

Proposed 2017 Zoning Changes

ARTICLE A: To see if the Town will vote to amend the Code of the Town of Plainville **§500-5. Development Permits** with the deletions shown in strike-through and the additions shown in bold, as follows:

For development permits which require site plan and/or floodplain review, the applicant shall submit ~~nine copies of the site plan application, as well as two sets of plan reductions (8 1/2 inches by 11 inches)~~ **plans** depicting **the** overall layout and other required information to the Planning Board with ~~written notice~~, a copy of ~~all the site plan and supporting~~ information to the Town Clerk. **The application, and the required number of copies, shall be as specified on a form provided by the Planning Board.** The Planning Board shall review said application by the criteria set forth in **§500-39**, Site plan review, and/or **§500-40**, Floodplain review, and approve, approve with conditions or deny said development permit within 60 days of the close of the public hearing by written notification to the Town Clerk and applicant.

And further, that nonsubstantive changes to the numbering of this by-law be permitted in order that it be in compliance with the numbering format of the Code of Plainville or, to see if the Town will vote to do or act in any manner relative thereto. (*Sponsor: Planning Board*)

ARTICLE B: To see if the Town will vote to amend the Code of the Town of Plainville **§500-6(B)(2)**, with the deletions shown in strike-through and the additions shown in bold, as follows:

No special permit may be issued except following a public hearing held within 65 days after the filing of an application with the Board of Appeals, a copy of which shall be forthwith given to the Town Clerk by the applicant. If substantial use or construction under a special permit has not commenced within ~~two~~ **three** years after the issuance of such permit, except for a good cause and including any time needed to await the determination of any court appeal, the special permit shall lapse and become void.

And,

To see if the Town will vote to amend the Code of the Town of Plainville **§500-20(F). Expiration**, with the deletions shown in strike-through and the additions shown in bold, as follows:

Special permits shall lapse if a substantial use thereof or construction has not begun, except for good cause, within ~~24~~ **36** months of special permit approval, exclusive of such time required to pursue or await the determination of an appeal, referred to in MGL c. 40A, §17, from the grant thereof.

And further, that nonsubstantive changes to the numbering of this by-law be permitted in order that it be in compliance with the numbering format of the Code of Plainville or, to see if the Town will vote to do or act in any manner relative thereto. (*Sponsor: Planning Board*)

ARTICLE C: To see if the Town will vote to amend the Code of the Town of Plainville §500-16(E)(1)(b), which currently reads as follows:

The Board of Appeals shall affirmatively find that such waiver shall not in any substantial sense be detrimental and depreciate property values in the immediate neighborhood.

By adding the following at the end of the section:

The Board shall follow all the requirements outlined in MGL Chapter 40A Section 15 when deliberating on a permit to grant exceptions to lot requirements.

And further, that nonsubstantive changes to the numbering of this by-law be permitted in order that it be in compliance with the numbering format of the Code of Plainville or, to see if the Town will vote to do or act in any manner relative thereto. (*Sponsor: Planning Board*)

ARTICLE D: To see if the Town will vote to amend the Code of the Town of Plainville §500-16(E)(2). **Exemptions from frontage and area requirements** with the deletions shown in strike-through and the additions shown in bold, as follows:

(2) Exemptions from frontage and area requirements. In any zoning district, a **vacant** lot or lots having less than the applicable square footage or frontage requirements, or both, shall be exempt from either or both requirements aforesaid if said lot or lots:

- (a) Is a lot in ownership separate from that of adjoining land located in the same zoning district at the time of the adoption of this bylaw; **and**
- (b) Is a lot or lots separately described in a deed or record at the time of the adoption of this bylaw; **and, either**
- (c) Is a lot or lots separately shown on any approved subdivision plan notwithstanding the amount of elapsed time since approval of said plan; or
- (d) Is a lot or lots shown on a plan which does not require Planning Board approval under the Subdivision Law,[2] provided the plan carries the notation that no such approval is so required, and notwithstanding the amount of elapsed time since the notation was made through vote of the Planning Board.

[1] Provided that any lot referred to above contains at least **50 feet of frontage and 5,000 square feet of area** and, in the case of more than one nonconforming, undeveloped and contiguous lots in common ownership not protected under MGL, c. 40A, shall be subject to the provisions of Subsection [E\(3\)](#) below.

