

# *Town of Lancaster*

## *Office of the Town Clerk*

*695 Main Street, Suite 2*

*Lancaster, Massachusetts 01523*

*Tel (978) 365-3326 ext. 1013 - Fax (978) 368-4011*

July 27, 2016

WORCESTER, SS:

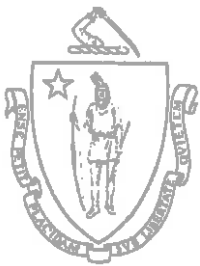
On the above date, I posted attested copies of the Amendments to the General Bylaws, Articles 19 and 20, as well as Zoning Bylaw and the Official Zoning Overlay Map, Article 17, which were approved at the Annual Town Meeting convened on May 2, 2016. The article mentioned was approved by Maura Healey, Attorney General, on August July 26, 2016 and is posted at the following locations in the Town of Lancaster:

POST OFFICE (MAIN); POST OFFICE (SOUTH); TOWN HALL; FIRST CHURCH OF CHRIST, UNITARIAN; LANCASTER COMMUNITY CENTER; TOWN WEBSITE

  
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CONSTABLE

CLAIMS OF INVALIDITY BY REASON OF ANY DEFECT IN THE PROCEDURE OF ADOPTION OR AMENDMENTS OF THESE BYLAWS MAY ONLY BE MADE WITHIN NINETY DAYS (90) PER CHAPTER 40, SECTION 32, OF THE GENERAL LAWS OF THE COMMONWEALTH.

  
\_\_\_\_\_  
MARY DE ALDERETE  
TOWN CLERK



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION  
10 MECHANIC STREET, SUITE 301  
WORCESTER, MA 01608

MAURA HEALEY  
ATTORNEY GENERAL

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July 26, 2016

Mary DeAlderete, Town Clerk  
Town of Lancaster  
695 Main Street  
Suite 2  
Lancaster, MA 01523

**RE: Lancaster Annual Town Meeting of May 2, 2016 - Case # 7943**  
**Warrant Article # 17 (Zoning)**  
**Warrant Articles # 19 and 20 (General)**

Dear Ms. DeAlderete:

Articles 17, 19 and 20 - We approve Articles 17, 19 and 20, and map amendments related to Article 17, from the May 2, 2016 Lancaster Annual Town Meeting. Our comments regarding Article 17 are provided below.

Article 17 - Article 17 amends the Town's zoning by-laws to create a Solar Overlay District and further to amend Article XVII by deleting the existing text and inserting new text entitled "Solar Energy Systems."<sup>1</sup> Roof mounted solar energy installations are allowed by right anywhere in the Town. Ground-Mounted solar energy installations within the Solar Overlay District are allowed by right with site plan review. Ground-Mounted solar energy systems outside of the Solar Overlay District are allowed only by special permit with site plan review.

General Laws Chapter 40A, Section 3, protects solar energy systems and the building of structures that facilitate the collection of solar energy, and provides in pertinent part as follows:

No zoning ordinance or bylaw shall prohibit or unreasonably regulate the installation of solar energy systems or the building of structures that facilitate the collection of solar energy, except where necessary to protect the public health, safety or welfare.

There are no court decisions to guide the Town or this Office in determining what qualifies as an unreasonable regulation of solar uses in contravention of G.L. c. 40A, § 3. However the Town should be mindful of this requirement in applying the amendments adopted

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<sup>1</sup> Article 17 also makes related amendments to Section 220-4 (Establishment of Districts); Section 220-5 (B) (Overlay Districts); Section 220-8.6 (Use Regulation Schedule) and amends the Town's Official Zoning Overlay Map to add the Solar Overlay District.

under Article 17 and consult closely with Town Counsel during the process. In light of the protections granted to solar energy systems in G.L. c. 40A, § 3, we highlight the following provisions in the new by-law.

1. Site Plan Review.

All ground-mounted solar energy systems require site plan review. The by-law provides that the Planning Board may impose conditions on a ground-mounted solar energy system, as follows:

The Planning Board may impose any conditions upon site plan approval deemed necessary to achieve the purpose of this Bylaw, such as, but not limited to the following:

- Greater than minimum setback requirements;
- Modification of exterior appearance;
- Limitation of size or extent of facilities;
- Regulation of traffic and site plan features;
- Screening of premises from view by use of appropriate walls, fencing or buffer strips;
- Limitation of sound levels;
- Control of the number, location, size and lighting of signs;
- Additional design and siting modifications where appropriate.

