

**TOWN OF DOUGLAS
SPECIAL TOWN MEETING
VOTER INFORMATION BULLETIN
Wednesday, November 16, 2022
Douglas High School Auditorium
7:00 PM**

FINANCE COMMITTEE MESSAGE

Dear fellow citizens,

When the Annual Town Meeting passed the budget in the spring we knew that in the following months various expenses or other factors would arise that would need addressing at the Special Town Meeting in the fall. The Warrant for the November meeting represents those items.

As we have discussed these items we have tried to balance the needs of the town along with the resources that are available to us and have relied on the staff in the Town Hall, as well as the heads of various departments for their advice and recommendations.

Please contact us at any time if you have any comments or questions relative to our town's budget.

Sincerely,
Members of the Finance Committee

Dick Vandenberg, Chairman

Sandy Kuipers, Vice Chair
Howard D'Amico
Carol Gogolinski
Ryan Hogan

Michael Hutnak
Phil Landry
Heather Morin
Lynne Mussulli

SPECIAL TOWN MEETING

- Article 1. Fiscal Year 2023 Budget Transfers / Amendments
- Article 2. Capital Stabilization Fund
- Article 3. Municipal Center Oil Spill
- Article 4. Water Department Lead Service Line Inventory and Replacement Program
- Article 5. Grading and Slope Easement
- Article 6. COA Bus
- Article 7. Changes to Personnel Compensation Chart
- Article 8. South Street Drainage Improvements
- Article 9. Route 16 Sidewalk
- Article 10. Amend Zoning Bylaw Section 10 – Definitions
- Article 11. Adopt Zoning Bylaw Section 6.8 – Solar Bylaw
- Article 12. Zoning Bylaw Removal – Section 6.1
- Article 13. Adopt General Bylaw as new Article 12 – Earth Removal

Article 1. Fiscal Year 2023 Budget Transfers/Amendments

To see if the Town will vote to raise and appropriate, and or transfer from available funds such sums of money as are necessary to fund the following amendments to Article 2 of the Annual Town Meeting of Monday, May 2, 2022; or take any other action relative thereto.

Increase Public Building Maintenance Expenses	\$11,055
Increase Weights & Measures Expenses	\$907
Increase Selectmen Expenses	\$5,000
Increase Highway Maintenance Expenses	\$25,000
Increase Tree Warden Expenses	\$50,000
Increase Ambulance Expenses	\$7,950
Increase Norfolk Agricultural	\$25,000
Increase IT Expenses	\$20,250
Increase COA Wages	\$4,600
Increase COA Expenses	\$750
TOTAL	\$150,512

Finance Committee voted to recommend this Article by a majority vote.

Article 2. Capital Stabilization Fund

To see if the Town will vote to establish, under the provisions of M.G.L. Chapter 40, Section 5B, a special purpose stabilization fund to be used for the future purchase of fire suppression vehicles exceeding 26,000 pounds GVW, with necessary major equipment and all associated costs; or take any other action relative thereto.

Finance Committee voted to recommend this Article by a majority vote.

Article 3. Municipal Center Oil Spill

To see if the Town will vote to transfer the sum of **\$65,000** from Free Cash to amend Article 8 of the November 8, 2021 STM warrant for the purpose of remaining cleanup costs, additional engineering costs, and all other associated costs arising from an oil spill in the Municipal Center basement; or take any other action relative thereto.

Finance Committee voted to recommend this Article by a majority vote.

Article 4. Water Department Lead Service Line Inventory and Replacement Program

To see if the Town will vote to raise and appropriate borrow or transfer from available funds the sum of **\$200,000** or some such sum for a Lead Service Line Inventory and Replacement Program; The 2021 Lead and Copper Rule Revisions (LCRR) require all Public Water Systems (PWSs) to complete an inventory of utility- and customer-owned service lines connected to its distribution system and prepare a replacement plan by October 2024; including the payment of costs incidental or related thereto; and to determine whether this appropriation shall be raised by borrowing with the potential of borrowing from the Massachusetts Clean Water Trust through a 100% loan forgiveness loan or otherwise; or take any other action relative thereto.

Finance Committee voted to recommend this Article by a majority vote.

Article 5. Grading and Slope Easement

To see if the Town will vote to authorize the Board of Selectmen to grant a permanent and exclusive Grading and Slope Easement bounded and described as set forth below, for purposes of economic development; that the Chief Procurement Officer be required to put this asset out for public bidding in accordance with the procedure specified in MGL Chapter 30B Section 16, if required, for the conveyance of an interest in real property; or take any other action relative thereto.

Grading and Slope Easement Area: Beginning at a point located on the town boundary between Douglas and Uxbridge, one thousand five hundred ninety-nine and twenty-two one-hundredths (1,599.22) feet north of Northeast Main Street, said point being the southwesterly corner of the easement area herein described:

Thence: N85° 32'08" one hundred fifteen and thirty-seven one-hundredths (115.37) feet;

Thence: N03° 13'51"E one hundred forty-nine and forty-eight hundredths (149.48) feet;

Thence: N28° 51'22"W two hundred twenty (220) feet;

Thence N00° 25'53"W four hundred fifty (450) feet;

Thence N31° 19'08"E one hundred (100) feet;

Thence N06° 48'24"W four hundred seventy-five (475) feet;

Thence N89° 33'35"E twenty (20) feet;

Thence S00° 26'25"E one thousand three hundred fifty-seven and eighty-six hundredths (1,357.86) feet to the place of beginning.

Containing 1.54 acres, more or less.

Said easement area is shown on plans on file with the Town Clerk's office.

Finance Committee voted to recommend this Article. Vote: 5 yes, 1 abstain.

Article 6. COA Bus

To see if the Town will vote to transfer from free cash the sum of **\$115,000** for the purpose of funding the purchase of a COA Bus, and all associated costs of equipping the vehicle; or take any other action relative thereto.

Finance Committee voted to recommend this Article by a majority vote.

Article 7. Changes to Personnel Compensation Chart

To see if the Town will vote to change the Personnel Compensation Chart, by:

- Create COA Bus Driver MS-1
- Create COA Administrative Assistant/Outreach Assistant MS-2

or take any other action relative thereto.

