



# ***Town of Westminster***

## **ZONING BYLAWS APPROVED AT SPECIAL TOWN MEETING NOVEMBER 27, 2018**

**Changes approved by Attorney General on March 15, 2018**

**Ellen M. Sheehan  
Westminster Town Clerk**



**TOWN OF WESTMINSTER  
OFFICE OF THE TOWN CLERK**

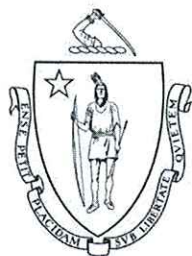
Ellen M. Sheehan  
Town Hall, 11 South Street  
Westminister, MA 01473  
(978) 874-7406  
FAX (978) 874-7411  
E-Mail: [esheehan@westminister-ma.gov](mailto:esheehan@westminister-ma.gov)

March 21, 2019

On the date written above, I have posted copies of the Zoning Bylaw Amendments passed at the Special Town Meeting on November 27, 2018 and approved by the Attorney General of Massachusetts on March 15, at the following public places in the Town of Westminister:

Community/Senior Center  
Town Hall  
US Post Office  
Forbush Memorial Library  
Public Safety Building

Ellen M. Sheehan  
Town Clerk



MAURA HEALEY  
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL

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

(508) 792-7600  
(508) 795-1991 fax  
[www.mass.gov/ago](http://www.mass.gov/ago)

March 15, 2019

Ellen M. Sheehan, Town Clerk  
Town of Westminster  
11 South Street  
Westminster, MA 01473

**Re: Westminster Special Town Meeting of November 27, 2018 -- Case # 9268  
Warrant Articles # 9, 10, 11, 12 and 14 (Zoning)**

Dear Ms. Sheehan:

**Articles 9, 10, 11 and 12** - We approve Articles 9, 10, 11 and 12, and the map amendments related to Article 11, from the November 27, 2018 Westminster Special Town Meeting. We will return the approved maps to you by regular mail. Our comments on Article 12 are provided below.

**Article 14** - The Attorney General's deadline for a decision on Article 14 is extended for an additional 90 days under the authority conferred by G.L. c. 40, § 32, as amended by Chapter 299 of the Acts of 2000. The agreement with Town Counsel for a 90-day extension is attached hereto. We will issue our decision on Article 14 on or before **June 15, 2019**.

**Article 12** - Article 12 amends the Town's zoning by-laws to add a new Section 205-40.1, "Large-Scale Solar Photovoltaic Installations," and make related changes to Section 205-4, "Definitions," and the Table of Use Regulations. Large-scale ground-mounted solar photovoltaic installations (large-scale solar installations), as defined in Section 205-4, are allowed by special permit and site plan approval in the residential and commercial zoning districts. Section 205-40.1 (B). Large-scale solar installations are prohibited in the industrial districts and the village center zoning district.<sup>1</sup> Section 205-40.1 (B). Large-scale solar installations are also prohibited under certain specified circumstances as set forth in Section 205-40.1 (B) (1) and (2). Large-scale roof-mounted solar photovoltaic installations are allowed by right with site plan approval in all districts. Section 205-40.1 (B). Lastly, residential-scale solar photovoltaic installations, as defined in Section 205-4, are allowed by right in all zoning districts. Section 205-40.1 (B).

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<sup>1</sup> See page 3 herein regarding an internal inconsistency between Section 205-40.1 (B) and the Table of Uses.



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

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

There are no appellate level judicial decisions to guide the Town or this Office in determining what qualifies as an unreasonable regulation of solar uses under G.L. c. 40A, § 3. However, a Land Court decision provides some guidance. In Briggs v. Zoning Board of Appeals of Marion, 2014 WL 471951 \* 5 (2014), the Land Court determined that a zoning board of appeals' decision maintaining a division between commercial solar energy and residential accessory solar energy was reasonable and did not violate G.L. c. 40A, 3. In addition, as a general principle, we recognize that the Town may utilize its zoning power to impose reasonable regulations on solar uses based upon the community's unique local needs. See Burnham v. Board of Appeals of Gloucester, 333 Mass. 114, 116-117 (1955) ("Zoning has always been treated as a local matter and much weight must be accorded to the judgment of the local legislative body, since it is familiar with local conditions."). The reasonableness of a regulation is a fact-dependent determination that includes a consideration whether a regulation substantively diminishes or detracts from a project's usefulness or imposes an excessive cost that outweighs legitimate municipal concerns. See e.g., Duseau v. Szawlowski Realty Inc., 2015 WL 59500, \* 8 (2015) (solar project proponent failed to demonstrate that restricting a solar energy project to the Town's Industrial Districts was an unreasonable regulation and not necessary to protect the public health and welfare).

