

***Commonwealth of Massachusetts
Town of West Stockbridge
Warrant for Special Town Meeting***

BERKSHIRE: ss:

To any constable(s) of the Town of West Stockbridge, Massachusetts

GREETINGS:

In the name of the Commonwealth, you are hereby required to notify and warn the inhabitants of said Town who are qualified to vote in Town affairs to meet at seven o'clock in the evening on Monday, January 14, 2019 in the Village School/Town Offices Gymnasium, 21 State Line Road, in the Village of West Stockbridge then and there to act on the following articles:

Article 1: To see if the Town will vote to amend its zoning bylaws as follows, *or take any other action in relation thereto:*

Part One

1) Delete Section 6.9, TEMPORARY MORATORIUM ON RECREATIONAL MARIJUANA ESTABLISHMENTS, and

- a. Amend the Table of Contents to delete Section 6.9, "Temporary Moratorium on Recreational Marijuana Establishments";

2) Delete Section 6.10, TEMPORARY MORATORIUM ON MEDICAL MARIJUANA TREATMENT CENTERS, and

- a. Amend the Table of Contents to delete Section 6.10, "Temporary Moratorium on Medical Marijuana Treatment Centers";

3) Renumber the existing chapter 9 to be chapter 10;

4) Renumber the existing chapter 10 to be chapter 11;

5) To amend the Zoning By-laws of the Town of West Stockbridge to add a new section 9.0, entitled "Other Special Uses," to include the following subsections:

Section 9.1 Marijuana Related Uses

Section 9.2 Solar Energy Systems

and by amending the Table of Contents to reflect the same.

Part Two

A. *By amending Section 3.1 to add the "MROD Marijuana Retail Overlay District" under the heading "Establishment of Districts";*

B. *Amend Section 3.2 to change the date of the zoning map from March 1998 to a final date, which is to be determined, of a new map to be drawn that will incorporate the Village Center Overlay District (VCOD) and Commercial District boundary changes approved at Town Meeting 2/27/17 and the Marijuana Retail Overlay District (MROD) if approved at the Town Meeting at which this article is presented.*

C. *Add a new Section 3.2.3 with the following language:*

The Marijuana Retail Overlay District (MROD) is an overlay district mapped over other districts. It modifies and where there is inconsistency, supersedes the regulations of those other districts. Except as so modified or superseded, the regulations of the underlying district remain in effect.

Part Three

Add to Section 4.11.1, Table of Uses - Principal Uses, the MROD and address the following marijuana uses:

| | R-3 | R-D | C | M | MROD | R-1 |
|---|-----------------------------|-----|----|-----|------|-----------------------------|
| 37 Retail sales of Medical and Adult Use (i.e., recreational) Marijuana | NO | NO | NO | NO | SPS | NO |
| | | | | | | |
| 38 Cultivation of Marijuana for commercial purposes | SPP See section 4.11.3.7 | NO | NO | SPP | NO | SPP See section 4.11.3.7 |
| | | | | | | |
| 39 Marijuana Manufacturing and Production of marijuana based products | NO | NO | NO | SPP | NO | NO |
| | | | | | | |
| 40 Marijuana Testing facility | NO | NO | NO | SPP | NO | NO |
| | | | | | | |
| | | | | | | |
| 41 Marijuana transportation business | NO | NO | NO | SPP | NO | NO |

Add to Section 4.11.2, Table of Accessory Uses (Home occupation), the following marijuana uses:

| | R-3 | R-D | C | M | MROD | R-1 |
|---|-----|-----|----|-----|------|-----|
| 19. Marijuana Micro Business, Engaged within a dwelling or in an accessory building by a resident of the premises involving no on premises sales of products, articles, or goods made on or off the premises to consumers and conforming to Section 4.11.3.3 hereof. | SPP | NO | NO | SPP | SPP | SPP |

| | | | | | | |
|---|-----|-----|----|-----|------|-----|
| | R-3 | R-D | C | M | MROD | R-1 |
| 20. Marijuana Craft Cooperative, Engaged within a dwelling or in an accessory building by a resident of the premises involving no on premises sales of products, articles, or goods made on or off the premises to consumers and conforming to Section 4.11.3.3 hereof. | SPP | NO | NO | SPP | SPP | |

Part Four

Add to section 4.11.3, Special Requirements, the following new subsections:

Section 4.11.3.7 A Special Permit for cultivation of marijuana for commercial purposes may only be granted in a residential district when the proposed use is part of the activity of a farm. For the purposes of this section a farm must meet the criteria given in section 4.11.3.7.a or 4.11.3.7.b.

