



TOWN OF WARE

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To: Planning Board
From: Robert Watchilla, *Director of Planning & Community Development*
Date: April 7, 2022

Proposed Zoning Amendments

In accordance with M.G.L. Chapter 40A §5, you are being presented with proposed amendments to the Town of Ware Zoning, Earth Removal, and Marijuana Bylaws.

Once approved, the following changes will be sent to Town Meeting for their approval. The Planning Board and Zoning Board of Appeals are proposing the following changes to Zoning, Earth Removal, and Marijuana Bylaws:

- **The addition of "Adoption of Rules and Regulations" (as §1.9)**
 - *The Town of Ware shall allow the Planning Board and the Zoning Board of Appeals to adopt rules and regulations for procedural and substance matters directly, provided they are not inconsistent with the Town's current Bylaws. They shall be made and adopted by majority vote and filed with the Town Clerk. Rules and regulations with penalties attached must be filed with the Town Clerk within ten(10) business days from the date of adoption.*
- **§2.2: Definitions**
 - Changing of "Auto Salvage" to "Auto Salvage/Auto Salvage Yard"
 - Adding the definition of "Craft Distillery"
 - *A plant or premise where distilled spirits are produced, manufactured, or distilled for human consumption, limited to a maximum annual production of 10,000 proof gallons (12,500 gallons) of distilled spirits per year. Such establishments may also offer on-site tastings, sell their product on-site and/or sell wholesale to other parties as stated in M.G.L. Ch. 138 §19E.*

Registered craft distilleries must be licensed as “farm distilleries” under M.G.L. Ch. 138 §19E.

- Expanding the definition of “Farm” (additions in **bold**)
 - A property used for commercial agriculture (raising crops, **hemp**, and/or livestock), horticulture (raising fruits, flowers, ornamental plants [**to include trees farms**], or vegetables), silviculture (forestry), aquaculture (raising fish or shellfish), **or viticulture (raising grapes)**. *This includes facilities for the sale of produce, wine and dairy products, provided that either during the months of June, July, August and September of each year or during the harvest season of the primary crop raised on land of the owner or lessee, 25 percent of such products for sale, based on either gross sales dollars or volume, have been produced by the owner or lessee of the land on which the facility is located.*
- Adding the definition of “Hemp”
 - The plant of the genus Cannabis or any part of the plant, whether growing or not, with a delta-9-tetrahydrocannabinol (THC) concentration that does not exceed 0.3% on a dry weight basis of any part of the plant of the genus Cannabis, or per volume or weight of cannabis or marijuana product, or the combined percent of delta-9-tetrahydrocannabinol (THC) and tetrahydrocannabinol acid (THCA) in any part of the plant of the genus Cannabis regardless of moisture content. Production of Hemp is separate from marijuana cultivation, and is considered an acceptable agricultural crop within this bylaw.
- Adding the definition of “Marijuana Delivery Operator”
 - An entity licensed to purchase at Wholesale and Warehouse Finished Marijuana Products acquired from a Marijuana Cultivator, Marijuana Product Manufacturer, and Microbusiness, sell and deliver Finished Marijuana Products, Marijuana Accessories and Marijuana Branded Goods directly to Consumers, but is not authorized to Repackage Marijuana or Marijuana Products or operate a storefront under this license.
- Adding the definition of “Microbrewery”
 - An establishment that specializes in the production and manufacturing of beer/malt beverages and sells at least 25 percent or more of its beer/malt beverages for on-site consumption. Such establishments can sell their beer/malt beverages at wholesale under the regulations set forth in M.G.L.

Ch. 138. This definition includes brewpubs, taprooms, and craft breweries. Microbreweries located in the Rural Residential District must have a Farmer Brewery license under M.G.L. Ch.138 §19C and shall produce no more than 1,000 barrels (31,000 gallons) of beer/malt beverages annually. Microbreweries located in all other zoning districts may have either a farmer brewery license (M.G.L. Ch.138 §19C) or a pub brewery license (M.G.L. Ch.138 §19D) and shall produce no more than 15,000 barrels (472,000 gallons) of beer/malt beverages annually.

- Adding the definition of “Marijuana Microbusiness”
 - A co-located Marijuana Establishment that can be either a Tier 1 Marijuana Cultivator or Marijuana Product Manufacturer or both, in compliance with the operating procedures for each license. A Microbusiness that is a Marijuana Product Manufacturer may purchase no more than 2,000 pounds of marijuana per year from other Marijuana Establishments.
- Adding the definition of “Park”
 - A municipally, state, or privately owned area that is used for active or passive recreation, or a place dedicated to the use of the public, which may include equipment and facilities for active recreation and play such as playfields, play structures, courts, swings, slides, dog parks, pools, splash parks, public assembly and accessory uses such as restrooms. It may also include areas for passive recreation such as gardens, walking/hiking trails, picnic areas, benches, tables, seating areas, and undeveloped open space. A park may also serve as an area for formalized sanctioned events, civic gatherings, a place for reflection or remembrance (such as a monument park), and accommodate related municipal uses such as educational facilities, or facilities for storage and maintenance of equipment used in the park.
- Changing of “Tow Service” to “Tow Service/Tow Yard”
- **§4.2: Use Table**
 - Changes to “Adult Entertainment Establishment” (E1)
 - To not be allowed (N) in all zoning districts except for the Industrial (I) district, which it is allowed by Special Permit (SP).
 - Proposed use additions: “Microbrewery”, “Craft Distillery”, “Winery”, “Earth Processing”, and “Marijuana Delivery”.

	Residential					Mixed ¹			Commercial/Industrial		
	RQ	RR	SR	BLR	DTR	RB	DTC	MY	HC	CI	I
Microbrewery (See §2.2)	N	SP	SP	N	N	SP	SP	SP	SP	SP	N
Craft Distillery	N	SP	SP	N	N	SP	SP	SP	SP	SP	N
Winery ⁵	N	SP	SP	N	N	SP	SP	SP	SP	SP	N
Earth Processing (see § 4.3.27)	N	N	N	N	N	N	N	N	SP	SP	SP
Marijuana Delivery	N	N	N	N	N	N	SP	SP	SP	N	N

- Additions to Footnotes Section
 - *Definition of farm includes the use of land for agriculture, horticulture, silviculture, aquaculture, or viticulture. See §2.2.*
 - *This excludes farm-wineries or wineries that grow and use grapes on site.*
 - *Per Article 4.7.1 Any use not specifically or generically listed in §4.2, Use Table, or not otherwise permitted in a district shall be deemed as prohibited. See also §7.5.1.*
- **§4.3: Operational Standards**
 - §4.3.14 to §4.3.23
 - Changes to the referred designation numbers in parenthesis that reference the Use Table to accommodate additions to the Use Table.
 - Proposed addition for “Auto Salvage” (as §4.3.25)
 - *Auto Salvage (F-1) is permitted by special permit and site plan review in the Industrial (I) district. Unregistered motor vehicles that are stored on site for the purpose of reselling, disassembling, or reusing for parts shall be stored for a period no greater than three (3) years. No person shall establish, operate or maintain an auto salvage yard within one-thousand (1000) feet of the nearest edge of the right-of-way of any interstate or primary highway (Routes 9 and 32) unless such auto salvage yard is:*
 - *screened by natural objects, plantings, fences, or other appropriate means so as to not be visible from the main traveled way of the road system, or otherwise removed from sight as specified by the Special Permit Granting Authority, or*
 - *located within an area within the Industrial (I) zoning district, or*
 - *is not visible from the main traveled way of the road system.*
 - *Auto salvage yards shall be placed at least one-hundred (100) feet from the front property line, fifty (50) feet from the side property lines, and one-hundred (100) feet from any residential property*

line and shall be properly screened as determined by the Special Permit Granting Authority.

- Changing of “§4.3.25” to “§4.3.26” in regard to Earth Removal
- Proposed addition for “Earth Processing” (as §4.3.27)
 - *Earth Processing (F-4) shall be defined as the processing of more than 1000 cubic yards of earth materials (soil, loam, peat, sand, gravel, stone, or compost) brought on site or brought in and stored for processing in any 12-month period, this includes gravel pits. Earth processing shall be allowed by special permit (see §7.2) in the Highway Commercial (HC), Commercial Industrial (CI) and Industrial (I) zoning districts. In addition to a special permit, earth processing operations shall warrant a site plan review by the Special Permit Granting Authority (SPGA). A special permit for earth processing may not be required if:*
 - *Conducted on the site of an earth removal operation that was allowed by special permit (only applicable to earth materials generated on site),*
 - *Conducted on the site of a privately owned subdivision for the sole purpose of developing the private roadway,*
 - *Conducted on the site of, incidental to, and in connection with earth removal necessary for the construction of a principal or accessory structure permitted by the Zoning Bylaw.*
- §4.3.26 to §4.3.28
 - Changes to the referred designation numbers in parenthesis that reference the Use Table to accommodate additions to the Use Table.
 - Changing of §4.3.26 to §4.3.28 in regard to Solid Waste Facilities.
 - Changing of §4.3.27 to §4.3.29 in regard to Wood Processing/Lumber Mills.
 - Changing of §4.3.28 to §4.3.30 in regard to Marijuana Cultivation Facilities.
 - Deletion of “of the Use Table” in §4.3.28.
- **Earth Removal Bylaw (§4.8.5 of the Zoning Bylaw)**
 - Subsection C: Exemptions
 - C.1
 - Deletion of “provided that no such moving shall take place across or within a street”.

- Addition of *"For the purposes of section 4.8.5, properties separated by a public way are not considered contiguous"*.
 - C.2
 - (C.2.a) Addition of *"For the purpose of Earth Removal, the definition of structure within §4.8.5 shall not include: pole, sign, fence, wall, any small constructs (less than 100 sq.ft.) or any part of the above"*.
 - (C.2.a.i) Addition of *"Any garages, sheds, barns or similar structures between 100 to 1000 sq.ft. may be exempt from this definition at the discretion of the Special Permit Granting Authority."*
- Subsection D: Operational Standards
 - D.4
 - Addition of *"or within two years of the issuance of the permit"* to D.4:
 - *All excavated areas shall, upon completion of the operation or within two years of the issuance of the permit, be covered with not less than four inches of loam suitable for seeding, brought to the finish grade and seeded in a manner complying with Mass DOT standards.*
 - Addition between D.5 & D.6
 - *For Earth Removal projects requiring a special permit, no excavation shall be made at less than 10 feet above the annual high water table, as established from test pits, soil borings, and monitoring wells which are installed and gauged quarterly.*
- Subsection F: Decision
 - F.1 (Decision Criteria)
 - Addition of *"The removal will not violate section 4.3.24 of this zoning bylaw in regard to vibration and noise"*.
 - F.2 (Imposed Conditions)
 - Addition of *"hours of operation to be set by the SPGA on a case by case and/or zoning district basis"*.
 - Addition of *"an updated topography map of the project site showing the current grade with volume calculations shall be sent to the SPGA every 5 years or as determined otherwise by the SPGA,"*.
 - Addition of clause pertaining to performance bonds/surety:

- *The SPGA may request as a condition that the applicant furnish a performance bond, of cash certified check or a surety company to the Town as obligee in a penal sum to be fixed by said SPGA as it shall deem sufficient to cover the cost of the performance of all the conditions, limitations, and safeguards may be imposed by said SPGA in connection with the removal of the particular earth substances for which the permit has been issued,*
 - *The bond, check or cash deposit shall be held by the Town Treasurer until all conditions of the permit have been met to the satisfaction of the SPGA. If after (18) eighteen months from the issuance of the permit, or extension thereof, all conditions as required in the permit have not been met (especially grading and seeding), the SPGA shall cause the monies to restore the site to its natural state,*
- **Marijuana Bylaw (§4.8.8 of the Zoning Bylaw)**
 - Changing title of §4.8.8 to *“Registered Marijuana Facilities (RMF), Marijuana Cultivation Sites (MCS), and Marijuana Delivery Operators (MDO)”*
 - Addition of Marijuana Delivery Operators (MDOs) in text to §4.8.8.A, §4.8.8.B, §4.8.8.D, §4.8.8.E, and §4.8.8.G.
 - Subsection A.2: Purpose
 - Addition of *“or delivery”* to the following statement: *To allow for the orderly siting of establishments for the retail sale **or delivery** of marijuana and marijuana products.*
 - C: Definitions
 - Addition of the definition of *“Marijuana Delivery Agreement”*:
 - *A contract between a licensed Marijuana Establishment and a Delivery Licensee or Marijuana Establishment with a Delivery Endorsement to deliver Marijuana or Marijuana Products from the Marijuana Establishment directly to Consumers and as permitted, Marijuana Couriers to Patients and Caregivers, under the provisions of a Delivery License.*
 - Addition of the definition of *“Marijuana Delivery Endorsement”*:

- *The authorization granted to Licensees in categories of Marijuana Establishments identified by the Cannabis Control Commission to perform deliveries directly from the establishment to Consumers. Delivery items refers to Finished Marijuana Products, Marijuana Accessories, and Marijuana Established Branded Goods.*
 - Addition of the definition of “*Marijuana Delivery License*”:
 - *A Marijuana Courier License or a Marijuana Delivery Operator License.*
 - Addition of the definition of “*Marijuana Delivery Licensee*”:
 - *A Marijuana Courier or a Marijuana Delivery Operator authorized to deliver Marijuana and Marijuana Products directly to Consumers and as permitted, Marijuana Couriers to Patients and Caregivers.*
 - Addition of the definition of “*Marijuana Delivery Operator (MDO)*”:
 - *An entity licensed to purchase at Wholesale and Warehouse Finished Marijuana Products acquired from a Marijuana Cultivator, Marijuana Product Manufacturer, and Microbusiness, sell and deliver Finished Marijuana Products, Marijuana Accessories and Marijuana Branded Goods directly to Consumers, but is not authorized to Repackage Marijuana or Marijuana Products or operate a storefront under this license.*
 - Addition of the definition of “*Marijuana Microbusiness*”:
 - *A co-located Marijuana Establishment that can be either a Tier 1 Marijuana Cultivator or Marijuana Product Manufacturer or both, in compliance with the operating procedures for each license. A Microbusiness that is a Marijuana Product Manufacturer may purchase no more than 2,000 pounds of marijuana per year from other Marijuana Establishments.*
 - Deletion of “*MA Department of Public Health*” and replaced with “*Cannabis Control Commission (or appropriate licensing authority)*” in the definition of “*Registered Marijuana Dispensary (RMD)*”.
- E: Separation and Setbacks
 - Additions to the following statement (indicated in **bold**)

