

COMMONWEALTH OF MASSACHUSETTS

**TOWN OF CHESTER
SPECIAL TOWN MEETING**

WARRANT

September 26, 2011

HAMPDEN, SS.

To any of the Constables in the Town of Chester in the County of Hampden:

GREETINGS:

In the name of the Commonwealth of Massachusetts you are hereby directed to notify and warn the inhabitants of the Town of Chester qualified to vote in Town affairs to meet in the Chester Town Hall in said Town on Monday, the twenty-sixth day of September, 2010, A.D., 7:00 P.M., in the evening, then and there to act on the following articles:

ARTICLE 1:

To see if the town will vote to appropriate from free cash the amount of \$5,000, to be used for the purpose of tree removal, or take any other action relative thereto.

ARTICLE 2:

To see if the town will vote to appropriate from free cash the amount of \$5,000 to be used to repair the elevator in Town Hall, or take any other action relative thereto.

ARTICLE 3:

To see if the town will vote to accept SOVEREIGN ROAD, whose measurements are 1,500 feet long by 40 feet wide.

ARTICLE 4:

To see if the town will vote to appropriate from free cash the amount of \$1,000 for dues to join Wired West, or take any other action relative thereto.

ARTICLE 5:

To see if the town will vote to accept Zoning Bylaws pertaining to solar photovoltaic installations.

**As-of-Right Zoning Bylaw:
Allowing Use of Large-Scale Ground-Mounted Solar Photovoltaic
Installations**

Town of Chester, MA

5.8 Large-Scale Ground-Mounted Solar Photovoltaic Installations

5.8.1 Purpose

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

The provisions set forth in this section shall apply to the construction, operation, and/or repair of large-scale ground-mounted solar photovoltaic installations.

5.8.1.1 Applicability

This section applies to large-scale (250 kW) ground-mounted solar photovoltaic installations proposed to be constructed after the effective date of this section. This section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.

Nothing in this bylaw should be construed to prevent the installation of accessory roof mounted solar photovoltaic installations.

5.8.2 Definitions

As-of-Right Siting: As-of-Right Siting shall mean that development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval. As-of-right development shall be subject to site plan review to determine conformance with local zoning bylaws. Projects cannot be prohibited, but can be reasonably regulated by the inspector of buildings, building commissioner or local inspector, or if there is none in a town, the board of selectmen, or person or board designated by local ordinance or bylaw.

Building Inspector: The inspector of buildings, building commissioner, or local inspector, or person or board designated by local ordinance or bylaw charged with the enforcement of the zoning ordinance.

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

Designated Location: The location designated by the Planning Board, in accordance with Massachusetts General Laws Chapter 40A, section 5, where ground-mounted large scale solar photovoltaic installations may be sited as-of right. Said location is shown on a Zoning Map, 'Zoning Map of Chester, Massachusetts', dated 1968 and amended in 2007, pursuant to Massachusetts General Laws Chapter 40A Section 4. This map is hereby made a part of this Zoning Bylaw and is on file in the Office of the Town Clerk.

Large-Scale Ground-Mounted Solar Photovoltaic Installation: A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a nameplate capacity of 250 kW DC.

On-Site Solar Photovoltaic Installation: A solar photovoltaic installation that is

constructed at a location where other uses of the underlying property occur.

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

Site Plan Review: review by the Site Plan Review Authority to determine conformance with local zoning ordinances or bylaws.

Site Plan Review Authority: For purposes of this bylaw, Site Plan Review Authority refers to the Planning Board

Solar Photovoltaic Array: an arrangement of solar photovoltaic panels.

Zoning Enforcement Authority: Building Inspector.

5.8.3 General Requirements for all Large- Scale Solar Power Generation Installations

The following requirements are common to all solar photovoltaic installations to be sited in designated locations.

5.8.3.1 Compliance with Laws, Ordinances and Regulations

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

5.8.3.2 Building Permit and Building Inspection

No large scale solar photovoltaic installation shall be constructed, installed or modified as provided in this section without first obtaining a building permit.

5.8.3.3 Fees

The application for a building permit for a large scale solar photovoltaic installation must be accompanied by the fee required for a building permit and a deposit sufficient to cover any expenses connected with review of site plans, including the costs of any engineering or planning consultant services necessary for review purposes.