- a. A farm is defined as having more than five (5) acres dedicated to agricultural production and the farm must meet the Federal definition of a farm where the entity has an EIN number and shows a minimum of \$2500 in gross sales of any agricultural commodity.
- b. For farms that meet the federal criteria listed in section 4.11.3.7.a but which are on lands less than five (5) acres in size but more than two (2) acres of size, a special permit may also be granted for the commercial cultivation of Marijuana.

Where an applicant may propose to combine multiple marijuana related uses on one site, each of which may require a separate license from the Cannabis Control Commission, the SPGA may elect to issue a single special permit for a facility that proposes to combine multiple licensed uses at one site.

Section 4.11.3.9 Marijuana related uses may be of a business type or format as allowed by and as licensed by the Cannabis Control Law, 935 CMR 500, including "Marijuana Micro Business" and "Craft Cooperatives."

Section 4.11.3.9 Other regulations relating to the cultivation of marijuana are given in Section 9.1.

Part Five

Add the following to Table 5.6 Dimensional Requirements:

| <i>DISTRICT</i> | <i>Minimum Area (acres)</i> | <i>Lot Frontage (feet)</i> | <i>Yard Minimum (feet)</i> | | | <i>Maximum Building Height</i> | | <i>Maximum Coverage by Building (footprint)</i> |
|-----------------|-----------------------------|----------------------------|----------------------------|-------------|-------------|--------------------------------|-------------|---|
| | | | <i>Front</i> | <i>Side</i> | <i>Rear</i> | <i>Stories</i> | <i>Feet</i> | |
| MROD | 1/2 | 100 | 30 | 15 | 40 | 2.5 | 35 | 30% |

Part Six

Add a new section 9.1, Marijuana Related Uses, as follows:

9.1 Marijuana related uses

9.1.1 Statement of Purpose

a) The purpose of this bylaw is to allow for the siting of state-licensed Marijuana Establishments and Medical Marijuana Treatment Centers in appropriate locations in accordance with An Act To Ensure Safe Access to Marijuana, Chapter 55 of the Acts of 2017, and all regulations which have or may be issued by the Cannabis Control Commission, including, but not limited to 935 CMR 500.000 and 935 CMR 501.000, and to impose reasonable safeguards to govern the time place and manner of Marijuana Establishments and Medical Marijuana Treatment Centers to ensure public health, safety, well-being and mitigate against undue impacts on the natural and build environment of the town and its residents.

b) It is the intent of these bylaws to enable small scale and local marijuana related business activity.

For all districts, Special Permits for cultivation of marijuana may only be granted when the size and amount of cultivation for individual or corporate entity does not exceed a "Tier One" scale of cultivation activity, as defined by 935 CMR 500, except that a Craft Cooperative shall be limited to three non-contiguous cultivation sites in the town of West Stockbridge each of which is limited to Tier 1 canopy (5000 sf.)

9.1.2 Definitions

Where not expressly defined herein, the meaning of terms used in this bylaw shall be interpreted as defined by the Cannabis Control Commission's regulations governing Adult Use of Marijuana (935 CMR 500.000) in effect on the effective date of this zoning bylaw and otherwise by their plain language.

9.1.3 Special permit application requirements for marijuana related activities

9.1.3.1 A Marijuana Establishment and Medical Marijuana Treatment Center may be allowed only in locations set forth in the Table of Uses, Section 4.11.1, by special permit from the Planning Board (the "SPGA") in accordance with M.G.L. c.40A, §9.

9.1.3.2 Only an applicant holding a valid license or certificate, whether provisional or final, from the Cannabis Control Commission, Department of Public Health, or other appropriate state agency as the case may be, is eligible to apply for a special permit pursuant to this Bylaw.

9.1.3.3 In addition to the special permit requirements of section 6.3 special permit applications for any marijuana related use or activity shall also include the following:

- a. Names and addresses of each owner of the Marijuana Establishment or Medical Marijuana Treatment Center, and where the owner is a business entity, the names and address of each owner of that establishment.
- b. Copies of all licenses and permits issued to the Applicant by the Commonwealth of Massachusetts and any of its agencies or, if the applicant's license is provisional, a written description of the status of its application to the Cannabis Control Commission relative to the establishment at issue.
- c. A copy of the final, executed Host Community Agreement ("HCA") between the Applicant and the Town of West Stockbridge.

