

# ZONING BYLAW



## PAXTON, MASSACHUSETTS

March 19, 2001

Amendments:  
November 5, 2001  
June 3, 2002  
September 9, 2002  
June 24, 2003  
April 4, 2005  
May 2, 2011  
May 7, 2012  
May 5, 2014  
May 1, 2017  
May 6, 2019

**ZONING BYLAW**

**TOWN OF PAXTON, MASSACHUSETTS**

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# TOWN OF PAXTON, MASSACHUSETTS

## SECTION 1. GENERAL

### 1.1 Authority

This “Zoning Bylaw of the Town of Paxton, Massachusetts,” hereafter called “this Bylaw” is adopted pursuant to the authority granted by M.G.L. Chapter 40A (known as “The Zoning Act”).

### 1.2 Purpose

This Bylaw is adopted for the following purposes: to lessen congestion in the streets; to conserve the public health; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to encourage housing for persons of all income levels; to facilitate the adequate provision of transportation, clean water, stormwater drainage, sewage disposal, schools, parks, open space, and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the Town of Paxton, including consideration of the most recent Master Plan adopted by the Planning Board; and to preserve and increase amenities by the promulgation of regulations to fulfill such purposes.

### 1.3 Definitions

In this Bylaw, words used in the present tense include the future tense, the singular includes the plural, the plural the singular; the words “lot,” “land,” and “premises,” shall be construed as though followed by the words, “or any portion thereof,” and the word “shall” is always mandatory and not merely directory. The following words and phrases, unless a contrary meaning is required by the context or is specifically prescribed, shall have the following meanings. Where terms are not defined, such terms shall have the ordinarily accepted meaning such as the context implies.

**Abandonment:** The visible or otherwise apparent intention of an owner to discontinue a nonconforming use of a building or premises; including, but not limited to the removal of characteristic equipment or furnishings, or the replacement of the nonconforming use with a conforming use.

**Accessory Use:** A subordinate use of the premises, a building, other structure, or land incidental to, subordinate to, and located on the same lot with the principal use building, other structure or principal use (or located on a lot adjacent to such lot, if in the same ownership), and which does not constitute in effect, conversion of the principal use of the premises to one not permitted.

**Accessory Use Building or Structure:** A detached building or structure, the use of which is incidental and subordinate to that of the principal use building, and which is located on the same lot with the principal use building or principal use (or located on a lot adjacent to such lot, if in the same ownership) and not for human habitation.

**Adult Bookstore:** An establishment having as a substantial or significant portion of its stock in trade, books, magazines and other matter which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L. c. 272, § 31.

**Adult Motion Picture Theater:** An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. c. 272, § 31.

**Adult Paraphernalia Store:** An establishment having as a substantial or significant portion of its stock, devices, objects, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in M.G.L. c. 272, § 31.

**Adult Video Store:** An establishment having as a substantial or significant portion of its stock in trade, videos, movies, or other film material which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. c. 272, § 31.

**Attic:** The space between the ceiling beams of the top of a habitable story and the roof rafters. An attic shall not be deemed to be a story if unfinished and not habitable.

**Base Flood Elevation:** The flood having a one percent (1%) chance of being equaled or exceeded in any given year and shall be used to define areas prone to flooding, and describe at a minimum, the depth or peak elevation of flooding.

**Basement:** The portion of a building, partly below grade, which has more than one-half (1/2) of its clear height, measured from finished floor to finished ceiling, above the average finished grade plane. A basement shall not be deemed a story unless its finished ceiling is six (6) feet or more above the established grade plane.

**Bed and Breakfast Inn:** A use in which overnight accommodations of not more than five (5) rooms are provided to tourists for compensation. The only meal to be provided shall be breakfast, and it shall only be served to guests taking lodging in the building.

**Boarding House:** A building arranged or used for lodging for compensation, with or without meals, and not occupied as a single dwelling unit.

**Board of Appeals:** The Zoning Board of Appeals of the Town of Paxton, Massachusetts, also referred to as the ZBA.

**Building:** Any structure having a roof for the shelter, housing and enclosure of persons, animals, or property of any kind. For the purpose of the definition, “roof” shall include an awning or any similar covering, whether or not permanent in nature.

**Building Commissioner:** The administrative chief of the building department in the Town of Paxton who is charged with the administration and enforcement of this bylaw and shall act as the Zoning Enforcement Officer and the Sign Officer in addition to the administration and enforcement of the Massachusetts State Building Code (780 CMR). (Also referred to as Inspector of Buildings and Building Code Enforcement Official).

**Cellar:** See Story, Above Grade.

**Certificate of Use and Occupancy:** The final permit required from the Town before any use of a building, premises or structure may be used or occupied. It is issued by the Building Commissioner as a means of assuring that all zoning requirements have been met and/or work has been completed, in accordance with approved plans and specifications. It certifies compliance with provisions of law for the use and occupancy of the premises and/or structure in its several parts together with any special stipulations or conditions of the building permit, and that all work conforms to the requirements of all building, zoning and health regulations of the Town.

**Chapter 40A:** Massachusetts General Laws Chapter 40A (known as “The Zoning Act”).

**Commercial Vehicle:** Any vehicle registered for commercial purposes or designed and used primarily for the transportation of goods, wares, and merchandise. Commercial vehicles shall be deemed not to include farm equipment, motor homes, or recreational vehicles such as camping trailers, boats, boat trailers or horse trailers.

**Community Facilities:** Premises owned and operated by a governmental or organization, but not including fraternal, sports, or similar membership clubs.

**Constructed:** Constructed includes the words “built,” “erected,” “reconstructed,” “altered,” “enlarged,” “moved” and “placed.”

**Dog Kennel:** A use with structures, enclosures, or pens in which four (4) or more dogs that are more than six (6) months old are maintained for any purpose.

**Driveway:** An open space located on the lot to be served built for access to an attached or detached garage, or off-street parking or loading space, and which is not more than twenty-four (24) feet in width for residential two and three car garage purposes and not more than thirty (30) feet in width for general business purposes.

**Driveway, Common:** A driveway which provides access to more than one (1) lot, each of which has at least the minimum frontage required by this Bylaw. A common driveway does not qualify as a street for determining frontage under this Bylaw. Common driveways are prohibited in Paxton.

**Dwelling:** A building, or any part thereof, and its attendant premises, containing accommodations for permanent human occupancy.

**Dwelling, Single Family Detached:** A building consisting of one (1) dwelling unit, occupying one (1) lot.

**Dwelling Unit:** A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

**Established Finish Grade (Grade Plane):** A reference plane representing the average of established finished ground level adjoining the building at all exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and a point six feet perpendicular from the building.

**Establishment Which Displays Live Nudity for its Patrons:** Any establishment which provides live entertainment for its patrons, which includes the display of nudity, as that term is defined M.G.L. c. 272, § 31.

**Family:** A single individual doing his or her own cooking, and living on the premises as a separate housekeeping unit, or a collective body of persons doing their own cooking and living together on the premises as a separate housekeeping unit in a domestic relationship based upon birth, marriage or other domestic bond.

**Front Lot Line:** The property line dividing a lot from a street. On a corner lot, the owner shall designate one street line as the front lot line.

**Frontage, Lot:** The horizontal distance measured along the front lot line between the points of intersection of the side lot lines with the front lot line. The minimum required frontage shall be uninterrupted and continuous along one street. For corner lots, frontage shall be measured between one side lot line and the mid-point of the corner radius.

**Frontage Street:** A street to which the owner of the lot has a legal right of access and which provides the required lot frontage.

**Gross Vehicle Weight:** The total weight of a loaded vehicle, including chassis, body, and payload.

**Habitable Room:** Any room meeting the requirements of the Massachusetts State Building Code (780 CMR) for sleeping, living, cooking, or dining purposes.

**Half (1/2) Story:** A story in a sloping roof, the area of which story at a height five feet (5) above the (habitable) floor does not exceed two-thirds (2/3) the floor area of the story immediately below it, shall be counted as a half (1/2) story.

**Height (Building):** The vertical distance measured from the finished established grade plane to the highest point of the roof surface for flat roofs, to the deck line of mansard roofs, and to the average (mean) height of that portion between eaves and ridge for gable, hip, and gambrel sloped roofs.

**Home Business:** An occupation, office or profession that is carried on within a dwelling unit or a building accessory thereto by the occupants, regularly has customers or clients coming to the premises, and has no more than one (1) non-resident employee at any one time. Examples of home businesses include an antique, handicraft, or gift shop, a tea room or other place for the serving of home-cooked meals; an office or studio for a resident artist, musician or teacher for the conduction of regular class instruction; or use of an accessory building by a resident builder, carpenter, painter, plumber, or other artisan for incidental work and storage in connection with his off-premises trade.

**Home Occupation:** An occupation, office or profession that is customarily carried on entirely within a dwelling and not within an attached or detached structure; that is carried on only by the occupants of the dwelling, that is clearly incidental and secondary to the use of the dwelling for residential purposes, that does not have customers and clients coming to the premises, and that does not alter the exterior of the property or affect the residential character of the neighborhood.

**Independent Testing Laboratory:** A laboratory that is licensed by the Cannabis Control Commission and is: (i) accredited to the most current International Organization for Standardization 17025 by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Cooperation mutual recognition arrangement or that is otherwise approved by the Cannabis Control Commission; (ii) independent financially from any medical marijuana treatment center or any licensee or marijuana establishment for which it conducts a test; and (iii) qualified to test marijuana in compliance with regulations promulgated by the Cannabis Control Commission.

**Irregular Lot:** A lot which has more than (4) lot lines and which, in the opinion of the Planning Board, is so located shaped or oriented, that the general measurement of yard requirements are impractical and the location of the front, side, and rear yards are not related to the adjacent yard patterns of a regular lot. (See section 4.4.4)

**Loading Space:** An off-street space used for loading or unloading, not less than twelve (12) feet in width, fourteen (14) feet in height, and of such a length that a truck or trailer occupying such space shall be located entirely on the lot with the building it is to serve, and does not extend into any part of the public right-of-way or the sidewalk or street.

**Marijuana Cultivator:** An entity licensed to cultivate, process, and package marijuana, to deliver marijuana to marijuana establishments, and to transfer marijuana to other marijuana establishments, but not to consumers.

**Marijuana Establishment:** Marijuana Cultivator, Independent Testing Laboratory, Marijuana Product Manufacturer, Marijuana Retailer, or any Other Type of Licensed Marijuana-Related Business.

**Marijuana Product Manufacturer:** An entity licensed to obtain, manufacture, process, and package marijuana/marijuana products, to deliver marijuana and marijuana products to marijuana establishments, and to transfer marijuana and marijuana products to the other marijuana establishments, but not to consumers.

**Marijuana Products:** Products that have been manufactured and contain marijuana or an extract of marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, and tinctures.

**Marijuana Retailer:** An entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments to consumers.

**Membership Club:** A social, sports or fraternal association or organization, which is used exclusively by members and their guests.

**Non-Conforming Use:** A use lawfully existing at the time this Bylaw or any amendments thereto becomes effective, but which does not conform to the regulations so adopted under this Bylaw or any amendments thereto, as the case may be.

**One (Single) Family Dwelling:** A detached building designed for, or occupied exclusively by one family.

**Open Lot Storage:** A location providing storage, handling, processing or storing of lumber or other used or new building materials, metals, junk, scrap, paper, rags, tires, appliances, equipment, unclean containers, uncovered and/or overflowing refuse; barrels, dumpsters, containers or other articles of salvage; wrecking and/or dismantling of motor vehicles or equipment, but not limited thereto.

**Other Type of Licensed Marijuana-Related Business:** A licensed marijuana establishment other than a marijuana cultivator, independent testing laboratory, marijuana product manufacturer, or marijuana retailer.

**Parking Space:** An off-street space having an area of not less than two hundred (200) square feet plus access and maneuvering space, whether inside or outside a structure for exclusive use as a parking stall for one motor vehicle.

**Personal Service Establishment:** A business whose primary occupation is the repair, care of, maintenance or customizing of personal properties that are worn or carried about the person or are a physical component of the person. Personal service establishments shall include, but need not be limited to, a barber shop, beauty parlor, or manicurist; self-service laundry or dry-cleaning pick-up station (with processing done elsewhere); tailor, dressmaker, or shoe repair shop, baker, caterer or confectioner; pet grooming establishment; and other similar uses.

**Planning Board:** The Planning Board of the Town of Paxton, Massachusetts.

**Premises:** One or more contiguous lots in the same ownership or use, together with all buildings and other structures thereon. Where appropriate to the context, "premises" may be use interchangeably with "lot".

**Principal Use:** The main or primary purpose for which a structure or lot is designed, arranged, or intended, or for which it may be used, occupied, or maintained under this Bylaw. Any other uses within the main structure or the use of any other structure or land on the same lot and incidental or supplementary to the principal use and permitted under this Bylaw shall be considered an accessory use.

**Principal Use Building:** A building in which is conducted the principal use of the lot on which it is located.

**Professional Office:** An office for the conduct of business by professionals such as architects, landscape architects, planners, attorneys, dentists, engineers, optometrists, physicians, teachers, surveyors, and others who through training are qualified to perform services of a professional nature.

**Rear Lot Line:** The lot line opposite the front lot line.

**Recorded:** Recorded in the Registry of Deeds of Worcester County, Massachusetts

**Registered Marijuana Dispensary (RMD):** A use operated by a not-for-profit entity registered and approved by the Massachusetts Department of Public Health in accordance with 105 CMR 725.000, and pursuant to all other applicable state laws and regulations, also to be known as a "Medical Marijuana Treatment Center", that acquires, cultivates, possesses, processes (including development of related products such as food, 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. An RMD shall explicitly include facilities which cultivate and process medical marijuana, and which may also dispense and deliver medical marijuana and related products.

**Shed:** An accessory use detached, one story, structure not exceeding 216 square feet of the lot area and 15 feet in height, fully enclosed for allowable storage of personal vehicles, recreational equipment, yard equipment, household and relate equipment and which is not in violation of any of the provisions herein.

**Side Lot Line:** A lot line not a front or rear lot line.



**Special Permit Granting Authority:** The Board of Appeals or Planning Board authorized by this Bylaw to issue special permits. Unless otherwise specified by this Bylaw, the Board of Appeals shall be the Special Permit Granting Authority.

**Story:** A story is that part of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that habitable portion of a building included between the upper surface of the topmost floor and the top of the ceiling joists or, where there is not a ceiling, to the top of the roof above. If a mezzanine floor exceeds one-third (1/3) of the area of the floor immediately below, it shall be deemed to be a story.

**Story Above Grade:** Any story having its finished floor surface entirely above grade except that a basement shall be considered as a story when the finished surface of the floor above the basement is:

- a. More than six feet above grade plane;
- b. More than six feet above the finished ground level for more than 50 percent of the total building perimeter;
- c. More than 12 feet above the finished ground level at any point.

**Street:** A public way, a way maintained by a Municipal or State Highway Department and used as a public way if so certified by the Town Clerk of Paxton, a way shown on a plan approved and endorsed by the Planning Board in accordance with the Subdivision Control Law, and other ways which have, 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 buildings erected or to be erected thereon.

**Structure:** A combination of materials assembled at a fixed location to give support or shelter or for other purposes, including, but not limited to: buildings, frameworks, tents, wells, bridges, stadiums, tennis courts, swimming pools, barns, reception or communication dishes, antennas, towers, monopoles, flagpoles, dog or play houses, detached garages, detached lawn tools or equipment storage sheds, and the like, but excluding signs and fences, stonewalls, hedges or other similar enclosures.

**Through Lot:** An interior lot, the front and rear lot lines of which abut streets, or a corner lot two (2) opposite lot lines of which abut streets.

**Two Family Dwelling:** A detached building designed for or occupied by two families, and so arranged to include both a "double house" in which the dwelling units are side by side, separated by a party wall, or a "duplex house" in which part of one dwelling unit is over part of the other unit. Two family dwellings are prohibited in Paxton.

**Use:** The purpose for which a structure, premises or lot is arranged, designed, or intended to be used, occupied or maintained.

**Use Restriction:** A contract, mortgage agreement, deed restriction, condition of zoning approval, or other legal instrument approved by the Massachusetts Department of Housing and Community Development which effectively restricts occupancy of low and moderate income housing to households at specified low or moderate income level(s) and which provides for effective administration, monitoring and enforcement of such restriction during the term of affordability.

**Wireless Communications Facilities:** The structures and devices designed to facilitate cellular telephone services, personal communications services and enhanced specialized mobile radio services as defined in Section 704 of the Federal Telecommunications Act of 1996. Included are towers, antennas mounted to towers or other structures, and accessory structures that are required for facility operations. This definition shall not include: 1) facilities used by a federally licensed amateur radio operator nor television and satellite dishes that are for non-commercial use; and 2) facilities erected by the Town of Paxton for public safety and communications purposes.

**Yard:** A portion of a lot, upon which the principal use building is situated, unobstructed artificially from the ground to the sky, except as otherwise provided herein.

1. **Front Yard:** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest wall line or portion thereof of the principal building.
2. **Rear Yard:** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest wall line or portion thereof of the principal building.
3. **Side Yard:** An open space between the principal building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point of the side lot line to the nearest point of the principal building.

#### **1.4 Basic Requirements**

Under this Bylaw, any building or any other structure, use of any structure, and any use of land, are hereby prohibited unless herein expressly permitted by right for the district in which the structure or land is located, or except as permitted as a non-conforming use in accordance with Section 1.5 of this Bylaw, or unless permission is obtained from the Board of Appeals as provided in Section 6.2 of this Bylaw.

#### **1.5 Non-Conforming Structures and Uses**

**1.5.1 Continuation of Non-Conforming Structures or Uses.** Any lawful structure, including buildings, or use of a structure or premises, existing at the time this Bylaw or any amendment thereto is adopted may be continued although such structure or use does not conform to the provisions thereof and such structure or use may be extended or altered, provided that no such extension or alteration shall be permitted unless either (i) the extension or alteration is permitted without the need for zoning relief since the extension or alteration is to a single or two family structure and does not increase the nonconforming nature of said structure, or (ii) there is a Finding (see Section 6) by the Board of Appeals that such extension or alteration shall not be substantially more detrimental than the existing non-conforming use or structure to the neighborhood. Notwithstanding the foregoing, no such extension or alteration shall be permitted if such structure has been abandoned for a period of two (2) years or more, or such use has not been exercised for a period of two (2) years or more.

1.5.1.1 The current owner of a structure or premises shall be solely responsible for providing documentation satisfactory to the Building Commissioner to support a determination of the non-conforming nature of the structure or premises.

**1.5.2 Change of Non-Conforming Use:** The Board of Appeals may authorize any lawfully existing non-conforming use to be changed to any specific use not substantially more detrimental than the existing use to the neighborhood.

**1.5.3 Restoration:** A nonconforming structure damaged by fire, explosion, or any other accidental cause may be repaired or reconstructed provided a building permit for such repair or reconstruction is issued within two years from the date of the damage, and the structure as restored or rebuilt shall not be in greater nonconformity with the provisions of this Bylaw.

**1.5.4 Construction or Operations:** Construction or operations under a Building Permit or Special Permit shall conform to any subsequent amendment of this Bylaw, unless the use or construction is commenced within a period of six (6) months after the issuance of the permit, and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

**1.5.5 Single and Two Family Residential Structures:** The alteration, reconstruction, extension or structural change (collectively "alteration") to a non-conforming single or two family residential structure shall not be

considered an increase in the nonconforming nature of the structure and shall be permitted as of right provided such extension or alteration does not increase the nonconforming nature of said structure.

**1.6 Municipal Exemption**

This Bylaw shall not apply to any lot, use, building or structure necessary for use and occupancy by the Town of Paxton or any of its agencies or departments for public or municipal purposes.

## **SECTION 2. ESTABLISHMENT OF DISTRICTS**

### **2.1 Types of Districts**

The Town of Paxton is hereby divided into three (3) classes of districts, which shall be known in the order of restrictiveness (beginning with the most restrictive), as:

General Residence District B (herein designated GRB) also includes Watershed Protection District  
General Residence District A (herein designated GRA)  
Business District (herein designated B)

### **2.2 Location of Districts**

Said districts are located and bounded as shown on a map entitled "Zoning Map for the Town of Paxton," dated March, 2001, and filed with the Town Clerk of Paxton, together with any and all amendments thereto subsequently adopted by the Town. Said map, together with all explanatory matter thereon, shall be deemed to accompany and be a part of this Bylaw.

### **2.3 Boundaries of Districts**

The location of the boundary lines of the districts shown upon the aforesaid map shall be determined as follows:

1. Where a boundary is shown to coincide with a property or lot line and the exact location of said property or lot line is not indicated by means of a figure or otherwise, then the property or lot line shall constitute the district boundary line.
2. Where a boundary is shown upon a street, the district boundary line shall be the centerline of the street, unless otherwise indicated.
3. Where a boundary is shown outside a street and approximately parallel thereto, it shall be taken as parallel thereto, and where a figure on the map indicates the distance between such boundary line and the street, said distance shall be measured between such line and the exterior line of the street, at right angles thereto.
4. The boundary between the General Residence District A and the General Residence District B shall, unless changed by subsequent amendment, be a line drawn in a circle with a radius of fifteen hundred (1,500) feet with the center of such circle being the Soldiers' Civil War Monument in the center of the Town of Paxton, and a strip two hundred and fifty (250) feet wide, measured from the centerline, on both sides of Pleasant Street, southeasterly from the 1500 foot radius at the Town Common to the Worcester City line.
5. In any case not covered by the other provisions of this section, the location of a district boundary shall be determined by the distance in feet, from other lines or points show on the Zoning Map, or if distances are not given, by the scale of said map.
6. Whenever any uncertainty exists as to the exact location of a district boundary line, the location of such line shall be determined by the Building Commissioner of the Town of Paxton.

**SECTION 3. USE REGULATIONS:**

**3.1 Basic Requirements**

Except as provided in the Zoning Act, or in this Bylaw, no building, other structure, or land, shall be used for any purpose except for the purposes permitted in the district as set forth in Section 3.2, Schedule, of this Bylaw, or as otherwise permitted elsewhere in this Bylaw. ANY USE NOT LISTED OR DESCRIBED UNDER THIS BYLAW IS PROHIBITED.

In the following Section 3.2, the uses permitted by right in the district under this Bylaw are designated by the letter (Y). Those uses that may be permitted in the district upon the issuance of a Special Permit therefor, in accordance with Section 6.2.5 of this Bylaw, are designated by the letters (SP). Those uses designated by the letter (N) in a district shall not be permitted in such district. All uses permitted by right, or by Special Permit, shall be subject, in addition to these Use Regulations, to all of the other provisions of this Bylaw.

**3.2 Use Schedule**

The following schedule shall be a part of this Bylaw, and subject to Special Conditions, Section 3.3.