In applying the amendments adopted under Article 12 the Town should consult closely with Town Counsel to ensure that the Town does not run afoul of the solar use protections in G.L. c. 40A, § 3. We offer the following comments on certain specific sections of the new Section 205-40.1.

1. Section 205-40.1 (J) - Financial Surety

Section 205-40.1 (J) requires the proponent to provide a surety to cover the cost of removal of the installation and remediation of the landscape. General Laws Chapter 44, Section 53, requires that performance security funds of the sort contemplated here must be deposited with the Town Treasurer and made part of the Town's general fund (and subject to future appropriation), unless the Legislature has expressly made other provisions that are applicable to such receipt. General Law c. 44, Section 53G ½ does allow the deposit of surety proceeds into a special account under certain circumstances, as follows:

Notwithstanding section 53, in a...town that provides by by-law...rule, regulation or contract for the deposit of cash, bonds, negotiable securities, sureties or other financial guarantees to secure the performance of any obligation by an applicant as a condition of a license, permit or other approval or authorization, the monies or other security received may be deposited in a special account. Such by-law...rule or regulation shall specify: (1) the type of financial guarantees required; (2) the treatment of investment earnings, if any; (3) the performance required and standards for determining satisfactory completion or default; (4) the procedures the applicant must follow to obtain a return of the monies or other security; (5) the use of

monies in the account upon default; and (6) any other conditions or rules as the...town determines are reasonable to ensure compliance with the obligations. Any such account shall be established by the municipal treasurer in the municipal treasury and shall be kept separate and apart from other monies. Monies in the special account may be expended by the authorized board, commission, department or officer, without further appropriation, to complete the work or perform the obligations, as provided in the by-law...rule or regulation. This section shall not apply to deposits or other financial surety received under section 81U of chapter 41 or other general or special law.

For the Town to deposit surety proceeds into a special account, the Town must comply with the requirements of G.L. c. 44, § 53G ½. Otherwise, surety proceeds must be deposited into the Town's general fund, pursuant to G.L. c. 44, § 53. The Town should consult with Town Counsel with any questions regarding the proper application of Section 205-40.1 (J).

## 2. Internal Inconsistency Between Section 205-40.1 (B) and the Table of Uses

In addition to adding a new Section 205-40.1, "Large Scale Solar Photovoltaic Installations" to the zoning by-laws, Article 12 also adds three new items to the Table of Use Regulations, as follows (with emphasis added):

	R-1	R-2	R-III	C-1	C-II	VC	I-I	I-II
(10) Large-Scale Ground-Mounted Solar Photovoltaic Installations (See Section 205.40.1)	SP	SP	SP	SP	SP	N	<u>SP</u>	<u>SP</u>
(11) Large-Scale Roof-Mounted Solar Photovoltaic Installations	Y	Y	Y	Y	Y	Y	Y	Y
(12) Residential-Scale Solar Photovoltaic Installations	Y	Y	Y	Y	Y	Y	Y	Y

According to the amended Table of Uses, Large-Scale Ground-Mounted Solar Photovoltaic Installations are allowed by special permit in the I-I and I-II (Industrial) districts. However, Section 205-40.1 (B), "Applicability," prohibits large-scale ground mounted uses in the industrial districts and provides in relevant part as follows, with emphasis added:

Large-scale ground-mounted solar photovoltaic installations *are not allowed in the industrial zoning districts (I-I & I-II)* or in the village center zoning district (VC).

The Table of Uses (line 10) and Section 205-40.1 (B) are apparently internally inconsistent as to whether large-scale ground-mounted solar photovoltaic installations are allowed by special permit or prohibited in the industrial districts. The Town should consult with Town Counsel regarding a potential amendment at a future Town Meeting to clarify whether large-scale ground-mounted solar photovoltaic installations are allowed by special permit or prohibited in the industrial districts.