- No Registered Medical, Recreational and Hybrid Marijuana Facility, Marijuana Cultivation Site, and/or **Marijuana Delivery Operator** may be located closer than three hundred feet (300') (measured from door to door) of a facility used, at the time of the first notice of the public hearing, for a park (*measured from door to property line*), playground (*measured from door to property line*), *pre-school, kindergarten*, elementary, middle or high school, state-licensed child day care center, *public library, recreation facilities, and other areas where children commonly congregate in an organized, ongoing, formal basis, or which are dedicated to the use of children.*
- Such uses shall not be prohibited from locating within three hundred feet (300') of a Registered Medical, Recreational and Hybrid Marijuana Facility, a Marijuana Cultivation Site, and/or a **Marijuana Delivery Operator** nor shall a Registered Medical, Recreational and Hybrid Marijuana Facility, Marijuana Cultivation Site, and/or **Marijuana Delivery Operator** become nonconforming under the Zoning Bylaw if a park, playground, elementary, middle or high school, state-licensed child day care center, *or other areas where children commonly congregate in an organized, ongoing, formal basis or which are dedicated to the use of children,* later locates within three hundred feet (300') of a preexisting Registered Medical, Recreational and Hybrid Marijuana Facility, Marijuana Cultivation Site, and/or **Marijuana Delivery Operator.**
- G: Standards Applicable to Registered Medical, Recreational and Hybrid Marijuana Facilities, and/or Marijuana Cultivation Sites
 - Change title of §4.8.8.G to “Standards Applicable to Registered Medical, Recreational and Hybrid Marijuana Facilities, Marijuana Cultivation Sites, and/or **Marijuana Delivery Operators**”.
 - Addition of the following statement:
 - An applicant shall possess a Certification of Registration from the Massachusetts Cannabis Control Commission as a Registered Marijuana Dispensary, Marijuana Cultivation Site, and/or Marijuana Delivery Operator and shall comply with the Department’s regulations at all times.
 - Addition of “Rural Residential (RR)” to §4.8.8.G.1.

- Addition of the following statement:
 - *Use of property as a Marijuana Retailer, Cultivation facility, or Delivery Operator shall be deemed a principal use for purposes of this Zoning Bylaw, and shall be permitted exclusively in accordance with this Article. No Marijuana Establishment shall be allowed within Town as an accessory use. Cultivation of marijuana shall not take place in a residential property with an established accessory use, unless the marijuana is for personal consumption in accordance with Massachusetts State law.*
- Addition of the following statement:
 - *Any Marijuana Delivery Operator application for a Special Permit shall include the anticipated number of vehicles operating from the location, number of employees for all operations including fulfillment, administration, and vehicle drivers shall be identified and may be conditioned as such. A copy of the Application of Intent and Management and Operations Profile submitted, to the extent permitted by law, as an integral part of the Special Permit application.*
- Addition of "Marijuana Cultivation Site" and "and/or Marijuana Delivery Operator" to §4.8.8.G.9.
- Addition of the following statement:
 - *All applicable rules and regulations established under the auspices of the Massachusetts Cannabis Control Commission (CCC) must be adhered to.*
- Additions of the following statements regarding outdoor cultivation:
 - *Outdoor cultivation may occur in provided that screening, security and other provisions complies with 935 CMR500.*
 - *For outdoor cultivation, this bylaw will require that security fencing be screened with natural vegetation or topography. On large properties, it is likely that the cultivator will place the relatively small growing area far from any property boundary so that it is screened from the public by existing vegetation and/or topography. If vegetation is planted to screen the fence, the cultivator will have 3-years for the vegetation to reach maturity and full coverage. It is required that any barbed or razor wire type fencing materials not be used or be entirely hidden from view from*

public ways or neighboring property. The cultivar must include these security provisions within its special permit application.

- Outdoor cultivation must not occur within 3000 feet of a pre-existing hemp farm.
- Outdoor cultivation must not store fertilizers, compost, soils, materials, machinery, or equipment within the required front, side, and rear yard setbacks.

- **§7.5: Enforcement**

- Proposed addition to the following statement in §7.5.1 (indicated in bold):
 - *This Bylaw shall be administered and enforced by the Building Inspector of the Town of Ware. He/she shall issue no permit for the erection or alteration of any structure or part thereof, the plans, specifications, and intended use of which are not in all respects in conformity with the provisions of this Zoning Bylaw. **For any uses not specifically listed in §4.2 (Use Table), the Zoning Enforcement Officer shall make a determination as to the closest appropriate applicable category, or to determine that the proposed use does not fit appropriately in any category and deny with a written explanation. This decision can be appealed to the Zoning Board of Appeals and must be filed with the Town Clerk no later than 30 days after it is issued.***

Appendix: In Text Language of Zoning Changes
(Additions Highlighted in **Yellow**, Deletions indicated with ~~Red Line~~)

Article 1 – General Provisions

1.1 Authority

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

1.2 Purpose

The purposes of this Bylaw are:

- To promote the health, safety, convenience and general welfare of the present and future inhabitants of the Town of Ware;
- To protect the community and the town's natural resources, clean air, views and environment;
- To secure safety from fire, flood, pollution, overcrowding and other dangers by regulating the location and use of structures and the open spaces around them;
- To lessen congestion in the streets;
- To prevent overcrowding of land;
- To avoid undue concentration of population;
- To permit and promote planned, orderly growth;
- To conserve the value of land and buildings;
- To facilitate the adequate provision of public services;
- To preserve and increase the town's amenities;
- To reconcile the need and desire of Ware's diverse and growing population for adequate housing with the preservation of natural resources and the preventing of overcrowding of land and undue concentration of population;
- To encourage compatible development and the most appropriate use of the town's land and resources;
- To provide for the expansion of suitable, economically and environmentally sound business and industry within the town in order to diversify the local economy and the tax base;
- To establish a fair and reasonable set of standards for evaluating each development proposal impartially, on its own merit;
- To develop rational land development alternatives through an equitable and prescribed negotiation process so as to establish a balanced land use pattern that is responsive to the needs of property owners while minimizing the adverse effects of development; and
- To provide the town with the full protection authorized by Chapter 40A of the General Laws as amended.

1.3 Title

This bylaw, together with all maps referred to herein and all amendments hereto, shall be known as the "Town of Ware Zoning Bylaw."

1.4 Applicability

The construction, alteration, enlargement, relocation, height, size, and use of buildings and other structures; the size, frontage, and setback areas of newly created parcels; and the use of land within the Town of Ware is hereby regulated as provided in this Zoning Bylaw. For properties that are partially within the Town of Ware and partially within an abutting town, this Zoning Bylaw shall govern that portion within the Town of Ware.

1.5 **Amendments**

This Bylaw may be amended as provided in MGL c 40A §5.

1.6 **Effective Date**

This bylaw and any amendments thereto become effective upon passage by Town Meeting. The first Zoning Bylaw adopted by the Town of Ware was enacted on June 14, 1971. That bylaw was replaced in its entirety on May 12, 1980, that bylaw was replaced in its entirety on April 13, 1987, and that bylaw was replaced on May 14, 2012. Amendments thereto became effective upon passing by the Town Meeting March 27, 2021.

1.7 **Severability**

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

1.8 **Relationship to Other Town Bylaws**

Where this Bylaw imposes a greater restriction upon the use of land or the use or erection of buildings or other structures in the Town than is imposed by other bylaws of the Town, the provisions of this Bylaw shall control.

1.9 **Adoption of Rules and Regulations**

The Town of Ware shall allow the Planning Board and the Zoning Board of Appeals to adopt rules and regulations for procedural and substance matters directly, provided they are not inconsistent with the Town's current Bylaws. They shall be made and adopted by majority vote and filed with the Town Clerk. Rules and regulations with penalties attached must be filed with the Town Clerk within ten(10) business days from the date of adoption.

1.10 **Nonconformities**

Non-conforming Lots, Uses, and Structures shall be regulated as provided in MGL c. 40A §6 and as provided in this Bylaw. Any lawful building or structure, or use of a building, structure or land, existing at the time of adoption of this Bylaw or any amendment thereto which does not conform to the regulations thereof may be continued, subject to the provisions of this §1.9.

1.10.1 **Nonconforming Lots**

A. Vacant lots which are nonconforming for area, frontage, width, yard (setback), or depth requirements that were in existence prior to the effective date of the requirement which made them nonconforming may be used for construction of a single-family or two family dwelling at any time, provided they are not adjacent to a lot in the same ownership, and provided the lot contains a minimum of 5,000 square feet and has a minimum of 50 feet of frontage. Such lots are not subject to increases in the setback requirements, if any.

B. Where two or more lots in single ownership abut each other, where one or both lots are nonconforming to the area, frontage, width, yard (setback), or depth requirements that were in

Article 2 – Definitions

2.1 Word Usage

In the interpretation of provisions in this Zoning Bylaw, the rules of this section (§) shall be observed and applied, except when the context clearly indicates or requires otherwise:

- Words used or defined in one tense or form shall include other tenses and derivative forms.
- Words in the singular number shall include the plural number and words in the plural number shall include the singular number.
- The masculine gender shall include the feminine and the feminine gender shall include the masculine.
- The word "shall" is mandatory.
- The word "may" is permissive.
- The word "person" includes individuals, firms, corporations, associations, trusts and any other similar entities or groupings of such entities.
- The word "building" shall be construed as though followed by "or structure or part or parts thereof."
- The words "built" and "erected" shall each contain the other and shall include the words "constructed," "reconstructed," "altered," "enlarged," "moved," and any others of like significance.
- The words "occupied" or "used" shall be considered as though followed by "or intended, arranged, or designed to be (used or occupied)."
- The symbol "§" means "section."
- In the case of any difference of meaning or implication between the text of this Zoning Bylaw and any caption, number, illustration or table, the text shall control, unless otherwise specifically noted herein.

2.2 Definitions

In this Bylaw, the following terms, unless a contrary meaning is specifically given, shall have the following meanings.

100 Year Flood: A flood at a level that, on average, is likely to occur once every 100 years, or more accurately, has a one percent chance of occurring in any given year.

Accessory: A use, activity, structure, or part of a structure that is subordinate and incidental to the main activity or structure on the site.

Accessory Apartment: A separate housekeeping unit, complete with its own sleeping, cooking and sanitary facilities, that is contained within the structure of a single family dwelling, which functions as a separate unit.

Adult Cabaret: A cabaret, stage show, club, restaurant, bar, nightclub, juice bar or other establishment which features persons who appear nude or semi-nude including persons, dancers or performers who show the female breast below a horizontal line across the top of the areola or show the male or female buttocks or genitals and including such establishments which display live entertainment including but not limited to persons, dancers or entertainers appearing in a state of nudity or other live performance distinguished by an emphasis on depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL c. 272, §31.

Adult Daycare: A facility providing care for elderly and/or functionally impaired adults in a protective setting for a portion of a 24-hour day, generally during daytime hours.

Adult Entertainment Establishment: An Adult Cabaret, Adult Live Entertainment Establishment, Adult Motion Picture Theater, or Adult Store.

Adult Live Entertainment Establishment: An establishment, including but not limited to a nightclub, bar, restaurant, tavern, dance hall, cabaret, stage or other performance venue, which displays live entertainment, including but not limited to persons or entertainers appearing in a state of nudity or other live performance distinguished by an emphasis on depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL c. 272, §31.

Adult Motion Picture Theater: An enclosure or building, or any portion thereof, used for presenting visual media material distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL c. 272, §31.

Adult Store: An establishment having as a substantial or significant portion of its stock in trade, books, magazines, videos, movies, devices, objects, tools, toys or other materials which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL c.272 §31.

Agricultural Sign: A Sign which may have wording that may be changed periodically to advertise products raised or grown principally on the premises.

Agrioltaics: Also known as Agricultural Solar Tariff Generation Unit, is co-developing the same area of land for both solar photovoltaic power as well as for agriculture. A Solar Tariff Generation Unit located on Land in Agricultural Use or Prime Agricultural Farmland that allows the continued use of land for agriculture meeting the requirements of 225 CMR 20.00.

Ancillary Use: A use, which is customarily incidental, subordinate to, and supporting of the principal use of a lot or structure and is located on the same parcel or contiguous parcels as the principal structure or use. In conjunction with *Large-scale Photovoltaic Installations in conjunction with 4.8.3 of this bylaw, this may be rooftop installations or solar parking canopy installations over parking lots or other hardscaped areas.*

Aquifer: Geologic formation composed of rock, sand or gravel that is permeable enough to yield economic quantities of water to wells.

High Yield: An aquifer consisting of sand and gravel deposits which yield greater than 300 gallons per minute of water.

Medium Yield: An aquifer consisting of sand and gravel deposits which yield between 100 and 300 gallons per minute of water.

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

Auto Fuel Station: An establishment providing fuel products for sale to the general public, including but not limited to gasoline, diesel fuel, electricity, biofuel, and other such fuels necessary to operate a vehicle.