Site plan approval acts as a method for regulating as-of-right uses rather than prohibiting them. Y.D. Dugout, Inc. v. Bd. of Appeals of Canton, 357 Mass. 25, 31 (1970). Where “the specific area and use criteria stated in the by-law [are] satisfied, the [reviewing] board [does] not have discretionary power to deny...[approval], but instead [is] limited to imposing reasonable terms and conditions on the proposed use.” Prudential Ins. Co. of America v. Westwood, 23 Mass.App.Ct. 278, 281-82 (1986), *quoting from* SCIT, Inc. v. Planning Bd. of Braintree, 19 Mass. App. Ct. 101, 105 n.12 (1984). The Town should consult with Town Counsel in the course of site plan review of by-right uses to ensure that the by-law is applied in compliance with these principles and G.L. c. 40A, § 3.

2. Fees.

The by-law designates the Planning Board as the site plan review approval board, and requires that the applicant “will also be responsible for payment of any consultants requested by the Planning Board to provide professional review.” The by-law further requires the applicant to “deposit with the Planning Board in advance a reasonable amount to provide such review, the use of which shall be governed by M.G.L. c. 44, § 53G.”

The Planning Board must apply this section in a manner consistent with G.L. c. 44, § 53, which requires all money to be deposited into the Town’s general fund. Although G.L. c. 44, § 53G authorizes the collection of professional consultant fees and deposit into a special account, the provisions of Section 53G are only applicable to zoning boards, planning boards, boards of health, and conservation commissions acting under authority conferred by G.L. c. 40A, §§ 9 and 12, c. 41, § 81Q, c. 40B, § 21, c. 111; and c. 40, § 8C. The Legislature did not include planning boards acting under the authority conferred solely by a local by-law (for example, site plan

review) within the small class of local boards that enjoy the benefits of G.L. c. 44, 53G. Therefore, the Town must manage any collected professional consultant fees in a manner consistent with G.L. c. 44, § 53. The Town should consult Town Counsel with any questions on this issue.

### 3. Required Documents.

As part of site plan, an applicant is required to submit “[o]ne-or three-phase electrical diagrams detailing the installation, associated components, and electrical interconnection methods with all National Electric Code complaint disconnects and overcurrent devices.” The Massachusetts Electrical Code, 527 C.M.R. § 12.00, is the electrical code for the Commonwealth. It is unclear what the Town means by the “National Electrical Code.” However, nothing in this section relieves an applicant from complying with the requirements of the Massachusetts Electrical Code. The Town may wish to amend this requirement to reference the Massachusetts Electrical Code rather than the National Electrical Code.

### 4. Discontinuance and Removal.

The by-law provides that “[t]he cost for such removal [of an abandoned solar installation] will be charged to the property owner, and shall constitute a lien upon the land in accordance with the provisions of M.G.L. 139, Section 3A.” The lien procedure under G.L. c. 139, §3A, is applicable only under certain specific circumstances. General Law Chapter 139, Section 3A, entitled “Demolition or removal of building or structure; or securing of vacant land; owner’s liability,” states in relevant part as follows:

If the owner or his authorized agent fails to comply with an order issued pursuant to section three and the city or town demolishes or removes any burnt, dangerous or dilapidated building or structure or secures any vacant parcel of land from a trespass, a claim for the expense of such demolition or removal, including the cost of leveling the lot to uniform grade by a proper sanitary fill, or securing such vacant parcel shall constitute a debt due the city or town upon the completion of demolition, removal, or securing and the rendering of an account therefor to the owner or his authorized agent, and shall be recoverable from such owner in an action of contract. Any such debt, together with interest thereon at the rate of six per cent per annum from the date such debt becomes due, shall constitute a lien on the land upon which the structure is or was located if a statement of claim, signed by the mayor or the board of selectmen, setting forth the amount claimed without interest is filed, within ninety days after the debt becomes due, with the register of deeds for record or registration, as the case may be, in the county or in the district, if the county is divided into districts, where the land lies. Such lien shall take effect upon the filing of the statement aforesaid and shall continue for two years from the first day of October next following the date of such filing.

The Town should consult closely with Town Counsel regarding the proper application of G.L. c. 139, § 3A, to an abandoned solar installation.

5. Financial Security.

The by-law requires the project proponent to provide “a form of surety, either through an escrow account, bond or otherwise” to cover the cost of removal of a solar installation and remediation of the landscape. Any bond proceeds must be applied in a manner consistent with state law. In the absence of any general or special law to the contrary, performance security funds of the sort contemplated here must be deposited with the Town Treasurer and made part of the Town’s general fund, pursuant to G.L. c. 44, § 53. General Laws Chapter 44, Section 53, provides that “[a]ll moneys received by a city, town or district officer or department, except as otherwise provided by special acts and except fees provided for by statute, shall be paid by such officers or department upon their receipt into the city, town or district treasury.” Under Section 53, all moneys received by the Town become part of the general fund, unless the Legislature has expressly made other provisions that are applicable to such receipt. Therefore, bond proceeds do not become Town funds unless and until the applicant defaults on the obligation under the by-law. Moreover, if the Town must use the bond to pay for removal of the solar installation, an appropriation is required before expenditure is made to do the work. The Town must then appropriate the money for the specific purpose of removing the solar installation or remediating the landscape. The Town should consult Town Counsel with any questions on this issue.