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



date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,

MAURA HEALEY  
ATTORNEY GENERAL

*Nicole B. Caprioli*

By: Nicole B. Caprioli  
Assistant Attorney General  
Municipal Law Unit  
10 Mechanic Street, Suite 301  
Worcester, MA 01608  
(508) 792-7600 ext. 4418  
nicole.caprioli@mass.gov

cc: Town Counsel Brian Riley



**TOWN OF WESTMINSTER  
OFFICE OF THE TOWN CLERK**

Ellen M. Sheehan  
Town Hall, 11 South Street  
Westminister, MA 01473  
(978) 874-7406  
FAX (978) 874-7411  
E-Mail: [esheehan@westminister-ma.gov](mailto:esheehan@westminister-ma.gov)

**VOTE TAKEN AT THE SPECIAL TOWN MEETING, NOVEMBER 27, 2018**

*An affirmative vote was taken at this time to accept the provisions of MGL Chapter 39, Section 15, which allows the Moderator to dispense with a count in matters requiring a two-thirds vote by statute, where the vote is unanimous or clearly overwhelming at this Annual Town Meeting.*

ARTICLE 9. Voted to amend Section 205-37 of the Westminister Zoning Bylaw (Exception for Cluster Developments) by deleting the strikethrough language and adding the language in italics, as follows:

**§ 205-37. Cluster Housing Projects ~~Exception for cluster developments.~~**

- A. Purpose: For the purpose of encouraging the preservation of open space and promoting the more efficient use of land and to protect and promote the health, safety, convenience and general welfare of the inhabitants of the Town, an owner or owners of a tract of land containing five (5) acres or more located in a residential district, or a duly authorized agent thereof, may, *pursuant to the requirements of this bylaw and upon the review and approval by the Planning Board of a Definitive Subdivision plan for such purpose, utilize such property for a cluster housing project.*
- B. *Applicability: Cluster housing projects shall be allowed By Right in all residential zoning districts.*
- ~~, in connection with the submission of a subdivision plan for Planning Board approval under the Subdivision Control Law, concurrently submit a Special Permit request to the Planning Board excepting his plan from the lot area and frontage requirements of Article VII of this chapter.~~
- B. ~~After notice and public hearing by the Planning Board and after due circulation of the report and recommendations of the Board of Health, the Conservation Commission, and the Zoning Board of Appeals, said report to be submitted to the Planning Board within 45 days of the date of plan filing, the Planning Board may grant such permit, provided that:~~
- ~~(1) It finds that the proposed plan will promote the purposes of this section; and~~
  - ~~(2) It finds that the number of lots on the plan does not exceed the larger of:~~
    - ~~(a) Ninety percent of the number derived from dividing the total land area of the tract which is usable for residential construction by the minimum lot size otherwise permitted in the zoning district or districts in which the tract lies; or~~
    - ~~(b) The number of lots upon which a dwelling could be constructed, without regard to this section, under the applicable laws and regulations of the Town and the commonwealth.~~

C. *Dimensional Standards:*

- (1) Every lot shall contain not less than 15,000 square feet, except that a lot abutting common open space may contain not less than 10,000 square feet.
- (2) Every lot shall have a minimum frontage of 50 feet on a way created by the ~~concurrently approved~~ subdivision plan. No lot approved hereunder shall front on an existing public or private way.
- (3) Provision shall be made so that each dwelling shall be set back from the ~~concurrently approved~~ subdivision way on which its lot is located at least to a point ~~on its lots~~ where the lot width is a minimum of 100 feet but in no event less than 30 feet; and
- (4) Provisions shall be made so that each dwelling shall have two side yards, each at least 15 feet, and a rear yard of at least 20 feet.
- (5) *The number of lots allowed within a cluster housing subdivision shall not exceed the number of lots that could be created through a traditional subdivision plan.*

D. *Provision of Open Space:*

1. Provision shall be made so that open land shall be owned:
  - (a) In common by the owners of the lots in the tract; or
  - (b) By membership corporation, trust or association whose members are all the owners of the lots in the tract; or
  - (c) By the Town; or
  - (d) Otherwise as the Planning Board may approve.
- (2) Provision shall be made so that open land shall be:
  - (a) Restricted to any one or more of the following uses: recreational, agricultural, conservation or park.
  - ~~(b) Open to such uses by at least the owners and occupants of the lots in the tract.~~
  - (b) Restricted so that no structure shall be erected thereon, except as an incident to the above uses.

