



TOWN OF WARE

Planning & Community Development
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10/23/2018

Town of Ware Zoning Bylaws Proposed Amendments Information Packet

The following amendments will be discussed at a
Public Hearing on Wednesday, December 5, 2018, 7:00 pm
126 Main St, Ware, MA Board of Selectmen's Meeting Room
for consideration at Special Town Meeting (STM date to be determined)

Note: Page numbers below refer to this packet; other page numbers refer to the entire Zoning Bylaw document. Amendments are shown with text to be deleted as strikethrough (*sample*) and text to be added as underlined (*sample*).

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I. Legal Notice



TOWN OF WARE

Planning & Community Development

126 Main Street, Ware, Massachusetts 01082

LEGAL NOTICE

to be published in the Ware River News
issues 11/15/2018 and 11/22/2018

Town of Ware – Proposed Zoning Amendments for Special Town Meeting (STM) 2019

Pursuant to MGL Ch. 40A, Sec. 5, the Ware Planning Board will hold a public hearing on Wednesday, December 5, 2018 at 7:00 PM in the Board of Selectmen Meeting Room in the Ware Town Hall, 126 Main Street, Ware, MA. The purpose of this hearing is to consider amendments to the Town of Ware Zoning Bylaw. Topics proposed to be amended include definitions (§2.2), marijuana cultivation in the Rural Residential district (§4.2 and 4.8), Use Table (§4.2), moratorium on large ground-mounted solar facilities in the Rural Residential district (§4.8.3), increase setbacks for large ground-mounted solar facilities (§4.8.3), what documents are required for applications (§4.8 & 7.4), residential Accessory Uses (§4.4.1.A), Variance findings (§7.3.2.A), and language to generally refine the document (§3.1.11, §4.8, §4.9, §5.3, and 7.4).

A copy of the proposed amendments may be inspected at the Town Clerk's Office during regular business hours. Copies are available at the Ware Senior Center on Robbins Road and the Young Men's Library on Main Street. The proposed amendments can also be viewed on the Town website, www.townofware.com. Anyone interested or wishing to be heard on the proposed amendments should appear at the time and place designated.

Richard Starodoj, Chairman

Ware Planning Board

II. All Occurrences

1. ~~Planning Department~~ Planning and Community Development
2. ~~"...the Department shall..."~~ "Department staff shall..."

III. Section 2.2 Definitions

Cargo Container: A metal storage container, typically 20', 40', or 53' nominal length, designed to be utilized in intermodal transport, and quickly connected with an interchangeable, wheeled, separately-registered and titled chassis for over-the-road movement. A Cargo Container shall be considered a permanent storage structure and must meet all zoning bylaw and building code requirements if it is in place for more than ninety (90) days unless it is being utilized on a site with an active building permit, or a site that is being reconstructed after a fire. In all such cases, the container must be removed or brought into compliance with zoning regulations within ninety (90) days of issuance of a certificate of occupancy following building construction or fire recovery completion. If no active reconstruction after a fire is substantially begun within ninety (90) days of an insurance settlement, then the Cargo Container must be removed or brought into compliance with zoning and building regulations.

Mobile Storage Unit: A storage unit less than 8'x12', without a wheeled chassis that is designed to be hauled from one location to another on a truck, used for the storage of goods and materials; often marked for temporary (i.e. ninety (90) days or fewer) storage at residential dwellings; also marketed as "pods" by storage and moving companies. Mobile Storage Units shall be considered a permanent storage structure and must meet all zoning bylaw and building code requirements if it is in place for more than ninety (90) days.

Shed or Permanent Storage Structure: A storage unit that is either a site-built structure constructed of wood, metal, masonry, or other materials; or a similar prefabricated building that is brought to a site from a place of construction.