**Note:** Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

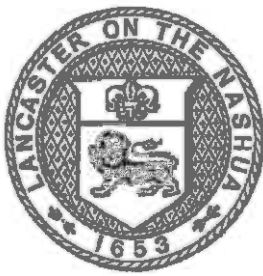
Very truly yours,

MAURA HEALEY  
ATTORNEY GENERAL

*Nicole B. Caprioli*

By: Nicole B. Caprioli  
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cc: Town Counsel Lauren Goldberg



# *Town of Lancaster*

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### EXCERPT OF THE ANNUAL TOWN MEETING HELD

MONDAY, MAY 2, 2016, 7:15 P.M.

MARY ROWLANDSON ELEMENTARY SCHOOL AUDITORIUM

MAY 2, 2016 – TOWN MEETING VOTER ATTENDANCE: 148, 13 NON-VOTERS

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### **ARTICLE 17 – CREATE SOLAR ARRAY BYLAW (Two-thirds vote required)**

To see if the Town will vote to amend the Lancaster Zoning Bylaw and the Official Zoning Overlay Map to create a Solar Overlay District in the location of the existing Light Industry (LI), Light Industry 2 (LI2), General Industry (GI), and Enterprise (EZ) districts, and further to amend Article XVII of the Zoning Bylaw by deleting the existing language in its entirety and replacing it with the language set forth as follows, or act otherwise in relation thereto:

1. Insert the following as Article XVII of the Zoning Bylaw:

#### **SOLAR ENERGY SYSTEMS**

##### *Purpose*

The purpose of this bylaw is to provide appropriate siting for solar photovoltaic energy systems for power generation, while preserving the right of homeowners to install solar systems for residential use.

Roof-Mounted solar energy installations may be constructed in any zoning district without need for a special permit.

Ground-Mounted solar energy installations within a Solar Overlay District may be constructed without need for a special permit and according to the site plan criteria as set forth herein.

Ground-Mounted solar energy installations in the Residential and Neighborhood Business zoning districts are allowed by special permit through the Planning Board.

The provisions in this section of the Zoning Bylaw shall apply to the construction, operation, repair, and/or removal of all solar electric systems, and to physical modifications that materially alter the type, configuration or size of these installations or related equipment.

##### *Definitions*

**Roof-Mounted Solar Energy Installation:** A solar photovoltaic array that is placed on the roof of residential, commercial, industrial, institutional and government buildings.

**Ground-Mounted Solar Energy Installation:** A solar photovoltaic array that is structurally mounted on the ground.

**Solar Photovoltaic Array:** An arrangement of solar photovoltaic panels.

**Buffer Strip:** A strip of land between the ground-mounted solar photovoltaic installation, including any structures accessory thereto, and the boundary of a parcel, reserved for plant material, berms, walls or fencing to serve as a visual barrier.

**Adequate Screening:** Shall consist of a vegetative barrier, fencing and/or other appropriate materials to provide visual and aural protection to abutting properties.

**Fencing:** Chain-link fencing that is “solid slatted” and erected to a height of eight (8) feet to provide site security and additional visual protection to abutting properties.

**Sound Barriers:** Fencing, vegetation, or other absorptive materials constructed to protect abutting properties in any circumstance that result in sound exceeding 10 decibels above ambient sound at the abutting property lines.

**Hazardous Materials:** Any material identified as such under any applicable law, rule or regulation, including, without limitation, the Massachusetts Oil and Hazardous Materials Release Prevention and Response Act, M.G.L. c. 21E, the Massachusetts Hazardous Waste Management Act, M.G.L. c. 21C, the Massachusetts Contingency Plan, the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. §§ 9601 et seq. and the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §§ 6901 et seq., whose purpose without limitation is to provide for the protection of health, safety, public welfare and the environment by the prevention and control of any activity which may cause, contribute to or exacerbate a release or threat of release of any hazardous material.

**Plant Material:** Trees or shrubs of a type and height that sufficiently screen the arrays, without blocking the necessary sun that would hinder the panel’s performance, including ground cover that would screen the lower portion of the arrays.

### *Roof-Mounted Solar Energy Installations*

#### *Purpose*

The purpose of this section is to provide guidance for the creation of renewable energy for individual residences, businesses, institutions, and municipal buildings, as-of-right.

#### *Roof-Mounted Solar Energy Installation*

Roof-Mounted Solar Energy Installations shall be located so as not to increase the total height of the structure more than one (1) foot above the applicable zoning regulations related to height in the District in which it is located, or such further height as is determined by the Building Inspector to be essential for proper operation, but in no case more than four (4) feet.

