ARTICLE IV
Use Regulations

§ 140-6. Compliance required.

Except as hereinafter provided, no building or structure shall be constructed, altered or maintained and no building, structure or land shall be used for any purpose or in any manner other than as indicated for the district in which it is situated.

§ 140-7. Residence Districts.

A. Permitted uses.

(1) Single detached one-family dwelling.

(2) Municipal, educational, religious or other nonprofit institutional use.

(3) Farm, provided that no barn or stable sheltering animals on such farm be closer than 100 feet from property line, orchard, greenhouse, tree nursery, truck garden or wood lot. May include sale of agricultural or horticultural products primarily raised on the premises. One or more signs with an aggregate total maximum area of 32 square feet may be displayed during seasons when such products are for sale.

(4) Accessory uses, including the following, provided that they are customarily incidental to a permitted main use on the same premises and not detrimental to a residential neighborhood. Except as indicated, there shall be no exterior indication of the accessory use and no exterior display of merchandise. No more than two persons not residents on the premises are to be employed. One sign, not over four feet square in area, may be displayed.

(a) Use of space in a dwelling for a customary home occupation, office or studio maintained by resident occupants.

(b) Use of property in connection with his trade by a resident carpenter, electrician, painter, plumber or other artisan, provided that no manufacturing or business requiring substantially continuous employment shall be carried on and that all storage of materials and equipment shall be within the principal building or within suitable accessory buildings.

(c) Renting space to lodgers, boarders or tourists, provided that no separate cooking facilities are maintained, and provided that no more than three rooms are rented. Accommodations shall be limited to a maximum of six persons in addition to the resident family.

(5) Two-family dwellings, with the exception that in the Residence Districts R-20 and R-15, the same must be serviced by Town water and sewer. **[Amended 6-13-2023ATM by Art. 15]**

(6) One travel/camping type trailer for storage purposes and not to be used as the principal residence on said property. **[Added 5-21-1977 ATM, Art. 20]**

(7) Animals or birds as customary household pets may be kept in all districts. **[Added 2-26-1979 STM, Art. 7]**

(8) Livestock and poultry kept for the pleasure of residents are permitted in R-80 Districts provided livestock do not exceed four adult animals and poultry do not exceed 20 in number, if such livestock are quartered a minimum of 50 feet from all property lines, and such quarters provided for keeping of such livestock are maintained at least 100 feet from any dwellings on adjacent property. **[Added 2-26-1979 STM, Art. 7]**

B. Uses which may be allowed only by special permit, if the Planning Board, after a public hearing and subject to appropriate regulations, shall determine that the use contemplated is in harmony with the general purpose and intent of this bylaw and will not be in conflict with the public safety, convenience or welfare and will not be detrimental to property values nor offensive to people in adjacent properties or districts. The Planning Board may make the permit subject to general or specific provisions set forth therein and further such permits may also impose conditions, safeguards and limitation in time and use. **[Amended 5-21-1977 ATM, Art. 19; 2-26-1979 STM, Art. 7; 6-12-2000 ATM, Art. 42; 6-14-2004 ATM, Art. 43; 6-13-2005 ATM, Art. 28; 6-22-2009 ATM, Art. 22; 11-26-2012 STM, Art. 18; 6-21-2016 ATM, Arts. 41, 42, and 46**

(1) Cemetery, golf course, riding stable, boat livery or camp for children or adults (in R-80 District only).

(2) Nursing home, sanitarium, orphanage or similar use.

(3) Dog kennel or veterinary hospital (in R-80 District only).

(4) Private school or college, kindergarten, trade or professional school.

(5) Telephone exchange, hydro power facility, railroad or bus station.

(6) Commercial raising of swine, goats or fur-bearing animals or commercial slaughterhouses (in R-80 District only).

(7) Private club not conducted for profit.

(8) Golf club, hunting or fishing area or other extensive outdoor recreation use, whether or not conducted for profit. May include commercial recreational area for camping, tents, cabins or cottages, for seasonal or part-time occupancy only. Under these provisions, such sites, facilities or buildings as are used or occupied for limited periods for recreational purposes shall not be subject to the lot area and yard requirements which pertain to residence districts. No recreational unit, building or site may be occupied, whether on a temporary or permanent basis, during the period from December 1, in any year, to April 1, of the following year, except for supervisory or maintenance personnel, provided that prior approval for any such occupancy has been obtained from the Board of Health. Commercial uses shall be strictly limited to meet the needs of persons using the land for camping purposes. Use of land for such recreational uses shall be subject to the granting of an appropriate license by the Board of Health under the provisions of MGL c. 140, §§ 32A to 32E. Before the issuance of a permit, a site plan showing all the camping or tenting areas, buildings, water supply and sanitary facilities shall be

presented.

(9) Removal of gravel, loam, sand or rock for commercial purposes (in R-80 District only).

(10) Conversion of a one-family dwelling, existing at the time of the adoption of this bylaw, into a two-family dwelling, provided that the lot is at least 20,000 square feet in area and that all sewage disposal and yard requirements can be met.

(11) Antique or gift shop or small specialty retail business or retail sale of products of home occupation, provided items for sale are not displayed outdoors. Any limitations or conditions may be included in the special permit as required to maintain the character of the neighborhood.

(12) Undertaker, provided that lot is at least 20,000 square feet in area and that adequate off-street parking can be provided.

(13) Mobile homes not situated in mobile home parks shall be allowed to be placed upon the property only under the following circumstances:

(a) For use as a temporary dwelling by a person who intends to construct or reconstruct his or her dwelling for a period of time, not to exceed one year; an additional one-year extension may be granted by the Planning Board.

(b) By any contractor engaged in the construction of a major building such as a school or office, for use as an office, but not as a dwelling, for a period of time, not to exceed one year; an additional one-year extension may be granted by the Planning Board.

(14) Apartment houses with adequate off-street parking facilities (but not permissible in R-80 District).

(15) Single detached two-family dwellings (in R-80 District only).

(16) Sawmill operations and accessory uses (in R-80 District only).

(17) As an accessory use, animals, birds, livestock or poultry in greater numbers than as provided for in § 140-7A(8) above in the R-80 District or other residential districts may be allowed.

(18) Wind-powered generators.

(19) Studio/or galleries for the instruction and practice of visual arts, photography, sewing, ceramics, knitting, jewelry making, and other similar arts and crafts related use and practice of musical instruments and voice lessons provided that such and all work is not detrimental to the neighborhood causing noise or undue commotion only in R-15 Districts.

§ 140-8. Limited Business Districts.

A. Permitted uses:

(1) Any use permitted, or allowed by special permit, under § 140-7A and B, except those

listed at § 140-7B(3), (6), (9), (10), (13) and (18). **[Amended 6-14-2004 ATM, Art. 43; 6-22-2009 ATM, Art. 22]**

(2) Financial, medical, professional or business office.

(3) Retail business, consumer service, newspaper or job printer. A maximum of four employees may be engaged in repair or service work (except automotive, vehicular or large farm equipment maintenance) or in making articles to be sold at retail, on the premises only.

(4) Hotel, motel or restaurant.

(5) Signs or other advertising devices indicating the name of the firm or goods or services available on the premises, provided such signs or devices are located flat against a wall of the principal building and do not exceed two square feet in total combined area per linear foot of building frontage along the highway. One sign indicating the name of the firm, and marquee which is an integral part of the building. Total sign area may not exceed 100 square feet without approval of the Zoning Board of Appeals. **[Amended 6-17-2002 ATM, Art. 31]**

(6) One sign or other advertising device of a freestanding nature indicating the name of the firm or goods or services available on the premises, provided that such sign or device is located at least 10 feet from the highway and does not exceed 25 square feet in total area per business establishment.

B. Uses which may be allowed only by special permit, if the Planning Board, after a public hearing and subject to appropriate regulations, shall determine that the use contemplated is in harmony with the general purpose and intent of this bylaw and will not be in conflict with the public safety, convenience or welfare and will not be detrimental to property values nor offensive to people in adjacent properties or districts. The Planning Board may make the permit subject to general or specific provisions set forth therein and further such permits may also impose conditions, safeguards and limitation in time and use. **[Amended 6-14-2004 ATM, Art. 43; 6-22-2009 ATM, Art. 22; 6-21-2016 ATM, Art. 45]**

(1) Automobile service or gasoline station, sales establishment or repair garage.

(2) Service of sales establishment for farm machinery or other heavy equipment.

(3) Contractor's yard or similar use. Adequate screening from public ways will be required for such uses.

(4) Sale or storage of feed, fuel, lumber or building supplies. Adequate screening from public ways will be required for such uses.

(5) Place of amusement or assembly or club conducted for profit.

(6) Trucking depot or warehouse.

(7) Dog kennel or veterinary hospital.

(8) Wind-powered generators.

§ 140-9. Business and Commercial Districts.