Automotive Sign: A sign placed on an individual vehicle indicating that vehicle's sale price or features.

Auto Salvage/Auto Salvage Yard: A lot and/or structure where the principal purpose is to acquire, store, resell, disassemble, or otherwise be involved with motor vehicles that are in some way inoperative. This includes but is not limited to businesses requiring a Class 3 license pursuant to MGL c. 140 §58.

Auto Service: An establishment where passenger vehicles are serviced and repaired, including repair or rebuilding of engines, routine maintenance services such as oil changes, repairs to exhaust systems, and other general repair but not including auto body work. Such establishments may include auto fueling.

Awning Sign: A permanent sign which is affixed to or consists of a permanent or retractable awning or marquee permanently mounted to the exterior surface of a building.

Banner Sign: A sign intended to be hung either with or without frames, possessing characters, letters, illustrations or ornamentations applied to paper, plastic or fabric of any kind. National flags, flags of political subdivisions and symbolic flags of any institution or business shall not be considered "banners" for the purpose of this section.

Bed & Breakfast: See "Inn".

Billboard: A structure for the permanent display of off-premises advertising.

Boarding House: See "Non-family Accommodations".

Bulletin Board: A board displaying a message, accessory to public and semi-public uses, schools, hospitals and places of worship and assembly.

Caliper: The diameter of the trunk of a tree measured 6 inches above the ground for trees up to and including 4 inches, or measured 12 inches above the ground for larger trees.

Campground: An area or tract of land on which accommodations for temporary occupancy (not to exceed 90 days) for transient recreation or vacation purposes are located or may be placed including cabins, tents, major recreational equipment or other types of movable or temporary shelter, which is primarily used for commercial recreational purposes and retains an open air or natural character.

Cannabis Cultivation Site: see "Marijuana Cultivation Site". See §4.8.8 F for additional information.

Cannabis Dispensaries: see "Registered Marijuana Dispensary (RMD)". See §4.8.8 F for additional information.

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

Civic Organizational Sign: Directory sign erected by a civic or business promotional organization (e.g. Rotary or Chamber of Commerce) that lists local businesses and civic organizations.

Commencing Building Activity: The state of building activity at which, in the opinion of the permitting authority, substantial manmade construction materials critical to a building's or site's functioning, have been permanently installed, or in cases where commencing such activity has been hindered due to circumstances beyond the control of the owner, a stage of building activity where, in the opinion of the permitting authority, proof can be shown that construction will unconditionally occur within six months.

Commercial Greenhouse: A greenhouse business producing nursery stock, flowers, vegetables or other plant materials and related supplies for wholesale and/or retail sale.

Common Driveway: A driveway that is shared through ownership and/or use by more than one property owner.

Composting Facility: A commercial or public facility for the processing of yard and garden waste using biological decomposition to transform the wastes into soil or soil additives. This shall not include a facility as defined in MGL c. 111 section 150A.

Construction Sign: A sign identifying the proposed building, the owner or intended occupant and the contractor, architect and engineers. A construction sign for more than a single lot will be considered to be a "subdivision sign."

Construction Trades: A trade or profession devoted to construction, such as but not limited to plumber, electrician, gas fitter, carpenter, cabinet maker, mason, landscaper, and heavy equipment operators (e.g. backhoe, excavator). A general contractor would be categorized as an office use unless there is storage of materials or equipment on site, in which case it would be categorized as a construction trade.

Craft Distillery: A plant or premise where distilled spirits are produced, manufactured, or distilled for human consumption, limited to a maximum annual production of 10,000 proof gallons (12,500 gallons) of distilled spirits per year. Such establishments may also offer on-site tastings, sell their product on-site and/or sell wholesale to other parties as stated in M.G.L. Ch. 138 §19E. Registered craft distilleries must be licensed as "farm distilleries" under M.G.L. Ch. 138 §19E.

Decorative Sign (Non-Business): A sign displaying a commercial product name, logo or likeness utilized on a private non-business property for which its only purpose is decoration to expressed nostalgic or historical context.

Density: The number of dwelling units per acre of land. See §5.2, Interpretation Notes for Area Requirements, for additional information on calculating density.

Directional or Informational Sign: A sign which is necessary for the safety and direction of vehicular or pedestrian traffic.

Directory Sign: A sign listing the name and location of the occupants of a site or building.

Dwelling: A building or part of a building providing complete, independent, living facilities (dwelling units) for one or more families.

Dwelling, Multifamily: A building containing three or more dwelling units intended to be occupied exclusively by families living independently of each other.

Dwelling, Single Family: A building designed and intended for occupancy by a single family.

Dwelling, Single Family Attached: A dwelling unit in a townhouse configuration.

Dwelling, Single Family Detached: A dwelling unit which is not attached to any other dwelling unit by any means.

Dwelling, Two Family (aka Duplex): A building containing two dwelling units.

Dwelling Unit: A single space within a building designed and intended for occupancy by a single family, which contains areas for living, sleeping, cooking, and sanitary facilities.

Eating Establishment: Any establishment that sells food for on or off-premise consumption; may include the sale of alcoholic beverages. Examples include restaurants, drive-ins, fast food establishments, yogurt or ice cream shops and coffee shops. Note: establishments preparing food that is not for immediate consumption and that do not have accommodations for on-premises consumption, such as catering businesses, are classified as retail businesses.

Eating Establishment, High Turn-Over: A sit-down eating establishment with turnover rates normally of less than one hour, with or without take-out facilities. Generally, these restaurants serve breakfast, lunch and dinner. This type of restaurant is often moderately priced, and frequently belongs to a restaurant chain.

Eating Establishment, Low Turn-Over: A sit-down eating establishment with turnover rates generally of more than one hour. Typically, these restaurants do not serve breakfast, and many serve only dinner.

Eating Establishment, Drive-In or Drive-Through: A high turn-over establishment that includes either drive-in or drive-through facilities; it may include seating indoors and/or outdoors.

Electronic Message Sign: A sign which utilizes electricity to form images, letters, messages or shapes in order to display information or attract attention to a product, service, person or place.

Equestrian Stable: An establishment where horses are boarded and cared for, and where instruction in riding, jumping, and showing is offered. Includes the sale or hiring out of horses to the general public, and may include breeding of horses. Note: a private stable on a residential parcel which does not involve boarding, training, sale, or hiring out of horses to the public is considered an accessory use to the residence (see §4.4.1 D).

Erecting: Any installing, constructing, reconstructing, replacing, relocating, re-lettering, except as specifically provided, extending, altering or otherwise changing of a sign. "Erecting" shall not include repairing or maintaining an existing sign.

Estate Lot: A lot created with less than the required frontage in exchange for increased square footage for the purpose of construction of a single-family dwelling and/or preservation of open space as described in Section 5.2.10.

Facility Operator: The person or firm responsible for the day-to-day monitoring, operation, and maintenance of a solar or wind energy facility.

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

Family Daycare Home: A childcare service provided within a private home which serves no more than six children. Refer to MGL c. 28A §9 for full definition, which is hereby adopted by reference.

Family Daycare Home, Large: A childcare service provided within a private home which serves more than six but fewer than ten children. Refer to MGL c. 28A §9 for full definition, which is hereby adopted by reference.

Farm: A property used for commercial agriculture (raising crops, hemp, and/or livestock), horticulture (raising fruits, flowers, ornamental plants [to include trees farms], or vegetables), silviculture (forestry), aquaculture (raising fish or shellfish), or viticulture (raising grapes). This includes facilities for the sale of produce, wine and dairy products, provided that either during the months of June, July, August and September of each year or during the harvest season of the primary crop raised on land of the owner or lessee, 25 percent of such products for sale, based on either gross sales dollars or volume, have been produced by the owner or lessee of the land on which the facility is located.

Farmstand: A structure located in a district in which agricultural uses are allowed, from which raw produce, not less than half of which is grown on the premises, is offered for sale to the public.

Flag: Flags and insignia of any government or organization.

Flexible Residential Open Space Development (FROSD): A form of residential development where the density is no greater than would be permitted in the district in which the FROSD is located, but where the lot size and other dimensional standards may be reduced in exchange for the preservation of permanently protected open space, recreational land, forests, or farmland.

Flicker: The glare or shadow(s) cast by rotating blades of a wind turbine that can cause a flickering effect.

Freestanding Sign: A non-movable sign not affixed to any building but constructed in a permanently fixed location of the ground with its own support structure and displaying a sign face on not more than two (2) sides. Examples include monument signs, pole signs, and pylon signs.

Freight & Trucking Terminal: A building or area in which product, material, or freight is brought by any means of conveyance for the short-term storage not to exceed thirty (30) days and shipping of finished goods used in commerce or industry, whether such storage and processing be in an enclosed facility or not (this does not include Auto Salvage or raw earthen material).

Frontage: The continuous line of a parcel boundary along the edge of a street right-of-way between the points of intersection of the side parcel boundaries with the street right-of-way.

Fundraising Sign: A sign associated with a fundraising event being conducted or in association with a local organization.

Gasoline Pump Sign: The standard type of gasoline pump bearing thereon in the usual size and form the name or type of gasoline and the price thereof.

Gross Floor Area: The sum of the horizontal areas of the several stories of a building, measured from the exterior faces of exterior walls, or in the case of a common wall separating two buildings, from the centerline of such common wall. Gross floor area shall exclude basements and attics, unless they are designed for immediate or future use as habitable space.

Ground Mounted Solar Energy Facility: A solar energy facility that is mounted on the ground, either directly or on supports which do not constitute a building under the Building Code. As a point of clarification, solar energy facilities that are mounted on buildings (e.g. roof mounted systems) are not subject to the zoning regulations in §4.8.3.

Groundwater: Water beneath the surface of the ground whether or not flowing through known and definite channels.

Habitable Space: Any space within a building that meets the requirements of the Massachusetts State Building Code (780 CMR) for sleeping, living, cooking, or dining purposes.

Half-Story: A story under a sloping roof with a habitable area less than three quarters of the area of the story immediately below it.

Health and Human Service: This use includes the residential, administrative and health care facilities associated with an organization whose purpose is the provision of mental, social and health services.

Hemp: The plant of the genus Cannabis or any part of the plant, whether growing or not, with a delta-9-tetrahydrocannabinol (THC) concentration that does not exceed 0.3% on a dry weight basis of any part of the plant of the genus Cannabis, or per volume or weight of cannabis or marijuana product, or the combined percent of delta-9-tetrahydrocannabinol (THC) and tetrahydrocannabinol acid (THCA) in any part of the plant of the genus Cannabis regardless of moisture content. Production of Hemp is separate from marijuana cultivation, and is considered an acceptable agricultural crop within this bylaw.

Height: The vertical distance measured from the average finished grade of the ground adjoining a structure to the highest point of the structure, as specified in §5.3.

Home Occupation: An occupation carried on in a dwelling unit by a resident thereof. See §4.4.1 F for additional information.

Homeowners Association: A private non-profit organization (corporation, association, or other legal entity) established by a developer to manage, maintain, support, and finance the common facilities and common open space of an FROSD or a subdivision, and to enforce certain covenants and restrictions.

Hotel: An establishment that provides temporary lodging for transient guests which has access to sleeping rooms from a corridor internal to the building. Hotels may or may not have public dining rooms, recreational or entertainment amenities, conference facilities, or personal service facilities for the guests.

Hybrid Marijuana Establishment: a business where the combined sale of both medical and recreational marijuana and products containing and/or associated to legalized marijuana use is authorized. See §4.8.8 F for additional information.

Impervious Surface: A surface that has been compacted or covered with a layer of material such that it prevents or impedes the infiltration of water into the soil. Examples include, but are not limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, and compacted gravel or clay surfaces.

Individual Letter Sign: A wall sign consisting of individual letters mounted to a building surface without any background or frame.

Industry, Heavy: Manufacturing or other enterprises with significant external effects, or which pose significant risks due to the involvement of explosives, radioactive materials, poisons, pesticides, herbicides, or other hazardous materials in the manufacturing or other processes.

Industry, Light: A use that involves the manufacturing, production, processing, fabrication, assembly, packaging, treatment, or repair of finished products, predominantly from previously prepared or refined materials or raw materials that do not need refining.

Inn: A building that contains a dwelling unit occupied by an owner or resident manager in which up to ten guest rooms are offered on a day to day basis to the general public for compensation, either with or without meals.

Interim Wellhead Protection Area (IWPA): The primary protected recharge area for public water supply groundwater sources in the absence of an approved Zone II, as determined by MA DEP.

Kennel: A structure used for the boarding, breeding, raising, or training of dogs, cats, or other household pets.

Large Solar Energy Facility: A commercial solar facility whose primary purpose is electrical generation for the wholesale electricity markets. It includes service and access roads, equipment, machinery and structures utilized in connection with the conversion of solar energy into electrical power with a rated nameplate capacity of greater than 100kW (0.1MW).

Leachable Wastes: Waste materials capable of releasing water-borne contaminants into the environment, including but not limited to solid wastes, sludge, sewage, pesticides, and fertilizer waste.

Livestock: All cattle or animals of the bovine species; all horses, mules, burros, and asses or animals of the equine species; all goats or animals of the caprine species; all swine or animals of the porcine species; and all sheep or animals of the ovine species.

Local Event Sign: A sign, which is to be portable, to announce a church bazaar, fair, circus, carnival, festival, business or shop opening, special sale by a store or business or similar event. Such sign shall identify the event and the date of the event, and it may display the event's sponsor, organizer or main feature.

Lodging House: See "Non-family Accommodations".

Lot (aka Parcel): A contiguous piece of land in identical ownership throughout, bounded by other lots or streets and not divided by a street, river or railroad, and used or set aside and available for use as a site for one or more buildings or other definite purpose. For the purpose of this bylaw, a lot may or may not coincide with a lot of record.