		District		
		GRB	GRA	B
3.2.1	<u>Agriculture</u>			
1)	Farming (agricultural), nursery, garden or greenhouse, selling primarily products or plants raised or produced on the premises and excluding any use injurious, noxious or offensive to the neighborhood	Y	Y	Y
2)	Commercial poultry farms, provided that the buildings housing the poultry be located not less than 200 feet from any street or way, and not less than 100 feet from any adjoining property line	Y	Y	N
3)	Fur farm	SP	SP	N
4)	Raising and keeping of livestock, horses, and poultry on parcels greater than 40,000 sq. ft and less than five (5) acres	SP	SP	SP
3.2.2	<u>Residential</u>			
1)	Detached single family dwelling	Y	Y	Y
2)	Boarding or lodging house	N	N	Y
3)	Trailers or mobile homes	Refer to Sec. 5.1		
4)	Conversion and/or use of a single family dwelling existing on March 8, 1946, as a dwelling for not more than two families, or as a convalescent or nursing home, boarding or lodging house; (subject to Special Conditions 3.3.2.)	SP	SP	SP
5)	Senior Residential Development (See Section 9)	SP	SP	N
6)	Bed and Breakfast Inn, subject to special conditions 3.3.9	SP	SP	SP
7)	Two family dwelling	N	N	N
8)	Temporary Accessory Apartment (See Section 5.9.)	SP	SP	SP

		District		
		GRB	GRA	B
3.2.3	<u>Community Facilities</u> (subject to Special Conditions 3.3.3)			
1)	Church, parish house, or parish school	Y	Y	Y
2)	Nonprofit hospital, or medical clinic	SP	SP	SP
3)	Educational or philanthropic institution	SP	SP	SP
4)	Cemetery, including any crematory therein	SP	SP	SP
5)	Municipal administrative, cultural, recreational, water supply or protective use, operated by the Town of Paxton	Y	Y	Y
6)	Public utility building or facility (including a telephone exchange) with no service yard or garage	Y	Y	Y
7)	Any other municipal use not specifically set forth herein	Y	Y	Y
8)	Historical association or society	Y	Y	Y
9)	Day camp or other camp	SP	SP	N
10)	Country, hunting, fishing or golf club	SP	SP	N
11)	Tennis club	SP	SP	SP
12)	Recreational facility, not including a membership club	SP	SP	SP
3.2.4	<u>Business and Services</u> (subject to Special Conditions 3.3.3 and 3.3.4)			
1)	Retail business, service or public utility, not involving manufacture on the premises except of products, the major portion of which are to be sold on the premises to the consumer and further provided that not more than four (4) workers shall be employed in such manufacture	N	N	SP
2)	Business office or bank	N	N	SP
3)	Restaurant or similar place for the serving of food or beverages (with no mechanical or live entertainment regularly furnished, unless authorized by the Board of Selectmen, or their designated agent), without drive-through windows	N	N	SP
3A)	Fast food restaurant without drive-through windows	N	N	SP
3B)	Fast food restaurant, restaurant or similar place for serving of food and beverage with drive-through windows, but only if the restaurant building is not more than two thousand (2,000) square feet in area.	N	N	SP
4)	Gasoline filling station spaced at least one thousand feet (1,000') from any existing gasoline filling station and with services limited to the dispensing of fuels and lubricants, to car washing, and to incidental minor repairs (such as replacing spark plugs or batteries)	N	N	SP
5)	Service garage or other automobile repair services, including auto body shops	N	N	SP
6)	Personal service establishment	N	N	Y

		District		
		GRB	GRA	B
7)	Animal hospital or clinic	SP	SP	SP
8)	Dog kennel, for the breeding, raising, sale, boarding or training of dogs not owned by the owner or resident of the premises, provided that no dogs therein are kept in any building or enclosure within one hundred fifty feet (150') of any property line, and that the premises contain a minimum of 120,000 square feet	SP	SP	SP
8A)	Dog kennel, for the breeding, raising, sale or training of dogs owned by the owner or resident of the premises, provided that no dogs therein are kept in any building or enclosure within one hundred fifty feet (150') of any property line and that the premises contain a minimum of 40,000 square feet			
	Parcels greater than 5 acres	Y	Y	Y
	Parcels less than 5 acres	SP	SP	SP
9)	Place of amusement or assembly, if conducted wholly within a completely enclosed building	N	N	SP
10)	Hotel, motel, or overnight cabins, if authorized by the Board of Health	N	N	SP
11)	Newspaper or job printing	N	N	SP
12)	Stone quarry	SP	SP	N
13)	Aviation field	SP	SP	N
14)	Radio, television, or communication station or tower, but not including wireless communications facilities subject to Section 8 of this Bylaw.	SP	SP	SP
15)	Riding stables, academy, riding ring, boarding stable, or trails for horses or ponies	SP	SP	SP
16)	Convalescent or nursing home	SP	SP	SP
17)	Funeral home or mortuary establishment	SP	SP	SP
18)	Ski tow	SP	SP	N
19)	Membership club	SP	SP	SP
20)	Commercial parking lot or structure	N	N	SP
21)	Home business, subject to Special Conditions 3.3.5	SP	SP	SP
22)	Private and public golf clubs, provided the same are locate on a parcel or contiguous parcels of land not less than two hundred (200) acres, including the area of any ponds or lakes located thereon	SP	SP	SP
23)	Adult Bookstore, Adult Motion Picture Theater, Adult Paraphernalia Store, Adult Video Store, or Establishment Which Displays Live Nudity for its Patrons, subject to Special Conditions 3.3.8	N	N	SP

		District		
		GRB	GRA	B
24)	Wireless Communications Facilities, on structures in existence as of March 19, 2001, that extend no more than ten feet above the height of the structure	SP	SP	SP
25)	Wireless Communications Facilities, on new towers	SP in Wireless Communications District. See Section 8.		
26)	Registered Marijuana Dispensary	N	N	SP
27)	Marijuana Establishments, Adult Use/Recreational (per Sec. 3.3.14)	N	N	SP
3.2.5	<u>Earth Removal (subject to Section 5.2 regulations)</u>	SP	SP	SP
3.2.6	<u>Accessory Uses:</u>			
1)	Any accessory use on the premises which is a use CUSTOMARILY incidental to any of the principal uses permitted by Right or by Special Permit, in this Section 3.2, and which is not in violation of any of the provisions herein or detrimental to a residential neighborhood, including but not limited to the following: a) private detached garage subject to 3.2.6.6 and subject to Special Conditions 3.3.13 b) private swimming pool c) private tennis court d) private greenhouse e) tool or equipment storage shed f) doghouse g) children's playhouse h) barn subject to Special Conditions 3.3.13 i) flagpole j) birdbath k) driveway l) lamp post m) gazebo n) wishing well o) flower conservatory p) water fountain q) free-standing mail or newspaper delivery box	Y	Y	Y
2)	Home occupation, subject to Special Conditions 3.3.6	Y	Y	Y
3)	The renting of rooms to not more than two (2) persons	Y	Y	Y
4)	The renting of rooms and/or furnishing meals to three (3) or more persons	SP	SP	SP
5)	Attached private garage with the capacity to garage not more than four (4) automobiles	Y	Y	Y



		District		
		GRB	GRA	B
5A)	Attached private garage with the capacity to garage more than four (4) automobiles	SP	SP	SP
6)	Overnight storage or parking of commercial vehicles greater than 19,500 pounds gross vehicle weight, excluding farm vehicles	SP	SP	Y
6A)	The outdoor storage of trailers or construction equipment except during the period of construction on the premises, provided that in residential districts such equipment shall be screened from view from properties by a combination of fencing and vegetation.	SP	SP	Y
7)	Solar energy collector system mounted to the principal building	Y	Y	Y
7A)	Alternative energy system	SP	SP	SP
7B)	Wind energy conversion system subject to Special Conditions 3.3.11	SP	SP	SP
8)	Signs	Refer to Section 5.3		
9)	Scientific research, development or related production, subject to Special Conditions 3.3.7	SP	SP	SP
10)	Vehicle parking, subject to Section 5.4	Y	Y	Y
11)	Common driveway	N	N	N

### **3.3 Special Conditions**

Special conditions shall apply as indicated in Section 3.2, Use Schedule, to such uses as are designed therein as being subject to one or more of the following:

- 3.3.1 In any district, no building or other structure shall be constructed and no structure or premises shall be used for any purpose injurious, noxious, or offensive to a neighborhood by reason of the emission of odor, fumes, dust, smoke, vibration, or noise or other cause.
- 3.3.2 Conversions of a single family dwelling indicated in Section 3.2.2.4 provided that:
1. such dwelling is located on a lot having an area at least twenty-five (25) percent larger than the minimum area for the construction of a building in the same district;
  2. no exterior enlargement is made which, together with any changes made during the preceding five (5) years, increase by more than twenty-five (25) percent the area of the dwelling; and,
  3. no change is made in the external appearance and general aspect of such dwelling which alters its single family character.
- 3.3.3 In a Business District, excluding street lights and lighting of parking lots, lights and other sources of illumination (whether interior or exterior), and all intense light emanating from operations of equipment (such as from acetylene torch) shall be shielded from direct view at a level of five (5) to six and one-half (6½) feet above streets.
- 3.3.4 No filling station, garage, or storage of automobiles; no hotel, motel, or overnight cabins; and no place of amusement or assembly shall be permitted or authorized in any Business District which has an overall length of less than five hundred (500) feet, measured parallel to the street along which said District has its maximum dimension.

**3.3.5 Home Business:** In each case as contained in Section 3.2.4.21, provided that:

1. Such use does not produce noise, vibration, glare, fumes, odors, electrical interference, or other effects, observable at the lot lines in amounts exceeding those normal to residential property.
2. No external change is made which alters the residential appearance of the buildings on the premises.
3. There is no outside display of goods or products, storage of materials, equipment, or regular outside parking of commercial vehicles on the premises.
4. The home business shall be clearly incidental and subordinate to the primary residential nature of the premises. The principal practitioner must be the owner of the premises and maintain his permanent residence in the dwelling.
5. The area utilized for the purpose of the home business shall not exceed twenty-five percent (25%) of the total floor area of the dwelling. Accessory buildings may be used for the home business if the accessory building is in compliance with the setback requirements of the district, but shall not exceed twenty-five percent (25%) of the floor area of the dwelling.
6. Not more than two (2) customers, clients, pupils, or patients for business or instruction shall be present at any one time. Class instruction, music recitals, etc. shall be permitted only if specifically authorized by the special permit.
7. Parking needed for employees and visitors shall be located at the side or rear of the dwelling and shall be suitably landscaped to minimize the visual impact on adjacent properties; if the lot configuration does not permit this arrangement, the Board of Appeals may permit an alternate parking location, but no on-street parking shall be permitted.
8. Home businesses may include the selling of products, the major portion of which are produced on the premises; not more than twenty-five percent (25%) of the products sold shall be purchased or obtained elsewhere. There shall be no outside display of products on the premises.
9. The Board of Appeals may grant a special permit if it determines that the activities will not create a hazard to the public or natural environment, disturbance to any abutter, or injury to the neighborhood, and will not create unsightliness visible from any public way or neighboring property. The Board may impose conditions deemed necessary to preserve neighborhood character and protect

existing and future abutting land uses, including limitations on time and ownership. The special permit shall be granted to the owner and shall expire upon transfer of the premises or business; any new owner shall apply for a new special permit. The special permit may at any time be subject to review and/or renewal by the Board, and may be further conditioned, amended, or revoked as necessary to ensure that the intent of this section is maintained.

10. Upon receipt of the special permit, the applicant shall obtain a business certificate from the Town Clerk if "doing business as" (dba) a name other than the applicant's own complete name.

**3.3.6 Home Occupation:** In each case as contained in Section 3.2.6.2, provided that:

1. Such use is clearly incidental and secondary to the use of the premises for dwelling purposes.
2. No offensive noise, vibration, smoke dust, odor, heat of glare is produced.
3. No person other than residents of the premises is employed therein in connection with such use.
4. No stock in trade is regularly maintained on the premises.
5. From the exterior of the building so used, there is not visible any display of goods or products, storage of materials or equipment, regular outside parking of commercial vehicles, or any other exterior indication that the premises is being utilized for any purpose other than residential, except for an accessory sign as provided in Section 5.3.
6. The amount of floor space devoted to such use does not exceed in area, twenty-five (25) percent of the total habitable floor area of the dwelling in which it is located. (The total habitable floor area of a dwelling includes the floor area of any full basement or finished attic thereof; but does not include the area of any garage, porch or breezeway.)
7. No repetitive servicing by truck for supplies and materials shall be required by the home occupation
8. The business owner shall obtain a business certificate from the Town Clerk if "doing business as" (dba) a name other than the owner's own complete name.

**3.3.7. Scientific Research, Development or Related Production:** In each case as contained in Section 3.2.6.9, provided that whether or not on the same parcel of land as activities permitted as a matter of right, such accessory use is found by the Board of Appeals not to substantially derogate from the public good.

**3.3.8. Special Permit for Adult Uses:** The purpose of this section is to serve the compelling Town interests of preventing the concentration of adult entertainment enterprises because of the adverse impacts on the business climate and quality of life of the Town and on the property values of near-by residential and commercial properties, and in response to studies demonstrating their effect on generating crime and blight. No special permit may be granted for any Adult Bookstore, Adult Motion Picture Theater, Adult Paraphernalia Store, Adult Video Store, or Establishment Which Displays Live Nudity for its Patrons, unless the following conditions are satisfied:

1. No Adult Bookstore, Adult Motion Picture Theater, Adult Paraphernalia Store, Adult Video Store, or Establishment Which Displays Live Nudity for its Patrons may be located less than two hundred (200) feet from a school, library, church or other religious use, child care facility, park, playground, or recreational areas where large numbers of minors regularly travel or congregate. Distance shall be measured from the closest edge of the building of the adult use to the lot line of the non-adult use.
2. No special permit shall be issued to any person convicted of violating the provisions of M.G.L. c. 119, § 63 or M.G.L. c. 272, § 28.
3. Any pictures, publications, videotapes, movies, covers, or other implements, items, or advertising that fall within the definition of Adult Bookstore, Adult Video Store, Adult Paraphernalia Store, Adult Motion Picture Theater or Establishment Which Displays Live Nudity for its Patrons, or are erotic, prurient or related to violence, sadism or sexual exploitation, shall neither be displayed in the windows of, or on the building of any Adult Bookstore, Adult Video Store, Adult Paraphernalia Store Adult Motion Picture Theater, or Establishment Which Displays Live Nudity for its Patrons, nor be visible to the public from pedestrian sidewalks or walkways, or from other areas, public or semi-public, outside such establishments.

**3.3.9.** Bed and Breakfast Inns shall be permitted by special permit of the Board of Appeals and site plan approval from the Planning Board, and shall comply with the following conditions:

1. Bed and breakfast inns are permitted as an accessory use to a single family dwelling. The dwelling shall be the primary residence of the owner or manager.
2. Rooms used for sleeping shall be part of the existing residential structure or existing accessory building thereto (such as a barn or carriage house) and shall not have been specifically constructed for rental purposes.
3. The premises shall retain the appearance of a single-family residence. If an accessory building is converted to a bed and breakfast inn, it shall retain its previous appearance from the street.
4. Parking shall be provided at the rate of one space per guest room in addition to that required for the principal residential use.
5. The applicant shall submit a plan showing the location, wording, dimensions, and construction materials of any proposed signs. The Board may waive applicable sign provisions of this Bylaw if necessary to provide adequate notice to tourists of the use and location of the facility.

**3.3.10 Refuse Container And Dumpster Use Permit:** In all districts, the use of any commercial type refuse container and/or dumpster shall require review, approval and permitting by the Building Commissioner under the provisions established by the Building Department.

**3.3.11 Wind Energy Conversion Systems:** The Board of Appeals may, by Special Permit, allow the installation and erection of wind energy conversion systems in all districts provided as a minimum the following requirements are met:

1. The use is accessory to a residential or horticultural/agricultural use of the property or an adjacent property in common ownership and the energy generated by such a system is consumed primarily by such residential or horticultural/agricultural uses.
2. Such wind energy conversion systems shall be located at least one (1) tower height plus one rotor radius away from all public ways and any primary or accessory structures not located on the premises; and maintain conformance with all dimensional setbacks.
3. The maximum allowable noise level for a wind energy conversion system, measured at the nearest property line, shall not exceed seventy-five (75) decibels (dba).
4. Test data or other evidence shall be submitted to the Building Commissioner to substantiate that the wind energy conversion systems will not cause electromagnetic interference at abutting residences.
5. The wind energy conversion systems shall be dismantled and removed upon discontinuance of use for a period of twelve (12) months.
6. Commercial-non-residential wind energy conversion systems are subject to additional determinations by the Board of Appeals.

### **3.3.12 Commercial Wind Energy Conversion Systems**

#### **1. Purpose**

The purpose of this Section is to provide standards and requirements for placement, construction, design, and removal of commercial Wind Energy Conversion Systems (WECS) in order to safely provide electrical energy from wind, a renewable energy source, and to reduce reliance on fossil fuels, and to minimize potential negative impacts, such as noise, danger from falling objects, and impairment of visual quality.

#### **2. Establishment of Wind Energy Overlay District**

The Wind Energy Overlay District (WEOD) is herein established as an overlay district and shall be superimposed on other districts established by this Bylaw. All regulations applicable to such underlying districts shall remain in effect. A commercial Wind Energy Conversion System (WECS) is permitted only in a Wind Energy Overlay District upon the grant of a special permit by the Planning Board. The district is shown on a map entitled "Overlay Districts Map" which is on file with the Town Clerk. The district is defined as the area bounded as follows: to the east by the Paxton-Holden Town Line; to the south by a line parallel to Nipmuc

Road and offset northerly from its centerline by a distance of four hundred feet (400'); to the west by a line parallel to the Paxton-Holden Town Line offset a distance of one thousand five hundred feet (1,500'); and to the north by a line parallel to Holden Road (Route 31) and offset southerly from its centerline by a distance of one thousand two hundred feet (1,200').

### **3. Special Permit Required**

Each commercial WECS in a WEOD shall require a special permit with site plan review from the Planning Board.

### **4. Submission Requirements:**

The applicant shall provide ten (10) copies of the information required for Site Plan Review in Section 5.6.3. In addition, the applicant shall provide ten (10) copies of each of the following:

1. A completed application form with the required review fee.
2. An existing conditions site plan prepared by a Professional Engineer drawn in sufficient detail to show the following:
  1. Property lines, dimensions, landowners, acreage, and contours at two-foot intervals of the subject property and properties within five hundred feet (500') of the WECS.
  2. Location and elevation of the proposed WECS.
  3. Location and dimensions of all existing buildings, accessory structures and uses, public and private roads, driveways, easements, stone walls, and fence lines within 300 feet of the system.
  4. Location of access easements or rights-of-way in existence or needed for access from a public way to the WECS, and the names of all abutters or property owners along the easement or who have deeded rights to the easement.
  5. Height of any structures over 35 feet, and the location and average height of trees on the subject property and adjacent properties, within 300 feet of the proposed WECS.
3. Standard drawings of the structural components of the WECS, including structures, tower, base and footings. Drawings and any necessary calculations shall be certified by a registered engineer that the system complies with the State Building Code.
4. Proposed conditions site plan, showing:
  1. The location of the proposed WECS and any appurtenances and equipment. Indicate property boundaries and distances to the base(s) of the wind turbine(s) and to the nearest corners of each of the appurtenant structures and equipment.
  2. Proposed utilities, including distance from source of power, size of service available and required, locations of any proposed utility or communication lines.
  3. Limits of areas where vegetation is to be cleared or altered and justification for any such clearing or alteration.
  4. Detailed storm water management plans and plans to control erosion and sedimentation both during construction and as a permanent measure.
  5. Plans indicating locations and specifics of proposed screening, landscaping, ground cover, fencing, exterior lighting or signs.
  6. Plans of proposed access driveway or roadway and parking area at the WECS whether temporary or permanent; include grading, drainage, and traveled width. Include a cross section of the access drive indicating the width, depth of gravel, paving or surface material.
5. A technical report from a qualified individual that the site is feasible for wind power and that documents wind speed at the proposed site and anticipated energy that will be created from each WECS unit.

6. Photographs of the site from at least four locations where the WECS will be visible from public ways. Through means of sketches or computer simulations, the applicant shall document the impacts of the proposed WECS on visual quality.

## **5. Design and Siting Standards**

1. Setbacks: A commercial WECS shall not be located closer to a property line than the height of the tower including the height of the blade in its vertical position. The setback area should be kept free of all habitable structures while the WECS is in place. If property held by more than one owner is used to meet the setback requirement, the site plan shall show easements or reserved areas that comply with this provision.
2. Height: Height limits shall not apply to commercial WECS and temporary towers to place anemometers to measure wind speeds.
3. Noise: The WECS and associated equipment shall conform to Massachusetts noise regulations (310 CMR 7.10). An analysis, prepared by a qualified engineer, shall be presented to demonstrate compliance with these noise standards and be consistent with Massachusetts Department of Environmental Protection guidance for noise measurement.
4. Compliance with Federal Aviation Administration (FAA) Regulations: Commercial WECS shall comply with applicable FAA regulations, including any necessary approvals for installations close to airports. Unless required by the FAA, no night lighting of a WECS or any appurtenant building is permitted except for manually operated emergency lights for use only when operating personnel are on site. An application to the FAA shall request lighting of the lowest intensity allowable and one that avoids strobe lighting or other intermittent white lighting fixtures. The applicant shall provide the Planning Board with an official determination by the FAA as to its lighting requirements and/or markings.
5. Electromagnetic Interference: The WECS shall cause no disrupting electromagnetic interference. If it is determined that a WECS is causing interference, the operator shall take the necessary corrective action to eliminate this interference, subject to the approval of the Building Commissioner.
6. Interconnect: The WECS, if interconnected to the electric distribution system, shall meet the interconnect requirements of the Paxton Municipal Light Department.

## **6. Approval**

In acting on the special permit application, the Planning Board shall proceed in accordance with the procedures and timelines for special permits in Section 6.2 and site plan review in Section 5.6 of this bylaw. As authorized by section 5.6.3.4, the Board may hire professional consultants at the expense of the applicant to assist it in evaluating the proposed WECS and the impacts on the community. In approving the special permit, the Board must determine that the application conforms to the standards for approval of site plans in section 5.6.5 and for special permits in 6.2.5. In addition, before granting the special permit, the Board shall determine that the following standards have also been met:

- 1 The proposal is not detrimental or injurious to the public health and or safety or to the character of the surrounding neighborhood.
- 2 The proposal is essential or desirable to the public convenience.
- 3 Installation of the WECS will not create a substantially adverse visual impact when viewed from a common public viewing area.

## **7. Removal Requirements**

1. A WECS that is not used for twelve (12) successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the WECS owner. Removal of the system shall include the structure, foundation, transmission equipment, fencing and other appurtenances. The site shall be re-vegetated to prevent erosion.

2. Upon obtaining a special permit, the applicant shall deliver to the Planning Board a financial surety, in form and amounts acceptable to the Board, to cover the cost of removal and disposal of the WECS and the remediation of the site. Such financial surety shall be renewed and updated as necessary to continue to cover the anticipated costs of removal and site restoration.

**3.3.13** An accessory use for a detached garage or barn, fully enclosed for allowable storage of automobiles, motor vehicles, boats, related recreational equipment, yard equipment and household related equipment and which is not in violation of any of the provisions herein, shall not occupy more that a total of 864 square feet of the lot area.

### **3.3.14 Marijuana Establishments and Registered Marijuana Dispensary**

#### 1. Purposes:

It is recognized that the nature of the substance cultivated, processed, and/or sold by an adult use or recreational use Marijuana Establishment and a Registered Marijuana Dispensary (RMD) may have objectionable characteristics and should be located in such a way as to ensure the health, safety, and general well-being of the public as well as registered qualifying patients seeking treatment. The specific and separate regulation of Marijuana Establishments and RMDs is necessary to advance these purposes and ensure that such facilities are not located within close proximity of minors and do not become concentrated in any one area within the Town.

#### 1. Additional Requirements/Conditions:

In addition to the standard requirements for uses permitted by-right or requiring a Special Permit and Site Plan Approval, the following shall also apply to all Marijuana Establishments and Registered Marijuana Dispensaries:

##### 1. Use:

- a. Marijuana Establishments and RMDs may only carry out the uses set forth in Section 1.3 (Definitions) of this Zoning Bylaw and may not include other businesses or services.
- b. No marijuana shall be smoked, eaten or otherwise consumed or ingested within a Marijuana Establishment or RMD.
- c. The hours of operation shall be set by the Special Permit Granting Authority, but in no event shall a Marijuana Establishment or RMD be open to the public, and no sale or other distribution of marijuana to registered qualifying patients shall occur upon the premises or via delivery from the premises, between the hours of 8:00 pm and 8:00 am., except as allowed in a condition to a special permit issued by the Planning Board.
- d. Marijuana Establishments and RMDs are not forms of agriculture, horticulture, or floriculture for purposes of the Zoning Bylaw.

##### 2. Physical Requirements:

- a. All aspects of the use/facility relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing, testing, or administration of marijuana, products containing marijuana, related supplies, or educational materials must take place at a fixed location within a fully enclosed building and shall not be visible from

the exterior of the business. Outdoor cultivators shall not be subject to this restriction.

