutting properties.

## § 250-4.11. 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 § **250-1.3** by special permit in conformance with the procedures specified in this § **250-4.11**.

A. Purpose. The purpose of the heritage farm stand development regulations is:

- (1) 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;
- (2) 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
- (3) 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.

- B. Application and 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 § **250-4.11** of the Zoning Bylaw. Heritage farm stand development special permit review shall be consistent with the provisions of § **250-13.6** of this Zoning Bylaw with respect to procedures for public hearings, conduct of review, findings and actions.
- C. 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.
- (1) The existing structure or group of contiguous structures in a heritage farm stand development may be conforming or nonconforming 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 Bylaw.
  - (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.
  - (3) Adequate on-site 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) Landscaping for the site shall be designed, installed and maintained to enhance the character of the development in harmony with the surrounding neighborhood.
  - (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 Article **XII** of this Zoning Bylaw. 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.
  - (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 15 feet in height.
  - (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.
- D. Use regulations.
- (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, confectionery items, specialty foods and limited nonagricultural 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 MGL c. 40A, § 3.

(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 nonagricultural use permitted by right or special permit in the underlying zoning district as specified in the Schedule of Use Regulations table in § **250-3.4B** of this Zoning Bylaw
- (b) Nursery, greenhouse or garden center.
- (c) Food service establishment serving food for consumption on the premises, including take-out service but excluding drive-through 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 multifamily 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 § 250-14.11D and will be in harmony with the purpose and intent of this section of the Zoning Bylaw.

E. Dimensional regulations. Heritage farm stand developments shall comply with the dimensional requirements of the zoning district in which they are located except as follows:

- (1) The minimum land area shall be at least 10 acres on a single lot or group of contiguous lots in common ownership.
- (2) The minimum frontage on a public street shall be not less than 350 feet.
- (3) The Planning Board may allow existing nonconforming structures to be altered or expanded to facilitate the adaptive reuse of existing buildings.
- (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 Bylaw.

F. 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 § 250-14.11D. 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.

- G. 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, snowplowing, trash disposal, upkeep of buildings and landscaping, outdoor lighting, and signage.<sup>[1]</sup>

[1] *Editor's Note: Amendment pending.*

- H. 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 this Zoning Bylaw and meets the specific provisions set forth for such development under § **250-4.11** of this Zoning Bylaw. In evaluating the appropriateness of a heritage farm stand development, consideration shall be given to the following factors:

- (1) Determination that the proposed development site constitutes a historically significant location as required under the definition of heritage farm stand development in § **250-1.3** of this Zoning Bylaw;
- (2) The relationship to the Master Plan of Development of the Town;
- (3) The nature and type of surrounding development and the character of existing neighborhoods;
- (4) Impact on highways and other public facilities, including utilities;
- (5) Special permit findings required by § **250-13.6E**.

## Article V. Residential Multiple Dwelling (RMD) District

### § 250-5.1. General requirements.

- A. 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.<sup>[1]</sup>

[1] *Editor's Note: See MGL c. 40A.*

- B. After establishment of a Residential Multiple Dwelling District, the use of land therein shall be subject, except where otherwise indicated in the Schedule of Use Regulations in § **250-3.4B**, to a special permit issued by the Planning Board acting as the special permit granting authority in conformance with the requirements of Article **V** and § **250-13.6**.<sup>[2]</sup>

[2] *Editor's Note: Amendment pending.*

- C. 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 Chapter **300**, Subdivision of Land.

- (1) 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 sewage 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;<sup>[3]</sup>

[3] *Editor's Note: Amendment pending.*

- (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 bylaw, including the design guidelines of § **250-13.4**.
- (2) 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.
- D. 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 Article **V** 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.

## § 250-5.2. Permitted uses.

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

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

## § 250-5.3. Dimensional regulations.

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

- A. Lot size.
  - (1) The minimum area of the parcel shall be not less than 10 acres.
  - (2) A minimum of 7.5 acres of the area required for zoning compliance shall consist of usable land as defined in § **250-1.3**.
- B. Lot frontage. The minimum frontage on a public street shall be at least 250 feet.
- C. Front yard (setback).
  - (1) On a parcel with not less than 500 feet of frontage on a public street, the minimum front yard shall be not less than 50 feet.
  - (2) On a parcel with less than 500 feet but more than 250 feet of frontage on a public street, the minimum front yard shall be not less than 80 feet.

- (3) In the case of a corner lot or through lot, the above setback requirements shall apply on both streets.

D. Side yard.

- (1) The minimum side yard shall be not less than 80 feet.
- (2) A landscaped buffer strip not less than 30 feet wide within the side yard, as described in § 250-10.2, shall be provided along the side lot lines of abutting property.

E. Rear yard.

- (1) The minimum rear yard shall be not less than 80 feet.
- (2) A landscaped buffer strip not less than 30 feet wide within the rear yard, as described in § 250-10.2, shall be provided along the rear lot lines of abutting property.

## § 250-5.4. Density regulations.

- A. The maximum number of dwelling units per acre shall average eight if on an approved municipal sewerage system.
- B. The maximum number of dwelling units per acre shall average four if on an individual or group subsurface sewerage disposal system.

## § 250-5.5. Building and site criteria for multiple dwellings.

- A. Dwelling units per building. No building shall contain less than four dwelling units.
- B. Building height. No building shall exceed two stories in height above the ground.
- C. Building length.
  - (1) No single building or group of connected buildings shall have a total length which is more than six times its height.
  - (2) Where the walls of two buildings or two 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.
- D. Separation distance between buildings. Buildings shall be so grouped that the walls of any building are not less than 60 feet in a straight line from the walls of a separate unconnected building or substantially parallel wings of a connected building.
- E. Dwelling unit floor area.
  - (1) Requirements.
    - (a) Each dwelling unit shall contain not less than the following minimum floor area:
      - [1] Minimum size, one or two room: 450 square feet.
      - [2] For each additional room: add 125 square feet.
    - (b) Except that this shall not require a floor area greater than 768 square feet for any dwelling unit.
  - (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 outside window and four 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.

- F. Maximum number of bedrooms. The maximum number of bedrooms or rooms used primarily for sleeping purposes per dwelling unit shall be two.
- G. 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 1 1/2 car spaces per dwelling unit, and not less than one such parking space per unit shall be located with convenient access to the rear entrances to buildings.
  - (1) Parking areas for more than 20 cars shall have at least two means of access to a public street or to a service driveway connecting with a public street.
  - (2) Garages, parking spaces, and driveways shall be not less than 20 feet from a wall with one or more windows or doors nor less than six feet from a blank wall in a principal building.
  - (3) 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 § **250-5.1B**.
  - (4) All parking requirements shall conform to the requirements of Article **XI**.
  - (5) Access roads shall be of adequate width to ensure safety and located so as to provide a logical traffic pattern.
  - (6) A one-way driveway shall be not less than nine feet wide, and a two-way driveway shall be not less than 18 feet wide.
- H. 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.

## Article VI. Neighborhood Office (NO), Neighborhood Shopping (NS) and General Business (GB) Districts

### § 250-6.1. 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 Article **VI** of this bylaw.

- A. Landscaped buffer strips shall be provided as required in § **250-6.3** and shall conform to the requirements of § **250-10.2**, and their proper maintenance shall be assured.
- B. 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.
- C. Off-street parking and truck unloading shall conform to the requirements of Article **XI** of the Zoning Bylaw.
- D. Signage shall conform to the requirements of Article **XII** of the Zoning Bylaw.
- E. 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.

- F. All public improvements and new public streets shall be provided under Chapter **300**, Subdivision of Land.
- G. 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.

## § 250-6.2. Permitted uses.

Refer to Article III, Use Regulations.

## § 250-6.3. 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:

Dimension	Zoning District		
	NO <sup>(d)</sup>	NS <sup>(d)</sup>	GB
Minimum lot frontage (feet)	100	200	150
Minimum lot area (square feet)	20,000	60,000	30,000
Minimum front yard (feet)	40 <sup>(a)</sup>	25 <sup>(a)(b)</sup>	50 <sup>(a)</sup>
Minimum side yard (feet)	15 <sup>(c)</sup>	15 <sup>(c)</sup>	12 <sup>(c)</sup>
Minimum rear yard (feet)	30 <sup>(c)</sup>	30 <sup>(c)</sup>	20 <sup>(c)</sup>
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 § **250-10.2** which shall be no less than 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 § **250-10.2** which shall be no less than 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 § **250-10.2** which shall be no less than 20 feet wide.
- (d) In the NO and NS Districts, the dimensional regulations specified herein may be waived or superseded when applied to land with an existing building that is being converted to a mixed-use building if so authorized by special permit granted in accordance with the provisions of § **250-6.4**.

## § 250-6.4. Conversion of existing building to mixed-use building (residential units above street-level commercial).

An existing building located in the Neighborhood Office (NO) and Neighborhood Shopping (NS) Zoning Districts may be converted to a mixed-use building as defined in § **250-1.3** when authorized by a special permit issued by the Planning Board, acting as the special permit granting authority (SPGA), in conformance with the requirements of this § **250-6.4**.

- A. Purpose. The purpose of this section is to establish regulations to encourage and facilitate the adaptive reuse and infill redevelopment of existing commercial buildings in appropriate locations in the Neighborhood Office (NO) and Neighborhood Shopping (NS) Zoning Districts by converting such buildings to use as mixed-use buildings. The purpose of these regulations is to encourage and facilitate the goal of revitalizing the Wilbraham Town Center Village by spurring economic development and stimulating private investment that will expand the Town's tax base and that will provide new housing opportunities where residents can choose to live, work, meet, shop and utilize services in the Center Village while protecting the public health, safety and general welfare, as well as respecting and maintaining the unique historical context and character of traditional New England village design.
- B. Application and review procedures. The procedure of making application for and obtaining approval of a mixed-use building conversion shall be consistent with the provisions of § **250-13.6** of this Zoning Bylaw with respect to procedures for public hearings, conduct of review, findings and actions.
- C. Use regulations and design requirements.
- (1) It is the intent of these regulations that conversion of an existing structure shall be interpreted broadly to mean adaptive reuse, alteration, expansion and/or redevelopment, including complete teardown and rebuild if appropriate.
  - (2) Mixed-use buildings shall be limited to a maximum of two stories and a maximum building height of 35 feet.
  - (3) The first floor (street level) of the mixed-use building shall be occupied for commercial use only and shall be limited to the commercial uses specifically authorized in the applicable zoning district by site plan approval or special permit pursuant to § **250-3.4B**, Schedule of Use Regulations, Entry 2.7, of this Zoning Bylaw, and said commercial uses shall be subject to separate approval by the appropriate permit granting authority in accordance with the requirements of this Zoning Bylaw. Dwelling units shall not occupy the first floor of the mixed-use commercial building.
  - (4) The second floor of the mixed-use building shall be limited to residential use, which shall not exceed the total square footage of the street-level commercial floor.
  - (5) Residential dwellings in the mixed-use building shall be limited to studio, one-bedroom and two-bedroom units, with the maximum number of units and unit mix to be determined by the SPGA.
  - (6) The entranceway and stairways to the second-story dwelling units shall be enclosed.
  - (7) Architectural design shall be compatible with the historic character and scale of existing buildings in the Center Village.
  - (8) The SPGA may grant approval for more than one mixed-use building on one lot.
  - (9) The SPGA may waive the dimensional requirements imposed under § **250-6.3** with respect to minimum lot frontage, minimum lot area, minimum front-yard, side-yard, and rear-yard building setbacks and maximum building coverage to improve site design if it finds that given the particular location and/or configuration of a project in relationship to the surrounding neighborhood, such waiver(s) is consistent with the public good and that to grant such waiver(s) does not substantially derogate from the intent and purposes of this Zoning Bylaw. In all cases where a reduced setback is allowed, the Planning Board may impose such conditions as it deems necessary.
  - (10) Adequate off-street parking shall be provided in compliance with Article **XI**, and parking lots shall be located at the rear of buildings wherever feasible. Parking lot layout, landscaping, buffering and screening shall prevent direct views of parked vehicles from streets and sidewalks and avoid spillover light, glare, noise or exhaust fumes onto adjacent properties wherever feasible.

- D. Decision criteria. A special permit may be issued for the proposed mixed-use building if the SPGA finds:
- (1) The addition of the proposed dwelling units in the proposed use will not result in undue congestion or overcrowding.
  - (2) The proposed use is attractive and will be compatible with the existing uses in the Center Village.
  - (3) The proposed use shall have adequate access to a public street.
  - (4) The project is in compliance with the special permit requirements of this § **250-6.4** and the findings required under § **250-13.6E**.
- E. Conditions. Conditions, limitations and safeguards may be imposed to effect compliance with this section and may include but not be limited to limitations on the number of dwelling units and bedrooms therein.