Lot of Record: A lot recorded in the Hampshire District Registry of Deeds or in the Land Court of the Commonwealth of Massachusetts either as an individual lot or as a lot within a subdivision.

Marijuana Cultivation Site: a business where the cultivation, possession, processing (including development of related products such as food, tinctures, aerosols, oils, or ointments), warehousing, distribution, transferring and transporting of marijuana and products containing marijuana is authorized. See §4.8.8 F for additional information.

Marijuana Cultivation Structure: a structure that is equipped with climate control systems, such as heating and ventilation capabilities, and that uses a combination of natural and supplemental artificial lighting for marijuana cultivation.

Marijuana Facility/Dispensary: see "Registered Marijuana Dispensary" (RMD).

Marijuana Delivery Operator:

An entity licensed to purchase at Wholesale and Warehouse Finished Marijuana Products acquired from a Marijuana Cultivator, Marijuana Product Manufacturer, and Microbusiness, sell and deliver Finished Marijuana Products, Marijuana Accessories and Marijuana Branded Goods directly to Consumers, but is not authorized to Repackage Marijuana or Marijuana Products or operate a storefront under this license.

Medical Marijuana Establishment: a business where the possession, sale, distribution, dispensing and administration of medical marijuana and products containing medical marijuana is authorized. See §4.8.8 F for additional information.

Menu Sign: A sign associated with a walk up or drive-thru window for ordering food or merchandise designed to be readable from within twenty (20) feet and not readily readable by incidental passersby.

Microbrewery: An establishment that specializes in the production and manufacturing of beer/malt beverages and sells at least 25 percent or more of its beer/malt beverages for on-site consumption. Such establishments can sell their beer/malt beverages at wholesale under the regulations set forth in M.G.L. Ch. 138. This definition includes brewpubs, taprooms, and craft breweries. Microbreweries located in the Rural Residential District must have a Farmer Brewery license under M.G.L. Ch.138 §19C and shall produce no more than 1,000 barrels (31,000 gallons) of beer/malt beverages annually. Microbreweries located in all other zoning districts may have either a farmer brewery license (M.G.L. Ch.138 §19C) or a pub brewery license (M.G.L. Ch.138 §19D) and shall produce no more than 15,000 barrels (472,000 gallons) of beer/malt beverages annually.

Mining: The removal or relocation of geologic materials such as but not limited to topsoil, sand, gravel, metallic ores, and bedrock.

Marijuana Microbusiness:

A co-located Marijuana Establishment that can be either a Tier 1 Marijuana Cultivator or Marijuana Product Manufacturer or both, in compliance with the operating procedures for each license. A Microbusiness that is a Marijuana Product Manufacturer may purchase no more than 2,000 pounds of marijuana per year from other Marijuana Establishments.

Mobile Home (aka Manufactured Home): A structure, built in conformance to the National Manufactured Home Construction and Safety Standards which is transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling unit with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

Mobile Home Park: Premises which have been planned and improved for the placement of two or more mobile homes.

Mobile Storage Unit: A storage unit less than 20', without a wheeled chassis that is designed to be hauled from one location to another on a truck, used for the storage of goods and materials; often marked for temporary (i.e. ninety (90) days or fewer) storage at residential dwellings; also marketed as "pods" by storage and moving companies. Mobile Storage Units shall be considered

a permanent storage structure and must meet all zoning bylaw and building code requirements if it is in place for than ninety (90) days.

Motel: An establishment which provides temporary lodging for transient guests and in which the rooms are directly accessible from an outdoor parking area.

Motor Vehicle Sales: A lot and/or structure where motor vehicles are on display for sale and service. May include recreational vehicles including motor homes, boats, and off-road vehicles, or vehicles and equipment for agricultural or construction use (e.g. tractors, back-hoes).

Net Useable Area: The total area of a parcel minus the area of wetlands as defined in the Massachusetts Wetlands Protection Act (MGL c. 131 §40).

Nonconforming Lot: A lot which does not conform to the dimensional regulations of the district in which it is situated (e.g. lot size or frontage).

Nonconforming Structure: A structure which does not conform to the dimensional and bulk regulations of the district in which it is situated (e.g. setbacks, height, building coverage).

Nonconforming Use: A use which does not conform to the use regulations of the district in which it is situated.

Non-Family Accommodations: Establishments that provide lodging for five or more persons not within the second degree of kindred to the person conducting the establishment, in facilities such as boarding houses, lodging houses, dormitories, or similar accommodations. For the purposes of this Zoning Bylaw, this definition does not include hotels.

Office: A place (room, suite of rooms, or building) for the transaction of business where the functions of conducting the business or profession are performed, records are kept or services rendered, but where little or no retail sales are offered and where no manufacturing, assembling or fabricating takes place. Examples include but are not limited to professional services such as lawyers, accountants, engineers, or architects; financial businesses such as lenders, brokerage houses or real estate agents; corporate headquarters; data processing; sales offices; government offices and public utility offices; TV and radio studios; and healthcare facilities. Office uses may be either the primary use or a secondary (accessory) use.

Office Building: A building used primarily for offices.

Off-premises Sign: A sign which advertises a business, service, product, commodity, entertainment or similar object or activity which is conducted, sold, or offered on a lot other than the lot on which the sign is erected.

Open Space: Undeveloped land set aside in common or individual ownership, with conservation easements or other deed restrictions to ensure that the land will remain permanently open and undeveloped.

Overspeed Control: The action of a control system, or part of such system, that prevents excessive rotor speed in a wind turbine.

Park: A municipally, state, or privately owned area that is used for active or passive recreation, or a place dedicated to the use of the public, which may include equipment and facilities for active recreation and play such as playfields, play structures, courts, swings, slides, dog parks, pools, splash parks, public assembly and accessory uses such as restrooms. It may also include areas for passive recreation such as gardens, walking/hiking trails, picnic areas, benches, tables, seating

areas, and undeveloped open space. A park may also serve as an area for formalized sanctioned events, civic gatherings, a place for reflection or remembrance (such as a monument park), and accommodate related municipal uses such as educational facilities, or facilities for storage and maintenance of equipment used in the park.

Pennant Sign: Any lightweight plastic, fabric or other material, whether or not containing a message of any kind, suspended from a rope, wire or string, usually in series, designed to move in the wind.

Permanent Sign: A sign that is permanently attached to a building or having in-ground supporting structure(s) or braces.

Permitting Authority: The Building Inspector for projects that require only a building permit, the Planning Board for projects requiring site plan review and/or certain special permits, or the Zoning Board of Appeals for certain special permits, variances, or certain appeals.

Photovoltaic System: (also referred to as Photovoltaic Installation) – An active solar energy system that converts solar energy directly into electricity.

Political Sign: A sign designated to influence the action of voters for the passage or defeat of a measure, or the election of a candidate to a public office at a national, state, county or local election.

Potential Drinking Water Sources: Areas which could provide significant potable water in the future.

Poultry: Any domesticated fowl, including but not limited to chickens, ducks, geese, turkeys, and pheasants (including peafowl).

Pre-Existing Legal Nonconformity: A lot, structure, or use that was in compliance with the zoning bylaw in effect at the time of creation of the lot, construction of the structure, or establishment of the use, but which due to amendments to the zoning bylaw, is no longer in compliance. Includes lots, structures, and uses in existence prior to the enactment of zoning which are not in compliance with the current bylaw.

Prime Agricultural Soils: Agricultural land with soils designated as prime or of statewide significance by the U.S. Natural Resources Conservation Service.

Private Membership Club or Lodge: An organization or facility which is open to people upon invitation, nomination, or payment of fees or dues, for social, recreational, and/or entertainment activities.

Product Sign: An affixed sign attached to a structure defining a product being offered for sale at an establishment.

Projecting Sign: A sign which is permanently affixed to the exterior of a building such that the face of the sign is perpendicular to the building surface to which it is attached.

Public Garage: A structure owned by a public or public-subsidized entity that provides space for automobile parking for the general public.

Rated Nameplate Capacity: The maximum rated output of electric power production equipment. The manufacturer typically specifies this output with a "nameplate" on the equipment.

Recreational Marijuana Establishment: a business where the possession, sale, distribution, dispensing and administration of recreational marijuana and products containing and/or associated to recreational marijuana (e.g., aerosols, art, clothing, food, jewelry, literature, oils or ointments, tinctures, etc.) is authorized.

Registered Marijuana Dispensary (RMD): A use operated by an entity registered and approved by the MA Department of Public Health in accordance with 105 CMR 725.000, and pursuant to all other applicable state laws and regulations, also to be known as a Medical Marijuana Treatment Center, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. A RMD shall explicitly include facilities which cultivate and process medical marijuana, and which may also dispense and deliver medical marijuana and related products. The cultivation and processing of medical marijuana in accordance with these regulations is considered to be a manufacturing use and is not agriculturally exempt from zoning.

Real Estate Sign: A sign which is used to offer for sale, lease, rent or auction the property upon which the sign is placed.

Recharge Areas: The portion of a drainage basin where water enters a saturated zone and the net flow of groundwater is directed from the saturated zone to an aquifer or waterbody. Recharge areas may include areas designated as Zone I, Zone II, or Zone III by MA DEP.

Recycling Center: A facility where recyclable material is collected from the public and sorted, processed, and/or baled in preparation for shipment to others for remanufacture into new materials. This shall not include auto salvage or a facility as defined in MGL c. 111 §150A.

Retail Sales and Service: Businesses involved in the sale, lease or rent of new or used products or the provision of services or consumer product repair to the general public. These uses are further categorized as small scale or large scale, which is determined based on the character of the surrounding uses and area: small scale is generally in more densely developed areas such as the downtown, while large scale is generally in outlying areas where large parcels and open spaces afford the opportunity for large buildings and parking areas.

Roof-Mounted Solar Photovoltaic Installation: A solar photovoltaic system that is structurally mounted to the roof of a building.

Rotor: The blades and hub of a wind turbine that rotate during turbine operation.

Sandwich Board Sign: Single or double sided, "A" frame type signs, that are moveable and taken down during non-business hours.

Self-service Storage Facility: A building or group of buildings divided into separate compartments leased to and designed to meet the storage needs of individuals, organizations, and businesses.

Setback: The distance from the lot line to the nearest point of a structure, measured at right angles to the property line. For the purpose of this definition, "structure" does not include signs, retaining walls, fences, tents, poles, swing sets, and other similar items.

Front: The setback from the front property line (along the frontage).

Side: The setback from the side property lines.

Rear: The setback from the rear property line.

Setback Line: A line that is parallel to a property line (front, side, or rear) that lies at the distance required in this Zoning Bylaw for the district in which the property lies.

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

Sign: Any words, lettering, parts or letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or trademarks, whether stationary or portable, by which anything is made known, such as are used to designate or locate an individual, a firm, an association, a corporation, a profession, a business or a commodity or product, which are visible from a public or private street or right-of-way and used to attract attention.

Sign Area: The total surface area of a sign, including all lettering, wording, designs, symbols, background and frame, but not including any support structure or bracing incidental to the sign. The sign area of an individual letter sign, awning sign or irregular shaped sign shall be the area of the smallest rectangle into which the letters, designs or symbols will fit. Where sign faces are placed back-to-back and face in opposite directions, the sign area shall be defined as the area of one face of the sign. Sign area is determined by calculating the rectangular area based on taking the most extreme points of the sign face in the horizontal and vertical directions to obtain the square footage.

Site Analysis Map: A map which identifies, locates, and describes noteworthy features to be taken into consideration in a site or subdivision design, such as vegetation, wetlands, steep slopes, farmland soils, historic or cultural features, threatened or endangered species, unusual geological formations, and scenic views or viewsheds.

Small Solar Energy Facility: All equipment, machinery and structures utilized in connection with the conversion of solar energy into electrical power. This includes, but is not limited to, storage, electrical collection and supply equipment, and transformers that have a total rated nameplate capacity of not more than 100kW (0.1MW). As a point of clarification, small solar energy facilities are not subject to the zoning regulations in §4.8.3, whether ground or building mounted.

Solar Access: The access of a solar energy system to direct sunlight

Solar Collector: A device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.

Solar Photovoltaic (PV) Array: An arrangement of solar photovoltaic panels

Solar Parking Canopy: An elevated structure that hosts solar panels installed over parking lots or other hardscape areas. Also may be called solar carport installation.

Special Permit Granting Authority (SPGA): The Board responsible for granting a Special Permit under these Zoning Bylaws; can be either the Planning Board or the Zoning Board of Appeals, as stipulated in the various sections of this Bylaw.

Sponsor Sign: A sign containing the name of a commercial venture when advertising a noncommercial event; provided the commercial venture portion of the sign does not comprise more than twenty-five percent (25%) of the total sign area.

Sports Field Sign: A sign mounted within an indoor or outdoor sports venue that is placed so as primarily be noticed by attendees of the event with only incidental viewing by those passing by outside the venue.

Story: That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above.

Street: Any public or private way laid out for vehicular traffic.

Street, Private: A street which has not been dedicated and publicly accepted by any governmental entity.

Street, Public: A street which has been dedicated and publicly accepted by a governmental entity, and which has not been discontinued or abandoned by any official government action.

Structure: Any construction or assemblage of materials with a fixed location, including a building, platform, tower, pole, sign, fence, wall, dam, swimming pool, or any part of the above and requiring piling, footings, or a foundation for support.

Tag Sale Sign: A sign indicating a private sale of used goods.

Tank Farm: A facility containing any number of above ground tanks for the storage of petroleum products, chemicals, or other materials where the aggregate capacity of all storage tanks is more than 10,000 gallons.