E. *Design standards:*

- (1) All land not utilized for lots and roads shall be set aside as open space.
- (2) The open space shall be designed as large contiguous areas whenever possible. Long, thin, narrow strips or narrow areas of open space shall occur only when necessary for access, as vegetated buffers along wetlands or the perimeter of the site, or as connections between open spaces.
- (3) Open space shall be arranged to protect valuable natural and cultural resources such as stream valleys, wetlands and buffers, un-fragmented forestland and significant trees, wildlife habitat, open fields, scenic vistas, trails and archeological sites.
- (4) The areas of the site to be developed shall be outside of the floodplain, steep slopes (*grades of 25% or more*), *perennial streams*, wetlands and buffer zones.



- (5) The development shall be designed to conform to the existing topography and natural features of the land, and minimize the total amount of disturbance to a site.

~~D. The Planning Board may, in appropriate cases, impose further restrictions upon the tract, or parts thereof, as a condition to granting the Special Permit.~~

F. In connection with an application for approval of a *Definitive Subdivision* plan ~~Special Permit~~ from the Planning Board under this section, the Applicant shall provide the following information:

- (1) A determination of the area of the tract usable for residential construction;
- (2) A general description of the neighborhood in which the tract lies and the effect of the plan on the area;
- (3) The relation of the plan to the long-range plan of the Town;
- (4) The extent to which the plan is designed to take advantage of the natural terrain of the tract; and
- ~~(5) The applicant's opinion and reasons why the overall design and road layout of the cluster plan is superior to that of a conventional development plan.~~

~~F. For the purposes of this section, the following definitions are adopted:~~

~~FRONTAGE — Distance measured in a continuous straight line between the intersection of the lot boundaries on the way.~~

~~LAND USABLE FOR RESIDENTIAL CONSTRUCTION — Land found by the Planning Board, assuming compliance with this chapter, to be suitable for the construction thereon of residential dwelling units under the rules and regulations of the Town thereto and shall not include any area subject to seasonal or periodic flooding nor any water body.~~

**(2/3 vote required)**  
**Recognized 2/3 Vote**

A True Copy, Attest:



Ellen M. Sheehan  
Westminster Town Clerk



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OFFICE OF THE TOWN CLERK**

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**VOTE TAKEN AT THE SPECIAL TOWN MEETING, NOVEMBER 27, 2018**

*An affirmative vote was taken at this time to accept the provisions of MGL Chapter 39, Section 15, which allows the Moderator to dispense with a count in matters requiring a two-thirds vote by statute, where the vote is unanimous or clearly overwhelming at this Annual Town Meeting.*

ARTICLE 10. Voted to amend Section 205-30.3 of the Westminster Zoning Bylaw (Off-Street Parking and Loading Requirements) by deleting the strikethrough language and adding the language in italics, as follows:

**§ 205-30.3. Location of spaces**


~~With the exception of approved shared parking arrangements for uses within the commercial zoning districts, required off-street parking facilities~~ Required off-street parking facilities *for residential uses* shall be provided on the same lot as the principal use they are designed to serve.

And further, to add "parking lots for commercial and/or industrial uses" as a new Item 17 and under Section I (Accessory Uses and Off-Street Parking) within the Table of Use Regulations, as follows:

	R-1	R-2	R-III	C-I	C-II	VC	I-I	I-II
(17) Parking lots for commercial and/or industrial uses	N	N	N	Y	Y	N	Y	Y

**(2/3 vote required)  
Recognized 2/3 Vote**

A True Copy, Attest:

  
Ellen M. Sheehan  
Westminster Town Clerk



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E-Mail: [esheehan@westminster-ma.gov](mailto:esheehan@westminster-ma.gov)

**VOTE TAKEN AT THE SPECIAL TOWN MEETING, NOVEMBER 27, 2018**

*An affirmative vote was taken at this time to accept the provisions of MGL Chapter 39, Section 15, which allows the Moderator to dispense with a count in matters requiring a two-thirds vote by statute, where the vote is unanimous or clearly overwhelming at this Annual Town Meeting.*

ARTICLE 11. Voted to amend the Zoning Map of the Town, as it is established and referenced in Article III, Section 205-6 (Zoning Map) to change the zoning for three parcels with frontage on Overlook Road (Tax Map 89, Parcels 8, 8.1 & 8.2) from Industrial-I to Residential-I.

