

# TOWN OF UPTON



## TEXT OF WARRANT ARTICLES

10, 11, 12, 14, 15, 16

ANNUAL TOWN MEETING  
MAY 8, 2014

## **ARTICLE 10: APPOINTED TREASURER/COLLECTOR**

**SECTION 1.** Notwithstanding any general or special law to the contrary, the office of Treasurer/Collector in the town of Upton shall be appointed and may be removed by the Town Manager. The Treasurer/Collector shall have all the powers, perform the duties and be subject to the liabilities and penalties now or hereafter conferred and imposed by law on Treasurers and Collectors. The Town Manager may establish an employment contract with the Treasurer/Collector for salary, fringe benefits and other conditions of employment, including, but not limited to, severance pay, reimbursement for expense incurred in the performance of the duties of office, liability insurance, and conditions of discipline, termination dismissal, reappointment, performance standards and leave.

**SECTION 2.** Notwithstanding section 1, the position of elected Treasurer/Collector shall be abolished upon the effective date of this act and the term of the elected incumbent terminated provided, however, that the elected incumbent shall then become the first appointed Treasurer/Collector and shall serve in such capacity for a period of time equivalent to the remainder of the elected term or sooner resignation, retirement or removal. Thereafter, appointments to the position of Treasurer/Collector shall be made by the Town Manager in accordance with said section 1.

**SECTION 3.** This act shall take effect upon its passage.

## **ARTICLE 11: PERSONNEL BYLAW – COMPENSATION OF ELECTED OFFICIALS**

The members of elected multiple member bodies shall be eligible, subject to appropriation, to receive an annual stipend for their services in accordance with the provisions of this section, provided, however, that they are in compliance with Sections One and Two of Chapter Two of the Upton General Bylaws. The chairman of an elected multiple member body shall be eligible to receive an annual stipend of no more than seven hundred fifty dollars (\$750.00) and all other members shall be eligible to receive no more than five hundred dollars (\$500.00), with such stipends to be paid each year in the last pay period prior to the date of the annual town election. This section shall not apply to members of the Finance Committee, who shall be ineligible for such stipends or other compensation for services, or the Town's Constables, who shall be compensated in the manner, and amount, appropriated for such purposes. Payment of stipends hereunder shall not render any member of an elected multiple member body an "employee" for purposes of the Town's Personnel Bylaws or otherwise, except as otherwise provided by law.

## **ARTICLE 12: PROPOSED AMENDMENT TO FINANCE COMMITTEE BYLAW**

To see if the Town will vote to amend the provisions of the Town of Upton Bylaws, Title 2, Chapter 8, Finance Committee, by revising Section 1 and inserting a new

Section 5, to reduce the number of members from nine (9) to five (5), with two members to be appointed by the Moderator, two by the Board of Selectmen, and one to be elected, and to provide for such reduction in the size of the committee through attrition, rather than cutting short the term of any incumbent members of said committee, the purpose of which amendment is to adjust the size of the committee to facilitate the workload now required; or, to take any other action relative thereto.

## **Chapter 8 Finance Committee**

Section 1: There shall be a Finance Committee consisting of five registered voters of the Town, other than Town Officers, who shall be sworn to the faithful performance of their duties. The term of office for members of said Committee shall be three years, with two members to be appointed by the Board of Selectmen, two members to be appointed by the Town Moderator and one member to be elected. The terms of the appointments shall be arranged so that as nearly as possible one-third of the committee is appointed or elected each year. All appointments to the Committee shall be made within the month of May following the Annual Town Election of each year. Vacancies occurring in the appointed membership of the Committee shall be filled within 30 days in the same manner as the original appointment for the remainder of the unexpired term. A vacancy in the elected position shall be filled in accordance with G.L. c.41, §§10 and 11. Said Committee shall choose its own officers.

Section 2 To this Committee shall be referred all articles calling for an appropriation of money in any warrant for a Town Meeting. It shall be the duty of the Selectmen after drawing the Town warrant to transmit immediately a copy of the same to the Clerk of the Finance Committee.