Wheeled Trailer: A storage unit that is purpose-built with permanent wheels and "landing gear" on a non-detachable chassis; typically with a wooden floor and metal sides, roof, and doors. When originally constructed, this kind of unit is issued a vehicle identification number (VIN). The unit utilizes a "king pin/fifth wheel" or "tongue hitch" connection for a motive power unit. An unregistered Wheeled Trailer is considered a vehicle and must comply with general Town of Ware bylaw requirements related to unregistered vehicles. A Wheeled trailer, originally manufactured with a VIN issued, which has had its wheels and/or landing gear removed such that the cargo doors are at or substantially near ground level shall be considered the same as a Cargo Container.

Marijuana Greenhouse (Craft/Co-op): a fully-enclosed and permanent structure that is equipped with climate control systems, such as heating and ventilation capabilities, and that uses a combination of natural and supplemental artificial lighting for marijuana cultivation.

IV. Section 3.1.11, Industrial District

3.1.11I – Industrial: This district provides for light industrial and service related businesses with large buildings or outdoor storage requirements. The district includes one area of what is sometimes referred to as “mill housing”; industrial uses within this area will be reviewed with an eye toward a focus on minimizing negative impacts on remaining residences. A variety of commercial uses are also permitted within this district.

[continued on next page]

V. Section 4.2, Use Table

		as amended 11/13/2017										
		Residential					Mixed ^d			Commercial/Industrial		
		RQ	RR	SR	BLR	DTR	RB	DTC	MY	HC	CI	I
A Residential Uses												
1	Single Family	SP	Y	Y	Y	Y	Y	Y	Y	Y	N	N
2	Two-Family	N	SP	Y	N	Y	SP	Y	Y	SP	N	N
3	Multi-Family	N	N	SP	N	Y	N	Y	Y	Y	N	N
4	Mobile Home Park	N	SP	N	N	N	N	N	N	N	N	N
5	Flexible Resid. Open Space Development (see § 4.8.1)	N	Y	Y	N	Y	Y	N	N	N	N	N
B Public & Civic Uses³												
1	Private Nonprofit Library or Museum	N	SP	SP	SP	SP	Y	Y	Y	Y	Y	N
2	Government Facilities	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
3	Community Center	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
4	Recreation, publicly owned lands	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
5	Family Daycare Home	N	Y	Y	Y	Y	Y	SP	N	N	N	N
6	Large Family Daycare Home	N	SP	SP	SP	SP	SP	SP	N	N	N	N
7	Adult Daycare Center	N	N	SP	N	SP	SP	Y	Y	Y	N	N
8	Nursing or Convalescent Home	N	SP	SP	N	SP	SP	SP	SP	SP	N	N
9	Hospital	N	N	SP	N	N	N	SP	SP	SP	N	N
10	Cemetery	N	SP	SP	N	SP	SP	N	N	SP	N	N
11	Utility, Minor	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
12	Utility, Major	N	SP	SP	N	SP	SP	SP	SP	SP	SP	Y
13	Large Ground Mounted Solar Facility (see § 4.8.3)	SP	SP	N	N	N	SP	N	N	Y	Y	Y
14	Wind Energy Facility (see § 4.8.4)	SP	SP	N	N	N	N	N	N	N	N	N
15	Wireless Communication Facilities (see § 4.8.2)	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
C Agricultural Uses												
1	Farm at least 5 acres in size	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
2	Farm less than 5 acres in size	Y	Y	SP	N	SP	Y	N	SP	Y	N	Y
3	Commercial Greenhouse ⁴	N	SP	SP	N	SP	Y	N	Y	Y	Y	Y
4	Smokehouses	N	SP	N	N	N	N	N	N	SP	N	Y
5	Equestrian Stable ⁴	N	Y	SP	N	SP	Y	N	N	Y	N	N
