



Board of Selectmen

Ware Town Hall, Meeting Room, 126 Main Street

Regular Meeting Notice Agenda – Tuesday, May 18, 2021 at 7:00 p.m.

5:00 p.m. Executive Session: M.G.L. Chapter 30A, Section 21(a) #2 Non-Union Contract Negotiations, #3 Litigation Update

Instructions for call in option: at or before 7:00 p.m., call the phone number below and when prompted enter the Meeting ID number. The platform is Zoom Meetings.

Join online: <https://us02web.zoom.us/j/7846041861> (the online option will require a download).

Meeting ID: 784 604 1861

Passcode: 01082

Phone: 929-205-6099

Meeting Opened

Opening Remarks, Announcements, and Agenda review by Chair

Consent Agenda

Scheduled Appearances

- 7:10 p.m. Public Hearing RE: Liquor License #00016-PK-1326 Bruso Liquor Mart, Inc. d/b/a Bruso's Liquor Mart, Application for Change of Manager, Change of Officers/Directors, Stock or Ownership Interest
- Review and Recommendations: Annual Town Meeting Warrant Articles with Finance Committee
- Update: Water Resource Committee, Terrance Smith and Gilbert St. George-Sorel

Old Business

- Review of Proposed Bylaw to Manage and Control Blighted Properties within the Town of Ware

New Business

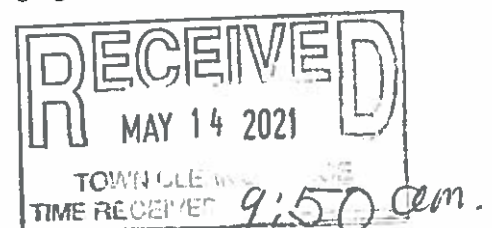
- Reappointments, Terms to Expire June 30, 2024:
 - Carolyn Wilkins, ADA Commission
 - Mark Swett, Conservation Commission
 - Carl Waal, Council on Aging
 - Lewis Iadarola, Zoning Board of Appeals
 - David Skoczylas, Zoning Board of Appeals, Alternate Member
 - Brandy Bruso, Community Development Authority
 - Danielle Souza, Community Development Authority
- Accept Resignations from Committees, Terms Expire June 30, 2021:
 - Janice Hills, Finance Committee
 - Paul Opalinski, Community Development Authority
 - Cynthia Allen Bourcier, Historical Commission

Vacancy on Finance Committee, CDA, Historical Commission and Council on Aging (4)

Comments and Concerns of Citizens

Town Manager Report

Adjournment



Board of Selectmen: *Keith J. Kruckas, John J. Morrin, Thomas H. Barnes, Nancy J. Talbot, Caitlin M. McCarthy*
Town Manager: *Stuart B. Beckley*
sbeckley@townofware.com



TOWN OF WARE

Town Hall, 126 Main St.
Ware, Massachusetts 01082
Tel. 413-967-9648

PUBLIC HEARING NOTICE

The Board of Selectmen will conduct a Public Hearing on **Tuesday, May 18, 2021 at 7:10 p.m.**, in the Selectmen's Meeting Room, 126 Main Street, Ware, MA, to hear an **Application for Change of Manager, Change of Officers/Directors, Stock or Ownership Interest, License #00016-PK-1326, Bruso Liquor Mart, Inc. d/b/a Bruso's Liquor Mart, 144 Main Street, Ware, MA.** Copies of the petition are available at the office of the Town Manager, 126 Main Street, Ware, MA. **This notice shall also be posted on the Massachusetts Newspaper Publishers Association's (MNPA) website (<http://masspublicnotices.org>).**

All interested parties are invited to attend.

Keith J. Kruckas
Chairman
Board of Selectmen
May 4, 2021

Bylaw to Manage and Control Blighted Properties within the Town of Ware

The Town of WARE believes that the Town should adopt a Bylaw to control Blighted Properties having the best interest and having all the tools at the disposal to control such properties. The Town believes it is the best interest of the citizens of the Town of Ware for their health, safety and wellbeing to control Vacant and Blighted Properties.

Section 1 PURPOSE

The purpose of this by-law is to help protect the health, safety and welfare of the citizens of the Town of Ware by preventing blight, protecting property values and neighborhood integrity, protecting the Town's resources, avoiding the creation and maintenance of nuisances and ensuring the safe and sanitary maintenance of dwellings.

Inadequately maintained vacant buildings or unkempt properties are at an increased risk from fire, unlawful entry, and other public health and safety hazards. This by-law will help secure the welfare of the Town's residents and neighborhoods by requiring all property owners, including lenders, trustees, service companies and the like to properly maintain vacant and/or unkempt residential and commercial properties.

Pursuant to the general powers granted to cities and towns by Article 89 of the Amendments to the Massachusetts Constitution, and the specific powers granted by M.G.L., Ch. 139, § 1-3A, this bylaw is adopted for the prevention of future nuisances and the removal of existing nuisances within the Town, which nuisances constitute a hazard of blight, or adversely affect property values.

It is hereby found and declared that there exists within the Town of Ware numerous real properties which are in blighted condition. Many of these properties are essentially abandoned. Some are in violations of multiple aspects of state and local building and sanitary codes. These code violations may include, but not limited to unoccupied building susceptible to vandalism and/or open structures rendering them unsafe and dangerous, yards full of litter and trash, unsecured houses, un-shoveled snow and foliage rendering sidewalks impassable.

The existence of such blight, contributes to the decline of the Town neighborhoods. It is further found that the existence of such blighted properties encourages temporary occupancy, if abandoned, by transients, drug users and persons engaged in criminal activity; adversely affecting the economic wellbeing of the Town of Ware and the health, safety and wellbeing of Ware's residents and creates significant costs to Ware by virtue of the need for constant monitoring and frequent boarding and securing.

It is further found that many of the blighted properties can be rehabilitated, reconstructed, demolished and/or reused so as to provide decent, safe, sanitary housing or commercial facilities, and that such rehabilitation, reconstruction, demolition and/or reuse would eliminate, remedy and/or prevent the adverse conditions described above.

It is the intent of this bylaw to protect and preserve public health, safety, security and wellbeing of occupants, abutters and neighborhoods by:

1. Requiring all residential, commercial and industrial property owners, to properly maintain properties free from blighted conditions, and;
2. Regulating the maintenance of residential, commercial and industrial properties to prevent blighted and unsecured properties.

(End of Section)

Section 2 DEFINITIONS

For the purpose of this Bylaw, the following words, terms, and phrases shall have the following ascribed meaning, unless the context clearly indicates otherwise:

BLIGHTED – “Blighted Premises” or “Blighted Property(ies)” or the condition of “blight” involving real property in the Town of Ware shall mean any building, structure, parcel of land, or any part of a building or structure that is separate unit, whether commercial or residential, whether occupied or unoccupied, in which at least one (1) of the following conditions exists:

1. The property is not being adequately maintained and secured as documented by the Enforcement Officer (as the term is defined herein) based upon, without limitation, the following factors or similar factors: missing or boarded windows or doors; collapsing or missing walls, roofs or floors; siding that is seriously damaged or missing; fire damage; a foundation that is structurally faulty; other structural deficiencies that contribute to blight as determined by the Enforcement Officer or his/her agents; the accumulation outside of interior furniture, garbage, trash, and/or junk; and/or the existence of inoperable/neglected motor vehicles, boats, motorcycles or other inoperable machinery or other refuse (unless otherwise licensed to do so);
2. The property or its owner(s) has/have been cited for violations as documented by an Enforcement Officer or his/her designated agents, and said violations have not been corrected;
3. The structure(s) has become or becoming dilapidated as documented by the Code Enforcement Department/Officer;
4. It is attracting illegal activity as documented by the Police Department;
5. It is a fire hazard as determined by the Fire Marshal or as documented by the Fire Department;
6. Because of fire, wind or other natural disaster, or because of physical deterioration, the property is no longer habitable as a dwelling or useful for the purpose for which the completed structure was originally intended;
7. The property is a vacant building(s) as defined hereunder; or
8. It is determined by the Enforcement Officer or his/her designated agents, that the building, structure or parcel of land is in a condition which poses a serious nuisance or serious threat to the safety, health, and/or wellbeing of the Town of Ware.

BOARD OF HEALTH – shall mean the Board as defined and designated by the Town’s documents.

BUILDING – shall mean a structure having a roof supported by columns or walls, resting on its own foundations and design for shelter, housing or enclosure of persons, animals or property of any kind.

CODE ENFORCEMENT DEPARTMENT or OFFICER – has the meaning set forth in Massachusetts General Laws. Shall mean the Building Inspector, Director of Public Health, Police Chief, Fire Chief and/or their designated agents.

COSTS – shall mean any and all expenses paid or incurred by the Town of Ware for work done or efforts expended in furtherance of carrying out the intent and directives of this Bylaw, including

but not limited to all technical, administrative, and/or professional fees, and all court costs and attorney fees for all efforts to carry out this Bylaw.

INOPERABLE / NEGLECTED MOTOR VEHICLE – shall mean a motor vehicle, whether registered or not, that remains in condition of disrepair or partially dismantled with no progress toward restoration or; a vehicle showing neglect by invasion of foliage, rodent nesting, or progressive deterioration or other conditions attributable to neglect.

INSPECTOR OF BUILDINGS – shall mean the Building Inspector as well as the Electrical Inspector, Gas Inspector, and/or Plumbing Inspector, whether they are permanent or temporary in their services.

LEGAL OCCUPANCY – human habitation that is legal by virtue of compliance with state building, state fire safety, local zoning, local housing and all other pertinent codes and shall further be demonstrated by proof of occupancy evidence through a bona fide lease agreement, rent receipt or utility statement.

NEIGHBORHOOD – An area of the Town comprising premises or parcel of land, any part of which is within a radius of 800 feet any part of another parcel or lot within the Town.

OWNER – shall mean any individual, business entity, voluntary association or nonprofit organization, which along or jointly or severally with others:

1. Has legal title to any building, structure, and property, or
2. Has care, charge, or control of any such building, structure or property in any capacity, including but not limited to agent, executor, administrator, trustee or guardian of the estate of the holder of legal title, or
3. Is a lessee under a written agreement, or
4. Is an agent, trustee, or other person appointed by the courts and vested with possession or control of such buildings, structure or property.

PROPERTY – shall mean any real residential, commercial, or industrial property or portion thereof, located in the Town of Ware, including buildings or structures situated on the property. For purposes of this article, "property" does not include property owned or subject to the control of the Town of Ware or any of its governmental bodies.

RECEIVER – shall mean a court appointed individual who serves as a general contractor and whose duties and powers shall be specified by the court in accordance with the provisions of M.G.L. Ch. 111, §1271.

SECURING MEASURES – shall mean any actions that are taken to prevent unauthorized persons' access to the property including but not limited to erecting fencing around the property, boarding up doors and windows and the like.

STRUCTURE – shall mean that which has been or is built or constructed and which is or should be fastened, anchored, attached or rests on a building, foundation or on the ground, including any buildings, fences, fire escapes, railings, towers sidewalks or stairs.

TOWN – shall mean the Town of Ware.

VACANT – shall mean either:

1. Any unoccupied real property which is empty or remains empty due to abandonment or is not continuously maintained or; which persistently or repeatedly becomes unprotected or unsecured; or which has become occupied by unauthorized persons or which displays conditions of blight;
2. Any unoccupied building, structure or property displaying conditions of blight;
3. A period of 60-days or longer during which space subject to this article is not legally occupied.

(End of Section)

Section 3 BLIGHTED CONDITIONS

1. **Creating a Condition of Blight:** It shall be a violation of this Bylaw for any owner(s) of a property, vacant or otherwise, in the Town of Ware, to allow or cause to be created intentionally or through neglect to take corrective action, any condition of blight on that property or condition of blight caused by that property on any abutting properties.
2. **Correction of Blighted Conditions:** The owner(s) of such blighted property shall correct any condition of blight on such property or its appurtenance(s).

(End of Section)

Section 4 ADMINISTRATION

1. **Complaints:** Any individual affected by the action or inaction of an owner(s) of a dwelling unit or other space subject to the provisions of the Article, any civic organization, neighborhood council, and any appropriate agency may file, in writing, a complaint of violation of any of these sections with the Code Enforcement Officer/Department.
2. **Inspection Authority:** In order to properly protect the health and wellbeing of the people and the emergency responders of the Town of Ware, Enforcement Officer(s) or their authorized agent(s) or representative(s), upon reasonable cause, are authorized to enter, examine, and/or survey at any reasonable time such places as they consider necessary.
3. **Investigation:** The Enforcement Officer(s) may undertake an investigation of any alleged violation of this section upon their own initiative or shall, upon receipt of a complaint from any individual, civic organization or other governmental agency undertake an investigation of the alleged violation.
4. **Orders to Take Corrective Action:** Upon a finding of a violation of the provisions of this section the enforcement officer shall serve notice of the violation and an order to correct such violation upon the owner(s) of the property by certified mail or by in hand service by a person authorized to do such. The order shall require the owner(s) to take one or more of the following actions to bring the property into compliance with the requirements of this Bylaw:
 - A. To take any action that the Enforcement Officer deems necessary to correct the violations of this Bylaw in order to assist the Town of Ware in protecting the public health, safety and the wellbeing.

- B. To correct the violation within seven days or within such time as the Enforcement Officer deems reasonable and necessary, or
 - C. In instances where permits or other authorizations are required; to file a completed application and any required plans for said permit for repair or rehabilitation along with a schedule indicating a completion date for such work or its various phases. Such schedule shall be approved by the Enforcement Officer.
5. Rights of the Town to Affect Repairs: Whenever a property owner(s) fails, neglects, or refuses to make repairs or take other corrective actions specified in the Order, the Town Officials may undertake such repairs or actions or; the Town may seek a court appointed receiver to manage the property and bring said property(ies) into compliance with all applicable statutes, regulations and codes; or take other action the Town Official or Enforcement Officer determines is necessary when, in his/her judgment, a failure to make the necessary repairs or corrective actions will endanger the public health, safety and wellbeing.
6. Recovery Costs: Notice of the intention of the Town to make such repairs or other corrective actions shall be served on the owner(s) by certified mail or by service in hand by a person duly authorized to do such.

When the repairs are made or other corrective actions are taken by the Town of Ware, the cost of such repairs (which "costs" are understood to include all technical, administrative, and/or professional fees to accomplish these repairs and/or corrective actions) plus any and all court costs and attorney fees for administration, processing, and/or prosecution of the collection of these costs shall constitute a debt in favor of the Town against the owner(s) of the repaired property. In the event that the owner(s) fails, neglects or refuses to pay the Town the amount of the debt within thirty (30) days of the receipt of the notice of the debt, the Town may place a lien on the property for such debt and/or may initiate a civil action against the owner in a court of competent jurisdiction to recover the debt.