Finance Committee voted to recommend this Article by a majority vote.

Article 8. South Street Drainage Improvements

To see if the Town will vote to raise and appropriate and/or transfer from available funds the sum of **\$45,000** to hire an engineer to design drainage improvements to South Street; or take any other action relative thereto.

Finance Committee voted to recommend this Article by a majority vote.

Article 9. Route 16 Sidewalk

To see if the Town will vote to raise and appropriate and/or transfer from available funds the sum of **\$383,000** to amend Article 9: FY2009-FY2014 Capital Improvement Plan of Annual Town Meeting May 5, 2008 for the construction of a new sidewalk, drainage improvements, and all associated costs on Route 16; or take any other action relative thereto.

Finance Committee Vote: 0 yes, 6 no.

Article 10. Amend Zoning Bylaw Section 10 – Definitions

To see if the Town will vote to amend Section 10 of the Douglas Zoning Bylaws as follows:

Section 10.0 Definitions

Building Height: The measurement shall be based on the average finished grade elevation within five (5) feet of the structure to the highest point of the structure.

Or take any other action relative thereto.

Finance Committee voted to recommend this Article. Vote: 5 yes, 1 abstain.

Article 11. Adopt Zoning Bylaw Section 6.8 – Solar Bylaw

To see if the Town will vote to adopt Section 6.8 of the Douglas Zoning Bylaws as follows:

6.8 Residentially-Scaled and Commercially-Scaled Solar Energy Systems

The purpose of this bylaw is to provide reasonable regulations pertaining to Solar Energy Systems within the parameters of M.G.L. c. 40A § 3. These regulations shall include, but are not limited to, standards for the placement, design, construction, operation, monitoring, modification, and removal of such installations that address public health, safety, and welfare; minimize impacts on residential properties and neighborhoods; and minimize impacts on natural resources, including wildlife habitat and corridors; and preserve scenic, historical, and cultural resources.

6.8.1 Definitions

Photovoltaic System (also referred to as Photovoltaic Installation): An active solar energy system that converts solar energy directly into electricity.

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

Solar Access: The access of a solar energy system to direct sunlight.

Solar Collector: A device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.

Solar Energy: Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

Solar Energy System, Active: A solar energy system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means. Solar energy systems shall not

be included in calculations for lot coverage or impervious cover so long as said installations should have grass or planted surfaces beneath them.

Solar Energy System, Grid-Intertie: A photovoltaic system that is connected to an electric circuit served by an electric utility provider.

Solar Energy System, Ground-Mounted: An Active Solar Energy System that is structurally mounted to the ground and is not roof-mounted; may be of any size (residentially or commercially scaled).

Residentially-Scaled Solar Energy System: An Active Solar Energy System that occupies square footage of surface area equivalent to a rated nameplate capacity of about 30 kW DC or less.

Commercially-Scaled Solar Energy System: An Active Solar Energy System that occupies square footage of surface area equivalent to a rated nameplate capacity of greater than 30 kW DC.

Solar Energy System, Off-Grid: A photovoltaic solar energy system in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility.

Solar Energy System, Passive: A solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.

Solar Energy System, Roof-Mounted: An Active Solar Energy System that is structurally mounted to the roof of a building or structure.

6.8.2 Applicability

This section applies to solar energy systems occupying land covered by solar panels including associated equipment and appurtenant structures. This section shall also pertain to physical modifications that materially alter the type, configuration, or size of solar energy systems related equipment ("Material Modifications").

6.8.2.1 Residentially-Scaled Solar Energy Systems which are incidental to a residential or Non-residential use, as determined by the Building Commissioner, do not need to comply with this section, but require a building permit, and must comply with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements and other provisions of the Zoning Bylaws.

6.8.2.2 Commercially-Scaled Solar Energy System shall require a Special Permit from the Planning Board in accordance with Section 9.3 of the Douglas Zoning Bylaws in addition to meeting the requirements of this Section. An Installation may be permitted on one or more adjacent parcels under common ownership (including those separated by a roadway).

6.8.3 Changes of Covenant, Use, Restrictions, or Designations for Solar Energy Systems

No Solar Energy Systems of any size shall be installed in violation of covenants created by a Homeowner's Association, Condo Association, or other neighborhood governing structure that applies to a grouping of parcels of residential land.

No Solar Energy Systems shall be permitted if any of the following are required, unless disclosed with the initial Site Plan Approval or Special Permit Application and all required permissions must be obtained prior to or as a condition of approval:

- 6.8.3.1 Change in restrictive covenants recorded or on the deed (MGL 184, Sec. 26)
- 6.8.3.2 Change in restrictions or conditions recorded or on the deed (MGL 184, Sec. 26)
- 6.8.3.3 Change in conservation restriction in the form of a restriction, easement, covenant, condition, or right (MGL 184, Sec. 31)
- 6.8.3.4 Any change of use or designation of the parcel including but not limited to MGL 61, MGL 61A, or MGL 61B.

In the event of a change which allows the Town of Douglas a Right of First Refusal, the Town of Douglas's Board of Selectmen and/or all potential assignees must waive the Right of First Refusal; or, in the event the Selectmen or an Assignee exercise the Right of First Refusal, a closing on a proposed purchase must not occur before the Site Plan Approval or the Special Permit Application will be considered complete. The required periods for holding a public hearing on such application will be tolled until such events occur.