D Office and Research Uses³												
1	Business, Finance, or Other Professional Offices	N	N	SP	N	SP	Y	Y	Y	Y	Y	Y
2	Office or clinic for health services	N	N	SP	N	SP	Y	Y	Y	Y	N	N
3	Trade, Professional, or Other School (Private, for Profit)	N	N	N	N	N	Y	Y	Y	Y	N	N
4	Laboratory	N	N	SP	N	N	SP	SP	Y	Y	Y	Y
5	Research Facility	N	N	SP	N	N	SP	SP	SP	SP	SP	SP
6	Radio or Television Studio	N	N	N	N	N	Y	Y	Y	Y	Y	N
E Retail Business & Consumer Service Uses³												
1	Adult entertainment establishment (See § 4.8.6)	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
2	Auto Body Shop	N	N	N	N	N	SP	SP	SP	SP	SP	SP
3	Auto Fuel Station (with or without convenience store)	N	N	N	N	N	Y	N	N	Y	Y	Y
4	Auto Service	N	N	N	N	N	Y	SP	SP	Y	Y	Y
5	Banks	N	N	N	N	N	Y	Y	Y	Y	Y	N
6	Campground	N	Y	N	N	N	N	N	N	Y	N	N
7	Car Wash	N	N	N	N	N	Y	N	N	Y	Y	Y
8	Construction Trades	N	SP	N	N	N	Y	N	SP	Y	Y	Y
9	Eating establishment, drive-in/drive-thru	N	SP	N	N	N	SP	N	N	Y	Y	N
10	Eating establishment, high turnover	N	N	N	N	SP	Y	Y	Y	Y	Y	N
11	Eating establishment, low turnover	N	SP	N	N	SP	Y	Y	Y	Y	Y	N
12	Eating establishment, specializing in serving alcohol	N	N	N	N	N	SP	SP	SP	SP	Y	N
13	Funeral home, mortuary, or undertaking establishment	N	N	SP	N	SP	Y	N	N	Y	N	N
14	Hotel	N	N	N	N	N	SP	SP	SP	Y	Y	N
15	Indoor entertainment or recreation facility ⁵	N	N	N	N	N	Y	Y	Y	Y	Y	N
16	Inn, Bed & Breakfast, Tourist House	N	SP	SP	SP	SP	Y	Y	SP	Y	N	N
17	Kennels, pet day care establishments	N	SP	N	N	N	SP	N	N	Y	Y	N
18	Motor Vehicle Sales	N	N	N	N	N	Y	N	N	Y	Y	N
19	Non-Family Accommodations	N	SP	SP	N	SP	SP	SP	SP	Y	N	N
20	Outdoor recreation facility ⁵	N	Y	SP	SP	N	Y	N	SP	Y	Y	N
21	Parking facilities	N	N	N	SP	N	N	Y	Y	Y	Y	N
22	Personal Service ⁷	N	N	SP	N	SP	Y	Y	Y	Y	Y	N
23	Private membership club or lodge	N	Y	SP	SP	SP	Y	Y	Y	Y	N	N
24	Recycling Center, Composting Facility	N	N	N	N	N	N	N	SP	SP	SP	SP
25	Retail sales & service, Large scale ⁸ w/outside storage	N	N	N	N	N	N	N	N	Y	Y	N
26	Retail sales & service, Large scale ⁸ w/no outside storage	N	N	N	N	N	N	SP	SP	Y	Y	N
27	Retail sales & service, small scale ⁹ w/outside storage	N	N	N	N	N	Y	N	SP	Y	Y	Y
28	Retail sales & service, small scale ⁹ w/no outside storage	N	SP	SP	N	SP	Y	Y	Y	Y	Y	Y
29	Sales of agricultural or horticultural products and associated supplies, partly or wholly outdoors, not associated with an agricultural use (category C above)	N	SP	N	N	N	Y	SP	Y	Y	Y	N
30	Self-service storage facility	N	N	N	N	N	N	N	Y	Y	Y	Y
31	Taxicab Business	N	N	N	N	N	SP	SP	Y	Y	Y	Y
32	Tow Service	N	N	N	N	N	SP	N	N	SP	SP	SP
33	Veterinary or pet grooming establishment	N	SP	SP	N	SP	SP	Y	Y	Y	Y	N
34	Medical, Recreational or Hybrid Marijuana Sales	N	N	N	N	N	N	SP	SP	SP	N	N
F Industrial Uses³												
1	Auto Salvage	N	N	N	N	N	N	N	N	N	N	SP
2	Aviation field	N	SP	N	N	N	N	N	N	N	SP	SP
3	Earth Removal (see § 4.8.5)	N	SP	N	N	N	N	N	N	N	SP	SP
4	Freight or trucking terminal	N	N	N	N	N	N	N	N	N	SP	Y
5	Industry, Heavy ¹⁰	N	N	N	N	N	N	N	N	N	SP	SP
6	Industry, Light ¹¹	N	N	N	N	N	SP	N	SP	SP	Y	Y
7	Solid Waste Disposal Facilities ¹²	N	N	N	N	N	N	N	N	N	SP	SP
8	Tank Farm	N	N	N	N	N	N	N	N	N	SP	SP
9	Warehouse	N	N	N	N	N	SP	N	Y	SP	Y	Y
10	Wholesale	N	N	N	N	N	SP	SP	Y	SP	Y	Y
11	Wood processing, lumber mill	N	SP	N	N	N	SP	N	N	SP	SP	Y
12	Marijuana Cultivation Facility	N	N	SP	N	N	N	N	SP	N	SP	SP