5.8.3.4 Site Plan Review

Ground-mounted large scale solar photovoltaic installations with 250 kW or larger of rated nameplate capacity shall undergo site plan review by the Site Plan Review Authority prior to construction, installation or modification as provided in this section.

5.8.3.4.1 General

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

5.8.3.4.2 Required Documents

Pursuant to the site plan review process, the project proponent shall provide the following documents (six copies should be provided):

(a) A site plan showing:

- i. Property lines and physical features, including roads, and contour lines at each two feet above mean sea level (AMSL), for the project site;

- ii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;
 - iii. Blueprints or drawings of the solar photovoltaic installation, signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts, showing the proposed layout of the system, dimensions, including height, for all buildings and structures, and any potential shading from nearby structures
 - iv. One or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
 - v. Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;
 - vi. Name, address, and contact information for proposed system installer;
 - vii. Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any;
 - viii. The name, contact information and signature of any agents representing the project proponent; and
- (b) Documentation of actual or prospective access and control of the project site (see also Section 5.8.3.5);
 - (c) An operation and maintenance plan (see also Section 5.8.3.6);
 - (d) Zoning district designation for the parcel(s) of land comprising the project site (submission of a copy of a zoning map with the parcel(s) identified is suitable for this purpose);
 - (e) Proof of liability insurance;
 - (f) Description of financial surety that satisfies Section 5.8.3.12.3; and
 - (g) Landscape plan (see also section 5.8.3.10.2).

The Site Plan Review Authority may waive documentary requirements as it deems appropriate.

5.8.3.5 Site Control

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

5.8.3.6 Operation & Maintenance Plan

The project proponent shall submit a plan for the operation and maintenance of the large- scale ground-mounted solar photovoltaic installation, which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation.

5.8.3.7 Utility Notification

No large- scale ground –mounted solar photovoltaic installation shall be constructed until evidence has been given to the Site Plan Review Authority that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar photovoltaic installation owner or operator’s intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

5.8.3.8 Dimension and Density Requirements

5.8.3.8.1 Setbacks

For large - scale ground-mounted solar photovoltaic installations, front, side and rear setbacks shall be as follows:

- (a) Front yard: The front yard depth shall be at least 75 feet;
- (b) Side yard. Each side yard shall have a depth at least 75 feet;
- (c) Rear yard. The rear yard depth shall be at least 75 feet;
- (d) Every abutting property shall be visually screened from the project through any one or combination of the following location, distance, plantings, existing vegetation and fencing (not to exceed 6 feet).

5.8.3.8.2 Appurtenant Structures

All appurtenant structures to large- scale ground-mounted solar photovoltaic installations shall, in addition to the setback requirements above, conform to the applicable building criteria in Table 2- Table of Intensity Regulations of the Chester Zoning By Law and/or section 4.2.4(c) of the Rt.20 Commercial Overlay District Zoning By Law Amendment. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be shaded from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

5.8.3.9 Design Standards

5.8.3.9.1 Lighting

Lighting of solar photovoltaic installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Lighting of the solar photovoltaic installation shall be Dark Sky compliant.

5.8.3.9.2 Signage

Signs on large- scale ground-mounted solar photovoltaic installations shall comply with a municipality's sign bylaw. A sign consistent with a municipality's sign bylaw shall be required to identify the owner and provide a 24-hour emergency contact phone number. Solar photovoltaic installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar photovoltaic installation.

5.8.3.9.3 Utility Connections

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

5.8.3.9.4 Utility Service

The AC electric service must be three phase.

5.8.3.10 Safety and Environmental Standards

5.8.3.10.1 Emergency Services

The large-scale solar photovoltaic installation 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 solar photovoltaic installation shall be clearly marked. The owner or operator shall

identify a responsible person for public inquiries throughout the life of the installation.

5.8.3.10.2 Land Clearing, Soil Erosion and Habitat Impacts

Clearing of natural vegetation shall be limited to what is necessary for the construction, operation, and maintenance of the large – scale ground-mounted solar photovoltaic installation, and per practices of best management of natural areas or good husbandry of the land or forest, or otherwise prescribed by applicable laws, regulations, and bylaws.

Applicant shall submit a landscape plan detailing all proposed changes to the landscape of the site, including temporary or permanent roads or driveways, grading, vegetation clearing and planting, exterior lighting and screening vegetation or structures. Lighting shall be designed to minimize glare on abutting properties and be directed downward with full cut-off fixtures to reduce light pollution.

