

PUBLIC HEARING DRAFT WITH NEW FORMAT (2-28-19)
PLEASE NOTE: Proposed changes to Zoning Bylaw shown in track changes.

Section 4: Use Regulations

Deleted: Schedule

No building, structure or land shall be erected or used except as permitted in this section and all other sections of these Zoning Bylaws. No more than one principal structure or dwelling may be erected on a lot, except that Marijuana Microbusinesses may have a residential use on the same lot pursuant to a Special Permit if granted in accordance with Section 12: Special Permits and a Site Plan if approved in accordance with Section 13: Development Site Plan Review.

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Symbols employed in the following use regulations schedule shall have the following meaning:

- Y – Yes, the use is permitted by right in that Zoning District
- N – No, the use is not permitted in that Zoning District
- SP – The use may be permitted if a Special Permit is granted by the Zoning Board of Appeals ([see Section 12](#))
- SPP – The use may be permitted if a Special Permit is granted by the Planning Board ([see Section 12](#))
- SPR – The use is permitted subject to Site Plan Review by the Planning Board ([see Section 13](#))

| Use | Village Districts | Rural District | Commercial - Industrial Districts |
|--|-------------------|----------------|-----------------------------------|
| Residential Uses | | | |
| Single-Family Dwelling | Y | Y | Y |
| Two-Family Dwelling | SPR | SPR | SPR |
| Accessory Apartment | Y | Y | Y |
| Mobile Home Parks | N | N | N |
| Multi-family Dwelling (3-6 dwellings) | SPR | N | SPR |
| Multi-family Dwelling (more than 6 dwellings) | SP | N | SP |
| Agricultural & Recreational Uses | | | |
| Farming or Forestry <u>excluding Marijuana Cultivation</u> | Y | Y | Y |
| Commercial Greenhouses on lots equal to or greater than 5 acres <u>excluding Marijuana Cultivation</u> | Y | Y | Y |
| Commercial Greenhouses on lots less than 5 acres <u>excluding Marijuana Cultivation</u> | SP | SP | SP |
| <u>Marijuana Cultivation including a Craft Marijuana Cooperative</u> | <u>SPP/SPR</u> | <u>SPP/SPR</u> | <u>SPP/SPR</u> |
| <u>Marijuana Microbusiness</u> | <u>SPP/SPR</u> | <u>SPP/SPR</u> | <u>SPP/SPR</u> |
| Commercial Recreation | N | SP | N |
| Wildlife Preserve or Other Conservation Uses | Y | Y | Y |
| Community Services | | | |
| Public Utility Facility | SP | SP | SP |
| Wireless Communication Facilities | SPP | SPP | SPP |
| Educational Uses exempted from zoning regulation by M.G.L. Ch.40A, Section 3 | Y | Y | Y |

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|---|-------------------|----------------|-----------------------------------|
| Community Services (cont.) | | | |
| Other Educational Uses not exempted from zoning regulation by M.G.L. Ch.40A, Section 3 | SP | SP | N |
| Church, other Religious Use | Y | Y | Y |
| Municipal Uses not covered elsewhere | SP | SP | SP |
| Family Day Care Home for 6 or less children or adults | Y | Y | Y |
| Family Day Care Home for more than six children or adults | SP | SP | SP |
| Day Care Center for children exempted from zoning regulations by M.G.L. Ch. 40A, Section 3 | Y | Y | Y |
| Nursing Home, Assisted Living Facility | SP | SP | N |
| Business Uses | | | |
| Business, Professional Offices with less than 6 employees | SPR | SPR | SPR |
| Business, Professional Offices with 6 or more employees | SP | SP | SP |
| Banks | SPR | N | SPR |
| Standalone Automated Teller Machines (ATM) | N | N | SP |
| Conversion of Historic Industrial or Commercial Structure to Mixed Uses | SPR | SP | SPR |
| Restaurant, drive through | N | N | N |
| Restaurant, other | SPR | SP | SP |
| Seasonal food service | SPR | SP | SP |
| ▼ | ▼ | ▼ | ▼ |
| Retail Store(s) including Marijuana Retailer – Building up to 12,000 sq. ft. of enclosed floor space ¹ | SP | N | SP |
| Flea Markets | SP | N | SP |
| Artisan Studios | Y | Y | Y |
| Motor Vehicle Sales | N | N | SP |
| Laundry, Laundromat | SP | N | SP |
| Theaters | SP | SP | SP |
| Hotels | SPR | N | SPR |
| Motels | SP | N | N |
| Inns | SPR | SP | SP |
| Bed and Breakfast, up to 6 bedrooms ² | SPR | Y | N |

- Deleted: Retail Store(s) – Building 3,000 sq. ft. or less of enclosed floor space¹
- Deleted: SPR
- Deleted: N
- Deleted: SP
- Deleted: greater than 3,000 sq. ft.