Footnote:
 1. Per Article 4.7.1, any use not specifically or generically listed in §4.2, Use Table, or not otherwise permitted in a district shall be deemed as prohibited.
 2. In the mixed Use districts, one parcel can have more than one principal use. See §4.1.1 E.
 3. See also §7.4 to determine if a proposed project will require site plan review.
 4. If on a parcel of 5 acres or greater, this use is exempt from Zoning but must comply with the dimensional requirements in Article 5.
 5. Indoor entertainment or recreation facility examples: bowling alley, arcade, roller rink, tennis courts, swimming, theater, etc.
 6. Outdoor recreation facility examples: amusement park, country club, golf course, tennis courts, etc.
 7. Personal service examples: hair salon, barber, tanning salon, massage therapist, nail salon, tailor, shoe repair, etc.
 8. Large scale retail sales and service examples: "big box" stores, full service grocery stores, shopping centers, etc.
 9. Small scale retail sales and service examples: gift shops, clothing stores, small specialty stores, convenience stores (without fuel sales), etc.
 10. Specific uses listed in the Table of Uses that could also be categorized as heavy industry shall be regulated under the specific use.
 11. Specific uses listed in the Table of Uses that could also be categorized as light industry shall be regulated under the specific use.
 12. As defined in MGL c. 111 §150A.

VI. Section 4.2, Use Table, Footnote Section

Footnote #1. In Use Table:

1. Per Article 4.7.1, any use not specifically or generically listed in §4.2, Use Table, or not otherwise permitted in a district shall be deemed as prohibited.

VII. Section 4.3.28, Specific Permitting Standards, Marijuana Cultivation Facilities (F-12 in Use Table)

4.3.28 Marijuana Cultivation Facilities (F-12) are permitted in the MY, CI, RR, and I districts subject to the provisions of 4.8.8.

VIII. Section 4.4.1.A, Accessory Uses

4.4.1 Residential Accessory Uses (these apply to Category A in §4.2, Use Table)

A. Private garage or carport for not more than four motor vehicles, small solar energy system, non-commercial greenhouse, ~~tool~~ shed, barn, or permanent storage structure, mobile storage unit, cargo container, or wheeled trailer subject to the dimensional requirements for accessory structures in Article 5.

IX. Section 4.8.3.C.3, Solar Energy Facility, Required Documents

- 3. Required Documents. In addition to the submission requirements in §7.4, Site Plan Review, the applicant shall provide the following documents:**
 - a) Plans and drawings of the solar energy facility signed and stamped by a Professional Engineer licensed to practice in Massachusetts, and in good standing, showing the proposed layout of the system.**

X. Section 4.8.3.D.1, Solar Energy Facility, Dimensional Requirements
(as proposed by the Ware Planning Board)

D. Dimensional Requirements

1. **Setbacks.** Large ground-mounted solar energy facilities and all accessory structures shall have a setback from front, side and rear property lines and public ways of at least ~~twenty-five feet (25')~~ one hundred feet (100').