- d. A list of any waivers of regulations that the applicant seeks to obtain from the Cannabis Control Commission or a copy of any such waivers that the Commission has issued to the applicant, as applicable.
- e. Copies of all policies and procedures approved by the Cannabis Control Commission including without limitation the Marijuana Establishment's and Medical Marijuana Treatment Center's operating and safety procedures, or copies of such policies and procedures that the Applicant intends to submit to the Commission, as applicable.
- f. A plan that identifies potential energy use reduction and that demonstrates best practices for energy conservation and A plan that identifies opportunities for renewable energy generation. The plan may include an electrical system overview, proposed energy demand, ventilation system and air quality, proposed water system and utility demand.
- g. Site plans and/or application narratives that contain sufficient information so that the SPGA can evaluate conformance of the proposal with applicable state law and this Zoning Bylaw.
- h. The SPGA may require the applicant to provide additional information as it deems necessary, including a traffic study

9.1.3.4 Upon the filing of the special permit application with the SPGA, the Applicant shall simultaneously deliver copies of the full application to the Board of Selectmen, (if the Planning Board is the SPGA), the Planning Board (if the Board of Selectmen is the SPGA), the Building Commissioner, the Board of Health, the Police Department and the Fire Department.

9.1.4 Outdoor Cultivation of marijuana

9.1.4.1 Cultivation of marijuana outside and not in a building shall conform to the following:

- a. No marijuana cultivation shall be less than 10' from a property line.
- b. No marijuana cultivation or related activity shall be allowed in a front yard setback.
- c. Fencing of cultivation areas shall be provided in conformance with 935 CMR 500 and with other applicable provisions of this Bylaw.
- d. No cultivation may be visible from a public way. Fencing or landscape screen planting may be used to shield cultivation activities.
- e. Where state law requires monitoring by video camera 24 hrs/day only infrared type technology may be used. The applicant shall provide information relating to the type of video monitoring equipment proposed to be used.
- f. No equipment shall be used that creates continuous noise that is measurable at a property line.
- g. Fencing or landscape planting for screening shall be shown on the site plan submitted with the application.

9.1.5 Indoor Cultivation of marijuana

9.1.5.1 All cultivation of marijuana inside buildings shall comply with the following:

- a. No artificial lighting used for growing inside the building shall be visible on the exterior of the building. Greenhouses that transmit light from inside to outside may not be used for cultivation of marijuana.
- b. Where state law requires monitoring by video camera 24 hrs/day on any part of the exterior of a building used for cultivation only infrared type technology may be used.

The applicant shall provide information relating to the type of video monitoring equipment proposed to be used.

Fencing shall be provided in conformance with 935 CMR 500 and shall be shown on the site plan submitted with the application.

c. No equipment shall be used that creates continuous noise from the regular operation of the facility that is measurable at a property line.

9.1.6 Retail sales of marijuana

9.1.6.1 No more than (1) one Special Permit for the retail sale of medical marijuana shall be granted in the Town of West Stockbridge.

9.1.6.2 No more than (1) one Special Permit for the retail sale of adult use (i.e., recreational) marijuana shall be granted in the Town of West Stockbridge.

9.1.6.3 Upon receipt of a Special Permit application for a Marijuana Retail use the Board of Selectmen, as the SPGA such retail use, shall forward a copy of the full Special Permit Application to the Planning Board and shall request the Planning Board to review the application and make recommendations back to the Selectboard as to the completeness of the application and its conformance to these by laws.

9.1.6.4 In addition to other information required for a special permit application the following additional information shall be submitted with the Special Permit Application:

- a. Lighting - A site plan with all parking lot lighting and showing all lighting mounted on buildings. Include photometric studies for exterior light levels around the building and specifications for exterior light fixtures showing that all fixtures proposed to be used are "cut-off" type fixtures and that no light pollution shall occur.
- b. Elevation drawings of any new building or renovated building proposed for retail marijuana sales shall be submitted with the Special Permit application. These drawings shall show how the proposed building will mitigate the effect of the state law and how the proposed building will be compatible with the scale and character of West Stockbridge.
- c. The SPGA may require that a traffic study be submitted.

9.1.6.5 Parking for retail sales of marijuana related products shall be provided in accordance with the requirements of Section 6.2.1 and the particular requirements for "retail businesses".

9.1.6.6 In addition to the findings required pursuant to Section 6.3.4, the SPGA shall make the following findings with respect to retail marijuana uses:

- a. The scale and character of the proposed retail facility shall be compatible with the general scale and character of West Stockbridge.
- b. There will be no negative impact on traffic or parking.

9.1.7 Other requirements for Marijuana Related Uses

9.1.7.1 The Marijuana Establishment and Medical Marijuana Treatment Centers shall provide the Chief of Police and Building Commissioner up to date contact information, as required by the Chief of Police and Building Commissioner, including the name, telephone number and electronic mail address of a contact person who must be available 24 hours a day, seven days a week.