5.8.3.11 Monitoring and Maintenance

5.8.3.11.1 Solar Photovoltaic Installation Conditions

The large-scale ground-mounted solar photovoltaic installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Medical Services. The owner or operator shall be responsible for the cost of maintaining the solar photovoltaic installation and any access road(s), unless accepted as a public way.

5.8.3.11.2 Modifications

All material modifications to a solar photovoltaic installation made after issuance of the required building permit shall require approval by the Site Plan Review Authority.

5.8.3.12 Abandonment or Decommissioning

5.8.3.12.1 Removal Requirements

Any large-scale ground-mounted solar photovoltaic installation which has reached the end of its useful life or has been abandoned consistent with Section 5.8.3.12.2 of this bylaw shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Site Plan Review Authority by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

- (a)** Physical removal of all large- scale ground-mounted solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.
- (b)** Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- (c)** Stabilization or re-vegetation of the site as necessary to minimize erosion. The Site Plan Review Authority may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

5.8.3.12.2 Abandonment

Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar photovoltaic installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Site Plan Review

Authority. If the owner or operator of the large-scale ground-mounted solar photovoltaic installation fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town may enter the property and physically remove the installation.

5.8.3.12.3 Financial Surety

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

5.8.3.12.4 Conflict with Other Laws

The provisions of this bylaw shall be considered supplemental of existing zoning bylaws. To the extent that a conflict exists between this bylaw and others, the more restrictive bylaw, or provisions therein, shall apply.

5.8.3.12.5 Severability

The invalidating of any section or provision of this bylaw shall not invalidate any other section or provision thereof.

5.8.3.12.6 Penalties

Any person who fails to comply with any provision of this ordinance or a building permit issued pursuant to this ordinance shall be subject to enforcement and penalties as allowed by applicable law.

OTHER REQUIRED ZONING AMENDMENTS

1. Amend the Chester Zoning Bylaw by amending Section 3.0.1 to add the following to the Schedule of Use abbreviations:

SPR – Use Allowed by Site Plan Review

2. Amend the Chester Zoning Bylaw by amending the Table 1: Chester Schedule of Use Regulations by adding the following under Section 3.0.8, Industrial:

BY LAW NUMBER	LAND USE CLASSIFICATION	STANDARDS & CONDITIONS	R	AR	B	I	COD
3.0.8	<u>INDUSTRIAL</u>						

	Large-Scale Ground-Mounted Solar Photovoltaic Installations	See Bylaw 5.8 for additional standards	<i>N</i>	<i>SPR</i>	<i>SPR</i>	<i>SPR</i>	<i>SPR</i>
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ARTICLE 6:

To see if the town will vote to accept Zoning Bylaws pertaining to solar photovoltaic installations.

RESIDENTIALLY SCALED (SMALL) WIND ENERGY CONVERSION FACILITIES BYLAW TOWN OF CHESTER

5.7- RESIDENTIALLY SCALED (SMALL) WIND ENERGY CONVERSION FACILITIES

5.7.1 Purpose and Intent

It is the express purpose of this bylaw to accommodate residentially scaled (small) wind energy conversion facilities (hereafter referred to as small wind energy conversion facilities), with a rated nameplate capacity of 60 kilowatts or less, in appropriate locations, while minimizing any adverse visual, safety and environmental impacts of the facilities. The bylaw enables the review of small wind energy conversion facilities by the town’s Planning Board or Zoning Board of Appeals in keeping with the town’s existing bylaws. This bylaw is intended to be used in conjunction with other regulations adopted by the town, including historic district regulations, site plan review and other local bylaws designed to encourage appropriate land use, environmental protection, and provision of adequate infrastructure development. Commercial and large scale wind energy facilities, with a rated nameplate capacity of greater than 60 kilowatts, are not included in this bylaw; they are covered in bylaw 5.6- Land Based Wind Energy Conversion Facilities.

5.7.2 Definitions

Clear Area: Area surrounding a wind turbine to be kept free of habitable structures.

Distributed Generation: Energy generation that is located at or near the end-user.

Height: The height of a turbine measured to the tip of the blade at its highest point.

Nacelle: The frame and housing at the top of the tower that encloses the gearbox and generator and protects them from the weather.

Rotor: The blades and hub of the wind turbine that rotate during turbine operation.

