



TOWN OF MENDON
SPECIAL TOWN MEETING WARRANT
JUNE 24TH, 2015

RECEIVED
By Mendon Town Clerk at 11:19 am, Jun 09, 2015

THE COMMONWEALTH OF MASSACHUSETTS WORCESTER, SS

TO EITHER OF THE CONSTABLES OF THE TOWN OF MENDON, in the county of WORCESTER, greetings:

In the name of the Commonwealth of Massachusetts you are hereby directed to notify and warn the inhabitants of said Town, qualified to vote in elections and in Town affairs, to meet at the **Miscoe Hill School** in said MENDON on the **twenty-fourth** day of June next, at 7:00 o'clock in the evening, then and there to act on the following articles:

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| ARTICLE 1 (Fin Com) | To see if the Town will vote to transfer a sum of money from available funds to Planning Board Expenses (Line Item 175B); or act or do anything in relation thereto. |
| ARTICLE 2 (Fin Com) | To see if the Town will vote to transfer a sum of money from available funds to Town Counsel Expenses (Line Item 151B); or act or do anything in relation thereto. |
| ARTICLE 3 (Fin Com) | To see if the Town will vote to transfer a sum of money from available funds to Plumbing Inspector Account Wages (Line Item 243A); or act or do anything in relation thereto. |
| ARTICLE 4 (Fin Com) | To see if the Town will vote to transfer a sum of money from available funds to Electrical Inspector Account Wages (Line Item 245A); or act or do anything in relation thereto. |
| ARTICLE 5 (Fin Com) | To see if the Town will vote to transfer a sum of money from available funds to Board of Health Expenses (Line Item 510B); or act or do anything in relation thereto. |
| ARTICLE 6 (Fin Com) | To see if the Town will vote to transfer a sum of money from available funds to Board of Health Testing- Landfill, Wells, and Beach (Line Item 510F); or act or do anything in relation thereto. |
| ARTICLE 7 (Fin Com) | To see if the Town will vote to transfer a sum of money from available funds to Road Machinery Expenses (Line Item 421B); or act or do anything in relation thereto. |
| ARTICLE 8 (Fin Com) | To see if the Town will vote to transfer a sum of money from available funds to Town Hall Services Computer Expenses (Line 199E); or act or do anything in relation thereto. |
| ARTICLE 9 (Fin Com) | To see if the Town will vote to transfer a sum of money from available funds to the FY15 Update Valuation Account; or to do anything in relation thereto. |
| ARTICLE 10 (Fin Com) | To see if the Town will vote to transfer a sum of money from available funds to Snow and Ice Removal Salaries (Line Item 423A); or act or do anything in relation thereto. |
| ARTICLE 11 (Fin Com) | To see if the Town will vote to transfer a sum of money from available funds to Snow and Ice Expenses (Line 423B); or act or do anything in relation thereto |
| ARTICLE 12 (Fin Com) | To see if the Town will vote to transfer a sum of money from available funds to Elections and Registration Expenses (Line Item 162B); or act or do anything in relation thereto. |
| ARTICLE 13 (CPC) | To see if the Town will vote to transfer a sum of money from the Community Preservation Affordable Housing Account to renew the position of the part-time Affordable Housing Coordinator for FY16; or act or do anything in relation thereto. |
| ARTICLE 14 (BOS) | To see if the Town will vote, pursuant to Massachusetts General Laws Chapter 59, Section 38H, and/or any other enabling authority, to ratify and approve a so-called Payment in Lieu of Taxes (PILOT) Agreement with BWC Mystic River, LLC or its affiliate, with respect to payments for a sum certain in lieu of real and personal property taxes owed to the Town over a twenty (20) year period relative to a proposed solar electric generating facility at 36 Milford Street, Mendon, MA 01756, with an option for extension coterminous with the lease of said parcel; and to authorize the Board of Selectmen to execute any necessary documents relating thereto; or act or do anything in relation thereto. |
| ARTICLE 15 (BOS) | To see if the Town will vote, pursuant to Massachusetts General Laws Chapter 59, Section 38H, and/or any other enabling authority, to ratify and approve a so-called Payment in Lieu of Taxes (PILOT) Agreement with DGEP Management, LLC or its affiliate, with respect to payments for a sum certain in lieu of real and personal property taxes owed to the Town over a twenty (20) year period relative to a proposed solar photovoltaic facility at the Miscoe Hill Middle School, 48 North Avenue, Mendon, MA 01756, with said PILOT Agreement based upon the proposed construction and operation of a solar photovoltaic facility with an expected nameplate capacity of approximately 0.630 MW DC; and to authorize the Board of Selectmen to execute any necessary documents relating thereto; or act or do anything in relation thereto. |
| ARTICLE 16 (BOS) | To see if the Town will vote to transfer a sum of money from available funds for the purchase of a voting machine; or act or act or do anything in relation thereto. |

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| ARTICLE 17 (BOS) | To see if the Town will vote to transfer a sum of money from available funds for costs related to the renovation of the Town Hall Basement; or act or do anything in relation thereto. |
| ARTICLE 18 (BOS) | To see if the Town will vote to transfer a sum of money from available funds for costs related to the purchase of an equipment trailer for the Highway Department; or act or do anything in relation thereto. |
| ARTICLE 19 (BOS) | To see if the Town will vote to transfer a sum of money from available funds for the FY16 Assessor's Cyclical Inspection Program; or act or do anything in relation thereto. |
| ARTICLE 20 (CPC) | To see if the Town will transfer a sum of money from the Community Preservation Historical Preservation Account as matching funds for a MA Preservation Project Fund grant to fund a study of the "Town Hall Campus Area," which includes the Town Hall, Taft Library and the old Fire Station, to recommend effective building use, landscaping, and restoration of historic aspect of the area, and to reimburse the Community Preservation Historical Preservation Account \$15,000 from the MA Preservation Project Fund grant at the completion of the project; or act or do anything in relation thereto. |
| ARTICLE 21 (BOS) | To see if the Town will accept a parcel of land on the northerly side of George Street in Mendon containing 24.16+/- acres and shown as Parcel A on a plan entitled "Open Space Community Plan 'Pond Meadow Estates' Open Space Parcel 'A' Key Sheet Plan of Land in Mendon, MA Scale 80 feet to an inch Date: January 22, 2014" by Guerrier & Halnon, Inc. and recorded with the Worcester Registry of Deeds in Plan Book 906, Page 86 (the Plan), as a donation from F&D Central Realty Corporation. Said Parcel A is being accepted for the following purposes: 1) to subdivide a portion of said Parcel A to create a separate lot that complies with applicable zoning for the area where the existing house and sheds at 34 George Street, as shown on the Plan, are located, for the purposes of selling said new lot, house and sheds in conformity with M.G.L. c. 30B and all applicable law; 2) to use the barn, silo, and adjacent shed, as shown on the Plan, together with an accessory parking area for community and other municipal purposes; and 3) to use the remaining land comprising said Parcel A as open space; or act or do anything in relation thereto. |
| ARTICLE 22 (CPC) | To see if the Town will transfer a sum of money from the Community Preservation Historical Preservation Account to prepare a plan creating a separate lot in compliance with applicable zoning on which the existing house and sheds at 34 George Street are located; and to prepare septic plan for said a house; provided that upon the sale of the land and house, the net proceeds of the sale shall be used to reimburse the Stabilization Account for such sum; or act or do anything in relation thereto. |
| ARTICLE 23 (CPC) | To see if the Town will transfer a sum of money from the Mendon Land Bank to fund the removal of the non-native invasive water chestnut weeds in the Inman Pond on the Meadow Brook Woods property in the spring/summer of 2015 or act or do anything in relation thereto. |
| ARTICLE 24 (CPC) | To see if the Town would transfer a sum of money from the Mendon Land Bank Account to plant native trees and/or shrubs along the open space portion along Route 16 of the Muddy Brook North Conservation Area on 20 Milford Street or act or do anything in relation thereto. |
| ARTICLE 25 (LUC) | To approve the Mendon Land Use Committee's Five-Year Land Use Plan, copies of which are available in the Town Clerk's office and on the Town website; or act or do anything in relation thereto. |
| ARTICLE 26 (LUC) | <p>To see if the Town will add a Chapter XXX Trails and Associated Areas By-law to the Town of Mendon General By-laws; or act or do anything in relation thereto.</p> <p>CHAPTER XXX Town of Mendon By-laws</p> <p>Use of Recreational Trails and Associated Areas</p> <p>Section 1. Definitions</p> <p><u>Associated Areas:</u></p> <p>All Town-owned open space and recreational areas. Additionally any trail or easement granted to and/or held by the Town for the purposes of open space and/or recreation.</p> <p><u>Motorized Vehicles:</u></p> <p>Automobiles, trucks, motorcycles, snow vehicles, mopeds, scooters, mini-bikes, Off Road Vehicles (ORVs) and/or All -Terrain Vehicles (ATVs) and/or other motor powered vehicles.</p> <p><u>Town of Mendon Trails:</u></p> <p>Any path or right-of-way designated or constructed on Town-owned land specifically for use for public recreation and/or transportation.</p> <p>Section 2. Purpose</p> <p>The provisions of this By-Law shall be to permit the Town of Mendon and designated law enforcement officers to ensure and enforce the proper use of the Trails and Associated Areas in accordance with this By-law.</p> <p>The provisions of this Trail Use By-law shall not apply to any properties that are under the jurisdiction of the Mendon Parks Commission including, but not limited to the Mendon Town Beach, Memorial Park, Mendon Woods (4 Taft Avenue), Veteran's Park, Grover Field, Clough Field, Founder's Park, and Lake Nipmuc Island.</p> |