9.1.7.2 In addition to compliance with applicable state laws and regulations and other requirements of this Bylaw, the SPGA may impose reasonable conditions to improve site design, traffic flow, public safety, water quality, air quality, protection of significant environmental resources and the preservation of community character of the surrounding area including, without limitation, including, but not limited to the following:

- a. The SPGA shall consider the following and may include conditions concerning the following in any special permit granted pursuant to this Article:
 1. Hours of operation, including dispatch for any home delivery of medical marijuana.
 2. Compliance with the Host Community Agreement.
- b. The submission of a copy of the Final License or Final Certificate of Registration from the Cannabis Control Commission, Department of Public Health or such other applicable state entity, as the case may be, with the Building Commissioner prior to the issuance of a building permit, certificate of occupancy, or commencement of use, whichever occurs first.
- c. The reporting of any cease and desist order, quarantine order, suspension order, limiting sales order, notice of hearing or final action by the Cannabis Control Commission, Department of Public Health or such other applicable state entity, as the case may be, , regarding the Marijuana Establishment and Medical Marijuana Treatment Center to the Building Commissioner within 48 hours of the Applicant's receipt.

9.1.7.3 A special permit issued pursuant to this bylaw shall be subject to the following:

- a. The special permit shall expire within three (3) years of the date of issue. If the Applicant wishes to renew the special permit, an application to renew must be submitted at least one hundred twenty (120) days prior to the expiration of the special permit. The SPGA may, at the time of a renewal, renew a special permit for a marijuana related use for a period of time not less than three (3) years and not greater than ten (10) years.
- b. Special permits shall be limited to the original applicant(s) and shall expire on the date the special permit holder ceases operation of the Marijuana Establishment and Medical Marijuana Treatment Center.
- c. The holder of a special permit shall annually file an affidavit with the Building Commissioner demonstrating that it is in good standing with respect to its license or certificate from the Cannabis Control Commission, Department of Public Health, and any other applicable State licenses.
- d. The holder of a special permit shall notify the Building Commissioner and the SPGA in writing within 48 hours of the cessation of operation of the Marijuana Establishment or the expiration or termination of the permit holder's state license.
- e. Special permits shall lapse upon the expiration or termination of an applicant's license from the Cannabis Control Commission, Department of Public Health or such other applicable state entity, as the case may be.

9.1.8. Discontinuance of Use

9.1.8.1 Any Marijuana Establishment or Medical Marijuana Treatment Center permitted under this section shall be required to remove all material, plants, equipment and other paraphernalia prior to expiration of its operating license or certificate issued by the Commonwealth of Massachusetts or no more than seven (7) days following revocation or voiding of such license or certificate.

9.1.8.2 The licensee shall notify the Selectboard, Planning Board, Building Inspector by certified mail of the expiration or revocation of a license or certificate from the Cannabis Control

Commission, Department of Public Health or such other applicable state entity, as the case may be, the proposed date of discontinued operations, and the date by which all removals will be completed.

9.1.8.3 All cessation of business and removals of materials shall be in compliance with applicable state regulations including, but not limited to:

- a. Physical removal of all exterior security related items (fences, cameras, lights, etc.)
- b. Disposal of all marijuana or marijuana products
- c. Stabilization or re-vegetation of the site as necessary. The Planning Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

9.1.8.4 If the licensee of the marijuana related use fails to carry out removals in accordance with the requirements of this section within one hundred twenty (120) days of expiration or revocation of license, the Town may enter the property and remove items/materials after obtaining an appropriate court order.

9.1.8.5 Absent notice as required by sec 9.1.8.2 above or written notice of extenuating circumstances, the marijuana related use shall be considered discontinued when it fails to operate for more than one year without the written consent of the Special Permit Granting Authority or when its license to operate has expired or has been revoked.

9.1.8.6 Financial Assurance: The SPGA may require the licensee of a marijuana related use to provide a surety to ensure adequate funds are available to provide for decommissioning and removal of the installation.