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| Use | Village Districts | Rural District | Commercial - Industrial |
|---|-------------------|----------------|-------------------------|
| Building Materials, Sales & Storage | SP | SP | SPR |
| Home Based Business | Y | Y | Y |
| Funeral Home | SP | SP | SP |
| Equipment Rentals | SP | SP | SPR |
| Kennels | N | SP | SP |
| Farm Stand | Y | Y | Y |
| Business Uses not listed above, other than retail uses, where the physical appearance, operation, parking requirements and traffic impacts resemble a use permitted (Y, SPR, or SP) above and which will not have a detrimental impact on adjacent or nearby uses | SP | SP | SP |
| Industrial Uses | | | |
| Junk yards, dumps, and landfills | N | N | N |
| Light Industrial Uses | N | N | SP |
| Freight or Transportation Facilities | N | N | SP |
| Gasoline Station, Automotive Repair Garages | SP | SP | SP |
| Quarrying, Gravel Mining & Earth Removal | N | SP | SP |
| Collection, treatment, storage, burial, incineration or disposal of radioactive waste, including but not limited to low level radioactive waste | N | N | N |
| Sawmill | N | SP | SP |
| Bulk Storage, Warehousing | N | SP | SP |
| <u>Marijuana Processing and/or Product Manufacturing</u> | <u>SPP/SPR</u> | <u>SPP/SPR</u> | <u>SPP/SPR</u> |
| <u>Marijuana Independent Testing Laboratory or Research Facility</u> | <u>SPP/SPR</u> | <u>SPP/SPR</u> | <u>SPP/SPR</u> |
| Photovoltaic System with a footprint greater than 0.10 acres up to 1.0 acres ^{3,4} (See Section 15) | SPR | SPR | SPR |
| Large-Scale Ground-Mounted Solar-Photovoltaic System with a footprint greater than 1.0 acres ^{3,4} (See Section 15) | N | SP/SPR | SP/SPR |

4.2.1 - Outdoor storage, sales or display associated with any retail use requires Site Plan Review (see Section 13). (Added May 9, 2012)

4.2.2 - Prior to opening a Bed & Breakfast establishment the building must be inspected by the Building Inspector to ensure compliance with the State Building Code including requirements related to fire safety.

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Please contact the Building Inspector if you are considering opening this type of business to learn about these Building Code requirements. (Added June 23, 2008)

4.2.3 - Smaller scale ground-mounted solar-photovoltaic systems (occupying a footprint less than or equal to 0.10 acres and building-mounted solar-photovoltaic systems do not need to comply with Section 15, but shall require a building permit and must comply with all other applicable local, state, and federal requirements.

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4.2.4 - Acreage thresholds apply in the aggregate to new facilities and expansion of existing facilities. For expansions, the acreage of the existing facility would be added to those of the proposed expansion to determine the overall size and generating capacity. Required setback areas, as per Section 15.3.2.1, shall not be counted toward a facility's total acreage.

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SECTION 7: INTENSITY REGULATIONS

7.1 Lot Area

Any principal building or dwelling unit, including mobile homes, hereafter erected or placed in the Town of Colrain, and any use conducted in the Town shall be located on a lot having no less than the minimum requirements set forth in the table below. No more than one residential structure shall be erected upon any such lot. No existing lot shall be changed as to size or shape so as to result in the violation of the requirements set forth below.

7.2 Dimensional Schedule

| | Minimum Area (a) | Minimum Frontage in feet (b) | Yard Dimension | | | Maximum Height in feet | Maximum Lot Coverage |
|---------------------------------|------------------|------------------------------|-------------------------|---------------------|---------------------|------------------------|----------------------|
| | | | Front in feet (c)(d)(e) | Side in Feet (d)(e) | Rear in feet (d)(e) | | |
| Village Districts | 20,000 sq. ft. | 100 | 30 | 15 | 30 | 35 | 70% |
| Rural Districts | 1 1/2 acre | 300 | 50 | 40 | 40 | 35 | 25% |
| Commercial-Industrial Districts | 2 acres | 300 | 50 | 50 | 50 | 45 | 50% |

7.2.1 Any lot in a village district having a two-family dwelling structure shall provide not less than 30,000 square feet of land.

7.2.2 A lot or parcel of land having an area or a frontage of lesser amounts than required by this Bylaw may be considered as coming within the area or frontage requirements of this Section, provided such a lot of parcel of land was shown on a plan or described in a deed duly recorded or registered at the time of the adoption of the Bylaw and did not at the time of such adoption adjoin other land of the same owner available for use in connection with this parcel.

7.2.3 To be measured from the right-of-way line where a plan of the way is on file with the Registry of Deeds or, in the absence of such a plan from a line twenty-five (25) feet from and parallel to the center line of the traveled way.

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7.2.4 All Large-Scale Ground-Mounted Solar-Photovoltaic Systems shall have front, side, and rear yard setbacks of at least 50 feet, pursuant to the requirements of Section 15.3.2.1. Required setback areas shall not be counted toward a facility's total acreage.

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7.2.5 All Marijuana Establishments shall have front, side and rear setbacks of at least 50 feet.

