

TOWN OF MARION
TOWN MEETING WARRANT
For the Special Town Meeting to be Held
October 28, 2013



Plymouth, ss:

To either of the Constables of the Town of Marion in the Commonwealth of Massachusetts

GREETINGS:

In the name of the Commonwealth of Massachusetts, you are directed to notify and warn the inhabitants of the Town of Marion qualified to vote in Town election and Town affairs to meet at the Sippican School Auditorium in said Marion, on Monday, the 28th day of October next, at 7:00 o'clock in the evening, then and there to act on the following Articles, to wit:

Article S1: To see if the Town will vote to appropriate, upon the recommendation of the Community Preservation Committee, from the Fiscal Year 2014 estimated annual revenues, \$87,750 for the purpose of meeting the requirements of the Community Preservation Act, G.L.C. 44B, section 6, for the purposes of Open Space, Community Housing and Historic Resources, for Fiscal Year 2014; and \$204,750 to the Community Preservation Act Budgeted Reserves, or take any other action thereon.

Article S2: To see if the Town will vote to act upon the recommendation of the Community Preservation Committee to appropriate \$22,700 from Historic Resources reserves to Thomas O. Dexter for architecturally correct windows as part of the restoration of the Old Dexter Homestead at 366 Delano Road, Marion, MA; or take any other action thereon.

Article S3: To see if the Town will vote to act upon the recommendation of the Community Preservation Committee to appropriate \$13,640 from Open Space Reserves to enhance access to five (5) Open Space Properties (Grassi Bog, Goldovitz Bog, Washburn Park, Eastover Farm, Mecke Woods) owned by the Town of Marion; or take any other action thereon.

Article S4: To see if the Town will vote to raise and appropriate or transfer from available funds in the Treasury the sum not to exceed \$349,108 to supplement the Fiscal Year 2014 Fire Department budget for the purpose of augmenting ambulance staffing and related expenses; or take any other action thereon.

Article S5: To see if the Town will vote to raise and appropriate or transfer from available funds in the Treasury the sum of \$50,000 to be expended by the Dept. of Public Works for well exploration in the area of the town-owned Perry Hill Station on New Bedford Road in Rochester; or to take any other action thereon.

Article S6 To see if the Town will vote to raise and appropriate or transfer from available funds in the Treasury the sum of \$41,330 to be expended for the purpose of upgrading lighting and sensors at the Wastewater Treatment Plant to more efficient units; or to take any other action thereon.

Article S7 To see if the Town will vote to raise and appropriate or transfer from available funds in the Treasury the sum of \$14,284 and to thereby accept the revised Old Rochester Regional School District's Annual Maintenance and Operating Budget and Capital Budget as certified by the Old Rochester Regional School Committee on August 19, 2013; or take any other action thereon.

Article S8 To see if the Town will vote to amend the General Bylaws of the Town of Marion by deleting Article XXI – "Solicitation for Contributions or Commercial Purposes" in its entirety and inserting in place thereof the following:

ARTICLE XXI: Solicitation for Contributions or Commercial Purposes

This Bylaw and its regulations govern for-profit transient vendors/businesses, hawkers and peddlers, and door-to-door solicitations pursuant to the authority granted the Town of Marion. These regulations are intended to supplement, and not to replace or override, the Massachusetts General Law governing the foregoing activities, all as set forth in G.L. Chapter 101 §§ 1 through 34.

Section 1. Definitions

The following terms shall have the meanings set forth in G.L. Chapter 101, §§1 et seq., and are summarized for the purposes of these regulations as follows:

- a. Transient Vendor", "Transient Business": A transient vendor is a person who conducts a transient business of profit. A transient

business (also called a temporary business) is any exhibition and sale of goods, wares or merchandise which is carried on in any structure (such as a building, tent, or booth) unless such place is open for business during usual business hours for a period of at least 12 consecutive months.

1. "Hawker and Peddler": Any person who goes from place to place within the Town selling goods, whether on foot or in a vehicle, for profit, is a hawker or peddler (these two terms are interchangeable).
2. "Person": For purposes of these regulations, the persons being regulated herein are those persons over the age of 16 who are engaging in the activities regulated herein for or on behalf of for-profit organizations.

Section 2. Purpose.

The purpose of these regulations is to ensure public safety by requiring persons conducting the foregoing activities which historically have a high potential for fraud and abuse to be licensed, either at the state level or local level, so that the Town's citizenry will know who is conducting these activities and that, to the degree set forth herein or in the applicable Massachusetts General Laws, they have identified themselves to the proper authorities, are bonded if required, and satisfy the minimum criteria.