Special Permit Granting Authority (SPGA): Board designated by zoning ordinance or bylaw with the authority to issue special permits.

Small Wind Energy Conversion Facility: All equipment, machinery and structures utilized in connection with the conversion of wind to electricity, which has a rated nameplate capacity of 60 kilowatts or less. This includes, but is not limited to, all transmission, storage, collection and supply equipment, associated control or conversion electronics, and machinery associated with its use.

Wind Monitoring or Meteorological (“test” or “met”) Towers: Tower used for supporting anemometer, wind vane and other equipment to assess the wind resource at a predetermined height above the ground. Includes the tower, base plate, anchors, guy cables, and hardware, anemometers, wind direction vanes, booms to hold the equipment, data loggers, instrument wiring, and any telemetry devices used to monitor or transmit wind speed and wind flow characteristics over a period of time.

Wind Turbine: A device that converts kinetic energy of the wind into rotational energy to turn an electrical generator shaft. A wind turbine typically consists of a rotor, nacelle and supporting tower.

Tower: A free-standing monopole that supports a tower-mounted wind energy turbine.

Tower Height: The height above grade of the fixed portion of the tower, excluding the wind turbine.

Total Height: For tower-mounted wind energy turbines, the total height is the vertical distance measured from grade to the uppermost vertical extension of a rotor blade or the maximum height reached by any part of the wind energy turbine. For structure-mounted wind energy turbines, the total height is the distance measured from the highest point of the adjoining roof or structure, not including chimneys, antennae or similar structures, to the uppermost vertical extension of a rotor blade or the maximum height reached by any part of the wind energy turbine.

Rated Nameplate Capacity: The maximum rated output of electric power production equipment. This output is typically specified by the manufacturer with a “nameplate” on the equipment.

Net Metering: A special metering and billing agreement between utility companies and their customers which facilitates the connection of sustainable energy generating systems to the power grid.

Structure-mounted: A structure-mounted wind energy system fixed to the roof of an existing structure rather than a separate tower that converts wind energy into electricity primarily for on-site use with a maximum output no greater than 10 kilowatts per turbine.

5.7.3 District Regulations

- a) **Use Regulations** - All small wind energy conversion facilities or wind monitoring towers shall require a building permit and may be permitted as follows and irrespective of whether the use is a principal or accessory use:
1. **Small Wind Energy Conversion Facility** - The construction of any small wind energy conversion facility shall be permitted in all business, industrial, residential, agricultural-residential, and commercial overlay zoning districts, subject to issuance of a Special Permit and provided the proposed use complies with all Dimensional and Special Permit Regulations set forth in Sections 5.7.3c and 5.7.4 of this bylaw (unless waived by the SPGA).
 2. **Wind Monitoring or Meteorological Towers** - Met towers shall be permitted under the same standards as a small wind system, except that the requirements apply to a temporary structure. A permit for a temporary met tower shall be valid for a maximum of 3 years after which an extension may be granted.

Wind monitoring shall be permitted in all zoning districts subject to issuance of a building permit for a temporary structure and subject to reasonable regulations concerning the bulk and height of structures and determining yard-size, lot area, setbacks, open space and building coverage requirements.
- b) **Utility Notification** - No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
- c) **Dimensional Requirements** - All wind energy conversion facilities shall comply with the requirements set forth in this section, unless waived by the SPGA as part of the Special Permit review process.
1. **Height** - Small wind energy conversion facilities located on towers shall be no higher than 80 feet above the natural grade. The height of all wind turbines shall be measured to the highest point reached by the rotor blades. The SPGA may allow this height to be exceeded as part of the special permit process if the project proponent can demonstrate that the additional height is needed and that the additional benefits of the higher tower outweigh any increased adverse impacts. Monopole towers are the preferred type of support for wind turbines. If the small wind facility is structure-mounted, the total height of the facility shall not exceed 15 feet from the highest point of the adjoining roof, as defined in section 5.7.2.
 2. **Setback or Clear Area** - Each small wind energy conversion facility and its associated equipment shall comply with the building setback provisions of the zoning district in which the facility is located. In addition, a wind tower for a small wind system shall be set back a distance equal to its Total Height from:

- (i) any public road right of way, unless written permission is granted by the governmental entity with jurisdiction over the road;
- (ii) any overhead utility lines, unless written permission is granted by the affected utility;
- (iii) all property lines, unless written permission is granted from the affected land owner or neighbor; and
- (iv) no part of the system, including guy wire anchors, may be closer than 5 feet from any property boundary.