7. Multiple Remedies: The enforcement remedies provided in this chapter are not intended to replace or supersede the following remedies already existing under current law but are to be available in addition to these existing remedies to better address and confront the dire community problem of blighted properties:
- A. Receivership (M.G.L. Ch. 111, § 1271)
 - B. Municipal Charges Lien (M.G.L. Ch. 40, § 58)
 - C. Noncriminal Disposition of Bylaw Violation (M.G.L. Ch. 40, § 21D)
 - D. Removal and Abatement of Public Nuisances (M.G.L. Ch. 111, § 122-125)
 - E. Demolition Liens for Common Nuisances (M.G.L. Ch. 139, § 3A)
 - F. Remedies provided by State Sanitary Code and State Building Code.

(End of Section)

Section 5 APPEALS

- 1. Right to Hearing: Any person or persons upon whom any order has been served pursuant to any section of this Bylaw, and who is aggrieved by said order may appeal to the Select Board provided, such petition must be filed in writing within seven days after the day the Order was served.
- 2. Hearing Notice: Upon receipt of a petition the Select Board shall in writing inform the petitioner and other affected parties (affected parties shall include the occupants of all

affected premises if the petitioner is an owner, and the owner if the petitioner is an occupant) of the date, time and place of the hearing and of their right to inspect and copy the Enforcement Officer's file and other public records concerning the matter to be heard.

3. Appeal of Final Decisions: Any person aggrieved by the final decision of the Select Board with respect to any order issued under the provisions of this Bylaw may seek relief there from in any court of competent jurisdiction, as provided by the laws of this Commonwealth.

(End of Section)

Section 6 PROCEDURES FOR DEMOLITION

1. Determination of need to demolish; order; appeal: When the Code Enforcement Commissioner, or an official vested with the jurisdiction to enforce any health or safety code determines, based upon the condition of the building or structure, that the building or structure is beyond repair, that conditions exist which constitute a violation of this article, and that efforts to secure the building or structure so as abate any condition constituting a violation have failed to abate the violation, such official may issue an order that the building or structure be demolished. The order shall be issued in accordance with the procedure set forth within this Bylaw.
2. Failure to comply with order to demolish: Whenever the property owner fails, neglects or refuses to comply with an order to demolish the property, the Town may take any or all of the following actions to enforce the order:
 - A. Institute an action in a court of competent jurisdiction for criminal prosecution of the owner for violation of this article and seeking an order from the court for the demolition of the building or structure and/or for payment of fines for violation of the provisions of this article.
 - B. Institute a civil action in a court of competent jurisdiction seeking an injunction for abatement of the violation and an order from the court for demolition of the building or structure and/or for payment of fines for violation of the provisions of this article.
 - C. When, in the judgment of the Code Enforcement Officer, the Fire Marshal, or Chief of Police, the condition of the structure constitutes an imminent danger to the public health, safety or welfare of the neighborhood or general public so as to present an emergency situation, the Town may undertake the demolition of the building or structure after giving notice to the owner(s) of the property and shall recover the costs incurred in accordance with the provisions for recovery of costs set forth within this Bylaw. The Town shall make every best effort to mitigate expenses by using its own employees and equipment to fulfill the demolition order.

(End of Section)

Section 7 REGISTRATION OF VACANT BUILDING – REQUIRED

Registration

1. Registration: Within thirty (30) days of a building becoming vacant, and each January 1st thereafter each owner of such vacant building(s) shall register said property with the Town

of Ware Building Inspector. All registrations must state the owner's name, mailing address, physical address if different, telephone number and email address if the individual has an email address.

2. If none of the owner(s) are at an address within the Commonwealth of Massachusetts, or within thirty (30) miles of Ware, the registration shall also include the name, address, phone number and email address of a responsible local agent for purposes of securing and maintaining the property, for the purposes of notification in the event of an emergency affecting the public health, safety and wellbeing, and for service of any and all notices issued pursuant to this ordinance.
3. The failure to timely register a vacant building shall be a violation of this Bylaw. Within the context of this bylaw, "timely" shall mean registration no later than thirty (30) days after a building becomes vacant.
4. Once the property is no longer vacant or is sold, the owner must provide proof of sale or written notice of occupancy to the Code Enforcement Officer/Department.

Fees

1. An annual registration fee of one hundred dollars (\$100.00) must accompany the registration form. The fee and registration are for the calendar year, or remaining portion of the calendar year in which the registration was initially required. Subsequent registration and fees are due on or prior to January 1st of each year.
2. Failure to timely register any vacant real property, shall be a violation of this Bylaw and a fee shall be imposed as a municipal charges lien on the property in accordance with M.G.L. Ch. 40, §58.

Maintenance Requirements

1. Properties subject to this section shall comply with the current edition of 780 CMR: The Massachusetts State Building Code and shall be maintained in accordance with all applicable State Sanitary Codes, Building Codes and local regulations;
2. The property must contain a posting with the name and 24-hour contact phone number of the local owner or local agent responsible for the maintenance. This sign must be posted at the front of the property and must be legible and clearly visible from the public way and/or street.

(End of Section)

Section 8 VIOLATIONS, PENALTIES, ENFORCEMENT

This section shall be enforced by the Enforcement Officer, the Building Inspector, the Health Inspector, the Police Chief, the Fire Chief and/or their designated agents.

Upon failure to comply with any order issued under this section, the Town may, in addition to other penalties and actions:

1. Bring civil or legal action against the owner to require compliance with the order including but not limited to seeking a court approved receiver for the property in violation.
2. Issue fines whereby each separate offense of this section may be punishable by a fine of:
 - A. First offense: \$100.00 daily for each day the violation exists;
 - B. Second offense: \$150.00 daily for each day the violation exists;

C. Third offense and each subsequent offense: \$200.00 daily for each day the violation exists.

Any fines issued in any action to enforce this Bylaw shall be instituted and enforced in accordance with Massachusetts General Law, Chapter 40, Section 21D.

3. Undertake any other actions legally applicable in enforcing any other laws, codes, regulations or Bylaws. The imposition of any enforcement of any section of this Bylaw shall not be construed to prevent the enforcement of other laws upon the owner(s) and/or the premises nor prevent the initiation of other enforcement measures or penalties.
4. Failure to pay any fine arising from the enforcement of this Bylaw shall constitute a debt in favor of the Town. The Town may place a lien on the property for such debt and/or initiate a civil action against the owner(s) in a court of competent jurisdiction to recover the debt. In addition to this debt amount, "costs" as defined in the Definition section of the Bylaw shall be added to the debt to comprise the total lien amount.
5. The owner of any premises which has received proper notice of a violation of this Bylaw and who has failed to correct such violation by the date specified in such notice shall be punishable by a cumulative fine for each separate offense and shall be liable for payment to the Town within 30-calendar days of receipt of the request for payment thereof sent by certified mail.
6. The imposition of any fine shall not be construed to prevent the enforcement of other laws upon the premises nor prevent the initiation of other enforcement measures or penalties.

(End of Section)

Section 9 SEVERABILITY

If any provision of this section is held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

The provisions of this section are effective immediately upon passage and all provisions shall be enforced immediately.

All Bylaws or parts of Bylaws inconsistent herewith are hereby repealed.

This Bylaw shall take effect on the date of passage by Town Meeting.

This _____ day of _____, 20____

memo

Town of Ware Building Department

To: Select Board

From: Marques, Anna

Date: May 14, 2021

Re: Vacant Property bylaw

Comments: Since the initial review of a proposed vacant bylaw, additional research has been made and comments from BOH, Town Counsel and Pioneer Valley Planning Commission are being taken into consideration. Included in this memo are the law/code references as they pertain to this topic and to the departments that could utilize them. From the comments received, another example of a local bylaw has been uncovered. This one seems to address the concerns brought forth by Town Counsel and the BOH. The course of action is to incorporate these additions into our current vacant and unkempt bylaw with the vacant property registration component, which seems to be generally accepted.

Having a property registration facilitates creating an inventory that will be useful in code enforcement prioritization, helpful information for grant applications and possible available funding. It would also serve as vital information to other town departments in regard to safety and other concerns. The registration would implement a requirement for owners of vacant and/or abandoned buildings to obtain a Certificate of Building Closure. Along with this Certificate, it will be required for the owner to maintain liability insurance on the building.



Regulations related to abandoned or distressed houses

Regulation	Details
State Sanitary Code enforcement (including Conditions Deemed to Endanger or Impair Health or Safety)	Local boards of health enforce DPH's Sanitary Code, which defines a minimal list of Conditions Deemed to Endanger or Impair Health or Safety (105 CMR 410.750). Conditions include those related to water supply, heat, emergency exits, infestations, asbestos and many more. See www.mass.gov/eohhs/docs/dph/regs/105cmr410.rtf
Building code enforcement	The Building Commissioner enforces M.G.L. including Chapters 143, Section 9: Dangerous or abandoned structures removed or made safe by local inspector; costs; penalty; use of structure. See https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXX/Chapter143/Section9
Fire code	Local fire chiefs enforce fire code, including National Fire Protection Association Section 10.12, NFPA 1, Fire Code related to vacant buildings which in part calls for owners to "remove all combustible storage, waste, refuse, and vegetation and is required to lock, barricade, or otherwise secure the building or premises to prohibit entry by unauthorized persons." The code also states that the building "must be kept secure by placing substantial barricades on all doors, windows, and other openings at all levels where access can be gained." See https://community.nfpa.org/community/nfpa-today/blog/2017/02/06/nfpa-1-requirements-for-seasonal-and-vacant-buildings-firecodefridays-monday-edition



Regulations related to abandoned or distressed houses (cont.)

Regulation	Details
Criminal law	Local police have the authority to respond to incidents of vandalism, squatting and other activity sometimes associated with abandoned properties.
Property tax law	Local tax collectors collect taxes and maintain tax records as dictated by MGL c.60: Collection of Local Taxes. Assessors are also given the authority to collect unpaid property taxes using warrants to collect, hearings, liens and other means. See https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIX/Chapter60
Board and Secure orders	BOH, building inspectors and fire chiefs can issue “board and secure” orders to property owners. This is to reduce the risk of arson and issues sometimes related to squatters. See p 36 for links.
Local vacant property bylaws	Individual towns may have bylaws and/or registries regulating abandoned and vacant houses. Towns may require owners of abandoned or vacant houses to register the property with the Town. Bylaws may also require securing the doors and windows and/or posting no trespassing signs on the building. Bylaws may also include fines and enforcement, and may call for additional action if owners do not comply. Local town bylaws vary. An example is Athol’s Bylaws, which include Chapter XIII: Vacant And Abandoned Buildings. See http://atholma.vt-s.net/sites/atholma/files/file/town_by-laws.pdf



Town Clerk's Office
584 MAIN STREET SUITE 10
ATHOL, MASSACHUSETTS 01331
TEL: (978) 249-4551 * FAX: (978) 249-2491
www.athol-ma.gov



Nancy E. Burnham, Town Clerk, CMMC
Email: townclerk@townofathol.org

example
Carol Forand, Asst. Town Clerk
Email: townclerk2@townofathol.org

This is to certify that the 2011 Annual Town Meeting which convened on June 13, 2011 was duly called, served and held pursuant to the warrant issued by the Board of Selectmen and in accordance with the town bylaws and town charter.

The following is a true record of the votes taken at the June 13, 2011 Annual Town Meeting.

Article 28

On the Motion of Erik Euvrard, it was **VOTED**: That the Town amend the Town Bylaws by adding Chapter XIII: Vacant and Abandoned Buildings as printed in the warrant article.

CHAPTER XIII: VACANT AND ABANDONED BUILDINGS

SECTION 1. PURPOSE: Unsecured, vacant and abandoned buildings present danger to the safety and welfare of public safety officers and the public and, as such, constitute a public nuisance. This section is enacted to promote the health, safety, and welfare of the public and to minimize hazards to public safety personnel inspecting or entering such buildings, and by preventing unauthorized persons from gaining entry to abandoned and vacant buildings.

SECTION 2. DEFINITIONS: The following words and phrases, when used in this section shall have the following meanings:

"Abandoned building" – (1) a vacant building, the ownership responsibilities of which have been surrendered or relinquished, whether intentionally or by failure to occupy and maintain such property; or, (2) buildings, structures and premises for which the owner cannot be identified or located by delivery of certified mail at the last known or registered address, which persistently or repeatedly becomes unprotected or unsecured or, which is or has been occupied by unauthorized persons.

"Building" – any combination of materials having a roof and enclosed within exterior walls or firewalls built to form a structure for the shelter of persons or property, excluding accessory structures that are incidental to the principal structure located on the same lot, such as but not limited to dog houses and storage sheds; structures used on a seasonal basis such as vacation premises or resort facilities; and structures that are temporarily vacant for owner or tenant change or for remodeling.

"Certificate of Building Closure" – certificate issued by the Commissioner to the owner of a vacant building or abandoned building upon compliance with the provisions of Section 3 herein.

"Commissioner" – The Inspector of Buildings or his or her designee.

"Director" – The Board of Health Agent or his or her designee.

Celebrating 250 Years

"Dangerous building" – any unoccupied building that has been neglected and deteriorated; or abandoned, vacated, unused or open to weather to such an extent that it is a danger or potential danger to life or property.

"Fire Chief" – The Chief of the Athol Fire Department or his or her designee.

"Owner/person" – (1) a person, trust, partnership, corporation or other entity capable of owning legal or equitable title to real property or capable of possessing legal or equitable interest in real estate or, (2) an authorized agent of the person or entity holding legal or equitable interest to real property, including but not limited to any person specified as a "contact person" pursuant to Section 3 Paragraph 6 herein. This term shall include a mortgagee in possession.

"Unsecured building" – any vacant or abandoned building not continuously secured, maintained, locked or boarded to prevent unauthorized entry or which fails to provide protection from weather damage.

"Vacant building" - (1) any unoccupied real property which is empty or remains empty and is not continuously maintained, for twenty-one consecutive days or longer by occupants having custody or legal right of entry to said property or, (2) any building which exhibits dilapidated walls, roof or doors which will fail to prevent the entry of a trespasser.

SECTION 3. NOTIFICATION REQUIREMENTS. Any owner/person who knows or reasonably should know that a building owned by said owner/person is or will become vacant or abandoned as those terms defined herein or, any owner/person who intends to abandon or vacate a building owned or controlled by said owner/person shall forthwith:

- 1) File a Vacant & Abandoned Building Certificate Application in a form proscribed and amended from time to time by Director, Commissioner, and the Fire Chief setting forth the following: the status of such building, including in such notice, the name, address, and telephone number of the owner; the location of the building; the length of time the building has been vacant; the estimated time the building will remain vacant and, the nature of the contents of the building; and,
- 2) As may be required by the Fire Chief, file one set of space utilization floor plans for said building with the Fire Chief and one set of plans with the Commissioner; and,
- 3) Remove from the building to the satisfaction of the Fire Chief, hazardous material, as that term is defined in M.G.L. Chapter 21K, as that statute may be amended from time to time; and,
- 4) Secure all windows and door openings and ensure that the building is secured from all unauthorized entry continuously in accordance with the United States Fire Administration, National Arson Initiative Board-up Procedures or, provide twenty-four hour onsite security shall be provided within the building or within the complex wherein the building is located; and,
- 5) As may be required by the Fire Chief, Director, or Commissioner, post "No Trespassing" signs on the building; and,
- 6) Provide the Fire Chief, Commissioner, and Director with the name, local address, and telephone number of a responsible person who can be contacted in case of

Celebrating 250 Years

emergency. The owner shall cause the name and contact number to be marked on the front of the building as may be required by the Fire Chief or Director: and,

- 7) Maintain liability insurance on the building and furnish the Commissioner with a copy of said certificate of insurance; and,
- 8) As may be required by the Commissioner, provide a cash bond acceptable to the Commissioner, in the sum of not less than Two Thousand (\$2,000) Dollars, to secure the continued maintenance of the building throughout its vacancy and remunerate the Town of any expenses incurred in inspecting, securing, marking or making such building safe.
- 9) Payment of the appropriate Certification Fee or Certification Renewal Fee as set forth in Section 8, schedule of Fees as from time to time amended.