**(2/3 vote required)  
Recognized 2/3 Vote**

A True Copy, Attest:

Ellen M. Sheehan  
Westminster Town Clerk



A True Copy, Attest:

*Ellen M. Sheehan*

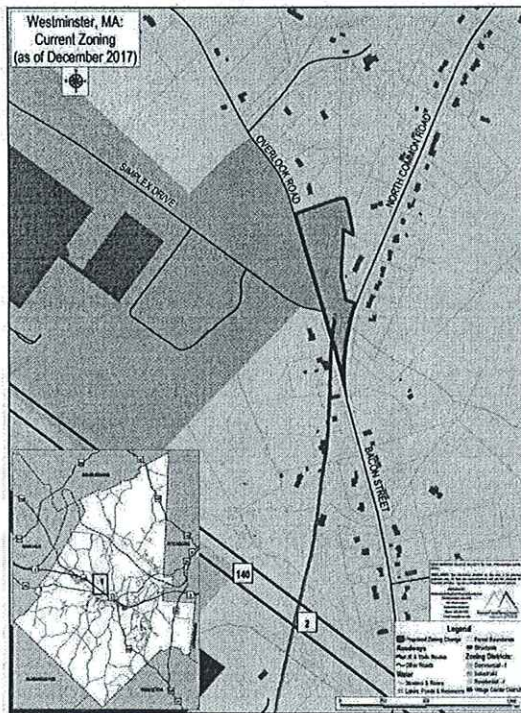
Ellen M. Sheehan  
Westminster Town Clerk

**Zoning Change for consideration at November 2018 Special Town Meeting**

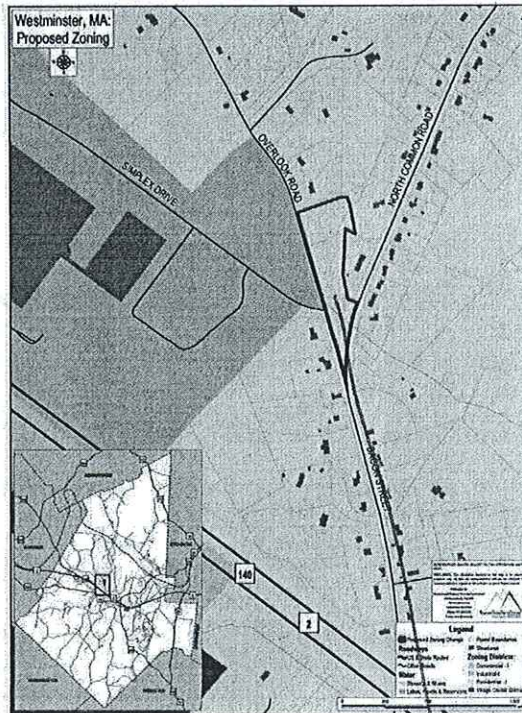
1. To see if the Town will vote to amend Article III, Section 205-6 (Zoning Map) to change the zoning for three parcels with frontage on Overlook Road (Tax Map 89, Parcels 8, 8.1 & 8.2) from Industrial-I to Residential-I.

**Explanation:** These are three industrially-zoned parcels with frontage on Overlook Road that are surrounded by residential homes. All three parcels are too small (an acre and a half and under) to be used for industrial purposes, as usable industrial parcels typically consist of at least ten acres. As the surrounding neighborhood consists of residences and not industries, it makes sense to re-zone these properties for residential use.

The first map below shows today's zoning and the second map shows the zoning after the proposed zoning change (green is residential, purple is industrial and the subject properties are outlined in red).