A. Permitted uses:

(1) Any use permitted, or allowed by special permit, under § 140-8A and B, except those listed at § 140-7B(3), (6), (9), (13) and (18), and § 140-8B(5). **[Amended 6-12-2000 ATM, Art. 42; 6-14-2004 ATM, Art. 43; 6-22-2009 ATM, Art. 22]**

(2) Any lawful sales, manufacturing or industrial use including processing, fabrication, assembly or storage, except those listed in § 140-10B below. **[Amended 6-12-2000 ATM, Art. 42]**

(3) General office use.

(4) Wholesale establishment.

(5) Signs or other advertising devices as permitted under § 140-8A.

(6) A car wash and directly related activities. **[Added 6-11-2007 ATM, Art. 27]**

B. Uses which may be allowed only by special permit, if the Planning Board, after a public hearing and subject to appropriate regulations, shall determine that the use contemplated is in harmony with the general purpose and intent of this bylaw and will not be in conflict with the public safety, convenience or welfare and will not be detrimental to property values nor offensive to people in adjacent properties or districts. The Planning Board may make the permit subject to general or specific provisions set forth therein and further such permits may also impose conditions, safeguards and limitation in time and use **[Amended 6-14-2004 ATM, Art. 43; 6-22-2009 ATM, Art. 22; 6-21-2016 ATM, Art. 45]**

(1) Activities conducted for scientific research or development or related scientific production. **[Amended 2-26-1979 STM, Art. 6]**

(2) Light manufacturing or processing activity where the major portion of the product is to be sold to the consumer on the premises.

(3) Junkyard or outdoor storage of more than one unregistered automobile or truck, provided they are not visible from the public way.

(4) Place of amusement or assembly or club conducted for profit.

(5) Dog kennel or veterinary hospital.

(6) The rental of individual storage units.

(7) Wind-powered generators.

§ 140-10. Industrial Districts.

A. Permitted uses:

(1) Any use permitted, or allowed by special permit, under § 140-9A and B, except those listed at § 140-7B(3), (6), (9), (13) and (18), and § 140-8B(5). **[Amended 6-12-2000**

ATM, Art. 42; 6-14-2004 ATM, Art. 43; 6-22-2009 ATM, Art. 22]

(2) Any lawful sales, manufacturing or industrial use, including processing, fabrication, assembly or storage, except those listed in Subsection B below.

(3) One or two signs or displays advertising the name of the firm or goods or services available or produced on the premises and not exceeding 200 square feet in total combined area, provided such signs are not within 50 feet of the highway. The top of any sign may be no higher than the height of the building with which it is associated.

(4) One or two signs or displays advertising the name of the firm or goods or services available or produced on the premises and not exceeding 40 square feet in total combined area, provided that such sign or display is located at least 15 feet from the street.

B. Uses which may be allowed only by special permit, if the Planning Board, after a public hearing and subject to appropriate regulations, shall determine that the use contemplated is in harmony with the general purpose and intent of this bylaw and will not be in conflict with the public safety, convenience or welfare and will not be detrimental to property values nor offensive to people in adjacent properties or districts. The Planning Board may make the permit subject to general or specific provisions set forth therein and further such permits may also impose conditions, safeguards and limitation in time and use. **[Amended 6-12-2000 ATM, Art. 42; 6-14-2004 ATM, Art. 43; 6-22-2009 ATM, Art. 22; 6-21-2016 ATM, Art. 45]**

(1) Industrial use where the product or process constitutes an explosion or fire hazard of sufficient magnitude to be subject to regulation (excluding regulations on power transmission, steam or electrical) by any statute of the Commonwealth of Massachusetts or the federal government dealing specifically with such hazard and such product or process.

(2) Industrial use where the product or process constitutes a chemical poison hazard of sufficient magnitude to be subject to regulation by any statute of the Commonwealth of Massachusetts or the federal government dealing specifically with such hazard and such product or process.

(3) Dog kennel or veterinary hospital.

(4) Wind-powered generators.

§ 140-10.1. Solar energy facilities special permit and site plan review. [Added 6-21-2016 ATM, Art. 48; amended 12-11-2018 STM, Art. 10]

A. Purpose.

(1) The purpose of this bylaw is to regulate the development of solar energy facilities by providing standards for the placement, design, construction, operation, monitoring, modification, and removal of such facilities. The prime purpose shall be to protect the public health, safety, and welfare. In considering a proposed facility, the Planning Board shall minimize impacts on scenic views, agricultural, natural and historic resources of

Barre. In the event a facility is approved, a further purpose of this bylaw is to provide adequate financial assurance for the timely decommissioning and removal of such facilities, including the restoration of the site.

(2) The Planning Board shall be the Special Permit Granting Authority for those installations that require a special permit. The Planning Board shall consider all effects that the proposed facility may have upon the site, the neighborhood and the community as a whole. In the event the proposed site is presently in agricultural use, the continued agricultural use shall be encouraged. The Planning Board may recommend that the facility be located on other portions of the site where the soil does not have prime agricultural use potential.

(3) The initial term of any special permit will be 20 years, or such other time as determined by the Planning Board. The permit may be extended for up to two five-year terms. Any further extension shall require a new application.

B. Applicability. This bylaw applies to all solar energy facilities, either existing, or proposed, in the Town of Barre. In addition this bylaw shall apply to any and all alterations, changes, improvements and modifications, including, but not limited to, upgrades or physical modifications, regardless of whether the modification materially alters the type, configuration, or size of these facilities or related equipment. The Planning Board shall follow the procedural requirements for processing special permit applications as set forth in Massachusetts General Laws, including but not limited to MGL c. 40A, § 9.

C. Definitions and use regulations.

AGRICULTURAL SOLAR PHOTOVOLTAIC FACILITY — A solar photovoltaic system that is for the exclusive purpose of providing electricity for a property that is primarily in agricultural use as defined under MGL c. 40A, § 3. The electricity produced to be used solely for the benefit of the agricultural property. Allowed as a matter of right in all zoning districts.

COMMERCIAL LARGE-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC FACILITY — A commercial solar photovoltaic system that is structurally mounted on the ground and has a minimum nameplate output capacity of 250 kw DC. Only allowed by special permit in the following zoning districts: Limited Business, Business and Commercial and Industrial. Commercial large-scale ground-mounted solar photovoltaic facilities may be allowed by special permit on agricultural lands which are zoned R-80 in limited numbers and limited circumstances as determined by the Planning Board and under special conditions as stated in Subsections D and E. New commercial large-scale ground-mounted solar photovoltaic facilities shall not exceed 25 megawatts (DC) of total capacity for all newly permitted facilities in aggregate beginning on the date of adoption of this revised bylaw.

COMMERCIAL ROOF-MOUNTED SOLAR PHOTOVOLTAIC FACILITY — A commercial solar photovoltaic system that is structurally mounted on the roof of a building zoned and actively used for an allowed commercial use. Allowed as a matter of right in the following zoning districts: Limited Business, Business and Commercial and Industrial.

COMMERCIAL SMALL-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC FACILITY — A commercial solar photovoltaic system that is structurally mounted on the ground and has a nameplate output capacity of less than 250 kw DC. Only allowed by special

permit in the following zoning districts: Limited Business, Business and Commercial and Industrial.

COMMERCIAL USE — Where the electricity generated by a solar energy facility is produced, distributed and utilized for use on site or sale or resale off site which allows a monetary gain directly or indirectly to the owner of the property.

PRIME AGRICULTURAL SOILS — Agricultural land with soils designed as prime or of the statewide significance by the U.S. Natural Resources Soil Services soil surveys.

RATED NAMEPLATE CAPACITY — The maximum rated output of electric power production equipment, such as solar energy facilities or solar photovoltaic facilities. The manufacturer typically specifies this output with a "nameplate" on the equipment.

RESIDENTIAL GROUND-MOUNTED SOLAR PHOTOVOLTAIC FACILITY — A residential solar photovoltaic system that is structurally mounted on the ground where the electricity generated by the solar facility is produced and solely utilized, on the residential site, by the owner of the residential property. The output to not exceed 110% of the residential unit's electrical consumption. Requires a special permit in all districts.

RESIDENTIAL ROOF-MOUNTED SOLAR PHOTOVOLTAIC FACILITY — A residential solar photovoltaic system that is structurally mounted on the roof of a residential structure where the electricity generated by the solar facility is produced and solely utilized, on the residential site, by the owner of the residential property. The output to not exceed 110% of the residential unit's electrical consumption. Allowed as a matter of right in all districts.

RESIDENTIAL USE — Where the electricity generated by a solar energy facility is produced solely, on a residential site, for the use and benefit of the owner of the residential property.

SOLAR ENERGY FACILITY — A structure that is designed, constructed and intended to convert solar energy to electricity generated for residential or commercial use. In this bylaw, "solar energy facility" shall include and the bylaw shall apply and not be limited to solar energy facilities, whether referred to as "solar energy facility," "photovoltaic facility," "solar photovoltaic system," or otherwise.

D. Location/lot/siting preferences.

(1) It is strongly recommended that proposals not select locations that would result in significant loss of land and natural resources such as farm and forest land. Preference is that rooftop siting(s) and locations in industrial or commercial districts be used. As an alternative vacant, previously disturbed land should be considered. Placement of facilities in front yards will not be permitted without specific approval of the Planning Board. For agricultural facilities rooftops are preferable. In the event an agricultural facility does not have adequate roof space, nonproductive, nonarable land should be selected.