Taxicab Business: A service that offers transportation in passenger automobiles, vans, and limousines to persons including those who are handicapped in return for remuneration. The business may include facilities for servicing and repairing the vehicles.

Temporary Sign: A sign that is used for a limited period of time.

Tourist House: See "Inn".

Tow Service/Tow Yard: An establishment that provides for the removal and temporary storage of vehicles but does not include disassembly, disposal, salvage, or storage of inoperable vehicles for greater than 12 months.

Town Line: The Town of Ware boundary line shall be considered a property line. In the event the town line dissects a tract of land all setbacks appropriate to the side, rear, or front setback of the Dimensional Requirements of the Dimensional Regulations of The Zoning ByLaw shall apply.

Toxic or Hazardous Material: Any substance or combination of substances or material or combination of materials or chemical or mixture of chemicals which because of its quantity, concentration or physical, chemical or infectious characteristics poses or may pose a present or potential threat to human health, safety or welfare or to the environment if such substance or mixture were discharged to land or waters of the Town, including but not limited to organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids, and alkalis, and all substances defined as Toxic or Hazardous under M.G.L. Chapter 21C and 21E, and 310 CMR 30.00, and those chemicals on the list in Committee Print Number 99-169 of the Senate Committee on Environment and Public Works, titled "Toxic Chemicals Subject to Section 313 of the Emergency Planning Community Right-to-Know Act of 1986: (including any revised version of the list as may be made pursuant to subsection (d) or (e), and those hazardous substances and/or materials or chemicals set forth in 40 CFR 261 et. seq.

Transient Vendor Sign: Sign associated with a vendor that temporarily sells merchandise in an open air setting or out of a truck, tent or other temporary structure at a location not associated with a locally sponsored event, bazaar, fair, carnival, festival, store promotion, or in association with any other locally based civic or non-profit or charitable function or organization.

Utility-Scale Solar Facility: a solar photovoltaic installation over 15MW in size that connects direction into h voltage transmission line.

Utility, Major: Infrastructure services providing Town-wide service, such as but not limited to public water supply wells, water towers, waste treatment plants, communication towers, electrical substations, and renewable energy sources (such as wind, solar, and hydro).

Utility, Minor: Infrastructure services that need to be located in or near the area where the service is provided, such as but not limited to water or sewage pump stations, stormwater retention or detention facilities, and telephone exchanges.

Wall Sign: A sign which is painted or otherwise permanently affixed to a vertical exterior surface of a building or structure with the face of the sign positioned parallel with the wall to which the sign is mounted, and including such a sign affixed to a parapet or to the lower slope of a gambrel or mansard roof.

Warehouse: A facility for storage and/or distribution of manufactured products, supplies, and equipment; does not include self-service storage facilities.

Wetlands: Areas of land that are inundated or saturated by water at a frequency and duration sufficient to support vegetation typically adapted for life in saturated conditions, more specifically as described in MGL c. 131 §40.

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

Wholesale: An establishment engaged in the sale and/or distribution of merchandise to other businesses – commercial, industrial, institutional, etc. – and not directly to the general public.

Wind Energy Facility (WEF): All equipment, machinery, and structures utilized in connection with the conversion of wind to electricity. This includes but is not limited to all transmission, storage, collection and supply equipment, substations, transformers, site access, service roads, and machinery associated with the use. A wind energy conversion facility may consist of one or more wind turbines.

Wind Monitoring Tower: A facility consisting of a tower and related wind-measuring devices that is solely used to measure the speed and characteristics of winds.

Window Sign: A sign, picture, symbol or message that is placed inside a window, drawn, painted or etched on the window pane or otherwise attached in or on a window and visible from the exterior of the window, not including any part of a customary window display of merchandise or other product.

Wind Turbine: A device that converts kinetic energy of the wind into rotational energy to turn an electrical generator shaft. A wind turbine typically consists of a rotor, gearbox and generator, and is installed at the top of a supporting tower.

Yard: An area of land that lies between the property line (front, side, or rear) and the setback line. Front and rear yards extend from one side property line to the other, while side yards extend from the front setback line to the rear setback line.

Zone II Groundwater Protection District: The DEP approved area defined as that area of an aquifer which contributes water to a well under the most severe pumping and recharge conditions that can be realistically anticipated (180 days of pumping at safe yield, with no recharge from precipitation). It is bounded by the groundwater divides which result from pumping the well and by the contact of the aquifer with less permeable materials such as till or bedrock. In some cases, streams or lakes may act as recharge boundaries. In all cases, Zone IIs shall extend up gradient to its point of intersection with prevailing hydrogeologic boundaries (a groundwater flow divide, a contact with till or bedrock, or a recharge boundary). (Source: 310 CMR 22.02).

	Residential					Mixed ¹			Commercial/Industrial		
	RQ	RR	SR	BLR	DTR	RB	DTC	MY	HC	CI	I
A Residential Uses											
1 Single Family	SP	Y	Y	Y	Y	Y	Y	Y	Y	N	N
2 Two-Family	N	SP	Y	N	Y	SP	Y	Y	SP	N	N
3 Multi-Family	N	N	SP	N	Y	N	Y	Y	Y	N	N
4 Mobile Home Park	N	SP	N	N	N	N	N	N	N	N	N
5 Flexible Resid. Open Space Development (see § 4.8.1)	N	Y	Y	N	Y	Y	N	N	N	N	N
B Public & Civic Uses²											
1 Private Nonprofit Library or Museum	N	SP	SP	SP	SP	Y	Y	Y	Y	Y	N
2 Government Facilities	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
3 Community Center	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4 Recreation, publicly owned lands	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
5 Family Daycare Home	N	Y	Y	Y	Y	Y	SP	N	N	N	N
6 Large Family Daycare Home	N	SP	SP	SP	SP	SP	SP	N	N	N	N
7 Adult Daycare Center	N	N	SP	N	SP	SP	Y	Y	Y	N	N
8 Nursing or Convalescent Home	N	SP	SP	N	SP	SP	SP	SP	SP	N	N
9 Hospital	N	N	SP	N	N	N	SP	SP	SP	N	N
10 Cemetery	N	SP	SP	N	SP	SP	N	N	SP	N	N
11 Utility, Minor	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
12 Utility, Major	N	SP	SP	N	SP	SP	SP	SP	SP	SP	Y
13 Large Ground Mounted Solar Facility (see § 4.8.3)	SP	SP	N	N	N	SP	N	N	Y	Y	Y
14 Wind Energy Facility (see § 4.8.4)	SP	SP	N	N	N	N	N	N	N	N	N
15 Wireless Communication Facilities (see § 4.8.2)	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
C Agricultural Uses											
1 Farm ³ at least 5 acres in size	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
2 Farm ³ less than 5 acres in size	Y	Y	SP	N	SP	Y	N	SP	Y	N	Y
3 Commercial Greenhouse ⁴	N	SP	SP	N	SP	Y	N	Y	Y	Y	Y
4 Smokehouses	N	SP	N	N	N	N	N	N	SP	N	Y
5 Equestrian Stable ⁴	N	Y	SP	N	SP	Y	N	N	Y	N	N
D Office and Research Uses²											
1 Business, Finance, or Other Professional Offices	N	N	SP	N	SP	Y	Y	Y	Y	Y	Y
2 Office or clinic for health services	N	N	SP	N	SP	Y	Y	Y	Y	N	N
3 Trade, Professional, or Other School (Private, for Profit)	N	N	N	N	N	Y	Y	Y	Y	N	N
4 Laboratory	N	N	SP	N	N	SP	SP	Y	Y	Y	Y
5 Research Facility	N	N	SP	N	N	SP	SP	SP	SP	SP	SP
6 Radio or Television Studio	N	N	N	N	N	Y	Y	Y	Y	Y	N
E Retail Business & Consumer Service Uses²											
1 Adult entertainment establishment (See § 4.8.6)	N	N	N	N	N	N	N	N	N	N	SP
2 Auto Body Shop	N	N	N	N	N	SP	SP	SP	SP	SP	SP
3 Auto Fuel Station (with or without convenience store)	N	N	N	N	N	Y	N	N	Y	Y	Y
4 Auto Service	N	N	N	N	N	Y	SP	SP	Y	Y	Y
5 Banks	N	N	N	N	N	Y	Y	Y	Y	Y	N
6 Campground	N	Y	N	N	N	N	N	N	Y	N	N
7 Car Wash	N	N	N	N	N	Y	N	N	Y	Y	Y
8 Construction Trades	N	SP	N	N	N	Y	N	SP	Y	Y	Y
9 Eating establishment, drive-in/drive-thru	N	SP	N	N	N	SP	N	N	Y	Y	N
10 Eating establishment, high turnover	N	N	N	N	SP	Y	Y	Y	Y	Y	N
11 Eating establishment, low turnover	N	SP	N	N	SP	Y	Y	Y	Y	Y	N
12 Eating establishment, specializing in serving alcohol	N	N	N	N	N	SP	SP	SP	SP	Y	N
13 Microbrewery (See §2.2)	N	SP	SP	N	N	SP	SP	SP	SP	SP	N
14 Craft Distillery	N	SP	SP	N	N	SP	SP	SP	SP	SP	N
15 Winery ⁵	N	SP	SP	N	N	SP	SP	SP	SP	SP	N
16 Funeral home, mortuary, or undertaking establishment	N	N	SP	N	SP	Y	N	N	Y	N	N
17 Hotel	N	N	N	N	N	SP	SP	SP	Y	Y	N
18 Indoor entertainment or recreation facility ⁶	N	N	N	N	N	Y	Y	Y	Y	Y	N
19 Inn, Bed & Breakfast, Tourist House	N	SP	SP	SP	SP	Y	Y	SP	Y	N	N
20 Kennels, pet day care establishments	N	SP	N	N	N	SP	N	N	Y	Y	N
21 Motor Vehicle Sales	N	N	N	N	N	Y	N	N	Y	Y	N
22 Non-Family Accommodations	N	SP	SP	N	SP	SP	SP	SP	Y	N	N
23 Outdoor recreation facility ⁷	N	SP	SP	SP	N	SP	N	SP	SP	SP	N
24 Parking facilities	N	N	N	N	SP	N	Y	Y	Y	Y	N
25 Personal Service ⁸	N	N	SP	N	SP	Y	Y	Y	Y	Y	N
26 Private membership club or lodge	N	Y	SP	SP	SP	Y	Y	Y	Y	N	N
27 Recycling Center, Composting Facility	N	N	N	N	N	N	N	SP	SP	SP	SP
28 Retail sales & service, Large scale ⁹ w/outside storage	N	N	N	N	N	N	N	N	Y	Y	N
29 Retail sales & service, Large scale ⁹ w/no outside storage	N	N	N	N	N	N	SP	SP	Y	Y	N
30 Retail sales & service, small scale ¹⁰ w/outside storage	N	N	N	N	N	Y	N	SP	Y	Y	Y
31 Retail sales & service, small scale ¹⁰ w/no outside storage	N	SP	SP	N	SP	Y	Y	Y	Y	Y	Y
32 Sales of agricultural or horticultural products and associated supplies, partly or wholly outdoors, not associated with an agricultural use (category C above)	N	SP	N	N	N	Y	SP	Y	Y	Y	N
33 Self-service storage facility	N	N	N	N	N	Y	N	Y	Y	Y	Y
34 Taxicab Business	N	N	N	N	N	SP	SP	Y	Y	Y	Y
35 Tow Service	N	N	N	N	N	SP	N	N	SP	SP	SP
36 Veterinary or pet grooming establishment	N	SP	SP	N	SP	SP	Y	Y	Y	Y	N
F Industrial Uses²											
1 Auto Salvage	N	N	N	N	N	N	N	N	N	N	SP
2 Aviation field	N	SP	N	N	N	N	N	N	N	N	SP
3 Earth Removal (see § 4.8.5)	N	SP	N	N	N	N	N	N	N	SP	SP
4 Earth Processing (see § 4.3.27)	N	N	N	N	N	N	N	N	SP	SP	SP
5 Freight or trucking terminal	N	N	N	N	N	N	N	N	N	SP	Y
6 Industry, Heavy ¹¹	N	N	N	N	N	N	N	N	N	SP	SP
7 Industry, Light ¹²	N	N	N	N	N	SP	N	SP	SP	Y	Y
8 Solid Waste Disposal Facilities ¹³	N	N	N	N	N	N	N	N	N	SP	SP
9 Tank Farm	N	N	N	N	N	N	N	N	N	SP	SP
10 Warehouse	N	N	N	N	N	SP	N	Y	N	Y	Y
11 Wholesale	N	N	N	N	N	SP	SP	Y	SP	Y	Y
12 Wood processing, lumber mill	N	SP	N	N	N	SP	N	N	SP	SP	Y
G Marijuana (Cannabis)¹⁵											
1 Marijuana Cultivation Facility	N	SP	N	N	N	N	N	SP	N	SP	SP
2 Medical, Recreation or Hybrid Marijuana Sales	N	N	N	N	N	N	SP	SP	SP	N	N
3 Marijuana Delivery	N	N	N	N	N	N	SP	SP	SP	N	N

Footnotes:

- In the Mixed Use districts, one parcel can have more than one principal use. See §4.1.1 E.
- See also §7.4 to determine if a proposed project will require site plan review.
- Definition of farm includes the use of land for agriculture, horticulture, silviculture, aquaculture, or viticulture. See §2.2.
- If on a parcel of 5 acres or greater, this use is exempt from Zoning but must comply with the dimensional requirements in Article 5.
- This excludes farm-wineries or wineries that grow and use grapes on site.
- Indoor entertainment or recreation facility examples: bowling alley, arcade, roller rink, tennis courts, swimming, theater, etc.
- Outdoor recreation facility examples: amusement park, country club, golf course, tennis courts, etc.
- Personal service examples: hair salon, barber, tanning salon, massage therapist, nail salon, tailor, shoe repair, etc.
- Large scale retail sales and service examples: "big box" stores, full service grocery stores, shopping centers, etc.
- Small scale retail sales and service examples: gift shops, clothing stores, small specialty stores, convenience stores (without fuel sales), etc.
- Specific uses listed in the Table of Uses that could also be categorized as heavy industry shall be regulated under the specific use.
- Specific uses listed in the Table of Uses that could also be categorized as light industry shall be regulated under the specific use.
- As defined in MGL c. 111 §150A.
- Per Article 4.7.1 Any use not specifically or generically listed in §4.2, Use Table, or not otherwise permitted in a district shall be deemed as prohibited. See also §7.5.1.
- Subject to MGL Chapter 40A and 105 CMR 725.000, Registered and Off-site Medical Marijuana Dispensaries: and 935 CMR 500.00.