And further, that nonsubstantive changes to the numbering of this by-law be permitted in order that it be in compliance with the numbering format of the Code of Plainville or, to see if the Town will vote to do or act in any manner relative thereto. (*Sponsor: Planning Board*)

ARTICLE E:

To see if the Town will vote to amend the chart entitled “**Intensity of Use Schedule (§500-17 of the Zoning Bylaw)**”, shown as **500 Attachment 1** in the bylaws, by amending footnote “d” under “Footnotes to Intensity of Use Schedule”, which currently reads:

d. Corner lot shall maintain front yard requirements for each street frontage.

By adding the following:

A corner lot shall have at least one rear lot line, the location of which shall be:

- i. If the lot has conforming frontage on only one of the abutting streets, the rear lot line shall be the lot line or lines most opposite from that street; or
- ii. If the lot has conforming frontage on both of the abutting streets, the rear lot line shall be the lot line or lines most opposite to the rear of the existing or proposed principal building.
- iii. If the lot has non-conforming frontage on both of the abutting streets, the rear lot line shall be the lot line or lines most opposite to the rear of the existing or proposed principal building. Alternatively, if a special permit is required from the Board of Appeals for such a lot, the rear yard may be designated by that Board during the permitting process.
- iv. The remaining lot lines not abutting a street shall be considered side lot lines.

And further, that non-substantive changes to the numbering of this by-law be permitted in order that it be in compliance with the numbering format of the Code of Plainville or, to see if the Town will vote to do or act in any manner relative thereto. (*Sponsor: Planning Board*)

ARTICLE F: To see if the Town will vote to amend the Code of the Town of Plainville **§500-18(A)**, with the deletions shown in strike-through and the additions shown in bold, as follows:

- A. General provisions. No structure shall be erected, altered or used and no premises shall be used except as set forth in the Use Regulation Schedule. Construction or operations under a permit or special permit shall conform to any subsequent amendment to this bylaw unless the use or construction is commenced within ~~six~~ **twelve** months after the issuance of such

permits. **Only one principal use is allowed on any lot in a residential zoning district. Home occupations (§500-33) are not considered principal uses.**

And further, that nonsubstantive changes to the numbering of this by-law be permitted in order that it be in compliance with the numbering format of the Code of Plainville or, to see if the Town will vote to do or act in any manner relative thereto. (*Sponsor: Planning Board*)

ARTICLE G:

To see if the Town will vote to amend the Plainville General Code **§500 Attachment 2 Town of Plainville Use Regulation Schedule (§500-19 of the Zoning Bylaw)** by revising under “Symbols Used”, which currently states:

A – A use specifically authorized by special permit

to read as follows:

A – A use specifically authorized by special permit. The Planning Board shall be the special permit granting authority under §500-19.

And, to amend §500-19, which currently reads as follows:

*The tabular material of this **§500-19**, which contains the Use Regulation Schedule, is included at the end of this chapter. Although the schedule is included at the end of the chapter, it shall be considered a section of the Zoning Bylaw and shall not be construed as appendix or ancillary material.*

By adding at the end:

The Planning Board shall be the special permit granting authority under §500-19.

And further, that non-substantive changes to the numbering of this by-law be permitted in order that it be in compliance with the numbering format of the Code of Plainville or, to see if the Town will vote to do or act in any manner relative thereto. (*Sponsor: Planning Board*)

ARTICLE H: To see if the Town will vote to amend the Code of the Town of Plainville by adding a new **§500-38. Temporary Moratorium on Recreational Marijuana Establishments**, as follows:

A. Purpose.

On November 8, 2016, the voters of the Commonwealth approved a law regulating the cultivation, processing, distribution, possession and use of marijuana for recreational