Rules and regulations for these properties are set by the Parks Commissioners. These rules and regulations are available on the Town’s web site.

Section 3. Regulations for Use of Town of Mendon Trails and Associated Areas

- a. All hunting activities must be conducted in accordance with Massachusetts Department of Fish and Wildlife Regulations as may be in effect from time to time.
- b. Hunting is NOT permitted on the following properties:
 - i. Any property under the control of the Mendon Parks Commission as defined above; or
 - ii. On Lake Nipmuc (see Chapter XI, Sec 2 of the Mendon General By-laws).
- c. Camping and other group activities may be permitted with the written consent of the Board of Selectmen.
- d. No person shall light or cause to be lit any fire(s) on a Town of Mendon Trail or within an Associated Area without written permission from the property’s managing authority and the Mendon Fire Department.
- e. No person shall use or operate a Motorized Vehicle or motor powered device of any kind except authorized maintenance vehicles, emergency vehicles of the Police Department, Fire Department, Emergency Medical Services, or other emergency service, upon or within the Town of Mendon’s Trails or Associated Areas, unless said area is specifically designated for the parking and placement of Motorized Vehicles.
- f. Any Motorized Vehicle found in or upon a Town of Mendon Trail or Associated Areas, unless specifically authorized, shall be subject to towing and storage upon the order and direction of a law enforcement officer in accordance with the provisions of M.G.L. Chapter 266, Section 120D (or its successor provision).
- g. No person within the confines of a Town of Mendon Trail or any Area Associated therewith shall have in his possession, use, or be under the influence of intoxicating liquors, drugs or narcotics.
- h. No person shall leave, place, or dispose of, in any manner, trash, litter, refuse, garbage, yard waste, or other similar material upon said Town of Mendon Trail or Associated Area, or any waterway or pond. If it is carried in, it must be carried out.
- i. Dogs must be kept on a leash or kept in sight and under voice control at all times.
- j. Feeding of wildlife is prohibited.
- k. The use of metal detectors is prohibited except in the case of archeological activities authorized by Massachusetts Historical Commission.
- l. No person, other than maintenance authorized by the Conservation Commission for open space areas and Park Commissioners for properties under their jurisdiction, shall dig up, remove, deface, defile or ill-use any structure, sign, bush, tree, plant, turf, rock or have possession of any part on Town of Mendon Trails or within an Associated Area.

Section 4. Signage

The Town reserves the right to erect any signs necessary to impart information relevant to the respective property.

Section 5. Enforcement, Violations, Arrests, and Penalties

- a. Whoever is found not to be in conformance with the requirements of Section 3 shall be in violation of this By-Law.
- b. Violations shall be punished by a fine of one hundred dollars (\$100.00) for the first offense and two hundred fifty-dollars (\$250.00) for each subsequent offense in accordance with the provisions of Massachusetts General Laws Chapter 40, Section 21 (or its successor provision).

Section 6. Severability

If any section(s) or part(s) of this By-law is held invalid, the remainder of this By-law shall not be affected thereby.

**ARTICLE 27
(PLANNING
BOARD)**

To see if the Town will vote to amend the Mendon Zoning By-Laws, Article V. Overlay Districts, Section 5.01 Adult Entertainment Overlay District, by replacing the existing text in its entirety with the following:

Section 5.01 Adult Entertainment Overlay District

- (a) **Authority.**
This section is enacted pursuant to M.G.L. Chapter 40A, Section 9A and pursuant to the Town's authority under the Home Rule Amendment to the Massachusetts Constitution.
- (b) **Purpose and intent.**
The purpose of this Adult Entertainment Overlay District section of the Town of Mendon Zoning By-Laws is to address and mitigate the secondary effects of adult entertainment establishments. Secondary effects impact the health, safety and general welfare of the Town of Mendon and its inhabitants. These effects include increased crime, and adverse impacts on public health, the

business climate, the property values of residential and commercial property, and the quality of life.

The provisions of this section have neither the purpose nor intent of imposing a limitation on the content of any communicative matter or materials, including sexually oriented matter or materials. Similarly, it is not the purpose or intent of this Section (Overlay District) to restrict or deny access to adult entertainment establishments or to sexually oriented matter or materials that are protected by the Constitutions of the United States and the Commonwealth of Massachusetts, nor to restrict or deny rights that distributors or exhibitors of such matter or materials may have to sell, rent, distribute or exhibit such matter or materials. Neither is it the purpose or intent of this Section to legalize the sale, rental, distribution or exhibition of obscene or other illegal matter or materials, as described in M.G.L. Chapter 272, inclusive, and Chapter 119, Section 63 (or their successor provisions).

(c) **Definitions.**

Adult Entertainment Establishment shall include any of the following: an Adult Bookstore, an Adult Motion Picture Theater, an Adult Video Store, and an Establishment which displays live nudity for its patrons.

For the purposes of this By-Law, the terms Adult Bookstore, Adult Motion Picture Theater, Adult Paraphernalia Store, Adult Video Store and Establishment which displays live nudity for its patrons are as defined in M.G.L. Chapter 40A, Section 9A (or its successor provision).

Substantial or significant portion of its stock: Greater than ten (10%) percent of the subject establishments' inventory stock, or ten (10%) percent of the subject premise's gross floor area, or three hundred (300) square feet, whichever is less.