(2) Commercial large-scale ground-mounted solar photovoltaic facilities that are proposed for agricultural lands in areas zoned R-80 shall have a minimum overall lot size of 800,000 square feet and no more than 60% of this area may be used for the solar facility.

The maximum size of a single solar facility shall be five megawatts DC. The lot must be contiguous. Minimum road frontage for the applicable zoning classification shall be required. Access to solar facility shall be limited to one driveway unless site layout requires a second driveway and the Planning Board approves. The solar facility shall be the sole use on the proposed lot with sole use of the applicable driveway. An existing right-of-way, whether in use or not, may not be used as the new access. No below-grade foundation(s) or structures shall be used without the specific approval of the Planning Board. No material, including topsoil, may be removed from the site without prior specific approval of the Planning Board.

E. Visual impact.

(1) All solar energy facilities shall be positioned to provide a visual buffer in order to reduce the visual impact the facility has upon all abutting properties in residential use, whether occupied or not, or potentially in residential use, or which have a view of the proposed project, including houses across a street. In addition, a visual buffer shall be provided for roadways which have a view of the proposed project. Note: Additional conditions for visual impact mitigation apply to commercial large-scale ground-mounted solar photovoltaic facilities located on agricultural land in areas zoned R-80.

(2) The applicant shall incorporate methods to eliminate or minimize the visual impact of the solar facility such as earthen berms, vegetation and fencing/screening or reducing the height of facility components. The retention of existing natural growth is encouraged. The applicant shall indicate any existing vegetation the applicant plans to remove or alter. The required visual buffer will be determined on a case-by-case basis and site-specific at the sole discretion of the Planning Board. The documents submitted pursuant to Subsection F(3) below will be used but will not be the only source of information used by the Planning Board regarding this matter.

(3) Commercial large-scale ground-mounted solar photovoltaic facilities located on agricultural land in areas zones R-80 shall not be visible from any roadway or from any residential abutters.

(4) Commercial large-scale ground-mounted solar photovoltaic facilities located on agricultural land in areas zones R-80 shall not be located along or be visible from a scenic highway.

(5) Commercial large-scale ground-mounted solar photovoltaic facilities located on agricultural land in areas zones R-80 shall be evaluated in accordance with dual use agriculture/energy guidelines as described in Massachusetts Department of Agricultural Resources regulations.

(6) Solar energy facilities shall not be located within 1/4 mile of the Town Commons of the Town of Barre, South Barre, or Barre Plains.

(7) Solar energy facilities shall not be located on unfragmented open land as identified as a priority for protection in the Town's Open Space and Recreation Plan, Master Plan or the Community Development Plan.

(8) Solar energy facilities shall not be located on agricultural land with soils designed as

prime or of statewide significance by the U.S. Natural Resource Conservation Service Soil Surveys.

(9) Solar energy facilities shall not be located in areas that contain rare, threatened, or endangered species or exemplary natural communities according to the Massachusetts BioMap Project developed by the Massachusetts Natural Heritage & Endangered Species Program and the Massachusetts Department of Environmental Protection (DEP).

(10) Solar energy facilities shall not be located in areas that contain unique natural, culture, and/or historical features as intended in the Master Plan or Community Development Plan.

F. Site plan review procedure. A site plan review shall be conducted as a part of the special permit process. Site plan documents: The applicant shall submit plans and documents to the Planning Board, which shall be the site plan review authority. The site plans shall show:

(1) Property lines and physical features, including roads and topographical contour lines for the project site. Also the applicant shall indicate the location of existing, proposed or potential agricultural uses.

(2) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures. A planting plan where a visual buffer is required shall be presented.

(3) Views of the site from all off-site abutting properties (and where the site is abutting a street, from the street) indicating what will be seen, prior to construction, immediately after construction is completed with no plantings in place, after construction with all plantings in place and at two, five and 10 years after construction with all plantings still in place (indicating normal anticipated growth). The view may be a sketch or computer-generated from photographs or drawings. The views should indicate both existing conditions and proposed modifications with particular attention as to how each modification is intended to reduce the visual impact of the proposed facility. The Planning Board may request additional views. Note: Commercial large-scale ground-mounted solar photovoltaic facilities located on agricultural land in areas zoned R-80 must meet alternate requirements for visual impact as specified in Subsection E, Visual impact, Parts (1) through (6).

(4) In addition to the abutter notification requirements for special permits as contained in Subsection G, the applicant for a commercial large-scale ground-mounted solar photovoltaic facility shall notify all property owners located within 1/2 mile of the boundaries of the property on which the solar facility will be located. This notification shall include a description of the project, a site plan showing the location of the solar facility and any additional information that the Planning Board determines. Then notification shall be mailed via certified mail with a return receipt. Any comments received from local property owners shall be included in the permit application. The property owner shall erect a sign beside the major frontage road within 30 days of submitting an application for a special permit for the solar facility. The sign shall state the name of the solar contractor, the size in acres of the solar facility, and the total

megawatt output of the facility. The sign shall include a site plan showing the location and extent of the solar facility and all nearby roads and highways. The sign lettering shall be of sufficient size to be read by someone driving along the road.

(5) The Planning Board may require, as a part of the review, on-site visits by the Planning Board during the application process. In addition the Planning Board may require on-site visits during the construction phase and from time to time, as determined by the Planning Board, following the date of completion. In the event the Planning Board receives a signed written complaint, the Planning Board will notify the applicant, owner and operator and schedule an on-site visit to resolve the matter. The purpose of such visits to be to confirm that the visual impact of the project has been minimized. In the event that the Planning Board finds that further steps are required to minimize the visual impact, the applicant, owner and/or operator shall take such steps as are required by the Planning Board, including replacing dead or unhealthy vegetation.

G. Special permit solar energy system plans and documents.

(1) All applicants shall submit to the Planning Board the following plans and documents that fully describe the nature of the proposed solar energy system.

(a) Plans and drawings of the solar facility signed and stamped by a professional engineer licensed to practice in Massachusetts showing the proposed layout of the system and any potential shading from nearby structures or trees.

(b) One- or three-line electrical diagram detailing the solar facility, associated components, and electrical interconnection methods, with the Massachusetts Electrical Code, 527 CMR 12.00.

(c) Technical specifications of the major system components, such as solar arrays, mounting system, transformers, and inverters. The information shall include what materials are used in the manufacture of the components.

(d) The name, physical address, mailing address, telephone number(s) and e-mail address of the owner(s), lessor(s), contact person(s), design engineer(s), and contractor(s). If any of the aforesaid named entities change during the construction, operation, or decommissioning of the solar facility, the Planning Board shall be notified within 30 days of the change.

(e) Proof that the project site has the necessary frontage and area to satisfy Town of Barre zoning requirements to qualify as a separate lot. In addition proof that the site has sufficient area to allow for installation and use of the proposed facility.

(f) An operation and maintenance plan.

(g) General liability insurance; proof of $1,000,000 by occurrence; $2,000,000 in aggregate; or $5,000,000 excess liability (umbrella policy).

(h) Agreement to make deposits to Barre Treasurer for financial surety that satisfies Subsection O(4) of this bylaw.

(i) List of all chemicals, including cleaners, that will be used on the solar facility site.

All chemicals proposed to be used on site shall be approved by the Planning Board prior to being used on the site. No hazardous materials shall be used on the solar facility site.

(j) No pesticides or defoliants may be used on the site.

(k) As a part of the application, small-scale ground-mounted solar photovoltaic facilities may submit a written request to waive any of the above requirements, which may be granted at the Planning Board's discretion.

(2) Fees: The applicant shall pay the special permit and site plan review fee as set forth in the Planning Board Fee Schedule at the time of submission of the application. In addition, all engineering fees, legal fees, publication fees, etc., incurred by the Planning Board during the application process and site plan review shall be paid for by the applicant, in full, prior to issuance of any permit.

(3) Operation and maintenance plan: The applicant shall submit a plan for the operation and maintenance of the solar facility, which shall include measures for maintaining safe access, stormwater controls, and general procedures for operating and maintaining the facility.

(4) Utility notification: The applicant shall submit evidence that the utility company has been informed of applicant's intent to install a solar energy facility and that the utility company has favorably responded, in writing, to the notice. Off-grid systems are exempt from this requirement.

(5) Locations of wetlands, floodplains, and priority habitats as described by the Massachusetts Natural Heritage & Endangered Species Program, and the Massachusetts DEP.

(6) A written description including manufacturer's documentation of all major system components to be installed, including photovoltaic panels, inverters, transformers, mounting systems, etc.

(7) The height of any structure associated with the solar facility shall be approved by the Planning Board.

(8) Procedures: The applicant shall submit five copies of the required plans and documents. The applicant shall also submit the required fee(s).