## § 250-6.5. Retail sales of automobiles and trucks.

[Amended 5-12-2025 ATM by Art. 36<sup>[1]</sup>]

Retail sales by a franchised dealer of new automobiles and new trucks are permitted in GB and I-POP-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:

- A. Subject to all of the applicable general findings required in § **250-13.6E**.
- B. Retail sales of used automobiles and used trucks are only permitted as an ancillary use to a new automobile and truck dealership except as provided in § **250-6.5K**.
- C. No special permit shall be issued unless said lot has a minimum lot frontage of 300 feet on a public way, a minimum lot area of 200,000 square feet and an average depth of at least 400 feet. In addition, at least 25% of the total area of said lot shall remain unoccupied by buildings, storage or parking.
- D. No special permit shall be issued unless a building is constructed or located on said lot which consists of at least 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 7,500 square feet. Repairs of new and used automobiles and trucks shall take place inside of said building.
- E. Indoor display of automobiles and trucks is permitted as a principal use, without limitation as to the number of units.
- F. 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 § **250-10.2** of said Zoning Bylaw.
- G. No such special permit shall be granted unless the following additional conditions are met:
  - (1) No retail sales of gasoline to the general public shall be permitted;
  - (2) Off-street loading and unloading shall be required at all times;
  - (3) All signs shall conform to Article **XII** of said Zoning Bylaw, and in addition, no flags, banners, ribbons, and similar advertising and display devices shall be permitted;
  - (4) There shall be at least one separate entrance and exit divided by a traffic island, unless otherwise required by the special permit granting authority;

- (5) The site plan shall contain adequate provisions for customer parking.
  - (6) Outdoor lighting 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 20 feet in height. Lighting after business hours shall be limited to lighting necessary for security purposes.
- H. All open-air surface parking areas shall be landscaped in the following manner:
- (1) Parking areas with a capacity of 25 parking spaces or less shall be excluded from the provisions of this subsection;
  - (2) Parking areas with a capacity of more than 25 spaces shall have a minimum of 2% of the gross parking area devoted to landscaped open space. All such landscaped areas must both:
    - (a) Contain live shade and/or ornamental trees with adequate spaces being left unpaved for their growth; and
    - (b) Place such landscaped areas so they are not contiguous to the edge of parking lot.
  - (3) These landscaped areas must be in addition to the front-, rear-, and side-yard setbacks required by this Zoning Bylaw.
- I. The sound pressure level measured at 1,000 CPS on the lot lines will not exceed 80 dB during normal working hours or 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 National Standards Institute.
- J. All other provisions of the Zoning Bylaw shall apply except as expressly modified herein.
- K. Small-scale retail sales of used automobiles and used trucks is permitted in the GB and I-POP-GB Districts when authorized by a special permit issued by the Zoning Board of Appeals acting as the special permit granting authority. The intent of this subsection is to support small-scale used vehicle sales businesses that are primarily marketed through internet sales and ancillary to existing automobile-related business. Special permits are subject to the following restrictions:
- (1) Subject to all of the applicable general findings required in § **250-13.6E**.
  - (2) Special permits issued under this section shall be limited to the applicant and are not transferable without a new or amended special permit from the Zoning Board of Appeals.
  - (3) Retail sales of used automobiles and used trucks not ancillary to retail sales of new automobiles and trucks are permitted only as an ancillary use to the following automobile-related uses: motor vehicle repair services (§ **250-3.4B**, Entry 5.16), motor vehicle rental service (§ **250-3.4B**, Entry 5.24), auto body shop (§ **250-3.4B**, Entry 5.26), and motor vehicle towing and transportation business (§ **250-3.4B**, Entry 6.8).
  - (4) No special permit shall be issued unless said lot has a minimum lot area of 40,000 square feet.
  - (5) No special permit shall be issued unless a building with a permanent foundation is constructed or located on said lot which consists of at least 3,000 square feet of gross floor area. Repairs of automobiles and trucks shall take place inside of said building.
  - (6) No retail sales of gasoline to the general public shall be permitted.
  - (7) Off-street loading and unloading shall be required at all times.
  - (8) All signs shall conform to Article **XII** of said Zoning Bylaw, and in addition, no flags, banners, ribbons, and similar advertising and display devices shall be permitted.

- (9) The site plan shall contain adequate provisions for parking for all uses on the site, including the primary use and customer parking.
- (10) Indoor display of automobiles and trucks is permitted without limitation as to the number of units.
- (11) Outdoor display of automobiles and trucks is permitted, provided that no automobiles or trucks shall be displayed or stored within the front-yard, side-yard or rear-yard setback requirements. Outdoor display of automobiles and trucks for sale is limited to five vehicles and shall be on a paved surface. No outside display of vehicles for sale is permitted after business hours of the primary business; vehicles must be stored inside overnight.
- (12) Landscaping is required for all special permits issued under this section, whether new construction is proposed or not. If said lot abuts against a residential zone, 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 § **250-10.2** of said Zoning Bylaw. Landscaping is required in the front, side, and rear yards per §§ **250-6.3**, **250-7.4**, and **250-10.2**.
- (13) Outdoor lighting 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 20 feet in height. Lighting after business hours shall be limited to that necessary for security purposes.

[1] *Editor's Note: Amendment pending.*

## Article VII. Industrial, Professional Office Park, and General Business (I-POP-GB) District

### § 250-7.1. General requirements.

In the Industrial, Professional Office Park, and General Business (I-POP-GB) Districts, 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 Article **VII** of this bylaw.

- A. Landscaped buffer strips shall be provided as required in § **250-7.4** and shall conform to the requirements of § **250-10.2**, and their proper maintenance shall be assured.
- B. 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.
- C. Off-street parking and truck unloading shall conform to the requirements of Article **XI** of this Zoning Bylaw.
- D. Signage shall conform to the requirements of Article **XII** of this Zoning Bylaw.
- E. 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.
- F. All public improvements and new public streets shall be provided under Chapter **300**, Subdivision of Land.
- G. 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.

## § 250-7.2. General performance standards.

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

- A. 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.
- B. 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.
- C. 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.
- D. 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.
- E. Industrial and exterior lighting shall not produce glare on public highways or neighboring property or conflict with any traffic signals.
- F. 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 Ringelmann 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 Ringelmann Chart.
- G. The use shall be operated in conformance with the following performance standards governing noise. Between the hours from 7:00 p.m. Friday and 7:00 a.m. the following Monday, and between the hours of 7:00 p.m. and 7:00 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 National Standards Institute. Measurements shall be made using the flat network of sound level meter.<sup>[1]</sup>

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 to 150	67	74
150 to 300	59	66
300 to 600	52	59
600 to 1,200	46	53
1,200 to 2,400	40	47
2,400 to 4,800	34	41
Above 4,800	32	39

- (1) The Chief of Police of Wilbraham may issue permits for exceptions to this noise requirement as to hours and days.

[1] *Editor's Note: Amendment pending.*

### § 250-7.3. Permitted uses.

Refer to Article III, Use Regulations.

### § 250-7.4. Dimensional regulations.

- A. In industrial districts, no land shall be used and no building shall be constructed or altered except in conformance with the following schedule:
  - (1) Minimum lot area: 40,000 square feet.
  - (2) Minimum lot frontage: 150 feet.
  - (3) Minimum front yard: 60 feet (see § **250-7.4B**).
  - (4) Minimum side yard: 30 feet (see § **250-7.4C**).
  - (5) Minimum rear yard: 50 feet (see § **250-7.4C**).
  - (6) Maximum building coverage: 30%.
  - (7) Maximum building height: three stories.
  - (8) Maximum building height: 40 feet.
- B. The required front yard shall contain a landscaped buffer strip as described in § **250-10.2** which shall be no less than 10 feet in width. The remaining part of the front yard may be used for off-street parking.
- C. Side and rear yards abutting a residential district shall contain a landscaped buffer strip as described in § **250-10.2** which shall be no less than 20 feet wide.

### § 250-7.5. Professional office park regulations.

Professional office parks are allowed when authorized by a special permit, subject to the following restrictions:

- A. Subject to all of the applicable general findings required in § **250-13.6E**.
- B. 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.
- C. Notwithstanding the provisions of § **250-7.4** of this Zoning Bylaw, no special permit shall be issued unless said lot has a minimum lot frontage of 200 feet and a minimum lot area of 60,000 square feet.
- D. The minimum size building permitted shall consist of at least 4,000 square feet of ground floor area.
- E. Open-air surface parking shall be provided on the basis of one space per 200 square feet of building floor area, exclusive of basements, stairs, garages, and areas used solely for utility and storage purposes.
- F. A minimum of 5% of the total parking and circulation area shall be landscaped open space. Said landscaped open space shall provide:

- (1) A minimum of two shade trees or four shrubs, or a combination thereof, per 10 parking spaces or fraction thereof. Such trees shall be a minimum of 1 1/2 to two inches in diameter at the time of planting. Such shrubs shall be from 18 inches to 24 inches in diameter and/or height at the time of planting. In no case shall less than two trees and four shrubs be provided.
- (2) Landscaped areas shall be placed so they are not contiguous to the edge of the parking lot.
- (3) Landscaped areas shall be in addition to the front-, rear-, and side-yard setbacks required by this Zoning Bylaw.

G. Signs shall conform to Article **XII** of this Zoning Bylaw.

- (1) Notwithstanding the provisions of § **250-12.7** of this Zoning Bylaw, the total area of a sign or signs affixed to a building shall not exceed 3% of the total area of the building wall on which the sign or signs are mounted. The total area of a freestanding sign shall not exceed 40 square feet. A freestanding sign shall not exceed 15 feet in height.
- (2) Notwithstanding the provisions of § **250-12.7** of this Zoning Bylaw, not more than one freestanding sign is allowed for each 200 feet of frontage, regardless of the number of tenants or occupants of the property.

## § 250-7.6. Registered marijuana dispensary regulations.

The Planning Board, acting as the special permit granting authority, may authorize a registered marijuana dispensary (RMD) as defined in § **250-1.3** in the I-POP-GB District by a special permit in conformance with the requirements specified in this § **250-7.6**.

- A. 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.
- B. Application and review requirements. In addition to the standard special permit application and review requirements under § **250-13.6** of this Zoning Bylaw, an application for a registered marijuana dispensary special permit shall include the following:
  - (1) The name and address of each owner of the RMD facility/operation;
  - (2) Copy of the RMD registration issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the facility;
  - (3) Evidence that the applicant has site control and the right to use the site for an 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;
  - (4) 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;

- (5) In addition to what is normally required in a site plan pursuant to § **250-13.3**, 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;
- (6) A detailed floor plan of the RMD facility, identifying the functional uses;
- (7) Architectural drawings of exterior building facades and all proposed signage for the RMD facility; and
- (8) 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.

C. Use regulations.

- (1) The RMD facility authorized under this section shall be limited to uses permitted under the definition in § **250-1.3** of this Zoning Bylaw 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.
- (2) The RMD facility shall be properly licensed with the Cannabis Control Commission pursuant to 935 CMR **501.000** 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 an RMD that is not properly licensed with the Cannabis Control Commission.<sup>[1]</sup>

[1] *Editor's Note: Amendment pending.*

- (3) No marijuana shall be smoked, burned, eaten or otherwise consumed or ingested on or within the premises of an RMD facility.
- (4) 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.
- (5) 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.
- (6) All facilities shall be ventilated with filters, scrubbers or such other manner to ensure that:
  - (a) No pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere; and
  - (b) 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.
- (7) Location restrictions.
  - (a) No registered medical marijuana dispensary shall be located within 500 feet of any of the following structures or uses in existence on the date of RMD special permit application:
    - [1] Residential use;
    - [2] School of any type attended by students under the age of 18;
    - [3] Licensed child care facility;

[4] Public park, athletic field or recreation facility where children commonly congregate on an ongoing, organized basis.

(b) The 500-foot distance shall be measured in a straight line from the geometric center of the entrance to any of the above-listed structures or uses to the geometric center of the entrance to any principal building housing the proposed RMD.<sup>[2]</sup>

[2] *Editor's Note: Amendment pending.*

(c) 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.

(8) All signage shall be approved by the Planning Board acting as the special permit granting authority and shall conform to the applicable requirements of Article XII of the Zoning Bylaw 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 "License Issued by the MA Cannabis Control Commission Required" in text two inches in height.<sup>[3]</sup>

[3] *Editor's Note: Amendment pending.*

D. Reporting requirements.

(1) The special permit holder of an RMD facility shall provide the Wilbraham Police Department, Fire Department, Building Official, 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 backup 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.

(2) The designated contact persons shall notify the Police Department, Fire Department, Building Official, Board of Health, and special permit granting Authority, in writing:

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

(b) A minimum of 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 regulated under this section.

(3) The designated contact persons shall be required to respond by phone or email within 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.

(4) The special permit holder of an RMD facility shall file an annual report with the special permit granting authority no later than January 31 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.

(5) 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.

(6) The special permit holder shall allow for periodic inspections by the Wilbraham Police Department, the Building Official, 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.

E. Issuance/transfer/discontinuance of use.

- (1) An RMD special permit granted under this section is nontransferable and shall have a term limited to the duration of the applicant's ownership/control of the premises as an RMD.
- (2) An RMD special permit granted under this section shall lapse if the permit holder ceases operation of the RMD and/or the permit holder's Massachusetts Cannabis Control Commission license 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.<sup>[4]</sup>

[4] *Editor's Note: Amendment pending.*

- (3) 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 Cannabis Control Commission license or immediately following revocation or voiding of its CCC license.<sup>[5]</sup>

[5] *Editor's Note: Amendment pending.*

F. Required findings. In addition to the findings for a special permit required under § **250-13.6E** of this Zoning Bylaw, the special permit granting authority shall also find that the proposed use:

- (1) Meets a demonstrated need;
- (2) 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.
- (3) Meets all of the conditions and requirements of this section and all other applicable sections of this Zoning Bylaw.
- (4) Is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest.
- (5) Provides a secure indoor waiting area for patients.
- (6) Provides an adequate pickup/drop-off area.
- (7) 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.

## Article VIII. Adult Care Facilities (ACF) District

### § 250-8.1. 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.

### § 250-8.2. Use regulations.

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

- A. Medical office buildings as specified in § **250-3.4B**, Schedule of Use Regulations, Entry 5.1, with a gross floor area of 3,000 square feet or less, subject to site plan approval from the Planning Board in conformance with the procedures specified in § **250-13.5**.

- B. Medical office buildings as defined in § **250-3.4B**, Schedule of Use Regulations, Entry 5.1, with a gross floor area exceeding 3,000 square feet by special permit from the Planning Board in conformance with the procedures specified in § **250-13.6**.
- C. Adult care facilities (ACF) as defined in § **250-1.3** by special permit from the Planning Board in conformance with the procedures specified in Article **VIII** and § **250-13.6**. 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.

### § 250-8.3. 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 § **250-13.3**, 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 stormwater 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 § **250-13.6E**, 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 § **250-13.4**.
- 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.

## § 250-8.4. Dimensional regulations.

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

- A. Minimum lot area. The minimum lot area shall be 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 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 40 feet and shall contain a landscaped buffer strip as described in § 250-10.2 of not less than 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 15 feet, except that side yards abutting a residential district shall be not less than 60 feet and contain not less than a fifty-foot landscaped buffer strip as described in § 250-10.2.
- E. Minimum rear yard. The minimum rear yard shall be 80 feet. Rear yards abutting a residential district shall contain not less than a fifty-foot landscaped buffer strip as described in § 250-10.2.
- F. Maximum building coverage. The proposed building shall cover not more than 35% of the site.
- G. Maximum building dimensions. No proposed building shall be more than two stories nor more than 40 feet in height.

## § 250-8.5. 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.

## § 250-8.6. 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 subareas 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.

## § 250-8.7. 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.

## § 250-8.8. 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 Article **XI** of this bylaw, 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.

## § 250-8.9. 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.

## § 250-8.10. Project identification.

- A. All signage shall be in accordance with the provisions of § **250-12.8**.
- 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.

## § 250-8.11. Time limits; performance security.

- 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.