(d) **Applicability.**

This Overlay District zoning applies to all Adult Entertainment Establishments, as defined in this section. Any existing Adult Entertainment Establishment located outside of the overlay district, as described in this Section, may continue to operate in the same location until the next expiration of their license/permit. Existing Adult Entertainment Establishments located within the overlay district, as defined in this Section, shall apply for a Special Permit within ninety (90) days of the effect of this Section.

(e) **Establishment of adult entertainment overlay district & relationship to underlying districts.**

The Adult Entertainment Overlay District is described as follows: Lots number 41, 43, 47 and 49 Milford Street, as shown on the Assessors Tax Map, Town of Mendon, Map 9, revised January 2008.

The Adult Entertainment Overlay District is established as a district that overlays the underlying districts, so that any parcel of land lying in an Adult Entertainment Overlay District shall also lie in one or more of the other zoning districts. All requirements of the underlying zoning districts remain in full force and effect, except as superseded by the specific overlay district regulations.

(f) **Special permit standards for adult uses.**

Adult Entertainment Establishments shall be allowed in the Adult Entertainment Overlay District, provided that the Board of Appeals has granted a Special Permit in accordance with this Section 5.01 and the Special Permit has not expired or lapsed. A Special Permit shall be granted by the Board of Appeals for an Adult Bookstore, Adult Motion Picture Theater, Adult Paraphernalia Store, Adult Video Store or Establishment which displays live nudity for its patrons if the following conditions and limitations are satisfied:

- (i) No Adult Entertainment Establishment shall be located less than five hundred (500) feet from a child care facility, park, playground, recreational areas, another Adult Entertainment Establishment, or any establishment licensed under the provisions of M.G.L. Chapter 138, Section 12 (or its successor provision), nor less than three hundred (300) feet from any residential building. The distances shall be measured by a straight line from the closest exterior wall of the building or establishment premises on which the Adult Entertainment Establishment is to be located to the nearest exterior wall of any residence building, child care facility, other Adult Entertainment Establishment, or establishment licensed under the provisions of M.G.L. Chapter 138, Section 12 or the property line of the park, playground, or recreational area (as applicable)
- (ii) A minimum fifty (50) foot vegetated buffer containing adequate screening shall be provided between an Adult Entertainment Establishment and other abutters of any designation, including public and private ways. Structures associated with the proposed use shall be located a minimum of one hundred (100) feet from any street line.
- (iii) No material depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G. L. Chapter 272, Section 31 (or its successor provision), shall be displayed in the windows of, or on the building of, any Adult Entertainment Establishment, or be visible to the public from the pedestrian sidewalks or walkways or from other areas outside such establishments.
- (iv) In addition to complying with any Mendon By-Laws concerning signs, sign content shall identify the name of the establishment only and shall contain no advertisement in addition to the identification of the use. Only one (1) identification sign to be mounted on the building wall face shall be allowed for an Adult Entertainment Establishment, with maximum sixteen (16) square feet of sign area. All other signs, whether on the exterior of the building, or visible from the exterior of the building are prohibited.

- (v) No merchandise or services prohibited as obscene or indecent under any federal or Massachusetts law or regulation or found to be obscene by any federal or state court shall be disseminated or available therein.
- (vi) Appearance of buildings for an Adult Entertainment Establishment shall be consistent with the appearance of buildings in similar (but not specifically "adult") use in Mendon, not employing unusual color or building design, which would attract attention to the premises. All building openings, entries, and windows shall be screened in such a way as to prevent visual access of the public to the business area of the Adult Entertainment Establishment. A six (6) foot high solid fence or a landscaped buffer of evergreen trees or shrubs six (6) feet high at the time of planting shall be provided and maintained along the side and rear property lines.
- (vii) No more than one (1) structure to be used for an Adult Entertainment Establishment shall be located on any one (1) lot.
- (viii) No Adult Entertainment Establishment Special Permit shall be issued to any person convicted of violating the provisions of M.G.L. Chapter 119, Section 63 or M.G.L. Chapter 272, Section 28 (or their successor provisions).
- (ix) No Adult Entertainment Establishment shall be allowed within a building containing other retail, consumer or residential uses.
- (x) No Adult Entertainment Establishment shall have any flashing lights visible from outside the establishment.
- (xi) The applicant shall satisfy the applicable requirements of Section 1.06(a) and (b), Article II, and Section 5.01 of the Mendon Zoning By-Laws.

The Board of Appeals may deny a Special Permit if an applicant fails to satisfy one (1) or more of the foregoing conditions and limitations.

(g) **Special permit submissions and approval.**

In addition to any requirements as required by the Town of Mendon By-Laws, Zoning By-Laws, building regulations or licensing requirements, Special Permit applications for approval in the overlay district shall contain the following information:

- (i) A site plan showing appropriate distances between the proposed or existing Adult Entertainment Establishment and any residential zoning district, residential building, public and private school, park, playground, recreational area, child care facility, other Adult Entertainment Establishments and any establishment licensed under the provisions of M.G.L. Chapter 138, Section 12. The site plan shall also show locations and sizes of buildings, building appearance, setbacks, signage, landscape design and buffers and fencing.
- (ii) In addition to the site plan requirements, all applicants for a Special Permit for Adult Entertainment shall submit the following additional information:
 - a. Name and address of all legal owners of the establishment and the property, as well as the manager of the proposed establishment.
 - b. In the event a corporation, partnership, trust or other entity is listed, the names and addresses of all persons having a fee, equity and/or security interest, ownership interest and/or beneficial interest in such establishment must be listed. The applicant/owner must disclose if they have been convicted of violating the provisions of M.G.L. Chapter 119, Section 63 or Chapter 272, Section 28 (or their successor provisions).
 - c. The total number of employees, or proposed number of employees.
 - d. Proposed security precautions.
 - e. Full description of the intended nature of the business.
 - f. In the case of live adult entertainment, submission and approval of the nature of the live entertainment, proximity of entertainers to patrons, behavioral restrictions, and security plans must be obtained.
- (i) In approving a Special Permit, the Special Permit granting authority may attach such conditions, limitations, and safeguards as are deemed necessary to protect the immediate area and the Town, provided however that no such conditions in fact prohibit the use of the property for the use intended. Conditions of approval may include but are not limited to the following:
 - a. Street, side or rear setbacks greater than the minimum required by law.
 - b. Requirement of screening or parking areas or other parts of the premises from adjoining premises or from the street, by walls, fences, planting, or other means.
 - c. Modification of the exterior features or appearances of the structure.
 - d. Limitation of the size, number of occupants, method or time of operation, or extent of facilities.
 - e. Regulation of number, design and location of access drives or other traffic features.

- f. Requirement of off-street parking or other special features beyond the minimum required by this or other applicable ordinances.
 - g. Limiting the hours of operation.
- (h) **Expiration or lapse of special permit:**

A Special Permit issued under this section shall lapse upon any one of the following occurrences:

 - a. There is a change in the location of the adult use.
 - b. There is a sale, transfer or assignment of the business or the Special Permit or adult entertainment license for the business.
 - c. There is any change in legal or beneficial ownership or management of the applicant.
 - d. A Special Permit granted under this section shall lapse within two (2) years, and including such time required to pursue or await the determination of an appeal referred to in M.G.L. Chapter 40A, Section 17, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of a permit for construction, if construction has not begun by such date except for good cause.
- (i) **Severability.**

If any section or portion of this By-Law is ruled invalid, such ruling shall not affect the validity of the remainder of the By-Law, which provisions shall remain in full force and effect.