purposes (new G.L. c. 94G, Regulation of the Use and Distribution of Marijuana Not medically Prescribed). The law, which allows certain personal use and possession of marijuana, took effect on December 15, 2016 and (as amended on December 30, 2016; Chapter 351 of the Acts of 2016) requires a Cannabis Control Commission to issue regulations regarding the licensing of commercial activities by March 15, 2018 and to begin accepting Applications for licenses on April 1, 2018. Currently under the Zoning Bylaw, a non-medical Marijuana Establishment (hereinafter, a “Recreational Marijuana Establishment”), as defined in G.L. c. 94G, §1, is not specifically addressed in the Zoning Bylaw. Regulations to be promulgated by the Cannabis Control Commission may provide guidance on certain aspects of the local regulations of Recreational Marijuana Establishments. The regulation of recreational marijuana raises novel legal, planning and public safety issues, and the Town needs time to address such issues, as well as to address the potential impact of the State regulations on local zoning and to undertake a planning process to consider Amending the Zoning Bylaw regarding regulation of Recreational Marijuana Establishments. The Town intends to adopt a temporary moratorium on the use of land and structures in the Town for Recreational Marijuana Establishments so as to allow sufficient time to address the effects of such structures and uses in the Town and to enact bylaws in a consistent manner.

B. Definition.

“Recreational Marijuana Establishment” shall mean a “marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana related business.”

C. Temporary Moratorium.

For the reasons set forth above and notwithstanding any other provision of the Zoning Bylaw to the contrary, the Town hereby adopts a temporary moratorium on the use of land or structures for a Recreational Marijuana Establishment and other uses related to recreational marijuana. The moratorium shall be in effect through June 30, 2018 or until such time as the Town adopts Zoning Bylaw amendments that regulate Recreational Marijuana Establishments, whichever occurs earlier. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of recreational marijuana in the Town, and to consider the Cannabis Control Commission regulations regarding Recreational Marijuana Establishments, and shall consider adopting new Zoning Bylaws in response to these new issues.

And further, that nonsubstantive changes to the numbering of this by-law be permitted in order that it be in compliance with the numbering format of the Code of Plainville or, to see if the Town will vote to do or act in any manner relative thereto. (*Sponsor: Planning Board*)

ARTICLE I: To see if the Town will vote to amend the Code of the Town of Plainville §500-26.1. **Solar photovoltaic facilities**, as follows:

Amend §500-26.1(E)(4) by adding the following words in **bold**:

(4) SPF site plan review. SPFs with 250 kW or larger of rated nameplate capacity whether permitted as-of-right in **the IA – Special Industrial District and IB** — Limited Industrial District, or by special permit issued by the Planning Board in the RA and RB — Single-Family Residential Districts shall be subject to site plan review in accordance with §500-39, Site plan review, of this Zoning Bylaw.

And,

Amend **§500-26.1(E)(10) Safety and environmental standards** by adding the following in **bold** to section (b), and by adding new sections (c) and (d):

- (b) Land clearing, soil erosion, and habitat impacts. Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the large-scale ground-mounted SPF or otherwise prescribed by applicable laws, regulations, and bylaws. **Grading that substantially disturbs the existing soil profile and structure is prohibited. Sites shall be selected where construction may be accomplished without such earth work.**
- (c) Mitigation of Forest Habitat. In the zones where a special permit is required, if forestland is proposed to be converted to a Ground Mounted Solar Photovoltaic Facility the plans shall designate thereon an area of forested land on the same lot of a size equal to three times (3X) the total area disturbed by the solar installation that shall remain undisturbed. The protected land shall be land not subject to development limitations due to wetlands, MGL Ch. 184, §31-33 restrictions, or other constraints that would render construction of solar panels on the protected land unfeasible. Such designated land shall remain in substantially its natural condition without alteration, including unauthorized (by SPGA) forestry/tree cutting, until such time as the installation is decommissioned. The special permit may be conditioned to effectuate and make enforceable this requirement.
- (d) Mitigation for Disruption of Trail Networks. If existing trail networks or woods roads are disrupted by the location of the Ground Mounted Solar Photovoltaic Facility the plans shall show alternative trail alignments to be constructed by the applicant. The special permit may be conditioned to effectuate and make enforceable this requirement, although no rights of public access may be established hereunder.

And,

Amend the Plainville General Code §500 Attachment 2 “Town of Plainville Use Regulation Schedule (§500-19 of the Zoning Bylaw)” by adding a section under “Industrial Uses” as follows:

	RA	RB	RC	RD	CA	CB	CC	CD	IA	IB	IC	TCD	TCD
Ground Mounted Solar Photovoltaic Facility	A	A	O	O	O	O	O	O	P	P	O	O	O

And further, that nonsubstantive changes to the numbering of this by-law be permitted in order that it be in compliance with the numbering format of the Code of Plainville or, to see if the Town will vote to do or act in any manner relative thereto. (*Sponsor: Planning Board*)