Article 2: To see if the Town will vote to amend the Town of West Stockbridge's Zoning By-laws, Section 6.9, "Temporary Moratorium on Recreational Marijuana Establishments," by adding the bolded text and deleting the strikethrough text as follows:

Section 6.9 Temporary Moratorium on Recreational Marijuana Establishments

6.9.1 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 by Chapter 351 of the Acts of 2016 and thereafter, on July 28, 2017 by Chapter 55 of the Acts of 2017). ~~This law 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 no later than April 1, 2018. The Cannabis Control Commission issued regulations on March 23, 2018 regarding recreational (non-medical) use of Marijuana and has begun accepting applications for licensing of non-medical marijuana establishments.~~ 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 By-laws. Regulations ~~to be~~ promulgated by the Cannabis Control

Commission ~~may~~ provide guidance on certain aspects of local regulation of Recreational Marijuana Establishments. The regulation of recreational marijuana raises novel legal, planning, and public safety issues, and the Town needs time to study and consider the regulation of Recreational Marijuana Establishments and 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 to allow sufficient time to address the effects of such structures and uses in the Town and to enact bylaws in a consistent manner.

6.9.2 Definition

"Recreational Marijuana Establishment" shall mean a "marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business."

6.9.3 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 recreational marijuana establishments and other uses related to recreational marijuana. The moratorium shall be in effect through ~~December 31, 2018~~ **June 1, 2019**, 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.

6.9.4 Severability.

The provisions of this by-law are severable. If any provision, paragraph, sentence, or clause of this by-law or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this bylaw, *or take any action relative thereto.*

Article 3: To see if the Town will vote to amend the Town of West Stockbridge's Zoning By-Laws, Section 6.10, "Temporary Moratorium on Medical Marijuana Treatment Centers," by adding the bolded text and deleting the strikethrough text as follows:

6.10 Temporary Moratorium on Medical Marijuana Treatment Centers

6.10.1 Purpose

By vote at the State election on November 6, 2012, the voters of the Commonwealth approved a law regulating the cultivation, distribution, possession and use of marijuana for medical purposes. The law became effective on January 1, 2013. The State Department of Public Health issued regulations to provide guidance to the Town in regulating medical marijuana on May 24, 2013. However, on July 28, 2017, Governor Baker signed "An Act to ensure safe access to marijuana" (the "Act"), adopted as Chapter 55 of the Acts of 2017. The Act makes a number of significant changes to the regulation of medical-use marijuana included, but not limited to, the eventual repeal of Chapter 369 of the Acts of 2012, entitled "An Act for the Humanitarian Medical Use of Marijuana",

the transfer of the oversight and regulation of medical-use marijuana to the newly created Cannabis Control Commission and the adoption of new statutory requirements for the limited cultivation, distribution, possession and use of marijuana for medical purposes. In addition, the Act prohibits a zoning bylaw or ordinance from preventing a Medical Marijuana Treatment Center, licensed by the Commonwealth on or before July 1, 2017, from converting to a Recreational Marijuana Establishment “engaged in the cultivation, manufacture or sale of marijuana or marijuana products to a marijuana establishment engaged in the same type of activity.” It also permits municipalities, by bylaw or ordinance, to limit the number of any type of Recreational Marijuana Establishment to fewer than the number of Medical Marijuana Treatment Centers registered to engage in the same type of activity in the municipality. Currently, under the Zoning Bylaw, a Medical Marijuana Treatment Center is not a permitted use in the Town. The regulation of medical marijuana raises complex legal, planning and public safety issues. The Town needs time to study and consider the regulation of Medical Marijuana Treatment Centers and address such complex issues, as well as to address the potential impact of State regulations on local zoning and to undertake a planning process to consider amending the Zoning Bylaw regarding regulation of Medical Marijuana Treatment Centers and other uses related to the regulation of medical marijuana, including non-medical use. The Town intends to adopt a temporary moratorium on the use of land and structures in the Town for Medical Marijuana Treatment Centers to all the Town sufficient time to engage in a planning process to address the effects of such structures and uses in the Town and to adopt provisions of the Zoning Bylaw in a manner consistent with sound land use planning goals and objectives.

6.10.2 Definitions

a. “Medical marijuana treatment center” shall mean an establishment 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 qualifying patients or their personal caregivers for medical purposes.

6.10.3 Temporary Moratorium

For the reasons set forth above and notwithstanding any other provision of the Zoning By-laws to the contrary, the Town hereby adopts a temporary moratorium on the use of land or structures for medical marijuana treatment centers. The moratorium shall be in effect through ~~December 31, 2018~~ **June 1, 2019**, or until the Town adopts Zoning By-law amendments that regulate Medical Marijuana Treatment Centers, whichever occurs earlier. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of medical marijuana in the Town, consider the impact of “The Regulation and Taxation of Marijuana Act” and the “Act to ensure safe access to marijuana” and associated regulations, and shall consider adopting new provisions of the Zoning Bylaws to address the impact and operation of Medical Marijuana Treatment Centers and related uses.