6.8.4 General Requirements for all Commercially-Scaled Solar Energy Systems

The following requirements are common to all Commercially-Scaled Solar Energy Systems

- 6.8.4.1 Compliance with Laws, Bylaws and Regulations
 - The construction and operation of all Solar Energy Systems shall be consistent with all applicable local, state, and federal requirements including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of the installation shall require a building permit and shall be constructed in accordance with the Massachusetts State Building Code.
- 6.8.4.2 The emergency response guide shall be provided to the Douglas Fire Department along with emergency contact information. Keys to all gate locks shall be provided to the Douglas Fire Department.
- 6.8.4.3 Prior to commencement of construction activities, a complete copy of the Stormwater Pollution Prevention Plan (SWPPP) shall be provided to the Community Development Director, Zoning Enforcement Officer, Planning Board, Conservation Commission, and emergency services. The SWPPP shall include the names, addresses, and contact information, including 24-hour emergency contact information for all construction-period project operators including the project owner and all project contractors and/or subcontractors. Changes and updates to the construction-period site operator contact information must be provided in writing to the Zoning Enforcement Officer at least five business days prior to any changes/updates.
- 6.8.4.4 Prior to final approval by the Electrical Inspector and Zoning Enforcement Officer, an Operations and Maintenance (O&M) handbook shall be submitted to the Community Development Director, Building Commissioner, and emergency services, that includes the names, addresses, and contact information for the responsible parties, including site owner and site operator (if different), a description of emergency response measures including procedures for shutting down the Installation, a checklist of inspection items, a schedule for implementing routine and emergency maintenance activities.

At such time that the responsible party(ies) transition or change, an updated O&M plan shall be submitted to the Community Development Director, Building Commissioner, and emergency services at least five business days prior to the change.

- 6.8.4.5 Emergency shut-off procedures must be clearly indicated at each ingress point to the site. Each ingress point shall restrict access to authorized personnel only.
- 6.8.4.6 If earthwork activities require that material including, but not limited to, clean fill, loam, sand, and/or gravel be imported from off site, such material must be clean and without contamination by hazardous substances or invasive species and must be obtained from a source approved by the Douglas Department of Public Works. The applicant shall submit a detailed manifest describing the source of the material and shall provide the results of materials testing demonstrating that no hazardous substances or invasive species contaminate the material. If a manifest or material testing information is not provided, the material must be removed and replaced at the applicant's expense.
- 6.8.4.7 Prior to final approval by the Building Commissioner, all landscape areas must be complete in accordance with the Landscape Plan (Section 6.8.7.2).

6.8.5 Site Plan Approval

Commercially-Scaled Solar Energy Systems shall undergo Site Plan Review (Section 9.4 of the Town's Zoning Bylaw) by the Planning Board prior to construction, installation or modification as provided in this section, simultaneous with the Special Permit process. All plans and maps shall be prepared, stamped, and signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts. The following documents shall be provided in addition to or in coordination with those required for Site Plan Review (Section 9.4):

- 6.8.5.1 Proof of liability insurance;
- 6.8.5.2 Description of financial surety that satisfies Section 6.8.13.3;
- 6.8.5.3 All items required as part of section 9.4 of the Douglas Zoning Bylaw with the addition of the following:
 - (a) Proposed changes to the landscape of the site including grading, vegetation clearing and planting, screening, and new structures, including their height;
 - (b) Locations of Permanently Protected Open Space, Priority Habitat Areas and BioMap 2 Critical Natural Landscape Core Habitat mapped by the Natural Heritage & Endangered Species Program (NHESP) and "Habitat of Potential Regional or Statewide Importance" also known as "Important Habitat" mapped by the MA Department of Environmental Protection (DEP) and proof of any required filing with NHESP and/or DEP regarding the same;
 - (c) Locations of local or National Historic Districts and proof of any required filings regarding the same;
 - (d) A list of any hazardous materials proposed to be located on the site in excess of household quantities and a plan to prevent their release into the environment;
 - (e) Blueprints or drawings of the solar energy system signed by a Professional Engineer licensed to practice in the Commonwealth of

Massachusetts showing the proposed layout of the system and any potential shading from nearby structures;

- (f) One- or three-line electrical diagram detailing the solar energy system, associated components, and electrical interconnection methods, with all National Electrical Code-compliant disconnects and overcurrent devices;
- (g) Documentation of the major system components to be used, including the electric generating components, battery storage systems, transmission systems, mounting system, inverter, etc.
- (h) Name, address, and contact information for the proposed system installer;
- (i) Name, address, phone number and signature of the property owners, the applicant, the developer, and any other party that produced material to support the Special Permit Application or the Site Plan;
- (j) The name, contact information and signature of any agents representing the owner or applicant;
- (k) Provision of water including that needed for fire protection;
- (l) Zoning district designation and zoning overlay(s) for the parcel(s) of land comprising the project site (submission of a paper copy of a zoning map with the parcel(s) identified is suitable for this purpose);
- (m) An operation and maintenance plan (see Section 6.8.7.1);

6.8.6 Site Control

The Site Plan and Special Permit applications shall include documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar energy system.

6.8.7 Operation & Maintenance Plans, Landscape Plans

6.8.7.1 Operation & Maintenance Plan - The Site Plan application shall include a plan for the operation and maintenance of the Commercially-Scaled Solar Energy System, which shall include measures for maintaining safe access to the installation, stormwater and vegetation controls, as well as general procedures for operational maintenance of the installation.

6.8.7.2 Landscaping & Buffering – A detailed Landscaping Plan shall be provided for Site Plan approval and maintained in accordance with the Site Plan approved by the Planning Board and incorporated as part of the plans on which the Permit is based which demonstrates screening required by 6.8.7.3 below.

6.8.7.3 Landscaping shall be provided and maintained on the site to screen the Installation, the accessory facilities, and appurtenant structures as determined by the Planning Board. Landscape screening shall be provided adjacent to:

- (a) Abutting properties where a front, side, or rear lot line of the Installation site adjoins (or is separated by a public way from) a residential district or an existing residential use;
- (b) Abutting public ways.

6.8.8 Utility Notification

No Commercially-Scaled Solar Energy Systems shall be constructed until evidence has been given to the Planning Board that the electric utility provider that operates the electrical grid where the installation is to be located has been informed of the solar energy system owner or operator's intent to install an interconnected facility. Off-grid systems shall be exempt from this requirement.

6.8.9 Dimensional and Height Requirements

6.8.9.1 Setbacks - For Commercially-Scaled Solar Energy Systems, front, side and rear setbacks and setbacks from property lines shall be consistent with Dimensional Regulations listed below for all residential districts and shall meet the minimum requirements within all other applicable zoning districts.