**ARTICLE 28
(PLANNING
BOARD)**

To see if the Town will vote to amend the Mendon Zoning By-Laws, Article III, Use Regulations, Section 3.04 Open Space Communities By-Law to read as follows; or act or do anything in relation thereto:

Section 3.04 Open Space Communities By-Law

- (a) **Purpose and Intent.**
 - (ii) To provide for the public interest by encouraging the permanent preservation of open land for its scenic beauty and to enhance agricultural, forestry, and recreation.
 - (iii) To perpetuate the appearance of Mendon's rural character and traditional New England landscape.
 - (iv) To protect the natural environment, including but not limited to aquifers, wetlands, farmland and Priority Habitats.
 - (v) To protect and increase property values that are reflected in the high value that homeowners place on the amenities of open space.
 - (vi) To promote the reduction of street construction, town maintenance, site development costs, and to provide public services more efficiently and economically.
 - (vii) To promote Low Impact Development practices: smaller lawns to minimize use of pesticides, herbicides, fertilizers and excessive water consumption, and far fewer impervious surfaces to minimize storm water runoff so as to preserve the natural hydrology of the land.
 - (viii) Not intended to make undevelopable land developable.
- (b) **Definitions.**
 - (i) Common Driveway: a private way that provides access to two (2) single family dwellings.
 - (ii) Flag Lot: a back lot connected to the road by a driveway that has less than the normally required frontage.
 - (iii) Low Impact Development: A technique that incorporates environmentally friendly land use planning through a range of techniques that preserve the natural hydrology of the land. Examples include, but are not limited to, rain gardens, swales, shared driveways, bioretention, and alternative landscaping.
 - (iv) Open Space Community (OSC): A method of planning residential development that permanently conserves open space while allowing the same number of homes as would be permissible in a conventionally zoned subdivision.
 - (v) Priority Habitat: The geographic extent of Habitat for State-listed Endangered Species as delineated by the Massachusetts Division of Fisheries and Wildlife. If the proposed project falls in any area so designated, the applicant must file directly with the Natural Heritage and Endangered Species Program pursuant to 321 CMR 10.12 (or its successor provision).
 - (vi) Soft Storm Water Management Techniques: Non –structural storm water management techniques that use passive pre-treatment of storm water in conjunction with decentralized recharge to achieve a low impact design that attempts to mimic pre-development hydrologic conditions to the greatest practicable extent.
 - (vii) Permanent Restriction: A conservation, agricultural or watershed preservation restriction as defined in accordance with MGL Chapter 184 Section 31 (or its successor provision).
- (c) **Applicability.**

- (i) As an alternative to conventional development, Open Space Community projects are the preferred form of residential development in the Town of Mendon. To encourage this type of development, Open Space Communities are allowed by right within residential zoning districts after review and approval by the Planning Board. An open space plan that meets with the requirements of this By-Law, the additional requirements of any other definitive subdivision requirements specified herein, and the Subdivision Control Law shall go through the same permit and approval process as a conventional subdivision.
 - (ii) All other Town of Mendon Zoning By-Laws and Town of Mendon Rules and Regulations for Subdivision of Land and Site Plan Approval apply to applications under this By-Law.
 - (iii) The Planning Board shall grant or deny an Open Space Community application based upon the information contained in the Sketch Plan or Conceptual Preliminary Plan, as outlined in Section 2.05(d)(ii)4) below.
- (d) **Pre-application.**
- (i) A pre-application review meeting between the applicant, the site designer, and the Planning Board is strongly encouraged. Participants may also include consultants, members of the Board of Health and the Conservation Commission. This meeting is to commence discussions with the Planning Board at the earliest possible stage, to introduce the applicant to the standards and procedures of this By-Law, and to schedule site visits and meetings. At the pre-application review meetings the applicant may outline the proposed development, seek preliminary feedback from the Planning Board, and set a timetable for submittal of a formal application. The Planning Board may engage technical experts, at the applicant's expense in accordance with Mass General Laws Chapter 44, Section 53G (or its successor provision), to review the informal plans of the applicant and to facilitate submittal of a formal application.
 - (ii) Submittals: In order to facilitate review at this pre-application review meeting, or subsequent meetings, the following submittal materials will be required. These will be in addition to the submittal requirements of the Mendon Planning Board Rules and Regulations.
 - e. Site Context Map. This map shall illustrate the parcel in connection to its surrounding neighborhood. Based upon existing data sources and field inspections, it shall show various kinds of major resource areas or features that cross parcel lines or that are located on adjoining lands. This map enables the Planning Board to understand the site in relation to what is occurring on adjacent properties.
 - f. Existing Resources/ Site Analysis Map. This map familiarizes officials with existing conditions on the property. Based upon existing data sources and field inspections, the base map shall locate and describe noteworthy resources that could be protected through sensitive subdivision layouts. These resources include wetlands, riverfront areas, flood plains, and steep slopes, but may also include mature woodlands, hedgerows, farmland, priority wildlife habitats, historic or architectural features (such as old structures or stone walls), unusual geologic formations and scenic views into and out from the property. Where appropriate, photographs of these resources should accompany the map. By overlaying this plan with a development plan, the parties involved can clearly see where conservation priorities and desired development overlap or conflict. This map is perhaps the single most important document in the design process because it provides the information base on which every major design decision turns.
 - g. Yield Plan/Number of Dwelling Units: The applicant shall submit a yield plan to demonstrate the density potential that would be permitted under a conventional ("grid") subdivision. The number of OSC dwelling units permitted shall not exceed the number that would be feasible under the conventional subdivision plan. The Planning Board shall determine the number of dwelling units that would be considered feasible under a conventional subdivision taking into consideration, economics, environmental impacts and other factors deemed appropriate. The required documentation included with the Yield Plan shall include, without limitation, the following:
 - 1. Soil Analysis: The purpose of the soil analysis is to demonstrate that lots shown in the conventional subdivision layout are suitable for subsurface sewage disposal. The soil analysis shall include an analysis of soil maps and other existing information, a site specific soil survey by a qualified soil scientist, and may include some soil testing. The identified lots shall conform to the regulations of the Town of Mendon Board of Health and applicable laws of the Commonwealth of Massachusetts. It is not the intent of this By-Law to normally require soil testing for each proposed lot shown on a conventional layout. The Planning Board may, however, require testing, at the applicant's expense, of a subset of lots to verify the soil analysis.
 - 2. A layout for each conventional lot and supporting technical documentation to clearly demonstrate that each conventional lot can also fully comply with all the applicable laws and regulations pertaining to zoning and subdivision requirements for sewage disposal, water supply, wetlands protection, storm water management, and roadway construction. Each conventional lot shall also fully comply with the regulations of the Natural Heritage Endangered Species

Program (NHESP). Should any part of a lot included in the Yield Plan contain Priority Habitat for Rare and Endangered Species as identified in the latest edition of the Natural Heritage Atlas, the applicant shall include the Letter of Determination from NHESP. This is independent of the requirement to submit a copy of a required Notice of Intent to NHESP for a project located within an Estimated Habitat for Rare Wildlife under Mass. Wetlands Protection Act Regulations.

3. The Planning Board reserves the right to require such further documentation or other evidence, as it deems necessary.
- h. Sketch Plan (Conceptual Preliminary Plan): This is a preliminarily engineered plan drawn to illustrate initial thoughts about a conceptual layout for greenway lands, house sites, and street alignments. This is the stage where drawings are tentatively illustrated before heavy engineering costs are incurred. These drawings should be prepared by a team that includes a landscape architect and a civil engineer and should be based closely on the Existing Resources Site Analysis Map. The Sketch Plan or Conceptual Preliminary Plan shall follow a four step design process as described below in Section 2.05(e).