#### *Required Documents*

The following documents shall be required:

- A. Sun and shadow diagrams specific to the proposed installation to determine the solar access.
- B. Detailed information, including maps, plans or dimensional sketches showing proposed location of the solar installation.
- C. Site drawings showing the building and structure footprints, property lines, location and the dimensions of solar arrays, ridgeline of roof and description of the installation.

D. Elevation drawings showing heights of buildings and solar arrays.

*Permitting*

Roof-Mounted Solar Energy Installations require only a building permit. All data listed above shall be submitted to the Building Inspector. All other necessary permits shall be obtained before a building permit is issued.

*As-Built Plans*

As-built plans shall be submitted prior to final inspection to the Building Inspector.

*Ground-Mounted Solar Photovoltaic Installations*

*Purpose*

The purpose of this section is to facilitate the creation of new Ground-Mounted Solar Photovoltaic Installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on environmental, scenic, natural and historic resources, and to provide adequate financial assurance for the eventual decommissioning of such installations.

Subject to the requirements below, Ground-Mounted Solar Photovoltaic Installations are permitted as-of-right in a Solar Overlay District.

*Solar Overlay District*

Ground-Mounted Solar Photovoltaic Installations are allowed by right in the following zoning district(s), which together shall constitute the Solar Overlay District:

- A. Location #1 – Enterprise Zoning District
- B. Location #2 – General Industry Zoning District
- C. Location #3 – Light Industry Zoning District
- D. Location #4 – Light Industry 2 Zoning District

Ground-Mounted Solar Photovoltaic Installations may be located on any lot within the overlay district.

*Residential and Neighborhood Business Zoning Districts*

Ground-Mounted Solar Photovoltaic Installations are allowed by special permit through the Planning Board in the Residential and Neighborhood Business zoning districts.

*Site Plan Review*

All Ground-Mounted Solar Photovoltaic Installations shall require Site Plan Review under the Zoning Bylaw. The Building Inspector shall not issue a building permit unless, and until, the Planning Board submits a Site Plan Approval document to the Building Inspector.

A building permit will be issued by the Building Inspector that shows evidence the project is consistent with state and federal building codes, the findings and directives of the Site Plan Approval, and local

bylaws and regulations, including those set forth by the Conservation Commission. As-built plans shall be submitted prior to final inspection to the Building Inspector with copies to the Planning Board.

### *Conditions*

The Planning Board may impose any conditions upon site plan approval deemed necessary to achieve the purpose of this Bylaw, such as, but not limited to, the following:

- Greater than minimum setback requirements;
- Modification of exterior appearance;
- Limitation of size or extent of facilities;
- Regulation of traffic and site plan features;
- Screening of premises from view by use of appropriate walls, fencing or buffer strips;
- Limitation of sound levels;
- Control of the number, location, size and lighting of signs;
- Additional design and siting modifications where appropriate.

### *Utility Notification*

Evidence shall be provided at the time of the application for the Site Plan Review that the utility company that operates the electrical grid where the installation is to be located has been informed of the applicant's intent to construct a solar photovoltaic installation and that approval to connect to the grid has been granted or appropriate application(s) have or will be made to such utilities for interconnection. Off-grid systems shall be exempt from this requirement. Reasonable efforts should be made to place all utility connections underground, depending on appropriate soil conditions, shape and topography of the site.

### *Fees*

An application for a Site Plan Review shall be accompanied by the required fee. The applicant will also be responsible for payment of any consultants requested by the Planning Board to provide professional review, including legal counsel. The Planning Board may require the applicant to deposit with the Planning Board in advance a reasonable amount to provide for such review, the use of which shall be governed by M.G.L. c. 44, § 53G.

### *Setbacks and Buffer Strips*

**Buffer Strips:** All Ground-Mounted installations shall be surrounded by a buffer strip which shall be one hundred (100) feet from any structures in a Solar Overlay district, unless it abuts a Residential district in which case the buffer strip shall be two hundred (200) feet in depth along such abutting lot lines.

All Ground-Mounted installations in a Residential or Neighborhood Business zoning district shall have a buffer strip that is two hundred (200) feet from any structure.

### **Setbacks:**

**Front Yard:** The front yard setback shall be at least fifty (50) feet in a Solar Overlay District, provided however, that when it abuts a Residential district, the front lot setback shall not be less than two hundred (200) feet. The front yard setback shall be at least two hundred (200) feet in a Residential or Neighborhood Business zoning district.

**Side Yard:** Each side yard setback shall be at least fifty (50) feet in a Solar Overlay District, provided however, that when it abuts a Residential district, the side yard setback shall not be less than two hundred (200) feet. The side yard setback shall be at least two hundred (200) feet in a Residential or Neighborhood Business zoning district.

**Rear Yard:** The rear yard setback shall be at least fifty (50) feet in a Solar Overlay District, provided however, that when it abuts a Residential district, the rear yard setback shall not be less than two hundred (200) feet. The rear yard setback shall be at least two hundred (200) feet in a Residential or Neighborhood Business zoning district.