6.10.4 Severability

The provisions of this by-law are severable. If any provision, paragraph, sentence, or clause of this by-law or the application thereof to any person, establishment, or circumstance shall be held invalid, such invalidity shall not affect the other provisions or application of this bylaw, or take any other action in relation thereto.

Article 4: To see if the Town will vote to amend its zoning bylaws as follows, *or take any other action in relation thereto:*

Part One

Add to Table 4.11.1, Table of Uses - Principle Uses

| | R-3 | R-D | C | M | R-1 |
|--|-----|-----|-----|-----|-----|
| 43 Large-Scale Ground-Mounted Solar Energy System | NO | NO | SPP | SPP | NO |
| | | | | | |
| 44 Medium-Scale Ground-Mounted Solar Energy System | NO | NO | SPP | SPP | NO |

Add to Table 4.11.2, Table of Uses - Accessory Uses

| | R-3 | R-D | C | M | R-1 |
|--|-----|-----|-----|-----|-----|
| 21 Large-Scale Ground-Mounted Solar Energy System | NO | NO | SPP | SPP | NO |
| | | | | | |
| 22 Medium-Scale Ground-Mounted Solar Energy System | NO | NO | SPP | SPP | NO |
| | | | | | |
| 23 Small-Scale Ground-Mounted Solar Energy System | SPP | SPP | SPP | SPP | SPP |
| | | | | | |
| 24 Roof-mounted solar energy system | Y | Y | Y | Y | Y |

Part Two - Dimensional Regulations

Add the following footnotes to Table 5.6: Exceptions to Rules in Table of Dimensional Requirements

5. Ground mounted solar photovoltaic installations shall meet yard setback requirements, except that setback requirements may be reduced by special permit as a part of the special permit granted for the underlying use.
6. Solar energy systems shall not be included in calculations for lot coverage or impervious surface.
7. Ground mounted solar energy generation system at any scale shall not exceed 20 feet above the ground as measured under each panel module, except the overall height of tracking type systems may exceed 20 feet for transient conditions when dumping snow.
8. The size of a small scale solar photovoltaic system, defined as being under 10 kW DC, may be increased by the SPGA per section 9.2.6

Part Three

Section 9.2 Photovoltaic Solar Energy Systems

9.2.1 Statement of Purpose

The purpose of this by-law is to provide a permitting process for solar photovoltaic installations for cost-effective, efficient, and timely implementation to increase the use of distributed generation; to integrate these installations into the Town in a manner that minimizes their impacts on the character of neighborhoods, on property values, and on the scenic, historic, and environmental resources of the Town, and to protect health and safety.

9.2.2 Solar Energy Systems - Definitions

GRID-INTERTIE: A photovoltaic system that is connected to an electric circuit served by an electric utility.

GROUND-MOUNTED: An Active Photovoltaic Solar Energy System that is structurally mounted to the ground and is not roof-mounted; may be of any size (small-, medium- or large-scale).

LARGE SCALE: An Active Photovoltaic Solar Energy System that has a rated nameplate capacity greater than 250kW DC.

MEDIUM-SCALE: An Active Photovoltaic Solar Energy System that has a rated nameplate capacity from 10 KW to 250 kW DC).

OFF-GRID: A photovoltaic solar energy system in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility.

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

RATED NAMEPLATE CAPACITY: The maximum rated output of electric power production of the photovoltaic system in watts of Direct Current (DC).

ROOF-MOUNTED: An Active Photovoltaic Solar Energy System that is structurally mounted to the roof of a building or structure; may be of any size (small, medium, or large-scale).

SMALL-SCALE: An Active Photovoltaic Solar Energy System that has a rated nameplate capacity of 10 kW DC or less, unless a greater capacity has been allowed by special permit.

SOLAR ACCESS: The access of a solar energy system to direct sunlight.

Section 9.2.3 Photovoltaic Solar Development

9.2.3 Medium or Large Scale Photovoltaic Solar Developments

9.2.3.1 Special Permit Required – Medium or Large Scale Photovoltaic Solar Developments require a special permit per the Table of Uses, Section 4.11.1 and 4.11.2.