Minimum Lot Area	Minimum Lot Frontage	Minimum Front Setback	Minimum Side Setback	Minimum Rear Setback
4 acres	60 feet	100 feet	50 feet	50 feet

6.8.9.2 Appurtenant Structures - All appurtenant structures to Commercially-Scaled Solar Energy Systems shall be subject to the Town's Zoning Bylaw requirements concerning the bulk of structures, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, fencing, transformers, and substations, shall be architecturally compatible with each other. Structures shall be screened from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

6.8.9.3 Height of Structures - The height of any solar panel associated with a Commercially-Scaled Energy System shall not exceed 15 feet.

6.8.10 Design and Performance Standards. The following standards shall be considered in any Site Plan or Special permit proceeding:

6.8.10.1 Lighting - Outdoor lighting including lighting on the exterior of a building or lighting in parking areas shall be arranged to minimize glare and light spilling over the neighboring properties. Except for low level intensity pedestrian lighting, other lighting shall be designed and located so that:

- The luminaire (LED) has an angle of cutoff less than 76 degrees;
- A line drawn from the height of the luminaire (LED) along the angle of cutoff intersects the ground at a point within the development site;
- The bare light bulb, lamp or light source is completely shielded from direct view at any point five feet above the ground on neighboring properties or streets;
- Lighting shall be directional to preclude light pollution of neighbors or the night sky and shall be "Dark Sky" compliant and meet International Dark Sky FSA certification requirements; and
- The owner/operator shall be responsible for maintenance of lighting systems. Lighting shall not be kept on at night unless there is an

emergency or it is required for safety purposes as determined by the Building Commissioner.

- 6.8.10.2 Signage - Signs on Commercially-Scaled Solar Energy Systems shall comply with all applicable requirements of the Zoning Bylaws. A sign shall be required to identify only the owner and provide a 24- hour emergency contact phone number. Solar electric installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar electric installation.
- 6.8.10.3 Utility Connections - Reasonable efforts, as determined by the Planning Board, shall be made to place all utility connections from the solar electric installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections must be on site and may be above ground if required by the utility provider. No Certificate of Completion for a utility provider can be issued until final approvals are granted by the Fire Chief and the Building Commissioner.
- 6.8.10.4 Access Roads - Access roads shall be constructed to minimize grading, removal of stone walls or trees and minimize impacts to environmental or historic resources and must be approved by the emergency services departments in the Town of Douglas (e.g., Fire, Police and DPW). A keybox must be available at the entrance to the property for emergency services departments.
- 6.8.10.5 Vegetation Management - Herbicides may not be used to control vegetation at the solar energy system.
- 6.8.10.6 Hazardous Materials - Hazardous materials stored, used, or generated on site shall not exceed the amount for a Very Small Quantity Generator of Hazardous Waste as defined by the DEP pursuant to MassDEP regulations 310 CMR 30.000 and shall meet all requirements of the DEP including storage of hazardous materials in a building with an impervious floor that is not adjacent to any floor drains to prevent discharge to the outdoor environment. If any hazardous materials, including, but not limited to, lithium ion (storage batteries) are used within the solar electric equipment, then impervious containment areas capable of controlling and containing any release of hazardous materials to the environment and to prevent potential contamination of groundwater are required. A list of any hazardous materials proposed to be located on the site and a plan to prevent their release shall be provided to the Planning Board and Fire Chief for review and approval. The use of Cadmium Telluride solar panels is prohibited in Douglas.
- 6.8.10.7 Noise - Noise generated by Commercially-Scaled Solar Energy Systems and associated equipment and machinery shall conform at a minimum to applicable state and local noise regulations, including the DEP's Division of Air Quality noise regulations, 310 CMR 7.10.
- 6.8.10.8 Visual Impacts - The installation, including all accessories and appurtenant structures, shall be designed to minimize visual impacts, including preserving natural vegetation to the maximum extent possible, blending in equipment with the surroundings, and adding vegetative buffers to provide an effective visual barrier from adjacent roads and to screen abutting residential properties, whether developed or not. Siting shall be such that the view of the solar

energy system from other areas of Town shall be as minimal as possible, in the judgment of the Planning Board.

6.8.11 Safety and Environmental Standards. The following standards shall be considered in any Site Plan or Special permit proceeding:

- 6.8.11.1 Emergency Services - A copy of the project summary, electrical schematic, and Site Plan shall be provided to the Douglas Fire Chief. The owner or operator shall cooperate with local emergency services to develop an emergency response plan. All means of shutting down the solar electric installation shall be clearly marked. A responsible person shall be identified for public inquiries throughout the life of the installation.
- 6.8.11.2 Land Clearing, Soil Erosion, and Impacts -
The facility shall be designed to minimize impacts to agricultural land and shall be compatible with continued agricultural use to the maximum extent possible. The facility shall be designed to minimize impacts to environmentally sensitive land. Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the Commercially-Scaled Solar Energy System or otherwise prescribed by applicable laws, regulations, and bylaws. The design shall minimize the use of concrete and other impervious materials to the maximum extent possible. Locating Commercially-Scaled Solar Energy Systems on grades in excess of 15% shall be avoided to the maximum extent possible.

6.8.12 Monitoring, Maintenance, and Reporting

- 6.8.12.1 Solar Energy System Conditions - The facility shall be maintained in good condition. Maintenance shall include, but not be limited to, painting, landscaping, structural repairs, and maintaining the integrity of security measures. Site access shall be maintained to a level acceptable to the Douglas Fire Chief and Building Commissioner. The property owner and the owner/operator of the facility shall together be responsible for the cost of maintaining the solar energy system and any access road(s).
- 6.8.12.2 Modifications - All Material Modifications, as determined by the Building Commissioner or designee, to a solar energy system made after issuance of the required building permit shall require approval by the Planning Board.
- 6.8.12.3 Annual Reporting - The Annual Report, which certifies compliance with the requirements of this bylaw and the approved site plan, including control of vegetation, noise standards, and adequacy of road access shall be submitted by the owner/operator to the Building Commissioner no later than 45 days after the first year after commencement of operation. The Annual Report shall also provide information on the maintenance completed during the course of the year, the amount of electricity generated by the facility, and the amount of surety available for decommissioning or indemnification (see Section 6.8.13.3).