All inverters, regardless of type, transformers or other equipment that have the potential to exceed allowed decibels will be located no less than two hundred fifty (250) feet from property lines, regardless of the zoning or overlay district.

#### *Required Documents*

In addition to documents required for Site Plan Review, the following will be required for Ground-Mounted Solar Photovoltaic Installations. The Planning Board may waive one or more of these requirements in its sole discretion under appropriate circumstances.

- A. All plans and maps shall be prepared, stamped and signed by a professional engineer licensed to practice in Massachusetts;
- B. All plans and maps shall show property lines, physical features, and infrastructure, including roads used to access the property site;
- C. Proposed changes to landscape of site, including grading, vegetation, tree removal, planting of screening vegetation, location of structures;
- D. Locations of wetlands and Priority Habitat Areas defined by the Natural Heritage & Endangered Species Program;
- E. Locations of floodplains or periodically inundated areas subject to moderate or high hazard dams;
- F. A list of any hazardous materials proposed to be located on the site plan to prevent their release to the environment as appropriate;
- G. Drawings of the installation showing the proposed layout of the system and any potential shading from nearby structures;
- H. One- or three-phase line electrical diagrams detailing the installation, associated components and electrical interconnection methods with all National Electrical Code compliant disconnects and overcurrent devices;
- I. Documentation of the major system components to be used, including the electric generating PV panels, mounting system, inverters, etc.;

- J. Name of property owner, address, telephone number, e-mail;
- K. Name of lessor or lessee, address, telephone number, e-mail;
- L. Name of contact person, address, telephone number, e-mail;
- M. Name of design engineer, address, telephone number, e-mail;
- N. Names of contractors, address, telephone number, e-mails;
- O. Name of installer, address, telephone number, e-mail;
- P. Zoning District designation for parcel of land, map and parcel;
- Q. Documentation of actual or proposed access to the project site sufficient to allow for construction and operation and maintenance of the proposed solar photovoltaic installation;
- R. Provision for water that may be needed for fire protection;
- S. Description of the financial surety that is required in the following section, *Financial Security*;
- T. Sight line representations depicting in profile the view of the proposed installation, and any appurtenant structures, from the location upon any public road within three hundred (300) feet that would have the most unobstructed view of the installations, and from the closest wall of each residential building within three hundred (300) feet of the highest point of the installation;
- U. A screening plan, in compliance with the following section, *Visual Impact*;
- V. A decommissioning plan that describes the removal of all structures, electrical infrastructure or other equipment, the location or repository for all demolition debris, and plans for site re-use or restoration; and
- W. A security plan that depicts the appropriate security fencing, lighting, surveillance system and signage.

#### *Design Standards*

##### *A. Lighting and Security*

Lighting of solar photovoltaic installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as any appurtenant structures, shall be limited to that required for safety and operational purposes and shall be reasonable shielded from abutting properties. Where feasible, any required lighting shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution, in compliance with Section 220-36 of the Zoning Bylaw. Surveillance and security cameras shall be shielded from viewing abutting private property or invading the privacy of any abutting residential property owner.

##### *B. Signage*

All signs shall comply with the Zoning Bylaw and shall not be used for displaying any advertising except to identify the owner and/or operator of the solar installation and a 24-hour emergency contact telephone number.

##### *C. Land Clearing*

Clearing of natural vegetation shall be limited to what is necessary for construction, operation and maintenance of the installation. Any land disturbance shall be subject to Stormwater Management criteria and by applicable laws, regulations and bylaws.

**D. Safety, Emergency Service and Environmental Standards**

The applicant shall provide a copy of the project summary, electrical schematic and site plan. The applicant shall develop an emergency response plan, including showing all means of shutting down the solar installation. The applicant shall submit the name of the person answerable to inquiries throughout the life of the installation. If the designated person changes, the name of the new designated person shall be submitted as an addendum.

**E. Monitoring and Maintenance**

The applicant shall submit a plan for the operation and maintenance of the installation which shall include measures for maintaining the site, including safe access, stormwater control, structural repairs and the integrity of security measures. These measures must be acceptable to the Fire Chief and emergency medical services personnel. If needed, training of service personnel will be provided by the applicant. The owner/operator shall be responsible for the cost of maintaining the installation.

The applicant shall also submit a Monitoring/Inspection Form under the Site Plan Review during construction, and shall further submit a report to the Building Inspector on the condition of the structure and site by January 15<sup>th</sup> each year.

**F. Visual Impact**

Any Ground-Mounted Solar Photovoltaic Installation shall be designed to minimize visual impacts, including preserving natural vegetation to the maximum extent possible, blending in equipment with the surroundings, and adding vegetative buffers to screen abutting residential properties whether developed or not. Siting shall be such that the view of the solar electric generating installation from other areas of Town shall be as minimal as possible. Buffer Strips shall surround the proposed project. A screening plan, that assures the facility is shielded to the greatest extent possible from public view, shall be required to be reviewed under the Site Plan Review.