9.2.3.2 In addition to the standard special permit application requirements of section 6.3.6, a special permit application for large and medium scale photovoltaic solar energy systems the site plan submitted shall include the following additional information:

- a. Property lines and physical features, including roads, for the project site;
- b. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;
- c. Blueprints or drawings of the solar energy system showing the proposed layout of the system, any potential shading from nearby structures, the distance between the proposed solar collector and all property lines and existing on-site buildings and structures, and the tallest finished height of the solar collector;
- d. One or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all Massachusetts Electric Code (527 CMR 12.00) compliant disconnects and over current devices;
- e. Documentation of the major system components to be used, including the panels, mounting system, and inverter;
- f. Name, address, and contact information for proposed system installer;
- g. Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any;
- h. The name, contact information and signature of any agents representing the project proponent;
- i. Zoning district designation for the parcel(s) of land comprising the project site;
- j. Locations of active farmland and prime farmland soils, wetlands, permanently protected open space;
- k. Priority Habitat Areas and BioMap 2 Critical Natural Landscape Core Habitat mapped by the Natural Heritage & Endangered Species Program (NHESP) and “Important Wildlife Habitat” mapped by the DEP.;
- l. Locations of floodplains or inundation areas for moderate or high hazard dams;
- m. Locations of local or National Historic Districts;
- n. Documentation of actual or prospective access and control of the project site;
- o. An operation and maintenance plan;
- p. Proof of liability insurance;

q. A public outreach plan, including a project development timeline, which indicates how the project proponent will meet the required Special Permit Review notification procedures and otherwise inform abutters and the community.

9.2.4 Special Permit Design Standards for Large and Medium-Scale Photovoltaic Solar Developments

9.2.4.1 Standards for large or medium-scale ground-mounted solar energy systems proposed within all zoning districts.

a. Utility Notification - No grid-intertie photovoltaic system shall be installed until evidence has been given to the Special Permit Granting Authority that the owner has submitted notification to the utility company of the customer's intent to install an interconnected customer-owned generator. Off-grid systems are exempt from this requirement.

b. Utility Connections - Reasonable efforts, as determined by the Special Permit Granting Authority, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

c. Safety - The large or medium-scale ground-mounted solar energy system owner or operator shall provide a copy of the Special Permit application to the fire chief for review. All means of shutting down the solar installation shall shown on the application and plans filed, and shall be clearly marked on site.

d. Safety - Fencing that is required for safety and prevention of access to photovoltaic equipment shall be setback from roads and property lines to the greatest extent possible and shall be separate from other visual screening that is required.

e. Visual screening, by opaque fence and/or landscape planting, shall be provided to prevent the solar energy system being visible from the street or streets which the system has frontage on, from adjoining streets which abut the lot, or from a distance of 50' or less from an adjoining residential property. This regulation is not intended to require screening of solar energy systems where the topography within the site of the solar installation and adjoining the solar energy system site rises or falls to an extent that fencing or landscape screening is impractical or unnecessary. If the natural circumstances of existing landscape and vegetation provides screening that is satisfactory to the SPGA additional visual screening may not be required.

f. 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 ground-mounted solar energy systems or as otherwise prescribed by applicable laws, regulations, and bylaws/ordinances.

g. Storm water Management: Best management practices shall be used for controlling and managing storm water run-off and drainage for the medium-scale ground-mounted solar photovoltaic installation in compliance with all applicable federal, state and local regulations.

9.2.5 Special permit requirements for small scale ground mounted photovoltaic solar energy systems

9.2.5.1 A special permit application for small scale ground mounted photovoltaic solar energy systems shall include the following additional information on the site plan that is required by section 6.3.6.

- a) north arrow and direction of solar south
- b) locations of buildings on neighboring lots within 300 feet.
- c) topography based on USGS
- d) satellite imagery of the site and neighboring lots showing tree coverage

9.2.6 Increase in size of small scale ground mounted photovoltaic solar energy systems

9.2.6.1 The Planning Board, acting as the special permit granting Authority, (SPGA) may, as a part of the issuance of a Special Permit for a ground mounted photovoltaic solar energy system, allow a small scale ground mounted photovoltaic system that is larger than 10 KW DC provided that findings as required under section 6.3.4 and section 9.2.6.2 are made.

9.2.7 The SPGA may impose reasonable conditions for landscape screening or fencing

9.2.8 Findings required for ground mounted photovoltaic solar energy systems

- a) The general findings required for all special permits under section 6.3.4 are required to be made.
- b) The proposed ground mounted residential photovoltaic solar energy system will not have any negative impact on neighbors or abutters within 300'
- c) The proposed ground mounted residential photovoltaic solar energy system will not have any negative impact on views from a public way.
- d) If an increase in size above 10 KW DC is requested as a part of the Special Permit application the increase in size will not have any negative impact on neighbors or abutters within 300' or on views from a public way.