6.8.13 Abandonment, Decommissioning, Financial Surety, & Indemnification

- 6.8.13.1 Removal Requirements - Any Commercially-Scaled Solar Energy System which has reached the end of its useful life or has been abandoned consistent with Section 6.8.13.2 of this bylaw, shall be removed. The property owner or operator shall apply for building permits to remove the solar energy system

not more than 180 days after the date of discontinued operations. The Planning Board, Community Development Director and the Building Commissioner shall be notified by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

- (a) Physical removal of all Commercially-Scaled Solar Energy Systems, structures, equipment, security barriers and transmission lines from the site;
- (b) Proper disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations;
- (c) Stabilization or re-vegetation of the site as necessary to minimize erosion as approved by Community Development Director. The Community Development Director may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

6.8.13.2 Abandonment - Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar energy system shall be considered abandoned when it fails to operate for more than one year without the written consent of the Planning Board. Upon written request from the Building Commissioner addressed to the contact address provided and maintained by the owner and operator as required in this bylaw, the owner or operator shall provide evidence to the Building Commissioner demonstrating continued use of the installation. Failure to provide such evidence within thirty (30) days of such written request shall be conclusive evidence that the installation has been abandoned. If the owner or operator of the Commercially-Scaled Solar Energy System fails to remove the installation in accordance with the requirements of this section, the Town may enter onto the Property and remove an abandoned, hazardous or decommissioned Commercially-Scaled Solar Energy System. To facilitate such entry, the grant of an easement to the Town shall be a condition of Special permit Approval. The applicant, Installation owner, and/or landowner shall otherwise agree to allow entry to remove an abandoned or decommissioned installation. The Town's cost for the removal will be charged to the property owner in accordance with the provisions of M.G.L. 139, Section 3A as a tax lien on the property, or shall otherwise be recovered under a decommissioning agreement pursuant to Section 6.8.13.3 below.

6.8.13.3 Financial Surety - A form of surety shall be provided and thereafter maintained, either through an escrow account, bond or other form of surety approved by the Planning Board to cover the cost of removal in the event the town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Planning Board, but in no event to exceed more than 150 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent and the Town. The agreement governing such security shall be in a form approved by the Planning Board and Town Counsel. Such surety will not be required for municipal or state-owned facilities. A fully inclusive estimate of the costs associated with removal, prepared by a licensed Professional Engineer shall be submitted to the Community Development Director for review. The amount shall include a mechanism for calculating

increased removal costs due to inflation. The owner shall increase or replenish the surety as necessary to maintain an adequate amount, as determined by the Planning Board in accordance with the requirements of this bylaw.

6.8.13.4 Severability

The provisions of this bylaw are severable, and the invalidity of any section, subdivision, subsection, paragraph or other part of this bylaw shall not affect the validity or effectiveness of the remainder of this bylaw. For any provision of this bylaw that conflicts with another state or local bylaw, the most restrictive provision shall apply.

Or take any other action relative thereto.

Proposed Planning Board Amendment per 10/13/22 Public Hearing:

In accordance with MGL Chapter 40A Section 5, the Douglas Planning Board, at its public hearing dated October 13, 2022, voted 7-0 in favor to support favorable action for Article 11 of the 2022 Douglas Special Town Meeting Warrant with the following amendment:

6.8.4.6 If earthwork activities require that material including, but not limited to, clean fill, loam, sand, and/or gravel be imported from off site, such material must be clean and without contamination by hazardous substances or invasive species and must be obtained from a source approved by ~~the Douglas Department of Public Works~~ an agent of the Planning Board. The applicant shall submit a detailed manifest describing the source of the material and shall provide the results of materials testing demonstrating that no hazardous substances or invasive species contaminate the material. If a manifest or material testing information is not provided, the material must be removed and replaced at the applicant's expense.

Finance Committee voted to recommend this Article by a majority vote.

Article 12. Zoning Bylaw Removal – Section 6.1

To see if the Town will vote to remove in its entirety, Section 6.1 ‘Earth Removal’ of the Douglas Zoning Bylaws as follows:

6.1 EARTH REMOVAL

6.1.1 Purpose

~~This Section is deemed necessary to protect the public safety and property values by preventing the creation of hazards due to deep holes, steep slopes and embankments and by preventing land from becoming worthless due to removal of top soil, sand, gravel or other material. These regulations are designed to insure that land will be useable for residential, commercial or agricultural purposes following the removal of top soil, sand, gravel or other fill and to provide for the reestablishment and protection of the area by suitable cover.~~

6.1.2 Applicability

~~No person, firm or corporation shall remove in any one year more than three hundred (300) cubic yards of soil, sand, gravel, stones, or other minerals or materials from any land in the Town without first obtaining a special permit from the Planning Board as provided in the following Sections.~~

1. The Planning Board may appoint a subcommittee, herein referred to as the Earth Removal Advisory Committee, to advise and recommend the issuance or denial of a permit.

6.1.3 Exemptions

~~A special permit shall not be required for the following types of excavation:~~

1. ~~Building related activities, as follows:~~
 - (a) ~~Excavation below finished grading that is directly customary and incidental to the construction of all buildings for which all permits required for construction have been issued, including, but not limited to excavation for foundations and septic systems;~~
 - (b) ~~Excavation below finished grading that is directly customary and incidental to the installation of walks, driveways, swimming pools, or other similar infrastructure that are accessory to building construction.~~
2. ~~Excavation in the course of normal and customary agricultural use of land,~~
3. ~~Excavation in the normal use of a cemetery,~~
4. ~~The By law shall not apply to excavations lawfully in existence at the time of the adoption of this Bylaw to the extent that such excavations are protected by G.L. c. 40A, s. 6.~~

6.1.4 Application

~~An application for an Earth Removal Permit shall be in writing and shall contain an accurate description of the portion of land in which the excavation will take place, shall state in full the purpose of the excavation, shall include a fee, and shall include plans drawn by a registered surveyor or engineer containing the following information:~~