## Article IX. Overlay District Regulations

### § 250-9.1. Floodplain Overlay District.

- A. The purposes of this District (in addition to those enumerated elsewhere in this Zoning Bylaw) are to:
  - (1) Ensure public safety through reducing the threats to life and personal injury.
  - (2) Eliminate new hazards to emergency response officials.
  - (3) Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding.
  - (4) Avoid the loss of utility services which, if damaged by flooding, would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding.
  - (5) Eliminate costs associated with the response and cleanup of flooding conditions.
  - (6) Reduce damage to public and private property resulting from flooding waters.
- B. Scope of authority.
  - (1) The Floodplain Overlay District is herein established as an overlay district and shall be superimposed on other districts established by this bylaw. All regulations of the Wilbraham Zoning Bylaw applicable to such underlying districts shall remain in effect, except that the floodplain management regulations found in this Floodplain Overlay District section shall take precedence over any less restrictive, conflicting sections of this Zoning Bylaw.
  - (2) The Town of Wilbraham hereby designates the position of Building Official to be the official floodplain administrator for the Town.
  - (3) All development in the Floodplain Overlay District, including structural and nonstructural activities, whether permitted by right or by special permit, must be in compliance with MGL c. 131, § 40, the Wetlands Protection Regulations (currently 310 CMR 10.00), the Inland Wetlands Restrictions (currently 310 CMR 13.00), the Standard Requirements for the Siting, Construction, Inspection, Upgrade and Expansion of On-Site Sewage Treatment and Disposal Systems and for the Transport and Disposal of Septage (currently 310 CMR 15.00, Title 5), and the Flood Resistant Construction Regulations of the State Building Code (780 CMR). 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.<sup>[1]</sup>
    - [1] *Editor's Note: Amendment pending.*
  - (4) Permits are required for all proposed construction or other development in the Floodplain Overlay District, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties. Wilbraham's permit review process includes the requirement that the proponent obtain all local, state, and federal permits that will be necessary in order to carry out the proposed development in the Floodplain Overlay District. The proponent must acquire all necessary permits and must demonstrate that all necessary permits have been acquired.

C. Definitions.

**DEVELOPMENT**

Any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials (44 CFR Part 59).

**FLOODWAY**

The channel of the river, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height (Base Code, Chapter 2, Section 202).

**FUNCTIONALLY DEPENDENT USE**

A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and shipbuilding and ship repair facilities, but does not include long-term storage or related manufacturing facilities [(44 CFR Part 59); also (Referenced Standard ASCE 24-24)].<sup>[2]</sup>

**HIGHEST ADJACENT GRADE**

The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure (44 CFR Part 59).

**HISTORIC STRUCTURE**

Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (a) By an approved state program as determined by the Secretary of the Interior; or
  - (b) Directly by the Secretary of the Interior in states without approved programs (44 CFR Part 59).

**NEW CONSTRUCTION**

Structures for which the start of construction commenced on or after the effective date of the first floodplain management code, regulation, ordinance, or standard adopted by the authority having jurisdiction, including any subsequent improvements to such structures. New construction includes work determined to be substantial improvement (Referenced Standard ASCE 24-24).<sup>[3]</sup>

**RECREATIONAL VEHICLE**

A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and

- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use (44 CFR Part 59).

## **REGULATORY FLOODWAY**

See "floodway."

## **SPECIAL FLOOD HAZARD AREA**

The land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as zone A, AE, A1-30, A99, AR, AO, AH, V, VO, VE or V1-30 (Base Code, Chapter 2, Section 202).

## **START OF CONSTRUCTION**

- (1) The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days of the date of issuance. The "actual start of construction" means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.
- (2) Permanent construction does not include land preparation (such as clearing, excavation, grading or filling); the installation of streets or walkways; excavation for a basement, footings, piers or foundations; the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building (Base Code, Chapter 2, Section 202).

## **STRUCTURE**

Means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally aboveground, as well as a manufactured home (44 CFR Part 59).

## **SUBSTANTIAL REPAIR OF A FOUNDATION**

When work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet or repair or replacement of 50% of the piles, columns or piers of a pile-, column- or pier-supported foundation, the Building Official shall determine it to be substantial repair of a foundation. Applications determined by the Building Official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR (as amended by MA in the current edition BC).<sup>[4]</sup>

## **VARIANCE**

A grant of relief by a community from the terms of a floodplain management regulation (44 CFR Part 59).

## **VIOLATION**

The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided (44 CFR Part 59).<sup>[5]</sup>

[2] *Editor's Note: Amendment pending.*

[3] *Editor's Note: Amendment pending.*

[4] *Editor's Note: Amendment pending.*

[5] *Editor's Note: Amendment pending.*

D. District delineation.

- (1) The Floodplain Overlay 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) dated June 7, 2023, for the administration of the National Flood Insurance Program. 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 June 7, 2023. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, and Building Official.

[6]

[6] *Editor's Note: Amendment pending.*

- (2) In A zones, in the absence of FEMA BFE data and floodway data, the Building Department will obtain, review and reasonably utilize base flood elevation and floodway data available from a federal, state, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A as the basis for elevating residential structures to or above base flood level; for floodproofing or elevating nonresidential structures to or above base flood level; and for prohibiting encroachments in floodways.
- (3) In zones A, A1-30, 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. In zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the Town's FIRM, encroachments are prohibited, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway, unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (4) When proposing subdivisions or other developments greater than 50 lots or five acres (whichever is less), the proponent must provide technical data to determine base flood elevations for each developable parcel shown on the design plans.
- (5) If the Town acquires data that changes the base flood elevation in the FEMA-mapped special flood hazard areas, the Town will, within six months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s).<sup>[7]</sup>

- (a) Notification shall be submitted to:

FEMA Region I Risk Analysis Branch Chief  
99 High St., 6th floor, Boston, MA 02110

- (b) And copy of notification to:

Massachusetts NFIP State Coordinator  
MA Dept. of Conservation and Recreation  
251 Causeway Street, Boston, MA 02114

[7] *Editor's Note: Amendment pending.*

E. Permitted uses.

- (1) In the Floodplain Overlay 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, footpaths, bicycle paths, and/or horse paths and bridges, provided such uses do not affect the natural flow pattern of any watercourse;
  - (d) Grazing and farming, including truck gardening and harvesting of crops;
  - (e) Forestry and nurseries;
  - (f) Temporary nonresidential 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.
- (2) The portion of any lot within the area delineated in § **250-9.1D** 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.

F. Uses by special permit.

- (1) A special permit shall not be issued for new habitable buildings to be erected within the Floodplain Overlay District, but a special permit may be granted for the reconstruction or addition, up to a maximum of 50% increase of the existing valuation, to buildings lawfully existing prior to adoption of these provisions. The Board of Appeals acting as the special permit granting authority in accordance with § **250-13.6** of this bylaw may consider and issue a special permit only upon finding all of the following:
- (a) The proposed use shall comply in all respects with the provisions of the underlying district.
  - (b) The proposal shall comply with the requirements of this Floodplain Overlay District section.
  - (c) The granting of a special permit will not result in increased flood height or threats to public safety.
  - (d) The special permit is the minimum necessary considering the flood hazard to afford relief.
  - (e) The Board may specify such additional requirements and conditions it finds necessary to protect the health, safety and welfare of the public and the occupants of the proposed use.
- (2) 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.
- (3) Under no circumstances shall a special permit be issued in the regulatory floodway.

G. Variances.

- (1) Variances to Building Code floodplain standards.
- (a) The Town of Wilbraham will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to the variance and will maintain this record in the community's files.
  - (b) The Town shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a community official, that:

[1] The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25

for \$100 of insurance coverage; and

[2] Such construction below the base flood level increases risks to life and property.

(c) Such notification shall be maintained with the record of all variance actions for the referenced development in the Floodplain Overlay District.

(2) Variances to local zoning bylaws related to community compliance with the National Flood Insurance Program NFIP). A variance from this floodplain section must meet the requirements set out by state law and may only be granted if:<sup>[8]</sup>

(a) Good and sufficient cause and exceptional nonfinancial hardship exist;

(b) The variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and

(c) The variance is the minimum action necessary to afford relief.

[8] *Editor's Note: Amendment pending.*

H. Subdivisions. All subdivision proposals must be designed to assure that:

(1) All such proposals minimize flood damage;

(2) All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and

(3) Adequate drainage is provided to reduce exposure to flood hazards.

I. AO and AH zones drainage requirement. Within zones AO and AH on the FIRM, adequate drainage paths must be provided around structures on slopes to guide floodwaters around and away from proposed structures.

J. Recreational vehicles. In A1-30, AH, and AE zones, all recreational vehicles to be placed on a site must be elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements or be on the site for less than 180 consecutive days or be fully licensed and highway ready.

K. 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:

(1) Adjacent communities (East Longmeadow, Hampden, Ludlow, Monson, Palmer and Springfield).

(2) NFIP State Coordinator:

Massachusetts Department of Conservation and Recreation

251 Causeway Street, 8th Floor

Boston, MA 02114-2104

(3) NFIP Program Specialist:

Federal Emergency Management Agency, Region I

99 High Street, 6th Floor

Boston, MA 02110

L. Disclaimer of liability. This Zoning Bylaw does not imply that land outside the areas of the Floodplain Overlay District or uses permitted within such District will be free from flooding or flood damage. This section 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 section or any administrative decision lawfully made thereunder.

- M. Severability. If any section, provision, or portion of this Floodplain Overlay District section is deemed to be unconstitutional or invalid by a court, the remainder of this bylaw shall remain in effect.<sup>[9]</sup>

[9] *Editor's Note: Original Section 9.2 (Ground Water Protection District) was deleted by vote of Town Meeting on May 16, 2016.*

## § 250-9.2. Ridgeline and Hillside Overlay District.

- A. Purpose. The purposes of the Ridgeline and Hillside Overlay District (in addition to those enumerated elsewhere in this Zoning Bylaw) are:

- (1) To preserve and protect the natural scenic beauty and related natural resources of the upland areas in the Town of Wilbraham.
- (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.
- (3) To ensure 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.

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

- C. District delineation. The Ridgeline and Hillside Overlay District includes all land in the Town of Wilbraham at an elevation of 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.

- D. Development subject to Ridgeline and Hillside Overlay District review. Notwithstanding other provisions of this bylaw, no land development within the Ridgeline and Hillside Overlay District shall be permitted and no building permit, special permit or approval of a definitive subdivision plan under the Subdivision Control Law<sup>[1]</sup> shall be issued until the provisions of Ridgeline and Hillside Overlay District review have been fulfilled and site plans approved by the Ridgeline and Hillside Overlay District Review Board. Activities constituting development and subject to review within said District include the following:

- (1) The construction of a new dwelling or principal structure.
- (2) 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 15%, or which adds to the height of the structure, or which substantially alters the visual profile of the property or structures thereon.
- (3) The removal, filling, excavation or alteration of earthen materials or the construction of an access road, if such action changes preexisting drainage characteristics or sedimentation patterns, or alters the topographic or visual profile of the property.
- (4) The construction of a windmill, tower, satellite dish, antenna or other visually prominent accessory structure.

- (5) Any subdivision which requires approval under the Subdivision Control Law, MGL c. 41.<sup>[2]</sup>  
[2] *Editor's Note: See MGL c. 41, §§ 81K to 81GG.*
- (6) 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.  
[1] *Editor's Note: See MGL c. 41, §§ 81K to 81GG.*
- E. Ridgeline and Hillside Overlay District Review Board. The Ridgeline and Hillside Overlay District Review Board shall be the Planning Board. The Ridgeline and Hillside Overlay 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 Overlay District review not inconsistent with the provisions of this bylaw or MGL c. 40A, and shall file a copy of said rules and regulations with the Town Clerk.
- F. Application information. The Ridgeline and Hillside Review Board shall require the following application information unless same is waived as hereinafter provided:
- (1) Application forms are available in the Planning office.
  - (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 section as part of an application for a building permit, site plan approval, special permit or subdivision approval.
  - (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 § 250-13.3, 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) Viewpoints. Photographs of the site of development taken from at least three 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.
- G. Design standards. Development in the Ridgeline and Hillside Overlay 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:
- (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) Rooflines 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 25 feet.
- (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.
- (3) Grading. Any grading or earthmoving 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.
- (4) Utilities. Utilities shall be constructed and routed underground.
- (5) Erosion and sedimentation control.
- (a) Post-development runoff shall not exceed predevelopment 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 twenty-five-year storm.
  - (b) Appropriate sediment and erosion control measures shall be employed to minimize the impacts during and after construction.
- (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, aboveground swimming pools, and similar accessory structures shall be screened from public view by dense evergreen plantings or landscaped, low earthen berms where necessary.
- H. District review criteria. A Ridgeline and Hillside Overlay District application shall be approved where consistent with the following criteria:
- (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.
  - (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.
  - (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.
- I. 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 decisionmaking

body concerning conformance with the design review standards contained herein.

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

J. Waiver of compliance.

- (1) 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 section 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 section or where the land in question being developed is located in an area of the District which does not require the protection of this section 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.
- (2) 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 this section require a detailed submission.
- (3) If the Ridgeline and Hillside Review Board, after a review of the information presented by the applicant, is satisfied that the provisions of this section do not require further action hereunder, a waiver shall be promptly issued.

## Article X. General Regulations

### § 250-10.1. Corner visibility.

Between the lines of streets intersecting at an angle of less than 135° and a line joining points on such lines 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 feet and a height of eight feet and above the plane through their average grades.

### § 250-10.2. Landscaped buffer strips.

- A. 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.
- B. 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 Bylaw. Where considered appropriate, walls and/or fences may be used in lieu of plantings upon issuance of a special permit.

## § 250-10.3. 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 inches of soil removed therefrom, and furnishing new topsoil or loam from off the premises will not be required. Excavations which uncover ledge or rock outcrops need not be covered or seeded.

- A. 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:
  - (1) The Building Official 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.
  - (2) 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 § **250-10.3B** where appropriate and necessary for the protection of the health, safety and welfare of the inhabitants of the Town.
  - (3) 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 § **250-10.3B**.
  - (4) The Planning Board shall be the special permit granting authority for the export, import and/or regrading 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 § **250-4.6**, Flexible subdivision regulations; § **250-4.7**, Flexible nonsubdivision (estate lot) regulations; § **250-4.8**, Planned unit residential development (PURD); Article **V**, Residential Multiple Dwelling (RMD) District; and Article **VIII**, Adult Care Facilities (ACF) District.
- B. Standards and conditions.
  - (1) 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.