- b. No outside storage is permitted.
  - c. Ventilation – all Marijuana Establishments and RMD facilities shall be ventilated in such a manner that no:
    - 1. Pesticides, insecticides or other chemical or products used in the cultivation or processing are dispersed into the outside atmosphere beyond the immediate confines of an outdoor cultivation area, and
    - 2. No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the Marijuana Establishment or RMD or at any adjoining use or property.
3. Location:
- a. No Marijuana Establishment or RMD shall be located on a lot that is within three hundred (300) feet of another lot (to be measured in a straight line from the nearest points of each lot line) currently occupied by:
    - 1. a public or private elementary, junior high, middle, vocational or high school, college, junior college, university, child care facility, library, public athletic field, playground or any other use in which children commonly congregate in an organized ongoing formal basis, or
    - 2. another Marijuana Establishment or RMD.
  - b. No building containing a Marijuana Establishment or RMD shall be located within one hundred and fifty (150) feet of another building (to be measured in a straight line from the nearest points of each building) used for residential purposes, including transient housing such as hotels, motels, lodging houses, dormitories, etc.
  - c. No Marijuana Establishment or RMD shall be located inside a building containing residential dwelling units, including transient housing such as hotels, motels, lodging houses, dormitories, etc.
4. Reporting Requirements:
- a. All Special Permit and Site Plan Approval holders for a Marijuana Establishment or RMD shall provide the Police Department, Fire Department, Board of Health, Building Commissioner/Inspector and the Special Permit Granting Authority with the names, phone numbers and email addresses of all management staff and key-holders, including a minimum of two (2) operators or managers of the facility identified as contact persons to whom one can provide notice if there are operating problems associated with the establishment. All such contact information shall be updated as needed to keep it current and accurate.
  - b. The Building Commissioner/Inspector, Board of Health, Police Department, Fire Department and Special Permit Granting Authority shall be notified in writing by a Marijuana Establishment or RMD owner/operator/manager:
    - 1. A minimum of thirty (30) days prior to any change in ownership or management of that facility.
    - 2. A minimum of twelve (12) hours following a violation or potential violation of any law or any criminal or potential criminal activities or attempts of violation of any law at the Marijuana Establishment or RMD.
  - c. Permitted Marijuana Establishments and RMD facilities shall file an annual report to and appear before the Special Permit Granting Authority no later than January 31<sup>st</sup> of each year, providing a copy of all current applicable state licenses for the facility



and/or its owners and demonstrate continued compliance with the conditions of the Special Permit.

- d. The owner or manager is required to respond by phone or email within twenty-four (24) hours of contact by a Town official concerning their Marijuana Establishment or RMD at the phone number or email address provided to the Town as the contact for the business.
5. Issuance/Transfer/Discontinuance of Use:
    - a. Special Permit/Site Plan Approvals shall be issued to the proposed Marijuana Establishment or RMD operator and shall not run with the land.
    - b. Special Permits/Site Plan Approvals shall be issued for a specific site/lot.
    - c. Special Permits/Site Plan Approvals shall be transferable to another Marijuana Establishment or RMD operator only with the approval of the Special Permit Granting Authority in the form of an amendment to the Special Permit or Site Plan Approval.
    - d. Special Permits/Site Plan Approvals shall have a term limited to the duration of the applicant's ownership/control of the premises as a Marijuana Establishment or RMD, and shall lapse:
      1. If the permit holder ceases operation of the Marijuana Establishment or RMD, and/or
      2. The permit holder's state license expires or is terminated.
    - e. The permit holder shall notify the Zoning Enforcement Officer and Special Permit Granting Authority in writing within forty-eight (48) hours of such lapse, cessation, discontinuance or expiration.
    - f. A Marijuana Establishment or RMD shall be required to remove all material, plants equipment and other paraphernalia prior to surrendering its State Registration or ceasing its operation.

2. Application Requirements:

In addition to the standard application requirements for Special Permits and Site Plan Approvals, such applications for a Marijuana Establishment or RMD shall include the following:

1. The name and address of each owner of the Marijuana Establishment or RMD.
2. A copy of its license from the Cannabis Control Commission or verification of its status as an applicant for such a license.
3. Evidence that the Applicant has site control and right to use the site for a Marijuana Establishment or RMD in the form of a deed or valid purchase and sales agreement or, in the case of a lease a notarized statement from the property owner and a copy of the lease agreement:
  - a. A notarized statement signed by the Marijuana Establishment or RMD organization's Chief Executive Officer and corporate attorney disclosing all of its designated representatives, including officers, directors, shareholders, partners, members, managers, 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.
4. In addition to what is normally required in a Site Plan, details showing all exterior proposed security measures for the Marijuana Establishment or RMD including lighting, fencing, gates and alarms, etc. ensuring the safety of employees and patrons and to protect the premises from theft or other criminal activity.

5. A detailed floor plan identifying the areas available and functional uses (including square footage).
6. All signage being proposed for the facility.
7. A traffic study to establish the Marijuana Establishment or RMD's impacts at peak demand times.
8. A Management Plan including a description of all activities to occur on site, including all provisions for the delivery of medical marijuana and related medical products to off-site direct delivery to patients.

Upon written request from the applicant, the Special Permit Granting Authority may waive the submission of such information, plans or studies, or parts thereof, as may not be necessary for the consideration of the application. The Special Permit Granting Authority's waiver decision shall be set forth in the written Special Permit or Site Plan Approval decision.

3. Findings:

In addition to the standard Findings for a Special Permit, the Special Permit Granting Authority must also find all the following:

1. That the Marijuana Establishment or RMD is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest.
2. That the Marijuana Establishment or RMD demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations.
3. That the applicant has satisfied all of the conditions and requirements of this Section and other applicable Sections of this Bylaw.
4. That the Marijuana Establishment or RMD will serve a measurable demand for adult use/recreational or medical marijuana that is currently unmet within the Town.
5. That the Marijuana Establishment or RMD 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 is adequately secured.
6. That the Marijuana Establishment or RMD adequately addressed issues of traffic demand, circulation flow, parking and queuing, particularly at peak periods at the facility, and its impact on neighboring uses.

## SECTION 4. DIMENSIONAL REQUIREMENTS

### 4.1 Basic Requirements

No building or other structure in any district shall be constructed which does not conform to the Dimensional Requirements as set forth in this Section 4 of this Bylaw. In Paxton, no building shall exceed two and one-half (2½) stories in height.

### 4.2 Schedule of Dimensional Requirements

The following table entitled “Schedule of Dimensional Requirements” with its accompanying footnotes shall be a part of this Bylaw.

**4.2.1 Substantial Irregularity:** No building permit or certificate of occupancy shall be issued for any new construction on a lot which is substantially irregular in shape. A lot having a Regularity Factor of less than 0.4 as determined by the following formula is considered to be Substantially Irregular:

$$R = \frac{16A}{P^2}$$

Where: R = Regularity Factor  
A = Land Area (in square feet)  
P = Perimeter of the Lot (in feet)

The Planning Board may, by special permit, authorize new construction on a lot with a Regularity Factor of less than 0.4 if it finds that the proposed application will not have a detrimental impact on abutters or the neighborhood, cause a traffic or safety hazard, or have a negative impact on the environment.

Example: A rectangular lot with dimensions of 200' by 300' contains an area of 60,000 square feet and a perimeter of 1000'. Using the formula above an R factor of 0.96 results:

$$R = \frac{16A}{P^2} = R = \frac{16 \times 60,000}{1000^2} = \frac{960,000}{1,000,000} = 0.96$$

SCHEDULE OF DIMENSIONAL REQUIREMENTS  
Town of Paxton, Massachusetts

District	Buildings <sup>(a)</sup> (b) and Other Structures	Height <sup>(c)</sup> (Stories)	Maximum Height <sup>(d)</sup> (Feet)	Minimum Lot Area <sup>(e)</sup> (Sq. Ft.)	Minimum Yard Setback Depth <sup>(g)</sup>					
					Lot Width <sup>(f)</sup>		Front Yard			
					Minimum Frontage (Feet)	Minimum Width Through Building (Feet)	From Front Lot Line (Feet)	From Street Center Line <sup>(h)</sup> (Feet)	Side Yard (Feet)	Rear <sup>(i)</sup> Yard (Feet)
GRB	All	2 or less	30	60,000	200	150	30	55	25 <sup>(j)</sup> (n)	30 <sup>(l)</sup> (n)
		2½	35	60,000	200	150	40	65	25 <sup>(j)</sup> (n)	30 <sup>(l)</sup> (n)
GRA	All	2 or less	30	30,000	100	125	30	55	15 <sup>(k)</sup> (n)	30 <sup>(l)</sup> (n)
		2½	35	30,000	100	125	40	65	15 <sup>(k)</sup> (n)	30 <sup>(l)</sup> (n)
B	Dwelling House	2½	35	20,000	100	125	30	55	15 <sup>(k)</sup> (n)	30 <sup>(l)</sup> (n)
	All Others	2½	35	25,000	125	150	30	55	15 <sup>(n)</sup>	20 <sup>(n)</sup>
Watershed	All	2 or less	30	80,000 <sup>(m)</sup>	200	150	30	55	25 <sup>(j)</sup> (n)	30 <sup>(l)</sup> (n)
		2½	35	80,000 <sup>(m)</sup>	200	150	40	65	25 <sup>(j)</sup> (n)	30 <sup>(l)</sup> (n)

Footnotes:

- (a) Subject to Section 4.3.1
- (b) Subject to Section 4.3.2, 4.3.3, and 4.3.4  
For exceptions, see Sections 4.4.1 and 4.4.2
- (c) See Section 4.1
- (d) For exceptions, see Section 4.4.3
- (e) Subject to Section 4.3.5
- (f) For exceptions, see Section 4.4.4
- (g) Subject to Section 4.3.6  
For exceptions, see Section 4.4.5
- (h) Subject to Section 4.3.7  
For exception, see Section 4.4.6
- (i) Subject to Section 4.3.8

- (j) Fifteen (15) feet for a one and one-half story accessory use structure and for an accessory use structure (not exceeding 25 feet in height) and for an accessory use structure other than a building provided such structure is one hundred fifty (150) feet or more from the front lot line.
- (k) Ten (10) feet for a one-story accessory use structure (not exceeding twenty (20) feet in height) and for an accessory use structure other than a building, provided such structure is one hundred twenty-five (125) feet or more from the front lot line.
- (l) Ten (10) feet for a one and one half-story accessory use structure (not exceeding twenty-five (25) feet in height) and for an accessory use structure other than a building.
- (m) 20,000 square feet must be added to lot size for each additional bedroom over the maximum of four.
- (n) Ten (10) feet for a one-story accessory shed (not exceeding fifteen (15) feet in height) and not exceeding 216 square feet and fully enclosed, used for allowable (non-vehicular) storage and which is not in violation of any of the provisions herein, provided the shed is one hundred (100) feet or more from the front lot line.

### **4.3 Other Dimensional Requirements**

**4.3.1 Reduction of Occupied Lots:** In all districts, no lot on which a building is located shall be subdivided, reduced in area, or changed in size or shape if the building or lot on which the building would then be located would fail to comply with the area, frontage, setback, yard or other provisions of this Bylaw after such subdivision, reduction, or change. This prohibition shall not apply, however, when a portion of a lot is taken by eminent domain, or conveyed for a public purpose, for which the land could have been taken.

**4.3.2 Principal Use Building:** Except for community facilities as specified in Section 3.2.3 of this Bylaw, in all districts, not more than one (1) principal use building shall be constructed or so used on one (1) lot.

**4.3.3 Placement of Buildings:** In all districts, no detached building shall be constructed or placed so as to be nearer than ten (10) feet to any other detached building on the same lot.

**4.3.4 Appurtenant Open Space:** No yard, lot area, or other open space as required for a structure by this Bylaw, shall during the existence of such structure, be occupied by or counted as open space for another structure on the same lot.

**4.3.5 Corner Clearance:** Notwithstanding the other provisions of this Bylaw, no building shall be constructed within the triangular area formed by the lines of intersecting streets and a line joining points on such lines thirty (30) feet distant from their point of intersection (or, in the case of a rounded corner, the point of intersection of their tangents) and no structure other than a building; no foliage, shrubbery or other plantings; and no open display, storage, or other open use, which in the opinion of the Building Commissioner would interfere with, traffic visibility across the corner, shall be established or maintained within said triangular area.

**4.3.6 Corner Lot:** A corner lot shall have minimum street yards with depths, which shall be the same as the required front yard depths for the adjoining lots.

**4.3.7 Yard Setback for Other Uses:** In all districts, no open display of goods or products, no open storage of materials or equipment, and except for a flag, utility or light pole, no structure over five (5) feet in height shall be located nearer to the center line of any street than the distance from such center line herein required for a building on the same lot. However, fencing shall be allowed as provided in section 5.10.

**4.3.8 Through Lots:** At each end of a through lot, there shall be a yard setback depth required which is equal to the front yard depth required for the district in which each street frontage is located.

**4.3.9 Upland Requirement:** At least seventy-five percent (75%) of the lot area required for zoning compliance shall not be wetlands as defined by M.G.L. c. 131, §40. Furthermore, no part of a public or private way and no part of a pond or river shall be included. If wetlands are present on the premises, at the time of application for a building permit for a principal use building an applicant shall submit to the Building Commissioner a determination by the Conservation Commission that this requirement has been satisfied.

### **4.4 Exceptions to Dimensional Requirements**

**4.4.1 Lot Frontage, Width and Area:** In all districts, no building except a one story accessory use building shall be constructed upon a lot which has a frontage of less than the "Minimum Frontage", or which has a width of less than the "Minimum Frontage" width at any point between the frontage street and the nearest part of the building constructed or to be constructed on said lot, or which has a lot width (measured through that part of said building where the lot is narrowest) of less than the "Minimum Lot Width through Building," or a lot area of less than the "Minimum Lot area," all as specified in the Schedule of Section 4.2 for the district in which said lot is located, except as otherwise provided in Sections 4.4.2 and 4.4.4 hereunder.

#### **4.4.2 Lot Size Exceptions:**

1. Notwithstanding the dimensional requirements of this Bylaw, a single family dwelling may be constructed on a lot which does not comply with such minimum requirements, provided that all other provisions of

this Bylaw are complied with, and provided further that said lot is grandfathered and legally protected as a buildable lot pursuant to Section 6 of Chapter 40A, M.G.L.

2. If a definitive plan, or a preliminary plan followed within seven (7) months by a definitive plan, has been submitted to the Planning Board for approval under the Subdivision Control Law, and written notice of such submission has been given to the Town Clerk before the effective date of this Bylaw, the land shown on such plan shall be governed by the applicable provisions of the Zoning Bylaw in effect at the time of the first such submission while such plan or plans are being processed under the Subdivision Control Law; and, if such definitive plan or an amendment thereof is finally approved, for the length of time permitted in Section 6 of Chapter 40A, M.G.L.
3. Other exceptions not specifically allowed herein and certain rights of record owners of the land shall be those as provided in Section 6 of Chapter 40A, M.G.L.

**4.4.3 Height Exceptions:** The maximum heights, as measured in feet, shown in the Schedule, Section 4.2, shall not apply to chimneys, skylights, ventilators, electronic equipment, and other necessary appurtenances usually carried above roof, nor to domes, towers, stacks or spires appurtenant to a building if not used for human occupancy; nor to ornamental towers, observation towers, flag poles, wind energy generating systems, radio or television towers, antennae or dishes (but excluding wireless communications facilities), and other like structures, which do not occupy more than twenty (20) percent of the lot area, nor to churches, or public, agricultural or institutional buildings, nor to buildings of private schools not conducted for profit, that are primarily used for school purposes, provided the excepted appurtenances are not located within the flight paths of an airport as defined by Federal Aviation Agency regulations.

**4.4.4 Exception for Irregular Lots:** An irregular lot with a frontage width of at least one hundred (100) feet, and a principal use building constructed or to be constructed thereon, shall be allowed provided:

1. the lot width does not decrease between the frontage width of the front lot line and the nearest part of said building constructed or to be constructed on said lot,
2. such lot meets the district requirement for lot area as computed for regular lots in that district,
3. all yards for such lot shall provide the same separation from lot lines as required for a regular lot in the same district. The minimum requirement for the “Lot Width through Building” as specified in Section 4.2 may be set aside with respect to a particular irregular lot in question, subject to approval of the Planning Board; and
4. complies with the provisions of section 4.2.1, Substantial Irregularity.

**4.4.5 Projections:** Projections such as projection of steps, eaves, cornices, windowsills, bay windows, patios, fire escapes, or similar architectural features, or belt courses into any required yard shall be permitted in any and all districts.

**4.4.6 Front Yard Setback Exception for Existing Alignment:** In all districts, if the principal use buildings located on the lots on each adjacent side of a particular lot in question have an average setback from the front lot line of less distance than herein required, the Building Commissioner may authorize on the particular lot in question, a principal use building, other structure, or open use, having a front yard setback of not less than the average setback. In determining the average setback, an adjacent vacant adjoining side lot having a frontage of one hundred (100) feet or more shall be considered as though occupied by principal use building having the required front yard setback, and a lot separated from the lot in question only by a vacant lot having a frontage of less than one hundred (100) feet shall be deemed an adjacent lot.

**4.4.7 Rear Lots:** In the GRA and GRB districts, the Planning Board may grant a special permit for a rear lot with a frontage width of at least fifty feet (50') for a single family dwelling provided:

1. The lot width does not decrease between the frontage width of the front lot line and the nearest part of said building constructed or to be constructed on said lot.
2. The area of the lot shall contain a minimum of 120,000 square feet. The access strip shall not be included in the calculation of the square footage of the lot.

3. All yards for such lot shall provide the same separation from lot lines as required for a regular lot in the same district. The minimum requirement for the “Lot/Width through Building” as specified in Section 4.2 may be set aside with respect to a particular rear lot in question, subject to approval of the Planning Board.
4. Not more than one rear lot shall be created from a property, or a set of contiguous properties held in common ownership as of the effective date of this Bylaw. The Building Commissioner shall not issue a building permit for any rear lot without first establishing that the Planning Board has determined compliance with this provision.
5. Said lot shall not have contiguous frontage with any other lot that has been granted a special permit pursuant to this section.

#### **4.4.8 Split Lots**

1. **Lots Divided by a Zoning District Boundary:** Such lots shall be governed by the Use Regulations and Dimensional Requirements that apply to the district in which the development is proposed. Land in a more restrictive district may be used to meet the area, frontage, width, or yard setback requirements of a use proposed in a less restrictive district provided no active use of the land occurs in the more restrictive district which is not otherwise permitted. See section 2.1 for order of restrictiveness. Active land uses shall include buildings, parking areas, and driveways.
2. **Lots Divided by a Municipal Boundary:** Such lots shall comply with the Dimensional Requirements for a building lot in Paxton without requiring any land in the adjoining municipality. If the principal use is located in Paxton, access to the lot must occur from a way in Paxton. Unless prohibited by the adjoining municipality, ways in Paxton may provide access to lots in the adjoining municipality.

#### **4.5 Paxton Watershed Protection Overlay District**

**4.5.1 Purpose:** The purpose of the Paxton Watershed Protection Overlay District is: (i) to promote the health, safety, and general welfare of the community; (ii) to protect, preserve, and maintain the existing water supply within the Town; (iii) to conserve the natural resources of the Town; (iv) to protect the groundwater areas of the Town from adverse development or land use practices; and (v) to prevent blight and pollution of the environment. The provisions of this Bylaw are subject to federal law and the laws of the Commonwealth of Massachusetts and to the extent of any conflict between such laws and this Bylaw, such laws shall control.

#### **4.5.2 Establishment and Delineation of the Paxton Watershed Protection Overlay District**

1. There is hereby established within the Town a Paxton Watershed Protection Overlay District (the “Watershed Protection District”) consisting of an area which impacts the reservoirs owned and/or controlled by the Town of Paxton and/or the City of Worcester, which are located within the Town boundaries, including without limitation, portions of the watersheds of Asnebumskit Pond, Pine Hill Reservoir, Kettle Brook Reservoirs Nos. 2, 3, and 4, Lynde Brook Reservoir, and Holden Reservoirs Nos. 1 and 2, (The “Protected Areas”). The land within the Watershed Protection District hydrologically flows to the Protected Areas and is the basis for the need for the zoning protections.
2. The boundaries of the Watershed Protection District are set forth on a map entitled “Watershed Protection District, Paxton, Massachusetts,” dated September 10, 2001 prepared by Marin Environmental (the “Plan”), which is on file in the office of the Town Clerk. These boundaries reflect the best hydrogeologic information available as of the date of this map. Amendments to the Watershed Protection District boundaries shall only occur in accordance with M.G.L. Chapter 40A, Sec. 5. The Plan shows a Zone I and Zone II.
3. Due to the scale of the Plan there may be small inaccuracies in the delineation of the Watershed Protection District. Where there is some dispute as to where the boundary lies on a particular property, the Building Commissioner or his designee and the landowner shall conduct an on-site investigation to determine where the boundary lies. If the Building Commissioner and the landowner cannot agree as to the location of the boundary, the burden of proof shall be with the landowner to provide the Town with information from any individual, professionally registered by the Commonwealth of Massachusetts Board of Registration as a

registered land surveyor, licensed environmental engineer, or other qualified individual satisfactory to the Building Commissioner showing where the boundary lies. Boundary lines may only be altered in accordance with M.G.L. Chapter 40A, Sec. 5.

**4.5.3 Use Regulations:** The Watershed Protection District shall overlay other zoning districts. Any uses permitted in the underlying district shall be permitted subject to all the provisions of the Watershed Protection District. Within the Watershed Protection District, the following shall apply:

**1. Uses and Activities Regulated or Prohibited:**

- a. Any Alteration, or the Generation, Storage, Disposal or Discharge of Pollutants is prohibited within (Zone I) those portions of the Watershed Protection District that lie:
  - i. within 400 feet of the Bank of a Reservoir; or
  - ii. within 400 feet of a public water system well; or
  - iii. within 200 feet of the Bank of a Tributary or Surface Waters; or
  - iv. within the land area between a Reservoir, Tributary, or Surface Water and the upper boundary of its Bank.
- b. i. Within (Zone II) those portions of the Watershed Protection District that lie:
  - (a) within the area between 200 and 400 feet of the Bank of a Tributary or Surface Water;
  - (b) within the Flood Plain District, as described in Section 7 of this Bylaw.
  - (c) within the Groundwater Protection District as shown on the Plan, consisting of an area which surrounds Asnebumskit Pond and the Grove Street Wells, as shown on the Town of Paxton Zoning Map, and on maps on file in the office of the Town Clerk. This area has been determined by standard geologic and hydrologic investigations performed for the Town by Lycott Environmental Research Inc.
- ii. The following uses are prohibited:
  - (a) the Disposal of Pollutants from privately or publicly owned Sewage Treatment Facilities, and non-sanitary wastewater treatment facilities;
  - (b) the storage of liquid petroleum products of any kind unless such storage is in connection with permitted residential use and the physical storage is:
    - a. above ground level, and
    - b. on an impervious surface, and
    - c. either
      - (i) in container(s) or above ground tank(s) within a building (including the basement level) or;
      - (ii) outdoors in covered container(s) or above ground tank(s) in an area that has a containment system designed and operated to hold either 10% of the total possible storage capacity of all containers, or 110% of the largest container's storage capacity, whichever is greater.
  - (c) the Treatment, Disposal, use, generation or Storage of Hazardous Material or Hazardous Waste, except for the Storage and use of Hazardous Material or Hazardous Waste incidental to permitted residential use;



- (d) the Storage and the Disposal of Solid Waste other than the Storage of Solid Waste incidental to normal residential use;
  - (e) the outdoor Storage of road salt or other de-icing chemicals; provided, however, that the outdoor Storage of sand, gravel or materials used in road construction which are not Hazardous Materials or Hazardous Waste shall not be prohibited;
  - (f) the outdoor Storage of fertilizers, herbicides and pesticides;
  - (g) the use or Storage of pesticides or herbicides which carry a mobility rating as provided for by the United States Environmental Protection Agency or which have been determined by the Commonwealth using United States Environmental Protection Agency standards to pose a threat or potential threat to Ground Water;
  - (h) the outdoor, uncovered Storage of manure;
  - (i) the servicing, washing and/or repairing of motor vehicles or, recreational domestic equipment other than as incidental to permitted residential use;
  - (j) any Open Lot Storage, other than as incidental to permitted construction activity;
  - (k) the rendering Impervious of more than ten (10) percent of any Lot or 2,500 square feet, whichever is greater;
  - (l) the excavation of natural occurring soils to a depth greater than six (6) feet above the maximum water table, except where incidental to the construction of permitted Structures or the installation of utility work(s)
  - (m) the construction of any Dwelling which exceeds a density of two bedrooms per acre (43,560) sf.;
  - (n) the dumping of snow brought from any area outside the Watershed Protection Districts; or
  - (o) floor drainage systems in commercial process areas or Hazardous Material and/or Hazardous Waste areas which discharge to the ground.
- c. In making the calculation required under 4.5.3 1. b. ii. (k) all contiguous real property within the Protected Areas held in common ownership shall be used, in the aggregate; provided, however, that said area may be so used in making such calculation for only one (1) Lot.
  - d. In making the calculation required under 4.5.3 1. b. ii. (m), all contiguous real property within the Protected Areas held in common ownership shall be used, in the aggregate, to determine the total acreage for density purposes; provided, however, that said area may be so used for determining area density for only one (1) Lot.