Upon satisfactory compliance with the above-provisions, the Commissioner shall issue a Certificate of Building Closure. Said Certificate shall be valid for period not to exceed six (6) months from the date of issuance. Said Certificate may be renewed on a continuing basis at the discretion of the Commissioner subject to continued compliance with this Bylaw and the payment of the appropriate renewal fee as set forth the in Section 8: Schedule of fees as from time to time amended. Under no circumstances shall a Vacant & Abandoned Building Certificate or any extension thereof exceed six (6) months in duration from the date of issuance.

SECTION 4. SIGNS/MARKINGS. When required pursuant to this section, signs or markings shall be applied on the front of the building and elsewhere as the Fire Chief may require, at or above the second floor level and shall not be placed over doors, windows, or other openings. All signs/markings shall be visible from street and, when requested by the Fire Chief, shall be placed on the sides and rear of the building. Signs/markings shall be a minimum of 24 inches by 24 inches, with lines of 2-inch width, and shall have a reflective background, or be painted with reflective paint, in contrasting colors. Signs/markings shall be applied directly on the surface of the building and shall state the date of positing and the most recent date of inspection by the Fire Chief and Director.

SECTION 5. FINES/FAILURE TO COMPLY AND ENFORCEMENT.

1. Failure to comply with any provision of Section 3, above shall be punished by a fine of Three Hundred (\$300) Dollars with each day of violation constituting a separate offence. The Commissioner and/or the Fire Chief shall be enforcing persons for purposes of this section.
2. No owner of a vacant building or abandoned building shall allow said building to become or remain unsecured or dangerous. If it appears that any vacant or abandoned building is unsecured or dangerous, the Commissioner shall send written notification to the owner, requiring that the owner promptly secure or cause the building to be secured. If the owner fails to comply with any order issued pursuant to this Section, the Fire Chief or Commissioner may immediately seek to obtain the proceeds secured by the bond filed pursuant to Section 3 Paragraph 8 herein and shall enter upon the premises and cause the building to be inspected, secured and marked using said proceeds.
3. The Commissioner or Fire Chief, upon being informed of the existence of an abandoned building or vacant building without a Certificate of Building Closure, shall cause notice to issue to the owner of the status of said building and shall order said person to immediately obtain a Certificate of Building Closure. If any

Celebrating 250 Years

person fails to comply with said order, the Fire Chief or Commissioner may enter the premises to inspect, secure and mark the building.

4. All unsecured vacant and unsecured abandoned buildings shall be immediately referred to the Director and Commissioner for a determination relative to whether the building is a nuisance or dangerous pursuant to M.G.L. Chapter 139 and M.G.L. Chapter 143 and procedures promulgated there under.

All monies collected pursuant to this section shall be directed to a specific Inspectional Services Department enforcement fund.

SECTION 6. EXPENSES. The owner of an abandoned building or an owner of a vacant building, who fails to obtain a Certificate of Building Closure as required herein, shall be liable to the Town for expenses incurred by the Town in securing such building. The Commissioner shall provide the owner with a written statement of all costs associated with inspecting, securing, and marking the building. If the owner fails to pay or reimburse the Town within sixty (60) days of notice of expenses, the Town shall record the notice of claim in the Worcester District Registry of Deeds (or Land Court Department) forthwith, establishing a lien on the property for the balance due.

SECTION 7. NOTICES. Notices required pursuant to the section shall be served in the following manner:

1. Personally on the owner, or the lessee, or the mortgagee in possession, or the contact person specified pursuant to Section 3 Paragraph 6; or
2. Left at the last and usual place of abode of the owner, or contact person as specified pursuant to Section 3 Paragraph 6 if such place of abode is known and is within or without the commonwealth; or
3. By certified or registered mail, return receipt requested, to the owner, or the lessee, or the mortgagee or contact person specified pursuant to Section 3 Paragraph 6 if such address is known and is within the Commonwealth.
4. If the residence and whereabouts of the owner or, the owner's lessee or, the mortgagee or, the owner's agent are unknown or are outside the Commonwealth, then the notice shall be served by posting a copy thereof in a conspicuous place on the property and advertising it for at least three out of five consecutive days in one or more newspapers of general circulation with the Town.

If any Section, sub-Section, or phrase of this Bylaw were held for any reason, to be unconstitutional, such decision shall not affect the validity of the remaining portion or portions of the Bylaw.

SECTION 8. SCHEDULE OF FEES.

By establishing a "Certificate of Building Closure Fee" which shall be valid for a period not to exceed six (6) months and a Certification Renewal Fee, all as set forth in the Bylaw relative to Vacant and Abandoned Buildings as follows.

Vacant and Abandoned Buildings

For furnishing a Certificate of Building Closure:

Commercial, Industrial, 4+ unit multi family and mixed use buildings	\$250.00
Certification Renewal Fee	\$125.00

For furnishing a Certificate of Building Closure:

Single Family and up to a 3 Unit Multi-Family	\$125.00
Certification Renewal Fee	\$75.00

Passed by a majority vote.

Celebrating 250 Years

Midura, Mary

From: Cornell, Rebekah
Sent: Thursday, April 22, 2021 12:55 PM
To: Midura, Mary; Crevier, Shawn; Gagnon, Chris; Marques, Anna S.; Croteau, Nicole; Metcalf, Judy; Bell, Stephen; Rick Starodoj; A NENNI; Navarro, Joan
Cc: Beckley, Stuart; Kruckas, Keith
Subject: RE: Bylaw

Hi Mary,

The Code Enforcement/Coordination Team has a meeting scheduled on Monday, May 3rd to discuss this bylaw as a group. I can verbally report on behalf of the team at the meeting.

Thank you,

Rebekah L. Cornell

*Note – as of September my name and email have changed.
rcornell@townofware.com

Director of Planning and Community Development
Town of Ware
126 Main Street
Ware, MA 01082
413-967-9648 x118

From: Midura, Mary <mmidura@townofware.com>
Sent: Wednesday, April 21, 2021 10:49 AM
To: Crevier, Shawn <Crsh@townofware.com>; Gagnon, Chris <cgagnon@townofware.com>; Marques, Anna S. <amarques@townofware.com>; Croteau, Nicole <ncroteau@townofware.com>; Metcalf, Judy <JMetcalf@townofware.com>; Bell, Stephen <sbell@townofware.com>; Cornell, Rebekah <rcornell@townofware.com>; Rick Starodoj <rstarodoj@gmail.com>; A NENNI <anenni@snet.net>; Navarro, Joan <jnavarro@townofware.com>
Cc: Beckley, Stuart <sbeckley@townofware.com>; Kruckas, Keith <kkruckas@townofware.com>
Subject: Bylaw
Importance: High

Please review the attached proposed bylaw. The Board of Selectmen made the following motions at the April 20, 2021 meeting. Please send your or your board's comments/concerns to me by April 29, 2021. This topic will be on the May 4, 2021 agenda of the Board of Selectmen.

Selectman Talbot made the motion to move the Bylaw to Manage and Control Blighted Properties within the Town of Ware forward by sending to Town Counsel and other departments, research how to fund this bylaw, and use all resources available, including contacting Pioneer Valley Planning Commission (PVPC). Selectman Morrin seconded the motion. The vote passed unanimously (5-0).

Midura, Mary

From: Midura, Mary
Sent: Wednesday, April 21, 2021 10:53 AM
To: David Wojcik
Cc: Beckley, Stuart; Kruckas, Keith
Subject: FW: Bylaw
Attachments: BylawBlight2021.pdf

Importance: High

Tracking:	Recipient	Delivery	Read
	David Wojcik		
	Beckley, Stuart	Delivered: 4/21/2021 10:54 AM	
	Kruckas, Keith	Delivered: 4/21/2021 10:54 AM	Read: 4/21/2021 10:53 AM

David – good morning. The Board of Selectmen request your review and comments regarding the attached proposed bylaw.

From: Midura, Mary
Sent: Wednesday, April 21, 2021 10:49 AM
To: Crevier, Shawn <CrsH@townofware.com>; Gagnon, Chris <cgagnon@townofware.com>; Marques, Anna S. <amarques@townofware.com>; Croteau, Nicole <ncroteau@townofware.com>; Metcalf, Judy <JMetcalf@townofware.com>; Bell, Stephen <sbell@townofware.com>; Cornell, Rebekah <rcornell@townofware.com>; Rick Starodoj <rstarodoj@gmail.com>; A NENNI <anenni@snet.net>; Navarro, Joan <jnavarro@townofware.com>
Cc: Beckley, Stuart <sbeckley@townofware.com>; Kruckas, Keith <kkruckas@townofware.com>
Subject: Bylaw
Importance: High

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Selectman Talbot made the motion to move the Bylaw to Manage and Control Blighted Properties within the Town of Ware forward by sending to Town Counsel and other departments, research how to fund this bylaw, and use all resources available, including contacting Pioneer Valley Planning Commission (PVPC). Selectman Morrin seconded the motion. The vote passed unanimously (5-0).

Selectman Talbot made the motion to add this topic to the May 4, 2021 agenda of the Board of Selectmen. Selectman Morrin seconded the motion. The vote passed unanimously (5-0).

Mary L. Midura

Midura, Mary

From: Midura, Mary
Sent: Wednesday, April 21, 2021 10:49 AM
To: Crevier, Shawn; Gagnon, Chris; Marques, Anna S.; Croteau, Nicole; Metcalf, Judy; Bell, Stephen; Cornell, Rebekah; Rick Starodoj; A NENNI; Navarro, Joan
Cc: Beckley, Stuart; Kruckas, Keith
Subject: Bylaw
Attachments: BylawBlight2021.pdf

Importance: High

Tracking:	Recipient	Delivery
	Crevier, Shawn	Delivered: 4/21/2021 10:49 AM
	Gagnon, Chris	Delivered: 4/21/2021 10:49 AM
	Marques, Anna S.	Delivered: 4/21/2021 10:49 AM
	Croteau, Nicole	Delivered: 4/21/2021 10:49 AM
	Metcalf, Judy	Delivered: 4/21/2021 10:49 AM
	Bell, Stephen	Delivered: 4/21/2021 10:49 AM
	Cornell, Rebekah	Delivered: 4/21/2021 10:49 AM
	Rick Starodoj	
	A NENNI	
	Navarro, Joan	Delivered: 4/21/2021 10:49 AM
	Beckley, Stuart	Delivered: 4/21/2021 10:49 AM
	Kruckas, Keith	Delivered: 4/21/2021 10:49 AM

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Selectman Talbot made the motion to add this topic to the May 4, 2021 agenda of the Board of Selectmen. Selectman Morrin seconded the motion. The vote passed unanimously (5-0).

Mary L. Midura
Executive Assistant to Town Manager

Midura, Mary

From: Midura, Mary
Sent: Wednesday, April 21, 2021 10:55 AM
To: Kruckas, Keith
Subject: FW: Bylaw
Attachments: BylawBlight2021.pdf

Importance: High

Tracking:	Recipient	Delivery
	Kruckas, Keith	Delivered: 4/21/2021 10:55 AM

From: Midura, Mary
Sent: Wednesday, April 21, 2021 10:54 AM
To: 'Harvey, Ted' <Tharvey@PVPC.ORG>
Subject: FW: Bylaw
Importance: High

Ted – the Board of Selectmen request your review and comments regarding the attached proposed bylaw. Thanks very much!

From: Midura, Mary
Sent: Wednesday, April 21, 2021 10:49 AM
To: Crevier, Shawn <CrsH@townofware.com>; Gagnon, Chris <cgagnon@townofware.com>; Marques, Anna S. <amarques@townofware.com>; Croteau, Nicole <ncroteau@townofware.com>; Metcalf, Judy <JMetcalf@townofware.com>; Bell, Stephen <sbell@townofware.com>; Cornell, Rebekah <rcornell@townofware.com>; Rick Starodoj <rstarodoj@gmail.com>; A NENNI <anenni@snet.net>; Navarro, Joan <jnavarro@townofware.com>
Cc: Beckley, Stuart <sbeckley@townofware.com>; Kruckas, Keith <kkruckas@townofware.com>
Subject: Bylaw
Importance: High

Please review the attached proposed bylaw. The Board of Selectmen made the following motions at the April 20, 2021 meeting. Please send your or your board's comments/concerns to me by April 29, 2021. This topic will be on the May 4, 2021 agenda of the Board of Selectmen.

Selectman Talbot made the motion to move the Bylaw to Manage and Control Blighted Properties within the Town of Ware forward by sending to Town Counsel and other departments, research how to fund this bylaw, and use all resources available, including contacting Pioneer Valley Planning Commission (PVPC). Selectman Morrin seconded the motion. The vote passed unanimously (5-0).

Midura, Mary

From: Harvey, Ted <Tharvey@PVPC.ORG>
Sent: Wednesday, May 5, 2021 9:43 AM
To: Midura, Mary
Cc: Marques, Anna S.
Subject: Vacant and Blighted Properties Bylaw comments
Attachments: Blighted Property Bylaw - Ware 0321_kc.docx

CAUTION: This email originated from outside of the Town of Ware organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Mary,

Attached are comments on the proposed Ware Vacant and Blighted Properties bylaw.

Thanks

Ted

Ted Harvey, AICP
Principal Planner



Pioneer Valley Planning Commission
60 Congress Street – Floor 1
Springfield, MA 01104
413 • 781 • 6045
tharvey@pvpc.org
www.pvpc.org





Bylaw to Manage and Control Blighted Properties within the Town of Ware

The Town of WARE believes that the Town should adopt a Bylaw to control Blighted Properties having the best interest and having all the tools at the disposal to control such properties. The Town believes it is the best interest of the citizens of the Town of Ware for their health, safety and wellbeing to control Vacant and Blighted Properties.



Section 1 PURPOSE

The purpose of this by-law is to help protect the health, safety and welfare of the citizens of the Town of Ware by preventing blight, protecting property values and neighborhood integrity, protecting the Town's resources, avoiding the creation and maintenance of nuisances and ensuring the safe and sanitary maintenance of dwellings.

Inadequately maintained vacant buildings or unkempt properties are at an increased risk from fire, unlawful entry, and other public health and safety hazards. This by-law will help secure the welfare of the Town's residents and neighborhoods by requiring all property owners, including lenders, trustees, service companies and the like to properly maintain vacant and/or unkempt residential and commercial properties.