- (2) 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.
  - (3) 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 inches of topsoil and seeded with a suitable cover crop.
  - (4) 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.
  - (5) 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.
  - (6) 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.
  - (7) 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.
  - (8) 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.
- C. 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.

## § 250-10.4. Wireless communications facilities regulations.

The purpose of this section of the Zoning Bylaw 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<sup>[1]</sup> 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.

### A. General use restrictions.

- (1) No wireless communications facilities as defined in § **250-1.3** 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 §§ **250-10.4** and **250-13.6**, as well as such rules and regulations as officially promulgated by the Planning Board.
- (2) 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.

- (3) 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.

B. Design guidelines. The following guidelines shall be used when preparing plans for the siting and construction of wireless communications facilities:

- (1) 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.
- (2) 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.
- (3) 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.
- (4) 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 10 feet above the existing roofline of the building, or more than 10 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.
- (5) Only freestanding 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 preexisting on the location.
- (6) 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:
  - (a) The proposed tower placement is critical to the provision of services and co-location is not feasible on existing towers for technical reasons; or
  - (b) 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.
- (7) 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:

- (a) In residential zoning districts, wireless communications facilities shall not exceed 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 150 feet.
  - (b) 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.
- (8) All wireless communications towers shall be pre-engineered to fail at a predetermined height and "fold in half" in the event of catastrophic failure.
  - (9) 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.
  - (10) 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 not limited to structural design, painting, lighting, and landscaping standards.<sup>[2]</sup>  
*[2] Editor's Note: Amendment pending.*
  - (11) 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.
  - (12) Lighting shall be limited to the lighting required for emergency and for Federal Aviation Administration (FAA) compliance. All lighting shall be shielded to prevent undue impact on surrounding properties.<sup>[3]</sup>  
*[3] Editor's Note: Amendment pending.*
  - (13) 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:
    - (a) If feasible, equipment shelters may be located in underground vaults.
    - (b) Equipment shelters located above grade shall not exceed 400 square feet in area and 15 feet in height, and if more than one such building is placed on-site, they shall be designed and constructed to be architecturally similar and compatible with each other.
    - (c) 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.
    - (d) 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.

- (14) 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-hour basis. All signs shall comply with the requirements of the Wilbraham Zoning Bylaw.
  - (15) 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.
  - (16) 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.
- C. 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:
- (1) A site plan in accordance with the requirements of this section and § **250-13.3**, which shall show all property lines, the exact location of the proposed facilities, streets, landscape features, residential dwellings and buildings within 500 feet of the facility.
  - (2) A color photograph or rendition of the proposed wireless communications facility, 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.
  - (3) A technical report prepared by a radio-frequency engineer, professional engineer or other appropriate professionals containing:
    - (a) Coverage maps detailing the applicant's plans for providing wireless communications service to the Town of Wilbraham;
    - (b) A description of the proposed wireless communications facility, including the technical, economic and other reasons for the proposed location, height and design;
    - (c) A survey of all preexisting 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;
    - (d) 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;
    - (e) A description of the special design features utilized to minimize the visual impact of the proposed wireless communications facilities; and
    - (f) Certification of compliance with all applicable state and federal standards.
  - (4) A landscape plan showing the proposed site before and after development, including topography and screening proposed to protect abutters.
  - (5) 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 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 8:00 a.m. and continuing for a minimum of eight 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 days before the field test. In addition, written notice shall be provided to all abutters of record.

- (6) 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:
  - (a) 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 lines of sight surrounding the proposed facility under the assumption that existing vegetation and structures do not exist.
  - (b) 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.
  - (c) 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.
- (7) 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.
- (8) 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).
- (9) 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.

D. Monitoring and maintenance.

- (1) Pretesting. 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 Official.
- (2) Post-testing. Within 30 days of 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.

- (3) 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.
- (4) The Building Official 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.
- (5) Failure to comply with the provisions of this § **250-10.4** or special permit granted under this section shall be grounds for revocation of the special permit.

E. Cessation of use and obsolescence.

- (1) Providers of wireless communications service shall report to the Building Official any cessation in the use or operation of any wireless communications facility that exceeds 30 days, and such facilities shall be dismantled and removed at the owner's expense within one year of cessation of use or operation.
- (2) 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 Official 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 Official shall give the tower's owner 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.

F. Waivers and modifications.

- (1) 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.
- (2) The Planning Board may modify any provision or requirement of this section if it can be demonstrated:
  - (a) That it is technically infeasible to meet said requirement; or
  - (b) That its effect is to prohibit the proposed use throughout the Town; or
  - (c) 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.

[1] *Editor's Note: See 47 U.S.C. § 332.*

## § 250-10.5. Large-scale ground-mounted solar energy systems.

[Amended 5-12-2025 ATM by Art. 35]

- A. Purpose. The purpose of this section of the Zoning Bylaw is to facilitate and appropriately regulate the responsible development of large-scale ground-mounted solar energy systems in the Town of Wilbraham by providing minimum standards for the placement, design, construction, operation, monitoring, modification and removal of such systems that support the goal of the Commonwealth of Massachusetts to generate clean energy and reduce carbon emissions while also addressing the responsibility of the Town of Wilbraham to protect public health and safety; protect and preserve the scenic, natural and historic resources of Wilbraham; minimize undesirable impacts on abutting

residential property and neighborhoods; and provide adequate financial assurance for the eventual decommissioning of such systems.

B. Applicability. The provisions set forth in this § **250-10.5** shall apply to large-scale ground-mounted solar energy systems, including associated equipment and structures as defined in § **250-1.3**, as follows:

- (1) The requirements of this section shall apply both to the construction and operation of new large-scale ground-mounted solar energy systems and to subsequent physical modifications that materially alter the type, configuration or size of existing large-scale ground-mounted solar energy systems or related equipment throughout the useful life of the system or where alterations may impact abutters.
- (2) 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.
- (3) 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 § **250-3.4B**, Schedule of Use Regulations, Entry 3.7.
- (4) Municipal large-scale ground-mounted solar energy systems 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.
- (5) 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 § **250-3.5A(3)** of the Wilbraham Zoning Bylaw as applicable.

C. General requirements.

- (1) Compliance with laws, bylaws and regulations. The construction, maintenance, operation, modification and removal of the large-scale ground-mounted solar energy system shall comply with the provisions of this § **250-10.5** as well as all other applicable local, state, and federal requirements, including, but not limited to, all applicable safety, construction, electrical and communications requirements, to ensure that such use will not create a negative impact which is discernible from other properties by virtue of noise, unsightliness or other nuisance as determined by the Planning Board.
- (2) 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.

D. Site control. The applicant, if not the record property owner of the proposed site, shall provide documentation to 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. If the applicant will be leasing the proposed site, then the property owner of the site shall be required to sign the application as a co-applicant; to submit written consent to be a co-holder of the special permit if granted by the Planning Board; and to allow the Town of Wilbraham and its designees, representatives, and agents the right to access the property to inspect the premises to evaluate and enforce, if required, compliance with the terms of the special permit, including the purpose of decommissioning the project in accordance with the provisions of this section.

E. Filing requirements. Applicants seeking to construct or modify a large-scale ground-mounted solar energy system shall submit the appropriate application form with the following information to the Planning Board. All plans and maps to be submitted must be drawn at appropriate scales and shall be prepared, stamped and signed by a professional civil engineer or land surveyor registered in the Commonwealth of Massachusetts. The Planning Board may, in its discretion, waive any of the filing requirements as it deems appropriate.<sup>[1]</sup>

- (1) Fees. The application for a large-scale ground-mounted solar energy system must be accompanied by the required fee.
- (2) Contact information. Provide the name, address, phone number, email address and signature of the applicant and the property owner, as well as the contact information for the proposed system installer, system operator and any authorized agents representing the applicant.
- (3) Site identification. Provide the address and the map, lot and block number of the proposed site.
- (4) Site control. The applicant shall provide documentation to demonstrate site control per § **250-10.5D**, if applicable.
- (5) Utility notification. The applicant shall provide evidence at the time of application that the utility company operating the electric grid where the large-scale ground-mounted solar energy system will be located has been notified of the applicant's intent to construct the large-scale ground-mounted solar energy system and that written approval to connect to the grid has been granted or appropriate application has been made to the utility for interconnection and the utility company has responded in writing to the notice. Off-grid installations are exempt from this requirement.
- (6) Site plans. Provide site plans showing the following:
  - (a) Information listed under site plan requirements in § **250-13.3** of this Zoning Bylaw, including existing and proposed property lines, abutter names, physical features, topography, roads, buildings and structures, etc.
  - (b) Proposed changes to the landscape of the site, including grading, vegetation clearing and landscape planting, exterior lighting, stormwater design, screening vegetation or structures, and new structures.
  - (c) Detailed layout of the proposed large-scale ground-mounted solar energy system, including, but not limited to, photovoltaic panel mounts, foundations, appurtenant equipment and fencing.
  - (d) Detailed layout of the electric infrastructure to connect the large-scale ground-mounted solar energy system to the electric grid or net metering equipment.
  - (e) Delineation of all wetland resources and associated buffer areas.
  - (f) Locations of priority habitat areas of rare, threatened or endangered species as defined by the Massachusetts Natural Heritage and Endangered Species Program.
  - (g) 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 applicable state and federal stormwater regulations Chapter **196**, Stormwater Management.
- (7) Technical information. Provide the following information:
  - (a) Blueprints or drawings of the large-scale ground-mounted solar energy system signed by a professional engineer registered in the Commonwealth of Massachusetts, showing the proposed layout of the installation and the estimated solar power generation capacity indicated as wattage in both direct current (MW DC) and alternating current (MW AC).
  - (b) One- or three-line electrical diagram detailing the solar photovoltaic installation, appurtenant equipment and electrical interconnection methods with all Massachusetts- and National Electric Code-compliant devices.
  - (c) Documentation of the major large-scale ground-mounted solar energy system components to be used, including but not limited to photovoltaic panels, panel mounting system, inverter and DC battery storage equipment.

- (d) Documentation of any potential off-site impacts on the existing electric utility infrastructure, including new utility poles, new transformers and upgraded service lines.
- (8) Stormwater management report. Provide a stormwater management report which shall contain sufficient information for the Wilbraham Department of Public Works, acting as the stormwater permitting authority, to evaluate the environmental impact that the large-scale ground-mounted solar energy system will have on the patterns and rate of stormwater runoff, as well as the effectiveness of the measures proposed for controlling and reducing the adverse effects from stormwater runoff on the parcel site.
- (9) Visual impact assessment. Provide a visual impact assessment study of the large-scale ground-mounted solar energy system which shall describe the visible components of the proposed project, evaluate the potential visibility of the project within the defined study area, identify key views for visual assessment, assess the potential project visibility, illustrate the appearance of the proposed project, and identify potential mitigation measures to minimize visibility to abutters. The visual impact assessment shall produce a map showing all areas within a one-mile radius of the proposed installation where the large-scale ground-mounted solar energy system can be seen and where it cannot be seen. The potential project visibility shall be determined using methods like viewshed analysis, field verification and visual simulation. With input from the Planning Director, the applicant shall utilize additional tools to assess the visual impacts in critical areas of concern, including renderings, line-of-sight studies and two- or three-dimensional visualizations such as photomontage, video montage and animation produced through Spatial Information Systems (SIS) and Geographic Information Systems (GIS) technology.
- (10) Operation and 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, year-round access to the installation; proper security; vegetation and stormwater management; and general procedures for operations and maintenance of the system, including battery storage if applicable.
- (11) Liability insurance. Provide proof of liability insurance as provided for in § **250-10.5G(13)**.
- (12) Noise study. Provide a noise study, prepared by a qualified individual with experience in environmental acoustics, to assess the impact of all noise sources generated from the project to abutting properties, and determine the appropriate layout, design, and control measures. The report should include details of assessment methods, summarize the results, and recommend the required outdoor as well as any indoor control measures.

[1] *Editor's Note: Amendment pending.*

F. Dimensional and density requirements.

- (1) Lot size. The minimum lot size for large-scale ground-mounted solar energy systems shall be five acres.
- (2) Lot frontage. The minimum lot frontage for large-scale ground-mounted solar energy systems shall be 200 feet.
- (3) Setbacks.
  - (a) Large-scale ground-mounted solar energy systems shall maintain a minimum setback distance measured from the respective property lot line to the perimeter fence enclosing the solar array as follows:
    - [1] The front-yard setback distance shall be at least 150 feet;
    - [2] The side-yard setback distance shall be at least 100 feet;
    - [3] The rear-yard setback distance shall be at least 100 feet; and

- [4] Where the side yard or rear yard abuts an existing residence, the setback distance shall be a minimum of 200 feet.
  - (b) The Planning Board may authorize a reduction to the above-listed setback distances along a property line where, in the judgement of the Planning Board, the site of a proposed large-scale ground-mounted solar energy system is not likely to negatively impact an existing or permitted use on the abutting property because:
    - [1] The site is not located in a residential zoning district nor abutting a residential zoning district or residential use; or
    - [2] The site is located in a residential zoning district abutting railroad tracks, utility transmission lines, the Massachusetts Turnpike or other land use patterns that will result in minimal visual intrusion on surrounding residential property as evidenced by the visual impact assessment required in § **250-10.5E(9)**.
  - (c) The Planning Board may require a greater setback distance along a property line where, in its judgement, the proposed large-scale ground-mounted solar energy system is likely to negatively affect an existing or permitted land use on the abutting property as evidenced by the visual impact assessment required in § **250-10.5E(9)**.
- (4) Vegetative buffer strip.
- (a) The large-scale ground-mounted solar energy system shall be screened from the view of all abutting properties zoned for residential use by an undisturbed buffer strip of natural vegetation, which shall be located along the outer perimeter of the parcel and which shall be a minimum of 50 feet wide extending into the required front, side or rear yard measured from the property boundary.
  - (b) If existing natural vegetation is not of sufficient density to provide an effective, year-round, visual barrier, the Planning Board may require the applicant to plant additional landscaping within the buffer strip to better screen the use from abutting property as further described in § **250-10.5G(2)**.
- (5) Height. The height of the solar panels in a large-scale ground-mounted solar energy system shall not exceed 12 feet in height above finished grade.
- (6) Lot coverage. The maximum lot coverage for large-scale ground-mounted solar energy systems shall be 25% when located in residential zoning districts and 50% when located in commercial or industrial (nonresidential) zoning districts. For the purpose of this section, lot coverage shall be measured as the total aggregate area of land covered by buildings; structures; associated equipment, including solar panels; and all land contained within the perimeter security fence and calculated as a percentage of the total area of the lot.
- (7) Appurtenant structures. All appurtenant structures to large-scale ground-mounted solar energy systems, including, but not limited to, equipment shelters, DC battery storage facilities, transformers and substations, shall be architecturally compatible with each other and subject to reasonable regulation by the Planning Board concerning the bulk and height of such structures, setbacks, parking and building coverage requirements. Whenever reasonable, structures shall be screened from view by vegetation and/or joined or clustered to avoid adverse visual impacts on the neighborhood, abutting properties and public ways. Co-located battery energy storage systems shall also meet the requirements of § **250-10.7**.