Section 3. Scope.

These regulations shall apply to all persons conducting the foregoing activities within the Town of Marion.

Section 4. Compliance Requirements:

Each person engaging in the foregoing activity shall, be subject to, responsible for, and fully in compliance at all times with the following requirements:

1. Registration requirements.
 - a. Persons not registered (licensed) by the Commonwealth shall make application for a Marion permit to the Chief of Police, on a form containing the following information or on a form as prepared by the Marion Police Department: The applicant's name, signature, home address, the name and address of the owner or parties in whose interest the business is to be conducted, their business address and phone number, cellular telephone numbers for the applicant and business; a brief description of the business to be conducted within the Town; the applicant's social security number; the description and registration of any

motor vehicles used by the applicant; and whether the applicant has ever been charged with a felony. The application shall be made under oath. The applicant shall be photographed for purpose of identification.

b. The Chief of Police shall approve the application and issue a permit within 48 hours, excluding Saturday, Sunday, and legal holidays, of its filing unless he determines either that the application is incomplete, or that the applicant is a convicted felon, or is a fugitive from justice. The registration card shall be in the form of an identification card, containing the name, signature and photograph of the licensee. Such card shall be non-transferable and valid only for the person identified therein and for the purpose as shown on the license. The card shall be valid for a period of one (1) year from the date of issuance. Any such registration card shall be void upon its surrender or revocation, or upon the filing of a report of loss or theft with the Marion Police Department. The Chief of Police may revoke such registration card for good cause.

c. Persons registered (licensed) by the Commonwealth shall not be subject to the foregoing paragraph, but are required to make themselves known to the Marion Police Department.

2. Permit or license to be visibly displayed.

Such state or local permit or license shall be displayed at all times while the business activity is being conducted, and shall be provided to any police officer upon request. The license shall also be affixed conspicuously on the outer garment of the licensee whenever he or she shall be engaged in the activity, except in the case of a transient business when the license shall be displayed visibly within the structure where such business is being conducted. Such permit or license, if issued locally, shall be the property of the Town of Marion and shall be surrendered to the Chief of Police upon its expiration.

3. Permit fee.

The filing of a copy of a state license as required shall not be subject to a fee. The fee for a local permit shall be determined by the Board of Selectmen after consultation with the Chief of Police.

4. Restrictions on activity.

- a. No solicitations shall be made after 5:00 pm or before 8:00 am.
- b. No solicitations shall be made on official federal, state or Town holidays or Sundays.
- c. No person may use any plan, scheme or ruse, or make any false statement of fact, regarding the true status or mission of the person making the solicitation.
- d. For good cause, the Chief of Police may further regulate the hours and conditions under which the licensee may engage in door-to-door selling.

5. Violations and Penalties.

- a. Any and all violations of these regulations may be enforced by any police officer, either by initiating criminal proceedings, or through the non-criminal disposition procedure set forth in Article XXIV of the Town of Marion's General Bylaws.
- b. Any person violating any one or more of these regulations shall be subject to the following fines:
 - \$150 for the first offense.
 - \$300 for each subsequent offense, with each such subsequent offense constituting a separate offense.
- c. Any person found committing a violation of these regulations may be arrested by a police officer without a warrant.

Article S9 To see if the Town will vote, as authorized by Chapter 256 of the Acts of 2010, and incorporated into the Massachusetts General Laws as Chapter 6, Section 172 B ½ to create a by-law substantially as follows enabling the Police Department to conduct State and Federal Fingerprint Based Criminal History checks for individuals applying for the following licenses:

- Hawking and Peddling or other Door-to-Door Salespeople;
- Manager of Alcoholic Beverage License;
- Owner or Operator of Public Conveyance;
- Dealer of Second-Hand Articles;
- Pawn Dealers;
- Hackney Drivers; and
- Ice Cream Truck Vendors

and to authorize the Board of Selectmen to adopt appropriate policies and procedures to effectuate the purposes of this by-law, or take any other action thereon.

Article XXX Criminal History Check Authorization

The Police Department shall, as authorized by Massachusetts General Laws Chapter 6, Section 172 B ½, conduct State and Federal Fingerprint Based Criminal History checks for individuals applying for the following licenses:

- Hawking and Peddling or other Door-to-Door Salespeople;
- Manager of Alcoholic Beverage License;
- Owner or Operator of Public Conveyance;
- Dealer of Second-Hand Articles;
- Pawn Dealers;
- Hackney Drivers; and
- Ice Cream Truck Vendors

At the time of fingerprinting, the Police Department shall notify the individual fingerprinted that the fingerprints will be used to check the individual's criminal history records. The Police Chief shall periodically check with the Executive Office of Public Safety and Security ("EOPSS") which has issued an Informational Bulletin explaining the requirements for town by-laws and the procedures for obtaining criminal history information, to see if there have been any updates to be sure that the Town remains in compliance.