H. (Reserved)[1]

I. Public hearing. The Planning Board shall hold a public hearing in accordance with Massachusetts General Laws. The time for acting may be extended upon written request of the applicant and/or Planning Board. Such request shall not be unreasonably denied. The Planning Board's final action may consist of either:

(1) Approval of the site plan based on a determination that the proposed project will constitute a suitable development. The Planning Board shall include a finding that the

1. **Editor's Note: Former Subsection H, Waiver of requirements, was repealed 6-18-2019 ATM by Art. 31.**

proposal will be neither detrimental nor offensive to the neighborhood. Further, the Planning Board shall include a finding that there are no modifications or changes required to protect the public health, safety or welfare.

(2) Disapproval of the site plan with an explanation of the reasons for such disapproval, including the elements of the proposal the Planning Board finds are not capable of revision. The Planning Board shall include a finding as to how the proposal is either detrimental or offensive to the neighborhood. In addition or in the alternative, the Planning Board shall include a finding that there are no modifications or changes the applicant could make to the proposal that would modify the proposal in order that the public health, safety or welfare would be protected. The Planning Board may also include a finding as to the elements of the proposal that are so deficient in important elements and intrusive on the interests of the public that they warrant disapproval.

(3) Approval of the site plan subject to such reasonable conditions, modifications, and restrictions as the Planning Board may deem necessary to insure that the proposal will be neither detrimental nor offensive to the neighborhood. Further, the Planning Board shall indicate that the conditions, modifications and or restrictions will protect the public health, safety or welfare and that the project will then constitute a suitable development and will not result in substantial detriment to the neighborhood.

J. Dimension and density requirements.

(1) Setbacks: All facilities shall have front, side and rear yard setbacks of at least 50 feet, for any fencing that is required by the Planning Board. Fencing shall be required to fully enclose the project. Solar arrays and related equipment shall have front, side and rear setbacks of a minimum of 100 feet. In the event a front, side or rear lot line abuts one or more residences, that front, rear or side setback shall be a minimum of 200 feet. Setback from a roadway shall be at least 200 feet. A fifty-foot minimum setback shall be used when the abutting parcel has the same owner and the same proposed use. No trees shall be removed outside the limit of work boundary. The Planning Board may allow a lesser setback along a property line where, in its judgment, the proposed facility is not likely to negatively affect an existing or permitted land use on the abutting property. The Planning Board may require a greater setback along a property line where, in its judgment, the proposed facility is likely to negatively affect an existing or permitted land use on the abutting property. All invertors, transformers, or other equipment that have the potential to exceed allowable noise levels shall be located no less than 250 feet from property lines.

(2) Appurtenant structures: All appurtenant structures, including, but not limited to, equipment shelters, storage facilities, transformers, and substations shall be subject to bylaws concerning bulk and height, setbacks, parking, building coverage, and vegetative screening to avoid adverse impacts on the neighborhood or abutting properties.

K. Design standards.

(1) Lighting: Lighting shall be limited to that required for safety and operational purposes, and shall not be intrusive in any way on abutting properties. Lighting shall incorporate

full cutoff fixtures to reduce light pollution.

(2) Signage: The solar facility shall provide a sign that identifies the operator and provides a twenty-four-hour emergency contact phone number. Solar facilities shall not display any advertising except for reasonable identification of the manufacturer or operator of the facility. The site may have a secondary sign providing educational information about the facility and the benefits of renewable energy. Applicant to obtain permits for all signs. Applicant shall provide ongoing and up-to-date educational website information, in an acceptable format, for viewing at the Town Library, schools and Town's website.

(3) Utility connections: The applicant shall place all utility connections underground except in unique cases where the Planning Board finds that soil conditions, topographic constraints, or utility company requirements make underground connections unfeasible.

(4) In the event the proposed site includes land that is active or potentially active agricultural or forest land and applicant excludes such land from the area to be used by the solar facility, the Planning Board may consider reducing some of the setback requirements in consideration of such exclusion. In the alternative, the Planning Board may increase setbacks for any project that fails to make a reasonable effort to exclude active or potentially active agricultural or forest land from the site.

L. Building permit and building inspection: No solar photovoltaic installation shall be constructed, installed, or modified without first obtaining a building permit. The application for building permit must be accompanied by the fee required for a building permit.

(1) Exemptions: The following solar energy facilities are exempt from Planning Board action under this bylaw but require a building permit prior to installation. The Building Inspector shall review the application for building permit to determine that the facility does not impose an objectionable visual impact on abutting properties. In the event the Building Inspector is not satisfied that the visual impact is acceptable, he shall refer the application to the Planning Board for review:

(a) Agricultural solar photovoltaic facility for which all electrical power generated is used for the farm operations.

(b) Commercial roof-mounted solar photovoltaic facility.

(c) Residential roof-mounted solar photovoltaic facility.

(2) The Planning Board shall conduct a site plan review, as to visual impact. The Planning Board may require submission of such documentation as it deems reasonable.

M. Emergency services: The operator shall provide a copy of the operation and maintenance plan, electrical schematic, and site plan to the Fire Chief, Police Chief, EMS (emergency medical service). The operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the facility shall be clearly marked. The premises shall identify a qualified contact person available 24 hours per day/seven days per week to provide assistance during an emergency; the operator shall change the contact information immediately whenever a change in personnel occurs.

N. Monitoring and maintenance.

(1) Maintenance: The operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. The operator shall be responsible for maintaining adequate access for emergency vehicles and maintenance equipment.

(2) An operation and maintenance manual is to be filed annually with the Planning Board confirming that the operation is ongoing and has not been abandoned. The owner and operator to provide the Planning Board with access to a computer/internet link in order that the Planning Board may view real-time operation data to confirm ongoing operation.

(3) Modifications: No modifications to the plans submitted with the application and approved by the Planning Board may be made without written approval by the Planning Board. All modifications to the facility proposed after issuance of the special use permit and building permit require approval of the Planning Board and Inspector of Buildings.

(4) The applicant shall comply with any and all federal, Massachusetts or local requirements in existence at the time application is filed or adopted after approval.

(5) Noise: Noise generated by a solar facility and its associated equipment shall not produce any vibration, harmonics, or other interference which would be perceived or negatively impact people, animals or the normal functions of electronic equipment off site. Prior to the issuance of a building permit, the applicant shall conduct a test of ambient noise conditions during startup operations and provide a written report of noise decibel levels. The solar facility and its associated equipment shall not produce a noise level that exceeds the Massachusetts DEP's Division of Air Quality noise regulations (310 CMR 7.10). The ambient noise level shall be evaluated at the property line and at the nearest inhabited residence or other sensitive land use boundary. "Ambient" shall mean the background A-weighted sound level that is exceeded 90% of the time as measured during equipment operating hours.

O. Decommissioning, removal, restoration, abandonment.

(1) Removal requirements: Any solar facility that has reached the end of its useful life (estimated to be 20 years), has been abandoned or has discontinued operation shall be physically removed from the parcel within 150 days after the date of discontinued operations; otherwise the Planning Board may proceed as set forth below. The owner or operator shall include in the application the anticipated date of discontinued operations together with plans for removal. As an ongoing obligation, the owner or operator shall notify the Planning Board by certified mail, annually, as to the proposed date of discontinued operations and plans for removal.

(2) Decommissioning/removal/restoration: Decommissioning/removal/restoration shall consist of at least the following:

(a) Physical removal of the solar arrays, structures, equipment, security barriers, and electrical transmission lines from the site and from the Town of Barre.

(b) The site to be restored as near as reasonably possible to its condition prior to the commencement of construction.

(c) Stabilization or revegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or below-grade foundations in order to minimize erosion and disruption of vegetation.

(d) Disposal of all solid and hazardous waste in accordance with local, state and federal bylaws.

(3) Abandonment: Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar facility shall be considered abandoned when in the Planning Board's discretion it fails to operate for more than six months. If the solar facility is deemed abandoned by the Planning Board, the Town shall give the owner and operator 30 days' written notice to remove the facility. In the event that the owner and operator have not completed the removal at the conclusion of 90 days from the date of written notice, the Town may proceed, without taking any legal action, to enter the property to decommission, physically remove the facility and restore the property. The Town may recover any costs from the financial surety provided by the applicant. In the event there are insufficient funds to complete the decommissioning, removal and restoration, the applicant, owner and operator (including such other parties or entities as appropriate) shall be jointly and severally liable to pay any excess costs incurred in order to do so.

(4) Financial surety: As a part of the application, the applicant shall provide the Planning Board with a fully inclusive estimate of the costs associated with the decommissioning and removal of the facility and site restoration. The estimate shall be prepared by a qualified engineer selected by the Planning Board, and the cost of the engineer preparing the estimate shall be paid by the applicant prior to issuance of any permit. At or before the second anniversary of the approval of the special permit, the applicant, owner or operator shall deposit with the Barre Treasurer United States dollars in an amount equal to 25% of the estimated cost of decommissioning, removal and site restoration. The applicant, owner or operator shall deposit additional sums equal to 25% of said estimate on the third, fourth and fifth anniversaries, resulting in the Barre Treasurer having a sum equal to 100% of the estimate on deposit by the fifth anniversary of the approval of the special permit. On said fifth, and on the 10th, 15th and 20th anniversaries (and 25th if appropriate), the applicant, owner or operator shall provide the Planning Board with an updated estimate from the same engineer (or such other engineer as may be selected by the Planning Board), the cost to be paid by the applicant, owner or operator. In addition the applicant, owner or operator shall deposit any additional funds with the Barre Treasurer in order that the funds on deposit are equal to 100% of the most recent estimate. In the event that the funds on deposit exceed 100% of the most recent estimate, the Planning Board shall authorize the Barre Treasurer to release any excess to the applicant, owner and operator. Such surety will not be required for municipal facilities owned and operated by the Town.