WAS INDUSTRIAL-I

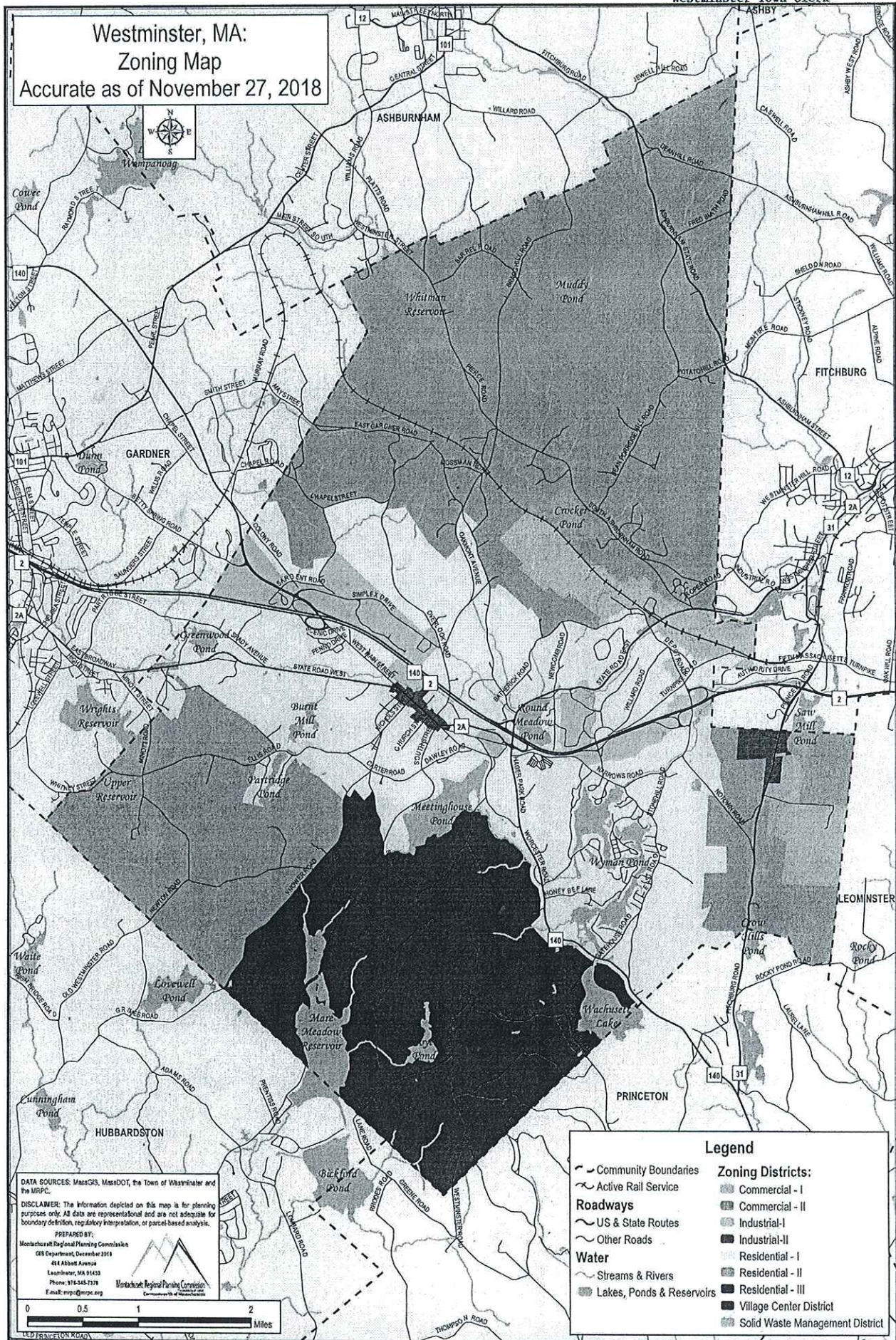


NOW RESIDENTIAL-I



*Ellen M. Sheehan*  
Ellen M. Sheehan  
Westminster Town Clerk

Westminster, MA:  
Zoning Map  
Accurate as of November 27, 2018







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Ellen M. Sheehan  
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Westminster, MA 01473  
(978) 874-7406  
FAX (978) 874-7411  
E-Mail: [esheehan@westminster-ma.gov](mailto:esheehan@westminster-ma.gov)

**VOTE TAKEN AT THE SPECIAL TOWN MEETING, NOVEMBER 27, 2018**

*An affirmative vote was taken at this time to accept the provisions of MGL Chapter 39, Section 15, which allows the Moderator to dispense with a count in matters requiring a two-thirds vote by statute, where the vote is unanimous or clearly overwhelming at this Annual Town Meeting.*

ARTICLE 12. Voted to amend the Zoning Bylaw to regulate the installation of large-scale solar photovoltaic installations, by amending the Definitions section (205-4), adding a new Section 205-40.1, "Large-Scale Solar Photovoltaic Installation," and adding three new items to the Table of Use Regulations, as follows:

Zoning Amendment #1: Add the following definitions to Section 205-4 of the Zoning Bylaw (Definitions):

**Large-Scale Solar Photovoltaic Installation:** A solar photovoltaic system that has a minimum nameplate capacity of 250 kW DC. Such installations may be either ground-mounted or installed upon a rooftop.