## 2. Exemptions

The provisions of 4.5.3 shall not apply to the following:

- a. Uses, Structures or Facilities in Existence. Uses, Structures, facilities or appurtenances lawfully in existence or for which all applicable municipal, state or federal permits and approvals were obtained prior to the effective date of this Bylaw;
- b. Reconstruction, Extension or Structural Change. Any reconstruction, extension or structural change to any Structure lawfully in existence on the effective date of this Bylaw, provided that a Special Permit is issued by the ZBA (as hereinafter defined);

- c. Lot in Existence. The construction of one (1) single-family Dwelling on any Lot existing as such prior to the effective date of this Bylaw;
- d. Division of a Lot. The division of an owner occupied Lot existing as such as of the effective date of this Bylaw into one (1) additional Lot for a single family dwelling; provided that a Special Permit is issued by the Zoning Board of Appeals (the “ZBA”). This section shall be construed strictly in accordance with M.G.L. Chapter 40A, Sec. 6.
- e. Work of the Town of Paxton, the City of Worcester, and/or the Leicester Water Supply District. The Town of Paxton, the City of Worcester, and/or the Leicester Water Supply District in the performance of its responsibilities and duties to protect the quality of the water in the Watersheds, or in the performance of its responsibilities and duties to maintain, operate and improve the Waterworks System;
- f. Conversion of Land for Agricultural Use. Conversion of Land for Agricultural Use or preparation of Land for Agricultural Use as defined under Massachusetts General Laws, Chapter 40A, Section 3.
- g. Maintenance of Public Roadways in Existence. The maintenance, repair, replacement or reconstruction of roadways existing as of effective date of this Bylaw;
- h. Maintenance or Improvement - Agricultural. Activities relating to normal maintenance or improvement of land for agricultural use;
- i. Maintenance of Public Utilities. The maintenance, repair or expansion of lawfully located structures or facilities used in the service of the public to provide electric, water, sewer, telephone, telegraph and other telecommunication services;
- j. Clean up or Prevention of Releases. The undertaking by any Person to clean up, prevent or mitigate releases of Hazardous Material or Hazardous Waste;
- k. Municipal Water System. The construction of a new municipal water system; and
- l. The Watershed Protection Act. Uses, Structures or facilities, existing or proposed, allowed or permitted, by any method, pursuant to The Watershed Protection Act, Massachusetts General Laws Chapter 92, Section 107A. The approving and enforcement authority for such uses, structures or facilities shall remain with the Metropolitan District Commission.

### **3. Application for Special Permit.**

Any application for a Special Permit as described in section 4.5.3 2. b. or 4.5.3 2. c. shall be made, reviewed, and acted upon in accordance with the following procedures.

- a. Each application for a Special Permit shall be filed in writing with the ZBA and shall contain a complete description of the proposed project, together with supporting information and plans, which the ZBA may require pursuant to other sections of this Bylaw and Rules and Regulations adopted from time to time by the ZBA;
- b. The ZBA shall refer copies of the application to the Water Board, Board of Health, Planning Board, Conservation Commission, and Selectmen, which shall review, either jointly or separately, the application and shall submit their recommendations to the ZBA. Failure to make recommendations with thirty-five (35) days of the referral shall be deemed lack of opposition;
- c. After a public hearing, and due consideration of the reports and recommendations of the local boards, the ZBA may grant such a Special Permit provided that it specifically finds that the proposed project:

- i. is in harmony with the purpose and intent of this Bylaw and will promote the purposes of the Watershed Protection District;
- ii. is appropriate to the natural topography, solids, and other characteristics of the site to be developed;
- iii. will not, during construction or thereafter, have an adverse environmental impact on the Watershed Protection District;
- iv. will not adversely affect an existing or potential water supply;
- v. does not, wherever possible, include Alterations within the areas described in 4.5.3 1. a.;
- vi. does not constitute a substantial change to or substantial enlargement of a lawfully existing structures that will cause such structure to exceed the limits defined in 4.5.3 1. b. ii. (k), or 4.5.3 1. b. ii. (m); and
- vii. meets the other standards for the grant of a Special Permit as required by this Bylaw and Chapter 40A.

#### **4.5.4 Definitions:**

*Alteration* means:

- (a) draining, dumping, dredging, damming, discharging, excavating, filling or grading;
- (b) the erection, reconstruction or substantial expansion of any buildings or Structures;
- (c) the driving of pilings;
- (d) the construction or reconstruction or paving of roads and other ways;
- (e) the construction or reconstruction of utilities;
- (f) the changing of run-off characteristics;
- (g) the intercepting or diverting of ground waters, surface waters, reservoirs, tributaries, or aquifers; and
- (h) the installation or substantial expansion of drainage, sewage and water systems.

*Aquifer* means a geological formation, group of formations, or part of a formation in the Watershed that is capable of yielding a significant amount of water to a well or spring, as determined by reference to the Maps, 350 CMR 11.07. The land directly overlaying an aquifer shall be deemed to be part of said aquifer.

*Bank* means the portion of the land surface which normally abuts and confines a water body. It occurs between a water body and a Bordering Vegetated Wetland and adjacent Flood plain, or in the absence of these, it occurs between a water body and an upland. A bank may be partially or totally vegetated or may be comprised of exposed soil, gravel or stone. The upper boundary of a bank is the first observable break in the slope or the mean annual flood level, whichever is lower. The lower boundary of a bank is the mean annual low flow level.

*Bordering Vegetated Wetland* means a wet meadow, except meadows used for the grazing of livestock, marsh, swamp, bog or other area, hydrologically connected to and bordering on a Tributary, Reservoir, Flood plain, or Surface Water, which supports at least 50% wetland species and as defined in the Wetlands Protection Act as defined herein.

*Commonwealth* means the Commonwealth of Massachusetts.

*Discharge or Discharge of Pollutant* means any addition of Pollutants or combination of Pollutants from any source including, but not limited to, discharges from surface runoff, which are collected or channeled by man and through pipes, sewers or other conveyances.

*Disposal* means the discharge, deposit, injection, dumping, spilling, leaking, incineration or placing into or on any land or water so that the matter disposed of may enter the environment or be emitted into the air or discharged into any waters, including Ground water.

*Dwelling* means any structure or building, or any portion thereof which is used, intended to be used, or designed to be occupied for human habitation purposes, including, but not limited to, houses, hotels, motels, apartments and condominiums.

*Generate or Generation of Pollutants* means the origination, creation or production of Pollutants.

*Ground water* means water below the land surface in a saturated zone, including perched ground water.

*Hazardous Material or Hazardous Waste* means any material or waste, in whatever form, which because of its quantity, concentration, corrosivity, flammability, reactivity, toxicity, or infectious, chemical or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Hazardous Material or Hazardous Waste shall include those materials listed in 40 CFR 261, or 310 CMR 40.900 Appendix I.

*Impervious* means not allowing entrance or passage of water due to the presence on or above the ground of material having a percolation rate of greater than 30 minutes per inch, including, but not limited to, pavement and concrete. Surfaces will not be considered impervious if a system of artificial recharge of precipitation is provided that will not degrade the quality of the water supply.

*Leaching Field* means a soil absorption system as such term is defined in Title 5 (310 CMR 15.00).

*Pollutant* means any substance, man-made or resulting from human activities, that can alter the biological, chemical, physical, or radiological character of water.

*Reservoir* means either Asnebumskit Pond, Pine Hill Reservoir, Kettle Brook Reservoirs Nos. 2, 3, and 4, Lynde Brook Reservoir, or Holden Reservoirs Nos. 1 and 2.

*Sewage Treatment Facility* means any wastewater treatment facility used for treating, neutralizing, or stabilizing sewage from more than one dwelling.

*Solid Waste* means useless, unwanted or discarded solid, liquid or contained gaseous material resulting from industrial, commercial, mining, agricultural, municipal or household activities that is abandoned by being disposed or incinerated or is stored, treated or transferred pending such disposal, incineration or other treatment, but does not include Hazardous Material or Hazardous Waste.

*Outdoor storage, open storage, uncovered storage and storage:*

The space on a lot unoccupied by buildings, unobstructed to the sky, presenting the presence of any new, used or surplus building materials, metals, junk, scrap, paper, rags, tires, appliances, equipment, unclean containers, uncovered and/or overflowing refuse; barrels, dumpsters, containers or other articles of salvage; wrecking and/or dismantling of motor vehicles or equipment but not limited thereto utilized for actual or intended containment or arrangement on a temporary basis or permanent basis which does not constitute Disposal which is visible from adjoining public or private properties.

*Subsurface Waste Water Disposal System* means an on-site subsurface sewage disposal system as defined in Title 5 (310 CMR 15.00).

*Surface Water(s)* means water in the Watersheds, including any lake, spring, impoundment, and pond. Surface water shall include the land located thereunder and the Banks thereto. Surface water shall exclude all

Reservoirs, Tributaries, Aquifers, Ground waters, and man-made farm ponds used for irrigation, as well as so-called great ponds of the Commonwealth which do not drain into a Tributary or a Reservoir.

*Title 5* means Title 5 of the Massachusetts Environmental Code governing standard requirements for the siting, constructing, repair, replacement and maintenance of on-site sewage treatment and disposal systems, 310 CMR 15.00.

*Treatment* means any method, technique, or process, including neutralization, incineration, stabilization or solidification, designed to change the physical, chemical or biological character or composition of any Hazardous Material or Hazardous Waste so as to neutralize such Hazardous Material or Hazardous Waste or so as to render such Hazardous Material or Hazardous Waste less hazardous, non-hazardous, safer to transport, amenable to storage, or reduced in volume, except such method or technique as may be included as an integral part of a manufacturing process at the point of generation.

*Tributary* means any body of running, or intermittently running water, including a river, stream, brook and creek, which moves in a definite channel, naturally or artificially created, in the ground due to a hydraulic gradient and which flows ultimately into a Reservoir in the Watersheds. A Tributary shall include the land over which the water therein runs and the Banks thereto.

*Wetlands Protection Act* means the Wetlands Protection Act, M.G.L. c. 131, §40 and regulations promulgated pursuant thereto, 310 CMR 10.00 et seq.

## **SECTION 5. SPECIAL REGULATIONS**

### **5.1 Trailers and Mobile Homes**

No person shall occupy a trailer or mobile home for living or business purposes in the Town of Paxton except that:

1. The owner of premises may permit occupancy by a non-paying guests, using a trailer or mobile home, for a period not exceeding thirty (30) days in any calendar year. Permission for this purpose shall be obtained from the Board of Selectmen before the premises can be so occupied; and,
2. The use of either a trailer or mobile home as a temporary office or dwelling incidental to construction or development of the premises on which such trailer or mobile home is to be located, shall be permitted subject to the permission of the Board of Selectmen and the approval of the Board of Health. In no case may the trailer or mobile home be so occupied for longer than a period of two (2) years when used as a temporary office, and one year when used as a temporary dwelling, The trailer or mobile home shall be removed upon completion of construction or issuance of a certificate of occupancy.
3. The placement of a temporary mobile home on a lot where the residence has been destroyed by a fire or other natural holocaust, as authorized by M.G.L. c. 40A §3.

### **5.2 Earth Removal**

**5.2.1 Special Permit Required:** In each case as contained in Section 3.2.5, no Special Permit for the removal of soil, loam, sand, gravel, stone or other earth material from any premises shall be granted unless the Board of Appeals finds that such removal (subject to the conditions imposed by the Special Permit) will not be contrary to the best interests of the Town; and no removal operations subsequently conducted under such Special Permit shall continue if contrary to such interests. For this purpose, removal of earth materials shall be considered contrary to the best interests of the Town which:

1. will be injurious or dangerous to the public health or safety;
2. will produce noise, dust or other effects observable at the lot lines in amount seriously objectionable or detrimental to the normal use of adjacent property;
3. will result in the transportation of earth materials on ways giving access to the land in question which will cause traffic congestion or hazards;
4. will result in transportation which will cause undue injury to the roadway surfaces;
2. will result in change in topography and cover which will be disadvantageous to the most appropriate use of the land on which the operation is conducted;
3. will have a minimal adverse effect on the health or safety of persons living in the neighborhood or on the use or amenities of adjacent land; or
4. will leave less than a minimum cover of three feet (3') above the high ground water table.

**5.2.2 Special Permit Conditions:** In granting a Special Permit for earth removal, the Board of Appeals shall impose reasonable conditions specially designed to safeguard the neighborhood and the Town, which may include conditions certified by a registered professional engineer as to:

1. method of removal;
2. type and location of temporary structures accessory thereto;
3. hours of operation;
4. routes for transporting the material through the Town;
5. area and depth of excavation, including conditions for the protection of ground water quality;
6. distance of excavation to street and lot lines;
7. steepness of slopes excavated;
8. re-establishment of ground levels and grades;
9. provisions for temporary and permanent drainage;
10. disposition of boulders and tree stumps;
11. replacement of loam six (6) inches minimum over the area of removal,
12. planting of the area to provide suitable cover, including trees;

13. cut and fill calculations; and
14. final as-built plans indicating original and as built conditions.

**5.2.3 Restoration:** The applicant shall submit a detailed plan for restoring the premises upon cessation of earth removal operations. Such plan shall show existing and proposed topography at two-foot contour intervals, the maximum depth that the applicant intends to remove materials, and the intended use of the premises upon completion of operations. Finished grades shall not exceed a slope of one foot vertical rise in three feet horizontal distance, and shall not normally be below the grade of adjacent streets. Restoration shall be completed within one year of the expiration of the permit or upon completion of removal of the area covered by the bond or other security.

**5.2.4 Time Periods:** No Special Permit for removal of earth material shall be issued for a period of more than one (1) year in a General Residence District (GRA and GRB), or more than two (2) years in a Business District, although such permit may be renewed for additional periods in the same manner as for initial issuance. Where the duration of such permit exceeds one (1) month, the Board of Appeals shall require a bond or other security to insure compliance with its conditions of authorization. Where the duration of such permit is one (1) month or less, the Board of Appeals may, in its discretion, require such security.

**5.2.5 Exceptions:** Notwithstanding the foregoing provisions hereof, no Special Permit shall be required for removal of sod, loam, sand, gravel or other earth materials from:

1. Any premises in connection with the lawful construction of a building or structure thereon, or the lawful construction of a driveway, sidewalk or path incidental to any such buildings or structure, provided that the quantity of material removed does not exceed that actually displaced by the portion of building, structure, driveway, sidewalk or path below finished grade;
2. Any premises in use by the Town of Paxton or by any higher governmental agency;
3. For the purpose of this Bylaw, the transferal of earth materials from one part of a lot, tract or parcel of land to another part thereof, or to a contiguous lot, tract or parcel of land in the same ownership in the Town of Paxton, shall not be deemed to constitute removal.

**5.2.6 Subdivision Plans:** The removal of earth materials from any premises for which a preliminary or definitive subdivision plan has been prepared shall be allowed only in the same manner as removal from other premises in the Town of Paxton. Consequently, tentative or final approval of a subdivision plan by the Planning Board shall not be construed as authorizing the removal of earth materials from the premises, even though it is in connection with the construction of streets shown on the plan.

**5.2.7 Site Work Permit:** Before beginning any filling, clearing, or grading of land or disturbance of topsoil (excluding septic system work approved by the Board of Health), which alone or in combination exceeds ten thousand (10,000) square feet, an applicant shall submit a grading plan to the Building Commissioner. The Plan shall show existing and proposed grades and measures employing best management practices designed to control erosion from the premises. The Building Commissioner shall issue a site work permit within thirty (30) days if the proposed work does not otherwise require a special permit by this section 5.2, and will not cause erosion or negatively affect abutting property or the Town of Paxton. An approved site work permit shall be valid for twelve (12) months from the date of issuance. An applicant may combine building permit and site work permit applications, in which case the issuance of the building permit shall satisfy both requirements.

### **5.3 Signs**

**5.3.1 Purpose:** The purpose of this section is for the regulation and restriction of signs, billboards, and other advertising devices within the Town of Paxton on streets or on private property within public view of a street, public park or reservation in order to protect and enhance the visual environment of the Town and the safety, convenience and welfare of its residents. The following shall not be deemed to regulate political signs to the extent such signs are protected by the United States Constitution and/or the Massachusetts Constitution.

### **5.3.2 Definitions:**

1. "Accessory Sign" means any sign which is accessory to the premises upon which it is located and which advertises, calls attention to, or indicates the person occupying the premises on which the sign is located, or the business transacted thereon; or advertises the property itself or any part thereof as for sale, lease or rent, and which contains no other matter.
2. "Non-Accessory Sign" means any sign not an accessory sign.
3. "Person" means an individual, corporation, society, association, partnership, trust or other entity, public or private.
4. "Sign" means any privately-owned, publicly-displayed, permanent or temporary board, placard, billboard, bulletin board, device, letter, word, medal, banner, pennant, insignia, trade flag or representation used as, or which is in the nature of, an advertisement, announcement or direction which is on a street or on private property within public view of a street, public park or reservation.
5. "Free Standing Sign" means any sign that is not attached to a building.
6. "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. The area of a sign consisting of individual letters or symbols attached to or painted on a surface, building, wall or window shall be considered to be that of the smallest rectangle or triangle which encompasses all of the letters and symbols. The area of a sign consisting of a three-dimensional object shall be considered the area of the largest vertical cross-section of that object. Only one side shall be counted in computing the area of a double-faced sign.
7. "Temporary Sign" means any sign intended to be maintained for a continuous period of not more than sixty (60) days.

**5.3.3 Administration of Signs:** The Building Commissioner shall be the Sign Officer under this Bylaw. The Sign Officer shall, at reasonable times and upon presentation of credentials, have the power to enter upon the premises, on which any sign is erected or maintained, in order to inspect such sign. The Sign Officer is further authorized upon notice as herein provided, to order the repair or removal of any sign which in his judgment is, or is likely to become, dangerous, unsafe or in disrepair, or which is erected or maintained contrary to these sign regulations. He shall serve a written notice and order upon the owner of record of the premises where the sign is located and any advertiser, tenant or other person known to him, having control of or a substantial interest in, said sign, directing the repair or removal of the sign within seven (7) days after giving such notice. If such notice and order is not obeyed within such period of time, the Sign Officer shall, at reasonable times and upon presentation of credentials, have the power to enter upon the premises on which said sign is erected or maintained, and repair or remove, or cause to be repaired or removed, said sign. All expenses incurred by the Sign Officer in repairing or removing any sign shall be assessable against any person who failed to obey said notice and order, and shall be recoverable in any court of competent jurisdiction if not paid within sixty (60) days after notice of assessment is given by the Sign Officer to any such person.

Any person aggrieved by an order or decision of the Sign Officer under this Bylaw may appeal to the Board of Appeals in accordance with Section 6.2.4 of this Bylaw. Any five (5) or more residents of the Town of Paxton may petition the Sign Officer in writing to take any actions which he is authorized to take by these regulations to order or cause the repair or removal of any sign. In the event that the Sign Officer does not take such action within thirty (30) days of the date that such petition was submitted to him, the Sign Officer shall hold a public hearing, notice of which shall be given by publication in accordance with Section 6.2.7.1 of this Bylaw, at which hearing he shall be permitted to explain why he has not taken the appropriate action and shall allow members of the public at the hearing to address him as to the reasons why he should take the action specified in the petition.

Any ten (10) or more residents of the Town of Paxton, after exhausting the remedies provided herein, may petition any court of competent jurisdiction for an order for the repair or removal of any sign which does not conform to the requirements of these sign regulations and for an assessment of penalties by the court.



#### **5.3.4 Movement, Illumination and Color of Signs:**

1. **Movement** No sign shall contain any moving, flashing or animated lights, or visible moving or Moveable parts, except such portions of a sign as consist solely or indicators of time, barometric pressure, and/or temperature, or automatically changing message, provided that a sign with an automatically changing message shall be permitted only if the Board of Selectmen so approve in writing.
2. **Illumination**: No sign shall be illuminated after eleven (11) p.m., and before six (6) a.m., next following unless the premises on which it is located is open for business. Signs may be illuminated only by the following means:
  - a.) a white, steady stationary light or reasonable intensity shielded and directed solely at the sign, or
  - b.) an interior light or reasonable intensity, or
  - c.) in a Business District only, by neon or gas-filled tubes.
3. **Colors**: No sign in the Town of Paxton shall contain more than four (4) colors. No sign shall contain red or green lights if such colors would, in the opinion of the Paxton Police Department, constitute a driving hazard.

**5.3.5 Non-Accessory Signs**: Non-Accessory signs are prohibited in the Town of Paxton, except for temporary signs as provided in Section 5.3.6:3 hereof.

#### **5.3.6 Additional Requirements for Accessory Signs:**

1. **General Residence Districts**: In General Residence Districts A and B, no accessory sign, either free-standing or attached to a building, shall be erected or maintained except as follows:
  - a.) one sign on a premises displaying the street number and/or name of the occupant of the premises not exceeding two (2) square feet in area.
  - b.) one sign on a premises accessory to a permitted principal use other than a detached single family dwelling, and not exceeding twelve (12) square feet in area. Such sign may exceed twelve (12) square feet in area but in no case shall exceed sixteen (16) square feet in area if allowed by Special Permit in accordance with Section 6.2.5 hereof.
  - c.) one sign on a premises advertising an accessory use as authorized under Section 3.2.4.21 (home business) or Section 3.2.6 hereof, and not exceeding two (2) square feet in area.
  - d.) one “For Sale,” “For Lease”, or “For Rent” sign on a premises not exceeding twelve (12) square feet in area, and advertising only the premises on which it is located.
  - e.) one contractor’s sign, not exceeding twelve (12) square feet in area, maintained on the premises while construction is in process, and containing only information relevant to the project. Such sign shall be removed promptly after completion of the construction but not later than the issuance of a certificate of use and occupancy.
  - f.) one identification sign at any public entrance to subdivision provided written permission for such sign is obtained from the Sign Officer who shall specify limits on the sign size and length of time it is to be maintained.
  - g.) one bulletin or announcement board, identification sign or entrance marker for each public entrance to the premises upon which a church, synagogue, or institution is located, not exceeding twelve (12) square feet in area, provided that there shall be not more than three (3) such signs for each such church, synagogue or institution.
2. **Business Districts**: In a Business District, no accessory sign shall be erected or maintained except as follows:
  - a.) accessory signs as permitted in General Residence Districts under Section 5.3.6.1 (a); 5.3.6.1 (c); 5.3.6.1 (d); 5.3.6.1 (e); 5.2.6.1 (g); and
  - b.) in addition, other accessory signs which comply with the following requirements:
    - i. **Attached Signs**: An attached sign shall be firmly affixed to a building and shall not project beyond the face of any other wall of the building, or above the top of the wall to which it is attached, or be located on the roof of any building. Such sign shall not project more than twelve (12) inches in the case of a

sign parallel with the wall, or three (3) feet from the face of wall in the case of a sign projecting from the wall. The area of an attached sign in a Business District shall not exceed forty (40) square feet.