XI. Section 4.8.3.D.1, Solar Energy Facility, *TEMPORARY MORATORIUM*
(as proposed by the Select Board)

Nine-month Temporary Moratorium on Large Ground Mounted Solar Facilities in Rural Residential district.

XII. Section 4.8.3.C.3.a, Wind Energy Facility

3. **Required Documents.** In addition to the submission requirements in the Planning Board's Site Plan Review Regulations, the applicant shall provide the following documents:

- a) **Plans and drawings of the wind energy facility signed and stamped by a Professional Engineer licensed to practice in Massachusetts and in good standing showing the proposed layout of the system.**

XIII. Section 4.8.8.C, Registered Marijuana Facilities and Cultivation Sites, Definitions

Definitions

Marijuana Greenhouse (Craft/Co-op): a fully-enclosed and permanent structure that is equipped with climate control systems, such as heating and ventilation capabilities, and that uses a combination of natural and supplemental artificial lighting for marijuana cultivation.

XIV. Section 4.8.8.G, Registered Marijuana Facilities and Cultivation Sites, Standards

Standards

5. Applicant for the permit must be the property owner and a member of the craft co-op.
6. The property that the permit is applied for must be owner occupied or operated by a resident of the Town of Ware who is the controller/owner of the active farm designation.
7. Marijuana cultivation in the Rural Residential (RR) zoning district shall be restricted to properties with an active farm designation (61A) from the Commonwealth of Massachusetts for agriculture crops designated under Section 4.2-Use Table.
8. Marijuana cultivation in the Rural Residential (RR) zoning district shall not be considered as a primary or accessory use to any of the uses assigned to such zoning district per Section 4.2-Use Table.
9. Under no circumstances shall marijuana cultivation in the Rural Residential (RR) zoning district be considered the "primary" crop.
10. The property area required to operate a marijuana greenhouse in the Rural Residential (RR) zoning district must be at least 5 acres.
11. No marijuana cultivation in the Rural Residential (RR) zoning district may take place outdoors.
12. All marijuana cultivation in the Rural Residential (RR) zoning district must take place in a marijuana greenhouse with a total area of no more than 7,000 square feet with a canopy area of no more than 5,000 square feet.
13. Any building utilized for the purposes of marijuana cultivation within the Rural Residential (RR) zoning district shall use architectural and landscape design elements that resemble the typical New England agricultural/farm building styles seen on a farm such as a "butler type metal building" or wood or masonry wall with a maximum eve height of sixteen (16ft) feet and finished in neutral colors or a color in harmony with existing buildings on adjacent properties. The Planning Board may, at its discretion, entertain and allow proposals for other building styles but with the 16' eve height remaining.
14. The rehabilitation of existing buildings for marijuana cultivation in the Rural Residential (RR) zoning district may deviate from the height restriction if they already exceed it, to the extent that any linear addition may continue existing lines, so long as no additional height is added. Additions added non-linear to the primary axis (ridge line) of the existing building shall not exceed sixteen (16'ft) feet.
15. New buildings and those occupied and used buildings constructed prior to July 1, 2018 under this bylaw which are proposed to be used as marijuana greenhouses in the Rural Residential (RR) zoning district shall be located at a minimum of one-hundred (100ft) feet from a Town or State road way right of way line.
16. New buildings and those occupied and used buildings constructed prior to July 1, 2018 under this bylaw which are proposed to be used as marijuana greenhouses in the Rural Residential (RR) zoning district shall be located at a minimum of one-hundred (100ft) feet from an adjacent property line or two-hundred (200ft) feet from an adjacent residential building, not including a residential structure on the permit property.