4.3 **Specific Permitting Standards.** The following standards must be met for the particular use to be approved by the permitting authority. Note, the numbers in parenthesis refer to the item numbers in the Table of Uses.

4.3.1 *Single Family (A-1) or Two Family (A-2).* In the MY district, a single housing unit or two housing units are permitted provided they are located in an upper floor or an area on a street level floor that is to the rear of a nonresidential use; the building must contain space designated for nonresidential uses allowed in the MY district as well as residential units (i.e. have mixed uses).

4.3.2 *Multi-Family (A-3).* In the SR or DTR districts:

- A. Multi-family buildings may not contain more than 12 dwelling units in a single building.
- B. Multi-family projects shall be designed to comply with all design standards in Article 6 of this Zoning Bylaw.
- C. An impact statement must be submitted with the site plan application for all projects proposing ten or more dwelling units, and must include a discussion of the probable impacts of the proposed development on municipal utilities, traffic, public schools, municipal service costs, and the supply of housing for low and moderate income households.

4.3.3 *Mobile Home Park (A-4).* New mobile home parks must meet the following:

- A. Shall be located on a parcel of at least ten acres.
 - B. The site plan shall meet the requirements of §7.4 and shall show all park roads and individual sites for the placement of mobile homes, with no more than one mobile home on one site.
 - C. Individual sites for placement of mobile homes shall be at least 12,000 square feet, with 75 feet of frontage on a park road.
 - D. Mobile homes and all accessory structures attached to the mobile home shall be placed at least 40 feet from the front site line and 15 feet from any individual side or rear site line.
 - E. Water supply and sewage disposal systems, whether individual private systems or community systems, must meet all applicable requirements of state or other local authorities, including provisions for fire protection.
 - F. Park roads must be constructed in accordance with the Ware Subdivision Regulations, with the exception that roads may be 24 feet in width (20-foot travel surface plus 2 foot shoulders on each side). On-street parking shall be prohibited.
 - G. Recreational areas must be provided, at the rate of one acre for every ten acres of area developed for the mobile home park.
 - H. A community center, which may include a laundry facility for use by the residents of the mobile home park, is permitted provided it is included in the plans approved by the Planning Board.
 - I. No mobile home may be placed within the park until the Planning Board certifies that all site work has been completed for the phase within which the mobile home is to be placed.
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- 4.3.4 *Major Utilities* (B-12) are permitted provided they are appropriately screened with landscaping and/or fencing, at the discretion of the SPGA.
- 4.3.5 *Large Ground Mounted Solar Facilities* (B-13) are permitted in accordance with §4.8.3.
- 4.3.6 *Wind Energy Facilities* (B-14) are permitted in accordance with §4.8.4.
- 4.3.7 *Farms less than five acres in size* (C-2) are permitted in the SR, DTR, and MY districts provided the SPGA makes a finding that the proposed use will have a minimal detrimental impact on all abutting land, regardless of current use, and any buildings for housing animals shall be located a minimum of 100 feet from any property boundary.
- 4.3.8 *Equestrian Stables* (C-5) are permitted in the SR and DTR districts on parcels less than five acres in size provided the SPGA makes a finding that the proposed use will have a minimal detrimental impact on all abutting land, regardless of current use, any buildings for housing animals shall be located a minimum of 100 feet from any property boundary, and any paddock area shall be located (and fenced) a minimum of 30 feet from any property boundary.
- 4.3.9 *Laboratories* (D-4) and *Research Facilities* (D-5) are permitted in the SR district provided they are located near a hospital and are related to the health care industry.
- 4.3.10 *Auto Body Shops* (E-2) are permitted by special permit in the RB, DTC or MY districts provided that all activities are conducted entirely within a building, and disassembled vehicles and/or parts are not stored outdoors. At the discretion of the SPGA in consideration of nearby uses, such buildings may be required to be sound-insulated and designed to protect the neighborhood from vehicle exhaust, paint fumes, and other by-products of vehicle repairs and restoration.
- 4.3.11 *Auto Service* (E-4) is permitted in the DTC or MY districts provided that repair activities are conducted entirely within a building, and disassembled vehicles are not stored outdoors. At the discretion of the SPGA in consideration of nearby uses, such buildings may be required to be sound-insulated and designed to protect the neighborhood from vehicle exhaust and other by-products of vehicle servicing.
- 4.3.12 *Construction Trades* (E-8) are permitted by special permit in the RR district provided the parcel is a minimum of three acres in size, the building or outside area used for storage of equipment or materials is a minimum of 50 feet from any lot line and 200 feet from any existing dwelling, and the area between any abutting property and the storage area is vegetated with either dense natural vegetation or landscaped to provide a dense buffer.
- 4.3.13 *Eating Establishments, Drive-in or Drive-thru* (E-9) are permitted in the RR district provided they are associated with an agricultural use (e.g. an ice cream stand at a dairy farm). Note that most such uses will likely be accessory to the primary use of agriculture but this provision allows separate lots in separate ownership to own and operate such eating establishments.
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- 4.3.14 *Inns, Bed & Breakfasts, and Tourist Homes* (E-19) shall be limited to a maximum of eight rooms for guests, and all required parking shall be provided on-site.
- 4.3.15 *Kennels or Pet Day Care Establishments* (E-20) are permitted in the RR district provided any buildings housing the animals are either located in an area where sound will be buffered so as to not cause a disturbance to the neighborhood or the buildings are sound-insulated, all dog wastes shall be collected and properly disposed of in a manner to prevent pollution of surface or ground waters; and dogs shall not be permitted to bark excessively at night (e.g. for periods longer than fifteen minutes) so as to create a nuisance.
- 4.3.16 *Non-family Accommodations* (E-22) are limited to a maximum number of fifteen residents in addition to the property owner or resident manager's family, and all required parking shall be provided on-site.
- 4.3.17 *Outdoor Recreation Facilities* (E-23) are permitted provided they have a minimum 50-foot buffer between any activity areas and the exterior boundary lines of the parcel.
- 4.3.18 *Parking Facilities* (E-24) are permitted within the BLR district provided they are open to the public or to a lake association and are for the purpose of providing parking for access to the lake. Such parking facilities shall be designed to minimize sedimentation of the lake and to minimize the visual impact of parked vehicles on abutting properties.
- 4.3.19 *Private Membership Clubs or Lodges* (E-26) are permitted provided all activity is conducted within the building or off the premises, or the SPGA makes a finding that there will be no detrimental impact to properties within the neighborhood. In those districts where such establishments are permitted by right, those that propose to serve alcohol or to have outdoor activities (e.g. occasional events or everyday games or sports) shall be subject to the granting of a special permit, for the purpose of ensuring that potential negative impacts on the neighborhood are mitigated.
- 4.3.20 *Small Scale Retail Sales and Service, with no Outside Storage* establishments (E-31) are permitted in the RR district by special permit provided they are a maximum of 3,000 square feet GFA inclusive of retail, office, and storage spaces.
- 4.3.21 *Taxicab Businesses* (E-34) are permitted by special permit in the DTC district provided all parking associated with the business (vehicles for hire and employees) is on-site or off-site on a parcel under the business owner's control, that no spaces within public parking lots will be utilized, and that no on-street spaces will be utilized.
- 4.3.22 *Veterinarian or Pet Grooming Establishments* (E-36) are permitted in the SR or DTR districts provided they are sound-insulated and provide adequate off-street parking as determined by the SPGA.
- 4.3.23 *Registered Marijuana Facilities* (G-3) are permitted in the DTC, MY, and HC districts subject to the provisions of 4.8.8.

4.3.24 *Industrial classification uses* (all uses listed under F) are required to meet the following performance standards whether permitted by right or by special permit. When reviewing an application, the permitting authority may require the submission of a statement from an independent authority qualified in addressing a specific type of environmental concern indicating that the proposed structure and/or use will not constitute a detriment to the community with respect to that particular environmental concern. The cost of preparing said statement shall be borne by the applicant. In enforcing these standards, the Building Inspector may call upon specific standards, technical specifications, and the technical expertise of such appropriate federal, state or regional agencies having an interest in the specific kind of environmental disturbance under question.

- A. General. No use shall be conducted in a manner as to emit any dangerous, noxious, injurious, or otherwise objectionable fire, explosion, radioactivity or other hazard; noise or vibration; smoke, dust, odor or other form of environmental pollution; electrical or other disturbance; glare, liquid or solid refuse or wastes; conditions conducive to the breeding of insects, rodents, or other substances, conditions or elements in an amount as to affect adversely the surrounding environment.
- B. Vibration. No vibration shall be produced which is transmitted through the ground and is discernible without the aid of instruments at or at any point beyond the lot line; nor shall any vibration produced exceed 0.002g peak measured at or beyond the lot line using either seismic or electronic vibration measuring equipment.
- C. Noise.
 - 1. The maximum permissible sound-pressure level of any continuous, regular or frequent source of sound produced by any use or activity shall not exceed the following limits at the property line or the sound source: from 7:00 am to 9:00 pm, a maximum dBA level of 70, and from 9:00 pm to 7:00 am, a maximum dBA level of 60.
 - 2. Sound pressure shall be measured at all major lot lines at a height of at least four feet above the ground surface. Noise shall be measured with a sound-level meter meeting the standards of the American Standard Institute, ANSI S 1.4, 1983, Specification for Sound Level Meters, as amended. The instrument shall be set on the A-weighted response scale. Measurements shall be conducted in accordance with ANSI SI 51.2-1962, American Standard Meter for the Physical Measurement of Sound, as amended.
 - 3. Sound levels specified shall not be exceeded for more than 15 minutes in any one day, except for temporary construction or maintenance work, agricultural activity, timber harvesting, church bells, emergency working devices or other similar special circumstance.
 - 4. An intermittent, irregular or infrequent source of sound shall be considered in violation of this section if the source:
 - a) Increases the broadband sound level by more than 10 dBA above ambient;
 - b) Produces a "puretone" condition. A "puretone" condition exists when any octave band center frequency sound-pressure level exceeds the two adjacent center frequency sound-pressure levels by three decibels or more; or

- c) Occurs between the hours of 9:00 p.m. and 7:00 a.m., except in emergency situations.

- D. Air Pollution. Atmospheric emissions of gaseous or particulate matter generated by any land use shall conform to the then current regulations of the Massachusetts Department of Environmental Protection (DEP). If the proposed land use shall be of a nature to arouse the concern of the Building Inspector and/or Planning Board, the applicant may be required to produce plans and specifications of detail sufficient for review by DEP. Determination by DEP that potential exists for emissions in excess of allowable limits shall be grounds for permit refusal.

- E. Nuisance Odors. There shall be no emissions of toxic or noxious matter or objectionable odors of any kind in such quantity as to be readily detectable at any property line of the lot on which the use emitting the toxic or noxious material or odor is located. For the purposes of this Section, toxic or noxious matter is any solid, liquid, or gaseous matter including, but not limited to, gases, vapors, dusts, fumes, and mists, containing properties which by chemical or other means are inherently harmful and likely to destroy life or impair health, or are capable of causing injury to the well-being of persons or damage to property.

- F. Fire and Explosion. All activities and all storage of flammable and explosive materials at any point shall be provided with adequate fire-fighting and fire-suppression devices and equipment.

- G. Radioactive Materials. The handling of radioactive materials, the discharges of such materials into the air and water, and the disposal of radioactive wastes, shall be in conformance with the regulations of the Atomic Energy Commission as set forth in the Title 10, Chapter One, Part 20 – Standards for Protection Against Radiation; as amended; and all applicable regulations of the State of Massachusetts.

- H. Non-Radioactive Liquid or Solid Wastes. There shall be no discharge at any point into any public or private sewage disposal system or stream, or into the ground, of any liquid or solid materials except in accordance with the regulations of the Ware Board of Health and the Massachusetts DEP.

- I. Electromagnetic Radiation. The following standard shall apply. It shall be unlawful to operate, or cause to be operated, any planned or intentional source of electromagnetic radiation or such purposes as communication, experimentation, entertainment, broadcasting, heating, navigation, therapy, vehicle velocity measurement, weather survey, aircraft detection, topographical survey, personal pleasure, or any other use directly or indirectly associated with these purposes which are in conflict with the standards of the Federal Communications Commission regarding such sources of electromagnetic radiation.

- J. Heat and Glare. Except for approved exterior lighting, operations producing heat or glare shall be conducted entirely within an enclosed building. Glare shall be shielded in such a way that it will not be visible from other lots or public ways.

- K. Insects and Rodents. All materials, including wastes, and all grounds and buildings shall be kept in a manner which will not attract or aid the propagation of insects or rodents creating a health hazard.
- L. Waste and Refuse. No waste material or refuse shall be dumped upon, or permitted to remain upon, any part of the lot outside of buildings constructed thereon. Waste material or refuse stored outside buildings shall be placed in completely enclosed containers.
- M. Water Pollution. The use and discharge of substances into lakes, streams or similar water bodies shall not violate the rules and regulations of the Ware Conservation Commission or the standards of the Massachusetts DEP.