There shall be not more than one exterior attached sign for each separate and distinct business establishment except that if there is more than one public entrance to any such establishment, there may be one additional secondary attached sign for each such entrance; provided that the aggregate area of all such secondary signs shall not exceed twenty (20) square feet in area. In addition to the foregoing sign or signs, one (1) directory of the business establishments occupying a building may be affixed to the exterior wall of such building at each public entrance to the building. Such directory shall not exceed an area determined on the basis of one (1) square foot for each establishment occupying the building.

- ii. **Free Standing Signs:** There shall be not more than one (1) exterior free-standing sign for each separate and distinct business establishment advertising goods or services offered by an occupant of the premises for sale, hire or use; except that if the lot frontage on a principal street of such premises exceeds two hundred (200) linear feet, there may be one such sign for each two (200) linear feet of lot frontage of such premises. In no event, however, shall a free-standing sign exceed forty (40) square feet in area, or be located within ten (10) feet of any lot line. In addition, no freestanding sign shall exceed fifteen (15) feet in height from the ground.
- iii. **Window Signs:** Signs painted or placed on the inside of the glass of a window in a Business District shall be permitted, provided that the aggregate area of such signs does not exceed twenty (20) percent of the area of the window glass.

### **3. All Districts:**

- a.) **Temporary Signs:** Temporary signs which comply, with the sign regulations are permitted subject to the Sign Officer's approval. In the event of failure to remove a temporary sign, the Sign Officer shall have the power to remove such sign in the manner prescribed in Section 5.3.3 hereof.
- b.) **Parking Signs:** The provision of this Section 5.3.6 shall not apply to any sign limited solely to directing traffic within, or setting out restrictions on the use of parking areas and not exceeding four (4) square feet in area.

**5.3.7 Non-Conformance of Accessory Signs:** Accessory signs legally erected before the adoption of these sign regulations, which do not conform to the provisions hereof, may continue to be maintained, provided, however, that no such sign reworded (other than in the case of signs with automatically changing messages), redesigned or altered in any way, including repainting in a different color, except to conform to the requirements of these sign regulations; and provided further that any such sign which has deteriorated to such an extent that the cost of restoration would exceed thirty-five (35) percent of the replacement cost of the sign at the time of restoration shall not be repaired or rebuilt or altered except to conform to the requirements of this Bylaw. Any exemption provided in this Section 5.3.7 shall terminate with respect to any sign which:

- a.) shall have been abandoned;
- b.) advertises or calls attention to any products, businesses or activities which are no longer sold or carried on, whether generally or at the particular premises, or
- c.) shall not have been repaired or properly maintained within thirty (30) days after notice to that effect has been given by the Sign Officer.

### **5.4 Off Street Parking and Loading**

**5.4.1 Off Street Parking and/or Loading Requirements:** In any district, if any structure is constructed, enlarged, or extended, or any use of land established, or any existing use is changed, after the effective date of this Bylaw, parking and loading spaces shall be provided in accordance with the tables shown in this Section 5.4. An existing structure which is enlarged or an existing use which is extended after the effective date of this Bylaw shall be required to provide parking and loading spaces in accordance with said tables for the entire structure or use unless the increase in units or measurements amounts to less than twenty five (25) percent whether such increase occurs at one time or in successive stages.

#### **5.4.2 General Provisions:**

1. In any district, parking or loading spaces being maintained in connection with any existing use on the effective date of this Bylaw shall thereafter be maintained so long as said use remains, unless an equivalent number of parking or loading spaces is constructed elsewhere such that the total number conforms to the requirements of the tables contained in this Section 5.4, provided that this regulation shall not require the maintenance of more parking or loading spaces than is required according to said tables.
2. The parking spaces required for the uses listed in the said tables shall be on the same lot as the use they are intended to serve, or when practical difficulties prevent their establishment upon the same lot, they shall be established no further than two hundred (200) feet from the premises to which they are appurtenant. In no case shall the required parking spaces be part of the area used to satisfy any loading space requirements under this Bylaw.
3. The loading spaces required for the uses in the said tables shall in all cases be on the same lot as the use they are intended to serve. In no case shall the required loading spaces be part of the area used to satisfy the parking space requirements or extend into any designated parking space under this Bylaw.
4. Whenever a land use is proposed which requires the creation or addition of new parking spaces, or whenever an existing parking lot is changed in any manner, the owner shall provide accessible parking spaces as required by the Americans with Disabilities Act (ADA) and related design standards.

**5.4.3 Parking and Loading Space Standards:** All parking and loading areas containing over five (5) spaces, shall be either contained within structures, or, in all districts except as otherwise specified, subject to the following:

1. The area shall be effectively screened on each side, which adjoins or faces the side or rear lot line of a lot situated in a General Residence District.
2. The area and access driveways thereto shall be surfaced with bituminous or cement concrete material and shall be graded and drained so as to dispose of all surface water accumulation.
3. A substantial bumper of masonry, steel or heavy timber, or a concrete or bituminous curb or berm shall be placed at the edge of surfaced areas except driveways in order to protect abutting structures, properties and sidewalks.
4. Any fixtures used to illuminate the area shall be so arranged as to direct the light away from the street and away from any adjoining premises used for residential purposes.
5. In any Business District, parking and loading spaces therein shall be so arranged as not to permit backing of automobiles on to any street.
6. There shall not be any vehicular repair or gasoline or oil servicing or any repair made to any motor vehicle within parking and loading areas, except on a lot occupied by an automobile service use lawfully allowed by special permit.
7. There shall not be any storage of materials or equipment or display of merchandise within any required parking area, except as part of approved construction operations.
8. Any portion of any entrance or exit driveway to or from the parking or loading area for non-residential use shall not be closer than fifty (50) feet to the curb line of an intersecting street.
9. Any two (2) driveways to or from the parking or loading area for a non residential use leading to or from a street or to a single lot shall not be within thirty (30) feet of each other as measured between their nearest edges at their intersections with the front lot line.
10. Parking spaces shall be at least five (5) feet from any building or side or rear lot line.
11. Driveways shall be at least five (5) feet from any side lot line.
12. Any parking lot of more than twenty (20) spaces shall be provided with interior landscaping covering not less than five percent (5%) of the total area of the lot. Landscaping shall also be provided around the perimeter of the lot for a width of ten feet (10') and planted with trees and shrubs. In total, there shall be provided one shade tree for every ten (10) spaces and complemented by shrubs and other planting material. Such trees shall be at least two (2) inches in trunk diameter at the time of planting, and shall be located in planting beds at least six feet (6') in width or diameter.
13. A location for snow storage shall be designated at the rear of the premises which allows for unimpeded traffic and pedestrian circulation and maintains clear visibility for moving traffic.

**5.4.4 Tables of Off-Street Parking and Loading Requirements**

**Table of Off-Street Parking Regulations**

<u>Uses</u>	<u>Minimum Number of Parking Spaces</u>
1. Single or two family dwelling	Two for each dwelling unit.
2. Theater, restaurant, auditorium, church, or similar place of public assembly with seating facilities	One for each four seats of total seating capacity.
3. Retail, service, finance, insurance or real estate establishment	One per each 200 square feet of gross floor space.
4. School, except colleges	Two per classroom in an elementary and junior high school and four per classroom in a senior high school; plus space for auditorium or gymnasium whichever has the larger capacity.
5. College	One for each 200 square feet of gross floor area in classrooms, plus the spaces required for dormitory use, if applicable.
6. Hotel, motel, overnight cabins	One for each sleeping room plus one for each 400 square feet of public meeting room and restaurant space.
7. Convalescent or nursing home	One per bed at design capacity.
8. Hospital	One and one-half per bed.
9. Dormitory or similar use	One for each sleeping room.
10. Public utility	One for each 400 square feet of gross floor area devoted to office use plus one for each 800 square feet of gross floor area per other use.
11. Other community facilities (such as town building, recreational, etc.)	One per each 400 square feet of gross floor space.
12. Mixed use	Sum of space requirements for various uses computed separately.
13. Any use permitted by this Bylaw not interpreted to be covered in this Table	Closest similar use space requirements as determined by the Building Commissioner.

**Table of Off-Street Loading Standards**

<u>Uses</u>	<u>Minimum Number of Loading Spaces per Unit</u>
Business, service, community facility or public utility establishment; with over 5,000 square feet of net floor area	One per 20,000 square feet or fraction thereof of net floor area up to two spaces, plus one additional space for each 60,000 square feet or fraction thereof of net floor area in excess of 40,000 square feet.

## **5.6 Site Plan Approval**

**5.6.1 Purpose:** The purpose of this section is to provide for a comprehensive review of site plans for those uses and structures that may have a significant impact on adjacent properties, the Town's character, infrastructure, environment and quality of life. Before applying for a building permit, all projects requiring site plan review, as required by this Bylaw, shall have obtained site plan approval from the Planning Board.

**5.6.2 Uses Requiring Site Plan Review and Approval:** The site plan approval provisions shall apply to the following types of structures and uses:

1. In a Business District, any construction or enlargement of a building or other structure or parking area, and any business established or expanded in ground area.
2. In a Residential District, any use that requires a special permit and:
  - a) involves new construction greater than three thousand (3,000) square feet of total floor area; or
  - b) enlargement of a building greater than three thousand (3,000) square feet of total floor area.
3. New development or land alteration on a lot if any portion of the lot contains slopes greater than fifteen percent (15%).

### **5.6.3 Site Plan Review Procedure**

1. **Filing:** An applicant for site plan approval shall file with the Planning Board, at a regularly scheduled meeting, ten (10) copies of the site plan and any supporting documents. The applicant shall also file a copy of the site plan with the Town Clerk.
2. **Submission Requirements:** Site plans shall be prepared by a registered professional engineer, architect or landscape architect at a scale of 1" = 40' on standard 24" x 36" sheets, (or another scale or size previously approved by the Planning Board) and shall contain the following information:
  1. Name of the project, property boundaries, location map, date, north arrow and scale, and the name and address of the owner and registered engineer, architect or landscape architect who prepared the plan.
  2. The location of all existing and proposed buildings and structures within the development, including dimensions, height and floor area.
  3. The zoning district of the site and the required zoning setback lines on the property.
  4. The location of all existing and proposed roads, driveways, parking and loading areas, sidewalks, fences and walls; and the number of parking and loading spaces provided.
  5. The location, height, size, and design of all proposed signage and lighting fixtures.
  6. Proposed landscaping, including the size and type of plant material.
  7. The location of existing and proposed utility systems, including water supply, septic system, storm drainage system, and other utilities.
  8. Existing and proposed topography at two (2) foot contour intervals, including natural features, water courses, wetlands and the 100-year flood plain.
  9. The location where earth removal or filling is proposed and the volume of material to be removed.
  10. Elevations for all exterior facades of the proposed structure including the type and color of materials to be used.

Upon written request from the applicant, the Planning Board may waive the submission of such information, plans, studies or analyses, or parts thereof of the above requirements, as may not be necessary for the consideration of the application. The decision shall be written and shall be recorded in the Planning Board's minutes and/or records.

3. **Plan Review:** The Planning Board shall refer copies of the site plan to the Board of Health, Conservation Commission, Building Commissioner, Water Department, Highway Superintendent, and other boards or officials as deemed necessary. These parties shall have thirty (30) days in which to review and comment on the plan. Failure to submit written comments within thirty (30) days shall be interpreted as lack of opposition to the approval of the site plan.

4. **Review Fees:** The Planning Board is authorized to retain a professional engineer, architect, landscape architect or other professional consultant to advise the Board on any and all aspects of the site plan. The applicant shall pay the fee at the time of plan submission. The Planning Board shall adopt a fee schedule which accurately reflects the cost of reviewing site plans and regulations regarding the use of outside consultants.
5. **Decision:** The Planning Board shall deliver its written decision to the Building Commissioner and Town Clerk within sixty (60) days of the receipt of the site plan application. This time limit may be extended by written agreement between the applicant and the Planning Board. Failure of the Planning Board to take final action within sixty (60) days, or extended time, shall be deemed to be approval of the application. The Planning Board's final action shall consist of either:
  1. Approval of the site plan based on a determination that the proposed project will constitute a suitable development and will not result in substantial detriment to the neighborhood or the Town.
  2. Disapproval of the site plan with an explanation of the reasons for such disapproval and the elements of the proposal that are deemed by the Planning Board to be inadequate, unsuitable or detrimental to the neighborhood or the Town.
  3. Approval of the site plan subject to such reasonable conditions, modifications and restrictions as the Planning Board may deem necessary to insure that the proposed project will constitute a suitable development and will not result in substantial detriment to the neighborhood or town.

**5.6.4 Uses Also Requiring a Special Permit from the Board of Appeals:** In cases where a development requires site plan review by the Planning Board and a special permit from the Board of Appeals, the applicant shall file site plan and special permit applications concurrently with the appropriate Board. Application and public hearing fees shall be paid to the Board of Appeals and plan review fees shall be paid to the Planning Board. The Planning Board shall review and act on the site plan and shall submit a report with recommendations to the Board of Appeals within forty-five (45) days of the receipt of the application. The Board of Appeals shall incorporate the Planning Board's recommendations and conditions in its special permit decision, or shall state in the decision the reasons why such recommendations or conditions were not followed.

**5.6.5 Standards for Approval:** The following standards shall be used by the Planning Board in reviewing all applications for site plan approval:

1. Conformance with all the provisions of the Paxton Zoning Bylaw;
2. Provisions for convenient and safe vehicular and pedestrian movement within the site, for driveway openings that are convenient and safe in relation to the adjacent street network, and for adequate emergency vehicle access;
3. Provisions for adequate parking and loading spaces, and site design that minimizes visual intrusion of these areas from public ways;
4. Landscaping measures taken to screen the appearance of off-street parking areas from abutting properties and to create visual and noise buffers that minimize the encroachment of the proposed use on neighboring land uses;
5. Adequate provision for controlling surface water runoff to minimize impacts on neighboring properties and streets and to prevent soil erosion and sedimentation of any surface waters;
6. Measures taken to minimize contamination of ground water from sub-surface sewage disposal and operations involving the use, storage, handling, or containment of hazardous substances;
7. Protection of adjoining property or the Town from any undue disturbance caused by excessive or unreasonable noise, smoke, vapors, fumes, dust, glare, etc.

**5.6.6 Site Plan Conditions:** The Planning Board may impose conditions, safeguards and limitations on time and operations as may be appropriate for the protection of the natural environment, the neighborhood, and the Town. Such conditions shall be imposed in writing in the site plan approval decision and shall be enforced by the Building Commissioner. The applicant may be required to post a bond or other security in an amount satisfactory to the Planning Board for compliance with these conditions.

## **5.7 Open Display or Open Storage**

The open display or open storage of junk or similar used materials shall be prohibited in all districts; including worn-out, castoff, or used articles and materials which are ready for destruction or have been collected or stored for salvage or conversion to some other use, or collected for sale on the premises, and including unregistered used automobiles. No person shall maintain more than one (1) unregistered vehicle, including automobiles but excluding farm vehicles, on any premises in the Town of Paxton, which are not kept in a building.

## **5.8 Environmental Performance Standards**

Notwithstanding anything to the contrary in this Bylaw, and use permitted by Right or by Special Permit in any district shall not be conducted in a manner as to emit any dangerous, noxious, injurious, or otherwise objectionable fire, explosion, radioactive or other hazard, noise or vibration, smoke, dust, odor or other form of environmental pollution; electrical or other disturbance; glare; liquid or solid refuse or wastes; conditions conducive to the breeding of insects, rodents, or other substance; conditions or element in an amount as to adversely affect the surrounding environment.

The following standards shall apply:

1. Emissions shall be completely and effectively confined within a building, or so regulated as to prevent any nuisance, hazard, or other disturbance from being perceptible (without the use of instruments) at any lot line of the premises on which the use is located.
2. All activities and all storage of flammable and explosive materials, at any point, shall be provided with adequate safety devices against fire, explosion, adequate fire-fighting and fire-suppression devices, and equipment.
3. No activities that emit dangerous radioactivity, at any point; no electrical disturbance adversely affecting the operation at any point, of any equipment other than that of the creator of such disturbance, shall be permitted.
4. No emission of visible dark or offensive smoke shall be permitted.
5. No emission which can cause any damage to health of animals or vegetation or which can cause excessive soiling, at any point, shall be permitted.
6. No discharge, at any point, into a private sewage system, stream, the ground, or a municipal sewage disposal system of any material in such a way, or of such a nature or temperature as can contaminate any running stream, water supply or otherwise cause the emission of dangerous or objectionable elements and accumulation of wastes conducive to the breeding of rodents or insects shall be permitted.
7. No vibration which is discernible to the human sense of feeling for three (3) minutes or more in any one hour from 7 a.m. to 7 p.m. or for thirty (30) seconds or more in any one hour from 7 p.m. to 7 a.m. shall be permitted. No offensive vibration shall be permitted at any time.
8. No offensive noise of any sort shall be permitted
9. No emission of odorous gases or odoriferous matter in such quantities as to be offensive shall be permitted. Any process, which may involve the creation and/or emission of any odors, shall be provided with a secondary safeguard system.
10. Unless otherwise permitted by law or regulation, activities related to maintenance, construction, or similar tasks are allowed only between the hours of 7 a.m. and 9 p.m.

## **5.9 Temporary Accessory Apartments**

The Planning Board may, by Special Permit, allow for the installation of Temporary Accessory Apartments in owner-occupied single family dwellings upon the following purpose, terms and conditions:

**5.9.1 Purpose:** The purpose of permitting Temporary Accessory Apartments is to:

1. Help provide homeowners with a means of obtaining rental income, companionship, security and services; and, thereby enable them to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave.

2. Help add rental units to the housing stock, to meet the needs of smaller households.
3. Help make housing units available to moderate-income households who might otherwise have difficulty finding homes within the town.
4. Help protect stability, property values, and the single-family residential character of a neighborhood by ensuring that temporary accessory apartments are installed only in owner-occupied houses, and under such additional conditions as may be appropriate to further the purposes of this Bylaw.

### **5.9.2 Conditions:**

1. The apartment will be a complete, separate housekeeping unit that can be isolated from the original unit.
2. Only one apartment will be created within a single-family dwelling.
3. The owner (s) of the residence in which the accessory unit is created shall occupy at least one of the dwelling units on the premises, except for bona fide temporary absences.
4. The accessory apartment shall be designed so that, to the degree reasonably feasible, the appearance of the building remains that of a single family residence. Any new entrances shall be located on the side or in the rear of the building, and any additions shall not increase the square footage of the original house by more than ten (10) percent.
5. The design and size of the apartment conforms to all applicable standards in the health, building, and other codes. The Board of Health shall report within thirty five (35) days upon receipt of the application for a Special Permit, that adequate facilities exist for the safe disposal of sanitary wastes and that such facilities are sufficient for the proposed number of residents.
6. At least three (3), but no more than five (5) off-street parking spaces are available for use by the owner/occupant(s) and tenant(s).
7. The Temporary Accessory Apartment shall be clearly a subordinate part of the single-family dwelling. In no case shall it be more than twenty-five (25) percent of the building's total floor area, nor greater than six hundred (600) square feet, nor have more than two (2) bedrooms, unless in the opinion of the Planning Board, a greater or lesser amount of floor area is warranted by circumstances of the particular building.
8. Any other appropriate or more stringent conditions deemed necessary by the Planning Board to protect public health, safety, and welfare and the single-family character of the neighborhood.

**5.9.3 Application Procedures:** Application for a Special Permit for an accessory apartment shall be made to the Planning Board in accordance with Special Permit procedures of this Bylaw and M.G.L. Chapter 40A, and shall include:

1. A notarized letter from the owner (s) stating that he/they will occupy one of the dwelling units on the premises except for bona fide temporary absences;
2. A floor plan of one-quarter (1/4) inch to the foot showing the proposed changes to the building;
3. A description of the neighborhood in which the tract lies, including utilities and other public facilities, and the impact of the proposed plan upon them.
4. A building permit application and initial overview of said plan by the Building Commissioner and applicant/homeowner.

**5.9.4 Required Renewal:** The effective period of the Special Permit for an accessory apartment shall be two (2) years. At the end of every two (2) years, renewal shall be granted upon receipt of a new application, accompanied by a ten dollar (\$10) application fee, and certification by the owner to the Planning Board that the property remains the principal residence of the owner, and that all other conditions met at the time of the original application remain unchanged. The Planning Board in its discretion may require a new Special Permit and demonstration of compliance with all the conditions necessary for a Special Permit for an accessory apartment, pursuant to the Special Permit procedures of this Bylaw.

### **5.10 Fences and Hedges**

- 5.10.1 Fences or walls or any similar component shall be considered accessory structures and shall be permitted in the required yards subject to the conditions and requirements of this section except that all fences in Business Districts (exclusive of residential property) shall require a special permit from the Board of Appeals.



1. All fencing located within the side or rear yards shall be set back a minimum twelve (12) inches inside the property line.
  2. Privately owned fences, walls or hedges shall be erected on private property and shall be no closer than 12 inches to any public right of way. No landscape plantings or hedges shall intrude into or over a public right of way for a height of eight (8) feet above the ground.
  3. For fences that extend into the required front yard setback (or the existing principal building, whichever is closer to the street), the Building Commissioner shall have the authority to require that it be open and not be greater than four feet in height. This requirement shall be based on a determination that the proposed fence would create an undue safety or traffic hazard by reason of impeding minimum sight distance requirements as established by the American Association of State Highway Transportation Officials (AASHTO).
  4. All fences shall be installed so that the finished side faces the abutting properties.
  5. All applications for fence installations shall include a certified plot plan showing the location of the proposed fencing and any existing pertinent features as determined by the Building Commissioner.
- 5.10.2 Landscape plantings and shrubs maintained as hedges shall be permitted in the required yards and shall be considered fences subject to the conditions and requirements of section 5.10.1 above.

## SECTION 6. ADMINISTRATION AND ENFORCEMENT

### 6.1 Enforcement

**6.1.1 Building Commissioner:** This Bylaw shall be interpreted, administered, and enforced by the Building Commissioner. No permit for the construction, alteration, or moving of any building or structure or Certificate of Use and Occupancy shall be issued if the building or structure as constructed altered or moved, or the use of the premises, would be in violation of this Bylaw.

6.1.1.1 The Building Commissioner shall promulgate regulations relative to the administration of this Bylaw and his authority, and shall file a copy of same with the Town Clerk.

6.1.1.2 With each application for a permit to construct or alter any building or structure, or change a use, there shall be filed a plan showing the lot and the location of the building or structure or proposed use and activity thereon.

**6.1.2 Requests:** If the Building Commissioner is requested in writing to enforce this Bylaw against any person allegedly in violation of this Bylaw and such officer declines to act he shall notify, in writing, the party requesting such enforcement of any action or refusal to act, and the reasons therefore within fourteen (14) days of receipt of such request.

**6.1.3 Superior Court:** In accordance with Section 7 of M.G.L. Chapter 40A, the Superior Court shall have jurisdiction to enforce the provisions of said Chapter 40A and this Bylaw adopted thereunder, and may restrain by injunction violations thereof.

**6.1.4 Certification:** No premises or structure or part thereof shall hereafter be erected or altered in use or structure, in whole or in part, nor shall any area of open space pertaining to any such premises or structure be diminished in any way, unless the Building Commissioner shall certify on the building permit, or in case no permit is issued, the Building Commissioner shall issue a Certificate of Use and Occupancy, in either case specifying that the proposed use is lawful in accordance with this Bylaw as amended.

### 6.1.5 Building Permits

6.1.5.1 The Building Commissioner shall withhold a permit for the construction, alteration or moving of any building or structure if the building or structure as constructed, altered or moved would be in violation of this Bylaw or any amendment thereof. No permit or license shall be granted for a new use of a building, structure or land use, which would be in violation of this Bylaw. No permit or license shall be granted for a new use of a building, structure or land, which requires site plan approval unless such approval has been secured from the Planning Board.