Pursuant to the general powers granted to cities and towns by Article 89 of the Amendments to the Massachusetts Constitution, and the specific powers granted by M.G.L., Ch. 139, § 1-3A, this bylaw is adopted for the prevention of future nuisances and the removal of existing nuisances within the Town, which nuisances constitute a hazard of blight, or adversely affect property values.

It is hereby found and declared that there exists within the Town of Ware numerous real properties which are in blighted condition. Many of these properties are essentially abandoned. Some are in violations of multiple aspects of state and local building and sanitary codes. These code violations may include, but not limited to unoccupied building susceptible to vandalism and/or open structures rendering them unsafe and dangerous, yards full of litter and trash, unsecured houses, un-shoveled snow and foliage rendering sidewalks impassable.

The existence of such blight, contributes to the decline of the Town neighborhoods. It is further found that the existence of such blighted properties encourages temporary occupancy, if abandoned, by transients, drug users and persons engaged in criminal activity; adversely affecting the economic wellbeing of the Town of Ware and the health, safety and wellbeing of Ware's residents and creates significant costs to Ware by virtue of the need for constant monitoring and frequent boarding and securing.

It is further found that many of the blighted properties can be rehabilitated, reconstructed, demolished and/or reused so as to provide decent, safe, sanitary housing or commercial facilities, and that such rehabilitation, reconstruction, demolition and/or reuse would eliminate, remedy and/or prevent the adverse conditions described above.

It is the intent of this bylaw to protect and preserve public health, safety, security and wellbeing of occupants, abutters and neighborhoods by:

1. Requiring all residential, commercial and industrial property owners, to properly maintain properties free from blighted conditions, and;
2. Regulating the maintenance of residential, commercial and industrial properties to prevent blighted and unsecured properties.



(End of Section)

Section 2 DEFINITIONS

For the purpose of this Bylaw, the following words, terms, and phrases shall have the following ascribed meaning, unless the context clearly indicates otherwise:

BLIGHTED – “Blighted Premises” or “Blighted Property(ies)” or the condition of “blight” involving real property in the Town of Ware shall mean any building, structure, parcel of land, or any part of a building or structure that is separate unit, whether commercial or residential, whether occupied or unoccupied, in which at least one (1) of the following conditions exists:

1. The property is not being adequately maintained and secured as documented by the Enforcement Officer (as the term is defined herein) based upon, without limitation, the following factors or similar factors: missing or boarded windows or doors; collapsing or missing walls, roofs or floors; siding that is seriously damaged or missing; fire damage; a foundation that is structurally faulty; other structural deficiencies that contribute to blight as determined by the Enforcement Officer or his/her agents; the accumulation outside of interior furniture, garbage, trash, and/or junk; and/or the existence of inoperable/ neglected motor vehicles, boats, motorcycles or other inoperable machinery or other refuse (unless otherwise licensed to do so);
2. The property or its owner(s) has/have been cited for violations as documented by an Enforcement Officer or his/her designated agents, and said violations have not been corrected;
3. The structure(s) has become or becoming dilapidated as documented by the Code Enforcement Department/Officer;
4. It is attracting illegal activity as documented by the Police Department;
5. It is a fire hazard as determined by the Fire Marshal or as documented by the Fire Department;
6. Because of fire, wind or other natural disaster, or because of physical deterioration, the property is no longer habitable as a dwelling or useful for the purpose for which the completed structure was originally intended;
7. The property is a vacant building(s) as defined hereunder; or
8. It is determined by the Enforcement Officer or his/her designated agents, that the building, structure or parcel of land is in a condition which poses a serious nuisance or serious threat to the safety, health, and/or wellbeing of the Town of Ware.

Commented [KC1]: I have seen overgrown vegetation identified in some anti-blight bylaws and ordinances, with overgrown vegetation possibly harboring vermin and stagnant waters creating threats to public health.

Commented [KC2]: The town may or may not have the means to control these through its zoning bylaw. There are some zoning bylaws which also regulate untagged, unlicensed vehicles, etc.

BOARD OF HEALTH – shall mean the Board as defined and designated by the Town's documents.

BUILDING – shall mean a structure having a roof supported by columns or walls, resting on its own foundations and design for shelter, housing or enclosure of persons, animals or property of any kind.

CODE ENFORCEMENT DEPARTMENT or OFFICER – has the meaning set forth in Massachusetts General Laws. Shall mean the Building Inspector, Director of Public Health, Police Chief, Fire Chief and/or their designated agents.

COSTS – shall mean any and all expenses paid or incurred by the Town of Ware for work done

**Bylaw for Blighted Properties
Town of Ware**



or efforts expended in furtherance of carrying out the intent and directives of this Bylaw, including but not limited to all technical, administrative, and/or professional fees, and all court costs and attorney fees for all efforts to carry out this Bylaw.

INOPERABLE / NEGLECTED MOTOR VEHICLE – shall mean a motor vehicle, whether registered or not, that remains in condition of disrepair or partially dismantled with no progress toward restoration or; a vehicle showing neglect by invasion of foliage, rodent nesting, or progressive deterioration or other conditions attributable to neglect.

INSPECTOR OF BUILDINGS – shall mean the Building Inspector as well as the Electrical Inspector, Gas Inspector, and/or Plumbing Inspector, whether they are permanent or temporary in their services.

LEGAL OCCUPANCY – human habitation that is legal by virtue of compliance with state building, state fire safety, local zoning, local housing and all other pertinent codes and shall further be demonstrated by proof of occupancy evidence through a bona fide lease agreement, rent receipt or utility statement.

NEIGHBORHOOD – An area of the Town comprising premises or parcel of land, any part of which is within a radius of 800 feet any part of another parcel or lot within the Town.

OWNER – shall mean any individual, business entity, voluntary association or nonprofit organization, which along or jointly or severally with others:

1. Has legal title to any building, structure, and property, or
2. Has care, charge, or control of any such building, structure or property in any capacity, including but not limited to agent, executor, administrator, trustee or guardian of the estate of the holder of legal title, or
3. Is a lessee under a written agreement, or
4. Is an agent, trustee, or other person appointed by the courts and vested with possession or control of such buildings, structure or property.

PROPERTY – shall mean any real residential, commercial, or industrial property or portion thereof, located in the Town of Ware, including buildings or structures situated on the property. For purposes of this article, "property" does not include property owned or subject to the control of the Town of Ware or any of its governmental bodies.

RECEIVER – shall mean a court appointed individual who serves as a general contractor and whose duties and powers shall be specified by the court in accordance with the provisions of M.G.L. Ch. 111, §1271.

SECURING MEASURES – shall mean any actions that are taken to prevent unauthorized persons' access to the property including but not limited to erecting fencing around the property, boarding up doors and windows and the like.

STRUCTURE – shall mean that which has been or is built or constructed and which is or should be fastened, anchored, attached or rests on a building, foundation or on the ground, including any buildings, fences, fire escapes, railings, towers sidewalks or stairs.

TOWN – shall mean the Town of Ware.

VACANT – shall mean either:

1. Any unoccupied real property which is empty or remains empty due to abandonment or is not continuously maintained or; which persistently or repeatedly becomes unprotected or unsecured; or which has become occupied by unauthorized persons or which displays conditions of blight;
2. Any unoccupied building, structure or property displaying conditions of blight;
3. A period of 60-days or longer during which space subject to this article is not legally occupied.

(End of Section)

Section 3 BLIGHTED CONDITIONS

1. Creating a Condition of Blight: It shall be a violation of this Bylaw for any owner(s) of a property, vacant or otherwise, in the Town of Ware, to allow or cause to be created intentionally or through neglect to take corrective action, any condition of blight on that property or condition of blight caused by that property on any abutting properties.
2. Correction of Blighted Conditions: The owner(s) of such blighted property shall correct any condition of blight on such property or its appurtenance(s).

(End of Section)

Section 4 ADMINISTRATION

1. Complaints: Any individual affected by the action or inaction of an owner(s) of a dwelling unit or other space subject to the provisions of the Article, any civic organization, neighborhood council, and any appropriate agency may file, in writing, a complaint of violation of any of these sections with the Code Enforcement Officer/Department.
2. Inspection Authority: In order to properly protect the health and wellbeing of the people and the emergency responders of the Town of Ware, Enforcement Officer(s) or their authorized agent(s) or representative(s), upon reasonable cause, are authorized to enter, examine, and/or survey at any reasonable time such places as they consider necessary.
3. Investigation: The Enforcement Officer(s) may undertake an investigation of any alleged violation of this section upon their own initiative or shall, upon receipt of a complaint from any individual, civic organization or other governmental agency undertake an investigation of the alleged violation.
4. Orders to Take Corrective Action: Upon a finding of a violation of the provisions of this section the enforcement officer shall serve notice of the violation and an order to correct such violation upon the owner(s) of the property by certified mail or by in hand service by a person authorized to do such. The order shall require the owner(s) to take one or more of the following actions to bring the property into compliance with the requirements of this Bylaw:

Commented [KC3]: Town counsel may want to look into if there is any other language that can be used here to allow enforcement officer(s) the ability to enter property. For example, is there a difference between public safety staff (police or fire) versus health or building inspector?

- A. To take any action that the Enforcement Officer deems necessary to correct the violations of this Bylaw in order to assist the Town of Ware in protecting the public health, safety and the wellbeing.
 - B. To correct the violation within seven days or within such time as the Enforcement Officer deems reasonable and necessary, or
 - C. In instances where permits or other authorizations are required; to file a completed application and any required plans for said permit for repair or rehabilitation along with a schedule indicating a completion date for such work or its various phases. Such schedule shall be approved by the Enforcement Officer.
5. Rights of the Town to Affect Repairs: Whenever a property owner(s) fails, neglects, or refuses to make repairs or take other corrective actions specified in the Order, the Town Officials may undertake such repairs or actions or; the Town may seek a court appointed receiver to manage the property and bring said property(ies) into compliance with all applicable statutes, regulations and codes; or take other action the Town Official or Enforcement Officer determines is necessary when, in his/her judgment, a failure to make the necessary repairs or corrective actions will endanger the public health, safety and wellbeing.
6. Recovery Costs: Notice of the intention of the Town to make such repairs or other corrective actions shall be served on the owner(s) by certified mail or by service in hand by a person duly authorized to do such.

When the repairs are made or other corrective actions are taken by the Town of Ware, the cost of such repairs (which "costs" are understood to include all technical, administrative, and/or professional fees to accomplish these repairs and/or corrective actions) plus any and all court costs and attorney fees for administration, processing, and/or prosecution of the collection of these costs shall constitute a debt in favor of the Town against the owner(s) of the repaired property. In the event that the owner(s) fails, neglects or refuses to pay the Town the amount of the debt within thirty (30) days of the receipt of the notice of the debt, the Town may place a lien on the property for such debt and/or may initiate a civil action against the owner in a court of competent jurisdiction to recover the debt.

7. Multiple Remedies: The enforcement remedies provided in this chapter are not intended to replace or supersede the following remedies already existing under current law but are to be available in addition to these existing remedies to better address and confront the dire community problem of blighted properties:
- A. Receivership (M.G.L. Ch. 111, § 1271)
 - B. Municipal Charges Lien (M.G.L. Ch. 40, § 58)
 - C. Noncriminal Disposition of Bylaw Violation (M.G.L. Ch. 40, § 21D)
 - D. Removal and Abatement of Public Nuisances (M.G.L. Ch. 111, § 122-125)
 - E. Demolition Liens for Common Nuisances (M.G.L. Ch. 139, § 3A)
 - F. Remedies provided by State Sanitary Code and State Building Code.

(End of Section)

Section 5 APPEALS

1. Right to Hearing: Any person or persons upon whom any order has been served pursuant to any section of this Bylaw, and who is aggrieved by said order may appeal to

the Select Board provided, such petition must be filed in writing within seven days after the day the Order was served.

2. **Hearing Notice:** Upon receipt of a petition the Select Board shall in writing inform the petitioner and other affected parties (affected parties shall include the occupants of all affected premises if the petitioner is an owner, and the owner if the petitioner is an occupant) of the date, time and place of the hearing and of their right to inspect and copy the Enforcement Officer's file and other public records concerning the matter to be heard.
3. **Appeal of Final Decisions:** Any person aggrieved by the final decision of the Select Board with respect to any order issued under the provisions of this Bylaw may seek relief there from in any court of competent jurisdiction, as provided by the laws of this Commonwealth.

(End of Section)

Section 6 PROCEDURES FOR DEMOLITION

1. **Determination of need to demolish; order; appeal:** When the Code Enforcement Commissioner, or an official vested with the jurisdiction to enforce any health or safety code determines, based upon the condition of the building or structure, that the building or structure is beyond repair, that conditions exist which constitute a violation of this article, and that efforts to secure the building or structure so as abate any condition constituting a violation have failed to abate the violation, such official may issue an order that the building or structure be demolished. The order shall be issued in accordance with the procedure set forth within this Bylaw.
2. **Failure to comply with order to demolish:** Whenever the property owner fails, neglects or refuses to comply with an order to demolish the property, the Town may take any or all of the following actions to enforce the order:
 - A. Institute an action in a court of competent jurisdiction for criminal prosecution of the owner for violation of this article and seeking an order from the court for the demolition of the building or structure and/or for payment of fines for violation of the provisions of this article.
 - B. Institute a civil action in a court of competent jurisdiction seeking an injunction for abatement of the violation and an order from the court for demolition of the building or structure and/or for payment of fines for violation of the provisions of this article.
 - C. When, in the judgment of the Code Enforcement Officer, the Fire Marshal, or Chief of Police, the condition of the structure constitutes an imminent danger to the public health, safety or welfare of the neighborhood or general public so as to present an emergency situation, the Town may undertake the demolition of the building or structure after giving notice to the owner(s) of the property and shall recover the costs incurred in accordance with the provisions for recovery of costs set forth within this Bylaw. The Town shall make every best effort to mitigate expenses by using its own employees and equipment to fulfill the demolition order.

(End of Section)

Section 7 REGISTRATION OF VACANT BUILDING – REQUIRED

Registration

1. Registration: Within thirty (30) days of a building becoming vacant, and each January 1st thereafter each owner of such vacant building(s) shall register said property with the Town of Ware Building Inspector. All registrations must state the owner's name, mailing address, physical address if different, telephone number and email address if the individual has an email address.
2. If none of the owner(s) are at an address within the Commonwealth of Massachusetts, or within thirty (30) miles of Ware, the registration shall also include the name, address, phone number and email address of a responsible local agent for purposes of securing and maintaining the property, for the purposes of notification in the event of an emergency affecting the public health, safety and wellbeing, and for service of any and all notices issued pursuant to this ordinance.
3. The failure to timely register a vacant building shall be a violation of this Bylaw. Within the context of this bylaw, "timely" shall mean registration no later than thirty (30) days after a building becomes vacant.
4. Once the property is no longer vacant or is sold, the owner must provide proof of sale or written notice of occupancy to the Code Enforcement Officer/Department.

Fees

1. An annual registration fee of one hundred dollars (\$100.00) must accompany the registration form. The fee and registration are for the calendar year, or remaining portion of the calendar year in which the registration was initially required. Subsequent registration and fees are due on or prior to January 1st of each year.
2. Failure to timely register any vacant real property, shall be a violation of this Bylaw and a fee shall be imposed as a municipal charges lien on the property in accordance with M.G.L. Ch. 40, §58.