**G. Height**

The height of any structure associated with a Ground-Mounted Solar Photovoltaic Installation shall not exceed 20 feet.

**H. Roads**

All access roads and interior roads shall be constructed to minimize grading, removal of stone wall or trees, and to minimize impacts to environmental or historic resources.

**I. Hazardous Materials**

Hazardous materials that are stored, used or generated on site shall not exceed the amount for a "Very Small Quantity Generator of Hazardous Waste" as defined by the Department of Environmental Protection (DEP) pursuant to 310 CMR 30.000 and shall meet all requirements of the DEP and Massachusetts Contingency Plan, including storage of hazardous materials in a building with an impervious floor that is not adjacent to any floor drains to prevent discharge to the outdoor environment. If hazardous materials are utilized within the solar electric equipment, than impervious containment areas capable of controlling any release to the environment and to prevent potential contamination of groundwater are required.

#### *J. Noise*

Noise generated by a solar photovoltaic installation, and by any associated equipment and machinery, shall conform to applicable state and local noise regulations, including the DEP's Division of Air Quality noise regulations, 310 CMR 7.10. The site shall not produce any other vibration, harmonics or interference which would be perceived or impact the normal function of electronics off site.

The MassDEP noise regulation is contained in 310 CMR 7.10. According to MassDEP, a source of sound violates the Department's noise regulation, if the source:

- Increases the broadband sound level by more than 10 dB(A) above ambient, or
- Produces a "pure tone" condition – when a sound pressure level, at any given octave band center frequency, exceeds the levels of the two adjacent octave bands by three (3) or more decibels.

The MassDEP criteria are evaluated both at the property line and at the nearest inhabited residence or other sensitive land use. "Ambient" is defined as the background A-weighted sound level that is exceeded 90% of the time, measured during equipment operating hours.

Prior to the issuance of a Certificate of Occupancy, the applicant shall conduct a test of ambient conditions during startup, and provide a report of decibel levels for the inverters. Facility noise level shall not exceed the existing DEP regulation. If necessary, mitigation measures will be determined by the Board and the costs of such measures will be borne by the applicant.

#### *Modifications*

All modification requests to a solar photovoltaic installation, including changes in arrays, addition to number of arrays or change in placement made after issuance of the required building permit shall require review through the Site Plan Review for compliance with this Bylaw.

#### *Discontinuance and Removal*

Absent notice of proposed date of decommissioning or written notice of extenuating circumstances, the ground-mounted solar photovoltaic installation shall be considered discontinued when it fails to operate for more than one year without the written consent of the Planning Board. Upon written request from the Building Inspector addressed to the contact address provided and maintained by the owner and operator as required above, the owner or operator shall provide evidence to the Building Inspector demonstrating

continued use of the installation. Failure to provide such evidence within thirty (30) days of such written request shall be conclusive evidence that the installation has been discontinued. The owner or operator shall physically remove the installation no more than one hundred fifty (150) days after the date of discontinuance or the proposed date of decommissioning operations. The owner or operator shall notify the Planning Board and Building Inspector by certified mail of their proposed date of discontinued operations and plans for removal. The notification shall consist of the methodology of physical removal of all structures, equipment, security barriers and transmission lines, disposal of all solid and hazardous waste, and stabilization or re-vegetation of the site. If the owner or operator fails to remove the installation in accordance with the above criteria, the Town may, after the receipt of an appropriate court order or consent of the property owner, enter the property and physically remove the installation at the owner's expense. As a condition of the Site Plan Review, a property owner shall agree to allow the Town entry to remove an abandoned or decommissioned installation. The cost for such removal will be charged to the property owner, and shall constitute a lien upon the land in accordance with the provisions of M.G.L. 139, Section 3A, or other applicable law.

### *Financial Security*

Proponents of ground-mounted solar photovoltaic projects shall provide a form of surety, either through an escrow account, bond or otherwise to cover the cost of removal in the event the Town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Site Plan Review Authority, but in no event to exceed more than one hundred twenty-five (125) percent of the cost of removal and compliance with the additional requirements set forth herein. Such surety will not be required for municipally- or state-owned facilities. The project owner/operator shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal cost due to inflation.

### *Inclusionary Uses and Conflicts*

Small accessory or ornamental solar products which do not generate electricity for use in a dwelling or structure are exempt from the provisions in this bylaw.

In the event that any part of this Section conflicts with other requirements of the Zoning Bylaw, the requirements of this Section shall apply.

2. Amend § 220-4 *Establishment of districts* to add the Solar Overlay District (SOD).

3. Amend § 220-5. B *Overlay districts* to add the following:

“(6) The Solar Overlay District (SOD) is defined on the Official Zoning Overlay Map, as specified at 220 Attachment 3.”