G. Design requirements and performance standards.

- (1) Lighting. Outdoor lighting shall be limited to nighttime maintenance and inspections by authorized personnel and there shall be no illumination without authorized personnel on the site. Where feasible, lighting shall be directed downward and shall incorporate full cutoff fixtures to reduce light pollution and shall be shielded, if necessary, so as not to be intrusive to abutting properties.

- (2) Project visibility. Large-scale ground-mounted solar energy systems shall be designed to minimize and mitigate adverse visual impacts from the view of adjacent roadways and abutting residential properties to the maximum extent that is reasonable and practical. The Planning Board may deny a special permit for any proposal that fails to adequately address adverse visual impacts in a manner deemed necessary by and in the sole opinion of the Planning Board.
  - (a) Visual impact assessment. A visual impact assessment shall be submitted for review per § **250-10.5E(9)** and taken into account when evaluating the design of the large-scale ground-mounted solar energy system.
  - (b) Screening.
    - [1] Large-scale ground-mounted solar energy systems shall be sited and designed in a manner that effectively screens the solar array and appurtenant structures from the year-round view of adjacent roadways and abutting residential properties to the maximum extent that is reasonable and practical, including, but not limited to, preserving natural vegetation to the maximum extent possible; blending in equipment with the surroundings; and installing additional plant landscaping, opaque fencing, earthen berms and land contouring in the vegetative buffer strip, as well as the portion of the setback area located outside the buffer strip if required to provide an effective visual barrier.
    - [2] The large-scale ground-mounted solar energy system shall be screened from the view of all abutting properties zoned for residential use by an undisturbed buffer strip of natural vegetation, which shall be a minimum of 50 feet wide as provided for in § **250-10.5F(4)**. Except for road access and permitted signs, the vegetated buffer strip shall be modified only for additional screening. Where the existing natural vegetation in the buffer strip is insufficient to provide an effective, year-round, visual barrier, additional screening as described herein shall be provided in the buffer strip and in the portion of the setback area outside the buffer strip if needed due to site-specific conditions.
    - [3] If additional plantings are required for screening, a planting plan shall be submitted, showing the types, sizes and locations of material to be used, which shall be subject to the approval of the Planning Board. Trees and shrubs shall be a minimum of six feet in height at planting and staggered to better screen the solar arrays from view. Native, noninvasive trees and shrubs that are low-maintenance, adaptable to variations in climate, and not susceptible to known insect or plant diseases shall be used whenever feasible. Plants shall be maintained and replaced if unhealthy by the owner or operator of the large-scale ground-mounted solar energy system for the life of the installation.
    - [4] Tree cutting and the clearing of vegetation outside the vegetative buffer strip but within the required setback area shall not be permitted if it would reduce to any degree the effectiveness of the year-round screening.
    - [5] The Planning Board may alter or waive the screening requirements if the Board determines that the strict adherence to such requirements would prove ineffective or unnecessary or serve no meaningful purpose for the site.
- (3) Environmental impacts. Large-scale ground-mounted solar energy systems shall be integrated into the existing terrain and surrounding landscape by minimizing use of and impact to wetlands, steep slopes and hilltops; protecting visual amenities and scenic views; minimizing tree, vegetation, and soil removal; and minimizing grade changes.
  - (a) Vegetation clearing.
    - [1] the clearing of naturally occurring vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the large-scale ground-

mounted solar energy system. any land disturbance shall be subject to stormwater management criteria and all applicable laws, regulations and bylaws.

[2] Undeveloped land on the lot that is located outside of the approved vegetation clearing area and/or beyond the approved limit of work line shall remain in its natural state without alteration without further approval from the Planning Board or until such time as the large-scale ground-mounted solar energy system is decommissioned. Limitations as to cutting trees, removing vegetation, land clearing and prevention of soil erosion may be included as conditions in the special permit.

- (b) Excessive slope. Large-scale ground-mounted solar energy systems, including access driveways and associated drainage infrastructure, shall not be located on slopes with an original grade in excess of 10% (measured over 100-foot intervals). Cutting and filling to reduce natural slopes shall be prohibited except on short hollows, depressions or high spots.
  - (c) Rare and endangered species. The applicant shall provide evidence of compliance with the Massachusetts Endangered Species Act<sup>[2]</sup> and the requirements of the Commonwealth of Massachusetts Natural Heritage and Endangered Species Program.  
*[2] Editor's Note: See MGL c. 131A.*
  - (d) 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 large-scale ground-mounted solar energy system 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.
- (4) Signage. A sign shall be erected at the gated entrance to identify the owner or manager and provide a twenty-four-hour emergency contact phone number. All signage shall comply with Article XII of the Wilbraham Zoning Bylaw.
- (5) Noise. Noise generated by large-scale ground-mounted solar energy systems and associated equipment and machinery shall conform, at a minimum, to applicable state and local noise regulations, including the Massachusetts Department of Environmental Protection noise regulations, 310 CMR 7.10, and the Planning Board may require additional screening or shielding of inverters and other equipment if after operation the Planning Board determines that the operating noise level is detectable beyond the property line and deemed to be excessive.<sup>[3]</sup>  
*[3] Editor's Note: Amendment pending.*
- (6) Off-site glare. Large-scale ground-mounted solar energy systems shall be designed to prevent concentrated solar radiation or reflected glare from becoming a public nuisance or hazard to nearby buildings, roadways or properties.
- (7) Utility connections.
- (a) All utility connections from the large-scale ground-mounted solar energy system shall be underground unless the Planning Board determines that soil conditions, topography and other site factors make such connection unreasonable or unfeasible or the utility provider determines such connection to be unsafe or impractical. Electrical transformers and other components for utility interconnections may be aboveground if required by the utility provider.
  - (b) No large-scale ground-mounted solar energy system shall be constructed nor building permit issued until evidence has been provided that the utility company operating the electric grid where the large-scale ground-mounted solar energy system will be located has granted written approval to connect to the grid.

- (8) Stormwater management. Best management practices (BMPs) shall be used for controlling and managing stormwater runoff and drainage from the large-scale ground-mounted solar energy system in compliance with all applicable federal, state and local regulations.
  - (a) Environmentally sensitive site design incorporating low-impact development (LID) techniques, as appropriate, for stormwater management may include minimizing impervious surfaces, maximizing on-site infiltration, fitting the development to the terrain, preserving and using natural drainage systems and reproducing predevelopment hydrologic conditions with the understanding that the actual BMP techniques employed will depend largely on the site's hydrological features.
  - (b) All pipes, catch basins and other materials utilized in the stormwater facilities shall be approved by the Director of Public Works.
  - (c) Construction phasing may be required as a means of mitigating erosion and sedimentation.
- (9) Fencing and security.
  - (a) Large-scale ground-mounted solar energy systems shall be constructed to prevent unauthorized persons from accessing the large-scale ground-mounted solar energy system.
  - (b) The solar array and ancillary equipment shall be enclosed by perimeter fencing. Unless specified otherwise by the Planning Board, the perimeter fence shall be an eight-foot-tall, vinyl-coated, chain-link fence colored dark green or black and designed with a texture pattern or fabric screen, if deemed necessary, to blend into the background and minimize the visual impact on nearby properties and abutting roadways and shall be installed with a bottom gap of no less than six inches between the ground and the bottom of the fence to minimize impacts on wildlife movement.
  - (c) Measures to address safety and security issues shall be subject to the approval of the Planning Board, Fire Department and Police Department. Surveillance and security cameras if installed shall be placed or shielded from view so as not to invade the privacy of abutting residential property.
- (10) Emergency access and fire protection. Large-scale ground-mounted solar energy systems and access roads shall be constructed and maintained to allow for safe, year-round access by local emergency vehicles. Access roads shall be planned and constructed in consultation with the Department of Public Works to provide proper stormwater drainage control and to minimize grading, removal of stone walls or street trees and adverse impacts to environmental or historic resources. The operator shall be responsible for maintaining adequate access for emergency vehicles and maintenance equipment throughout the year. Fire cisterns shall be installed when required by the Fire Department in accordance with applicable laws and regulations.
- (11) Emergency response plan. The owner or operator of the large-scale ground-mounted solar energy system shall cooperate with local public safety officials to develop an emergency response plan, including emergency contact information. The emergency response plan shall be submitted to and approved by the Fire Chief prior to the start of operations and periodically updated as needed.
- (12) Hazardous materials. Hazardous materials stored, used, or generated on-site shall not exceed the amount for a very-small-quantity generator of hazardous waste as defined by the Massachusetts Department of Environmental Protection regulations promulgated at 310 CMR **30.00** and shall meet all requirements of the DEP, including storage of hazardous materials in a building with an impervious floor that is not adjacent to any floor drains to prevent discharge to the outdoor environment. If any hazardous materials, including, but not limited to, lithium ion (storage batteries), are used within the solar electric equipment, then impervious containment areas capable of controlling and containing any release of hazardous materials to the environment and to prevent potential contamination of groundwater are required. A list of any

hazardous materials proposed to be located on the site in excess of normal household quantities and a plan to prevent their release to the environment shall be provided to the Planning Board and Fire Department.

(13) Proof of liability insurance. At the time of application for a building permit, the applicant shall provide to the Building Official evidence of insurance coverage sufficient to build and operate the large-scale ground-mounted solar energy system.

H. 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 MGL c. 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 subsection 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.

I. 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 § 250-13.5 for site plan approval or in accordance with § 250-13.6 for special permits, as applicable.

(1) Site plan approval criteria: The Planning Board in granting site plan approval shall take into consideration the reasonable fulfillment of the following objectives:

(a) Conformance with the applicable provisions of § 250-13.5 and this § 250-10.5 of the Zoning Bylaw;

(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 appears to pose a particularly significant risk.

(2) Special permit criteria: The Planning Board, acting as the special permit granting authority, must make all of the following findings in order to grant special permit approval:

(a) Conformance with the applicable provisions of § 250-13.6 and this § 250-10.5 of this Zoning Bylaw;

(b) The proposed use is appropriate on the site in question and provides adequate screening and buffers between the property lines and the solar array to protect adjoining premises from adverse visual impacts.

(c) The proposed use will not be unduly detrimental to the health, safety or welfare of the community or abutting properties by reason of undue disturbance from noise, traffic, lighting, visual impact, pollution, stormwater runoff, hazardous materials or excessive demands on community services. The Planning Board may request a study if any of these disturbances appear to pose a particularly significant risk.

(d) Site development of the proposed use will be integrated into the existing landscape through design features such as vegetative buffers and retention of open space and agricultural land, when appropriate.

(3) Special permit conditions: The Planning Board, acting as the special permit granting authority, may impose reasonable conditions upon its granting of a special permit deemed necessary to achieve the purpose of this section, such as, but not limited to, the following:

(a) Greater than minimum setback requirements;

(b) Modification of exterior appearance;

- (c) Limitation of size or extent of facilities;
- (d) Regulation of traffic and site plan features;
- (e) Screening of premises from view by use of appropriate walls, fencing or buffer strips;
- (f) Limitation of sound levels; and
- (g) Additional design and siting modifications, where appropriate.

J. Construction and monitoring.

- (1) Written notice shall be sent by certified mail to the Planning Board, advising the Board that construction of the approved large-scale ground-mounted solar energy system will commence no sooner than seven days from the date that such notice is mailed to the Board.
- (2) Prior to any site disturbance and construction, the limits of work shown on the approved site plan shall be surveyed and clearly marked by a professional land surveyor. Upon completion of the survey, the professional land surveyor shall verify, in writing, to the Planning Board that the limit of work, as shown on the approved site plan, has been established on the site.
- (3) Prior to the start of construction, the applicant and its general site contractor shall submit a construction schedule and attend a preconstruction meeting with the Planning Director, Director of Public Works and the Engineering Department. The applicant shall provide the site construction general contractor with a copy of the Planning Board's decision and the approved plans prior to the preconstruction meeting.
- (4) The Planning Board may require that the applicant hire at its expense a third-party inspector, selected by and acting under the direction of the Planning Board or its agents, to monitor compliance with all approvals and conditions during the construction of the large-scale ground-mounted solar energy system.
- (5) No certificate of occupancy shall be granted by the Building Official, nor shall the site be energized or interconnected to the utility, until the Planning Board has received, reviewed, and approved an as-built plan that demonstrates that the work proposed on the approved site plan, including all stormwater management components and associated off-site improvements, has been completed in accordance with the approved plan and certified same to the Building Official. The Planning Board may, in its discretion, approve an as-built plan upon provision of a proper bond, covenant, or third-party agreement to secure incomplete work where such work is not immediately necessary for lawful operation of the system without negative effect on public health and safety and surrounding properties.

K. Operation and maintenance.

- (1) Maintenance. The owner or operator of the large-scale ground-mounted solar energy system shall maintain the facility in good condition, including, but not limited to, structural repairs and the functional integrity of access roads, landscaping, security fencing and stormwater control infrastructure.
- (2) Annual reporting. The owner or operator of the large-scale ground-mounted solar energy system shall submit an annual report documenting compliance with the operation and maintenance plan, the requirements of this section and the granted special permit, including, but not limited to, continued management and maintenance of vegetation, compliance with approved plans and special permit conditions of operation, continuation of liability insurance and adequacy of road access. The annual report shall also provide information on maintenance completed during the course of the past year and the amount of electricity generated by the solar energy system. The report shall be submitted to the Planning Board, Fire Chief, Director of Public Works and Building Official no later than 45 days after the end of the calendar year.