Maintenance Requirements

1. Properties subject to this section shall comply with the current edition of 780 CMR: The Massachusetts State Building Code and shall be maintained in accordance with all applicable State Sanitary Codes, Building Codes and local regulations;
2. The property must contain a posting with the name and 24-hour contact phone number of the local owner or local agent responsible for the maintenance. This sign must be posted at the front of the property and must be legible and clearly visible from the public way and/or street.

(End of Section)

Section 8 VIOLATIONS, PENALTIES, ENFORCEMENT

This section shall be enforced by the Enforcement Officer, the Building Inspector, the Health Inspector, the Police Chief, the Fire Chief and/or their designated agents.

Upon failure to comply with any order issued under this section, the Town may, in addition to other penalties and actions:

Commented [KC4]: You may want to ensure consistency or reference to section in general bylaw which gives power of enforcement fines, violations to various authorities if that exists.

**Bylaw for Blighted Properties
Town of Ware**

9

1. Bring civil or legal action against the owner to require compliance with the order including but not limited to seeking a court approved receiver for the property in violation.
2. Issue fines whereby each separate offense of this section may be punishable by a fine of:
 - A. First offense: \$100.00 daily for each day the violation exists;
 - B. Second offense: \$150.00 daily for each day the violation exists;
 - C. Third offense and each subsequent offense: \$200.00 daily for each day the violation exists.

Any fines issued in any action to enforce this Bylaw shall be instituted and enforced in accordance with Massachusetts General Law, Chapter 40, Section 21D.

3. Undertake any other actions legally applicable in enforcing any other laws, codes, regulations or Bylaws. The imposition of any enforcement of any section of this Bylaw shall not be construed to prevent the enforcement of other laws upon the owner(s) and/or the premises nor prevent the initiation of other enforcement measures or penalties.
4. Failure to pay any fine arising from the enforcement of this Bylaw shall constitute a debt in favor of the Town. The Town may place a lien on the property for such debt and/or initiate a civil action against the owner(s) in a court of competent jurisdiction to recover the debt. In addition to this debt amount, "costs" as defined in the Definition section of the Bylaw shall be added to the debt to comprise the total lien amount.
5. The owner of any premises which has received proper notice of a violation of this Bylaw and who has failed to correct such violation by the date specified in such notice shall be punishable by a cumulative fine for each separate offense and shall be liable for payment to the Town within 30-calendar days of receipt of the request for payment thereof sent by certified mail.
6. The imposition of any fine shall not be construed to prevent the enforcement of other laws upon the premises nor prevent the initiation of other enforcement measures or penalties.

(End of Section)

Section 9 SEVERABILITY

If any provision of this section is held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

The provisions of this section are effective immediately upon passage and all provisions shall be enforced immediately.

All Bylaws or parts of Bylaws inconsistent herewith are hereby repealed.

This Bylaw shall take effect on the date of passage by Town Meeting.

This _____ day of _____, 20____

**Bylaw for Blighted Properties
Town of Ware**



Midura, Mary

From: Carolyn Wilkins <calypos@LIVE.COM>
Sent: Monday, May 3, 2021 11:05 AM
To: Midura, Mary
Subject: Re: Reappointment to ADA Commission

CAUTION: This email originated from outside of the Town of Ware organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Yes I would.
Thank you,
Carolyn Wilkins

Sent from my Verizon, Samsung Galaxy smartphone
Get [Outlook for Android](#)

From: Midura, Mary <mmidura@townofware.com>
Sent: Monday, May 3, 2021 10:36:48 AM
To: calypos@live.com <calypos@live.com>
Subject: Reappointment to ADA Commission

Carolyn – Please confirm if you wish to be reappointed to the ADA Commission. Your current term will expire on June 30, 2021. I will put reappointments before our Board of Selectmen on May 18, 2021.

Mary L. Midura
Executive Assistant to Town Manager
413-967-9648 ext. 101
Fax 413-967-9638

Live simply ... give generously



TOWN OF WARE

Town Hall, 126 Main Street
Ware, Massachusetts 01082

COPY

March 1, 2021

Carolyn Wilkins
50 Park Street, Apt. A
Ware, MA 01082

Dear Ms. Wilkins:

Our records show that your term as a member of the ADA Commission is due to expire on June 30, 2021. Please confirm in writing or by email if you would or would not like to be reappointed to this position.

If you have any questions or concerns, please contact me at 413-967-9648, extension 101 or email me at mmidura@townofware.com.

Sincerely,

Mary L. Midura
Executive Assistant to Town Manager



Mark Swett
23 East Main Street
Ware, MA 01082
Cell: 413-348-7061

April 14, 2021

Town of Ware
Attn: Board of Selectman
126 Main Street
Ware, MA 01082

Re: Re-Appointment Request

Dear Selectboard:

I am writing to you today to request re-appointment to the Ware Conservation Commission, as my term will expire on June 30, 2021. It has been a pleasure and an honor to serve the people of Ware and I would be equally honored to continue to serve at that capacity for a 3-year term.

Thank you in advance for your consideration. Please feel free to contact me at if you have any further questions.

Respectfully Submitted,

Mr. Mark Swett
Chairman of Ware Conservation Commission

cc: Town Clerk
Conservation Department



TOWN OF WARE

Town Hall, 126 Main Street
Ware, Massachusetts 01082

COPY

March 1, 2021

Mark Swett
238 North Street
Ware, MA 01082

Dear Mr. Swett:

Our records show that your term as a member of the Conservation Commission is due to expire on June 30, 2021. Please confirm in writing or by email if you would or would not like to be reappointed to this position.

If you have any questions or concerns, please contact me at 413-967-9648, extension 101 or email me at mmidura@townofware.com.

Sincerely,

Mary L. Midura
Executive Assistant to Town Manager

Midura, Mary

From: Carl waal <waalcj@gmail.com>
Sent: Wednesday, March 10, 2021 4:26 PM
To: Midura, Mary
Subject: COA

CAUTION: This email originated from outside of the Town of Ware organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi, Mary - hope you and those close to you are enduring this pandemic with good health and a sense of humor. Joan and I are preparing our dissertation for a PhD in Quarantine. We are so good at it we barely recognize our neighbors when we see them.

I would like to be reappointed to the council. I have seen and talked to John several times over the past year, and am appreciative and impressed at how he has managed to keep the center's functions relevant even with the doors locked. He has also kept the council up to date with periodic emails.

Be well.
Carl



TOWN OF WARE

Town Hall, 126 Main Street
Ware, Massachusetts 01082

March 1, 2021

Carl Waal
1 Briar Circle
Ware, MA 01082

Dear Mr. Waal:

Our records show that your term as a member of the Council on Aging is due to expire on June 30, 2021. Please confirm in writing or by email if you would or would not like to be reappointed to this position.

If you have any questions or concerns, please contact me at 413-967-9648, extension 101 or email me at mmidura@townofware.com.

Sincerely,

A handwritten signature in cursive script, reading "Mary L. Midura".

Mary L. Midura
Executive Assistant to Town Manager

Midura, Mary

From: ljiadarola@aol.com
Sent: Saturday, March 6, 2021 12:00 PM
To: Midura, Mary
Cc: Beckley, Stuart
Subject: ZBA Reappointment Request March 6, 2021
Attachments: Reappointment Request Letter March 6, 2021.docx

CAUTION: This email originated from outside of the Town of Ware organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Mary, Thanks for the note on the Reappointment Request for the ZBA. Attached is my letter requesting reappointment. Please give me a call if you have any questions.

Lewis J. Iadarola

P.O. Box 132, Ware, Ma. 01082
C 508-769-2526 T413-967-3939
Ljiadarola@aol.com

March 6, 2021

Board of Selectman: Alan G. Whitney, Keith Kruckas, Thomas H. Barnes,
Nancy J. Talbot, John J. Morrin

Town Manager: Stuart Beckley

Assistant to Town Manager: Mary L. Midura

I am writing to you to express my interest in continuing my tenure on the Zoning Board of Appeals for another term. I have enjoyed working with all the members and hope that we have served the Town of Ware well maintaining our By Laws while allowing and encouraging responsible development.

I thank you for your consideration in this matter,

Sincerely,

Lewis J. Iadarola



TOWN OF WARE

Town Hall, 126 Main Street
Ware, Massachusetts 01082

City

March 1, 2021

Louis Iadarola
201 Belchertown Road
Ware, MA 01082

Dear Mr. Iadarola:

Our records show that your term as a member of the Zoning Board of Appeals is due to expire on June 30, 2021. Please confirm in writing or by email if you would or would not like to be reappointed to this position.

If you have any questions or concerns, please contact me at 413-967-9648, extension 101 or email me at mmidura@townofware.com.

Sincerely,

Mary L. Midura
Executive Assistant to Town Manager

Midura, Mary

From: Jane Skoczylas <jpds50@comcast.net>
Sent: Monday, March 22, 2021 4:39 PM
To: Midura, Mary
Subject: re appointment to ZBZ

CAUTION: This email originated from outside of the Town of Ware organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To: Mary Midura
From: David skoczylas

I would like to be re appointed to the ZBA as an alternate member.

Thank you
David Skoczylas



TOWN OF WARE

Town Hall, 126 Main Street
Ware, Massachusetts 01082

cc: y

March 1, 2021

David Skoczylas
409 Palmer Road
Ware, MA 01082

Dear Mr. Skoczylas:

Our records show that your term as an Alternate member of the Zoning Board of Appeals is due to expire on June 30, 2021. Please confirm in writing or by email if you would or would not like to be reappointed to this position.

If you have any questions or concerns, please contact me at 413-967-9648, extension 101 or email me at mmidura@townofware.com.

Sincerely,

A handwritten signature in cursive script, reading "Mary L. Midura".

Mary L. Midura
Executive Assistant to Town Manager

Midura, Mary

From: Brandy Bruso <brandybruso123@gmail.com>
Sent: Thursday, April 22, 2021 6:27 PM
To: Midura, Mary
Subject: Re: Community Developmet Authority

CAUTION: This email originated from outside of the Town of Ware organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Mary,

That went by quick! Yes, I would like to seek reappointment. I will work on the letter this weekend and send it to you.

Thank you,
Brandy Bruso

On Thu, Apr 22, 2021, 3:24 PM Midura, Mary <mmidura@townofware.com> wrote:

Brandy – I sent you a letter on March 1, 2021 asking if you would like reappointment to the Community Development Authority. Your term will expire on June 30, 2021. If you do or do not want reappointment, please let me know. If you do, I'll place the reappointment on the May 18, 2021 agenda of the Board of Selectmen. I will send you copy when the agenda is published. Thanks very much!

Mary L. Midura

Executive Assistant to Town Manager

413-967-9648 ext. 101

Fax 413-967-9638

Live simply ... give generously



TOWN OF WARE

Town Hall, 126 Main Street
Ware, Massachusetts 01082

copy

March 1, 2021

Brandy Bruso
15 Laurel Drive
Ware, MA 01082

Dear Ms. Bruso:

Our records show that your term as a member of the Community Development Authority is due to expire on June 30, 2021. Please confirm in writing or by email if you would or would not like to be reappointed to this position.

If you have any questions or concerns, please contact me at 413-967-9648, extension 101 or email me at mmidura@townofware.com.

Sincerely,

A handwritten signature in cursive script, reading "Mary L. Midura".

Mary L. Midura
Executive Assistant to Town Manager

Midura, Mary

From: Danielle Souza <danielle.souza@fairwaymc.com>
Sent: Monday, March 8, 2021 8:12 PM
To: Midura, Mary
Subject: CDA

CAUTION: This email originated from outside of the Town of Ware organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good Evening.....

Yes I would like to be considered to be reappointed to the CDA for the next term.

Thank you,



Danielle Souza

Mortgage Consultant Licensed in CT & MA

NMLS# 180915

175 Dwight Road, Suite 100
Longmeadow, MA 01106

Cell: 413.949.0422

eFax: 866.466.0154

[EMAIL ME](#)

[MY WEBSITE](#)

[APPLY NOW](#)

[FAIRWAYNOW](#)



VIP Code: 4139490422

3 HAVE FUN!

1 Humility First

2 Foster Growth & Knowledge

7 Respect, Listen and Stay Balanced

4 CREATE AN AMAZING EXPERIENCE FOR YOU

★ CORE Values ★

10 Family Focused

8 COMMITTED TO SERVE

6 SEEK WISE COUNSEL

9 Consistent, Honest Communication

5 Speed to Respond

Confidentiality Notice: The information contained in and transmitted with this communication is strictly confidential, is intended only for the use of the intended recipient, and is the property of Fairway Independent Mortgage Corporation NMLS #2289 or its affiliates and subsidiaries. If you are not the intended recipient, you are hereby notified that any use of the information contained in or transmitted with the communication or dissemination, distribution, or copying of this communication is strictly prohibited by law. If you have received this communication in error, please immediately return this communication to the sender and delete the original message and any copy of it in your possession.

CT License Number LO-180915. MA Mortgage Broker and Lender License #MC2289. MA Loan Originator License MLO180915.



TOWN OF WARE

Town Hall, 126 Main Street
Ware, Massachusetts 01082

March 1, 2021

Danielle Souza
5 Crescent Terrace
Ware, MA 01082

Dear Ms. Souza:

Our records show that your term as a member of the Community Development Authority is due to expire on June 30, 2021. Please confirm in writing or by email if you would or would not like to be reappointed to this position.

If you have any questions or concerns, please contact me at 413-967-9648, extension 101 or email me at mmidura@townofware.com.

Sincerely,

A handwritten signature in cursive script, reading "Mary L. Midura".

Mary L. Midura
Executive Assistant to Town Manager

Midura, Mary

From: Janice Hills <janicehills110@gmail.com>
Sent: Thursday, April 29, 2021 2:03 PM
To: Midura, Mary
Subject: Re: Reappointment

CAUTION: This email originated from outside of the Town of Ware organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Mary
I do not wish to be reappointed. Thank you for following up.
Janice

On Thu, Apr 29, 2021 at 1:34 PM Midura, Mary <mmidura@townofware.com> wrote:

Janice – I sent you a letter in March regarding your reappointment to the Finance Committee (your term expires June 30, 2021). Would you like to be reappointed? Please let me know!

Mary L. Midura

Executive Assistant to Town Manager

413-967-9648 ext. 101

Fax 413-967-9638

Live simply ... give generously



TOWN OF WARE

Town Hall, 126 Main Street
Ware, Massachusetts 01082

COPY

March 1, 2021

Janice Hills
110 Church Street
Ware, MA 01082

Dear Ms. Hills:

Our records show that your term as a member of the Finance Committee is due to expire on June 30, 2021. Please confirm in writing or by email if you would or would not like to be reappointed to this position.

If you have any questions or concerns, please contact me at 413-967-9648, extension 101 or email me at mmidura@townofware.com.

Sincerely,

A handwritten signature in cursive script that reads "Mary L. Midura".