4.3.25 *Auto Salvage* (F-1) is permitted by special permit and site plan review in the Industrial (I) district. Unregistered motor vehicles that are stored on site for the purpose of reselling, disassembling, or reusing for parts shall be stored for a period no greater than three (3) years. No person shall establish, operate or maintain an auto salvage yard within one-thousand (1000) feet of the nearest edge of the right-of-way of any interstate or primary highway (Routes 9 and 32) unless such auto salvage yard is:

- screened by natural objects, plantings, fences, or other appropriate means so as to not be visible from the main traveled way of the road system, or otherwise removed from sight as specified by the Special Permit Granting Authority, or
- located within an area within the Industrial (I) zoning district, or
- is not visible from the main traveled way of the road system.

Auto salvage yards shall be placed at least one-hundred (100) feet from the front property line, fifty (50) feet from the side property lines, and one-hundred (100) feet from any residential property line and shall be properly screened as determined by the Special Permit Granting Authority.

4.3.26 *Earth Removal* (F-3) is permitted subject to the provisions of §4.8.7.

4.3.27 *Earth Processing* (F-4) shall be defined as the processing of more than 1000 cubic yards of earth materials (soil, loam, peat, sand, gravel, stone, or compost) brought on site or brought in and stored for processing in any 12-month period, this includes gravel pits. Earth processing shall be allowed by special permit (see §7.2) in the Highway Commercial (HC), Commercial Industrial (CI) and Industrial (I) zoning districts. In addition to a special permit, earth processing operations shall warrant a site plan review by the Special Permit Granting Authority (SPGA). A special permit for earth processing may not be required if:

- Conducted on the site of an earth removal operation that was allowed by special permit (only applicable to earth materials generated on site),
- Conducted on the site of a privately owned subdivision for the sole purpose of developing the private roadway,
- Conducted on the site of, incidental to, and in connection with earth removal necessary for the construction of a principal or accessory structure permitted by the Zoning Bylaw.

- 4.3.28 *Solid Waste Facilities* (F-8) as defined in MGL c. 111 §150A which have received a site assignment pursuant to MGL c. 111 §150A are permitted in the CI and I districts by special permit imposing reasonable conditions on the construction or operation of such facilities.

- 4.3.29 *Wood Processing, Lumber Mills* (F-12) limited to the cutting and/or milling of lumber, timbers, and cordwood from raw trees, shall be permitted in the RR district by special permit provided there is a minimum 100 foot heavily vegetated buffer between the area of wood processing activity and any abutting property (including across a street or stream), and/or the activity is carried on inside a building which is insulated to reduce the negative impacts on abutting properties of noise emanating from the wood processing activity.

- 4.3.30 *Marijuana Cultivation Facilities* (G-1 ~~of the Use Table~~) are permitted in the MY, CI, RR, and I districts subject to the provisions of 4.8.8.

4.8.5 Earth Removal

- A. Intent. It is the intention of this §4.8.5 to protect the public safety and property values; avoid the pollution of water resources by preventing excessive erosion; control noise and protect neighboring residential properties and public ways from any adverse impacts which may be caused by this use; to provide for the restoration of the land for its reuse at the termination of the extractive activity; and to protect the aesthetic quality of the area. These regulations are designed to ensure that land will be useable for residential, nonresidential, or agricultural purposes following the removal of the earth materials.
- B. Applicability
1. The removal of 1,000 cubic yards or more of earth materials (soil, loam, peat, sand, gravel, or stone) from a parcel or contiguous parcels in common ownership in any 12-month period requires a special permit.
 2. The removal of less than 1,000 cubic yards of earth materials from a parcel or contiguous parcels in common ownership is allowed upon the approval of a site plan by the Planning Board, except as provided in paragraph C. Approval of earth removal in this manner is only permitted once; if additional materials are proposed to be removed at a later date, a special permit is required at that time.
 3. The use of an exhausted earth removal site for earth processing or storage of earth materials from another site requires a special permit.
- C. Exemptions. A special permit is not required in the following situations:
1. For moving earth within the limits of a parcel or contiguous parcels in common ownership, ~~provided that no such moving shall take place across or within a street.~~ For the purposes of section 4.8.5, properties separated by a public way are not considered contiguous.
 2. When earth removal is at the site of, incidental to, and in connection with the excavation and grading necessary for the construction of a principal or accessory structure permitted by the Zoning Bylaw. However, earth removal of 500 cubic yards or more will require approval of a site plan by the Planning Board.
 - a. For the purpose of Earth Removal, the definition of "structure" within §4.8.5 shall not include: pole, sign, fence, wall, any small constructs (less than 100 sq.ft.), or any part of the above.
 - i. Any garages, sheds, barns or similar structures between 100 to 1000 sq.ft. may be exempt from this definition at the discretion of the Special Permit Granting Authority.
 3. For earth removal that is necessary for the construction of infrastructure within an approved subdivision.
 4. For earth removal pursuant to an Order of Conditions issued under the Wetlands Protection Act (MGL c 131 §40) when such removal is incidental to a permitted use.
 5. For earth removal operations that are accessory to agricultural uses, pursuant to MGL c. 40A §3.
 6. For earth removal operations that were in existence on April 13, 1987 (date of adoption of the original earth removal provisions).

D. Operational Standards

1. No excavation shall be permitted below the grade of a road bounding the property at any point nearer than 150' to such road.
2. No excavation below the natural grade of any property boundary shall be permitted nearer than 50 feet to such boundary.
3. No slope created by the removal operation shall be finished at a grade in excess of two feet horizontal to one-foot vertical (2:1).
4. All excavated areas shall, upon completion of the operation **or within two years of the issuance of the permit**, be covered with not less than four inches of loam suitable for seeding, brought to the finish grade and seeded in a manner complying with Mass DOT standards.
5. Within the Flood Plain Overlay District, excavation of earth products shall be prohibited if such excavation will lower the level of the water table or will interfere with the natural flow pattern or reduce the flood storage capacity of a stream.
6. **For Earth Removal projects requiring a special permit, no excavation shall be made at less than 10 feet above the annual high water table, as established from test pits, soil borings, and monitoring wells which are installed and gauged quarterly.**
7. All topsoil and subsoil stripped from operation areas shall be stockpiled, seeded with an erosion control seed mixture, and used in restoring the area.
8. Trucking routes and methods shall be specified by the Board which shall seek the advice of the Chief of Police with regard thereto.
9. All access roads leading to public ways shall be treated with suitable material to reduce dust and mud for a distance of 200 feet back from the public way.
10. Standard Massachusetts accepted road signs warning of "Trucks Entering" shall be placed on the road on each side of the entrance, in locations approved by the Ware Department of Public Works and Ware Police Department.
11. The boundaries of the area of operation must be clearly marked by the applicant and maintained at all times.
12. Operators shall immediately clean up any spillage on public ways, and are responsible for repairs to any public ways damaged as a result of the trucking traffic serving the earth removal operation.
13. Any shelters or buildings erected on the premises for use by personnel or storage of equipment shall be screened from public view and shall be removed from the premises within 60 days after they are no longer needed for work upon that site.

E. Application

In addition to the submission requirements of §7.2 for a special permit, applications for a special permit under this §4.8.5 shall be accompanied by plans and specifications prepared by a Registered Professional Engineer, Registered Land Surveyor, or Professional Geologist as follows:

1. A plan of the area from which removal is proposed plus a strip 150 feet wide surrounding said area, showing all man-made features, lot lines, zoning

boundaries, vegetative cover, wetlands, rivers, streams, soil characteristics, and existing topography at two-foot contour intervals;

2. A plan of the area showing the finished grade and treatment of the site after the proposed completion of the excavation;
3. An analysis of the impact of the proposed earth removal on existing site features, particularly groundwater elevation, and any existing surface water, wetlands and vegetative cover; and
4. The estimated quantity of materials to be removed and topsoil to be stripped and replaced, and the treatment of the site during operations to reduce dust and mud.
5. If processing of earth materials is proposed to be done on the site, the area for such processing shall be shown on the plan.

F. Decision

1. The SPGA shall take into consideration the following in reaching its decision:
 - a) The health, safety and general welfare of the inhabitants of the Town;
 - b) The removal will not be detrimental or injurious to abutters or the neighborhood, either by the alteration of existing topography or by a substantial change in the use of the streets in the neighborhood; and
 - c) The effect on natural resources, including but not limited to the recharge of the water table or condition of the surface water.
 - d) The removal will not violate section 4.3.24 of this zoning bylaw in regard to vibration and noise.
2. The SPGA may impose conditions pertaining to:
 - a) methods of removal,
 - b) type and location of structures and fencing,
 - c) hours of operation to be set by the SPGA on a case by case and/or zoning district basis,
 - d) area, location and depth of excavation and steepness of slopes,
 - e) drainage,
 - f) disposition of boulders and stumps,
 - g) restoration and planting,
 - h) an updated topography map of the project site showing the current grade with volume calculations shall be sent to the SPGA every 5 years or as determined otherwise by the SPGA,
 - i) The SPGA may request as a condition that the applicant furnish a performance bond, of cash certified check or a surety company to the Town as obligee in a penal sum to be fixed by said SPGA as it shall deem sufficient to cover the cost of the performance of all the conditions, limitations, and safeguards may be imposed by said SPGA in connection with the removal of the particular earth substances for which the permit has been issued,
 - i. The bond, check or cash deposit shall be held by the Town Treasurer until all conditions of the permit have been met to the satisfaction of the SPGA. If after (18) eighteen months from the issuance of the permit, or extension thereof, all conditions as required in the permit

have not been met (especially grading and seeding), the SPGA shall cause the monies to restore the site to its natural state,

- j) sufficient security and covenants to ensure compliance with the special permit, which shall not be released until the surveyor or engineer has filed with the SPGA an as-built plan and certification that the site has been restored in compliance with the special permit and the plans, and
 - k) other such conditions as it deems necessary to comply with the intent of this §4.8.5.
3. A special permit granted under this §4.8.5 may be issued for a period not exceeding one year in duration. Owners of earth removal operations may apply annually for an extension of said permit for a period not exceeding one year. Said application shall be accompanied by an annual report to include the volume of material removed in the previous year, as shown on trucking documents (e.g. bill of lading) or other reliable source, and activities related to restoration, including photographs of the site sufficient to show such activities. In addition, if any modifications to the approved plans are proposed, new plans in compliance with this §4.8.5 shall be submitted.

4.8.8 *Registered Marijuana Facilities (RMF), Marijuana Cultivation Sites (MCS), and Marijuana Delivery Operators (MDO)*

- A. Purpose. The purpose of this Section 4.8.8 is to allow the siting, development and operation of Registered Medical, Recreational and/or Hybrid Marijuana Facilities (RMFs), Marijuana Cultivation Sites (MCSs), and Marijuana Delivery Operators (MDOs) in the Town of Ware in order to:
1. Enable individuals with a debilitating medical condition, for which medical marijuana is a viable treatment, to have access to registered marijuana facilities consistent with state law, the Humanitarian Medical Use of Marijuana Act, G.L. c. 94C, App. 1-1 – Chapter 369 of the Acts of 2012, and the Department of Public Health Regulations, 105 CMR 725, and
 2. To allow for the orderly siting of establishments for the retail sale or delivery of marijuana and marijuana products.
- B. Intent. It is the intent of Section 4.8.8 to protect public health and safety; to regulate the siting, design, and safety of Registered Medical, Recreational and Hybrid Marijuana Facilities (RMFs), Marijuana Cultivation Sites (MCSs), and Marijuana Delivery Operators (MDOs); to minimize adverse impacts on abutting properties; to provide adequate separation from schools, parks, and other areas where children commonly congregate in an organized, ongoing, formal basis; and to provide for site security to deter crime and uphold the safety of surrounding neighborhoods.
- C. Definitions

Hybrid Marijuana Establishment: a business where the combined sale of both medical and recreational marijuana and products containing and/or associated to legalized marijuana use is authorized.

Marijuana Cultivation Site: a business where the cultivation, possession, processing (including development of related products such as food, tinctures, aerosols, oils, or ointments), warehousing, distribution, transferring and transporting of marijuana and products containing marijuana is authorized.

Marijuana Cultivation Structure: a structure that is equipped with climate control systems, such as heating and ventilation capabilities, and that uses a combination of natural and supplemental artificial lighting for marijuana cultivation.

Marijuana Delivery Agreement:

A contract between a licensed Marijuana Establishment and a Delivery Licensee or Marijuana Establishment with a Delivery Endorsement to deliver Marijuana or Marijuana Products from the Marijuana Establishment directly to Consumers and as permitted, Marijuana Couriers to Patients and Caregivers, under the provisions of a Delivery License.

Marijuana Delivery Endorsement:

The authorization granted to Licensees in categories of Marijuana Establishments identified by the Cannabis Control Commission to perform deliveries directly from the establishment to Consumers. Delivery items refers to Finished Marijuana Products, Marijuana Accessories, and Marijuana Established Branded Goods.

Marijuana Delivery License:

A Marijuana Courier License or a Marijuana Delivery Operator License.

Marijuana Delivery Licensee:

A Marijuana Courier or a Marijuana Delivery Operator authorized to deliver Marijuana and Marijuana Products directly to Consumers and as permitted, Marijuana Couriers to Patients and Caregivers.

Marijuana Delivery Operator (MDO):

An entity licensed to purchase at Wholesale and Warehouse Finished Marijuana Products acquired from a Marijuana Cultivator, Marijuana Product Manufacturer, and Microbusiness, sell and deliver Finished Marijuana Products, Marijuana Accessories and Marijuana Branded Goods directly to Consumers, but is not authorized to Repackage Marijuana or Marijuana Products or operate a storefront under this license.