- (3) Contact information. The annual report shall provide an accurate and up-to-date contact list of the large-scale ground-mounted solar energy system owner, operator and other responsible parties by name, position, mailing address, telephone number and email address. Any change to the responsible parties listed in the contact information shall be submitted to the Planning Board, Building Department, Fire Department and Police Department within five business days of the change.
- L. Modifications. Any physical modifications that materially alter the type, configuration or size of a large-scale ground-mounted solar energy system or related equipment that are proposed after site plan approval or special permit approval has been granted shall require approval by the Planning Board before implementation.
- M. Decommissioning.
- (1) 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 decommissioned by the owner or operator in compliance with the requirements of this subsection no later than 180 days after the date of discontinued operations. At a minimum, decommissioning shall consist of:
    - (a) Physical removal from the site of all components of the large-scale ground-mounted solar energy system, including, but not limited to, solar panels, structures, foundations, equipment, security barriers, and electrical transmission lines.
    - (b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
    - (c) Restoration of the site to its natural, preexisting condition, including reforestation where appropriate and stabilization or revegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping, designated below-grade foundations, and access roads in place in order to minimize erosion and disruption of vegetation.
  - (2) Notice to Town.
    - (a) The owner or operator shall provide at least 30 days' prior notice to the Planning Board and Building Official by certified mail of the proposed date of discontinued operations (shutdown) and the anticipated schedule and plans for removal and site restoration.
    - (b) In the event the large-scale ground-mounted solar energy system is anticipated to be temporarily out of service for a period of at least 90 days, the owner or operator shall provide written notice by certified mail to the Planning Board and Building Official, stating the anticipated period of nonoperation as well as the reason for shutdown.
  - (3) Abandonment.
    - (a) Absent proper notice of a proposed date of decommissioning or a temporary shutdown due to extenuating circumstances, the large-scale ground-mounted solar energy system shall be considered abandoned when it fails to operate for a period of 90 consecutive days or more without the written consent of the Planning Board.
    - (b) Upon written request from the Zoning Enforcement Officer addressed to the contact person provided and maintained by the operator or owner of the large-scale ground-mounted solar energy system, the owner or operator shall provide evidence to the Zoning Enforcement Officer, demonstrating continued use of the solar energy system. Failure to provide such evidence within 30 days of such written request may be considered evidence that the large-scale ground-mounted solar energy system has discontinued operations and may be deemed abandoned for the purposes of the Planning Board taking action as described in this subsection.
  - (4) Decommissioning by the Town.

- (a) If the owner or operator fails to remove the large-scale ground-mounted solar energy system in accordance with the requirements of this subsection, the Town, or its agents, shall have the right, to the extent authorized by law, to enter the property and physically remove all the equipment and structures that comprise the large-scale ground-mounted solar energy system and restore the site to its original state at the owner's expense.
  - (b) As a condition of site plan or special permit approval, the applicant and property owner 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 drawn from the performance surety provided by the applicant or charged to the property owner in accordance with the provisions of MGL c. 139, § 3A, as a tax lien on the property, and said costs will constitute liens for purposes of MGL c. 40, § 58.
- (5) Performance surety.
- (a) Prior to the start of construction, the owner or manager of the large-scale ground-mounted solar energy system shall provide surety to the Town of Wilbraham, through cash deposit in proper form and sufficient amount determined reasonable and approved by the Planning Board, to cover the decommissioning cost in the event the Town must remove the large-scale ground-mounted solar energy system and remediate the site to its natural, preexisting condition.
  - (b) The project proponent shall submit a fully inclusive, itemized estimate of the decommissioning cost prepared by a qualified engineer with solar experience. The amount of the estimated decommissioning cost shall include an escalator mechanism for calculating increased removal costs at the end of the useful design life of the large-scale ground-mounted solar energy system due to inflation but shall not include or deduct the estimated salvage value of material recycling. The decommissioning estimate shall be reviewed by the Town of Wilbraham and the Town's peer-review engineer and may be adjusted as needed to reflect the opinion of the Town as to fair labor and equipment costs based on prevailing wages and other municipal factors.
  - (c) The surety shall be maintained by the project proponent for the lifespan of the large-scale ground-mounted solar energy system, and the Planning Board may require that the amount of surety be increased as required during the operating life of the large-scale ground-mounted solar energy system due to higher than anticipated inflation costs or other unforeseen future circumstances.
  - (d) Performance surety will not be required for municipal or state-owned facilities.
- N. Lapse of approval. Any site plan approval or special permit issued by the Planning Board shall automatically lapse if the large-scale ground-mounted solar energy system is not installed and operating within two years of the date of issuance or if the large-scale ground-mounted solar energy system is abandoned as defined herein.
- O. Waivers.
- (1) It is recognized that there will be instances when strict compliance with the regulations in this § 250-10.5 is not required to meet the purpose and intent of this Zoning Bylaw.
  - (2) The Planning Board may grant requested waivers to reduce or eliminate any requirement of this section upon findings of:
    - (a) Special circumstances of the site or proposal; or
    - (b) The objectives of this section may be met in an alternative manner; and
    - (c) That such waiver will not derogate from the purposes or intent of this Zoning Bylaw.
- P. Enforcement. The Town, through its boards and agents, shall be permitted to enter the premises upon 48 hours' written notice to the applicant for the purposes of monitoring compliance with the

terms of the special permit.

## § 250-10.6. Marijuana establishments (marijuana not medically prescribed).

- A. Consistent with MGL c. 94G, § 3(a)(2), all types of marijuana establishments as defined in MGL c. 94G, § 1(j), to include all marijuana cultivators, marijuana testing facilities, marijuana product manufacturers, marijuana retailers or any other types of licensed marijuana-related businesses, shall be prohibited in the Town of Wilbraham.
- B. The prohibition in the preceding subsection which bans all types of marijuana establishments in the Town of Wilbraham was duly adopted as both a zoning bylaw and a general bylaw by vote at the Annual Town Meeting on May 15, 2017, and also was approved by the voters of Wilbraham as a referendum question placed on the ballot of the Annual Town Election on May 20, 2017.

## § 250-10.7. Battery energy storage systems.

- A. Purpose. The purpose of this section is to provide for the construction and operation of battery energy storage systems (BESS) and to provide standards for the placement, design, construction, monitoring, modification and removal of energy storage systems that address public safety, minimize impacts on scenic, natural and historic resources of the Town of Wilbraham and provide adequate financial assurance for decommissioning. The provisions set forth in this section shall take precedence over all other sections when considering applications related to the construction, operation, and/or repair of battery energy storage systems.
- B. Applicability.
  - (1) Building-integrated battery energy storage systems.
    - (a) Battery energy storage systems that are building-integrated, whether a residential or commercial building, energy storage systems shall not be erected, constructed, installed, or modified as provided in this section without first obtaining a building permit from the Building Official.
    - (b) Building-integrated energy storage systems may be coupled with rooftop solar or behind-the-meter applications for peak shaving.
    - (c) Building-integrated battery energy storage systems may be located in any zoning district of the Town of Wilbraham.
  - (2) Co-located battery energy storage systems.
    - (a) Battery energy storage facilities are encouraged to co-locate with solar photovoltaic installations, power generation stations, and electrical substations.
    - (b) Battery energy storage systems associated with on-site solar power generation shall be permitted in all districts where large-scale ground-mounted solar energy systems are permitted by special permit or site plan approval per § 250-3.4B, Schedule of Use Regulations, Entry 3.8, of the Zoning Bylaw.
  - (3) Stand-alone battery energy storage systems. Battery energy storage systems not associated with on-site solar generation shall be permitted in the General Business (GB) and Industrial-Professional Office Park-General Business (I-POP-GB) Zoning Districts and shall require a special permit from the Planning Board.
  - (4) Modifications to, retrofits or replacements of an existing battery energy storage system that increase the total battery energy storage system designed discharge duration or power rating

shall be subject to this section.

C. General requirements.

- (1) All Tier 2 and 3 battery energy storage systems shall require a special permit and/or site plan approval by the Planning Board prior to construction, installation, or modification as provided in this bylaw.
- (2) The construction, operation, and decommissioning of all battery energy storage systems shall be consistent with all applicable local, state, and federal requirements, including but not limited to all applicable environmental, safety, construction, fire, and electrical requirements.<sup>[1]</sup>  
*[1] Editor's Note: Amendment pending.*
- (3) A building permit and an electrical permit shall be required for installation of all battery energy storage systems.

D. Application materials. Applications shall include the following:

- (1) All plans and requirements included in § **250-10.5D** and **E** of the Wilbraham Zoning Bylaw.
- (2) Battery energy storage system technical specifications, including manufacturer and model.
- (3) Emergency operation plan that includes the following information:
  - (a) Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions.
  - (b) Procedures for inspection and testing of associated alarms, interlocks, and controls.
  - (c) Procedures to be followed in response to notifications from the battery energy storage management system, when provided, that could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to Fire Department personnel for potentially hazardous conditions in the event of a system failure.
  - (d) Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures can include sounding the alarm, notifying the Fire Department, evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire.
  - (e) Response considerations similar to a safety data sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required.
  - (f) Procedures for dealing with battery energy storage system equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged battery energy storage system equipment from the facility.
  - (g) Other procedures as determined necessary by the Town to provide for the safety of occupants, neighboring properties, and emergency responders.
  - (h) Procedures and schedules for conducting drills of these procedures and for training local first responders on the contents of the plan and appropriate response procedures.

E. Design, safety, and site standards. In addition to the standards for special permit and site plan review in this Zoning Bylaw, the applicant shall adhere to the following:

- (1) General design requirements and performance standards. Battery energy storage systems shall meet all standards for large-scale ground mounted solar energy systems contained in § **250-10.5G**, Design requirements and performance standards; § 250-105J, Construction and monitoring; § **250-10.5K**, Operation and maintenance; and § **250-10.5M**, Decommissioning, of the Zoning Bylaw.

- (2) Vegetation and tree-cutting. Areas within 10 feet on each side of a system shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees or shrubbery and cultivated ground covers such as green grass, ivy, succulents, or similar plants shall be exempt, provided that they do not form a means of readily transmitting fire. Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the system and that which is otherwise prescribed by applicable bylaws and regulations.
  - (3) System certification. Battery energy storage systems and equipment shall be listed by a nationally recognized testing laboratory to UL 9540 (Standard for battery Energy Storage Systems and Equipment) or approved equivalent.
  - (4) System components. Battery energy storage systems, components, and associated ancillary equipment shall have required working space clearances, and electrical circuitry shall be within weatherproof enclosures marked with the environmental rating suitable for the type of exposure in compliance with NFPA 70.
  - (5) Site access. Battery energy storage systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal, at a level acceptable to the local Fire Department.
  - (6) Dimensional requirements shall be as provided in § **250-10.5F**.
- F. Special permit criteria. The Planning Board may approve an application if the Board finds that the system complies with the site plan review and approval criteria and with the conditions for granting special permits. Battery energy storage systems shall also satisfy the following additional criteria:
- (1) Conformance with the applicable provisions of §§ **250-13.5**, **250-13.6** and **250-10.7** of this Zoning Bylaw.
  - (2) The proposed use is appropriate on the site in question and provides adequate screening and buffers between the property lines and the solar array to protect adjoining premises from adverse visual impacts.
  - (3) The proposed use will not be unduly detrimental to the health, safety or welfare of the community or abutting properties by reason of undue disturbance from noise, traffic, lighting, visual impact, pollution, stormwater runoff, hazardous materials or excessive demands on community services.
  - (4) Site development of the proposed use will be integrated into the existing landscape through design features such as vegetative buffers and retention of open space and agricultural land, when appropriate.
  - (5) Environmental features of the site are protected, and surface runoff will not cause damage to surrounding properties or increase soil erosion and sedimentation of nearby streams and ponds.
  - (6) The Planning Board may also impose conditions as it finds reasonably appropriate to safeguard the Town or neighborhood, including, but not limited to, screening; lighting; noise; fences; modification of the exterior appearance of electrical cabinets, battery storage systems, or other structures; limitation upon system size; and means of vehicular access or traffic features.
- G. Modifications. Any physical modifications that materially alter the type, configuration or size of a battery energy storage system or related equipment that are proposed after site plan approval or special permit approval has been granted shall require approval by the Planning Board before implementation.
- H. Lapse of approval. Any site plan approval or special permit issued by the Planning Board shall automatically lapse if the battery energy storage system is not installed and operating within two

years of the date of issuance or if the battery energy storage system is abandoned as defined herein.<sup>[2]</sup>

[2] *Editor's Note: Amendment pending.*

- I. Waivers. The Planning Board may grant requested waivers to reduce or eliminate any requirement of this section upon findings of:
  - (1) Special circumstances of the site or proposal; or
  - (2) The objectives of this section may be met in an alternative manner; and
  - (3) That such waiver will not derogate from the purposes or intent of this Zoning Bylaw.
- J. Enforcement. The Town, through its boards and agents, shall be permitted to enter the premises upon 48 hours' written notice to the applicant for the purposes of monitoring compliance with the terms of the special permit.
- K. Severability. If any provision of this section is found to be invalid by a court of competent jurisdiction, the remainder of this section shall not be affected but remain in full force. The invalidity of any provision of this section shall not affect the validity of the remainder of the Wilbraham Zoning Bylaw.

## Article XI. Off-Street Parking and Loading Regulations

### § 250-11.1. General parking requirements.

- A. 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.
- B. 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 bylaw, as it deems necessary for the use.
- C. Any specific, more stringent provision in any section of this bylaw relating to parking shall prevail over provisions in this article.
- D. In granting either site plan approval or a special permit for any use, the appropriate authority may waive or modify any requirement of this Article **XI** for compelling reasons of safety, aesthetics or site design.
- E. In the case of mixed uses, the minimum number of required off-street parking spaces shall be the equal to the sum of the requirements for the various individual uses, computed separately in accordance with § **250-11.2**, and parking spaces for one use shall not be considered as providing the required parking spaces for any other use. However, notwithstanding anything contrary herein, the use of shared parking to fulfill parking demands that occur at different times of day is strongly encouraged, and minimum parking requirements listed herein may be reduced by the applicable SPGA if the applicant can clearly demonstrate that the need for parking occurs at different times and that shared parking spaces will adequately meet parking demands.