Mary L. Midura
Executive Assistant to Town Manager

Midura, Mary

From: Paul Opalinski <aaspmo@comcast.net>
Sent: Monday, March 22, 2021 2:31 PM
To: Midura, Mary
Subject: CDA-
Attachments: CDA Resign Letter March 2021.docx

CAUTION: This email originated from outside of the Town of Ware organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Mary

Attached is a letter stating I do not wish to be reappointed to the CDA.

Paul M. Opalinski
President
American Athletic Shoe Co., Inc.
15 South Street
Ware, MA 01082
413-967-3511
www.americanathleticshoe.com

PAUL M. OPALINSKI
68 OLD GILBERTVILLE RD.
WARE, MA 01082
413-967-3511

March 18, 2021

Town of Ware
126 Main St.
Ware, MA 01082

Select Board:

This letter is my notice that I will not be requesting reappointment to the Community Development Authority.

Thank you,

Paul M. Opalinski

Paul M. Opalinski

Board of Selectmen: *Alan G. Whitney, Keith J. Kruckas, Thomas H. Barnes, Nancy J. Talbot, John J. Morrin*
Town Manager: *Stuart B. Beckley*
sbeckley@townofware.com



TOWN OF WARE

Town Hall, 126 Main Street
Ware, Massachusetts 01082

Copy

March 1, 2021

Paul Opalinski
68 Old Gilbertville Road
Ware, MA 01082

Dear Mr. Opalinski:

Our records show that your term as a member of the Community Development Authority is due to expire on June 30, 2021. Please confirm in writing or by email if you would or would not like to be reappointed to this position.

If you have any questions or concerns, please contact me at 413-967-9648, extension 101 or email me at mmidura@townofware.com.

Sincerely,

Mary L. Midura
Executive Assistant to Town Manager

Midura, Mary

From: Cynthia Bourcier <cinallen10@gmail.com>
Sent: Thursday, April 29, 2021 7:52 PM
To: Midura, Mary
Subject: Re: Reappointment

CAUTION: This email originated from outside of the Town of Ware organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Mary, I wrote a resignation letter well over a month ago. I sent it to Lynn Lack. I figured it was more appropriate to give it to her saying that she is the president of the Historical Commission. She said that she would send it to the correct people.

Currently I am away out of state for at least a couple more weeks. Hopefully you will be able to get it from her.

Thank you.

Sent from my iPhone

On Apr 29, 2021, at 12:33 PM, Midura, Mary <mmidura@townofware.com> wrote:

Cynthia – I sent you a letter in March asked if you would like reappointment to the Historical Commission (your term expires June 30, 2021). Would you like reappointment? Please let me know!

Mary L. Midura
Executive Assistant to Town Manager
413-967-9648 ext. 101
Fax 413-967-9638

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TOWN OF WARE

Town Hall, 126 Main Street
Ware, Massachusetts 01082

CC: [unclear]

March 1, 2021

Cynthia Allen Bourcier
10 Crescent Street
Ware, MA 01082

Dear Ms. Bourcier:

Our records show that your term as a member of the Historical Commission is due to expire on June 30, 2021. Please confirm in writing or by email if you would or would not like to be reappointed to this position.

If you have any questions or concerns, please contact me at 413-967-9648, extension 101 or email me at mmidura@townofware.com.

Sincerely,

A handwritten signature in cursive script, reading "Mary L. Midura".

Mary L. Midura
Executive Assistant to Town Manager



TOWN OF WARE

Town Manager

126 Main Street
Ware, MA 01082
413-967-9648 x100

Town Manager Updates May 18, 2021

Dates

May 24 – 6:30 Special Town Meeting (From April 24) and 7:00 Annual Town Meeting

Open topics:

Underpass – Surveyor/engineer measuring the site for required work and cost estimate.

School bills

114 Main – After arranging with the State to reduce the procurement requirements in order for the Town to address the demolition, the private owner produced a signed contract with a demolition company. The Town will reach out to the contractor to assist with permitting and to determine a schedule.

On Monday, Water flushing will reach the final Zone 7, so the system will be complete by early next week.

The Veterans Agent and I have submitted a plan for Memorial Day ceremonies to the Health Director for both the ceremony and parade. This would be Monday, May 31.

The federal government has release guidelines for the Recovery Funds and webinars have been held. The attached is a summary. Next week, the State DOR is hosting a webinar on Massachusetts specific requirements. Ware's funds (\$2.8 million) will be issued through the State. The Board may want to discuss how to prioritize spending. These funds are much more flexible than the first round (for which there is approximately \$500,000 remaining).

Baystate has scheduled a meeting with legislators and Dr. Keroack and Molly Gray for Monday to discuss plans forward. Attached is their latest submittal to DPH.

FACT SHEET: The Coronavirus State and Local Fiscal Recovery Funds Will Deliver \$350 Billion for State, Local, Territorial, and Tribal Governments to Respond to the COVID-19 Emergency and Bring Back Jobs

May 10, 2021

Aid to state, local, territorial, and Tribal governments will help turn the tide on the pandemic, address its economic fallout, and lay the foundation for a strong and equitable recovery

Today, the U.S. Department of the Treasury announced the launch of the Coronavirus State and Local Fiscal Recovery Funds, established by the American Rescue Plan Act of 2021, to provide \$350 billion in emergency funding for eligible state, local, territorial, and Tribal governments. Treasury also released details on how these funds can be used to respond to acute pandemic response needs, fill revenue shortfalls among these governments, and support the communities and populations hardest-hit by the COVID-19 crisis. With the launch of the Coronavirus State and Local Fiscal Recovery Funds, eligible jurisdictions will be able to access this funding in the coming days to address these needs.

State, local, territorial, and Tribal governments have been on the frontlines of responding to the immense public health and economic needs created by this crisis – from standing up vaccination sites to supporting small businesses – even as these governments confronted revenue shortfalls during the downturn. As a result, these governments have endured unprecedented strains, forcing many to make untenable choices between laying off educators, firefighters, and other frontline workers or failing to provide other services that communities rely on. Faced with these challenges, state and local governments have cut over 1 million jobs since the beginning of the crisis. The experience of prior economic downturns has shown that budget pressures like these often result in prolonged fiscal austerity that can slow an economic recovery.

To support the immediate pandemic response, bring back jobs, and lay the groundwork for a strong and equitable recovery, the American Rescue Plan Act of 2021 established the Coronavirus State and Local Fiscal Recovery Funds, designed to deliver \$350 billion to state, local, territorial, and Tribal governments to bolster their response to the COVID-19 emergency and its economic impacts. Today, Treasury is launching this much-needed relief to:

- Support urgent COVID-19 response efforts to continue to decrease spread of the virus and bring the pandemic under control;
- Replace lost public sector revenue to strengthen support for vital public services and help retain jobs;
- Support immediate economic stabilization for households and businesses; and,
- Address systemic public health and economic challenges that have contributed to the unequal impact of the pandemic on certain populations.

The Coronavirus State and Local Fiscal Recovery Funds provide substantial flexibility for each jurisdiction to meet local needs—including support for households, small businesses, impacted industries, essential workers, and the communities hardest-hit by the crisis. These funds also deliver resources that recipients can invest in building, maintaining, or upgrading their water, sewer, and broadband infrastructure.

Starting today, eligible state, territorial, metropolitan city, county, and Tribal governments may request Coronavirus State and Local Fiscal Recovery Funds through the Treasury Submission Portal. Concurrent with this program launch, Treasury has published an Interim Final Rule that implements the provisions of this program.

FUNDING AMOUNTS

The American Rescue Plan provides a total of \$350 billion in Coronavirus State and Local Fiscal Recovery Funds to help eligible state, local, territorial, and Tribal governments meet their present needs and build the foundation for a strong recovery. Congress has allocated this funding to tens of thousands of jurisdictions. These allocations include:

Type	Amount (\$ billions)
States & District of Columbia	\$195.3
Counties	\$65.1
Metropolitan Cities	\$45.6
Tribal Governments	\$20.0
Territories	\$4.5
Non-Entitlement Units of Local Government	\$19.5

Treasury expects to distribute these funds directly to each state, territorial, metropolitan city, county, and Tribal government. Local governments that are classified as non-entitlement units will receive this funding through their applicable state government. Treasury expects to provide further guidance on distributions to non-entitlement units next week.

Local governments should expect to receive funds in two tranches, with 50% provided beginning in May 2021 and the balance delivered 12 months later. States that have experienced a net increase in the unemployment rate of more than 2 percentage points from February 2020 to the latest available data as of the date of certification will receive their full allocation of funds in a single payment; other states will receive funds in two equal tranches. Governments of U.S. territories will receive a single payment. Tribal governments will receive two payments, with the first payment available in May and the second payment, based on employment data, to be delivered in June 2021.

USES OF FUNDING

Coronavirus State and Local Fiscal Recovery Funds provide eligible state, local, territorial, and Tribal governments with a substantial infusion of resources to meet pandemic response needs and rebuild a stronger, more equitable economy as the country recovers. Within the categories of eligible uses, recipients have broad flexibility to decide how best to use this funding to meet the needs of their communities. Recipients may use Coronavirus State and Local Fiscal Recovery Funds to:

- **Support public health expenditures**, by funding COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff;
- **Address negative economic impacts caused by the public health emergency**, including economic harms to workers, households, small businesses, impacted industries, and the public sector;
- **Replace lost public sector revenue**, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;
- **Provide premium pay for essential workers**, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors; and,
- **Invest in water, sewer, and broadband infrastructure**, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet.

Within these overall categories, Treasury's Interim Final Rule provides guidelines and principles for determining the types of programs and services that this funding can support, together with examples of allowable uses that recipients may consider. As described below, Treasury has also designed these provisions to take into consideration the disproportionate impacts of the COVID-19 public health emergency on those hardest-hit by the pandemic.

1. Supporting the public health response

Mitigating the impact of COVID-19 continues to require an unprecedented public health response from state, local, territorial, and Tribal governments. Coronavirus State and Local Fiscal Recovery Funds provide resources to meet these needs through the provision of care for those impacted by the virus and through services that address disparities in public health that have been exacerbated by the pandemic. Recipients may use this funding to address a broad range of public health needs across COVID-19 mitigation, medical expenses, behavioral healthcare, and public health resources. Among other services, these funds can help support:

- **Services and programs to contain and mitigate the spread of COVID-19, including:**
 - ✓ Vaccination programs
 - ✓ Medical expenses
 - ✓ Testing
 - ✓ Contact tracing
 - ✓ Isolation or quarantine
 - ✓ PPE purchases
 - ✓ Support for vulnerable populations to access medical or public health services
 - ✓ Public health surveillance (e.g., monitoring for variants)
 - ✓ Enforcement of public health orders
 - ✓ Public communication efforts
 - ✓ Enhancement of healthcare capacity, including alternative care facilities
 - ✓ Support for prevention, mitigation, or other services in congregate living facilities and schools
 - ✓ Enhancement of public health data systems
 - ✓ Capital investments in public facilities to meet pandemic operational needs
 - ✓ Ventilation improvements in key settings like healthcare facilities

- **Services to address behavioral healthcare needs exacerbated by the pandemic, including:**
 - ✓ Mental health treatment
 - ✓ Substance misuse treatment
 - ✓ Other behavioral health services
 - ✓ Hotlines or warmlines
 - ✓ Crisis intervention
 - ✓ Services or outreach to promote access to health and social services
- **Payroll and covered benefits expenses** for public health, healthcare, human services, public safety and similar employees, to the extent that they work on the COVID-19 response. For public health and safety workers, recipients can use these funds to cover the full payroll and covered benefits costs for employees or operating units or divisions primarily dedicated to the COVID-19 response.

2. Addressing the negative economic impacts caused by the public health emergency

The COVID-19 public health emergency resulted in significant economic hardship for many Americans. As businesses closed, consumers stayed home, schools shifted to remote education, and travel declined precipitously, over 20 million jobs were lost between February and April 2020. Although many have since returned to work, as of April 2021, the economy remains more than 8 million jobs below its pre-pandemic peak, and more than 3 million workers have dropped out of the labor market altogether since February 2020.

To help alleviate the economic hardships caused by the pandemic, Coronavirus State and Local Fiscal Recovery Funds enable eligible state, local, territorial, and Tribal governments to provide a wide range of assistance to individuals and households, small businesses, and impacted industries, in addition to enabling governments to rehire public sector staff and rebuild capacity. Among these uses include:

- **Delivering assistance to workers and families**, including aid to unemployed workers and job training, as well as aid to households facing food, housing, or other financial insecurity. In addition, these funds can support survivor's benefits for family members of COVID-19 victims.
- **Supporting small businesses**, helping them to address financial challenges caused by the pandemic and to make investments in COVID-19 prevention and mitigation tactics, as well as to provide technical assistance. To achieve these goals, recipients may employ this funding to execute a broad array of loan, grant, in-kind assistance, and counseling programs to enable small businesses to rebound from the downturn.
- **Speeding the recovery of the tourism, travel, and hospitality sectors**, supporting industries that were particularly hard-hit by the COVID-19 emergency and are just now beginning to mend. Similarly impacted sectors within a local area are also eligible for support.
- **Rebuilding public sector capacity**, by rehiring public sector staff and replenishing unemployment insurance (UI) trust funds, in each case up to pre-pandemic levels. Recipients may also use this funding to build their internal capacity to successfully implement economic relief programs, with investments in data analysis, targeted outreach, technology infrastructure, and impact evaluations.

3. Serving the hardest-hit communities and families

While the pandemic has affected communities across the country, it has disproportionately impacted low-income families and communities of color and has exacerbated systemic health and economic inequities. Low-income and socially vulnerable communities have experienced the most severe health impacts. For example, counties with high poverty rates also have the highest rates of infections and deaths, with 223 deaths per 100,000 compared to the U.S. average of 175 deaths per 100,000.

Coronavirus State and Local Fiscal Recovery Funds allow for a broad range of uses to address the disproportionate public health and economic impacts of the crisis on the hardest-hit communities, populations, and households. Eligible services include:

- **Addressing health disparities and the social determinants of health**, through funding for community health workers, public benefits navigators, remediation of lead hazards, and community violence intervention programs;
- **Investments in housing and neighborhoods**, such as services to address individuals experiencing homelessness, affordable housing development, housing vouchers, and residential counseling and housing navigation assistance to facilitate moves to neighborhoods with high economic opportunity;
- **Addressing educational disparities** through new or expanded early learning services, providing additional resources to high-poverty school districts, and offering educational services like tutoring or afterschool programs as well as services to address social, emotional, and mental health needs; and,
- **Promoting healthy childhood environments**, including new or expanded high quality childcare, home visiting programs for families with young children, and enhanced services for child welfare-involved families and foster youth.

Governments may use Coronavirus State and Local Fiscal Recovery Funds to support these additional services if they are provided:

- within a Qualified Census Tract (a low-income area as designated by the Department of Housing and Urban Development);
- to families living in Qualified Census Tracts;
- by a Tribal government; or,
- to other populations, households, or geographic areas disproportionately impacted by the pandemic.