Marijuana Microbusiness:

A co-located Marijuana Establishment that can be either a Tier 1 Marijuana Cultivator or Marijuana Product Manufacturer or both, in compliance with the operating procedures for each license. A Microbusiness that is a Marijuana Product Manufacturer may purchase no more than 2,000 pounds of marijuana per year from other Marijuana Establishments.

Medical Marijuana Establishment: a business where the possession, sale, distribution, dispensing and administration of medical marijuana and products containing medical marijuana is authorized.

Recreational Marijuana Establishment: a business where the possession, sale, distribution, dispensing and administration of recreational marijuana and products containing and/or associated to recreational marijuana (e.g., aerosols, art, clothing, food, jewelry, literature, oils or ointments, tinctures, etc.) is authorized.

Registered Marijuana Dispensary (RMD): A use operated by an entity registered and approved by the ~~MA Department of Public Health~~ Cannabis Control Commission (or appropriate licensing authority), and pursuant to all other applicable state laws and regulations, also to be known as a Medical Marijuana Treatment Center, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational

materials to registered qualifying patients or their personal caregivers. A RMD shall explicitly include facilities which cultivate and process medical marijuana, and which may also dispense and deliver medical marijuana and related products. The cultivation and processing of medical marijuana in accordance with these regulations is considered to be a manufacturing use and is not agriculturally exempt from zoning.

- D. Special Permit and Site Plan Approval Required. Registered Medical, Recreational, and Hybrid Marijuana Facilities, Marijuana Cultivation Sites, and/or Marijuana Delivery Operators require a Special Permit and Site Plan Approval. In addition to the requirements in Article 7 – Administration, Section 7.2, Special Permits, and Section 7.4, Site Plan Review, the provisions of this Section 4.8.8 shall apply to Registered Medical, Recreational, and Hybrid Marijuana Facilities (RMFs), Marijuana Cultivation Sites (MCSs), and Marijuana Delivery Operators (MDOs).

1. Host Community Agreement: Applicants shall submit a proposed Host Community Agreement that describes the measures the Applicant intends to take to mitigate potential negative impacts on the Town and abutting neighborhood from the Registered Medical, Recreational and Hybrid Marijuana Facility, Marijuana Cultivation Site, and/or Marijuana Delivery Operator.

- E. Separation and Setbacks. No Registered Medical, Recreational and Hybrid Marijuana Facility, Marijuana Cultivation Site, and/or Marijuana Delivery Operator may be located closer than three hundred feet (300') (measured from door to door) of a facility used, at the time of the first notice of the public hearing, for a park (measured from door to property line), playground (measured from door to property line), pre-school, kindergarten, elementary, middle or high school, state-licensed child day care center, public library, recreation facilities, and other areas where children commonly congregate in an organized, ongoing, formal basis, or which are dedicated to the use of children. This measurement shall be the distance between the Registered Medical, Recreational and Hybrid Marijuana Facility, Marijuana Cultivation Site, and/or Marijuana Delivery Operator and the front entrance of the building in question.

Such uses shall not be prohibited from locating within three hundred feet (300') of a Registered Medical, Recreational and Hybrid Marijuana Facility, a Marijuana Cultivation Site, and/or a Marijuana Delivery Operator nor shall a Registered Medical, Recreational and Hybrid Marijuana Facility, Marijuana Cultivation Site, and/or Marijuana Delivery Operator become nonconforming under the Zoning Bylaw if a park, playground, elementary, middle or high school, state-licensed child day care center, or other areas where children commonly congregate in an organized, ongoing, formal basis or which are dedicated to the use of children, later locates within three hundred feet (300') of a preexisting Registered Medical, Recreational and Hybrid Marijuana Facility, Marijuana Cultivation Site, and/or Marijuana Delivery Operator.

- F. Security Plan. In addition to the submission requirements for Special Permit and Site Plan Review, the application shall include a Security Plan designed to deter crime and protect the public safety. The Plan may include measures such as locks, gates, cameras, alarms, fences, lighting, and monitoring protocols. The Ware Police Chief, or his/her designee, may recommend changes to the Security Plan and the Town of Ware Planning Board will incorporate the Chief's recommendations in the Special Permit decision to the fullest extent practicable.
- G. Standards Applicable to Registered Medical, Recreational and Hybrid Marijuana Facilities, Marijuana Cultivation Sites, and/or **Marijuana Delivery Operators**
1. An applicant shall possess a Certification of Registration from the Massachusetts Cannabis Control Commission as a Registered Marijuana Dispensary, Marijuana Cultivation Site, and/or Marijuana Delivery Operator and shall comply with the Department's regulations at all times.
 2. The siting, development, and operation of Registered Medical, Recreational, and/or Hybrid Marijuana Facilities, **and Marijuana Delivery Operators** shall be allowed by Special Permit and Site Plan Approval in the Downtown Commercial (DTC), Mill Yard (MY) and Highway Commercial (HC) zoning districts. Marijuana Cultivation Sites are to be allowed by Special Permit and Site Plan Approval in the **Rural Residential (RR)**, Mill Yard (MY), Commercial Industrial (CI) and Industrial (I) zoning districts.
 3. The proposed plan shall conform to §7.2, Special Permits, §7.4, Site Plan Review, and to those zoning districts per §4.2, Use Table, where these uses are allowed.
 4. Use of property as a Marijuana Retailer, Cultivation facility, or Delivery Operator shall be deemed a principal use for purposes of this Zoning Bylaw, and shall be permitted exclusively in accordance with this Article. No Marijuana Establishment shall be allowed within Town as an accessory use. Cultivation of marijuana shall not take place in a residential property with an established accessory use, unless the marijuana is for personal consumption in accordance with Massachusetts State law.
 5. Any Marijuana Delivery Operator application for a Special Permit shall include the anticipated number of vehicles operating from the location, number of employees for all operations including fulfillment, administration, and vehicle drivers shall be identified and may be conditioned as such. A copy of the Application of Intent and Management and Operations Profile submitted, to the extent permitted by law, as an integral part of the Special Permit application.
 6. The proposed plan shall provide urban design and landscaping elements to harmonize the proposed project with abutting uses so as to protect and enhance the aesthetics and architectural look and character of the surrounding vicinity.

7. The use shall not generate outside odors from marijuana use and/or production of marijuana products.
8. The proposed plan shall refer to §6.5, Signage, for the installation, type, number and size considerations of signs, as applicable.
9. Hours of operation shall be between 8:00 AM and 8:00 PM Monday thru Sunday.
10. Noise shall comply with the Noise Policy of the Commonwealth of Massachusetts Department of Environmental Protection and Division of Air Quality regulations, 310 CMR 7.10, and any local noise abatement bylaw. A noise source violates the noise regulation if the source: a.) Increases the broadband sound level by more than 10 dB(A) above ambient, or b.) Produces a "pure tone" condition – when any octave band center frequency sound pressure level exceeds the two adjacent center frequency sound pressure levels by 3 decibels or more. These criteria are measured both at the property line of the Registered Medical, Recreational, and Hybrid Marijuana Facility, Marijuana Cultivation Site, and/or **Marijuana Delivery Operator** and at the nearest inhabited dwelling unit. "Ambient" is defined as the background A-weighted sound level that is exceeded 90% of the time, measured during equipment operating hours.
11. The Town of Ware Planning Board may require a traffic study that includes an analysis of parking demand to justify the number of proposed parking spaces.
12. A Special Permit granted under this Section 4.8.8 shall be personal to the applicant and shall lapse if the applicant no longer is the holder of the Certification of Registration from the Massachusetts Cannabis Control Commission as a Registered Marijuana Dispensary, **Marijuana Cultivation Site, and/or Marijuana Delivery Operator**. A change of the registrant shall require submission of a new Special Permit application.
13. **All applicable rules and regulations established under the auspices of the Massachusetts Cannabis Control Commission (CCC) must be adhered to.**
14. All other applicable regulations such as wetland, septic, water supply, etc. are required to be compiled with as appropriate. This permit does not supersede any other requirements.
15. Applicant for the permit must be the property owner or duly authorized agent.
16. The property area required to operate a marijuana cultivation structure in the Rural Residential (RR) district will be:
 - i. Minimum of 5 acres: up to 5,000 square feet (Tier 1 per CCC)
 - ii. 10 acres or more: up to 20,000 square feet (Tier 3 per CCC)

17. Any building utilized for the purposes of marijuana cultivation within the Rural Residential (RR) zoning district shall use architectural and landscape design elements that resemble the typical New England agricultural/farm building styles seen on a farm such as a "butler type metal building" or wood or masonry wall and finished in neutral colors or a color in harmony with existing buildings on adjacent properties. The Planning Board may, at its discretion, entertain and allow proposals for other building styles.
18. The rehabilitation of existing buildings for marijuana cultivation in the Rural Residential (RR) zoning district may deviate from the height restriction if they already exceed it, to the extent that any linear addition may continue existing lines, so long as no additional height is added. Additions added non-linear to the primary axis (ridge line) of the existing building shall not exceed 18 feet (eave height).
19. New buildings and those occupied and used buildings constructed prior to July 1, 2018 under this law which are proposed to be used as marijuana cultivation structures in the Rural Residential (RR) zoning district shall be located at a minimum of one-hundred (100') feet from a Town or State road right of way line.
20. Existing buildings which are proposed to be used a marijuana cultivation structures in the Rural Residential (RR) zoning district and that are located within two-hundred (200') feet of an existing residential structure on an adjacent property or one-hundred (100') feet of a roadway are required to establish and maintain a year-round dense vegetated barrier of at least ten (10') feet between the residence and/or roadway. A waiver or modification to this provision may be granted by the Planning Board after review for appropriateness and a determination that a modified, reduced or no barrier, would not be substantially detrimental to the adjacent neighborhood.
21. Hoop houses utilized as marijuana cultivation structures in the Rural Residential (RR) zoning district shall utilize an opaque wall film to preclude direct viewing of the vegetation growth.
22. Outdoor cultivation may occur in provided that screening, security and other provisions complies with 935 CMR500.
23. For outdoor cultivation, this bylaw will require that security fencing be screened with natural vegetation or topography. On large properties, it is likely that the cultivator will place the relatively small growing area far from any property boundary so that it is screened from the public by existing vegetation and/or topography. If vegetation is planted to screen the fence, the cultivator will have 3-years for the vegetation to reach maturity and full coverage. It is required that any barbed or razor wire type fencing materials not be used or be entirely hidden from view from public ways or neighboring property. The cultivar must include these security provisions within its special permit application.

24. Outdoor cultivation must not occur within 3000 feet of a pre-existing hemp farm.
25. Outdoor cultivation must not store fertilizers, compost, soils, materials, machinery, or equipment within the required front, side, and rear yard setbacks.
26. A Site Plan review is required as part the Special Permit to assure compliance with parking, waste management, lighting, and all other zoning regulations.
27. When a conflict arises between that of a local or state regulations, the more restrictive of these shall be in full force.
28. Any change in ownership of the property, operator, duly authorized agent, or co-op association shall require notification to the Planning Board, a review and reissuance of the Special Permit by the Planning Board, prior to the new ownership or other changes taking place.
29. The Special Permit shall terminate on dissolution of the co-op, change in ownership, or revocation of the authorization to operate by the Massachusetts Cannabis Control Commission (CCC).
30. The Planning Board, Town Planner, and Town Manager shall be notified of any violations, citations or other sanctions by the Massachusetts Cannabis Control Commission (CCC) or other regulatory agency, as related to operations conducted under this Special Permit, by the permit applicant and/or property owner, via mail and certified mail, within three (3) business days from the date of the violation.
31. Operations under a Special Permit issued by the Planning Board must comply with all other local, state, or other rules, regulations and requirements.

Article 7 – Administration

7.5 **Enforcement**

7.5.1 *Zoning Enforcement Officer*

This Bylaw shall be administered and enforced by the Building Inspector of the Town of Ware. He/she shall issue no permit for the erection or alteration of any structure or part thereof, the plans, specifications, and intended use of which are not in all respects in conformity with the provisions of this Zoning Bylaw. For any uses not specifically listed in §4.2 (Use Table), the Zoning Enforcement Officer shall make a determination as to the closest appropriate applicable category, or to determine that the proposed use does not fit appropriately in any category and deny with a written explanation. This decision can be appealed to the Zoning Board of Appeals and must be filed with the Town Clerk no later than 30 days after it is issued.

7.5.2 *Conformance to Subsequent Amendments*

Construction or operations under a building permit or special permit issued before the effective date of an amendment to this Bylaw shall conform to any subsequent amendment of this Bylaw unless the use or construction is commenced within a period of one year after issuance of a building permit or within two years after the issuance of a special permit. In cases involving construction begun within such one-year period, such construction shall be continued through to completion as continuously and expeditiously as is reasonable. Construction or operations under a building permit or special permit issued after the effective date of an amendment to this Bylaw shall conform to the Bylaw as amended.

7.5.3 *Maintenance of Common Areas, Landscaping and Improvements.*

The recipient of any permit under this Bylaw, or any successor, shall be responsible for maintaining all common areas, landscaping and other improvements or facilities required by this Bylaw or any permit issued in accordance with its provisions. Those areas, improvements, or facilities for which an offer of dedication to the public has been accepted by the appropriate public authority are excluded. Such improvements shall include, but are not limited to, private roads and parking areas, water and sewer lines, passive and active recreational facilities, and vegetation and trees used for screening and landscaping. Such improvements shall be properly maintained so that they can be used in the manner intended. Vegetation and trees indicated on approved site plans shall be replaced if they die or are destroyed.