The Sketch Plan shall contain the following information:

1. The existing and proposed topography of the land.
2. The location of existing landscape features, including forests, farm fields, meadows, wetlands, riverfront areas, water bodies, archeological and historic structures or points of interest, rock out crops, stone walls, cliffs, high points, major land views, major tree groupings, noteworthy tree specimens, and habitats of endangered or threatened wildlife, as identified in primary and secondary resources according to Section 2.05(e)(i). Proposals for all features to be preserved, demolished or altered shall be noted on the Sketch Plan.
3. The existing and proposed lines of streets, ways, common driveways, easements and any parcel of land intended for public use or to be reserved by deed covenant for use of all property owners in the subdivision, or parcels of land to be used for any purpose, other than private residential, shall be so designated within the subdivision in a general manner.
4. Proposed roadway grades.
5. Official soil percolation tests for the purpose of siting wastewater treatment shall be required as determined by the Planning Board, Board of Health, and Conservation Commission.
6. A narrative prepared by a Massachusetts Certified Professional Engineer proposing systems for storm water drainage and likely impacts on site and to any abutting parcels of land. For example, the narrative will specify whether hard or soft (Low Impact Development) Storm Water Management Techniques will be used and the number of detention/retention basins or infiltrating catch basins. It is not intended to include specific pipe sizes. Any information needed to justify this proposal should be included in the narrative. The approximate location of any storm water management structures (detention and retention basins, water quality swales, for example) shall be shown on the plan and accompanied by a conceptual plan. The Planning Board shall encourage the use of non-structural, Low Impact Development Storm water management techniques where appropriate.
7. A narrative explanation of the proposed quality, quantity, use and ownership of the open space. Open space parcels shall be clearly shown on the plan. All proposed landscape and buffer areas should be noted on the plan and generally explained in a narrative.
8. A list of all legal documents necessary for implementation of the proposed development, including any Conservation Restrictions, land transfers, or condominium documents with an accompanying narrative explaining their general purpose.
9. The Planning Board may waive any requirements in order to achieve the purpose and intent of this By-Law and to enable a better design.

(e) **Design Process.**

Applicants are required to demonstrate to the Planning Board that the following design process was performed by a multidisciplinary team of which one member must be a certified Landscape Architect:

- (i) Identifying Conservation Areas: First, identify and delineate Primary Conservation Areas such as wetlands, stream and riverfront areas, priority wildlife habitat, and flood plains regulated by state or federal law. Second, identify Secondary Conservation Areas including unprotected elements of the natural landscape such as steep slopes, mature woodlands, prime farmland, meadows, wildlife habitats, and cultural features such as historic and archeological sites and

scenic views. The Potentially Developable Area should consist of land outside of these identified Primary and Secondary Conservation Areas.

- (ii) Locating House Sites: Locate the approximate sites of individual houses within the Potentially Developable Area and include the delineation of private yards and shared amenities, so as to reflect an integrated community. House sites should be located in accordance with the regulations of the Massachusetts Department of Environmental Protection Wetlands Protection Act, Rivers Protection Act, and any additional Town of Mendon regulations.
- (iii) Aligning the Streets and Trails. Align streets in order to access the house lots or units. Additionally, new trails should be laid out to create internal and external connections to existing streets, sidewalks, and trails. Wetland crossings on land that is officially designated in the latest edition of the Massachusetts Natural Heritage Atlas as Priority Habitat for Rare Species and Estimated Habitat for Rare Wildlife and streets traversing existing slopes over fifteen (15%) percent shall be strongly discouraged.
- (iv) Lot Lines: Draw in the lot lines.
- (v) Lot Yard and Coverage Regulations: See Section 2.05(g) for lot size and density requirements for Open Space Communities

(f) Design Standards

In addition to the design standards found in the Mendon Planning Board Subdivision Rules and Regulations, the following generic and site-specific design standards shall apply to all sketch plans for OSC's and shall govern the development and design process:

- (i) Generic Design Standards:
 - i. The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. The orientation of individual building sites shall be such as to maintain maximum natural topography and cover. Topography, tree cover, surface water buffers, and natural drainage ways shall be treated as fixed determinants of road and lot configuration rather than as malleable elements that can be changed to follow a development scheme.
 - j. Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject parcel.
 - k. All open space shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the site or overlooking it from nearby properties.
 - l. The removal or disruption of historic, traditional or significant uses, structures or architectural elements shall be minimized insofar as practicable whether these exist on site or on adjacent properties.

(g) Standards and Dimensional Requirements

The Planning Board encourages applicants to modify lot size, shape and other dimensional requirements for lots within an Open Space Community subject to the following limitations:

- (i) Minimum lot size:

Single family: 20,000 square feet

Front and rear lot lines shall not be less than one hundred (100) feet. Driveways shall be wholly contained within said lot frontage. The Planning Board may waive these requirements where it is determined that a lesser amount, as in the case of flag lots, common driveways, and lots fronting on a cul-de-sac, furthers the purpose and intent of this By-Law. If it is the case that flag lots and common driveways do further the purpose and intent of this By-Law, they may be utilized, where appropriate, on a limited basis.

Driveways shall be wholly contained within said lot frontage.
- (i) Lots shall not have frontage on a street other than a street created by the Open Space Community.

(h) Open Space Requirements

- (i) Quantity: A minimum of fifty-five (55%) percent of the site shall be open space. Since wetlands deserve the highest protection possible, large contiguous wetland areas shall be preserved as open space. Wetlands may count toward the minimum open space area requirement provided, however, that no more than fifty (50%) percent of the calculated minimum area required for open space may be wetland, as defined in M.G.L. Chapter 131, Section 40, and the Resource Areas under Section 3.0 a. and 3.0 c. of Chapter XXIX of the Mendon General By-Laws.
- (ii) The open space shall be planned as large contiguous areas whenever possible. Long thin strips should be avoided unless necessary to connect other significant areas. Such open space may be separated by roads constructed within the conservation area.
- (iii) Any Conservation Restriction, or other legal documents necessary to permanently conserve the open space as required herein shall be recorded at the Worcester County Registry of

Deeds prior to lot releases or issuance of building permits. The Town may, at its discretion and at the request of the applicant, prepare the necessary documentation and allow such lot releases and/or building permit issuance upon receipt of payment from the applicant of the estimated expense of establishing such Conservation Restriction. The estimated expense shall include, but is not limited to, legal fees, filing fees, baseline surveys, engineering, and endowment to third parties to enforce the Conservation Restriction.

(i) Permissible Uses of Open Space

Open space shall be used solely for recreation, conservation, outdoor education, and/or agriculture purposes by Mendon residents. Where appropriate, multiple use of open space is encouraged. If several uses are proposed, the plans shall specify what uses will occur in what areas. The proposed use of open space shall be specified in the application. The Planning Board shall have the authority to approve or disapprove particular uses of open space.

- (i) Accessory Structures: Up to five (5%) percent of the open space may be set aside for construction of structures and facilities accessory to the proposed use of the open space including parking. Non-paved surfaces should be used where possible.
- (ii) Natural State: Use of open space shall be determined by the priorities of this By-Law. For example, if open space land contains Priority Habitat for Rare and Endangered Species, it is not suitable for a baseball field and should be allowed to remain undisturbed. In some cases no use is the best use.
- (iii) Recreation Lands: Where appropriate to the topography and natural features of the site, the Planning Board may allow that at least ten (10%) percent of the open space or three (3) acres (whichever is less) shall be of a shape, slope, location, and condition to provide an informal field for group recreation or community gardens.
- (iv) Areas designated as Open Space shall not be disturbed during construction unless allowed by the Planning Board
- (v) Storm water Management facilities shall not be located in Open Space areas.