1. ~~Property lines, names and addresses of all abutters and other interested parties in interest as defined by G.L. c. 40A, s. 11;~~
2. ~~Existing contours at five foot intervals in the area from which materials are to be excavated and in the surrounding areas, together with the contours at five foot intervals below which no excavation shall take place;~~
3. ~~Natural features such as wetlands, the 100 year floodplain, ground cover and surface groundwater. Water table elevation shall be determined by test pits and soil borings. A log of soil borings shall be included, taken to the depth of the proposed excavation, congruent with the size and geological make up of the site;~~
4. ~~A topographical map showing drainage facilities, final grades and proposed vegetation and trees to be planted during restoration;~~
5. ~~Erosion and sediment control plan; and,~~
6. ~~The amount and cost of proposed restoration materials, and where the applicant intends to get them.~~

6.1.5 Decision

The Board shall exercise its powers and may deny, grant or grant with exceptions, permits hereunder based upon:

1. The health, safety and general welfare of the inhabitants of the Town;
2. Derogation or detriment to the neighborhood;
3. Effect on natural resources, including but not limited to the recharge of the water table or condition of the surface water.

6.1.6 Conditions

The Board may impose on any permit conditions including but not limited to, conditions upon methods of removal, type and location of structures, fencing, hours of operation, area, location and depth of excavation, steepness of slopes, drainage, disposition of boulders and stumps, restoration and planting.

1. Bond Required. The Board shall require as a condition to the granting of the permit that the applicant shall furnish a performance bond or other security satisfactory to the Board sufficient to insure satisfactory performance of the requirements of this Bylaw and of such other conditions as may be imposed in the permit. The security shall not be released until the surveyor or engineer has filed with the Board an "as built" plan and has also certified that the restoration has been completed in compliance with the permit and the plans.
2. Every permit shall contain the condition that inspection of the operation may be made at any reasonable hours by an Agent of the Board to determine if conditions of the permit are being adhered to.
3. Excepting excavation that is exempt under Section 6.1.3.1, no excavation approved by a Special Permit issued hereunder may be within one hundred (100) feet of an existing public way or an adjacent property line;
4. Excavation not intended for approved building purposes or any other activity or building shall not be within one hundred (100) feet of a wetland as defined under G.L. c. 131, s. 40, and the Town of Douglas Wetland Protection Bylaw or the 100-year flood elevation of any water body, except where the appropriate regulatory agency has specifically ordered such excavation as part of a compensatory storage plan;
5. No area shall be excavated so as to cause accumulation of free standing water unless the Board shall permit creation of a pond in an area not used for drinking water. Permanent drainage shall be provided in accordance with good conservation practices. Drainage shall not lead directly into streams or ponds.

6. No excavation shall be made at less than ten (10) feet above the annual high water table, as established from test pits and soil borings. Observation well(s) shall be monitored to verify this elevation. The Board has the right to adjust the depth of the excavation based upon well monitoring information. The information shall be shown on the topographic plan and a permanent monument shall be erected upon the property.
7. All top soil and subsoil stripped from operation areas shall be stock piled, seeded with an erosion control seed mixture, and used in restoring the area.
8. Any shelters or buildings erected on the premises for use by personnel or storage of equipment shall be screened from public view and shall be removed from the premises within sixty (60) days after they are no longer needed for work upon that site.
9. The active excavation operation shall be determined by the Board but, in no instance, shall it exceed a total of ten (10) acres at any one time. Natural vegetation shall be left and maintained on undisturbed land for screening and noise reduction purposes.
10. Trucking routes and methods shall be specified by the Board which shall seek the advice of the Chief of Police with regard thereto.
11. All access roads leading to public ways shall be treated with suitable material to reduce dust and mud for a distance of 200 feet back from the public way.
12. Access roads shall be constructed at an angle to the public way or with a curve so as to help screen the operation from public view.
13. Standard Massachusetts accepted road signs warning of "Trucks Entering" shall be placed on the road on each side of the entrance.
14. The boundaries of the area of operation must be clearly marked by the applicant and maintained at all times.
15. Operators shall immediately clean up any spillage on public ways.

6.1.7 Restoration

Every permit shall state that restoration is to be carried out according to the plans submitted, conditions of permit, and the following minimum conditions:

1. Restoration shall be carried on simultaneously with excavation, so that when any active excavation operation area, as determined in Section 6.1.6, Paragraph 9, has been excavated, at least two/thirds (2/3) of the active excavation operation acreage shall be restored before work commences, including building haul roads, on the next contiguous active excavation operation. Final restoration work shall be complete within 120 days after excavation or withdrawal of a permit or upon cessation of operations.
2. No slope shall be steeper than 2:1. 4:1 if preferred for erosion control and shall be required in sensitive areas.

- ~~3. All debris, stumps, etc. shall be removed from the site and disposed of in an approved location or, in the case of inorganic material, buried and covered with at least two (2) feet of soil.~~
- ~~4. Retained subsoil and topsoil shall be spread over the disturbed area to a minimum depth of four inches and treated with three tons of lime per acre (unless otherwise determined by permit conditions) and seeded with a grass or legume mixture prescribed by the Southern Worcester County Conservation District or the Massachusetts Highway Department for slope erosion control. Trees or shrubs of prescribed species will be planted to provide screening and reduce erosion during the establishment period.~~
- ~~5. Unless the permit conditions expressly require alteration of drainage patterns, the land shall be left so that the natural storm drainage shall leave the property at the original natural drainage points; and so that the total discharge at peak flow, and the area of drainage to any one point, is not increased, and so that the hydrography of any post development stream is the same as that of the pre development stream.~~
- ~~6. All equipment, buildings and structures shall be removed from the area covered by the permit within sixty (60) days after earth removal, pursuant to the permit, ceases.~~

6.1.8 Limit

~~No permit shall be issued for an initial period of more than three (3) years. The Board may in its discretion grant a further permit for each additional year beyond the initial period, but no such permit shall be issued unless the applicant has conformed to all requirements of the permit.~~