P. Prior to execution and delivery of special permit.

(1) Prior to the Planning Board signing and delivering any special permit approved

hereunder, the applicant shall deliver to the Planning Board the following:

(a) Written confirmation that the Conservation Commission has reviewed the facility plan, inspected the site as to wetlands and other issues within the Conservation Commission's jurisdiction and approved the site for the work shown on the facility plan.

(b) Written confirmation that the Barre Board of Health has reviewed the facility plan and approved a site assignment for the facility; or in the alternative a vote indicating that the Barre Board of Health has determined that a site assignment is not required.

(c) Written confirmation that the Barre Board of Assessors has determined that the parcel(s) involved are not subject to special real estate tax assessment such as Chapter 61, 61A or 61B.[2] In the event the Board of Assessors has determined that all or part of the parcel(s) are subject to special real estate tax assessment, written confirmation shall be required from the Barre Tax Collector of the payment of any rollback tax, or other payment that is required to remove the parcel(s) from such special real estate tax assessment status.

(d) Written approval by the Barre Board of Health for the use of all chemicals listed on the document submitted pursuant to Subsection G(1)(i).

(e) Evidence of payment for the engineer to prepare estimate of cost of decommissioning [Subsection O(4)].

(2) Any approval voted by the Planning Board prior to receipt of the foregoing shall be provisional.

Q. Severability. In the event any section or portion of this bylaw is determined to be invalid or unenforceable, such determination shall not affect the validity and enforceability of the remaining sections and portions of this bylaw.

§ 140-11. Prohibited uses in all districts.

A. The development or operation, on a single recorded lot, of more than one of the principal uses described above is prohibited except where the principal uses are clearly complementary to each other or except as specifically provided in this bylaw. Retail stores with common walls shall be considered to be complementary to each other.

B. Trailer or mobile home park or court.

C. Dwelling unit in which more than 50% of the livable area is located in a basement.

D. Signs or other advertising devices which project over a way customarily used for pedestrian or vehicular access, unless securely attached to a marquee which is an integral part of the building.

E. Signs, floodlights or other advertising devices which constitute a hazard to pedestrian or

2. **Editor's Note: See MGL c. 61, MGL c. 61A, and MGL c. 61B.**

vehicular traffic because of the intensity or direction of their illumination.[3]

§ 140-11.1. Temporary moratorium on recreational marijuana establishments. [Added 6-20-2017 ATM, Art. 20]

A. Purpose. On November 8, 2016 the voters of the commonwealth approved a law regulating the cultivation, processing, distribution, possession, and use of marijuana for recreational purposes (new MGL. c. 94G, Regulation of the Use and Distribution of Marijuana Not Medically Prescribed). The law, which allows certain personal use and possession of marijuana, took effect on December 15, 2016, and (as amended on December 30, 2016: Chapter 351 of the Acts of 2016) requires a Cannabis Control Commission to issue regulations regarding the licensing of commercial activities by March 15, 2018, and to begin accepting applications for licenses on April 1, 2018. Currently under the Zoning Bylaw, a nonmedical marijuana establishment (hereafter, a "recreational marijuana establishment") as defined in MGL c. 94G, § 1, is not specifically addressed in the Zoning Bylaw. Regulations to be promulgated by the Cannabis Control Commission may provide guidance on certain aspects of local regulation of recreational marijuana establishments. The regulation of recreational marijuana raises novel legal, planning, and public safety issues, and the Town needs time to study and consider the regulation of recreational marijuana establishments and address issues, as well as to address the potential impact of the state regulations on local zoning and to undertake a planning process to consider amending the Zoning Bylaw regarding regulation of recreational marijuana establishments. The Town intends to adopt a temporary moratorium on the use of land and structures in the Town for recreational marijuana establishments so as to allow sufficient time to address the effects of such structures and uses in the Town and to enact bylaws in a consistent manner.

B. Definition. "Recreational marijuana establishment" shall mean a "marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer, or any other type of licensed marijuana-related business not including medical marijuana facilities as defined by the Commonwealth of Massachusetts."

C. Temporary moratorium. For the reasons set forth above and notwithstanding any other provisions of the Zoning Bylaw to the contrary, the Town hereby adopts a temporary moratorium on the use of land or structures for a recreational marijuana establishment and other uses related to recreational marijuana. The moratorium shall be in effect through December 30, 2018,[4] or until such time as the Town adopts Zoning Bylaw amendments that regulate recreational marijuana establishments, whichever occurs earlier. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of recreational marijuana in Town, and to consider the Cannabis Control Commission regulations regarding recreational marijuana establishments, and shall consider adopting new zoning bylaws in response to these new issues.

D. Exception. Notwithstanding any provision of this Zoning Bylaw or any general bylaw to the contrary, nothing therein shall be deemed to prohibit, require a special permit or site plan

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3. **Editor's Note: Original Section IVE6, which immediately followed this section, concerning a moratorium on issuance of cell towers permits, which was adopted 6-12-2000 ATM, Art. 42, was repealed 11-13-2000 STM, Art. 4.**

4. **Editor's Note: Article 12 from the 12-11-2018 Special Town Meeting extended the moratorium through 6-30-2019.**

approval for or otherwise regulate, nor shall they apply to, the development or operation of a marijuana establishment, as defined by MGL c. 94G, § 1, which shall be permitted by right if the following prerequisites are satisfied: said marijuana establishment is situated in the Industrial District; said marijuana establishment is not located within 500 feet of a preexisting public or private school providing education in kindergarten or any of grades 1 through 12; and, prior to the date of adoption hereof, the owner and/or operator of said marijuana establishment has applied for and received a provisional certificate of registration for a registered marijuana dispensary in the Town of Barre. **[Added 6-19-2018 ATM, Art. 34; amended 12-11-2018 STM, Art. 13]**

§ 140-11.2. Adult and medical marijuana and marijuana establishments. [Added 6-18-2019 ATM, Art. 27]

A. Authority, purpose and intent.

(1) These provisions are enacted pursuant to General Laws, Chapter 40A, Section 9, and pursuant to the Town's authority under the Home Rule Amendment to the Massachusetts Constitution. It is recognized that the nature of the substance cultivated, processed, and/or sold by marijuana establishments may have unforeseen impacts and should be located in such a way as to ensure the health, safety, and general well-being of the Barre residents, the general public, patients seeking treatment, and customers seeking to purchase marijuana for recreational use. The Planning Board shall consider the effects that the proposed facility may have upon the site, the neighborhood, and the community. The Adult Marijuana and Marijuana Establishments Bylaw is therefore necessary to advance these purposes.

(2) Subject to the provisions of this Zoning Bylaw, Chapter 40A of the Massachusetts General Laws, 935 CMR 500.000, 935 CMR 501.000, and MGL Chapter 94G, marijuana establishments will be permitted to provide medical support, security, and physician oversight that meet or exceed state regulation as established by the Massachusetts Department of Health (DPH) and to provide retail sales of marijuana for nonmedical use in a manner that meets or exceeds state regulations.

(3) Any marijuana establishment that has applied for and received a provisional certificate of registration for a marijuana establishment, as defined by MGL c. 94G, § 1, shall be permitted by right if the following prerequisites are satisfied: said marijuana establishment is situated in the Industrial District and said marijuana establishment is not located within 500 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12.

B. Definitions. For the purpose of this bylaw, the following definitions shall apply:

(1) ALLOWED MARIJUANA USE (AMU) — Craft marijuana cultivator cooperative, independent marijuana testing laboratory, marijuana cultivator, marijuana establishment, marijuana product manufacturer, marijuana products, adult marijuana retailer, medical marijuana treatment center, registered medical marijuana dispensary (RMD), off-site medical marijuana dispensary (OMMD).

(2) OUTDOOR CULTIVATOR — Cultivation within any location that is not within a fully

enclosed and permanent building. Cultivators proposing both indoor and outdoor cultivation on a site shall follow the regulations established for outdoor cultivators for the outdoor portion of their cultivation.

(3) INDOOR CULTIVATOR — Cultivation within any location that is within a fully enclosed and permanent building. Cultivators proposing both indoor and outdoor cultivation on a site shall follow the regulations established for indoor cultivators for the indoor portion of their cultivation.

(4) PERMANENT BUILDING — A standalone building that has solid roof and solid walls, especially a permanent structure that is supported by columns or permanent walls and is located on a permanent slab or foundation. It can be any structure that is designed or intended for support, enclosure, shelter or protection of person, animals or property having a permanent roof that is supported by columns or walls. A building designed, planned, and constructed so as to remain at one location. The building not to be made of plastic, fabric and/or other materials that can be penetrated with knife, machete, or other sharp and similar objects.