(j) Monumentation

Signs shall be posted to clearly delineate the boundaries between Open Space and residential areas. The location of signs shall be established by the Planning Board and shown on the final Subdivision map. Signs shall be placed at property corners and along property lines that are greater than three hundred (300) feet. Sign materials and design shall be consistent with signs installed along other Open Space areas in the Town of Mendon. If no clear standard has been established for sign design, the design and appearance of the signs shall be approved by the Planning Board.

Where boundaries of the open space are not readily observable in the field, the Planning Board may require placement of surveyed bounds sufficient to identify the location of open space.

(k) Ownership Options

At the applicant's option and subject to approval by the Planning Board, all areas to be protected open space shall have a conservation restriction as specified below in Section 2.05(l) and shall be:

- (i) Conveyed to the Town:
 - a. Land left in its natural state or used for passive recreation or outdoor education shall be placed under the care, custody and control of the Conservation Commission.
 - b. Land used for a park, playing field, or other active recreational use shall be placed under the control of the Parks Department, or other appropriate Town entity in accordance with Article 97 of the Articles of Amendment to the Massachusetts Constitution, or
- (ii) Conveyed to a non- profit organization, the principal purpose of which is conservation or preservation of open space. Such organization shall be acceptable to the town as a bona fide conservation organization, and/or
- (iii) Conveyed to a corporation, homeowners association or trust owned or to be owned jointly or in common by the owners of lots or units within the Open Space Community. If such corporation or trust is utilized, ownership thereof shall pass with the conveyance of the lots in perpetuity. Maintenance of such open space and facilities shall be permanently guaranteed by such corporation or trust which shall provide for mandatory assessments for maintenance expenses to each lot and unit. Each individual deed, and the deed of trust or articles of incorporation, shall include provisions designed to effect these provisions. Documents creating such homeowners association, trust or corporation shall be submitted to the Planning Board for approval, and shall thereafter be recorded.
- (iv) Encumbrances: All areas to be set aside as open space shall be conveyed free of any mortgage interest, security interest, liens, or other encumbrances.

(l) Maintenance of Open Space.

In the case of a homeowner's association, corporation or trust, maintenance shall be permanently guaranteed.

- (i) The corporation or trust shall provide for mandatory assessments for maintenance expenses to each lot. Each such corporation or trust shall be deemed to have assented to allow the

Town to perform maintenance of the open space and facilities, if the trust or corporation fails to complete such maintenance.

- (ii) The owner of each lot shall be deemed to have assented to the Town filing a lien against each lot in the development for the full cost of such maintenance, which lien shall be released upon payment of same.
- (iii) Any proposed open space shall be subject to a recorded restriction enforceable by the Town, providing that such land shall be perpetually kept in open state, that it shall be preserved for exclusively conservation, agricultural, horticultural, educational or recreational purposes, and shall be maintained in a manner which will ensure its suitability for its intended purposes.
- (iv) In any case where open space is not conveyed to the Town, the Town shall be granted an easement over such land sufficient to ensure its perpetual maintenance as conservation or recreation land. Such easement shall provide that in the event the trust or other owner fails to maintain the open space in reasonable condition and consistent with the restricted purpose(s) of the land, the Town may, after notice to lot owners and public hearing, enter upon such land to maintain it in order to prevent or abate nuisance and to ensure that the land is maintained for conservation or recreation purposes. The cost of such maintenance by the Town shall be assessed against the properties within the development and/or to the owner of the open space. The Town may file a lien against the lot or lots to ensure payment of such maintenance.

(m) **Permanent Restriction.**

All open space shall have a permanent conservation restriction or agricultural preservation restriction in accordance with M.G.L. c 184 Section 31 (or its successor provision), approved by the Conservation Commission and Board of Selectmen. Depending upon the ownership of the open space, these restrictions shall be enforceable by the Town or an outside non-profit organization, the principal purpose of which is conservation or preservation of open space. In all cases of ownership, these restrictions shall also conform to the standards of the Massachusetts Executive Office of Environmental Affairs, Division of Conservation Services (or its successor agency); shall be recorded to ensure that such land shall be kept in an open and natural state and not be built for residential use, or developed for accessory uses such as parking or roadways except as permitted by this By-Law and approved by the Conservation Commission. Restrictions shall provide for periodic inspection of the open space by the Town. Such restrictions shall be submitted to the Conservation Commission prior to approval of the project and recorded at the Registry of Deeds/Land Court simultaneously with recording of the definitive subdivision plan.

(n) **Severability.**

If any provision of this By-Law is held invalid by a court of competent jurisdiction, the remainder of the By-Law shall not be affected thereby. The invalidity of any section or sections or parts of this By-Law shall not affect the validity of the remainder of the town’s zoning By-Law.

**ARTICLE 29
(PLANNING)**

To see if the Town will vote to make the following changes to the Town of Mendon Zoning By-Laws pertaining to solar photovoltaic facilities: (i) amend ARTICLE III, Use Regulations Section 3.01 Allowable Land Uses, (ii) delete ARTICLE V, Section 5.04 “Large-Scale Ground-Mounted Solar Photovoltaic Facilities Overlay District” in its entirety; and (iii) add new ARTICLE VI, Section 6.02 “Solar Photovoltaic Facilities,” all as set forth below.

- (1) Amend Article III, Section 3.01(b)(viii) to change the phrase “Large Scale Ground Mounted Solar Photovoltaic Facilities” to “Solar Photovoltaic Facilities (see Section 6.02).”
- (2) Section 3.01, Table A, Table of Uses, delete use item 67 in its entirety, and insert the follow items 67.a, 67.b. and 67.c in its stead

| Uses | | RR | GR | GB | HB |
|------|--|--------|--------|--------|--------|
| 67.a | Roof-mounted Accessory Residential and Accessory Non-Residential Solar Photovoltaic Facilities as defined and in accordance with the Mendon Zoning By-Laws, Section 6.02 | Y | Y | Y | Y |
| 67.b | Ground-mounted Accessory Non-Residential and Accessory Residential Solar Photovoltaic Facilities as defined and in accordance with the Mendon Zoning By-Laws, Section 6.02 | SPR | SPR | SPR | SPR |
| 67.c | Non-Accessory Solar Photovoltaic Facilities as defined and in accordance with the Mendon Zoning By-Laws, Section 6.02 | SPR/PB | SPR/PB | SPR/PB | SPR/PB |

- (3) Delete Article V, Section 5.04, Large Scale Ground-Mounted Solar Photovoltaic Facilities Overlay District, in its entirety.
- (4) Insert into Article VI, new Section 6.02 “Solar Photovoltaic Facilities” as follows:

Section 6.02 Solar Photovoltaic Facilities

(a) **Purpose.** The purpose of this By-Law is to promote solar photovoltaic facilities in a manner that protects public health, safety, and welfare, and consistent with this purpose, minimizes their impacts on the character of surrounding neighborhoods, property values, and on the scenic, natural, and historic resources of the Town, by providing standards for the design, construction, operation, monitoring,

alteration, modification, maintenance, repair, and removal of such facilities. This By-Law also provides adequate financial assurance for the eventual decommissioning of such facilities.

(b) Definitions.