5.7.4 Special Permit Regulations

The SPGA shall grant a Special Permit only if it finds that the proposal complies with the provisions of this bylaw (unless waived) and is consistent with the applicable criteria for granting Special Permits.

- a) **General** - Proposed small wind energy conversion facilities shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable electrical, construction, noise, safety, environmental and communications requirements.
- b) **Design Standards**
 - 1. **Visual Impact** - The proponent shall demonstrate through project siting and proposed mitigation that the small wind energy conversion facility minimizes any impact on the visual character of surrounding neighborhoods and the community. This may include, but not be limited to, information regarding site selection, turbine design, buffering, lighting and cable layout.
 - 2. **Color** - Wind energy conversion facilities shall be painted a non-reflective color that blends with the sky and clouds.
 - 3. **Equipment Shelters** - All equipment necessary for monitoring and operation of the wind energy conversion facilities should preferably be contained within the turbine tower. If this is infeasible, ancillary equipment may be located outside the tower, provided it is contained either within an underground vault, or enclosed within a separate structure or behind a year-round landscape or vegetated buffer.
 - 4. **Lighting and Signage:**
 - (i) Small wind turbines shall be lighted only if required by the Federal Aviation Administration (FAA). The applicant shall provide a copy of the FAA's determination to establish the required markings and/or lights for the structure;
 - (ii) A wind tower and generator shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration. A light temporarily used to inspect a turbine, tower and associated equipment is permissible, providing said light is only used for inspection purposes and not

- left on for an extended period of time;
- (iii) Signs on the facility shall be limited to: those needed to identify the property and the owner and warn of any danger; and, educational signs providing information on the technology and renewable energy usage; and
 - (iv) All signs shall comply with the requirements of the Town's sign regulations.

c) **Environmental Standards**

1. **Wetlands** – Small wind energy conversion facilities shall be located in a manner consistent with all applicable local and state wetlands regulations. Wetland buffer areas may be used for the purposes of providing a clear area.
 2. **Land Clearing/Open Space/Rare Species** – Small wind energy conversion facilities shall be designed to minimize land clearing and fragmentation of open space areas and shall avoid permanently protected open space when feasible. Wind turbines should be sited to make use of previously developed areas wherever possible. Small wind energy conversion facilities shall also be located in a manner that does not have significant negative impacts on rare species in the vicinity (particularly avian species, bats, etc.).
 3. **Stormwater** - Stormwater run-off and erosion control shall be managed in a manner consistent with all applicable state and local regulations.
 4. **Noise** - The small wind energy conversion facility and associated equipment shall conform to Massachusetts noise regulations (310 CMR 7.10).
 5. **Shadowing/Flicker** – Small wind energy conversion facilities shall be sited in a manner that does not result in significant shadowing or flicker impacts. The applicant has the burden of proving that this effect does not have significant adverse impact on neighboring or adjacent uses either through siting or mitigation.
- d) **Safety Standards** - No hazardous materials or waste shall be discharged on the site of any small wind energy conversion facility. The tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of 8 feet above the ground.

5.7.5 Modifications

All modifications to a small wind energy conversion facility made after issuance of the Special Permit shall require approval by the SPGA in accordance with the town's existing process for modifications to Special Permit approvals.

5.7.6 Monitoring and Maintenance

The applicant shall maintain the wind energy conversion facility in good condition. Such maintenance shall include, but not be limited to, painting, structural integrity of the foundation

and support structure and security barrier (if applicable), and maintenance of the buffer areas and landscaping if present.