4. Replacing lost public sector revenue

State, local, territorial, and Tribal governments that are facing budget shortfalls may use Coronavirus State and Local Fiscal Recovery Funds to avoid cuts to government services. With these additional resources, recipients can continue to provide valuable public services and ensure that fiscal austerity measures do not hamper the broader economic recovery.

Many state, local, territorial, and Tribal governments have experienced significant budget shortfalls, which can yield a devastating impact on their respective communities. Faced with budget shortfalls and pandemic-related uncertainty, state and local governments cut staff in all 50 states. These budget shortfalls and staff cuts are particularly problematic at present, as these entities are on the front lines of battling the COVID-19 pandemic and helping citizens weather the economic downturn.

Recipients may use these funds to replace lost revenue. Treasury's Interim Final Rule establishes a methodology that each recipient can use to calculate its reduction in revenue. Specifically, recipients will compute the extent of their reduction in revenue by comparing their actual revenue to an alternative representing what could have been expected to occur in the absence of the pandemic. Analysis of this expected trend begins with the last full fiscal year prior to the public health emergency and projects forward at either (a) the recipient's average annual revenue growth over the three full fiscal years prior to the public health emergency or (b) 4.1%, the national average state and local revenue growth rate from 2015-18 (the latest available data).

For administrative convenience, Treasury's Interim Final Rule allows recipients to presume that any diminution in actual revenue relative to the expected trend is due to the COVID-19 public health emergency. Upon receiving Coronavirus State and Local Fiscal Recovery Funds, recipients may immediately calculate the reduction in revenue that occurred in 2020 and deploy funds to address any shortfall. Recipients will have the opportunity to re-calculate revenue loss at several points through the program, supporting those entities that experience a lagged impact of the crisis on revenues.

Importantly, once a shortfall in revenue is identified, recipients will have broad latitude to use this funding to support government services, up to this amount of lost revenue.

5. Providing premium pay for essential workers

Coronavirus State and Local Fiscal Recovery Funds provide resources for eligible state, local, territorial, and Tribal governments to recognize the heroic contributions of essential workers. Since the start of the public health emergency, essential workers have put their physical well-being at risk to meet the daily needs of their communities and to provide care for others.

Many of these essential workers have not received compensation for the heightened risks they have faced and continue to face. Recipients may use this funding to provide premium pay directly, or through grants to private employers, to a broad range of essential workers who must be physically present at their jobs including, among others:

- | | |
|---|---|
| ✓ Staff at nursing homes, hospitals, and home-care settings | ✓ Truck drivers, transit staff, and warehouse workers |
| ✓ Workers at farms, food production facilities, grocery stores, and restaurants | ✓ Childcare workers, educators, and school staff |
| ✓ Janitors and sanitation workers | ✓ Social service and human services staff |
| ✓ Public health and safety staff | |

Treasury's Interim Final Rule emphasizes the need for recipients to prioritize premium pay for lower income workers. Premium pay that would increase a worker's total pay above 150% of the greater of the state or county average annual wage requires specific justification for how it responds to the needs of these workers.

In addition, employers are both permitted and encouraged to use Coronavirus State and Local Fiscal Recovery Funds to offer retrospective premium pay, recognizing that many essential workers have not yet received additional compensation for work performed. Staff working for third-party contractors in eligible sectors are also eligible for premium pay.

6. Investing in water and sewer infrastructure

Recipients may use Coronavirus State and Local Fiscal Recovery Funds to invest in necessary improvements to their water and sewer infrastructures, including projects that address the impacts of climate change.

Recipients may use this funding to invest in an array of drinking water infrastructure projects, such as building or upgrading facilities and transmission, distribution, and storage systems, including the replacement of lead service lines.

Recipients may also use this funding to invest in wastewater infrastructure projects, including constructing publicly-owned treatment infrastructure, managing and treating stormwater or subsurface drainage water, facilitating water reuse, and securing publicly-owned treatment works.

To help jurisdictions expedite their execution of these essential investments, Treasury's Interim Final Rule aligns types of eligible projects with the wide range of projects that can be supported by the Environmental Protection Agency's Clean Water State Revolving Fund and Drinking Water State Revolving Fund. Recipients retain substantial flexibility to identify those water and sewer infrastructure investments that are of the highest priority for their own communities.

Treasury's Interim Final Rule also encourages recipients to ensure that water, sewer, and broadband projects use strong labor standards, including project labor agreements and community benefits agreements that offer wages at or above the prevailing rate and include local hire provisions.

7. Investing in broadband infrastructure

The pandemic has underscored the importance of access to universal, high-speed, reliable, and affordable broadband coverage. Over the past year, millions of Americans relied on the internet to participate in remote school, healthcare, and work.

Yet, by at least one measure, 30 million Americans live in areas where there is no broadband service or where existing services do not deliver minimally acceptable speeds. For millions of other Americans, the high cost of broadband access may place it out of reach. The American Rescue Plan aims to help remedy these shortfalls, providing recipients with flexibility to use Coronavirus State and Local Fiscal Recovery Funds to invest in broadband infrastructure.

Recognizing the acute need in certain communities, Treasury's Interim Final Rule provides that investments in broadband be made in areas that are currently unserved or underserved—in other words, lacking a wireline connection that reliably delivers minimum speeds of 25 Mbps download and 3 Mbps upload. Recipients are also encouraged to prioritize projects that achieve last-mile connections to households and businesses.

Using these funds, recipients generally should build broadband infrastructure with modern technologies in mind, specifically those projects that deliver services offering reliable 100 Mbps download and 100

Mbps upload speeds, unless impracticable due to topography, geography, or financial cost. In addition, recipients are encouraged to pursue fiber optic investments.

In view of the wide disparities in broadband access, assistance to households to support internet access or digital literacy is an eligible use to respond to the public health and negative economic impacts of the pandemic, as detailed above.

8. Ineligible Uses

Coronavirus State and Local Fiscal Recovery Funds provide substantial resources to help eligible state, local, territorial, and Tribal governments manage the public health and economic consequences of COVID-19. Recipients have considerable flexibility to use these funds to address the diverse needs of their communities.

To ensure that these funds are used for their intended purposes, the American Rescue Plan Act also specifies two ineligible uses of funds:

- **States and territories may not use this funding to directly or indirectly offset a reduction in net tax revenue due to a change in law from March 3, 2021 through the last day of the fiscal year in which the funds provided have been spent.** The American Rescue Plan ensures that funds needed to provide vital services and support public employees, small businesses, and families struggling to make it through the pandemic are not used to fund reductions in net tax revenue. Treasury's Interim Final Rule implements this requirement. If a state or territory cuts taxes, they must demonstrate how they paid for the tax cuts from sources other than Coronavirus State Fiscal Recovery Funds—by enacting policies to raise other sources of revenue, by cutting spending, or through higher revenue due to economic growth. If the funds provided have been used to offset tax cuts, the amount used for this purpose must be paid back to the Treasury.
- **No recipient may use this funding to make a deposit to a pension fund.** Treasury's Interim Final Rule defines a "deposit" as an extraordinary contribution to a pension fund for the purpose of reducing an accrued, unfunded liability. While pension deposits are prohibited, recipients may use funds for routine payroll contributions for employees whose wages and salaries are an eligible use of funds.

Treasury's Interim Final Rule identifies several other ineligible uses, including funding debt service, legal settlements or judgments, and deposits to rainy day funds or financial reserves. Further, general infrastructure spending is not covered as an eligible use outside of water, sewer, and broadband investments or above the amount allocated under the revenue loss provision. While the program offers broad flexibility to recipients to address local conditions, these restrictions will help ensure that funds are used to augment existing activities and address pressing needs.

Baystate Health

April 30, 2021

VIA EMAIL ONLY

Sherman Lohnes, Director
Division of Health Care Facility Licensure & Certification
Massachusetts Department of Public Health
67 Forest Street
Marlborough, MA 01752

**Re: Baystate Wing Hospital Corporation – Baystate Mary Lane Outpatient Center
Response to Essential Services Finding
Ref. # 2PW2-008**

Dear Mr. Lohnes:

I am writing on behalf of Baystate Wing Hospital Corporation ("BWH") in response to your letter dated April 16, 2021, in which you informed BWH that it was required pursuant to 105 CMR 130.122(F) to submit to the Department of Public Health ("Department") a plan that details how access to the satellite emergency facility ("SEF") and other services to be discontinued by BWH at the Baystate Mary Lane Outpatient Center ("Mary Lane") will be maintained for residents in the service area. This letter sets forth BWH's plan addressing each of the regulatory elements set forth in 105 CMR 130.122(F), as well as the additional elements listed in your letter.

Elements Specified in 105 CMR 130.122(F):

BWH, and all of Baystate Health, Inc. ("Baystate Health"), are committed to assuring that the community currently served at Mary Lane will continue to have access to emergency, outpatient rehabilitation, and outpatient radiology and imaging services.

(1) Utilization of the services prior to proposed closure:

Emergency services at the SEF:

As noted in BWH's submission dated February 26, 2021, during the entire period of its operation (which began in September, 2016), the SEF has seen low utilization rates that,

except for a slight increase in FY2018, have steadily declined year over year. Annual SEF visit totals are as follows:

FY2017:	12,103
FY2018:	12,989
FY2019:	11,919
FY2020:	10,361
FY2021:	4,437 YTD ¹ (8,874 annualized)

The SEF is being utilized primarily by patients who can be effectively treated at alternative locations. As shown by data for fiscal years 2019, 2020, and 2021 YTD, most patients who seek treatment at the SEF are experiencing lower-acuity illness and medical conditions. Lower-acuity patients (*i.e.*, those with an Emergency Severity Index (“ESI”) of 3 to 5) represented 10,019 visits in FY2019 and 8,442 in FY2020, or 84% and 81%, respectively, of total SEF visits during those years. All of these lower-acuity patients could have received effective treatment at urgent care centers or in primary care practices. Higher-acuity patients (*e.g.*, those with an ESI of 1 or 2) accounted for under 20% of all visits in FY2019 and FY2020. The acuity data for FY2021 (annualized) is similar, with 6,594 patients, or 74% of total SEF visits, at an ESI level of 3 to 5. As noted below, following closure of the SEF, the higher-acuity patients (up to 5 patients per day on average) will have access to acute emergency care at ten (10) full-service Emergency Departments that are open 24/7, one of which, the BWH Emergency Department, is approximately 10 miles away from the SEF.

ESI Category	FY2019	FY2020	FY2021 YTD
ESI-1	53	52	52
ESI-2	1,743	1,719	817
ESI-3	4,687	4,147	1,766
ESI-4	5,178	4,125	1,475
ESI-5	154	170	56
ESI not noted	104	148	271
Total	11,919	10,361	4,437

¹ All FY2021 year-to-date (“YTD”) numbers represent the period from October 1, 2020 through March 31, 2021.

Outpatient rehabilitation and outpatient radiology and imaging services:

Utilization rates for outpatient rehabilitation and radiology and imaging services are as follows for the past two fiscal years and the current fiscal year-to-date:

SERVICE	FY2019	FY2020	FY2021 YTD
Physical therapy	5,456	3,961	2,017
Occupational therapy	1,921	1,809	1,107
CT	1,435	1,132	731
Diagnostic radiology	4,142	4,150	2,163
Ultrasound	1,816	1,673	921
Diagnostic mammogram	119	564	319
Screening mammogram	677	3,444	1,793

(2) Location and service capacity of alternative delivery sites:

Emergency services at the SEF:

Following the closure of the SEF on or about June 1, 2021, BWH will continue to provide 24/7 access to emergency services for the patient population served by the SEF in the Emergency Department at BWH's main facility, located at 40 Wright Street, Palmer, Massachusetts. This site is approximately 10 miles away from the SEF, according to Google Maps. The BWH Emergency Department, which was constructed in 2018, has more than enough capacity to care for all current SEF patients. In addition to its existing ED capacity, given the numbers of patients who have historically sought care at the SEF for low-acuity conditions, BWH can serve most of the patients who currently seek treatment at the SEF at the health centers located at its Palmer site. BWH plans to increase access to primary care services in Palmer by adding a convenient care model of services, offering walk-in and same-day appointments for adult and pediatric patients, whether or not they are assigned to a Baystate Health primary care provider. BWH and Baystate Medical Practices, Inc. ("BMP"), another Baystate Health affiliate, will also offer synchronous telehealth appointments seven days a week. BMP significantly expanded its telehealth capabilities and use as a result of the COVID-19 pandemic, and telehealth is an excellent means to support access for patients in Mary Lane's service area, particularly the lower-acuity patients who are the principal users of the SEF.

In addition to the BWH ED, emergency services are provided at the following nine (9) locations:

Athol Hospital Emergency Department 2033 Main Street, Athol, MA
Baystate Medical Center Emergency Department 759 Chestnut Street, Springfield, MA
Cooley Dickinson Hospital Emergency Department 30 Locust Street, Northampton, MA
Harrington Hospital Emergency Department 100 South Street, Southbridge, MA
Heywood Hospital Emergency Department 242 Green Street, Gardner, MA
Holyoke Medical Center 575 Beech Street, Holyoke, MA
Mercy Medical Center Emergency Department 271 Carew Street, Springfield, MA
UMass Memorial Medical Center Emergency Department – Memorial Campus 119 Belmont Street, Worcester, MA
UMass Memorial Medical Center Emergency Department – University Campus 55 North Lake Avenue, Worcester, MA

The following data available from the Center for Health Information and Analysis (“CHIA”)² show the utilization of emergency services at the alternative emergency department sites (ED Visits), as follows:

Emergency Department	FY2018	FY2019
Athol Hospital	10,304	10,100
Baystate Medical Center	84,133	80,501
Baystate Wing Hospital	25,428	19,047
Cooley Dickinson Hospital	23,297	23,865
Harrington Hospital	23,274	19,318
Heywood Hospital	21,683	21,401
Holyoke Medical Center	41,769	42,406
Mercy Medical Center	67,821	66,070
UMass Memorial Medical Center (Memorial Campus)	29,866	31,414
UMass Memorial Medical Center (University Campus)	50,017	53,590

² Source: CHIA Case Mix ED Data, 5-County Results (Berkshire, Franklin, Hampden, Hampshire, and Worcester Counties)

In addition to the above publicly available data, BWH can provide the following visit data for Baystate Medical Center and BWH for FY2020 and FY2021 YTD based on internal Baystate Health data³:

Emergency Department	FY2020	FY2021 YTD
Baystate Medical Center	113,191	95,922
Baystate Wing Hospital	20,562	10,040

These data show that each of the alternative emergency department sites has been able to handle a difference of a few hundred to a few thousand patients across recent years. In light of the different levels of emergency volumes that each of the alternative emergency department providers has been capable of handling, these alternative emergency department providers have the service capacity necessary to care for the small number of patients who seek care at the SEF.

The emergency departments at BWH and the other area hospitals provide treatment to patients of all ages and for a wide variety of medical conditions, including, but not limited to: emergency medicine; critical care needs; surgical needs; cardiology and cardiovascular conditions; neurology; orthopedics; internal and family medicine needs; gastrointestinal conditions; obstetric and pediatric medical needs; diagnostic radiology and other imaging needs; laboratory needs; ambulatory care needs; and adolescent, adult, and geriatric psychiatric conditions.