- (i) **As-Of-Right:** As-Of-Right shall mean that development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval, provided, however, that such development may be subject to site plan review. As-Of-Right developments shall be subject to and in compliance with all applicable local, state, and federal statutes, rules, regulations, bylaws and requirements.
- (ii) **Designated Location:** The following location shall be referred to as a Designated Location:
 - Lot 4, an area of 31.87 acres with frontage of 969.19 feet on Milford Street on a plan entitled "Plan of Property Owned by the Town of Mendon, Milford Street and North Avenue, Mendon Massachusetts," made by Cullinan Engineering, dated October 18, 2006.
- (iii) **Ground-mounted Solar Photovoltaic Facility:** Ground-mounted SPF shall mean any SPF that is structurally mounted on the ground or, with Planning Board approval, on a structure(s) that is used for an alternate purpose.
- (iv) **Large-Scale Ground-Mounted Solar Photovoltaic Facility ("LSGM SPF"):** A solar photovoltaic facility that has a Rated Nameplate Capacity of 250 kW DC or more.
- (v) **Rated Nameplate Capacity:** The maximum rated output of electric power production of the photovoltaic system in direct current (DC). Such capacity shall mean and include the aggregate capacity of all SPFs located on any lot.
- (vi) **Roof-mounted SPF:** Roof-mounted SPF shall mean any SPF affixed to the roof of a building.
- (vii) **Solar Photovoltaic Facility("SPF"):** Shall mean and include all devices, equipment, structures, and structural design features, used for, as part of, or in connection with, the collection, storage, generation, and/or distribution of solar energy, and all appurtenant facilities, structures and equipment thereto.
- (viii) **Solar Photovoltaic Facility Footprint ("SPF Footprint"):** The entire ground-surface area covered by the Solar Photovoltaic Facility.
- (ix) **Solar Photovoltaic Facility, Non-Residential Accessory ("Non-Residential Accessory SPF"):** A Non-Residential Accessory SPF is an SPF that is (i) incidental and subordinate to a non-residential use located on the same lot, (ii) constructed and used solely to serve the electrical load of such use located on the same lot, (iii) sized no greater than what is required to serve such on-site load, as evidenced by the past three-year electrical load consumption by the use; and (iv) roof-mounted or ground mounted having an SPF Footprint of less than 10,000 s.f.. Provided all of the above requirements are met, arrangements where the electricity generated is sold or net-metered may still fall within the definition of a Non-Residential Accessory SPF provided that such arrangement directly and primarily benefits the on-site use by a reduction in the cost of on-site electrical consumption.
- (x) **Solar Photovoltaic Facility, Residential Accessory ("Residential Accessory SPF"):** A Residential Accessory SPF is an SPF that is (i) incidental and subordinate to the residential use of the lot, (ii) constructed and used solely to serve the electrical load of residential dwelling(s) located on the same lot, and (iii) sized no greater than what is required to serve such on-site load, and in all cases less than or equal to a total Rated Nameplate Capacity of 10kW. Provided all of the above requirements are met, arrangements where the electricity generated is sold or net-metered may still fall within the definition of a Residential Accessory SPF provided that such arrangement directly and primarily benefits the on-site use by a reduction in the cost of on-site electrical consumption.

(c) Applicability. This Section 6.02 applies to all Solar Photovoltaic Facilities proposed to be constructed or modified (in size, configuration, or any other material way) after the effective date of this By-Law.

(d) Compliance with Applicable Laws and Regulations. The construction, operation, use, maintenance, repair, modification and removal of all SPFs shall be subject to and comply with all applicable local, state, and federal statutes, rules, regulations, bylaws and requirements, including, without limitation, all Town of Mendon General and Zoning By-Laws, including those concerning design criteria, the bulk and height of buildings and structures, lot area, setbacks, open space, parking and building coverage requirements as applicable, whether or not specifically stated in, and in addition to, this Section 6.02.

(e) Use Regulations. Solar Photovoltaic Facilities may only be constructed or modified (in size, configuration, or any other material way) upon the issuance of the following required permits and approvals:

- (i) All SPFs shall either be roof-mounted or ground-mounted. No SPF shall be constructed without a building permit. Except for off-grid systems, no building or other permit or approval for an SPF shall be issued unless the applicant has provided satisfactory evidence that the utility company has been informed of the owner or operator's intent to install the SPF and that the utility company has agreed to interconnect the SPF to the electric power grid.
- (ii) All SPFs, except for roof-mounted Accessory (Residential and Non-Residential) SPFs, shall require site plan review and approval.
- (iii) The following SPFs shall be permitted As-Of-Right provided they meet the requirements of this Section 6.02: (i) Residential Accessory SPFs in all districts; (ii) Non-Residential Accessory SPFs in all districts; and (iii) any SPF having a total Rated Nameplate Capacity of less than 1250 kW in the Designated Location.

- (iv) All other SPF's may be permitted upon the issuance of a Special Permit from the Planning Board subject to the conditions and limitations herein.

The permits and approvals required shall be determined based on the aggregate Rated Nameplate Capacity of all SPF's authorized or proposed to be located on any lot.

(f) Accessory Solar Photovoltaic Facilities. Accessory Solar Photovoltaic Facilities, Residential and Non-Residential, shall be subject to the following restrictions:

- (i) Roof-mounted Residential and Non-Residential Accessory SPF's may not protrude higher than the highest point of the roofline. The Planning Board may, by special permit, authorize a protrusion of up to six (6) feet upon a finding by the Board that the waiver is in the public interest and is consistent with the purpose and intent of the Town of Mendon Zoning By-laws. No waiver shall be granted if the height of the structure measured to the highest point of the SPF will exceed thirty-five (35) feet.
- (ii) Ground-mounted Residential and Non-Residential Accessory SPF's may not exceed a height of twenty feet (20') and shall have front, side, and rear yard setbacks of at least fifty (50) feet.
- (iii) The SPF Footprint of a ground-mounted Non-Residential Accessory SPF, including any accessory buildings and structures, shall not exceed thirty percent (30%) of the lot area. The SPF Footprint shall be included in any calculation of the maximum building coverage (%) requirement (if applicable) set forth in Article II, Section 2.01, Table 1 of the Town of Mendon Zoning By-Laws.
- (iv) The SPF Footprint of a ground-mounted Residential Accessory SPF shall not exceed 1,750 square feet.

(g) Solar Photovoltaic Facilities. All Solar Photovoltaic Facilities, except for Residential and Non-Residential Accessory Solar Photovoltaic Facilities, shall be subject to the following requirements:

- (i) Design and Dimensional Requirements. Except as otherwise specifically set forth herein, SPF's, including all accessory structures and buildings, shall be subject to the dimensional regulations set forth in Section 2.01 of the Town of Mendon Zoning Bylaw.
- (1) Height. No ground-mounted SPF shall exceed 20 feet in height. Roof-mounted SPF's may not protrude higher than the highest point of the roofline. The Planning Board may, by special permit, authorize a protrusion of up to six (6) feet upon a finding by the Planning Board that the waiver is in the public interest and is consistent with the purpose and intent of the Town of Mendon Zoning By-Laws. No waiver shall be granted if the height of the structure measured to the highest point of the SPF will exceed thirty-five (35) feet.
- (2) Lot Size. The minimum lot size required for an SPF in any residential district shall be five (5) acres; the minimum lot size required for an SPF in any non-residential district shall be three (3) acres. No more than one (1) SPF shall be permitted on any lot.
- (3) Setbacks. All ground-mounted SPF's, including any accessory buildings and structures, shall have minimum front, side, and rear yard setbacks of at least fifty (50) feet.
- (4) Maximum % Lot Coverage. The SPF Footprint of a ground-mounted SPF, including any accessory buildings and structures, shall not exceed thirty percent (30%) of the lot. The SPF Footprint shall be included in any calculation of the maximum building coverage % requirement (if applicable) set forth in Article II, Section 2.01, Table 1 of the Town of Mendon Zoning By-laws.
- (5) Maximum Lot Coverage. No SPF Footprint of a ground-mounted SPF shall exceed twenty (20) acres. For the purposes of determining compliance with this provision, the SPF Footprint of SPF's located on contiguous lots held in common ownership shall be included in the determination of area.
- (6) Commercial uses are generally discouraged in the residential districts. In lieu of prohibiting such uses all together, the following restrictions shall apply: (i) no non-accessory SPF shall be permitted on any parcel of land located within a residential subdivision approved in accordance with the Subdivision Control Laws by the Planning Board; and (ii) no Large Scale Ground Mounted Solar Photovoltaic Facility, shall be located within one (1) radius mile of another LSGM SPF in the Residential Rural District .
- (7) Lighting. Lighting shall be limited to that required for safety and operational purposes.
- (8) Signage. A sign shall be required to identify the owner and operator of the SPF and provide a 24-hour emergency contact phone number.