(5) NONPERMANENT STRUCTURE — All other structures that do not meet the definition of a permanent building.

(6) ABUTTERS — Owners/residents of property within 500-foot perimeter of marijuana business parcel.

(7) CRAFT MARIJUANA CULTIVATOR COOPERATIVE — A marijuana cultivator comprised of residents of the commonwealth as a limited liability company or limited liability partnership under the laws of the commonwealth, or an appropriate business structure as determined by the Cannabis Control Commission (hereafter, "the Commission"), and that is licensed to cultivate, obtain, manufacture, process, package and brand marijuana and marijuana products to deliver marijuana to marijuana establishments but not to the consumer.

(8) INDEPENDENT MARIJUANA TESTING LABORATORY — A laboratory that is licensed by the Commission and is: (a) accredited to the most current version of the International Organization for Standardization 17025 by a third-party accrediting body that is a signatory of the International Laboratory Accreditation Cooperation with a mutual recognition arrangement, or that is otherwise approved by the Commission; (b) independent financially from any medical marijuana treatment center or any licensee or marijuana establishment for which it conducts a test; and (c) qualified to test marijuana in compliance with regulations promulgated by the Commission pursuant to this chapter.

(9) MARIJUANA CULTIVATOR — An entity licensed to cultivate, process, and package marijuana, to deliver marijuana to marijuana establishments, and to transfer marijuana to other marijuana establishments, but not to consumers.

(10) MARIJUANA ESTABLISHMENT — A marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer, RMD (registered marijuana dispensary) or any other type of licensed marijuana-related businesses.

(11) MARIJUANA PRODUCT MANUFACTURER — An entity licensed to obtain, manufacture, process, and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments, and to transfer marijuana and marijuana products to other marijuana establishments, but not to consumers.

(12) MARIJUANA PRODUCTS — Products that have been manufactured and contain marijuana or an extract of marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including without limitation edible products, beverages, topical products, ointments, oils, and tinctures.

(13) ADULT MARIJUANA RETAILER (AMR) — An entity licensed to purchase and deliver marijuana and products from marijuana establishments and to deliver, sell, or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.

(14) MEDICAL MARIJUANA TREATMENT CENTER — Also known as registered marijuana dispensary as defined by 935 CMR 501.000.

(15) REGISTERED MEDICAL MARIJUANA DISPENSARY (RMD) — A use registered and approved by the MA Department of Public Health in accordance with 935 CMR 501.000, and pursuant to all other applicable state laws and regulations, also to be known as a medical marijuana treatment center, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. A RMD shall explicitly include facilities which cultivate and process medical marijuana, and which may also dispense and deliver medical marijuana and related products. The cultivation and processing of medical marijuana in accordance with these regulations is considered to be a manufacturing use and is not agriculturally exempt from zoning.

(16) OFF-SITE MEDICAL MARIJUANA DISPENSARY (OMMD) — A registered marijuana dispensary that is located off-site from the cultivation/processing facility (and controlled and operated by the same registered and approved entity which operates an affiliated RMD) but which serves only to dispense the processed marijuana, related supplies and educational materials to registered qualifying patients or their personal caregivers in accordance with the provisions of 935 CMR 501.000.

(17) SPGA — Special Permit Granting Authority - Planning Board of the Town of Barre.

(18) PRIME AGRICULTURAL SOILS — Agricultural land with soils designed as prime or of statewide significance by the U.S. Natural Resources Soil Services soil surveys.

(19) RESIDENCE — Single-family home, two- and four-family homes, as well as group homes.

(20) ADULT — 21 years of age or older.

C. Application requirements. No special permit will be granted by the Planning Board for recreational marijuana and/or a marijuana establishment unless an application containing the following is submitted:

(1) Marijuana establishments shall only be allowed by special permit. The Planning Board shall be the Special Permit Granting Authority (SPGA). The following items are required submittals for a special permit application:

(a) The name and address of each owner of the business entity;

(b) Copies of all documentation demonstrating appropriate application status under state law, or registration or license, issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the facility;

(c) Evidence that the applicant has site control and the right to use the site for a facility in the form of a deed or valid purchase and sale agreement, or, in the case of a lease, a notarized statement from the property owner and a copy of the lease agreement;

(d) A notarized statement signed by the organization's Chief Executive Officer disclosing all of its designated representatives, including officers and directors, shareholders, partners, members, managers, directors, officers, or other similarly situated individuals and entities and their addresses. If any of the above is entities rather than persons, the applicant must disclose the identity of all individual persons associated with the entity as set forth above;

(e) A management plan as required under the Rules and Regulations of the Cannabis Control Commission including a description of all activities to occur on site, including all provisions for the delivery of marijuana and related products to marijuana establishments, OMMD's, RMD's, and AMR's or off-site direct delivery;

(f) Community impact statement: an analysis of the impact on the Town, including but not limited to, the surrounding neighborhood in terms of use, architectural consistency, pedestrian movement and overall character, impacts on nearby historic structures, if any exist; the impact on the interests noted in Section 1 of the Zoning Bylaw, and an evaluation of the proposed project's consistency and compatibility with existing local and regional plans. The Planning Board may employ a third party consultant to evaluate whether or not the project has been designed in such a manner to minimize impact on the community at the expense of the applicant/owner.

(g) Water use study (for projects using Town of Barre water): a detailed analysis and data regarding the proposed water use for any AMU. The analysis shall include details regarding the adequacy of water supply, and information regarding how the application complies with all regulations promulgated pursuant to MGL c. 94C, App. 1, 94G, and any other laws or regulations promulgated regarding commercial or medical marijuana. All controls on water use and discharge by an AMU but in any event shall be no less restrictive than those promulgated pursuant to MGL c. 94C, App. 1, and any other relevant regulation or law. The Planning Board will

submit the water use study plan to the Water Commissioners for review and/or they may employ a third-party consultant to review the water use study at the expense of the applicant/owner.

(h) Security measure report: The applicant shall submit a copy of the security plan as required by the Cannabis Control Commission. Security measures proposed by an AMU must at least meet the standard set by MGL c. 94C, App. 1. Security measures proposed by the AMU should be designed in accordance with the best management practices of the industry. The Police Chief will review and approve the proposed security measures.

(i) Transfer of ownership: The applicant shall submit a copy of the transfer of ownership policies as required by the Cannabis Control Commission. The policies and procedures for the transfer, acquisition, or sale of marijuana shall comply with the regulations promulgated pursuant to MGL c. 94C, App. 1, and 94G and any other laws or regulations promulgated regarding commercial or medical marijuana. Policies and procedures for the transfer of marijuana must at least meet the standards set by MGL c. 94C, App. 1, 94G and any regulations established by the Town which shall be no less restrictive than those promulgated by the general laws and regulations.

(j) Waste management report: The applicant shall submit a copy of the proposed waste management plan as required by the Cannabis Control Commission. A copy of proposed waste management procedures. Such proposal shall ensure safe disposal of waste, promote recycling and comply with the regulations promulgated pursuant to MGL c. 94C, App. 1, and 94G and any other laws or regulations promulgated regarding commercial or medical marijuana. Policies and procedures for waste management must at least meet the standards set by MGL c. 94C, App. 1, and 94G and any regulations established by the Town which shall be no less restrictive than those promulgated by the general laws and regulations. The Planning Board will submit the waste management report to the Board of Health and/or Sewer Commissioners for review and/or they may employ a third-party consultant to review the water use study at the expense of the applicant/owner.

(k) Energy and environmental standards report: The applicant shall submit a detailed analysis of how the project meets the energy and environmental standards approved by the state regulatory authority which shall comply with the regulations promulgated pursuant to MGL c. 94C, App. 1, and 94G and any other laws or regulations promulgated regarding commercial or medical marijuana. Policies and procedures for energy and environmental standards must at least meet the standards set by MGL c. 94C, App. 1, and 94G and any regulations established by the Town which shall be no less restrictive than those promulgated by the general laws and regulations. The Planning Board may employ a third-party consultant to review the proposed policies and procedures regarding the energy and environmental at the expense of the applicant/owner.

(l) Odor and ventilation abatement plan: The applicant shall submit an odor abatement plan which shall meet the requirements set forth:

[1] Indoor cultivation of marijuana establishments shall be ventilated in such a manner that no odor from marijuana or its processing can be detected by a person with an unimpaired or otherwise normal sense of smell. The Planning Board may employ a third-party consultant to review the proposed policies and proceed regarding odor control;

[2] Outdoor cultivation of marijuana will implement industry best practices to eliminate any noticeable trace of marijuana odor at the perimeter of property of the cultivator site. Marijuana establishments shall be ventilated in such a manner that no odor from marijuana or its processing can be detected by a person with an unimpaired or otherwise normal sense of smell at the at perimeter of property and any properties within in 500 feet of the perimeter of property. The Planning Board may employ a third-party consultant to review the proposed policies and proceed regarding odor control;

[3] No pesticides, insecticides or other chemicals or products used in the cultivation or processing are to be dispersed into the outside atmosphere;

[4] Abutters and properties within 500 feet of the perimeter of the marijuana property may file a written odor complaint if odor is detected beyond the property boundary of the cultivation site;

[5] The Planning Board along with the Board of Health will investigate after receiving one complaint. The Planning Board will implement industry best practices to eliminate any noticeable trace cannabis odor at the property boundaries of the cultivation site;

[6] Each subsequent day the odor is present a violation will be issued per Subsection G(11), Violation.