In addition to the enhanced services that will be available to patients at 40 Wright Street, Palmer, MA, BWH has identified the following six (6) locations within a 15-mile radius of Mary Lane where patients may receive walk-in or urgent care services:

Convenient MD 471 Center Street, Ludlow, MA
Urgent Care of Wilbraham 2040 Boston Road, Wilbraham, MA
CVS MinuteClinic 1001 Thorndike Street, Palmer, MA
MedExpress Urgent Care 1312 Boston Road, Springfield, MA
CVS Retail Clinic 142 Worcester Street, Charlton, MA
Urgent Care Express at Harrington-Charlton 10 North Main Street, Charlton, MA

³ Unlike the CHIA data, which reflect emergency department visits by patients from five counties, the Baystate Health data reflect total emergency department visits regardless of the patient's originating location.

The ten (10) alternative emergency department sites and six (6) urgent care sites that have been identified can accommodate the approximately 28 patients per day who present to the SEF. Even assuming all 28 patients needed emergency care in a given day, each of the ten emergency departments might see an average increase of only 3 patients per day. Given its proximity, even if all patients went to the BWH Emergency Department, BWH alone could accommodate those patients. However, as noted above, most of the SEF patients present with lower-acuity conditions that do not require an emergency level of care, and if the 28 patients were spread across all of the alternative delivery sites, the average increase at each site would be even lower than 3 patients per day.

Outpatient rehabilitation and radiology and imaging services:

Outpatient rehabilitation and outpatient radiology and imaging services will remain without interruption at their current location at Mary Lane for approximately two years, while BWH completes renovations and expansions at its main hospital facility in Palmer, where it currently provides all of these services. The planned facility changes in Palmer are intended to ensure BWH's ability to accommodate all patients currently receiving these services at Mary Lane.

In addition to BWH's Palmer location, outpatient rehabilitation and outpatient radiology and imaging services are available at the following locations within a 20-mile radius of Mary Lane.

Outpatient Rehabilitation	Outpatient Radiology and Imaging
Baystate Rehabilitation Care South Hadley 470 Granby Road, South Hadley, MA	Baystate Radiology & Imaging Longmeadow 21 Dwight Street, Longmeadow, MA [Mammography, diagnostic imaging]
Baystate Rehabilitation Care Longmeadow 21 Dwight Street, Longmeadow, MA	Baystate Radiology & Imaging South Hadley 470 Granby Road, South Hadley, MA [Mammography, diagnostic imaging]
Atwood Rehabilitation Clinic 8 Atwood Drive, Northampton, MA	Urgent Care of Wilbraham 2040 Boston Road, Wilbraham, MA [X-ray]
Hadley Rehabilitation Clinic 380 Russell Street, Hadley, MA	MedExpress Urgent Care 1312 Boston Road, Springfield, MA [X-ray]
Weldon Physical Therapy 45 Crane Avenue, East Longmeadow, MA	Urgent Care Express at Harrington – Charlton 10 North Main Street, Charlton, MA [MRI, mammography, x-ray, ultrasound]

ATI Amherst 101 University Drive, Amherst, MA	MedExpress Urgent Care 424 Russell Street, Hadley, MA [X-ray]
ATI Belchertown 25 Bridge Street, Belchertown	Cooley Dickinson Radiology & Imaging 170 University Drive, Amherst, MA [Mammography, X-ray, CT, PET/CT]
ATI South Hadley 84 Williamansett Street, South Hadley, MA	Valley Medical Group Amherst 31 Hall Drive, Amherst, MA [Mammography, X-ray, ultrasound]
ATI Chicopee 591 Memorial Drive, Chicopee, MA	Barre Family Health Center 151 Worcester Road, Barre, MA [Mammography, X-ray, Ultrasound]
ATI Ludlow 483 Holyoke Road, Ludlow, MA	Holyoke Health Center 230 Maple Street, Holyoke, MA [Mammography, X-ray, ultrasound]
ATI Wilbraham 70 Post Office Park 01095	UMass Memorial Ambulatory Care Center 55 Lake Avenue North, Worcester, MA [Mammography]
ATI Springfield 348 Cooley Street, Springfield, MA	
Bay State Physical Therapy* 23 Ware Street, West Brookfield, MA *(not affiliated with Baystate Health)	

(3) **Travel times to alternative service delivery sites:**

Travel times to alternative delivery sites will vary depending on the patient's starting location and the route taken. For purposes of this response, BWH provides travel times to alternative delivery sites using Mary Lane as a starting location. BWH ran multiple inquiries using different times of day, and the results were substantially similar, such that there was no apparent "peak" travel time. Based on information available on Google Maps, approximate travel times from Mary Lane to alternative sites where services are provided are as follows:

Emergency services at the SEF:

Alternative Delivery Site	Travel Time
Athol Hospital ED	40 minutes
Baystate Medical Center ED	38 minutes
Baystate Wing Hospital ED	19 minutes

Cooley Dickinson Hospital ED	45 minutes
Harrington Hospital ED	37 minutes
Heywood Hospital ED	53 minutes
Holyoke Medical Center ED	39 minutes
Mercy Medical Center ED	36 minutes
UMass Memorial – University Campus ED	55 minutes
UMass Memorial – Memorial Campus ED	50 minutes
Convenient MD	26 miles
Urgent Care of Wilbraham	30 minutes
CVS MinuteClinic	19 minutes
MedExpress Urgent Care	34 minutes
CVS Retail Clinic	34 minutes
Urgent Care Express at Harrington – Charlton	34 minutes

Outpatient rehabilitation and outpatient radiology and imaging services:

Outpatient Rehabilitation	Travel Time	Outpatient Radiology and Imaging	Travel Time
Baystate Rehabilitation Care South Hadley	20 minutes	Baystate Radiology & Imaging Longmeadow	45 minutes
Baystate Rehabilitation Care Longmeadow	45 minutes	Baystate Radiology & Imaging South Hadley	32 minutes
Atwood Rehabilitation Clinic	43 minutes	Urgent Care of Wilbraham	30 minutes
Hadley Rehabilitation Clinic	37 minutes	MedExpress Urgent Care	34 minutes
Weldon Physical Therapy	42 minutes	Urgent Care Express at Harrington – Charlton	34 minutes
ATI Amherst	35 minutes	MedExpress Urgent Care	36 minutes
ATI Belchertown	19 minutes	Cooley Dickinson Radiology & Imaging	35 minutes
ATI South Hadley	35 minutes	Valley Medical Group Amherst	28 minutes

ATI Chicopee	34 minutes	Barre Family Health Center	26 minutes
ATI Ludlow	34 minutes	Holyoke Health Center	39 minutes
ATI Wilbraham	28 minutes	UMass Memorial Ambulatory Care Center	57 minutes
ATI Springfield	39 minutes		
Bay State Physical Therapy* 23 Ware Street, West Brookfield, MA *(not affiliated with Baystate Health)	12 minutes		

(4) *Assessment of transportation needs post-discontinuance and a plan for meeting those needs:*

Following closure of the SEF, BWH will continue to provide emergency services at its Emergency Department in Palmer, and it will transition the delivery of hospital-based outpatient rehabilitation and radiology and imaging services to its main hospital site in Palmer. BWH recognizes, as was noted at the public hearing, the challenges posed by limited public transportation resources in Ware and the surrounding towns. Regarding those patients who will travel by ambulance to access emergency services, as referenced below, BWH has been, and will continue to be, in close contact with local EMS providers regarding the availability of and access to these services.

Currently, patients in Mary Lane's service area can access BWH's Emergency Department, as well as outpatient and ambulatory services located at 40 Wright Street in Palmer, through the Pioneer Valley Transit Authority ("PVTA"), which has a Ware/Palmer Circulator with stops at both Mary Lane and BWH. PVTA also operates ADA and Senior Van Services for the area, which can be booked the day before an appointment. In addition, the Quaboag Connector presently offers transportation in the area on 2 business days' notice, and BWH has learned that the Quaboag Valley Community Development Corporation recently received a \$425,000 Synergy Initiative Pilot Grant for the Quaboag Connector, which will create a new fixed-route shuttle to provide same-day service. BWH is committed to continuing its close collaboration with community partners, including the Quaboag Connector, to evaluate opportunities to enhance access to transportation in the Baystate Health Eastern Region.

(5) *Protocol to maintain continuity of care for current patients of the discontinued service:*

Following closure of the SEF, BWH will continue to provide emergency services at its ED in Palmer. BWH has a history of close collaboration with local EMS providers, including through regular meetings to address, among other things, transport needs and operational issues related to the delivery of services. Going forward, these meetings will

provide a forum for the exchange of information related to the closure of the SEF and the provision of emergency services generally. Following the announcement of the SEF closure, the Baystate Health Chief of Pre-Hospital Medicine and Regional EMS Coordinator initiated a series of meetings with individual EMS providers to identify ways that BWH could support the transition in the delivery of emergency services following the closure. BWH held meetings with seven EMS providers, including the three services that transport the most patients to the SEF. BWH is committed to continuing its collaboration with EMS providers through the transition. In addition, patients who have visited the SEF in the past year will receive written notice ahead of the June 1, 2021 SEF closure. All communications to patients will provide information about the alternative emergency services and urgent care services available in the service area. BWH will also provide information about mental health and substance abuse services available in the community. In advance of the transition of outpatient rehabilitation and radiology and imaging services, BWH will provide appropriate patient notification of the service changes, including working with any patients then receiving rehabilitation services to transition their ongoing care to the provider of their choice.

(6) *Protocol for how patients in Mary Lane's service area will access the services at alternative delivery sites:*

(a) *The process that will be employed to effectively refer patients to other facilities or providers:*

BWH will identify all patients who have visited the SEF within the past year and will send letters to such patients notifying them of the SEF's closure and what facilities and providers are available to them for equivalent care. In addition, BWH will make use of traditional media, such as newspapers, its website, and social media platforms to ensure that patients in the service area are aware of the SEF closure and access to care options.

(b) *The impact that this may have on the current occupancy rates at the alternative delivery sites:*

Daily volume at the SEF in FY2020 averaged approximately 28 visits per day. Given the high number of alternative providers in the service area, this low volume of visits can be absorbed by other facilities.

(c) *The ability of the alternative delivery sites to meet the needs of these patients:*

Patients who present to the ten hospitals with emergency departments listed above will have access to at least the range of services currently offered at the SEF. Patients

who begin receiving care at a hospital emergency department (as opposed to beginning at the SEF and being transferred) will be able to more efficiently access follow-up treatment options, including emergency surgery.

(d) Other alternatives if medical needs cannot be accommodated at the proposed alternative sites:

Given the number of alternative sites, the likelihood that medical needs cannot be accommodated is low. However, if medical needs cannot be accommodated at the proposed alternative sites, local primary care providers, community health centers, and urgent care centers all have escalation protocols in place with partner hospitals and EMS providers, and these processes will enable patients to access other health care treatment partners.

Additional Elements Raised in the Department's April 16, 2021 Letter:

- (1) Engagement with Local Officials:*** *The Department has required that BWH include in its closure plan "how the Hospital will ensure there is ongoing meaningful engagement with local officials as well as community groups to address their concerns, and to get their input on the development and implementation of a plan to ensure access in the future."*

Since the closure announcement in late January, BWH has shared its plans in a direct-mail communication to over 50,000 area residents, held a town hall-style meeting with members of the community served by Mary Lane, and met with the Ware Select Board. BWH is committed to engaging with local officials and community groups to address their concerns and to get input related to ensuring access to services following the closure. To this end, BWH is in regular communication with the Ware Town Manager and intends to meet with local officials in May to discuss the status of the transition and receive their feedback. BWH will continue its ongoing engagement with community organizations through its community benefits advisory council. In addition, as noted above, BWH is and will remain engaged with local officials and community groups on issues related to transportation to facilitate access to services going forward.

- (2) Transportation:*** *The Department has required that BWH "address methods of transportation for patients who will need to travel outside of Ware to access services they are currently receiving at [Mary Lane], including cancer care."*

As noted above, BWH recognizes the challenges posed by limited public transportation resources in Ware and the surrounding towns. BWH has been working, and will continue to work, on a case-by-case basis with individual patients receiving cancer-related care and other infusion services at Mary Lane to address their transportation needs as part of discussions with them about their care plans. Many of the therapies

currently administered at Mary Lane can be accommodated at BWH, and BWH anticipates that many patients receiving infusion services at Mary Lane will not need to travel to Springfield to continue their care unless they choose to do so. In addition, there are four cancer support groups operating out of Mary Lane, and those groups will continue to meet after June 1, 2021 in the virtual format they adopted during the pandemic, with ongoing financial support from BWH. In any event, BWH is committed to continuing its close collaboration with community partners, including the Quaboag Connector, to evaluate opportunities to enhance access to transportation in the Baystate Health Eastern Region. Baystate also is willing to serve as a convener to bring together local public and private transportation providers and government representatives, in order to evaluate transportation needs and identify solutions for members of the community, including, but not limited to, those seeking health care services.

- (3) *Emergency Department Transport Times: The Department has required that BWH include in its closure plan "information on steps taken by the Hospital to reach out to those towns whose ambulance services will experience longer transport times to discuss the impact of the closure and what can be done to mitigate transport times to Palmer before, during and after construction on the Route 32 bridge."*

BWH leadership has been in communication with local EMS providers since the announcement of the SEF closure, including with regard to their concerns regarding the potential impacts of the closure, and these discussions will continue. As noted above, BWH will continue its regular meetings with EMS providers in its service area, and discussions will focus on the closure and the impacts of the planned bridge construction.⁴

- (4) *SEF Utilization Data: The Department has required that BWH include in its closure plan "data sourced from emergency medical services and community partners throughout [Mary Lane's] service area about ambulance arrivals at the SEF."*

BWH's Emergency Department serves as Medical Control for multiple local EMS providers. Based on information maintained by BWH in connection with these Medical Control services, as validated by communications with the EMS providers, BWH has determined that the three main EMS services bringing patients to the SEF are Ware, with 2.5 arrivals per day on average, Warren, with 0.55, and West Brookfield, with 0.68.

⁴ According to the notice published by the Massachusetts Department of Transportation regarding the public hearing on the bridge project earlier this year, construction will occur in stages to keep a one-way alternating single travel lane in place.

- (5) **Emergency Services:** The Department has required that BWH include in its closure plan "information on steps taken to ensure patients experiencing behavioral health crises receive emergency care they require."

As noted above, BWH will continue to deliver 24/7 emergency services at its ED in Palmer, including behavioral health crisis services. BWH has a dedicated behavioral health pod in its Emergency Department, which is designed for the safety and comfort of this patient population. As the Department is aware, health care providers across the Commonwealth are challenged in their ability to meet the demand for behavioral health services. In an effort to address these challenges, Baystate Health has implemented a centralized administrative process for responding to the behavioral health needs of its patients across the system. Baystate-affiliated hospitals collaborate with local providers of behavioral health crisis services, and the centralized process assists Baystate with inpatient placement of patients who present to its emergency departments across Western Massachusetts.

Please contact me in the event you have any questions regarding this letter or need any additional information.

Very truly yours,



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