4. Amend § 220-8.6 of the *Use Regulation Schedule* to add “I. Solar Energy Facility”, as follows:

		Zoning Districts						Notes
Item	Use	R	NB	LI	LI2	GI	EZ	
<b>§ 220-8.6. INDUSTRIAL USES.</b>								
<b>Principal uses</b>								
A.	Printing, publishing, and assembly, finishing, or packaging of products	N	N	P	P	P	P	See § 220-9E.
B.	Other general industrial uses, including manufacturing and processing	N	N	SP	SP	P	PB	See § 220-9E. All buildings or structures to be at least 100 feet from any R District, or from any dwelling existing prior to adoption of this provision.
C.	Structures for storage and distribution of goods, supplies, equipment and machinery	N	N	P	P	P	P	
D.	Garages for all types of repair of motorized equipment	N	N	N	N	P	N	No vehicle in an inoperative condition shall remain outdoors on the site in excess of 60 days; no more than five inoperative vehicles to be stored outdoors at any one time.
E.	Open storage facilities for lumber, stone, brick, gravel, cement or other bulk materials and contractor's yards	N	N	P	P	P	PB	All outdoor storage to be separated from any district line and from any lot line of a dwelling existing prior to adoption of this bylaw either by a screen or by a strip of at least

								100 feet of dense natural vegetation.
F.	Earth products removal	As regulated by Article IX of Ch. 220.	See Article IX.					
G.	Junkyards, 3rd class car license premises, private dumps, whether as principal or accessory use	N	N	N	N	N	N	
		<b>Zoning Districts</b>	<b>Notes</b>					
<b>Item</b>	<b>Use</b>	<b>R</b>	<b>NB</b>	<b>LI</b>	<b>LI2</b>	<b>GI</b>	<b>EZ</b>	
H.	Research and development, engineering, assembly and construction of models, prototypes, samples and experimental products in connection with research, engineering, or development activities	N	N	P	P	P	PB	
I.	Solar Energy Facility	PB	PB	P	P	P	P	As regulated by Article XVII of Ch. 220.
<b>Accessory uses</b>								
AA.	One-family dwelling for personnel required for the safe operation or maintenance of a permitted use	N	N	N	N	P	PB	
BB.	Outdoor storage accessory to a principal use	N	N	N	N	P	PB	
CC.	Retail outlets for products of the principal industrial use	N	N	P	P	P	PB	(1) Off-street parking is provided in accordance

								with the standards for retail given in § 220-23;
								(2) The floor space devoted to retail equals no more than 1/4 the floor space devoted to the principal use.
DD.	Activities accessory to activities permitted in other districts as a matter of right, whether or not on the same parcel as the principal permitted use, which are necessary in connection with scientific research or scientific development or related production	SP	SP	SP	SP	SP	PB	The accessory use must not substantially derogate from the public good, per MGL c. 40A, § 9.
EE.	Heliports	N	N	PB	PB	PB	PB	

- Amend the Official Zoning Overlay Map to add the Solar Overlay District (SOD) in the manner shown on the attached copy of said map. The SOD would overlay the zoning districts known as Light Industry (LI), Light Industry 2 (LI2), General Industry (GI), and Enterprise (EZ).

**Motion:**

Mr. Starr (Leone seconded) moves to amend the Lancaster Zoning Bylaw and the Official Zoning Overlay Map as printed in the warrant to create a Solar Overlay District in the location of the existing Light Industry (LI), Light Industry 2 (LI2), General Industry (GI), and Enterprise (EZ) districts within which district the operation of a Large-Scale Solar Energy Facility and associated equipment would be allowed by right with site plan review by the Planning Board.

**Jeanne Rich, Planning Board Director, read the Planning Board report into the record.**

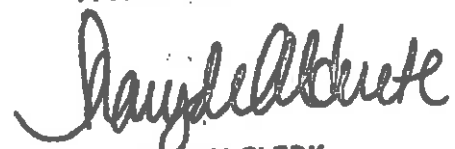
**WITH ONLY 4 OBJECTIONS, MOTION CARRIES**

**DECLARED 2/3 BY MODERATOR\***

**\*TOWN OF LANCASTER HAS ACCEPTED MGL CH 39 SEC 15 AT ITS ANNUAL TOWN  
MEETING OCTOBER 16, 2006, ARTICLE 11**

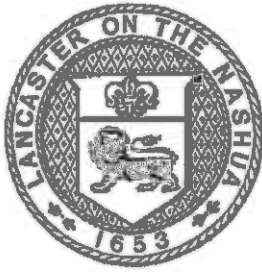
**(THE TOWN MEETING MODERATOR IS NOT REQUIRED TO COUNT A 2/3 REQUIRED VOTE.)**

**A TRUE COPY ATTEST:**

  
**TOWN CLERK**

**LANCASTER, MASSACHUSETTS**





# *Town of Lancaster*

## *Office of the Town Clerk*

*695 Main Street, Suite 2*

*Lancaster, Massachusetts 01523*

*Tel (978) 365-3526 ext. 1013 - Fax (978) 368-4011*

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EXCERPT OF THE ANNUAL TOWN MEETING HELD

MONDAY, MAY 2, 2016, 7:15 P.M.