(m) Construction management plan: The applicant shall submit a plan which describes the project construction management plan. The Planning Board will submit the construction management plan to the Building Department for review and/or they may employ a third-party consultant to review the construction management plan.

(n) Regulatory waivers: a description of any waivers or variances of the requirements of the state licensing and registration authorities granted to or sought by the marijuana establishments.

(o) A traffic impact study for retail establishments: identification of existing traffic levels, along with the expected traffic impacts to occur based upon the proposed project. The Police Department will review the proposed traffic study.

(p) Visual impact: Outdoor cultivation of marijuana facilities located in R-80 zoning areas shall be positioned to provide a visual buffer of the facility in order to reduce the visual impact the facility may have upon all abutting and affected residential properties. A visual buffer shall be provided for roadways from which the facility can be seen. Trees located in the setback shall not be removed and remain as a visual buffer. The applicant may incorporate methods to reduce the visual impact such as earthen berms, vegetation, and/or fencing and screening. The adequacy of

the visual buffer will be determined on a case-by-case basis as determined by the Planning Board.

(q) A site plan shall be submitted that contains the following information:

[1] Property lines and physical features, including roads and topographical contour lines for the project site. Also the applicant shall indicate the location of existing, proposed or potential agricultural.

[2] Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures. A planting plan where a visual buffer is required shall be presented.

[3] Views of the site from all off-site abutting properties (and where the site is abutting a street, from the street) indicating what will be seen, prior to construction, immediately after construction is completed with no plantings in place, after construction with all plantings in place and at two, five and 10 years after construction with all plantings still in place (indicating normal anticipated growth).

[4] The Planning Board may require, as a part of the review, on-site visits by the Planning Board during the application process.

[5] Plans and drawings of the facility signed and stamped by a professional engineer licensed to practice in Massachusetts showing the proposed layout of the facility.

[6] The names, addresses, telephone numbers, e-mail addresses and any other contact information of the property owner, applicant, general contractor and facility owner, operator or leasee.

(2) The SPGA shall submit copies of the application to the Building Department, Fire Department, Police Department, Board of Health, the Conservation Commission, Board of Assessors, and the Department of Public Works. These Boards/Departments may be asked to review the application in accordance with their applicable laws and regulations and make a determination as to whether or not the proposed project complies with the same. They shall submit their written comments and/or recommendations within 35 days of receipt of the application.

D. Use regulations: The following regulations shall apply to uses under this section:

(1) No marijuana shall be smoked, eaten or otherwise consumed or ingested on the premises.

(2) The hours of operation shall be determined by the Select Board and the Planning Board and made a part of the Host Community Agreement. **[Amended 6-15-2021 ATM, Art. 20]**

E. Location, physical requirements, and allowed uses:

(1) All aspects of marijuana establishments, with the exception of outdoor cultivation,

relative to the acquisition, indoor cultivation, possession, processing, sales, distribution, dispensing, or administration of marijuana, products containing marijuana, related supplies, or educational materials must take place at a fixed location within a fully enclosed permanent building and shall not be visible from the exterior of the business.

(2) No outside storage of marijuana, related supplies, or advertising materials is permitted.

(3) Allowed uses:

(a) Marijuana establishments:

[1] Are allowed in Business/Commercial and Industrial Zones;

[2] Shall be located in a fully enclosed, permanent building and may not be located in a trailer, cargo container, motor vehicle or other similar nonpermanent enclosure (Note: Outdoor cultivators may use nonpermanent structures for processing, storage and other support activities);

[3] Shall not have a drive-through service;

[4] Shall not be within a building containing residential units;

[5] Must be the sole use of said premises;

[6] No smoking, burning or consumption of any product containing marijuana or marijuana-related products shall be permitted on the premises with the exception of product testing performed at an independent testing laboratory;

[7] Sale of marijuana and marijuana products will be the sole use of said premises/building. Cannot be combined with any other food, beverages or items sold within the Town of Barre.

[8] No marijuana retailers shall be located within 500 feet of another marijuana retailer. Distance shall be measured by a straight line from the nearest point of the property line in question to the nearest point of the property line where the marijuana establishment is or will be located.

[9] No marijuana retailers shall be permitted to operate from a movable, mobile or transitory location.

[10] Marijuana retailers are not permitted as a home occupation.

(b) Marijuana cultivator; outdoor cultivation of marijuana:

[1] Is allowed on existing in areas zoned R-80 Residential and Industrial. No other types of marijuana establishments are allowed in areas zoned R-80 Residential. Applies only to outdoor cultivation.

[2] A minimum lot size of 20 acres is required in the R-80 Zone and three acres in the Industrial Zone.

[3] If property is taxed under MGL c. 61A, 61B, or 61C, the size requirement will

need to be removed.

[4] The lot to be one contiguous parcel.

[5] Minimum road frontage for the applicable zoning classification shall be required.

[6] No more than 60% of this area may be used for the marijuana cultivation.

[7] Residential dwelling of licensed outdoor cultivation is allowed on the parcel.

[8] Setbacks shall have front, side and rear setbacks of a minimum of 100 feet. In the event a front, side or rear lot line abuts one or more residential parcel, that front, rear or side setback shall be a minimum of 200 feet. Setback from a roadway shall be at least 200 feet. A fifty-foot minimum setback shall be used when the abutting parcel has the same owner and the same proposed use. The Planning Board may allow a lesser setback along a property line where, in its judgment, the proposed facility is not likely to negatively affect an existing or permitted land use on the abutting property. The Planning Board may require a greater setback along a property line where, in its judgment, the proposed facility is likely to negatively affect an existing or permitted land use on the abutting property.

[9] Tree removal shall be a condition of the special permit.

[10] Access to facility shall be limited to one driveway unless site layout requires a second driveway and the Planning Board approves. The facility shall be the sole use on the proposed lot with sole use of the applicable driveway. An existing right-of-way, whether in use or not, may not be used as a new access.

[11] No below-grade foundation(s) or structures shall be used without the specific approval of the Planning Board.

[12] No material, including topsoil, may be removed from the site without prior specific approval of the Planning Board.

(c) Marijuana cultivator; indoor cultivator of marijuana:

[1] Indoor cultivation of marijuana is allowed in areas zoned Business/ Commercial and Industrial. Applies only to indoor cultivation.

[2] A minimum lot size of three acres is required with minimum road frontage for the applicable zoning classification as required.

[3] The lot to be one continuous parcel. All other conditions for marijuana establishments in the bylaw apply to commercial indoor cultivation of marijuana.

[4] Setbacks shall have front, side and rear setbacks of a minimum of 100 feet. In the event a front, side or rear lot line abuts one or more residences, that front, rear or side setback shall be a minimum of 200 feet. Setback from a roadway

shall be at least 200 feet. A fifty-foot minimum setback shall be used when the abutting parcel has the same owner and the same proposed use. No trees shall be removed outside the limit of work boundary. The Planning Board may allow a lesser setback along a property line where, in its judgment, the proposed facility is not likely to negatively affect an existing or permitted land use on the abutting property. Lesser setbacks may be allowed down to the minimum of the applicable zoning requirement but no less. The Planning Board may require a greater setback along a property line where, in its judgment, the proposed facility is likely to negatively affect an existing or permitted land use on the abutting property.

[5] Access to facility shall be limited to one driveway unless site layout requires a second driveway and the Planning Board approves.

[6] The facility shall be the sole use on the proposed lot with sole use of the applicable driveway. An existing right-of-way, whether in use or not, may not be used as a new access.

[7] No below-grade foundation(s) or structures shall be used without the specific approval of the Planning Board.

[8] No material, including topsoil, may be removed from the site without prior specific approval of the Planning Board. Indoor cultivation of marijuana requires approval through a special permit by the SPGA.

[9] All other conditions for marijuana establishments in this bylaw apply to commercial indoor cultivation of marijuana.

(d) Adult marijuana retailer (AMR) and registered medical marijuana dispensary (RMD):

[1] AMR and RMD facilities are only allowed in areas zoned Business/ Commercial and Industrial.

[2] Minimum yard dimensions shall conform to the requirements for Business Commercial as specified in § 140-14, Table of Dimensional Requirements, in the Town of Barre Zoning Code.

(e) Marijuana retailer delivery:

[1] Allowed in areas zoned Business/Commercial and Industrial.

F. Annual reporting.

(1) Each facility permitted under this bylaw shall submit a copy of the annual report as required by the Cannabis Control Commission.