**Residential-Scale Solar Photovoltaic Installation:** A solar photovoltaic system that has a maximum nameplate capacity of 25 kW DC. Such installations may be either ground-mounted or installed upon a rooftop.

**Solar Photovoltaic Installation:** An active solar energy collection device that converts solar energy directly into electricity whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means.

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Zoning Amendment #2:

Add a new Section 205-40.1 to regulate large-scale solar facilities, as follows:

**§ 205-40.1 Large-Scale Solar Photovoltaic Installations.**



A. Purpose.

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

B. Applicability.

Subject to the requirements below, large-scale ground-mounted solar photovoltaic installations are permitted by Special Permit in the residential zoning districts (R-I, R-II & R-III) and commercial zoning districts (C-I & C-II) and upon Site Plan Approval from the Planning Board. For this use, the Planning Board shall be the Special Permit Granting Authority (SPGA). Large-scale ground-mounted solar photovoltaic installations are not allowed in the industrial zoning districts (I-I & I-II) or in the village center zoning district (VC). Further, such installations shall not be allowed on:

(1) Properties that are currently undergoing active remediation for hazardous waste contamination. Formerly contaminated sites that have obtained "Permanent Solution" status from the MA Department of Environmental Protection may be considered suitable for ground-mounted large-scale solar installations depending upon the stipulations attached to said status.

(2) Properties where in order to construct the large-scale ground-mounted solar facility, it will be necessary to disturb an amount of land (either earth removal or placement of fill) that will trigger the need to obtain an Earth Removal and/or Placement of Fill Permit under the Town's Earth Removal & Placement of Fill Bylaw (Chapter 97, Article 3).

Large-scale roof-mounted solar photovoltaic installations are allowed by right in all zoning districts upon Site Plan Approval from the Planning Board, and upon receipt of a report by a qualified structural engineer that documents the roof is capable of supporting the solar array.

Residential-Scale solar photovoltaic installations are allowed by right in all zoning districts upon obtaining a Building Permit from the Building Commissioner.

C. Special Permit Criteria:

The SPGA must make all of the following Findings in order to grant a Special Permit for a large-scale ground mounted solar installation:

(1) The proposed use is appropriate on the site in question.

(2) The proposed use will not be unduly detrimental to the health, safety or welfare of the community or neighborhood by reason of noise, traffic, pollution, visual impact, or demand on community services.

D. Reasonable Conditions:

The SPGA may impose any conditions upon its granting of a Special Permit deemed necessary to achieve the purpose of this bylaw, such as, but not limited to, the following:

- (1) Greater than minimum setback requirements;
- (2) Modification of exterior appearance;
- (3) Limitation of size or extent of facilities;
- (4) Regulation of traffic and site plan features;
- (5) Screening of premises from view by use of appropriate walls, fencing or buffer strips;
- (6) Limitation of sound levels;
- (7) Additional design and siting modifications where appropriate.

E. Utility Notification.

When submitting a Site Plan to the Planning Board for a large-scale solar installation, the applicant shall submit evidence at the time of the application that the utility company operating the electrical grid where the installation is to be located has been informed of the applicant's intent to construct a solar photovoltaic installation and that approval to connect to the grid has been granted or appropriate application(s) have or will be made to such utilities for interconnection.

F. Buffers and Setbacks.

(1) Buffer strips. All large-scale ground-mounted installations shall be surrounded by a buffer strip which shall be one hundred (100) feet from all abutting properties zoned for residential use. For large-scale ground-mounted solar installations that abut Commercial and/or Industrial zoning districts, this setback shall be reduced to fifty (50) feet. Buffer strips shall not be disturbed and left in their natural state. The Planning Board may require the Applicant to plant additional vegetation within the buffer strips to better screen the use from abutters.