Section 3 It shall be the duty of the Finance Committee to make a recommendation concerning each article or transfer relating to finances of the Town. Such recommendation may, at any special meeting of the Town, be made verbally to the voters through the Chairman, or the Clerk of the Committee, and at the annual meeting of the Town, shall be reduced to a printed report available to the voters when annual appropriations shall be acted upon and considered.

Section 4 No motion relating to an expenditure of money or an appropriation shall be acted upon at any Town Meeting until it has been submitted to the Committee, except where provided otherwise by law.

Section 5 Following the effective date of the bylaw amendments approved under Article May 8, 2014 Town Meeting shall be implemented, by attrition, as follows:

Any elected or appointed member of the Finance Committee holding office on the effective date of such bylaw amendment shall hold office for the remainder of their elected term or sooner resignation, retirement or removal;

The office of Finance Committee member shall not appear on the ballot, nor shall any new appointments to such committee be made by the Board of Selectmen or Town Moderator, until the membership on the Committee is composed of five members as set forth in Section 1.

**ARTICLE 14: MEDICAL MARIJUANA TREATMENT CENTERS**

**Add the following to: SECTION 3.1.3 - Table of Principal Uses by District:**

Table A – Table of Principal Uses By District									
Principal Use	SRA	SRB	SRC	SRD	AR	GB	C&I	MGF	
Retail and Consumer Service									
Medical Marijuana Treatment Center	N	N	N	N	N	Y	Y	N	

**Add the following to: SECTION 10 - DEFINITIONS**

Medical Marijuana Treatment Center: A building or structure used for a medical marijuana treatment center approved and licensed by the Massachusetts Department of Public Health pursuant to 105 CMR 725.000, owned and operated by a not-for-profit entity registered under 105 CMR 725.100, that acquires, cultivates, possesses, processes (including development of related products such as marijuana-infused products, tincture, 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. A medical marijuana treatment center shall refer to the site(s) of dispensing, cultivation, and preparation of marijuana.

**ARTICLE 15: ZONING BYLAW CHANGE - SOLAR PHOTOVOLTAIC INSTALLATIONS**

**PROPOSED ZONING BYLAW FOR LARGE-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATIONS**

**ADD THE FOLLOWING TO THE TABLE OF CONTENTS SECTION 6:**

6.6 LARGE-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATIONS

**ADD THE FOLLOWING TO TABLE A – TABLE OF PRINCIPAL USES BY DISTRICT IN SECTION 3.1 TABLE OF PRINCIPAL USES:**

	Principal Use	SRA	SRB	SRC	SRD	AR	GB	C&I	MGF
	<b>Utilities Communication and Transportation</b>								
38	Large-Scale Ground-Mounted Solar Photovoltaic Installations with Rated Nameplate Capacity of 250 kW DC to 500 kW DC and that occupy from 40,000 to 80,000 square feet of surface area (See Section 6.6 for additional regulations) (See Note 11)	N	N	N	N	N	N	Y	N
39	Large-Scale Ground-Mounted Solar Photovoltaic Installations with Rated Nameplate Capacity greater than 500 kW DC or that occupy more than 80,000 square feet of surface area (See Section 6.6 for additional regulations) (See Note 11)	N	N	N	N	N	N	PB	N

Notes to Table A

11) Provided that Large-Scale Ground-Mounted Solar Photovoltaic Installations in the SRA, SRB, SRC, SRD, AR, GB and MGF Districts are not otherwise exempted by General Laws.

Re-number existing items 38-41 as 40-43

**ADD THE FOLLOWING TO SECTION 9.4.1 APPLICABILITY OF SECTION 9.4 SITE PLAN APPROVAL:**

(5) Large-Scale Ground-Mounted Solar Photovoltaic Installations as provided for in Section 6.6

**ADD THE FOLLOWING DEFINITIONS TO SECTION 10 DEFINITIONS:**

Insert “Large-Scale Ground-Mounted Solar Photovoltaic Installations: See Section 6.6.3.” after the definition for Junk.

**ADD THE FOLLOWING AS SECTION 6.6 TO SECTION 6.0 SPECIAL REGULATIONS:**

**6.6 LARGE-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC**

## INSTALLATIONS

### 6.6.1 Purpose

The purpose of this Bylaw is to promote the creation of new Large-Scale 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 scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations.