6.1.5.2 All applications for building permits shall be accompanied by such plan or plans drawn to scale and showing the elevations, locations and dimensions of the lot to be built upon, existing and/or proposed improvements, setbacks, significant features and any such other information as may be deemed necessary by the Building Commissioner to determine compliance with the provisions of this Bylaw.

**6.1.6 Violations:** If the Building Commissioner finds that any provision of this Bylaw has been violated, or has reason to believe that any provision of this Bylaw or any permit issued thereunder has been, is being, or is likely to be violated, he shall make or cause an investigation to be made of the facts, including an inspection of the premises where the violation may exist. If he finds that a violation exists, he shall notify the owner, agent, occupant, or person responsible for such violation in writing indicating the nature of the violation and ordering the action necessary to correct it. Such violation shall be immediately corrected, unless such person files an appeal of the order in accordance with Section 6.2.4. Any person who has been served with such an order and ceases any work or other activity shall not leave any structure or lot in such a condition as to be a hazard or menace to the public health, safety or general welfare.

**6.1.7 Criminal Disposition:** If after written notice, a violation of this Bylaw continues, the Building Commissioner shall institute appropriate legal proceedings to enforce the provisions of this Bylaw or to restrain any violation thereof, or both. Whoever violates any provision of this Bylaw or lawful order of the Building Commissioner or fails to take constructive action to rectify any such violation shall be subject, upon conviction, to a fine of three hundred dollars (\$300) per offense. Each day that a violation continues shall constitute a separate offense.

#### **6.1.8 Non-Criminal Disposition**

1. The provisions of this Bylaw may also be enforced by the Building Commissioner by way of the non-criminal disposition procedure provided in M.G.L. c. 40 §21D. The penalty shall be twenty-five dollars (\$25) for the first offense, fifty dollars (\$50) for the second offense, and one hundred dollars (\$100) for the third and each subsequent offense. Each day on which a violation exists shall constitute a separate offense.
2. Before proceeding with non-criminal disposition of a zoning violation, the Building Commissioner may give a written warning to an offender allowing the offender up to fifteen (15) days to terminate the violation and repair any damage caused thereby.
3. If the violation is not corrected after said fifteen (15) days, the Building Commissioner shall give to the offender a written notice to appear before the clerk of the district court at any time during office hours, not later than twenty-one (21) days after the date of such notice. If the offender desires to contest the violation alleged in the notice, he may avail himself of the procedure provided in M.G.L. c. 40 §21D.
4. Any person notified to appear before the clerk of the district court may mail to the Town Clerk together with the notice the specific sum of money as penalty for violation of the Bylaw. Such payment shall if mailed be made only by postal note, money order or check. Upon receipt of such notice, the Town Clerk shall forthwith notify the district court clerk of such payment and the receipt by the district court clerk of such notification shall operate as a final disposition of the case.

### **6.2 Board of Appeals**

**6.2.1 Appointments:** The Board of Selectmen shall make appointments to the Board of Appeals of five members for terms of such length and so arranged that the term of one appointee will expire each year, and thereafter appointments shall be for a term of five years. The Board of Appeals shall act on all matters within its jurisdiction under this Bylaw and M.G.L. Chapter 40A.

In like manner, the Board of Selectmen shall appoint three associate members of the Board of Appeals for terms of such length and so arranged that the term of one associate member will expire each year. The Chairman of the Board of Appeals may designate any such associate member to sit on the Board in case of absence, inability to act, or conflict of interest on the part of any member thereof, or in the event of a vacancy on the Board until said vacancy is filled in the manner provided in this Section. Associate members should attend all hearings.

Vacancies shall be filled for unexpired terms in the same manner as in the case of original appointments. Any member may be removed for cause by the Board of Selectmen upon written charges and after a public hearing.

**6.2.2 Powers of the Board:** The Board of Appeals shall give due consideration to promoting the public health, safety, convenience and welfare, encouraging the most appropriate use of land, and conserving property value, and it shall permit no structure or use injurious, noxious, offensive, or detrimental to a neighborhood. The Board of Appeals shall have the following powers under this Bylaw:

1. To hear and decide appeals in accordance with Section 6.2.4 under this Bylaw;
2. To hear and decide applications for Special Permits in accordance with Section 6.2.5 hereunder; and
3. To hear and decide petitions for Variances as set forth in Section 6.2.6 hereunder.

In exercising these powers, the Board of Appeals may, in conformity with Chapter 40A, make orders or decision, reverse or affirm in whole or in part, or modify any order or decision; and to that end shall have all the powers of the officer from whom the appeal is taken and may issue or direct the issuance of a permit.

The Board of Appeals shall be the “Permit Granting Authority”, and may also be a “Special Permit Granting Authority”, under this Bylaw.

**6.2.3 Rules and Procedures:** The Board of Appeals shall elect annually a chairman from its own number and a clerk, and may, subject to appropriation, employ experts, clerical and other assistants. The Board of Appeals shall adopt rules, not inconsistent with the provisions of this Bylaw, for the conduct of its business, and for purposes of Chapter 40A and shall file a copy of said rules with the Town Clerk of Paxton.

Meetings of the Board shall be held at the call of the chairman or when called in such other manner the Board shall determine in its rules.

The concurring vote of at least four members of the Board of Appeals shall be necessary to:

1. reverse any order or decision of any administrative official or person relative to appeals taken in accordance with Section 6.2.4 of this Bylaw;
2. authorize the granting of any Special Permit in accordance with Section 6.2.5 hereunder; and,
3. authorize the granting of any Variance in accordance with Section 6.2.6 hereunder.

All hearings of the Board of Appeals shall be open to the public. The chairman of the Board of Appeals, or in his absence, the acting chairman, may administer oaths, summon witnesses, and call for the production of papers. In each and every instance, the Board of Appeals shall cause to be made a detailed record of its proceedings, indicating the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and setting forth clearly the reason or reasons for its decision and of its official actions, copies of all, which shall be filed within fourteen (14) days of the decision in the office of the Town Clerk of Paxton, and shall be a public record. Also, notice of the decision of the Board shall be mailed forthwith to the petitioner, applicant, or appellant, as the case may be, to each of the other parties in interest designated in Section 6.2.7.2 hereunder, and to every person present at the hearing who requested that notice be sent to him or her, and stated the address to which such notice was to be sent. Each such notice shall specify that appeals, if any, shall be made pursuant to Section 17 of Chapter 40A, and must be filed within twenty (20) days after the date of filing of such notice in the office of the Town Clerk of Paxton.

Any petition for a Variance or any application for a Special Permit which has been transmitted to the Board of Appeals may be withdrawn without prejudice by the petitioner or applicant prior to the publication of the notice of a public hearing thereon, but thereafter may be withdrawn without prejudice only with the approval of the Board of Appeals.

Time periods for acting on appeals, variances, and special permits shall be as set forth in Chapter 40A.

**6.2.4 Appeals:** An appeal to the Board of Appeals may be taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of this Bylaw, by the regional planning agency in whose area the Town of Paxton is situated, or by any person including an officer or board of the Town of Paxton, or of an abutting city or town aggrieved by an order or decision of the Building Commissioner, or other administrative official, in violation of any provision of Chapter 40A or this Bylaw.

Any such appeal shall be taken within thirty (30) days from the date the order or decision which is being appealed, by filing a notice of appeal, specifying the grounds thereof with the Town Clerk of Paxton, who shall forthwith transmit copies thereof to such officer or board whose order or decision is being appealed, and to the Board of Appeals. Such officer or board shall forthwith transmit to the Board of Appeals all documents and papers constituting the record of the case in which the appeal is taken.

The Board of Appeals shall hold a public hearing on any such appeal transmitted to it by the Town Clerk of Paxton within sixty-five (65) days from the transmittal to the Board of such appeal. The Board of Appeals shall cause notice of such hearing to be published and sent to parties in interest as provided in Section 6.2.7 of this Bylaw and shall notify the Planning Board of Paxton and the Planning Boards of adjacent cities and towns which may forward recommendations with respect to said matter for the consideration of the Board of Appeals.

The decision of the Board of Appeals shall be made within one hundred (100) days after the date of the filing of an appeal under this Section. Failure of the Board to act within said one hundred (100) days shall be deemed to be the grant of the relief sought, subject to an applicable judicial appeal as provided for in Chapter 40A. The required time limits for a public hearing and said action may be extended by written agreement between the applicant and the Board of Appeals. A copy of such agreement shall be filed with the Town Clerk.

**6.2.5 Special Permits:** This Bylaw provides for specific principal uses which shall be allowed in specified districts only upon the issuance of a Special Permit by the Board of Appeals. Such uses which shall only be allowable by Special Permit are as specified in the “Schedule” of Section 3.2 of this Bylaw or elsewhere in this Bylaw. Special Permits may not be applied for or granted for uses not specifically described in this Bylaw.

The Board of Appeals shall adopt and from time to time amend rules relative to its issuance of Special Permits and shall file a copy of said rules in the office of the Town Clerk of Paxton. Such rules shall prescribe a size, form, contents, style and number of copies of plans and specifications, and the procedure for a submission and approval of such Special Permits.

Applications for Special Permits shall be filed with the Board of Appeals a copy of which shall forthwith be given to the Town Clerk of Paxton by the applicant. The Board of Appeals shall hold a public hearing on any such application within sixty-five (65) days after the date of filing of such application with the Board. The Board of Appeals shall cause notice of such hearing to be published and sent to parties in interest as provided in Section 6.2.7 of this Bylaw and shall notify the Planning Board of Paxton and the Planning Board of adjacent cities and towns which may forward recommendations with respect to said matter for consideration of the Board of Appeals. The decision of the Board of Appeals on such application shall be made within ninety (90) days following a public hearing thereon. Failure of the Board to take final action upon an application for a Special Permit within said ninety (90) days following the close of the public hearing shall be deemed to be a grant of the Special Permit applied for. The required time limits for a public hearing and said action may be extended by written agreement between the applicant and the Board of Appeals. A copy of such agreement shall be filed with the Town Clerk.

In the issuance of a Special Permit, the Board of Appeals may also impose conditions, safeguards and limitations on time or use relative to such Special Permit. Each special permit decision issued by the Zoning Board of Appeals shall specify that the special permit either (i) is personal to the applicant and will not run with the land, or (ii) runs with the land and shall be for the benefit of the applicant’s successors and assigns.

Any Special Permit granted hereunder shall lapse at the end of one (1) year from date of issuance, including such time required to pursue or await the determination of an appeal, referred to in Section 17 of Chapter 40A, from the grant thereof, if a substantial use thereof has not sooner commenced, except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause.

A Special Permit shall not be granted hereunder if the Board of Appeals, in its determination finds either that the premises in question is not reasonably adaptable to the proposed use, and will not allow proper layout thereof, or that the proposed use would be contrary to the best interests of the Town. For this purpose, a use shall be considered contrary to the best interests of the Town which:

1. Will be injurious or dangerous to the public health or hazardous because of traffic congestion, danger of fire, explosion or other reasons; or
2. If located in a General Residence District, will produce vibration, noise, smoke, fumes, odor, dust, gas, chemicals or other effects, observable at the lot lines in amounts seriously objectionable or detrimental to the normal use of adjacent property, or if located in a Business District, will produce any such effects

observable at any boundary of the district in amounts substantially greater than would normally result from any of the uses specifically permitted by Right within the same district; or

3. If located in a General Residence District, will be injurious to the character or amenities thereof, because of its design or appearance; or
4. Is not consistent with the standards for a special permit pursuant to Chapter 40A §9.

**6.2.6 Variances:** A petition or appeal for a Variance from the terms of this Bylaw may be made by filing a notice of petition or appeal with the Town Clerk of Paxton who shall forthwith transmit a copy thereof the Board of Appeals.

The Board of Appeals shall hold a public hearing on any such petition or appeal transmitted to it by the Town Clerk of Paxton, within sixty five (65) days from the transmittal to the Board of such petition or appeal. The Board shall cause notice of such hearing to be published and sent to parties in interest as provided in Section 6.2.7 of this Bylaw, and shall notify the Planning Board of Paxton and the Planning Boards of adjacent cities and towns which may forward recommendations with respect to said matter for the consideration of the Board of Appeals. At such hearing, all of the following prerequisite must be proved by the petitioner or appellant to the Board's satisfaction in order for the Board to give consideration to the granting of such Variance. Failure to prove one or more of the prerequisites will defeat the petition or appeal. Such prerequisites are:

1. Owing to circumstances relating to the soil conditions, shape or topography of the land or structures in question, and especially affecting such land or structures, but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this Bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant; and
2. Desirable relief may be granted without substantial detriment to the public good; and
3. Desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of this Bylaw.

In granting a Variance, the Board of Appeals may impose conditions, safeguards and limitations both of time and use, including the continued existence of any particular structure but excluding any condition, safeguards or limitation based upon the continued ownership of the land or structures to which the Variance pertains by the petitioner or any other owner.

Under this Bylaw, no Variance may be authorized by the Board of Appeals for a use or activity not otherwise permitted by Right in the zoning district in which the land or structure is located; provided, however, that such variances properly granted prior to the effective date of this amended Bylaw but limited in time, may be extended on the same terms and conditions that were in effect for such variance upon said effective date.

The decision of the Board of Appeals shall be made within one hundred (100) days after the date of filing of a petition or appeal under this section. Failure of the Board to act within said one hundred (100) days shall be deemed to be the grant of petition or appeal sought, subject to an applicable judicial appeal as provided for in Chapter 40A. The required time limits for a public hearing and said action may be extended by written agreement between the applicant and the Board of Appeals. A copy of such agreement shall be filed by the applicant with the Town Clerk.

If the rights authorized by a Variance are not exercised within one year of the date of granting of such Variance, they shall lapse and may be reestablished only after notice and a new hearing pursuant to this Section 6.2.6.

6.2.6 (a) **Findings:** Subject to the provisions of Section 1.5.1, the Board of Appeals, after a public hearing, may grant a Finding by a majority vote to allow the change, alteration or extension of a pre-existing nonconforming structure or use provide the Board decides that the proposed change, alteration, or extension of the nonconforming use or structure shall not be substantially more detrimental to the neighborhood than the existing nonconforming use or structure.

### **6.2.7 Notice Requirements, Parties in Interest, Recording Copies**

1. In all cases where notice of a public hearing is required under this Bylaw, notice shall be given by publication in a newspaper of general circulation in the Town of Paxton, once in each of two (2) successive weeks, the first publication to be not less than fourteen (14) days before the day of the hearing, and by posting such notice in a conspicuous place in the Town Hall of Paxton for a period of not less than fourteen (14) days before the day of such hearing. In all cases where notice to individuals or specific boards or other agencies is required, notice shall be sent by mail, postage prepaid. Publications and notices required by this Bylaw shall contain the name of the petitioner, applicant or appellant, as the case may be, a description of the area or premises, street address, if any, or other adequate identification of the location of the area or premises which is the subject of the petition, application or appeal, the date, time and place of the public hearing, the subject matter of the hearing, and the nature of action or relief requested, if any. No such hearing shall be held on any day on which a state or municipal election, caucus or primary is held in the Town of Paxton.
2. "Parties in Interest" as used in this Bylaw shall mean the petitioner, applicant or appellant, as the case may be, abutters, owners of land directly opposite on any public or private street or way and owners of land within three hundred (300) feet of the property line, all as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town, the Planning Board of the Town of Paxton, and the Planning Board of every abutting city and town. The Board of Assessors shall certify to the Board of Appeals the names and addresses of parties in interest and such certification shall be conclusive for all purposes.
3. Upon the granting of a Variance, Special Permit, and/or Finding, or any extension, modification or renewal thereof, the Board of Appeals shall issue to the owner and to the petitioner or applicant, if other than the owner, a copy of its decision, certified by the Board, containing the name and address of the owner, identifying the land affected, setting forth compliance with the statutory requirements for the issuance of such Variance, Special Permit, and/or Finding and certifying that copies of the Decision, and all plans referred to in the Decision, have been filed with the Planning Board of Paxton and the Town Clerk of Paxton.

No Variance, Special Permit, and/or Finding, or any extension, modification or renewal thereof, shall take effect until a copy of such Decision, bearing the certification of the Town Clerk of Paxton that twenty (20) days have elapsed and no appeal has been filed, or that if such an appeal has been filed, that it has been dismissed or denied, is recorded in the Registry of Deeds of Worcester County, Massachusetts, and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the owner or applicant.

### **6.3 Conformance**

It is the intent of this Bylaw that it be in full conformance with the provisions of M.G.L. Chapter 40A. In the event of an inconsistency between the provisions of Chapter 40A and this Bylaw, Chapter 40A shall prevail.

### **6.4 Amendments**

This Bylaw may be amended from time to time in accordance with Section 5 of Chapter 40A.

### **6.5 Validity**

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

## **SECTION 7. FLOOD PLAIN DISTRICT**

### **7.1 Purpose**

The purposes of the Flood Plain District 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; and
6. Reduce damage to public and private property resulting from flooding waters.

### **7.2 Application of Flood Plain District**

**7.2.1 Overlay District:** The Flood Plain District is herein established as an overlay district and shall be superimposed on other districts established by this Bylaw. All regulations applicable to such underlying districts shall remain in effect, except that where the Flood Plain District imposes additional regulations, the more stringent regulations shall prevail.

**7.2.2 Flood Plain District Boundaries:** The District includes all special flood hazard areas within the Town of Paxton designated as Zone A and AE, on the Worcester County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Worcester County FIRM that are wholly or partially within the Town of Paxton are panel numbers 25027C0580E, 25027C0585E, 25027C0590E and 25027C0595E dated July 4, 2011. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Worcester County Flood Insurance Study (FIS) report dated July 4, 2011. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk and Building Commissioner. The District is shown on a map entitled "Paxton Overlay Districts" which is on file with the Town Clerk.

### **7.3 Base Flood Elevation and Floodway Data**

**7.3.1 Floodway Data:** In Zone A, 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 Zone AE, along watercourses that have a regulatory floodway within the Town of Paxton designated on the Worcester County FIRM, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

**7.3.2 Base Flood Elevation Data:** Base flood elevation data is required for subdivision proposals or other developments greater than fifty (50) lots or five (5) acres, whichever is the lesser, within unnumbered A zones.



#### **7.4 Notification of Watercourse Alteration**

The proponent of a proposed development in a riverine situation shall notify the following of any alteration or relocation of a watercourse:

1. The Planning Board of all abutting communities
2. The NFIP State Coordinator in the Massachusetts Department of Conservation and Recreation (currently at 251 Causeway Street, Suite 600-700, Boston, MA 02114-2104)
3. The NFIP Program Specialist for FEMA Region I (currently at 99 High Street, 6<sup>th</sup> Floor, Boston, MA 02110)

#### **7.5 Reference to Existing Regulations**

All development in the Flood Plain District, including structural and non-structural activities, whether permitted by right or by special permit, must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws (The Wetlands Protection Act) and with the following:

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

Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

#### **7.6 Subdivision Standards for the Flood Plain District**

All subdivision proposals and other proposed new development shall be reviewed to assure that:

1. 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.

## SECTION 8. PERSONAL WIRELESS SERVICES

### 8.1 Purpose

It is the purpose of this Bylaw to minimize the visual and environmental impacts of personal wireless service facilities. This Bylaw permits the use of personal wireless service facilities within the Town, regulates their impacts and accommodates their location and use in a manner intended to:

1. protect the scenic, historic, environmental and natural or man-made resources of the Town,
2. protect property values,
3. minimize any adverse impacts on the residents of the Town (such as, but not limited to, attractive nuisance, noise and falling objects) with regard to the general safety, welfare and quality of life in the community,
4. provide standards and requirements for regulation, placement, construction, monitoring, design, modification and removal of personal wireless communications facilities,
5. provide a procedural basis for action within a reasonable period of time for requests for authorization to place, construct, operate or modify personal wireless communication facilities,
6. encourage the use of certain existing structures and towers,
7. minimize the total number and height of towers located within the community,
8. require tower sharing and clustering of personal wireless communication facilities where they reinforce the other objectives in this Section, and
9. be in compliance with the federal Telecommunications Act of 1996.

### 8.2 Definitions

**Above Ground Level (AGL).** A measurement of height from the natural grade of a site to the highest point of a structure.

**Antenna.** The surface from which wireless radio signals are sent and received by a personal wireless service facility.

**Camouflaged.** A personal wireless service facility that is disguised, hidden, part of an existing or proposed structure or placed within an existing or proposed structure is considered "camouflaged."

**Carrier.** A company that provides wireless services.

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

**Elevation.** The measurement of height above sea level.

**Equipment.** All devices utilized by a carrier for providing wireless services at a personal wireless service facility. This shall include, but is not limited to, antennas, antenna cables, base transmission stations, power and radio cabinets, shelters, power and telephone appurtenances, and grounding equipment.

**Equipment Shelter.** An enclosed structure, cabinet, shed or box at the base of the mount within which are housed batteries and electrical equipment.

**Fall Zone.** The area on the ground within a horizontal radius from the base of a personal wireless service facility equal to two (2) times the height of the structure. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

**Functionally Equivalent Services.** Cellular, Personal Communication Services (PCS), Enhanced Specialized Mobile Radio, Specialized Mobile Radio and Paging.

**Guyed Tower.** A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.

**Lattice Tower.** A type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.

**Licensed Carrier.** A company authorized by the FCC to construct and operate a commercial mobile radio services system.

**Maximum Antenna Dimensions.** The maximum dimensions for a whip antenna is four inches (4") in diameter by fourteen feet (14') long. The maximum dimensions for a panel antenna is six feet (6') long by one foot (1') wide by one foot (1') deep.

**Monopole.** The type of mount 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.

**Mount.** The structure or surface upon which antennas are mounted, including the following four types of mounts:

1. Roof-mounted. Mounted on the roof of a building.
2. Side-mounted. Mounted on the side of a building.
3. Ground-mounted. Mounted on the ground.
4. Structure-mounted. Mounted on a structure other than a building.

**Omnidirectional (whip) antenna.** A thin rod that beams and receives a signal in all directions.

**Panel Antenna.** A flat surface antenna usually developed in multiples.

**Personal Wireless Service Facility.** Facility for the provision of personal wireless services, as defined by the Telecommunications Act.

**Personal Wireless Services.** The three types of services regulated by this Bylaw.

**Radiofrequency (RF) Engineer.** An engineer specializing in electrical or microwave engineering, especially the study of radiofrequencies.

**Radiofrequency Radiation (RFR).** The emissions from personal wireless service facilities.

**Tower.** A vertical structure for the purpose of mounting antennas and elevating them above ground level. See guyed tower, lattice tower, monopole. (Note: special structures erected for this purpose shall also be considered towers: tree poles, fiberglass silos and smoke stacks, flag poles, utility poles, etc.)

**8.2.1 Establishment of Wireless Facility Overlay District:** The Wireless Facility Overlay District is herein established as an overlay district and shall be superimposed on other districts established by this Bylaw. The district is shown on a map entitled " Overlay Districts Map" which is on file with the Town Clerk. The district is defined as the area above an elevation of 375 meters (1,230') and including the following six parcels shown on the Assessors' Maps of the Board of Assessors dated February, 2000: map 26, lots 103, 104, 105, 106, and 108, and map 27, lot 118.

### **8.3 Permits Required**

A personal wireless service facility shall require a special permit in all cases and may be permitted as follows:

**8.3.1 On Existing Structures:** A personal wireless service facility may locate on any existing guyed tower, lattice tower, monopole, electric utility transmission tower, or fire tower, provided that the installation of the new facility does not increase the height of the existing structure except as provided in Section 8.5 below. Such installations shall require site plan approval by the Board of Appeals. If room is available on an existing tower, the tower owner may not prohibit co-location by other carriers.

**8.3.2 New Construction:** A personal wireless service facility involving construction of one or more ground or building (roof or side) mounts, including construction of a new guyed tower, lattice tower, or monopole, shall require a special permit by the Board of Appeals. Such facilities may locate by special permit in all zoning districts within the Town, provided that the proposed use complies with the height and setback requirements and the special permit regulations set forth in this Bylaw.

**8.3.3 Right to Install:** The applicant shall submit documentation of the legal right to install and use the proposed facility mount at the time of application for a special permit.