SECTION 12: SPECIAL PERMITS

12.1 Special permit granting authority. Unless specifically designated otherwise, the Board of Appeals shall act as the special permit granting authority. 12.2 Public hearings. Special permits may be issued only after a public hearing(s) is held within sixty-five (65) days after the applicant files a completed application with the Town Clerk and gives the special permit granting authority a copy of the said application noting the date and time of its filing with the Town Clerk.

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12.3 Criteria. Special permits may be granted by the special permit granting authority only upon its written determination that the proposed use is in harmony with the general purpose and intent of this Zoning Bylaw and will not have adverse effects which overbalance its beneficial effects on either the neighborhood or the town, in view of the particular characteristics of the site and of the proposal in relation to that site. The determination shall take into consideration each of the following:

- 12.3.1 Social, economic or community needs which are served by the proposal.
- 12.3.2 Traffic flow and safety.
- 12.3.3 Adequacy of utilities and other public services.
- 12.3.4 Impacts on neighborhood character and historic and cultural resources.
- 12.3.5 Protection of the natural environment.
- 12.3.6 Potential fiscal impact.
- 12.3.7 Attendance at public schools.
- 12.3.8 Positive employment consequences.
- 12.3.9 For manufacturing or industrial use, including processing, fabrication or assembly, no such use shall be permitted which would be detrimental or offensive or tend to reduce property values in the same or adjoining districts by reason of dirt, odor, fumes, gas, sewage, refuse, noise, excessive vibration, or danger of explosion or fire.
- 12.3.10 Minimizing traffic, odor, noise, light pollution, water usage and wastewater disposal, energy use, and use or storage of hazardous materials.

12.4 Conditions. Special permits may be granted with such reasonable conditions, safeguards or limitations on time or use as the special permit granting authority may deem necessary to serve the purposes of this Zoning Bylaw.

12.5 Expiration. Special permits shall lapse twenty-four (24) months following special permit approval (plus such time required to pursue or await the determination of an appeal referred to in M.G.L. Ch. 40A, Sec. 17, from the grant thereof) if a substantial use thereof or construction has not begun, except for good cause.

SECTION 2: DEFINITIONS

Home Based Business: See Section III-3. A Home Based Business does not include any Marijuana Establishment including Marijuana Cultivation, Marijuana Processing, Marijuana Product Manufacturing, or Marijuana Retailer Sales.

Craft Marijuana Cooperative - A Marijuana Cultivator comprised of residents of the Commonwealth and organized as a limited liability company, limited liability partnership, or cooperative corporation under the laws of the Commonwealth. A cooperative is licensed to cultivate, obtain, manufacture, process, package and brand cannabis or marijuana products to transport marijuana to Marijuana Establishments, but not to consumers.

Host Community Agreement – An agreement, pursuant to General Laws, Chapter 94C, Section 3(d), between a Marijuana Establishment and a municipality setting forth conditions for the operation of a Marijuana Establishment in the municipality.

Marijuana Independent Testing Laboratory - A laboratory that is licensed by the Cannabis Control Commission and is: (a) accredited to the International Organization for Standardization 17025 (ISO/IEC 17025: 2017) by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Accrediting Cooperation mutual recognition arrangement or that is otherwise approved by the Commission; (b) independent financially from any Medical Marijuana Treatment Center (RMD), Marijuana Establishment or licensee for which it conducts a test; and (c) qualified to test cannabis or marijuana in compliance with 935 CMR 500.160 and M.G.L. c. 94C, § 34.

Marijuana Establishment Licensee - A person or entity licensed by the Cannabis Control Commission to operate a Marijuana Establishment under 935 CMR 500.000.

Marijuana Cultivator - an entity licensed by the Cannabis Control Commission to cultivate, process and package marijuana, and to transfer marijuana to other Marijuana Establishments, but not to consumers. A Craft Marijuana Cooperative is a type of Marijuana Cultivator. This definition does not include hemp cultivation which is regulated by the MA Department of Agricultural Resources.

Marijuana Establishment –A Marijuana Cultivator, Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Retailer, Marijuana Independent Testing Laboratory, Marijuana Research Facility, Marijuana Transporter, or any other type of licensed marijuana-related business, except a medical marijuana treatment center.

Marijuana Product Manufacturer – An entity licensed by the Cannabis Control Commission to obtain, manufacture, process and package cannabis or marijuana products and to transfer these products to other Marijuana Establishments, but not to consumers.

Marijuana Microbusiness - a collocated Marijuana Establishment that can be either a Tier 1 Marijuana Cultivator or 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.

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

Marijuana Research Facility – an entity licensed to engage in research projects by the Cannabis Control Commission.

Marijuana Retailer – An entity licensed by the Cannabis Control Commission to purchase and transport cannabis or marijuana product from Marijuana Establishments and to sell or otherwise transfer this product to Marijuana Establishments and to consumers. Retailers are prohibited from delivering cannabis or marijuana products to consumers; and from offering cannabis or marijuana products for the purposes of on-site social consumption on the premises of a Marijuana Establishment.

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