17. Existing buildings which are proposed to be used as marijuana greenhouses in the Rural Residential (RR) zoning district and that are located within two-hundred (200ft) feet of an existing residential structure on an adjacent property or within one-hundred (100ft) feet of a roadway are required to establish and maintain a year-round dense vegetated barrier of at least ten (10ft) feet between the residence and/or roadway. A waiver or modification to this provision may be granted by the Planning Board after review for appropriates and a determination that a modified, reduced or no barrier, would not be substantially detrimental to the adjacent neighborhood.
18. Hoop houses utilized as marijuana greenhouses in the Rural Residential (RR) zoning district shall utilize an opaque wall film to preclude direct viewing of the vegetative growth.
19. Lighting of indoor marijuana cultivation crops shall consist of eighteen-hour (18hr) light cycles, with six (6hrs) hours off between the hours of 9:00PM and 3:00AM.
20. A Site Plan review is required as part of the Special Permit to assure compliance with parking, waste management, lighting, and all other zoning regulations.
21. All other applicable regulations such as wetland, septic, water supply etc., are required to be complied with as appropriate. This permit does not supersede any other requirements.
22. All applicable rules and regulations established under the auspices of the Massachusetts Cannabis Control Commission (CCC) must be adhered to.
23. When a conflict arises between that of local, state or federal regulations, the more restrictive of these shall be in full force.
24. Any change in ownership of the property, farm operator, or co-op association shall require a review and reissuance of the Special Permit prior to the ownership or other change.
25. The Special Permit shall terminate on dissolution of the co-op or revocation of the authorization to operate by the Massachusetts Cannabis Control Commission (CCC).
26. The Planning Board, Town Planner and Town Manager shall be notified within three (3) business days, by email and certified mail, by the permit applicant and/or property owner, of any violations, citations or other sanctions by the Massachusetts Cannabis Control Commission (CCC) or other regulatory agency, as related to operations conducted under this Special Permit, from the date of the violation.
27. Operations under a Special Permit issued by the Planning Board must comply with all other local, state, Federal or other rules, regulation and requirements.

[continued on next page]

XV. Section 4.9.1.C, Overlay District Regulations, Floodplains

- C. **Notification Of Watercourse Alteration.** *The following entities are to be notified of any alteration or relocation of a watercourse in a riverine situation: adjacent communities, the National Flood Insurance Program (NFIP) State Coordinator, and the NFIP Program Specialist.*

XVI. Section 5.3.2.D, Interpretation Notes for Height & Coverage Requirements

- D. **Maximum impervious coverage shall apply to all non-residential development and multi-family residential development, and is the amount of the lot which can be covered with any impervious material, including buildings and other structures, paved parking areas, ~~detention basins, ponds,~~ and any other material which prevents water from infiltrating into the ground, but not sidewalks. In-ground infiltration systems may be used to comply with this requirement at the discretion of the Building Inspector or, in the case of Planning Board or Zoning Board of Appeals action, by approval of said board.**

XVII. Section 7.3.2.A, Variance, Mandatory Findings

- A. **Owing to circumstances relating to the soil conditions (e.g. wetlands, ledge, etc.), shape (e.g. oddly shaped lot or building, but not simply undersized lot) or topography of land or structures, 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 applicant; and**

XVIII. Section 7.4.4.B, Site Plan, Preparation of plan

- B. **All Site Plans shall be submitted on 24 inch by 36 inch sheets and shall be prepared by a Registered Professional Engineer, Architect, or Landscape Architect, as appropriate, licensed to practice in Massachusetts and in good standing. All plans that include land survey information shall be prepared by a Registered Land Surveyor. Dimensions and scales shall be adequate to determine**

that all requirements are met and to make a complete analysis and evaluation of the proposal. All plans should have a minimum scale of 1"=40', with 1"=20' as the standard.

XIX. Section 7.4.5.J.4, Site Plan, Preparation of plan

4. *Community impact assessment, which will describe the manner in which the proposed project fits in with the neighborhood and the potential impacts to historic or archeological resources, and shall include:*

d) Projected economic impact of the proposed project including anticipated total investment in US Dollars.

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