#### **8.4 Priority for Location of Facilities**

Personal wireless service facilities shall be located according to the priorities listed below. The applicant shall evaluate each priority in order and adequately justify why each alternative is not feasible before advancing to the succeeding priority.

##### **8.4.1 Within the Wireless Facility Overlay District:**

1. co-located with existing personal wireless service facility or radio or TV tower;
2. erection of a new personal wireless service facility that does not exceed a height of one hundred fifty feet (150’);
3. erection of a new personal wireless service facility that does not exceed a height of two hundred fifty feet (250’) feet;

##### **8.4.2 Outside the Wireless Facility Overlay District:**

4. within an existing structure, concealed if located within five hundred feet (500’) of an abutting residential property line;
5. camouflaged on an existing structure, such as but not limited to an existing electric transmission tower, an existing radio antenna, or building, and of compatible design; personal wireless service facilities may not project higher than ten feet (10’) above the existing structure.
6. co-located with existing personal wireless service facility;
7. erection of a new personal wireless facility that does not exceed the height limitations specified in Section 8.5.2.

#### **8.5 Height Requirements**

Personal wireless service facilities shall comply with the following requirements:

**8.5.1 Height, General:** Regardless of the type of mount, personal wireless service facilities shall be no higher than ten feet (10’) above the average height of buildings within three hundred feet (300’) of the proposed facility. In addition, the height of a personal wireless service facility shall not exceed by more than ten feet (10’) the height limits of the zoning district in which the facility is proposed to be located, unless the facility is completely camouflaged such as within a flagpole, steeple, chimney, or similar structure. Personal wireless service facilities may locate on a building that is legally non-conforming with respect to height, provided that the facilities do not project above the existing building height by more than ten feet (10’).

**8.5.2 Height, Ground-Mounted Facilities:** Ground-mounted personal wireless service facilities shall not project higher than ten feet above the average building height or, if there are no buildings within three hundred feet (300’), these facilities shall not project higher than ten (10) feet above the average tree canopy height, measured from ground level (AGL), up to a maximum of eighty feet (80’). If there are no buildings within three hundred feet (300’) of the proposed site of the facility, all ground-mounted personal wireless service facilities shall be surrounded by dense tree growth to screen views of the facility in all directions. These trees may be existing on the subject property or planted on site.

**8.5.3 Height, Existing Towers:** New antennas located on guyed towers, lattice towers, fire towers and monopoles existing on the effective date of this Bylaw shall be exempt from the height restrictions of this Bylaw provided that:

1. if the structure height is greater than forty-five feet (45'), the antennas do not project above the structure; or
2. if the structure height is between thirty-five and forty-five feet (35'-45'), the antennas do not project higher than forty-five feet (45').
3. if the structure height is thirty-five feet (35') or less, the antennas do not project higher than ten feet (10') above the existing structure.

**8.5.4 Height, Existing Structures, (Utility):** New antennas located on electric transmission and distribution towers, telephone poles and similar existing utility structures shall be exempt from the height restrictions of this Bylaw provided that there is no more than an increase of ten feet (10') in the height of the existing structure as a result of the installation of a personal wireless service facility.

**8.5.5 Height, Wireless Facility Overlay District:** In the wireless facility overlay district, personal wireless service facilities of up to two hundred fifty feet (250') feet in height may be permitted by special permit. Monopoles are the preferred type of mount for such taller structures. Such structures shall comply with all setback and special permit regulations set forth in this Bylaw.

## **8.6 Facility and Site Design Criteria**

**8.6.1 Setbacks:** All personal wireless service facilities and their equipment shelters shall comply with the building setback provisions of the zoning district in which the facility is located. In addition, the following setbacks shall be observed:

1. In order to ensure public safety, the minimum distance from the base of any ground-mounted personal wireless service facility to any property line, road, habitable dwelling, business or institutional use, or public recreational area shall be two times the height of the facility/mount, including any antennas or other appurtenances, or five hundred feet (500'), whichever is less. This setback is considered a "fall zone".
2. In the event that an existing structure is proposed as a mount for a personal wireless service facility, a fall zone shall not be required, but the setback provisions of the zoning district shall apply. In the case of pre-existing non-conforming structures, personal wireless service facilities and their equipment shelters shall not increase any non-conformities, except as provided in section 8.6.1.3 below.
3. In nonresidential districts, the Board of Appeals may grant a special permit to allow a lesser setback if it makes a finding that such lesser setback provides adequate safety, promotes co-location or improves design, and will not negatively impact the appearance and character of the neighborhood.

**8.6.2 Shelters and Accessory Buildings:** Equipment boxes or shelters for personal wireless services equipment must either be interior to the building on which it is located, completely camouflaged, and/or completely screened from view from the public way. Equipment shelters shall be camouflaged behind an effective year-round landscape buffer, equal to the height of the proposed building, and/or wooden fence. The Board of Appeals shall determine the style of fencing and/or landscape buffer that is compatible with the neighborhood.

**8.6.3 Signs:** A sign not larger than one square foot shall be posted adjacent to the entry gate indicating the name of the facility owner(s) and a 24-hour emergency telephone number. Each carrier located on site shall also provide a sign with the same information. Advertising on any antenna, tower, fencing, accessory building or communication equipment shelter is prohibited.

**8.6.4 Lighting:** Unless required by the Federal Aviation Administration (FAA), no exterior night lighting of towers or personal wireless service facilities is permitted except for manually operated emergency lights for use when operating personnel are on site. Where the FAA does require lighting, the ZBA may impose a condition in its special permit decision that the applicant indicate a preference to the FAA of a particular type, color, or manner of lighting that the ZBA believes will minimize light or visual impact on the neighborhood and Town.

**8.6.5 New Towers:** Any new freestanding tower shall be of a monopole construction unless the applicant demonstrates in the special permit process that other tower designs are necessary to provide adequate coverage within the Town.

**8.6.6 Screening:** All personal wireless services equipment shall be sited, screened and/or painted or otherwise colored or finished to blend in with the building or structure on which it is mounted or in a manner which aesthetically minimizes the visibility of the devices in the surrounding landscape or on the building or structure to which they are attached. In certain circumstances, additional architectural features or changes to the façade may be necessary to maintain the balance and integrity of the design of the building or structure with building-mounted personal wireless services equipment. The Board of Appeals shall determine the measures needed to screen or integrate the equipment and antennas into the existing landscape and adjacent properties and buildings.

**8.6.7 Vegetation:** If personal wireless service facilities are not camouflaged from public viewing areas by existing buildings or structures, they shall be surrounded by buffers of dense tree growth and understory vegetation in all directions to create an effective year-round visual buffer. Ground-mounted personal wireless service facilities shall provide a vegetated buffer of sufficient height and depth to effectively screen the facility. Trees and vegetation may be existing on the subject property or installed as part of the proposed facility or a combination of both. The Board of Appeals shall determine the types of trees and plant materials and depth of the needed buffer based on site conditions.

**8.6.8 Security:** The area around the personal wireless service facility shall be completely secure from trespass or vandalism. At a minimum, fencing shall be provided to control access to towers serving personal wireless service facilities and shall be compatible with the scenic character of the Town.

**8.6.9 Parking:** There shall be a minimum of one parking space for each facility, to be used in connection with the maintenance of the facility and the site, and not to be used for the permanent storage of vehicles. This shall not apply to any location upon an existing Town-owned structure.

**8.6.10 Connections:** To the extent technologically feasible, all network interconnections from the facility shall be via underground lines.

**8.6.11 Noise:** Ground-mounted equipment for personal wireless service facilities shall not generate noise in excess of ten (10) dBA above the ambient sound level between 7:00 P.M. and 7:00 A.M. based on measurements taken at the property line.

**8.6.12 Fuel:** Only propane fuel may be used and stored on site.

**8.6.13 Projection from Existing Structure:** Side-mounted and structure-mounted antennas shall not project more than two feet (2') horizontally from the building or structure.

**8.6.14 Redundant Safety Measures:** In all cases where the public is allowed within the fall zone of a personal wireless service facility, additional measures shall be taken to insure the public is protected from falling debris related to normal operation of the facility (as in falling ice) or structural failure of any mounting system. Examples of such measures include, but are not limited to, designing a screen wall to support any falling items behind it, cabling antennas and mounting systems to a second anchor point, and providing ice shields above pedestrian areas.

## **8.7 Justification of Need**

**8.7.1 Coverage Area:** The applicant shall provide a map of the geographic area in which the proposed facility will provide adequate coverage.

**8.7.2 Adequacy of Other Facility Sites Controlled by the Applicant:** The applicant shall provide written documentation of any facility sites in the Town and in abutting Towns or cities in which it has a legal or equitable interest, whether by ownership, leasehold or otherwise. Said documentation shall demonstrate that these facility sites do not already provide, or do not have the potential to provide by site adjustment, adequate coverage.

**8.7.3 Capacity of Existing Facility Sites:** The applicant shall provide written documentation that it has examined all facility sites located in the Town and in abutting Towns in which the applicant has no legal or equitable interest to determine whether those existing facility sites can be used to provide adequate coverage.

**8.7.4 Adequate Coverage Through the Least Disruptive Means:** The applicant shall provide written documentation that the proposed facility uses the least disruptive technology (through the use of repeaters or other similar technology as it may be developed subsequent to adoption of this Bylaw) in which it can provide adequate coverage in conjunction with all facility sites listed above.

## **8.8 Procedure for a Special Permit**

**8.8.1 Submittal Requirements:** All applications for special permits shall be made and filed on the applicable forms for special permits as required by Paxton Board of Appeals. In addition to the requirements for special permits under section 6.2.5 of this Bylaw, seven (7) copies of the following information must be submitted for an application to be considered complete:

1. A locus plan at a scale of 1" = 2,000' depicting the site location, all abutting streets, major roads, zoning boundaries, town boundaries, and airport locations within five (5) miles of the site.
2. A site plan at a scale of 1" = 40' which shall show all property lines, the exact location of the proposed structure(s), street landscape features, residential dwellings, driveways, and all buildings within five hundred feet (500') of the facility. Said plan shall also show proposed accessory building(s), topography in two foot (2') intervals, fencing and landscaping, access and parking, lighting, abutters, and areas to be cleared of vegetation and trees.
3. The existing elevation of the ground at the proposed location of the personal wireless service facility, and the proposed elevation of the highest point of the facility and its antennas, certified by a Registered Land Surveyor in the State of Massachusetts to comply with the standards of the FAA 1A survey. Top and bottom elevations of all proposed antennas shall be shown, as well as the elevations of the mounting structures, all equipment at grade, average tree canopy heights, and proposed vegetation, fencing and other screening.
4. Existing (before condition) photographs and proposed (after condition) renditions. The before condition photos shall illustrate what can be seen from any public road within three hundred feet (300'). The after condition renditions shall show the same view with the proposed personal wireless service facility superimposed on it to show what will be seen from public roads if the proposed facility is built.
5. An Environmental Notification Form (ENF) shall be submitted to the Board and shall be prepared in accordance with MEPA standards.
6. The following information must be prepared by a professional engineer:
  1. A description of the facility and the technical, economic and other reasons for the proposed location, height and design. Information shall include antenna and equipment dimensions, antenna cables, cable bridges and mounting methods; materials, colors, and locations; screening type and locations; existing

and proposed underground utility information and connection locations; base transmission stations, radio cabinets, power and telephone cabinets; driveways, parking areas, equipment shelters, and propane tanks.

2. Predicted radio frequency coverage plots for the proposed facility and results of the pre-construction coverage drive test for comparison with the predicted plots.
3. A description of the capacity of the facility including the number and type of panels, antennas and/or transmitter receivers that it can accommodate and the basis for these calculations.
4. If applicable, a written statement that the proposed facility complies with or is exempt from applicable regulations administered by the FAA, FCC, Mass. Aeronautics Commission, the Mass. Department of Environmental Protection, and the Mass. Department of Public Health.
5. The applicable review and advertising fees.
6. Within thirty (30) days of filing an application for a special permit, the applicant shall arrange for a crane test for a period of at least seven (7) days at the proposed site to illustrate the height of the proposed facility. The dates and location of such test shall be advertised in a newspaper of general circulation in the Town at least 14 days, but not more than 21 days prior to the test.
7. As-built plans shall be submitted upon completion of construction for each personal wireless service facility and shall be accompanied by a certification that the site was built in accordance with plans and specifications included with the permit application package. A Registered Land Surveyor shall certify heights of the facility and all antennas and their locations to FAA 1A standards, and the as-built plan shall bear his/her signature and seal.

**8.8.2 Fees:** For all applications for personal wireless service facilities, the applicant shall be responsible for all fees or costs incurred in reviewing such application. The Board of Appeals is authorized to retain professional consultants to review the application and advise the Board on any or all aspects of the application. The cost of this review and advice shall be borne by the applicant and shall be paid prior to the issuance of a special permit pursuant to this Bylaw.

## **8.9 Maintenance and Removal Requirements**

**8.9.1 Maintenance:** The owner or agent of the tower shall perform maintenance on an as needed basis or as determined by the Building Commissioner, but not less than annually. The owner or agent shall submit an annual maintenance certification statement to the Building Commissioner commencing on the first anniversary of the initial certificate of use and annually on each subsequent anniversary thereafter.

**8.9.2 Bond:** The applicant shall post a bond or other form of financial security acceptable to the Town to cover the cost of removal of all equipment and maintenance for one (1) year. The activation of the bond or other security for non-performance of maintenance shall cause an additional bond or other form of security to be restored in full equivalent to the original value plus any escalation. The original bond shall be adjusted annually for escalation at a rate of three percent (3%). This adjustment shall accompany the annual maintenance certification.

**8.9.3 Removal:** Any personal wireless service facility that ceases to operate for a period of one year shall be removed. Cease to operate is defined as not performing the normal functions associated with the personal wireless service facility and its equipment on a continuous and ongoing basis for a period of one year. At the time of removal, the facility site shall be restored such that all personal wireless service facilities that have ceased to operate are removed. If all facilities on a tower have ceased to operate, the tower (including the foundation) shall also be removed and the site shall be re-vegetated by the owner.



**8.10 Exemptions:**

Amateur radio towers used in accordance with the terms of any amateur radio license issued by the Federal Communications Commissions shall be exempt from the provisions of this Bylaw, provided that the tower is not used or licensed for any commercial purpose.

**8.11 Liability:**

The operator of any personal wireless service facility shall provide a Certificate of Insurance for bodily injury, in a form acceptable to the Board of Appeals with coverage limits of not less than five (5) million dollars as a condition of use. The Board of Appeals may from time to time increase the limits of such coverage.

**8.12 Indemnification:**

The operator of any personal wireless service facility shall defend, indemnify and hold the Town harmless against any claims for injury or damage resulting from or arising out of use of the operator's facility.

**8.13 Testing Requirements:**

**8.13.1** Before the personal wireless service facility becomes operational, the applicant shall pay for an independent RF engineer to monitor and evaluate the background levels of RFR around the proposed site. A report of monitoring results shall be prepared by the RF engineer and submitted to the Board of Appeals and Building Commissioner.

**8.13.2** After the personal wireless service facility is operational, the operator shall pay for an independent RF engineer to monitor and evaluate levels of RFR around the facility site at times of peak use. The RF engineer shall submit this report to the Board of Appeals within ninety (90) days of beginning operation, and by June 30 of each year.

**8.13.3** Such measurements shall demonstrate whether the RFR from the personal wireless service facility complies with applicable state and federal regulations. If the testing results demonstrate non-compliance, the operator shall immediately suspend operations and take corrective action. Operations may only resume after the Board of Appeals authorizes resumptions of use.

## **SECTION 9. SENIOR RESIDENTIAL DEVELOPMENT**

### **9.1 Purpose**

The purposes of Senior Residential Development (SRD) are:

1. To provide housing for a maturing population that reduces maintenance costs and is more affordable than traditional single family dwellings.
2. To provide a type of housing development that has a reduced demand on municipal and educational services.
3. To promote development in harmony with the Town's public water supplies, natural resources, and traditional landscapes and the existing and probable future use of adjacent land.
4. To promote the general intent of the Zoning Bylaw and establish flexible residential development standards and procedures that will support these objectives.

### **9.2 Establishment of Overlay District**

The Senior Residential Development Overlay District is herein established as an overlay district and shall be superimposed on other districts established by this Bylaw. All regulations applicable to such underlying districts shall remain in effect. A Senior Residential Development is permitted only in a Senior Residential Development Overlay District upon the grant of a special permit by the Planning Board. The Senior Residential Development Overlay District is shown on a map entitled "Paxton Overlay Districts", which is on file with the Town Clerk.

### **9.3 SRD Standards**

**9.3.1 Restrictions:** Each SRD applicant shall submit to the Planning Board private deed restrictions that will ensure each dwelling unit is used as a residence only for a person or persons one of whom shall be 62 years of age or older. All additional residents shall be 55 years of age or older. The Building Commissioner may grant an exemption from such age restrictions for a live-in caregiver upon demonstration of a disability by one of the qualified residents that requires the assistance of an individual to provide live-in care.

### **9.3.2 Density Standards**

1. The SRD shall be located on a parcel having at least ten (10) acres and two hundred (200) feet of frontage.
2. There shall be a minimum of twenty thousand (20,000) square feet per dwelling unit, and dwelling units shall be at least fifty (50) feet from a lot in residential use. The Planning Board may require a greater land area per dwelling unit if difficult soil conditions or other development constraints warrant a lower overall density.
3. Buildings shall be located in a close proximity to facilitate pedestrian access and to preserve open space. No more than fifty (50) percent of the tract shall consist of buildings, parking areas or other impervious surfaces.
4. Roads and driveways shall remain private ways and shall comply with the Planning Board's Rules and Regulations Governing the Subdivision of Land.
5. SRD communities may have accessory uses for the use and convenience of residents and staff, such as snack bars, gift shops, laundry services and banking facilities. No accessory use other than a restaurant shall occupy more than one thousand (1,000) square feet of floor area. Structures for the use of residents and their guests may be permitted, including clubhouses, swimming pools, tennis courts, cabanas and storage and maintenance structures.

### **9.3.3 Requirement for Affordable Units**

1. A minimum of twenty percent (20%) of the total units shall be affordable. A deed restriction in favor of the Town will be imposed on the affordable units which restriction shall be in perpetuity pursuant to Massachusetts General Laws Chapter 184, Sections 31-33. Affordable units shall be dispersed throughout the SRD and shall be indistinguishable from market rate units. Ownership units shall have use restrictions in favor of the Town recorded at the Worcester Registry of Deeds at the time of initial sale that limit the future sale of the units to households earning no more than eighty percent (80%) of the area median income (AMI).
2. Affordable units are those units affordable to households whose incomes do not exceed eighty percent (80%) of the AMI for the Worcester Metropolitan Statistical Area based on household size as determined by the U.S. Department of Housing and Urban Development (HUD). For rental units, monthly rents payable by a household exclusive of utilities shall not exceed 30% of the monthly income based on household size. For ownership units, initial purchase prices and resale prices shall be established so that households are not required to spend more than 30% of the income for annual debt service on a mortgage (at 30-year fixed-interest rates at the time of initial sale), taxes, insurance, and condominium or homeowners fees with no more than a five percent (5%) down payment, including any required entrance deposit.

### **9.3.4 Building And Dwelling Unit Requirements:**

1. Dwelling units in an SRD may be attached or detached, or a combination of these types.
2. No building shall contain more than four (4) dwelling units.
3. No dwelling unit shall contain more than two (2) bedrooms.

**9.3.5 Common Land:** In an SRD, at least thirty (30%) percent of the total tract area shall be set aside as Common Land for the use of the SRD residents or the general public. The following additional requirements shall apply:

1. At least fifty percent (50%) of the Common Land shall not contain wetlands, as defined in M.G.L. c. 131 §40, or 100-year floodplains.
2. Common Land shall be planned as large, contiguous parcels whenever possible. Strips or narrow parcels of Common Land shall be permitted only when necessary for access, or if the Planning Board finds that a vegetated buffer strip along the site's perimeter is appropriate and consistent with the purpose of the SRD.
3. The Common Land shall include adequate access from a way or street at least forty (40) feet wide.
4. The Common Land shall be dedicated and used for conservation, recreation, park purposes, outdoor education, agriculture, horticulture or forestry, or any combination of such uses. No other uses shall be allowed in the Common Land except as follows:
  - a.) A portion of the Common Land may be used for construction of leaching areas associated with septic disposal systems serving the SRD.
  - b.) A portion of the Common Land may be used for walkways, bicycle paths and emergency access or egress to the SRD, if the Planning Board determines that such use will enhance the specific purpose of the SRD and promote better overall site planning, and if the Planning Board finds that adequate assurances and covenants exist to ensure proper maintenance of such facilities by the owner of the Common Land.

- c.) A portion of the Common Land may be used for utility and drainage facilities serving the SRD, and may be subject to easements for the maintenance and repair of such facilities.
- 5. The Common Land shall remain unbuilt upon, provided that a maximum of five (5%) percent of such land may be subject to pavement and structures accessory to the dedicated use or uses of the Common Land.
- 6. The proposed use of the Common Land shall be specified on a land use plan and appropriate dedications and restrictions shall be a part of the deed of the Common Land.
- 7. The Planning Board shall have authority to approve or disapprove particular uses proposed for the Common Land in order to enhance the specific purposes of the SRD.

**9.3.6 Maintenance:** In every SRD there shall be a management organization or association of all owners of the dwelling units that shall be responsible for the maintenance and repair of common elements and facilities owned by and serving the residents, and the Town of Paxton shall not be responsible therefore.

**9.3.7 Handicapped Accessibility:** The Planning Board may require that not less than five (5%) percent of the units, but at least one unit, and the common facilities of the SRD, be handicapped accessible. Such units and facilities shall be in full compliance with standards established by the Massachusetts Architectural Access Board. In addition, all other units shall be constructed in a manner that will allow such units to be made handicapped accessible in the future if the need arises.

#### **9.4 Special Permit Application And Procedure**

**9.4.1 General:** Each application for an SRD shall comply with the requirements for definitive plans in the Planning Board's Subdivision Rules and Regulations. The following additional information shall be submitted:

- 1. Existing and proposed topography, proposed structures, drives, parking, landscaping and screening, utilities, drainage, and location of common land.
- 2. Architectural plans and renderings, including elevations and perspective views of typical buildings.
- 3. Documents listing or indicating the proposed number of dwelling units, distinguishing units by number of bedrooms and any special occupancies (affordable, handicapped, etc.), form of tenure and any subsidies anticipated, methods of water supply and sewage disposal, time schedule for construction of units and improvements, and other improvements proposed at the developer's expense.
- 4. Documents indicating how the management organization or homeowners association will control the aesthetics and operation of the project. Draft documents shall be provided for:
  - a.) The conveyance of the Common Land if it is to be given to the Town, or permanent restriction if it is not to be conveyed to the Town;
  - b.) A Management Organization or Homeowners Association Maintenance Agreement;
  - c.) A Common Facilities Maintenance and Improvement Agreement detailing the ownership and maintenance of the common land and facilities; and
  - d.) Manner in which the Management Organization or Homeowners Association shall certify to the Town when any unit is sold or rented that the provisions of §9.3.1 and 9.3.3.2 will be met.
- 5. Filing and review fees as required by the Planning Board.
- 6. A community impact assessment that identifies impacts of the project on: the public water system; fire, police, and ambulance services; neighborhood drainage and the public stormwater system; and traffic generation and vehicle access onto adjacent streets. The Planning Board may require the applicant to mitigate potential impacts of the SRD on Town services and facilities.

- a) Method of solid waste disposal, road maintenance, street lighting, and postal service.

**9.4.2 Procedures:** Special permit procedures shall be in accordance with MGL Chapter 40A, § 9.

**9.4.3 Security:** Before the start of construction, the developer shall submit a bond, deposit of money, or negotiable securities, in an amount determined by the Planning Board, to secure performance of the construction of ways and streets, utilities, drainage and landscape improvements shown on the plan. The choice regarding the type of security shall be the Planning Board's. The security shall be in accordance with the provisions of the Planning Board's Rules and Regulations Governing the Subdivision of Land.