9.2.7 Abandonment or Decommissioning:

9.2.5.1 Removal Requirements: Any commercial large or medium-scale ground-mounted solar photovoltaic installation which has reached the end of its useful life, is no longer operational or has been abandoned shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Selectboard, Planning Board, and Building Inspector by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

- a. Physical removal of all large-scale ground-mounted solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.
- b. Disposal of all solid and hazardous waste brought to the site or generated by the owner or operator or otherwise related to the large-scale ground-mounted solar photovoltaic installation in accordance with local, state, and federal waste disposal law and regulations.
- c. Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

9.2.5.2 Abandonment: The large or medium scale ground-mounted solar photovoltaic installation shall be considered abandoned when it does not operate for more than one year without the written consent of the Special Permit Granting Authority. If the owner or operator of the large or medium-scale ground-mounted solar photovoltaic installation fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the Town retains the right, after the receipt of an appropriate court order, to enter and remove an abandoned, hazardous, or decommissioned large or medium-scale ground-mounted solar energy system. As a condition of Special Permit approval, the applicant and landowner shall agree to allow entry to remove an abandoned or decommissioned installation.

9.2.5.3 Financial Assurance: Proponents of large-scale ground-mounted solar photovoltaic installations shall be required to provide a form of surety to cover the cost of removal and restoration of the site in the event the site is abandoned. The amount and form of surety shall be determined by the Planning Board, but in no event shall the amount exceed 125% of the cost of removal. Applicants shall submit a fully inclusive cost estimate of the costs associated with the removal of the large-scale ground-mounted solar energy system prepared by a qualified engineer. The cost estimate accounts for inflation over the life of the system. All subsequent owners/operators of the system shall continue to provide a form of surety acceptable to the Town until the commercial-scale solar energy system has been removed. The surety account or bond will be managed by the Treasurer's office.

Article 5: To see if the Town will vote to appropriate the sum of \$3,851.23 from Certified Water Operations Retained Earnings and transfer the same amount to the Town's general fund, *or take any other action in relation thereto.*

[NOTE: Certified Available Water Retained Earnings balance is \$83,556]

[NOTE: The Finance Committee recommends approval of this article.]

Article 6: To see if the Town will vote to appropriate the sum of \$1,217.45 from Certified Sewer Operations Retained Earnings and transfer the same amount to the Town's general fund, *or take any other action in relation thereto.*

[NOTE: Certified Available Sewer Retained Earnings balance is \$118,810]

[NOTE: The Finance Committee recommends approval of this article.]

Article 7: To see if the Town will vote to appropriate the sum of \$11,500 from Certified Sewer Operations Retained Earnings for the purpose of replacing and upgrading lighting equipment at the wastewater treatment plant, *or take any other action in relation thereto.*

[NOTE: Certified Available Sewer Retained Earnings balance is \$118,810]

[NOTE: The Finance Committee recommends approval of this article.]

Article 8: To see if the Town will vote to appropriate the sum of \$8,000 from Certified Free Cash for the purpose of purchasing one portable speed trailer for use by the West Stockbridge Police Department, *or take any other action in relation thereto.*

[NOTE: Certified Available Free Cash balance is \$368,791 as of this meeting.]

[NOTE: The Finance Committee recommends approval of this article.]

Article 9: To see if the Town will vote to appropriate the sum of \$12,000 from Certified Free Cash for the purpose of paying additional closing costs associated with the purchase of the National Grid parcel adjacent to Moscow Road as previously approved (Article 30) at the May 14, 2018 Annual Town Meeting, *or take any other action in relation thereto.*

[NOTE: Certified Available Free Cash balance is \$368,791 as of this meeting.]

[NOTE: The Finance Committee recommends approval of this article.]

Article 10: To see if the Town will vote to appropriate the sum of \$3,815 from Certified Free Cash for the purpose of supplementing Article 27 as approved at the May 7, 2018 Annual Town Meeting authorizing the purchase of a new model year Police Cruiser, *or take any other action in relation thereto.*

[NOTE: Certified Available Free Cash balance is \$368,791 as of this meeting.]

[NOTE: The Finance Committee recommends approval of this article.]

[NOTE: Article 27 of the May 7, 2018 ATM approved \$40,000 for the purchase of a new Police Vehicle. This was a budget number; the vehicle purchased cost \$43,815.]

Article 11: To do and transact any other business to be done by the Town.

Given under our hands this 31st day of December 2018.

Bernie Fallon, Chair _____

Peter Skorput _____

Doane Perry _____

West Stockbridge Board of Selectmen.

I certify that I have posted true and attested copies of this warrant at the Post Office at West Stockbridge, at State Line, West Center, Williamsville, and High Street as directed by vote of the Town of West Stockbridge.

Attested: _____, Constable Date: _____