The provisions set forth in this section shall apply to the construction, operation, and/or repair of Large-Scale Ground-Mounted Solar Photovoltaic Installations.

### 6.6.2 Applicability

This section applies to Large-Scale Ground-Mounted Solar Photovoltaic Installations proposed to be constructed after the effective date of this section. This section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.

The provisions set forth in this Section shall apply to the construction, operation and/or repair of Large-Scale Ground-Mounted Solar Photovoltaic Installations with a Rated Nameplate Capacity of from 250 kW DC to 500 kW DC and that occupy from 40,000 and 80,000 square feet of surface area.

Any Large-Scale Ground-Mounted Solar Photovoltaic Installation with a Rated Nameplate Capacity of over 500 kW DC or that occupies more than 80,000 square feet of surface area (on one or more parcels of land in common ownership, including those separated by a roadway) shall require a Special Permit in accordance with the Upton Zoning By-Laws, with the Planning Board as the Special Permit Granting Authority.

### 6.6.3 Definitions

The following definitions shall apply:

***As-of-Right Siting:*** As-of-Right Siting shall mean that development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval. As-of-right development may be subject to site plan review to determine conformance with local zoning bylaws. Projects cannot be prohibited, but can be reasonably regulated by the Building Inspector and the Planning Board.

***Building Permit:*** A construction permit issued by an authorized building inspector; the building permit evidences that the project is consistent with the state and federal building codes as well as local zoning bylaws, including those governing ground-mounted large-scale solar photovoltaic installations.

***Designated Location:*** The location(s) designated herein where Large-Scale Ground-Mounted Solar Photovoltaic Installations with a Rated Nameplate Capacity from 250kW

to 500 kW DC and that occupy from 40,000 to 80,000 square feet of surface area may be sited As-of-Right in the Commercial and Industrial Districts as shown on the Town of Upton zoning maps.

***Large-Scale Ground-Mounted Solar Photovoltaic Installation (LGSPI):*** A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a Rated Nameplate Capacity of 250 kW DC or more, and occupies more than 40,000 square feet of surface area.

***Rated Nameplate Capacity:*** The maximum rated output of electric power production of the photovoltaic system in Direct Current (DC).

***Site Plan Review:*** Review by the Planning Board to determine conformance with local zoning bylaws. See Upton Zoning By-Laws Section 9.4 Site Plan Approval for details.

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

#### **6.6.4 General Requirements for all Large-Scale Ground-Mounted Solar Power Generation Installations**

The following requirements are common to all LGSPI to be sited in Upton.

##### **6.6.4.1 Compliance with Laws, By-Laws and Regulations**

The construction and operation of all LGSPI shall be consistent with all applicable local, state and federal requirements including, but not limited to, all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a LGSPI shall be constructed in accordance with the State Building Code.

##### **6.6.4.2 Building Permit and Building Inspection**

No LGSPI shall be constructed, installed or modified as provided in this section without first obtaining a building permit.

##### **6.6.4.3 Fees**

The applications for a Site Plan Review, a Building Permit, and any other permits related to a LGSPI must be accompanied by the required fees.

#### **6.6.5 Site Plan Review**

LGSPI shall undergo Site Plan Review prior to construction, installation or modification as provided in this Section and Section 9.4 Site Plan Approval hereof.

##### **6.6.5.1 General**

All plans and maps shall be prepared, stamped and signed by a Professional Engineer licensed to practice in Massachusetts.

##### **6.6.5.2 Required Documents**

Pursuant to the Site Plan Approval process in Section 9.4 hereof, and in addition to the

requirements thereunder, the applicant shall provide the following documents:

- a) A site plan showing:
  - I. Property lines and physical features, including roads, for the project site;
  - II. Locations of wetlands, rivers and Priority Habitat Areas (as determined by the Natural Heritage & Endangered Species Program);
  - III. A list of any Hazardous Materials proposed to be located on the site in excess of household quantities and a plan to prevent their release to the environment;
  - IV. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;
  - V. Blueprints or drawings of the LGSPI signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures or vegetation;
  - VI. One or three line electrical diagram detailing the LGSPI, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
  - VII. Documentation of the major system components to be used, including the photovoltaic panels, mounting system, and inverter;
  - VIII. Name, address, and contact information for proposed system installer;
  - IX. Name, address, phone number and signature of the applicant, as well as all co-applicants or property owners, if any; and
  - X. The name, contact information and signature of any agents representing the applicant.
- b) Documentation of actual or prospective access and control of the project site (see also Section 6.6.6)
- c) An operation and maintenance plan (see also Section 6.6.7)
- d) Description of financial surety that satisfies Section 6.6.13.3
- e) Proof of liability insurance that satisfies Section 6.6.14
- f) Zoning district designation for the parcel(s) of land comprising the project site (submission of a copy of a zoning map with the parcel(s) identified is suitable for this purpose)

The Planning Board may waive documentary requirements for good cause.

Upon receipt of an application for site plan approval of a LGSPI, the Planning Board may engage, at the applicant's cost, professional and technical consultants, including legal counsel, to assist the Board with its review of the application in accordance with the requirements of Section 53G of Chapter 44 of the Massachusetts General Laws. The Planning Board may direct the applicant to deposit funds with the Planning Board for such review at the time the application is accepted, and add additional funds as needed upon notice. Failure to comply with this section shall be good grounds for denying the application. Upon approval of the application, any excess amount in the account attributable to the project, including any interest accrued, shall be repaid to the applicant.

#### **6.6.6 Site Control**

The applicant shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar photovoltaic installation.

#### **6.6.7 Operation & Maintenance Plan**

The applicant shall submit a plan for the operation and maintenance of the LGSPI, which shall include measures for maintaining safe access to the installation, stormwater controls, vegetation controls, as well as general procedures for operational maintenance of the installation.

#### **6.6.8 Utility Notification**

No LGSPI shall be constructed until evidence has been given to the Planning Board that the utility company that operates the electrical grid where the installation is to be located has been informed of the LGSPI's owner or operator's intent to install an interconnected customer-owned generator; as well as documentation from said utility that they can and will connect the proposed customer-owned (owned by an entity other than the utility company) generator into their power grid.

#### **6.6.9 Dimension and Density Requirements**

The following dimensional and density requirements shall apply to all LGSPI.

##### **6.6.9.1 Setbacks**

The front, side and rear setbacks shall be as follows:

- (a) Front yard: The front yard depth shall be at least 30 feet; provided, however, that where the lot abuts a Residential district, the front yard shall not be less than 100 feet.
- (b) Side yard: Each side yard shall have a depth at least 20 feet; provided, however, that where the lot abuts a Residential district, the side yard shall not be less than 100 feet.
- (c) Rear yard: The rear yard shall have a depth at least 20 feet; provided, however, that where the lot abuts a Residential district, the rear yard shall not be less than 100 feet.

##### **6.6.9.2 Appurtenant Structures**

All appurtenant structures to LGSPI shall be subject to reasonable regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures including, but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, appurtenant structures should be shielded from view and/or joined or clustered to avoid adverse visual impacts.

#### **6.6.10 Design Standards**

The following design standards shall apply to all LGSPI.

##### **6.6.10.1 Lighting**

Lighting of LGSPI shall be consistent with local, state and federal law. Lighting of other

parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

#### 6.6.10.2 Signage

A sign consistent with the Town's Zoning By-Law Section 5.12 shall be required to identify the owner and operator of the LGSPI and provide a 24-hour emergency contact phone number.

Solar photovoltaic installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the LGSPI.

#### 6.6.10.3 Utility Connections

Reasonable efforts, as determined by the Planning Board, shall be made to place all utility connections from the LGSPI 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.

#### 6.6.10.4 Screening

LGSPI and appurtenant structures shall be adequately screened with vegetation or behind other existing structures from view from public ways and neighboring properties.

Where LGSPI abut residential uses, there must be increased consideration for mitigating visual impact to the residential use. For example, the Planning Board may require items such as increased setbacks, visual screening or sound buffering in the Site Plan Review.