### § 250-11.2. 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
Single- and 2-family dwelling units	1 space for each dwelling unit located to the rear of the front yard
For single- and 2-family houses renting rooms	1 space for each rented room, in addition to the dwelling unit requirements located to the rear of the front yard
For home professional offices and roadside stands	2 spaces not limited to location, in addition to dwelling unit requirements to the rear of the front yard
For multifamily dwelling units	1 1/2 per dwelling unit (refer to § <b>250-5.5G</b> )
In Neighborhood Office and Neighborhood Shopping Districts	1 space for each 100 square feet of floor space devoted to the principal use, exclusive of storage and service areas
For a theater, assembly hall, or auditorium having fixed seats	1 parking space for each 4 seats
For other places of public assembly, public recreation, and for industrial plants	1 parking space for each 4 legal occupants
For a motel, inn, or tourist home	1 space for each rental unit or guest room, plus 2 spaces
For a hospital or convalescent home	1 parking space for each 2 beds
For business offices and financial institutions	1 parking space for each 160 square feet of building floor area, above the basement, excluding storage areas and stairs
Self-storage facility	Adequate spaces to accommodate under normal circumstances the vehicles of employees, customers and visitors to the premises, but not less than 6 spaces
For retail sale of automobiles and trucks	Refer to § <b>250-6.5</b>
For professional office parks	Refer to § <b>250-7.5E</b> and <b>F</b>
Dwelling unit in mixed-use building.	1.5 spaces per dwelling unit or 1 parking space for each bedroom, whichever is greater
For any other business or industrial use	1 parking space for each 200 square feet of ground-floor area, and 1 parking space for every 400 square feet of floor area or fraction thereof above the first floor

### § 250-11.3. Parking area design standards.

- A. Parking spaces for dwellings may be provided in a garage or as open parking spaces.
- B. A required parking space shall contain not less than 180 square feet in the case of a parking lot, or at least 130 square feet in the case of garage parking, with free access to each space.

### § 250-11.4. Loading areas.

- A. 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.
- B. Not less than one loading space, 10 feet by 25 feet with 14 feet height clearance, shall be required for a building with a gross floor area of 10,000 square feet or more.

## § 250-11.5. 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.

## Article XII. Sign Regulations

### § 250-12.1. Applicability.

The provisions of this article shall apply to the construction, erection, alteration, use, location, and maintenance of all signs, as defined in § 250-1.3, 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.

### § 250-12.2. Definitions.

As used herein this Article **XII**, 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.

#### **FREESTANDING 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 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 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 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.

### **§ 250-12.3. General standards.**

- A. Permitted signs. Signs that are accessory to a permitted use under § 250-3.4 are allowed, provided such signs conform to the provisions of this article. All signs not conforming to the provisions of this article are specifically prohibited.
- B. Prohibited signs. The following prohibitions shall apply to all signs in the Town of Wilbraham:

- (1) Billboards, movable signs, projecting signs and roof signs are not permitted.
- (2) Streamers, pennants, ribbons, balloons and other inflatable objects, spinners or other similar devices shall not be constructed, posted or erected. Exceptions include flags and bunting exhibited to commemorate national patriotic holidays and temporary banners announcing charitable or civic events.
- (3) 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 article.
- (4) 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.
- (5) 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.
- (6) Except as expressly provided for elsewhere in this article, off-premises signs are prohibited.
- (7) 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.
- (8) No sign shall obstruct or impair traffic visibility for the motorist at a street corner, intersection or driveway entrance or exit.
- (9) No sign shall be placed on Town property or within the right-of-way of the Town without approval from the Select Board.

C. Measurement of sign area.

- (1) 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.
- (2) 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.
- (3) 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.
- (4) In computing the area of signs with two 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.

D. Illumination of signs. The following standards apply to all signs illuminated internally or externally by electric power:

- (1) Lighting shall be steady and not moving or intermittent or designed to attract attention by a change in intensity or by repeated motion.
- (2) Any illumination provided shall be white only.
- (3) 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.
- (4) No sign shall constitute a hazard to pedestrian or vehicular traffic because of the intensity or direction of illumination.

E. Sign permits. Except as expressly provided for under § 250-12.4, no sign shall be erected, altered, or relocated in any zoning district without first obtaining a permit from the Building Official.

## § 250-12.4. 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 Official, provided such signs comply with the general requirements of this Zoning Bylaw. Such signs are not included in computing total sign area allowed by any part of this section.

- A. Signs displaying the street number and/or name of the occupant of the premises. Such signs shall not exceed three square feet and may be attached to the building or may be on a post located behind the property line.
- B. Incidental signs.
- C. Signs necessary to warn of danger such as "High Voltage." Signs necessary to prohibit trespassing and hunting that do not exceed two square feet in area may be posted, not to exceed one sign per 50 feet of frontage.
- D. Signs erected or posted or maintained for public safety and welfare pursuant to any governmental function, law or other regulation.
- E. Temporary signs advertising property for sale or lease shall be permitted, provided:
  - (1) Only one sign shall be erected and it shall not exceed six square feet in area.
  - (2) Such signs shall be located only on the property for sale or lease.
  - (3) The sign shall be removed within 15 days of sale or lease.
- F. 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 square feet in surface area.
- G. Political signs, providing that:
  - (1) Such signs are permitted only on private property.
- H. Decorative flags of a noncommercial nature displayed accessory to a residential use.
- I. Window signs, provided that such signs shall not exceed 25% of the total window area in which they are displayed.
- J. 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.
- K. 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 § **250-12.9B**.

## § 250-12.5. Residential districts.

In all residence districts, signs that comply with the provisions hereinafter set forth are permitted. Unless otherwise specifically provided elsewhere in this Article **XII**, all other signs are expressly prohibited.

- A. Bulletin boards or signs not to exceed six 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 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.

- B. Real estate sign of not over six square feet in area advertising the sale of real estate in a subdivision or real estate development under written annual permits from the Building Official.
  - (1) 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.
  - (2) 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.
  - (3) 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 Official.
- C. 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 § **250-12.5B**, subject to written approval of the Planning Board.
- D. An announcement sign on any premises for which a special permit has been granted for a rooming house or boardinghouse under § **250-3.5B(8)**, a bed-and-breakfast home under § **250-3.5B(10)**, a home professional office under § **250-3.5B(12)**, a home occupation under § **250-3.5B(13)** or a family day care home under § **250-3.5B(14)**, not larger than 18 inches by 24 inches in size, stating only the name and/or profession/business of the resident.
- E. 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 § **250-12.3D** above.

## § 250-12.6. 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 Article **XII**, all other signs are expressly prohibited.

- A. Signs shall be limited to the name and/or profession of the occupant and the product sold and services rendered on the premises.
- B. 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 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.
- C. The total area of a sign or signs affixed to a building shall be limited to one sign per occupant, not to exceed 12 square feet for the first 40 feet of building frontage, plus two square feet for each additional 10 linear feet of frontage on the street.
- D. 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 hereinbefore referred to, there may be one directory sign not to exceed an area of 12 inches by 18 inches for each additional occupant of the premises. Incidental signs without advertising, not to exceed 1/2 square foot in area, are permitted in addition to the above signs.
- E. 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 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 Official for the purpose of protecting the safety of the public.

- F. 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 § 250-12.3D above. Internally illuminated or back-lit signs are prohibited. No sign shall be illuminated between the hours of 11:00 p.m. and 6:00 a.m. unless the business is open for sales or service at the time.

## § 250-12.7. 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 Article **XII**, all other signs are expressly prohibited.

A. Signs may be either affixed to the building or freestanding.

B. Affixed signs.

- (1) Signs attached to a building must be securely affixed to, parallel with and not project more than 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.
- (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 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 Official for the purpose of protecting the safety of the public.
- (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 § 250-12.7B(4).
- (4) The total area of a sign or signs affixed to a building shall not exceed 10% of the area of the building frontage wall, not to exceed a maximum of 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 roofline 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.

C. Freestanding signs.

- (1) No part of a freestanding sign is to be located closer than 10 feet to the property line.
- (2) A freestanding sign shall be no taller than the height of the principal building/structure or 20 feet, whichever is the lesser.

- (3) The total area of a freestanding sign shall not exceed 1/3 of a square foot for each linear foot of frontage, not to exceed a maximum of 100 square feet.
- (4) Not more than one freestanding 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 additional freestanding sign if such additional sign is determined necessary due to the specific combination of uses on the lot.
- (5) The provisions of § **250-12.7C(4)** notwithstanding, a freestanding, 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 square feet maximum and shall not exceed six feet in height.
- (6) Freestanding signs may be lighted on both sides. Any illumination provided for signs shall conform to the requirements of § **250-12.3D** above.

D. Boston Road Business Corridor enhancement signs.

- (1) Boston Road Business Corridor enhancement signs may be erected and maintained in the General Business (GB) District and Industrial-Professional Office Park -General Business District (I-POP-GB) District by special permit from the Planning Board.
- (2) The application for the special permit must contain a plan of proposed sign locations, sign design, pole design and placement.
- (3) The sign permit application shall contain proof of easement rights for the pole sign and maintenance access.
- (4) The placement of poles and signs is to be done without obstructing views or creating safety hazards.

## § 250-12.8. 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:

- A. There may be not more than one 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.
- B. The Planning Board may require a sign master plan in accordance with § **250-12.11** if multiple buildings are to be located together in a development on the same lot or if two or more developments on contiguous lots are to share a common entranceway.

## § 250-12.9. Additional standards for specific sign types.

A. Canopy signs.

- (1) 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.
- (2) Canopy signs may be located only on the first floor level.
- (3) The canopy sign area shall not exceed 25% of the total surface of the canopy.
- (4) The canopy shall be restricted to a maximum of two colors: background color with letters and related graphics in a contrasting color.

(5) Canopy signs may be illuminated.

B. Special event signs.

(1) A sign permit is required from the Building Official 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 30 consecutive days.

(2) Special event signs may not exceed 20 square feet in area.

(3) Pennants, movable signs, balloons and other inflatable items are not permitted as a special event sign.

(4) No part of a special event sign can be higher than the roofline at the eaves of the adjacent building on the lot or 20 feet, whichever is less.

(5) 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 is 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.

(6) 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.

C. Directory signs.

(1) Directory signs may be freestanding 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.

(2) Directory signs shall not exceed six feet in height and 24 square feet in sign area.

(3) 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 Official will review the application with the Planning Board.

D. Menu board signs.

(1) Menu board signs may be freestanding 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.

(2) Only one menu board sign may be erected on the premises of a food service establishment.

(3) Menu board signs shall not exceed six feet in height and 30 square feet in area.

(4) The design, size, location and lighting of the menu board sign must be approved by the Planning Board.

## § 250-12.10. Off-premises signs.

A. Street banner signs. A banner sign may be placed above or across a public way with the written permission of the Select Board upon such terms and conditions as the Board shall determine.

B. 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 Select Board upon such terms and conditions as the Board shall determine.

C. 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.

- (1) The size and design of the sign shall:
  - (a) Not exceed 36 inches in total width;
  - (b) Not exceed 24 inches in total height;
  - (c) Not exceed seven feet in entire height if placed on a single pole;
  - (d) Not exceed 42 inches in entire height if placed closed to the ground on double poles;
  - (e) Shall be set back 10 feet from the edge of the travelled way;
  - (f) Shall be consistent with the character of the surrounding area.
- (2) Identification signs can be lighted. Hours and type of lighting will be part of the special permit process.
- (3) The application for the special permit shall be accompanied by the following:
  - (a) A plot plan showing sign location.
  - (b) Design plans and sizes.
  - (c) Lighting plans.
  - (d) Written permission from the landowner of property where sign is to be located.
  - (e) 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.

## § 250-12.11. Sign Master Plan.

Where groups of three or more commercial or industrial units are to be located together in a development on the same lot or where two 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.

- A. 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.
- B. Signs should be appropriate to the types of activities they represent.
- C. The layout of signs should be orderly and graphics should be of simple shape, such as rectangle, circle or oval.
- D. 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.
- E. 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.

- F. 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.
- G. Height and physical placement shall be consistent throughout the master-planned area.
- H. 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.
- I. 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.

## § 250-12.12. Nonconforming signs.

- A. Continuance. A nonconforming sign lawfully existing at the time of adoption or subsequent amendment to this article may continue, although such sign does not conform to the provisions of this article.
- B. 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 article. Any sign which has deteriorated to such an extent that the cost of restoration would exceed 35% of the replacement cost shall not be repaired, rebuilt or altered except to conform to the requirements of this article.
- C. Replacement. Any sign replacing a nonconforming sign shall conform with the provisions of this article, and the nonconforming sign shall no longer be displayed.

## Article XIII. Land Use Review Procedures

### § 250-13.1. General provisions.

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 § **250-3.4** or any other applicable section of this bylaw until the provisions of this article have been fulfilled and a site plan approved by the appropriate authority as set forth herein.

### § 250-13.2. Preapplication 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 Bylaw and the established planning goals of the Town.

### § 250-13.3. 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:

- A. The name and address of the project, date, North arrow, and graphic scale;

- B. The name and address of the owner of record; developer; and seal of the engineer, architect, landscape architect and/or land surveyor;
- C. The location and boundaries of the lot, easements, adjacent streets, ways, or other matters of record;
- D. The location and names of owners of all adjacent properties within 300 feet of the property line;
- E. Existing and proposed topography at two-foot contour intervals, including the location of wetlands, streams, water bodies, drainage swales, areas subject to flooding, and unique natural land features;
- F. 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 50 feet of the development site;
- G. The location of parking and loading areas, driveways, walkways, access and egress points;
- H. 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;
- I. The location, dimensions, height and characteristics of proposed signs;
- J. The location, type and intensity of proposed and existing lighting;
- K. Proposed landscaping features, including the location and description of buffers, screening, fencing and plantings, including the size and type of plant materials;
- L. Location and type of monumentation at property corners;
- M. Zoning district boundaries, lot area, frontage, setbacks, and other zoning requirements;

## § 250-13.4. Site plan design guidelines and 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:

- A. Preservation of the landscape.
  - (1) The landscape shall be preserved in its natural state insofar as practicable by minimizing tree, soil, and vegetation removal and minimizing the use of wetlands, steep slopes, hilltops and floodplains;
  - (2) Special care shall be taken to preserve unique or important natural, historic or scenic features.
- B. 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.
- C. 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.
- D. Vehicular and pedestrian circulation.
  - (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.

- (2) The location and number of cuts shall be such to minimize turning movements and hazardous exits and entrances.
- (3) The location and design of parking spaces, drive aisles, loading areas and sidewalks shall be provided in a safe and convenient manner.
- (4) Provision for access to adjoining properties shall be provided as appropriate.
- (5) Where possible and practicable, driveways located in commercial and business districts shall be located opposite each other.
- (6) Joint-access driveways between adjoining driveways shall be encouraged, subject to Planning Board approval.