6.1.9 Revocation

~~The Board may revoke any permit which it has issued for good cause, including, but not limited to, violations of any terms of a permit issued hereunder. Violations shall be deemed good cause to revoke. The Board shall first offer to the operator an opportunity for a hearing prior to revocation of the permit, in order to avoid violations of due process. The Board can reserve the right to suspend the permit without a hearing in the event of an imminent danger to the public health or safety, prior to a hearing on whether to revoke the permit.~~

6.1.10 Special Permit Relief

~~Strict compliance with the requirements of this Bylaw may be waived by special permit only when, in the judgment of the Board, such action is in the public interest and not inconsistent with the Earth Removal Zoning Bylaw. In waiving strict compliance the Board may require such alternative conditions as will serve substantially the same objective as the standards waived.~~

6.1.11 Survey

~~The Board has the right, in its discretion, to require the applicant, at this own expense, to have the site surveyed by an engineer to be specified by the Board, and to have said engineer report to the Board on a periodic basis to assure compliance with any permit issued hereunder.~~

6.1.12 Application to Town

~~This Bylaw will also apply to Agencies/Departments in the Municipality. However, the following exemptions will apply.~~

- ~~1. The Municipality will be exempt from the requirement of a bond; and exempt from subsections 6.1.6.10 and 11.~~

6.1.13 Regulations

~~The Board may establish rules and regulations to implement this Bylaw, including the establishment and assessment of fees for permit application.~~

6.1.14 Violations

~~Every violation of this Bylaw shall be subject to the following fines: \$50.00 for the first offense; \$100.00 for the second offense, and, \$150.00 for all offenses after the second offense. Each day on which a violation occurs shall constitute a separate offense.~~

Or take any other action relative thereto.

Finance Committee Vote: 2 yes, 2 no, 2 abstain.

Article 13. Adopt General Bylaw as new Article 12 – Earth Removal

To see if the Town will vote to adopt Article 12 of the Douglas General Bylaws as follows:

Section 1: Purpose

This Section is necessary to protect the public safety and property values by preventing the creation of hazards due to deep holes, steep slopes and embankments and by preventing land from becoming worthless due to removal of top soil, sand, gravel or other material. These regulations ensure that land will be useable for residential, commercial or agricultural purposes following the removal of top soil, sand, gravel or other fill and to provide for the reestablishment and protection of the area by suitable cover.

Section 2: Applicability

No person, firm or corporation shall remove in any one year more than one-thousand (1,000) or more cubic yards of soil, sand, gravel, stones, or other minerals or materials from any land in the Town without first obtaining a permit from the Select Board as provided in the following Sections.

The Select Board may appoint a subcommittee, herein referred to as the Earth Removal Advisory Committee, to advise and recommend the issuance or denial of a permit.

Section 3: Exemptions

A permit shall not be required for the following types of excavation:

- Removal of soil, loam, sand, gravel, clay, peat, rock, or other earth materials of less than one thousand (1,000) cubic yards;
- Excavation in the normal use of a cemetery;

Section 4: Application

An application for an Earth Removal Permit shall be in writing and shall contain an accurate description of the portion of land in which the activity will take place, shall state in full the purpose of the activity, shall include a fee, and shall include plans drawn by a registered surveyor or engineer containing the following information:

- A. Property lines, map and lot information, names and addresses of all abutters and other interested parties in interest as defined by G.L. c. 40A, s. 11;
- B. An estimate of the amount of material to be removed;
- C. An estimate of the anticipated net volume of activity;
- D. A description of completed and planned restoration of the property;
- E. The date of operation beginning and end;
- F. Existing contours at two-foot intervals in the area from which materials are to be excavated and in the surrounding areas, together with the contours at two foot intervals below which no activity shall take place;
- G. Natural features such as wetlands, the floodplain, ground cover and surface groundwater. Water table elevation shall be determined by test pits and soil borings. A log of soil borings shall be included, taken to the depth of the proposed excavation, congruent with the size and geological make-up of the site;
- H. A topographical map showing drainage facilities, final grades and proposed vegetation and trees to be planted during restoration;
- I. Erosion and sediment control plan; and,
- J. The amount and cost of proposed restoration materials, the source of such materials and the means by which such materials shall be tested. In no circumstances may restoration exceed an amount of material necessary to stabilize the site and the slopes thereon.

Section 5: Public Hearing

Once a complete permit application is filed with the Select Board, the Select Board shall set a date for a public hearing and notify the applicant. Notice of the hearing shall be published by the Board, at the applicant's expense, in a newspaper of general circulation in each of two successive weeks, the first publication being not less than 14 days before the day of said hearing. Notice of the hearing shall be given to all owners of real estate abutting upon the land specified in the permit application or lying within 300 feet of the subject parcel, all as appearing on the most recent tax list. The Select Board will arrange for the publication and transmission of the notice of the hearing to the abutters, and the costs will be billed to the applicant. Final approval for the permit shall not be made until all hearing fees have been paid in full. The Select Board may retain peer review experts, at the applicant's expense, to assist in the review applications. Within forty-five (45) days from the close of the public hearing, the Select Board shall issue and file, with the Town Clerk,

a decision on the application.

Section 6: Decision

The Board shall exercise its powers and may deny, grant or grant with exceptions, permits hereunder based upon:

- A. The health, safety and general welfare of the inhabitants of the Town;
- B. Derogation or detriment to the neighborhood;
- C. Effect on natural resources, including but not limited to the recharge of the water table or condition of the surface water.