Where installation panels could pose sun glare to abutting properties or roadways, additional screening or other public safety measures may be considered

When vegetation is used, where possible, a diversity of plant species shall be used, with a preference for species native to New England and this region. Use of plants listed in the most recent version of the "Massachusetts Prohibited Plant List" maintained by the Massachusetts Department of Agricultural Resources (or the then equivalent document) is prohibited.

### **6.6.11 Safety and Environmental Standards**

The following safety and environmental standards shall apply to all LGSPI.

#### 6.6.11.1 Emergency Services

The LGSPI owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Upton Fire/EMS Chief. Upon request the owner or operator shall cooperate with Upton emergency services in developing an emergency response plan. All means of shutting down the solar photovoltaic installation shall be

clearly marked. The owner or operator shall provide the Town with the contact information for a responsible person for public inquiries throughout the life of the installation.

#### **6.6.11.2 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 LGSPI or otherwise prescribed by applicable laws, regulations, and bylaws.

### **6.6.12 Monitoring and Maintenance**

#### **6.6.12.1 Solar Photovoltaic Installation Conditions**

The LGSPI's owner or operator shall maintain the facility and access road(s) in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the Upton Fire/EMS Chief.

#### **6.6.12.2 Modifications**

All material modifications to an LGSPI made after issuance of the required building permit shall require approval by the Planning Board. In determining whether a modification is material, the Planning Board shall consider the scope of the proposed modification in relation to the approved LGSPI.

### **6.6.13 Abandonment or Decommissioning**

#### **6.6.13.1 Removal Requirements**

Any LGSPI, which has reached the end of its useful life or has been abandoned consistent with Section 6.6.13.2 of this Bylaw shall be removed by the owner or operator no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

- (a) Physical removal of all LGSPI structures, equipment, security barriers and transmission lines from the site.
- (b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- (c) Stabilization and 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.

#### **6.6.13.2 Abandonment**

Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the LGSPI shall be considered abandoned when it fails to operate for more than one year without the written consent of the Planning Board. If the owner or operator of the LGSPI 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 may enter the property and physically remove the installation.

### 6.6.13.3 Financial Surety

Proponents of LGSPI projects shall provide a form of surety, either through 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 Planning Board, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent. Such surety will not be required for municipally- or state-owned facilities. The project proponent 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 costs due to inflation.

### 6.6.14 **Liability Insurance**

The owner or operator of an LGSPI shall provide the Town Clerk with a certificate of insurance showing that the property has a minimum of one million dollars in liability coverage, and that the Town of Upton is an additional named insured thereon. Such a certificate shall be supplied on an annual basis upon the renewal of said insurance policy.

## **ARTICLE 16: ADOPT ENERGY STRETCH CODE**

**Town of Upton  
General By-Laws  
Title 3 Land Use  
Chapter 6  
STRETCH ENERGY CODE**

### **Section 1 - Definitions**

**International Energy Conservation Code (IECC)** - The International Energy Conservation Code (IECC) is a building energy code created by the [International Code Council](#). It is a model code adopted by many state and municipal governments in the [United States](#) for the establishment of minimum design and construction requirements for energy efficiency, and is updated on a three-year cycle. The baseline energy conservation requirements of the MA State Building Code are the IECC with Massachusetts amendments, as approved by the Board of Building Regulations and Standards.

**Stretch Energy Code** - Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA of the 8th edition Massachusetts building code, the Stretch Energy Code is an appendix to the Massachusetts building code, based on further amendments to the International Energy Conservation Code (IECC) to improve the energy efficiency of buildings built to this code.

### **Section 2 - Purpose**

The purpose of 780 CMR 115.AA is to provide a more energy efficient alternative to the Base Energy Code applicable to the relevant sections of the building code for both new construction and existing buildings.

### **Section 3 - Applicability**

This code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 13, 34, and 51, as applicable.

### **Section 4 - Stretch Code**

The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA, including any future editions, amendments or modifications, is herein incorporated by reference into the Town of Upton General Bylaws, Chapter 6 of Title 3 Land Use.

The Stretch Energy Code is enforceable by the building commissioner.

### **Section 5 – Effective Date**

The Stretch Energy Code was adopted by the May 8, 2014, Annual Town Meeting, with a concurrency start date of January 1, 2015 and a sole effective date of July 1, 2015.