5.7.7 Abandonment or Discontinuation of Use

- a) At such time that a small wind energy conversion facility is scheduled to be abandoned or discontinued, the applicant will notify the Town Administrator and SPGA by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. In the event that an applicant fails to give such notice, the facility shall be considered abandoned or discontinued if the facility is inoperable for a continuous 12 month period. The Building Inspector may issue a Notice of Abandonment to the owner of a small wind energy system that is deemed to have been abandoned. The Owner shall have the right to respond to the Notice of Abandonment within 30 days from Notice receipt date. The Building Inspector shall withdraw the Notice of Abandonment and notify the owner that the Notice has been withdrawn if the owner provides information that demonstrates the small wind energy system has not been abandoned.
- b) Upon abandonment or discontinuation of use, the Owner shall physically remove the small wind energy conversion facility within 90 days from the date of abandonment or discontinuation of use. This period may be extended at the request of the operator and at the discretion of the SPGA. "Physically remove" shall include, but not be limited to:
 1. Removal of the wind turbine and tower, all machinery, equipment, equipment shelters, security barriers and all appurtenant structures from the subject property.
 2. Proper disposal of all solid or hazardous materials and wastes from the site in accordance with local and state solid waste disposal regulations.
 3. Restoration of the location of the small wind energy conversion facility to its natural condition, except that any landscaping, grading or below-grade foundation may remain in the after-condition.
- c) If an Owner fails to remove a small wind energy conversion facility in accordance with this section of this bylaw, the town shall have the authority to enter the subject property and physically remove the facility, at the Owner's expense.

5.7.8 Application Procedures

- a) **Special Permit Granting Authority (SPGA)** - The SPGA for small wind energy conversion facilities shall be the Planning Board.
- b) **Pre-Application Conference** - Prior to the submission of an application for a Special

Permit under this regulation, the applicant is strongly encouraged to meet with the SPGA at a public meeting to discuss the proposed small wind energy conversion facility in general terms and to clarify the filing requirements.

- c) **Pre-Application Filing Requirements** - The purpose of the conference is to inform the SPGA as to the preliminary nature of the proposed small wind energy conversion facility. As such, no formal filings are required for the pre-application conference. However, the applicant is encouraged to prepare sufficient preliminary architectural and/or engineering drawings to inform the SPGA of the location of the proposed facility, as well as its scale and overall design.
- d) **Professional Fees** – In accordance with MGL Chapter 40A, Section 9 and MGL Chapter 44, Section 53G, the town may retain a technical expert/consultant to verify information presented by the applicant. The cost for such a technical expert/consultant will be at the expense of the applicant.
- e) **Permit Filing Requirements** - The following shall be included with an application for a Special Permit for each small wind energy conversion facility:
 - 1. **General Filing Requirements:** A building permit shall be required for the installation of a small wind energy system.
 - 2. **Location Filing Requirements:** The building permit application shall be accompanied by a plot plan (5 copies should be provided) which includes the following:
 - (i) Property lines and physical dimensions of the subject property within 2 times the Total Height from the tower location;
 - (ii) Location, dimensions, and types of existing major structures on the property;
 - (iii) Location of the proposed wind system tower, foundations, guy anchors and associated equipment;
 - (iv) The right-of-way of any public road that is contiguous with the property;
 - (v) Any overhead utility lines;
 - (vi) Wind system specifications, including manufacturer and model, rotor diameter, tower height, tower type (freestanding or guyed);
 - (vii) Tower foundation blueprints or drawings signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts; and
 - (viii) Tower blueprint or drawing signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts.
 - 3. **Fees:** The application for a building permit for a small wind energy system must be accompanied by the fee required for a building permit for a Permitted Accessory Use.
 - 4. **Expiration:** A permit issued pursuant to this ordinance shall expire if:
 - (i) The small wind energy system is not installed and functioning within 24 months from the date the permit is issued; or,

- (ii) The small wind energy system is out of service or otherwise unused for a continuous 12 month period.

5.7.9 Conflict with Other Laws

The provisions of this bylaw shall be considered supplemental of existing zoning bylaws. To the extent that a conflict exists between this bylaw and others, the more restrictive bylaw, or provisions therein, shall apply.

5.7.10 Severability

If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the town's Zoning Bylaw.

5.7.11 Penalties

Any person who fails to comply with any provision of this ordinance or a building permit issued pursuant to this ordinance shall be subject to enforcement and penalties as allowed by applicable law

And you are directed to serve this warrant by posting up attested copies at the usual place of posting warrants as per vote of the Town (one at the Town Hall, US Post Office, and Chester Center) at least fourteen (14) days before the time of holding said meeting.

Therefore fail not and make due return of this warrant with your doings to the Town Clerk of said Town on or about the time of holding said meeting.

BOARD OF SELECTMEN

Eugene Bishop, Chairman

John Baldasaro, Vice Chairman

Peter Strogonaw, Clerk

A TRUE COPY, ATTEST: _____

RETURN OF WARRANT: _____ Date _____
Constable