Section 7: Conditions

The Board may impose on any permit conditions including but not limited to, conditions upon methods of removal, type and location of structures, fencing, hours of operation, area, location and depth of excavation, steepness of slopes, drainage, disposition of boulders and stumps, restoration and planting. At a minimum, all permits issued hereunder shall be subject to the following conditions:

- A. Bond Required. The Board shall require as a condition to the granting of the permit that the applicant shall furnish a performance bond or other security, along with an agreement therefor, satisfactory to the Board sufficient to insure satisfactory performance of the requirements of this Bylaw and of such other conditions as may be imposed in the permit. The security shall not be released until the surveyor or engineer has filed with the Board an "as-built" plan and has certified that the restoration has been completed in compliance with the permit and the plans;
- B. Every permit shall contain the condition that inspection of the operation may be made at any reasonable hours by an Agent of the Board to determine if conditions of the permit are being adhered to;
- C. Excepting activity that is exempt hereunder, no excavation approved by a permit issued hereunder may be within one hundred (100) feet of an existing public way or an adjacent property line;
- D. Excavation not intended for approved building purposes or any other activity or building shall not be within one hundred (100) feet of a wetland as defined under G.L. c. 131, s. 40, and the Town of Douglas Wetland Protection Bylaw or the 100-year flood elevation of any water body, except where the Conservation Commission or Department of Environmental Protection has specifically ordered such excavation as part of a compensatory-storage plan;
- E. No area shall be excavated so as to cause accumulation of free-standing water unless the Board shall permit creation of a pond in an area not used for drinking water. Permanent drainage shall be provided in accordance with good conservation practices. Drainage shall not lead directly into streams or ponds;

F. No excavation shall be made at less than ten (10) feet above the annual high-water table, as established from test pits and soil borings. Observation well(s) shall be monitored to verify this elevation. The Board has the right to adjust the depth of the excavation based upon well monitoring information. The information shall be shown on the topographic plan and a permanent monument shall be erected upon the property;

G. All topsoil and subsoil stripped from operation areas shall be stock-piled, seeded with an erosion control seed mixture, and used in restoring the area;

H. Any shelters or buildings erected on the premises for use by personnel or storage of equipment shall be screened from public view and shall be removed from the premises within sixty (60) days after they are no longer needed for work upon that site;

I. The active area of excavation shall be determined by the Board but, in no instance, shall it exceed a total of ten (10) acres at any one time. Natural vegetation shall be left and maintained on undisturbed land for screening and noise reduction purposes;

J. Trucking routes and methods shall be specified by the Board which shall seek the advice of the Chief of Police with regard thereto;

K. All access roads leading to public ways shall be treated with suitable material to reduce dust and mud for a distance of 200 feet back from the public way;

L. Access roads shall be constructed at an angle to the public way or with a curve so as to help screen the operation from public view;

M. Standard Massachusetts accepted road signs warning of "Trucks Entering" shall be placed on the road on each side of the entrance;

N. The boundaries of the area of operation must be clearly marked by the applicant and maintained at all times;

O. Operators shall immediately clean up any spillage on public ways.

Section 8: Restoration

Every permit shall state that restoration is to be carried out according to the plans submitted, conditions of permit, and the following minimum conditions:

A. Restoration shall be conducted simultaneously with excavation, so that when any active excavation operation area has been excavated, at least two/thirds (2/3) of the active excavation operation acreage shall be restored before work commences, including building haul roads, on the next contiguous active excavation operation. Final restoration work shall be complete within 120 days after excavation or withdrawal of a permit or upon cessation of operations.

B. No slope shall be steeper than 2:1. 4:1 if preferred for erosion control and shall be required in sensitive areas.

C. All debris, stumps, etc. shall be removed from the site and disposed of in an approved manner.

D. Retained subsoil and topsoil shall be spread over the disturbed area to a minimum depth of four inches and treated with three tons of lime per acre (unless otherwise determined by permit conditions) and seeded with a grass or legume mixture prescribed by the Southern Worcester County Conservation District or the Massachusetts Highway Department for slope erosion control. Trees or shrubs of prescribed species will be planted to provide screening and reduce erosion during the establishment period.

E. Unless the permit conditions expressly require alteration of drainage patterns, the land shall be left so that the natural storm drainage shall leave the property at the original natural drainage points; and so that the total discharge at peak flow, and the area of drainage to any one point, is not increased, and so that the hydrography of any post-development stream is the same as that of the pre-development stream.

F. All equipment, buildings and structures shall be removed from the area covered by the permit within sixty (60) days after earth removal, pursuant to the permit, ceases.

Section 9: Time Limit

No permit shall be issued for an initial period of more than three (3) years. The Board may in its discretion grant a further permit for each additional year beyond the initial period, but no such permit shall be issued unless the applicant has conformed to all requirements of the permit. Additional conditions may be imposed upon any such renewal.

Section 10: Revocation

The Board may revoke any permit which it has issued for good cause, including, but not limited to, violations of any terms of a permit issued hereunder. Violations shall be deemed good cause to revoke. The Board shall first offer to the operator an opportunity for a hearing prior to revocation of the permit. The Board may suspend the permit without a hearing in the event of an imminent danger to the public health or safety.

Section 11: Relief

Strict compliance with the requirements of this Bylaw may be waived only when, in the judgment of the Board, the applicant has demonstrated good cause and that such waiver is in the public interest and not inconsistent with the Earth Removal General Bylaw. In waiving strict compliance, the Board may require such alternative conditions as will serve substantially the same objective as the standards waived.

Section 12: Survey

The Board has the right, in its discretion, to require the applicant, at this own expense, to have the site surveyed by an engineer to be specified by the Board, and to have said engineer report to the Board on a periodic basis to assure compliance with any permit issued hereunder.

Section 13: Application to Town

The Town shall be exempt from the requirement to obtain a permit for excavations for municipal projects, provided however that it shall comply with all of the performance standards and conditions contained within this bylaw.

Section 14: Regulations

The Board may establish rules and regulations to implement this Bylaw, including the establishment and assessment of fees for permit application.

Section 15: Violations

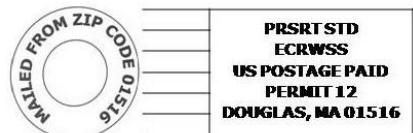
Every violation of this Bylaw shall be subject to the following fines: \$50.00 for the first offense; \$100.00 for the second offense; and, \$150.00 for all offenses after the second offense. Each day on which a violation occurs shall constitute a separate offense. Such fines may be imposed by the Board or its designated agent in accordance with G.L. c. 40, §21D. The imposition of fines shall not, in any manner, constitute a waiver of any other remedy that the Board may have in the enforcement of this bylaw.

Or take any other action relative thereto.

Finance Committee Vote: 2 yes, 2 no, 2 abstain.

DOUGLASS

Town of Douglas
29 Depot Street
Douglas, MA 01516



**CURRENT RESIDENT
DOUGLAS, MA 01516**