## **SECTION 10. INCLUSIONARY HOUSING**

### **10.1 Purpose and Intent**

The purpose of this Bylaw is to increase the supply of housing that is available to and affordable by low- and moderate-income households who might otherwise have difficulty finding a home in Paxton. It is intended that the affordable housing units that result from this Bylaw will count toward the Town's affordable housing requirements under MGL c. 40B §§ 20-23.

### **10.2 Definitions**

10.2.1 Affordable Housing Unit: A dwelling unit that qualifies as a local initiative unit under the Commonwealth's Local Initiative Program (LIP) and meets the requirements of a subsidized housing unit for purposes of listing in the subsidized housing inventory under MGL c. 40B §§ 20-23.

10.2.2 Qualified Affordable Housing Unit Purchaser: An individual or family with household incomes that do not exceed 80% of the median income, with adjustments for household size, as most recently reported by the U. S. Department of Housing and Urban Development (HUD) and/or DHCD for the Worcester Primary Metropolitan Statistical Area (PMSA).

### **10.3 Applicability**

This Bylaw shall apply to the division of land into six (6) or more lots that requires approval of a subdivision by the Planning Board pursuant to MGL c. 41 §§81K-81GG. The Planning Board shall, as a condition of approval of a subdivision of six (6) or more residential lots, require that the applicant comply with the obligation to provide affordable housing pursuant to this Bylaw.

10.3.1 Referral to Paxton Housing Partnership: The applicant shall submit a copy of the residential subdivision plan and material related to the affordable units to the Paxton Housing Partnership for review and comment.

### **10.4 Provision of Affordable Units**

For subdivisions resulting in a net increase of six or more dwelling units, the applicant shall provide a minimum of ten percent (10%) of the units as affordable housing units in any one or combination of methods provided for below. Fractions of a lot or dwelling unit shall be rounded up to the next higher whole number, such that a development proposing six (6) dwelling units shall require one affordable unit, a development proposing eleven (11) dwelling units shall require two affordable units and so on.

10.4.1 Constructed or rehabilitated on the locus;

10.4.2 Constructed or rehabilitated on a locus different than the one subject to subdivision approval (see Section 10.7);

10.4.3 An applicant may offer, and the Planning Board may recommend to the Board of Selectmen, to accept donations of land in fee simple, on- or off-site, that the Planning Board determines are suitable for the construction of affordable housing units. The value of donated land shall be equal to or greater than the value of the construction or set-aside of the affordable units. The Planning Board may require, prior to accepting land as satisfaction of the requirements of this Bylaw, that the applicant submit appraisals of the land in question, as well as other data relevant to the determination of equivalent value.

10.4.4 For non-rental affordable housing units, a cash payment to the Affordable Housing Trust Fund (or other special, dedicated account established by the Town) may be made subject to Section 10.10 of this Bylaw.

10.4.5 The applicant may offer, and the Planning Board may accept, any combination of these Section 10.4 requirements provided that in no event shall the total number of units or land area provided be less than the equivalent number or value of affordable units required by this Bylaw.

### **10.5 Provisions Applicable to Affordable Housing Units On- and Off-Site**

10.5.1 Siting of Affordable Units: All affordable units constructed or rehabilitated under this Bylaw shall be situated within the development so as not to be in less desirable locations than market-rate units in the development and shall, on average, be no less accessible to public amenities, such as open space, as the market-rate units.

10.5.2 Minimum Design and Construction Standards for Affordable Units: Affordable housing units within market rate developments shall be integrated with the rest of the development and shall be compatible in design, appearance, construction and quality of materials with other units. Affordable units must contain at least 75% of the average floor area of the market rate units.

10.5.3 Schedule for Providing the Affordable Units: The affordable housing units, donation of land, or cash payment approved by the Planning Board pursuant to section 10.4.1 through 10.4.4 shall be constructed or provided by the time fifty percent (50%) of the market-rate units have received building permits from the Building Commissioner. Building permits for additional market rate units shall not be issued until the Planning Board determines that the requirements of section 10.4 have been satisfied.

#### **10.6 Marketing Plan for Affordable Units**

The applicant shall submit a marketing and resident selection plan for the affordable units. This Plan shall describe the buyer or tenant selection process for the affordable units and establish a plan for outreach and affirmative marketing to minorities and persons with disabilities. Residents of the affordable units must meet income eligibility requirements. The marketing plan must describe how the applicant will accommodate local preference requirements, if any, established by the Paxton Housing Partnership.

#### **10.7 Provision of Affordable Housing Units Off-Site**

As an alternative to the requirements of Section 10.4.1, an applicant may develop, construct or otherwise provide affordable units equivalent to those required by Section 10.4 off-site. All requirements of this Bylaw that apply to on-site provision of affordable units shall apply to provision of off-site affordable units. In addition, the Planning Board shall approve the location of the off-site units as an integral element of the subdivision approval.

#### **10.8 Maximum Incomes and Selling Prices: Initial Sale**

The developer of the affordable housing units or his/her agent shall verify prior to transferring title or executing a lease that each prospective purchaser or renter of an affordable housing unit is a household of low or moderate income, as defined by the Commonwealth's LIP program. Toward this end:

10.8.1 Income Eligibility and Verification: The developer shall engage a qualified certifying agent acceptable to the Planning Board to receive purchase or rental applications, obtain and review documentation concerning sources and amounts of household income, and certify to the Town that all purchasers or renters approved for an affordable unit meet LIP income eligibility requirements.

10.8.2 Annual Certification: The developer shall establish a fund or make other arrangements acceptable to the Planning Board that provide for annual certifications to the Town as may be required to place and maintain the affordable units on the Commonwealth's Chapter 40B Subsidized Housing Inventory. The Paxton Housing Partnership or a section 501(c)(3) organization assigned by the Partnership shall monitor and administer the affordable housing units and purchasers to insure compliance with the regulations and guidelines of the LIP Program.

10.8.3 Maximum Prices and Rents: The maximum allowable purchase price or maximum allowable rent for affordable units created under this Bylaw shall comply with the regulations and guidelines of the LIP Program. (See 760 CMR 45.03.) For rental units, monthly rents payable by a household exclusive of utilities, shall not exceed 30% of the monthly income of a household earning 80% of the area median income based on household size. For ownership units, initial purchase prices and resale prices shall be established so that households are not required to spend more than 30% of the income of a household earning 80% of area median income for annual debt service on a mortgage (at 30-year fixed-interest rates at the time of initial sale), taxes, insurance, and condominium or homeowners fees with no more than a five percent (5%) down-payment, including any required entrance deposit.

#### **10.9 Preservation of Affordability; Restrictions on Resale**

Each affordable unit created in accordance with this Bylaw shall have the following limitations governing its resale. The purpose of these limitations is to preserve the long-term affordability of the unit and to ensure its continued availability to qualified purchasers in perpetuity. The resale controls shall be established through a deed rider or an affordable housing restriction as defined by M.G.L. c.184, Section 31, recorded at the

Worcester District Registry of Deeds or the Land Court, and shall be in force for as long a period as is lawful. The affordable housing use restriction shall meet the requirements of the LIP Program.

**10.9.1 Resale Price:** Sales beyond the initial sale to a qualified affordable income purchaser shall include the initial discount rate between the sale price and the unit's appraised value at the time of resale. This percentage shall be recorded as part of the restriction on the property noted in Section 10.9. For example, if a unit appraised for \$300,000 is sold for \$225,000 as a result of this Bylaw, it has sold for 75% of its appraised value. If, several years later, the appraised value of the unit at the time of proposed resale is \$325,000, the unit may be sold for no more than \$243,750, or 75% of the appraised value of \$325,000. All future sales shall be to a Qualified Affordable Housing Unit Purchaser as defined in section 10.2.2.

**10.9.2 First Refusal to Purchase:** The purchaser of an affordable housing unit shall agree to execute a deed rider prepared by the Town. This instrument shall grant the Town a right of first refusal for a period not less than the maximum period allowable under guidelines set by DHCD for Local Initiative Units. The Town may opt to purchase the property or assignment thereof, in the event that, despite diligent efforts to sell the property, a subsequent qualified purchaser cannot be located.

**10.9.3 Rental Prohibition:** The Planning Board shall require, as a condition of subdivision approval, that the deeds to the affordable housing units contain a restriction against renting or leasing said unit during the period for which the housing unit contains a restriction on affordability.

**10.9.4 Deed Restrictions:** The Planning Board shall require that the applicant comply with the mandatory set-asides and accompanying restrictions on affordability, including the execution of the deed rider noted in Section 10.9. The Building Commissioner shall not issue an occupancy permit for any affordable unit until the deed restriction is recorded at the Worcester District Registry of Deeds or the Land Court.

#### **10.10 Fees in Lieu of Affordable Housing Units**

As an alternative to Section 10.4.1 through 10.4.3, an applicant may contribute a cash payment to the Affordable Housing Trust Fund, or other special, dedicated account, to be used for the development of affordable housing by the Town or its designees, in lieu of constructing and offering affordable units within the locus of the proposed development or off-site.

**10.10.1 Calculation of Fees-In-Lieu of Units:** The applicant may pay a fee in-lieu of the construction of affordable units. The fee shall be an amount equal to the sale price of an affordable housing unit to a qualified purchaser making eighty percent (80%) of the median income for a four-person household for the Worcester PMSA.

1. The methodology used to determine an affordable purchase price shall comply with LIP Program guidelines in effect at the time of application for approval of a residential subdivision.
2. The assumptions used to determine an affordable purchase price, including but not limited to minimum down payment, mortgage interest rate, term, closing and other costs shall be consistent with first-time homebuyer mortgage products available from commercial lending institutions located in or serving Paxton at the time of application for subdivision approval.
3. The applicant shall present to the Planning Board and the Building Commissioner a written certified receipt, issued by the Town Treasurer, as evidence of payment of the appropriate fee to the Town.



**Annual Town Meeting in May 7, 2012  
Town of Paxton “As-of-Right” Zoning Bylaw:**

**Section 11: Large-Scale Ground-Mounted Solar Photovoltaic  
Installations**

**11.0 Purpose :**

The purpose of this bylaw is to promote the creation of new large-scale ground-mounted solar photovoltaic installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations.

The provisions set forth in this section shall apply to the construction, operation, and/or repair of large-scale ground-mounted solar photovoltaic installations.

**11.1 Applicability**

This section applies to large-scale ground-mounted solar photovoltaic installations proposed to be constructed after the effective date of this section. This section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.

**11.2 Definitions:**

**As-of-Right Siting:** As-of-Right Siting shall mean that development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval. As-of-right development may be subject to site plan review to determine conformance with Paxton Zoning Bylaws. Projects cannot be prohibited, but can be reasonably regulated by Building Inspector/Zoning Enforcement Officer

**Building Inspector:** The Building Commissioner, or person or board as designated in the Town of Paxton ordinance or bylaw charged with the enforcement of the zoning ordinance and bylaws.

**Building Permit:** A construction permit issued by an authorized Building Commissioner; the building permit evidences that the project is consistent with the Commonwealth of Massachusetts State building codes as well as Town of Paxton ordinances and zoning bylaws, including those governing ground-mounted large-scale solar photovoltaic installations.

**Designated Location:** The location[s] designated by Paxton Town meeting (**May 7, 2012**), in accordance with Massachusetts General Laws Chapter 40A, section 5, where ground - mounted large scale solar photovoltaic installations may be sited as-of right. Said locations are shown on a Zoning Map entitled Paxton, Massachusetts Zoning Map dated **March 2001** revised through January 2011 pursuant to Massachusetts General Laws Chapter 40A Section 4. This map is hereby made a part of this Zoning Bylaw and is on file in the Office of the Town Clerk.

**Large-Scale Ground-Mounted Solar Photovoltaic Installation:** A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a minimum nameplate capacity of 60 kW DC.

**On-Site Solar Photovoltaic Installation:** A solar photovoltaic installation that is constructed at a location where other uses of the underlying property occur.

**Rated Nameplate Capacity:** The maximum rated output of electric power production of the Photovoltaic system in Direct Current (DC).

**Site Plan Review:** Review by the Paxton Planning Board to determine conformance with Paxton zoning bylaws and establish siting requirements.

**Site Plan Review Authority:** For purposes of this bylaw, Site Plan Review Authority refers to the Paxton Planning Board.

**Solar Photovoltaic Array:** an arrangement of solar photovoltaic panels.

**Zoning Enforcement Authority:** The Building Inspector is designated as the person charged with enforcing the Town of Paxton zoning bylaws.

**11.3 General Requirements for all Large Scale Solar Power Generation Installations**

The following requirements are common to all solar photovoltaic installations to be sited in designated locations.

**11.3.1 Compliance with Laws, Ordinances and Regulations**

The construction and operation of all large scale solar photovoltaic installations shall be consistent with all applicable bylaws and regulations the Town of Paxton, state and federal requirements, including but not limited to all applicable zoning bylaws, conservation, construction, electrical, communications and safety requirements. All buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with the most recent edition of 780 CMR, the Base (commercial) Code of the Massachusetts State Building Code.

**11.3.2 Building Permit and Building Inspection**

No large scale solar photovoltaic installation shall be constructed, installed or modified as provided in this section without first obtaining a building permit.

**11.3.3 Fees**

The application for Site Plan Review and any other zoning applications shall be accompanied by the required fees.

### **11.3.4 Site Plan Review**

Large scale ground-mounted solar photovoltaic installations are permitted only upon receiving site plan approval by the Planning Board as provided in this section.

#### **11.3.4.1 General**

All plans and maps shall be prepared, stamped and signed by a Professional Engineer licensed to practice in Massachusetts.

#### **11.3.4.2 Required Documents**

Pursuant to the site plan review process, the project proponent shall provide the following documents:

- (a) A site plan showing:
  - i. Property lines and physical features, including roads, for the project site;
  - ii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;
  - iii. Blueprints or drawings of the solar photovoltaic installation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures
  - iv. One or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
  - v. Documentation of the technical specifications of the major system components to be used, including the PV panels, mounting system, and inverter;
  - vi. Name, address, and contact information for proposed system installer;
  - vii. Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any;
  - viii. The name, contact information and signature of any agents representing the project proponent; and
- (b) Documentation of actual or prospective access and control of the project site (see also Section 3.5);
- (c) An operation and maintenance plan (see also Section 3.6);
- (d) Zoning district designation for the parcel(s) of land comprising the project site (submission of a copy of a zoning map with the parcel(s) identified is suitable for this purpose);
- (e) Proof of liability insurance; and
- (f) Description of financial surety that satisfies Section 11.3.12.3.

The Planning Board may waive documentary requirements under this section as it deems appropriate.

### **11.3.5 Site Control**

The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar photovoltaic installation.

### **11.3.6 Operation & Maintenance Plan**

The project proponent shall submit a plan for the operation and maintenance of the large- scale ground-mounted solar photovoltaic installation, which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation.

### **11.3.7 Utility Notification**

The applicant shall submit evidence that he has informed the utility company of his intent to install a large scale ground-mounted photovoltaic installation and documentation that the utility company has consented to the location and design details. Off-grid systems shall be exempt from this requirement.

### **11.3.8 Dimension and Density Requirements**

#### **11.3.8.1 Setbacks**

For large - scale ground-mounted solar photovoltaic installations, front, side and rear setbacks shall be as follows:

- (a) Front yard: The front yard depth shall be at least 30 feet; provided, however, that where the lot abuts a Conservation-Recreation or Residential district, the front yard shall not be less than 50 feet.
- (b) Side yard. Each side yard shall have a depth at least 25 feet; provided, however, that where the lot abuts a Conservation-Recreation or Residential district, the side yard shall not be less than 50 feet.
- (c) Rear yard. The rear yard depth shall be at least 25 feet; provided, however, that where the lot abuts a Conservation-Recreation or Residential district, the rear yard shall not be less than 50 feet.

#### **11.3.8.2 Appurtenant Structures**

All appurtenant structures to large- scale ground-mounted solar photovoltaic installations shall be subject to reasonable regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Structures shall be screened by vegetation as planted within 10 feet of each structure at least 6 feet in height and spaced no more than 8 feet apart.

### **11.3.9 Design Standards**

#### **11.3.9.1 Lighting**

Lighting of solar photovoltaic installations shall be consistent with Paxton Zoning Bylaw requirements, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

#### **11.3.9.2 Signage**

Signs on large- scale ground-mounted solar photovoltaic installations shall comply with Paxton's sign bylaw (Sec.5.3). A sign consistent with Paxton's sign bylaw shall be required to identify the owner and provide a 24-hour emergency contact phone number.

Solar photovoltaic installations shall not be used for displaying any advertising except for any identification of the manufacturer or operator of the solar photovoltaic installation.

### **11.3.9.3 Utility Connections**

All utility connections from the solar photovoltaic installation shall be made underground. Electrical transformers for utility interconnections may be above ground only if required by the utility provider. Documentation of such shall be provided at the time of application for Site Plan Review.

## **11.3.10 Safety and Environmental Standards**

### **11.3.10.1 Emergency Services**

The large scale solar photovoltaic installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Paxton fire chief. Upon request the owner or operator shall cooperate with the Town of Paxton's emergency services in developing an emergency response plan. All means of shutting down the solar photovoltaic installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

### **11.3.10.2 Land Clearing, Soil Erosion and Habitat Impacts**

Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the large-scale ground-mounted solar photovoltaic installation or otherwise prescribed by applicable laws, regulations, and bylaws.

## **11.3.11 Monitoring and Maintenance**

### **11.3.11.1 Solar Photovoltaic Installation Conditions**

The large-scale ground-mounted solar photovoltaic installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the Town of Paxton Fire Chief and Emergency Medical Services. The owner or operator shall be responsible for maintaining the solar photovoltaic installation and any access road(s), adequate to ensure access for emergency vehicles.

### **11.3.11.2 Modifications**

All material modifications to an approved site plan for a large scale ground-mounted solar photovoltaic installation shall require approval by the Building Inspector/Zoning Enforcement Officer.

## **11.3.12 Abandonment or Decommissioning**

### **11.3.12.1 Removal Requirements**

Any large- scale ground-mounted solar photovoltaic installation which has reached the end of its useful life or has been abandoned consistent with Section 11.3.12.2 of this bylaw shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Site Plan Review Authority by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

- (a) Physical removal of all large- scale ground-mounted solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.
- (b) Disposal of all solid and hazardous waste in accordance with Town of Paxton, state, and federal waste disposal regulations.

- (c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Site Plan Review Authority may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

#### **11.3.12.2 Abandonment**

Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar photovoltaic installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Site Plan Review Authority. If the owner or operator of the large-scale ground-mounted solar photovoltaic installation fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town may enter the property and physically remove the installation.

#### **11.3.12.3 Financial Surety**

Proponents of large-scale ground-mounted solar photovoltaic projects shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Planning Board, but in no event to exceed more than 125 percent of the cost of removal and restoration of the site, as well as compliance with the additional requirements set forth herein, as determined by the project proponent. Such surety will not be required for the Town of Paxton - or state-owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

**APPENDIX 1**  
**ADOPTION OF ZONING BYLAW AMENDMENTS**

Special Town Meeting, November 5, 2001

- Article 8: Adopted new Zoning Map showing previously approved districts.  
Article 9: Adopted a new Overlay Districts Map showing previously approved districts.  
Article 10: Replaced §4.5, Watershed Protection District, with a new §4.5, Paxton Watershed Protection Overlay District.  
Article 11: Adopted a new Watershed Protection District Map.  
Article 12: Replaced §8, Wireless Communications Services District, with a new §8, Personal Wireless Services.  
Article 13: Replaced §9.3.1, Occupancy Restrictions, with a new §9.3.1, Restrictions.  
Article 14: Amended §6.2.5, ¶4 by adding a new second sentence.

The Attorney General approved these amendments in a letter dated February 27, 2002, with the following three exceptions:

1. Article 12, §8.4.2, deleted subsections (7) and (8).
2. Article 12, §8.6.1.3, deleted the phrase “or on Town-owned land”, on line 1.
3. Article 14, §6.2.5, ¶4, deleted the last sentence which stated:

“Notwithstanding the foregoing, if a special permit decision is silent and does not address the foregoing, the special permit shall be presumed to be personal to the applicant such that it will not run with the land.”

Annual Town Meeting of June 3, 2002

- Article 9: Amended Section 8 by adding new Section 8.4.2.7 which allows erection of a new personal wireless facility that does not exceed height limitations in Section 8.5.2.

Special Town Meeting of September 9, 2002

- Article 14: Amended Section 9 by adding Section 9.4.4, Moratorium, for a period of two years on the permitting and developing of SRD projects while the Town studied the impact of SRD projects on Town services.

Annual Town Meeting of June 24, 2003

- Article 6: Repealed moratorium on Senior Residential Developments adopted by Special Town Meeting vote on September 9, 2002 and deleted and replaced entire Section 9 on Senior Residential Developments which included adding definition Use Restriction to Section 1.3, Definitions.

- Article 7: Amended “Paxton Overlay Districts” map by adding new “Senior Residential Development Overlay District” and placing in said district a parcel of land owned by the Town (Map 18 Lot 105).

The Attorney General approved these amendments in a letter dated December 2, 2003.

Special Town Meeting of April 4, 2005

- Article 5: Added definition of shed.  
Article 6: Amended Section 1.5.1 to achieve consistency with state law regarding the alteration or extension of a nonconforming single or two family structure.  
Article 7: Amended Section 1.5.1 to clarify when alterations or extensions of nonconforming single or two family structures may be permitted as of right.  
Article 8: Amended the Section 3.2.6, Use Schedule, regarding Accessory Uses by changing line 5 for garaging of automobiles, by adding a new line 5A to allow garages for more than four vehicles by

special permit, and by adding a new section 3.3.13 to limit the size of garages, sheds and barns to 864 square feet.

- Article 9: Deleted line 6 in Section 3.3.11 regarding Commercial Wind Energy Conversion Systems, and added in its place a new Section 3.3.12 to regulate Commercial Wind Energy Conversion Systems and to establish a Wind Energy Overlay District.
- Article 10: Amended Section 4, Schedule of Dimensional Requirements, regarding “Minimum Yard Setback Depth” by changing the side yard setback in GRB and Watershed Protection from 30’ to 25’, modifying footnotes (j), (k), and (l), adding a new footnote (n), and applying footnote (n) to all side and rear yard requirements.
- Article 11: Amended Section 4.4.6 to clarify the method for determining the average front setback when adjacent lots have less distance than is required for the district.
- Article 13: Added a new paragraph 6.2.6 (a), Findings.
- Article 14: Amended Section 6.2.7, paragraph 3 and the last paragraph, by replacing the words “Variance or Special Permit” with the words “Variance, Special Permit, and/or Finding”.
- Article 15: Added Section 10, Inclusionary Housing.

Annual Town Meeting May 2, 2011

- Article 15: Revised Section 7.2.2 language to reflect countywide mapping format. Updated addresses in Section 7.4 and updated references in Section 7.5.

Annual Town Meeting May 7, 2012

- Article 9: Added Section 11: Large Scale Ground-Mounted Solar Photovoltaic Installations.

Annual Town Meeting May 5, 2014

- Article 12: Added 1.3 Definition of Registered Marijuana Dispensary  
Added 3.2 Use Schedule, 3.2.26 Registered Marijuana Dispensary  
Added 3.3 Special Conditions, 3.3.14 Registered Marijuana Dispensary

Annual Town Meeting May 1, 2017

- Article 16: Added 3.2.4.27 Marijuana Establishments, Recreational (per Sec. 3.3.15)  
Added 3.3.15 Temporary Moratorium on Marijuana Establishments and the Sale or Distribution of Marijuana and Marijuana Products
- Article 17: Added 3.2.4.3B Drive through bylaw

Annual Town Meeting May 6, 2019

- Article 20: Added 1.3 Definitions for Marijuana Cultivator, Marijuana Establishment, Marijuana Product Manufacturer, Marijuana Products, Marijuana Retailer, Independent Testing Laboratory, and Other Type of Licensed Marijuana-Related Business  
Amended 3.2.4.27 Use Schedule  
Amended 3.3.14  
Deleted 3.3.15