E. Surface water drainage.

- (1) The proposed drainage system within and adjacent to the site shall be adequate to handle the increased runoff resulting from the development.
- (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.
- (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.

F. Utility service.

- (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.
- (2) The development shall not place excessive demands on Town services or infrastructure.
- (3) Electric, telephone, cable television and other such lines and equipment shall be underground where practical and environmentally feasible.

G. 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.

H. Screening and landscaping.

- (1) Landscaped buffer strips shall be provided where required by this bylaw and shall conform to the requirements of § **250-10.2** to shield the business and light industrial uses of land from any adjoining residential property.
- (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.
- (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.

I. Compliance with this bylaw. 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 bylaw.

## § 250-13.5. Site plan approval.

Site plan approval is hereby enacted to further accomplish the purposes set forth in § **250-1.2** of this bylaw 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 bylaw and does not result in a detriment to the neighborhood, community or environment.

A. 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 § **250-3.4** until the provisions of this section have been fulfilled and an application for site plan approval approved by the Planning Board.

- (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 bylaw or MGL c. **40A** and shall file a copy of said rules and regulations with the Town Clerk.
- (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.
- (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 Bylaw 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.

B. 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 § **250-13.3**.

- (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.
- (2) Misrepresentation of any of the required site plan items shall be cause to revoke site plan approval.

C. Review procedure.

- (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 Official, 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 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.
- (2) After giving proper legal notice, the Planning Board shall hold a public hearing within 65 days of the receipt of application and after due consideration shall take final action within 90 days from the time of the hearing.

D. Decision of the Planning Board. The Planning Board shall render a decision within 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 MGL c. **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:

- (1) Approval of the site plan based on a determination that the proposed project meets the requirements of this section.

- (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.
- (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 site ways.
  - (d) Requirements to minimize any environmental degradation during construction.
  - (e) Other conditions designed to ensure compliance with the criteria and guidelines of § **250-13.4**.
- E. 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.
- F. Expiration. Any site plan approved under this section shall expire in two years if substantial and continuous construction has not begun by such date.
- G. Appeal. Decisions of the Planning Board regarding site plan approval may be appealed as set forth in MGL c. 40A, § 17.
- H. 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.
- I. Violations. Violations of the approved site plan or conditions of approval shall be subject to § **250-15.3** of this bylaw.

## § 250-13.6. 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 bylaw.

- A. 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 § **250-3.3** or any other applicable section of this bylaw until the provisions of this section have been fulfilled and an application for a special permit approved by the appropriate special permit granting authority.
- B. Special permit granting authorities.
  - (1) The special permit granting authority shall be either the Planning Board, the Board of Appeals, or the Select Board of the Town of Wilbraham, as specified herein.
  - (2) Special permits shall be issued by the special permit granting authority according to the provisions of MGL c. 40A, § 9.

- (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 bylaw or MGL c. **40A** and shall file a copy of said rules and regulations with the Town Clerk.
- C. 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 § **250-13.3**.
- (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.
  - (2) Misrepresentation of any of the required site plan items shall be cause to revoke a special permit.
- D. Review.
- (1) Upon receipt of an application for a special permit, the special permit granting authority shall transmit copies thereof to the Building Official, 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 it deems appropriate.
  - (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 65 days of the effective date of filing of a special permit application.
  - (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 bylaw and the specific design standards set forth in § **250-13.4**.
  - (4) The special permit granting authority shall take final action on an application within 90 days following the public hearing. Failure to do so shall constitute approval.
- E. Required findings. Where a special permit may be authorized by the special permit granting authority under this bylaw, said authority may grant, upon written application, such special permit if it finds, when applicable, that:
- (1) The proposed use is in harmony with the general purpose and intent of this bylaw;
  - (2) The proposed use is suitably located in the neighborhood in which it is proposed and/or the entire Town;
  - (3) The proposed use is reasonably compatible with the character and scale of other uses permitted in the same district;
  - (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;

- (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;
- (6) Adequate and appropriate facilities will be provided for the proper operation of the proposed use;
- (7) The proposal will be in conformance with the sign regulations of Article **XII**;
- (8) The proposal conforms to the off-street parking and loading requirements of Article **XI** and provides adequate space for off-street parking and unloading of vehicles;
- (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;
- (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;
- (11) The proposed use complies with all other additional special permit criteria or zoning requirements imposed on the use by other sections of this bylaw.

F. Granting of special permits.

- (1) The granting of special permits shall be completely discretionary with the special permit granting authority.
  - (a) The Board of Appeals or Select Board, when acting as the special permit granting authority, shall, in order to render a favorable decision, have three of the three 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 of the five members voting affirmatively.
- (2) No special permit shall authorize a use expressly prohibited by this Zoning Bylaw.

G. 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:

- (1) Front-, side- and rear-yard setbacks greater than the minimum required in this bylaw.
- (2) Limitations of size, number of occupants, method or time of operation or extent of facilities.
- (3) Additional parking, loading or traffic requirements beyond the minimum required in this bylaw.
- (4) Measures to protect against environmental pollution.
- (5) Performance security to ensure that the project meets the conditions specified in the special permit.
- (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.

H. Expiration. A special permit issued pursuant to § **250-13.6F** shall lapse if substantial and continuous usage or construction has not commenced within two years. The two-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 permit.

I. Modification, amendment or renewal.

- (1) 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.

- (2) 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.
  - (3) 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.
- J. Enforcement. Violations of the conditions of special permit approval shall be subject to enforcement action as provided in § **250-15.3** of this bylaw.

## Article XIV. Mixed-Use Development Regulations

### § 250-14.1. Purpose.

It is the purpose of article 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 article 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.

### § 250-14.2. Special permit granting authority.

The Planning Board shall be the special permit granting authority for all mixed-use developments as defined by § **250-1.3** in conformance with the procedures specified in Article **XIV** and § **250-13.6**. Such mixed-use development shall be subject to rules and regulations and criteria as officially promulgated by the Planning Board.

### § 250-14.3. Application and 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 Bylaw 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 § **250-13.6** of this Zoning Bylaw with respect to procedures for public hearings, conduct of review, findings, and actions.

## § 250-14.4. Use regulations.

- A. 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.
- B. The following uses may be allowed in a mixed-use development with the approval of a special permit granted by the Planning Board:
  - (1) Any use permitted by right or special permit in the underlying zoning district as specified in the Schedule of Use Regulations table in § **250-3.4** of this Zoning Bylaw;
  - (2) Residential apartments and multifamily dwellings;
  - (3) Artist live/work space; and
  - (4) A use not specifically allowed in the underlying zoning district per § **250-14.4B(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 § **250-14.4** and will be in harmony with the purpose and intent of this article of the Zoning Bylaw.

## § 250-14.5. 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 article of the Zoning Bylaw.

## § 250-14.6. 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.

## § 250-14.7. Findings.

A special permit may be issued under this article if the Planning Board finds that the proposed mixed-use development is in harmony with the purpose and intent of this article of the Zoning Bylaw 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 article and the design criteria and performance standards established thereto; and
- H. Satisfaction of any other standards as determined by this special permit granting authority.

## § 250-14.8. Conditions for approval; performance security.

- 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.

## Article XV. Administration and Enforcement

### § 250-15.1. Enforcement authority.

- A. This bylaw shall be enforced by the Building Official, who shall be appointed by the Select Board.
- B. The Building Official shall approve no applications for permits required under this bylaw 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 bylaw. 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 bylaw, the Building Official shall issue no permit except in accordance with the written decision of said Board.
- C. The Building Official shall have full authority to prosecute in any court of competent jurisdiction any action, suit or proceeding for the enforcement of this bylaw, and the Building Official shall have all powers vested by MGL c. **40A** relative to the Zoning Enforcement Officer.

### § 250-15.2. Plans and permits.

- A. No tent, no foundation, no building, and no structure shall be erected or substantially altered without a building permit issued by the Building Official. 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 Official.
- B. No building permit shall be issued until the following requirements are met:
  - (1) 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.
  - (2) Duplicate plans of the proposed buildings or structures with sufficient detail to show conformity to this bylaw.
  - (3) All corners of the lot marked with iron pins or stone bounds.
  - (4) Approved percolation test under Board of Health rules and regulations.

- (5) The above requirements may be modified or waived where, in the judgment of the Building Official, 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 this Zoning Bylaw.
  - (6) A building permit which involves construction shall be valid for a period of six 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-month period the permit shall expire. If the permit lapses and a new permit is issued on substantially the same plans, the Building Official may waive the building permit fee for that second submission.
- C. No newly erected or altered structure for which a building permit is required under this bylaw shall be occupied or used without an certificate of occupancy, which permit shall be applied for in writing to the Building Official before the building is occupied. It shall be signed by the Building Official and shall be issued when the building and its uses and accessory uses comply in all respects with this bylaw. 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 bylaw, may not hereafter be used for living purposes without a certificate of occupancy.

## § 250-15.3. Violations and penalties.

All persons who violate this Zoning Bylaw shall be subject to fines imposed pursuant to the following rules and specifications:

- A. For each violation of the Zoning Bylaw, a fine shall be imposed, subject to the following rules and specifications:
- (1) 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 Bylaw.
  - (2) 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.
  - (3) 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 bylaw, which date shall not be less than seven days from receipt of said notice and which shall also contain reference to each specific section of this bylaw which is being violated, together with a statement of the penalty for said violation.
  - (4) Unless otherwise provided in this bylaw, the penalty for each offense shall be \$300. Each day that a violation continues shall be deemed a separate offense. Each separate violation of any section of this bylaw, as listed in said notice, shall also constitute a separate offense.<sup>[1]</sup>
- [1] *Editor's Note: Amendment pending.*
- B. In addition to the procedures for enforcement as described above, the provisions of this bylaw, the conditions of a permit granted under this bylaw or any decision rendered by the Zoning Board of Appeals or Planning Board under this bylaw may be enforced by the Building Official by noncriminal complaint pursuant to the provisions of MGL c. 40, § 21D. The fine for any violation disposed of through this procedure shall be \$300 for each offense. Each day such violation continues shall be deemed a separate offense.<sup>[2]</sup>

[2] *Editor's Note: Amendment pending.*

## § 250-15.4. Planning Board.

- A. There shall be a Planning Board consisting of five members, one of whom shall be elected each year for a term of five years.
- B. Pursuant to MGL c. 40A, § 9, and Chapter 40, Article I, of the General Bylaws of the Town of Wilbraham, there may also be appointed one associate member authorized to serve as an alternate voting member on special permit applications.
  - (1) The associate member shall be nominated by the Planning Board and appointed by majority vote of the Planning Board and the Select Board in accordance with the provisions of MGL c. 41, § 81A.
  - (2) The associate member shall be appointed for a three-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 § 250-15.4B(1).
  - (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.
  - (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 nonvoting member in discussions and other matters before the Board.
- C. 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 bylaw, including the establishment of reasonable administrative fees and application fees as well as project review fees as authorized by MGL c. 44, § 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.

## § 250-15.5. Board of Appeals.

- A. Establishment. There shall be a Board of Appeals consisting of three 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 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.
- B. Powers and duties.
  - (1) To hear and decide applications for special permits upon which the Board is empowered to act by this bylaw.
  - (2) To hear and decide petitions for variances from the terms of this bylaw 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 all of the following:
    - (a) A literal enforcement of the provisions of this bylaw 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.
- (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 MGL c. 40A; 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 Official or other administrative official, in violation of any provision of MGL c. 40A or this bylaw as adopted thereunder.
- (4) To issue comprehensive permits as authorized by MGL c. 40B, §§ 20 to 23.
- (5) To issue building permits withheld by the Building Official under MGL c. 41, § 81Y.
- C. 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 bylaw, including the establishment of reasonable administrative fees and application fees as well as project review fees as authorized by MGL c. 44, § 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.

## § 250-15.6. Amendment.

- A. This Zoning Bylaw may be amended from time to time at an Annual or Special Town Meeting in accordance with the provisions of MGL c. 40A, § 5, as amended.
- B. A proposed amendment to this bylaw may be initiated by the Select Board, 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 MGL c. 39, § 10.
- C. The Planning Board, after giving proper legal notice, shall hold a public hearing for the consideration of any amendment to this bylaw and shall report to Town Meeting its recommendations as to what action should be taken. Petitioners seeking to amend the Zoning Bylaw 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.

## § 250-15.7. Repetitive petitions before Town Meetings.

No proposed bylaw making a change in this Zoning Bylaw which has not been favorably acted upon by the Town Meeting shall be considered on its merits by the Town Meeting within two years of the date of such action unless adoption of such proposed bylaw is recommended in the final report of the Planning Board, as required by the General Laws.

## § 250-15.8. Repetitive petitions before Board of Appeals.

No appeal or petition for a variance from the terms of this bylaw with respect to a particular parcel of land and no application for a special exception to the terms of this bylaw which has been unfavorably acted upon by the Board of Appeals shall be considered on its merits by said Board within two years of the date of such unfavorable action except with the consent of all the members of the Planning Board.

## § 250-15.9. Repealer.

Any existing bylaw or any parts thereof inconsistent with this bylaw are hereby repealed.

## § 250-15.10. Severability.

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof.

ZONING

*250 Attachment 1*

**Town of Wilbraham**

**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 15 feet in diameter and two 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

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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

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ZONING

*250 Attachment 2*

**Town of Wilbraham**

**Appendix C  
Scenic Road Designation  
[Amendment pending]**

In order to preserve the qualities and character of the Town's ways, the following are designated as scenic roads under the provisions of MGL c. 40, § 15C:

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)

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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; provided, however, that a numbered route may be designated by a city or town as a scenic road if its entire length is contained within the boundaries of said city or town, and no part of said route is owned or maintained by the commonwealth.

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, or if there is no planning board, the selectmen of a town, or the city

## WILBRAHAM CODE

council of a city, 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; provided, however, that when a public hearing must be held under the provisions of this section and under section three of chapter eighty-seven prior to the cutting or removal of a tree, such hearings shall be consolidated into a single public hearing before the tree warden and the planning board, or if there is no planning board, the selectmen of a town, or the city council of a city, and notice of such consolidated public hearing shall be given by the tree warden or his deputy as provided in said section three of chapter eighty-seven. Any city or town making said scenic road designation may make an ordinance or by-law establishing that a violation of this paragraph shall be punished by a fine not to exceed three hundred dollars.

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.