Where an SPF is located in a residential district or abuts residential uses, there must be increased consideration for mitigating impacts to the residential use. For example, the Planning Board may require items such as, but not limited to, increased setbacks, visual screening or sound buffering as part of site plan review. Additional screening or other public safety measures may also be considered to mitigate sun glare to abutting properties or roadways.

- (ii) Operation & Maintenance. The owner or operator shall maintain the SPF in good condition and repair at all times. 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 Mendon Police and Fire Chiefs.
- (iii) Emergency Services. The SPF owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local fire chief. Upon request, the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the SPF shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the SPF.

- (iv) **Liability Insurance.** Proof of liability insurance in an amount and form acceptable to the Planning Board shall be maintained until the SPF has been removed in accordance with Section 6.02 (k) below. Proof of liability insurance in the form and amount approved by the Planning Board shall be provided to the Building Inspector prior to the operation of the SPF and thereafter on an annual basis.
- (v) **Financial Surety.** Applicants proposing SPFs shall provide a form of financial surety satisfactory to the Planning Board to cover the cost of removal in the event the Town must remove the facility and restore the landscape. This surety shall be in an amount determined to be reasonable by the Planning Board, but in no event to exceed more than 125 percent of the cost of removal (including, without limitation, the work specified under section (k) below) and compliance with the additional requirements set forth herein, as determined by satisfactory evidence submitted by the applicant. Such surety may be waived by the Planning Board for municipal or state-owned facilities. The applicant 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.

(h) **Site Plan Review.** Site Plan Review shall be subject to and in accordance with Section 4.01 of the Town of Mendon Zoning By-laws. In addition to the requirements of Section 4.02, the following materials must also be included in any site plan review application for SPFs:

- (i) Detailed layout of the proposed SPF, including but not limited to panel mounts, foundations, appurtenant equipment and fencing.
- (ii) Detailed layout of the electric infrastructure to connect the SPF to the electric grid.
- (iii) Blueprints or drawings of the SPF showing the proposed layout of the system and any potential shading from nearby structures.
- (iv) One (1) or three (3) line electrical diagram detailing the SPF, associated components, and electrical interconnection methods, with all Massachusetts Electrical Code, 527 CMR 12.00 (or its successor provision) compliant disconnects and overcurrent devices.
- (v) Documentation of the major system components to be used, including the PV panels, mounting system, and inverters.
- (vi) Name, address, and contact information for proposed system installer.
- (vii) Operation, maintenance and emergency services plans;
- (viii) Proof of liability insurance in an amount and form acceptable to the Planning Board.
- (ix) Description of financial surety in an amount and form acceptable to the Planning Board, if required under Section 6.02 (g).

(i) **Technical Review.** Upon receipt of an application for a SPF, the Planning Board may engage professional and technical consultants, at the applicant's expense, pursuant to M.G.L. Chapter 44 § 53G to assist the Planning Board with its review of application materials. 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 to add additional funds as needed upon notice. Failure to comply with this section shall be good grounds for denying site plan approval and/or the special permit application. Upon the approval or denial of the application, any excess amounts in the account attributable to the application process, including any interest accrued shall be refunded to the applicant.

(j) **Special Permit Approval Criteria.** In reviewing any application for a special permit pursuant to this Section 6.02, the Planning Board shall give due consideration to promoting the public health, safety, and welfare; shall encourage the most appropriate use of land and shall permit no building, structure, or use that is injurious, noxious, offensive or detrimental to its neighborhood. Before the Planning Board may issue such a special permit, it shall consider, in addition to the special permit approval criteria set forth in Section 1.06, the protection of Town resources and abutting properties by minimizing any undue disturbance from noise, traffic, lighting, hazardous materials, signage, glare or stormwater runoff for purposes of protecting the public health, safety and welfare.. The Planning Board may request a study if any of these disturbances appear to pose a particularly significant risk.

(k) **Decommissioning, Abandonment & Removal.**

- (i) Any SPF which the owner or operator is required or intends to decommission, or which has been abandoned, as defined in sub-paragraph (ii) below, shall be removed by the owner or operator within one hundred fifty (150) days. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. Removal shall include:
 - 1) Physical removal of all large- scale ground-mounted SPFs, structures, equipment, security barriers and transmission lines from the site.
 - 2) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
 - 3) 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
- (ii) Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the SPF shall be considered abandoned when it fails to operate for more than one (1) year without the written consent of the Planning Board.
- (iii) If the owner or operator of the SPF fails to remove the installation in accordance with the requirements of this section within one hundred fifty (150) days of abandonment or the proposed date of decommissioning, it shall be a condition to any Special Permit or site plan approval issued that the applicant and owner shall be deemed to have consented in advance to the Town entering the property and being authorized to physically remove the facility at the sole cost of the owner or

operator, which may include, without limitation, the Town's use, in accordance with all applicable laws, of any financial surety provided by the owner or operator.

Any special permit or site plan approval issued shall automatically lapse upon the removal of the SPF required under this Section 6.02(k) and/or abandonment (whether or not the SPF has been removed).

(l) **Planning Board Waivers.** The Planning Board may grant requested waivers from the design or dimensional requirements of this Section 6.02 upon a special permit finding that the applicant has shown good cause for requesting such waiver, and granting such waiver(s) will not derogate from the intent of this bylaw or be detrimental or injurious to the public health, safety and welfare concerns that the regulations are intended to protect. No waiver may be granted to reduce the lot size requirements. Such waivers shall require a unanimous vote of the Planning Board.

(m) **Severability.** If any section, subsection, sentence, clause, phrase or any portion of this article is for any reason held to be invalid, unenforceable or unconstitutional by any reviewing agency or by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Section 6.02.

And you are directed to serve this Warrant, by posting up attested copies thereof at three or more public places in said Town, 14 days at least before the time of holding said meeting.

HEREOF FAIL NOT, and make due return of this Warrant, with your doings thereon, to the Town Clerk, at the time and place of meeting, as aforesaid.

Given under our hands this 9th day of June, in the year of our lord two thousand fourteen.

_____ **Selectmen of Mendon**

A True copy. Attest:

_____ **Constable**

Worcester, ss.

PURSUANT TO THE WITHIN WARRANT, I have notified and warned the inhabitants of the Town of Mendon by posting up attested copies of the same at:

Town Hall; Town Hall Website; _____

_____ days before the date of the meeting, as within directed.

_____, **Constable**