MARY ROWLANDSON ELEMENTARY SCHOOL AUDITORIUM

MAY 2, 2016 – TOWN MEETING VOTER ATTENDANCE: 148, 13 NON-VOTERS

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### **ARTICLE 19 – TERM OF MODERATOR**

**(Majority vote required)**

To see if the Town will vote, pursuant to the provisions of G.L. c. 41, §2 and G.L. c. 39, §14, to establish a three-year term for Moderator beginning with the 2017 Annual Town Election, or act in any manner relating thereto.

#### **Motion:**

Mr. Sendrowski (Starr seconded) moves to establish a three year term for the Moderator beginning with 2017 Annual Town Election, or act in any manner relating thereto.

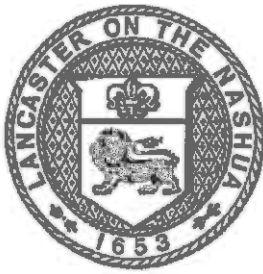
**MOTION CARRIES UNANIMOUSLY**

A TRUE COPY ATTEST:

*Hayden Abate*  
TOWN CLERK

LANCASTER, MASSACHUSETTS





# *Town of Lancaster*

## *Office of the Town Clerk*

*695 Main Street, Suite 2*

*Lancaster, Massachusetts 01523*

*Tel (978) 365-3326 ext. 1013 - Fax (978) 368-4011*

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EXCERPT OF THE ANNUAL TOWN MEETING HELD

MONDAY, MAY 2, 2016, 7:15 P.M.

MARY ROWLANDSON ELEMENTARY SCHOOL AUDITORIUM

MAY 2, 2016 – TOWN MEETING VOTER ATTENDANCE: 148, 13 NON-VOTERS

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### **ARTICLE 20 – COUNCIL ON AGING MEMBERSHIP**

**(Majority vote required)**

To see if the Town will vote to amend its general bylaws, by deleting sections 17-18 through 17-21 of Chapter 17 Article IX and replacing them with the following sections 17-18 through 17-21:

#### **§17-18 Coordination of programs.**

The Council on Aging shall coordinate or carry out programs designed to meet the problems of aging in coordination with programs of the Department of Elder Affairs.

#### **§ 17-19 Records and reports.**

The Council on Aging shall keep records of its meetings and actions and shall file an annual report which shall be printed in the Annual Town Report and a copy shall be submitted to the Department of Elder Affairs. The Council shall conduct at least 10 meetings annually. The COA and each of its Board members must abide by the following Massachusetts General Laws: Open Meeting Laws - Chapter 30A, Sections 18-25; Public records Law - Chapter 4, Section 7 and Chapter 66, Section 10; Conflict of Interest Laws - Chapter 268A.

#### **§ 17-20 Membership; terms; removal; vacancies; Chairperson.**

Said council shall consist of nine citizens appointed at-large by the Select Board. The terms of the first members of the Council shall be for one, two or three years, and so arranged that the term of not more than three of the members expires each year, and their successor shall be appointed for terms of three years each. Any member of said Council may, after a public hearing, be removed for cause by the Select Board. Any member missing more than three (3) meetings without cause, or without notification to the Chairperson of the need for the absence, shall be considered cause for removal. A vacancy occurring otherwise than by expiration of a term, shall be filled for the unexpired term in the same manner as the original appointment. The Chairperson and other officers shall be chosen by a majority vote of said Council members. No officer shall serve more than three (3) one year terms in succession. No salary or compensation shall be paid to any member of the Council on Aging for services rendered.

**§ 17-21 Private nature of certain information.**

The names, addresses, telephone numbers, or other identifying information about elderly persons in the possession of the Council shall not be public records, but the use of these records shall comply with MGL c. 19A, § 14 et seq., as a condition of receiving a government contract, program grant or other benefit, or as otherwise required by law.

**Motion:**

Mr. Sendrowski (Leone seconded) moves to amend its general bylaws, by deleting sections 17-18 through 17-21 of Chapter 17 Article IX and replacing them with the new sections 17-18 through 17-21 as printed in the warrant.

**MOTION CARRIES UNANIMOUSLY**

**A TRUE COPY ATTEST:**

A handwritten signature in dark ink, appearing to read "Hayden Albright", is written over the printed title "TOWN CLERK".

**TOWN CLERK**

**LANCASTER, MASSACHUSETTS**