G. Restrictions and prohibitions.

(1) Marijuana social consumption establishments: Marijuana social consumption establishments as described in the State of Massachusetts draft regulations 935 CMR

500.000 Adult Use of Marijuana, are prohibited within the Town of Barre.

(2) Proposed uses shall not be located within 500 feet of the following, as measured from the building and/or area actively used to the perimeter of abutting property boundary.

(a) A public or private preschool, elementary school, middle school, secondary school, preparatory school, licensed daycare center, youth center or any other facility in which children commonly congregate in an organized ongoing formal basis;

(b) A playground, park or Town common;

(c) Building containing another marijuana establishment, RMD, OMMD, or AMR, except for facilities that are owned or leased by the same operator;

(d) Public library;

(e) Public swimming area or pool;

(f) Residential programs or group homes;

(g) Structures used for religious purposes.

(h) No marijuana retailer shall be located next to another marijuana retailer.

(i) Except for residential dwellings which setback shall be 100 feet.

(3) The proposed use shall not display on-premises signage or other marketing on the exterior of the building or in any manner visible from the public way, which may promote or encourage the use of marijuana or other drugs by minors.

(4) All marijuana establishments must minimize adverse impacts on abutters and other parties of interest.

(5) All marijuana establishments are not allowed on unfragmented open land as identified as a priority for protection in the Town's Open Space and Recreation Plan, Master Plan or the Community Development Plan.

(6) All marijuana establishments are not allowed on agricultural land with soils designated as prime or statewide significance by the U.S. Natural Resource Conservation Service soil survey. Outdoor marijuana cultivators are exempt from this requirement.

(7) All marijuana establishments are not allowed on lots containing rare, threatened, or endangered species or exemplar natural communities according to the Massachusetts BioMap Project development by the Massachusetts Natural Heritage & Endangered Species Program.

(8) All marijuana establishments are not allowed on unique natural, cultural, and/or historical features as identified in the Master Plan or Community Development Plan.

(9) All indoor marijuana cultivation is to be located in a fully enclosed, permanent building and may not be located in a trailer, cargo container, motor vehicle or other similar nonpermanent enclosure.

(10) Prohibition against nuisances: No use shall be allowed in any marijuana establishments, indoor or outdoor, that creates a nuisance to abutters or to the surrounding area, or which creates any hazard, including but not limited to, fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive noise or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.

(11) Violation: In the event of any violation of the terms and conditions of a special permit issued pursuant to this Zoning Bylaw, after proper notice and demand, the Building Inspector shall institute appropriate action or proceedings in the name of the Town of Barre to prevent, correct, restrain, or abate any violation. The violator shall be subject to a fine of $300 a day from each day the violation continues.

(12) This bylaw applies to all marijuana facilities proposed in the Town of Barre. In addition this bylaw shall apply to any and all alterations, changes, improvements and modifications, including, but not limited to upgrades or physical modifications, regardless of whether the modification materially alters the type, configuration, or size of these facilities or related equipment. The Planning Board shall follow the procedural requirements for processing special permit applications as set forth in Massachusetts General Laws, including but not limited to MGL c. 40A, § 9.

(13) Number of marijuana retailer establishments: The number of licensed marijuana retailer establishments in the Town of Barre shall not exceed 20% of the number of licenses issued for the sale of alcohol not to be consumed on the premises under the Massachusetts General Laws Chapter 138, Section 15.

(14) Not more than three indoor marijuana cultivation facilities are allowed by special permit in the Town of Barre.

(15) Not more than three outdoor marijuana cultivation facilities are allowed by special permit in the Town of Barre.

H. Findings: In addition to the findings required under all other applicable sections of this bylaw, the Special Permit Granting Authority shall find that the proposed use:

(1) Meets all of the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will as proposed be in compliance with all applicable state laws and regulations.

(2) Complies with 935 CMR 501.000 and approved regulations of the MA Department of Public Health, if the proposed use is a registered medical marijuana dispensary (RMD) or an off-site medical marijuana dispensary (OMMD).

I. Prior to issuance of special permit:

(1) The applicant shall provide proof that they have executed a Host Community Agreement with the Town of Barre.

J. Transfer of ownership/discontinuance of use.

(1) A special permit granted under this section shall not run with the land but shall be

specific to the applicant and shall be nontransferable to another owner or operator without an amendment to the special permit following a noticed public hearing in accordance with MGL c. 40A and the Barre Zoning Bylaws.

(2) The special permit shall lapse upon the expiration or termination of the special permit holder's license from the state Cannabis Control Commission. The special permit holder shall notify the Building Commissioner and the SPGA in writing within 48 hours of the cessation of operation or expiration or termination of the special permit holder's state license.

(3) Any marijuana establishment permitted under this section shall be required to remove all materials, plants, equipment or other paraphernalia in compliance with 935 CMR 500.00 prior to the expiration, or immediately following the expiration, revocation or voiding of its license issued by the Cannabis Control Commission.

K. Outside consultants and review fees: The SPGA may retain third-party consultants to review the applicant's submittals and provide advice and technical assistance to the SPGA for its review. An outside consultant review escrow deposit shall be submitted to the SPGA if requested. The escrow for review fees is intended to cover the SPGA's cost of hiring consultants to review the applicant's compliance with the special permit requirements under this bylaw and may include legal counsel. The initial escrow deposit amount shall be set by the SPGA. Any unexpended monies in the escrow account will be returned to the applicant after all obligations are satisfied.

L. Insurance: The applicant shall submit documentation demonstrating that they have obtained general liability insurance as required by regulations of the Cannabis Control Commission.

M. Planning Board review process.

(1) The applicant shall submit five copies of the required plans and documents. The applicant shall also submit the required fee(s).

(2) Public hearing. The Planning Board shall hold a public hearing in accordance with Massachusetts General Laws. The time for acting may be extended upon written request of the applicant and/or Planning Board. Such request shall not be unreasonably denied.

(3) The Planning Board's final action may consist of either:

(a) Approval of the application based on a determination that the proposed project complies with the conditions contained in this bylaw. The Planning Board shall include a finding that the proposal will be neither detrimental nor offensive to the neighborhood.

(b) Disapproval of the application with an explanation of the reasons for such disapproval including the elements of the proposal the Planning Board finds are not capable of revision. The Planning Board shall include a finding as to how the proposal is either detrimental or offensive to the neighborhood. In addition or in the alternative, the Planning Board shall include a finding that there are no modifications or changes the applicant could make to the proposal that would modify the proposal in order that the public health, safety or welfare would be

protected. The Planning Board may also include a finding as to the elements of the proposal that are so deficient in important elements and intrusive on the interests of the public that they warrant disapproval.

N. Building permit and building inspection:

(1) No installation shall be constructed, installed, or modified without first obtaining a building permit and shall not be issued until the Planning Board has issued a special permit. No modifications shall be made without obtaining Planning Board approval.

O. Emergency services:

(1) The operator shall provide a copy of the operation and maintenance plan, electrical schematic, and site plan to the Fire Chief, Police Chief, and EMS (emergency medical service).

(2) The operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the facility shall be clearly marked.

(3) The premises shall identify a qualified contact person available 24 hours per day/seven days per week to provide assistance during an emergency; the operator shall change the contact information immediately whenever a change in personnel occurs.

P. Maintenance and modifications.

(1) Maintenance: The operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. The operator shall be responsible for maintaining adequate access for emergency vehicles.

(2) Modifications: No modifications to the plans submitted with the application and approved by the Planning Board may be made without written approval by the Planning Board. All material modifications to the facility proposed after issuance of the building permit require approval of the Planning Board and Inspector of Buildings.

Q. Decommissioning.

(1) The owner/operator shall notify the Planning Board a minimum of 90 days prior to beginning decommissioning. Decommissioning activities shall begin two weeks after the expiration, revocation, or voiding of the license issued by the Cannabis Control Commission.

(2) The owner/operator shall do the following:

(a) Remove all plants, marijuana products, and all other marijuana-related paraphernalia from the facility.

(b) Buildings that are part of the facility shall be cleaned and all disposable materials removed.

(c) The site shall be restored, as near as reasonably possible, to its condition prior to the beginning of construction of the facility. Buildings and other permanent

structures which have a potential for future use may remain. All other equipment, vans, containers and other paraphernalia shall be removed and properly disposed of.

(d) The site shall be assessed for stability and erosion potential and stabilized and/or revegetated as required to minimize erosion.

(3) If the facility fails to operate for more than three months, the Town of Barre shall consider the facility to be abandoned and shall provide written notice to the owner/operator to require them to conduct the decommissioning activities as described above. If the owner/operator fails to complete the decommissioning activities within an agreed-upon time period, the Town of Barre may engage a third-party contractor to conduct the decommissioning activities and charge the decommissioning costs to the owner/operator.

R. Financial surety:

(1) The applicant shall submit to the Planning Board a copy of the financial surety documentation submitted to the Cannabis Control Commission.

S. Severability:

(1) In the event any section or portion of this bylaw is determined to be invalid or unenforceable by a court of competent jurisdiction such determination/ruling shall not affect the validity and enforceability of the remaining sections and portions of this bylaw.