(2) Setbacks. All large-scale ground-mounted installations (including all panels, inverters, transformers and all other associated equipment) shall be set back a minimum of fifty (50) feet from all lot lines (front, rear and sides). The setbacks shall be measured from the lot lines to the fence enclosing the solar array.

(3) Lot Coverage Limitation: Large-scale ground-mounted installations shall not cover more than fifty (50%) percent of the lot on which it is situated. Lot coverage includes the land covered by solar panels and all associated equipment.

G. Design Standards.

(1) Lighting and Security.

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



(2) Signage.

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

(3) Land Clearing.

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

(4) Visual Impact.

Any large -scale ground-mounted solar photovoltaic installation shall be designed to minimize visual impacts, including preserving natural vegetation to the maximum extent possible, blending in equipment with the surroundings, and adding vegetative buffers to screen abutting residential properties whether developed or not. Siting shall be such that the view of the solar electric generating installation from other areas of Town shall be as minimal as possible. Buffer strips shall surround the proposed project. A screening plan, that assures the facility is shielded to the greatest extent possible from public view, shall be required to be reviewed under the site plan review.

(5) Access Roads.

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

(6) Hazardous Materials.

Hazardous materials that are stored, used or generated on site shall not exceed the amount for a "Very Small Quantity Generator of Hazardous Waste" as defined by the Department of Environmental Protection (DEP) pursuant to 310 CMR 30.000. Any applications of herbicides or pesticides shall be conducted in accordance with the MA Department of Agriculture Regulations.

H. Additional Site Plan Requirements.

In addition to the provisions set forth above, Special Permit applicants for large-scale ground-mounted solar projects shall comply with all provisions of the Planning Board's Site Plan Approval Regulations, unless specifically waived by the Planning Board.

I. Discontinuance and Removal.

Removal Requirements: Any large-scale solar photovoltaic installation, or any substantial part thereof, not used for a period of one continuous year or more without written permission from the SPGA, or that has reached the end of its useful life, shall be considered discontinued, and shall be removed. Upon written request from the Zoning Enforcement Officer addressed to the contact address provided and maintained by the owner or operator as part of the Special Permit



application, the owner or operator shall provide evidence to the Zoning Enforcement Officer demonstrating continued use of the solar facility. Failure to provide such evidence within thirty days of such written request shall be conclusive evidence that the installation has been discontinued. Anyone intending to decommission and/or remove such an installation shall notify the SPGA and Zoning Enforcement Officer by certified mail of the proposed date of discontinued operations and plans for removal.

The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. Removal shall consist of:

- (a) Physical removal of all parts of and appurtenances to the solar photovoltaic installation, including 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 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.
- (d) Gravel or ground cover consistent with landscape.

If the owner or operator of the solar photovoltaic installation fails to remove the installation in accordance with the requirements of this section, the town shall have the right, to the extent it is authorized by law, to enter the property and remove the installation at the expense of the owner of the installation and the owner(s) of the site on which the facility is located.

#### J. Financial Surety.

Proponents seeking to construct and operate a large-scale ground-mounted solar photovoltaic installation shall provide, prior to construction, surety in form and amount satisfactory to the SPGA, which may be an escrow account, bond or otherwise, to cover the cost of removal in the event the town must remove the solar array and remediate the landscape. 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 (minus salvage value), prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation. The SPGA may require that the amount of surety be increased as required during the life of the installation.

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#### Zoning Amendment #3:

Add "Large-Scale Ground-Mounted Solar Photovoltaic Installations", "Large-Scale Roof-Mounted Solar Photovoltaic Installations" and "Residential-Scale Solar Photovoltaic Installations" as new Items 10, 11 & 12 under Section H (Other Principal Uses) within the Table of Use Regulations.

	R-1	R-2	R-III	C-I	C-II	VC	I-I	I-II
(10) Large-Scale Ground-Mounted Solar Photovoltaic Installations (See Section 205.40.1)	SP	SP	SP	SP	SP	N	SP	SP
(11) Large-Scale Roof-Mounted Solar Photovoltaic Installations	Y	Y	Y	Y	Y	Y	Y	Y
(12) Residential-Scale Solar Photovoltaic Installations	Y	Y	Y	Y	Y	Y	Y	Y

**(2/3 vote required)**  
**UNANIMOUS**

Respectfully submitted,



Ellen M. Sheehan  
Westminster Town Clerk