Upon receipt of the fingerprints and the appropriate fee, the Police department shall transmit the fingerprints it has obtained pursuant to this by-law to the Identification Section of the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Services (DCJIS), and/or the Federal Bureau of Investigation (FBI) or the successors of such agencies as may be necessary for the purpose of conducting

fingerprint-based state and national criminal records background checks of the license applicants specified in this by-law.

The Town authorizes the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Systems (DCJIS), and the Federal Bureau of Investigation (FBI), and their successors, as may be applicable, to conduct fingerprint-based state and national criminal background checks, including FBI records, consistent with this by-law. The Town authorizes the Police Department to receive and utilize State and FBI records in connection with such background checks, consistent with this by-law. The State and FBI criminal history will not be disseminated to unauthorized entities.

Upon receipt of a report from the FBI or other appropriate criminal justice agency, a record subject may request and receive a copy of his/her criminal history record from the Police Department. Should the record subject seek to amend or correct his/her record, he/she must take appropriate action to correct said record, which action currently includes contacting the Massachusetts Department of Criminal Justice Information Services (DCJIS) for a state record or the FBI for records from other jurisdictions maintained in its file. An applicant that wants to challenge the accuracy or completeness of the record shall be advised that the procedures to change, correct, or update the record are set forth in Title 28 CFR 16.34. The Police Department shall not utilize and/or transmit the results of the fingerprint-based criminal record background check to any licensing authority pursuant to this by-law until it has taken the steps detailed in this paragraph. Municipal officials should not deny an applicant based on information in the record until the applicant has been afforded a reasonable time to correct or complete the information, or has declined to do so.

The Police Department shall communicate the results of fingerprint-based criminal record background checks to the appropriate governmental licensing authority within the Town as listed. The Police Department shall indicate whether the applicant has been convicted of, or is awaiting final adjudication for, a crime that bears upon his or her suitability, or any felony or misdemeanor that involved force or threat of force, controlled substances or a sex-related offense.

The Board of Selectmen is authorized, following consultation with Town Counsel and with the Police Chief, to promulgate regulations for the implementation of this by-law.

Use of Criminal Record by Licensing Authorities

Licensing authorities of the Town shall utilize the results of fingerprint-based criminal records background checks for the sole purpose of determining the suitability of the subjects of the checks in connection with the license applications specified in this by-law. A Town licensing authority may deny an application for a license on the basis of the results of the fingerprint-based criminal record background check if it determines that the results of the check render the subject unsuitable for the proposed occupational activity. The licensing authority shall consider all applicable laws, regulations, and town policies bearing on an applicant's suitability in making this determination.

The Town or any of its officers, departments, boards, committees, or other licensing authorities is hereby authorized to deny any application for, including renewals and transfers thereof, for any person who is determined unfit for the license, as determined by the licensing authority, due to information obtained pursuant to this by-law.

Fees

The fee charged by the Police Department for the purpose of conducting fingerprint-based criminal background checks shall be one hundred dollars (\$100). The Town Finance Director/Accountant shall periodically consult with Town Counsel and the Department of Revenue, Division of Local Services regarding the proper municipal accounting of said fees.

A portion of the fee, as specified in Massachusetts General Laws, Chapter 6, Section 172B ½, shall be deposited into the Firearms Fingerprint Identity Verification Trust Fund, and the remainder of the fee shall be retained by the Town to help offset costs associated with the administration of the fingerprinting system.

Effective Date

This by-law shall take effect upon approval by the Attorney General, so long as the requirements of MGL c. 40, s. 32 are satisfied.

Article S10 To see of the Town will vote to amend the Zoning By-Laws of the Town of Marion by

- 1.) renumbering the existing “SECTION 16” of the Zoning Bylaw such that the existing “SECTION 16” is re-numbered as “SECTION 17” and;
- 2.) by adding a new “SECTION 16” entitled “Solar Bylaw” as follows:

Section 16 Solar Bylaw

16.1 Purpose

The purpose of the Solar Bylaw is to provide standards and guidelines for the installation of solar photovoltaic (PV) and solar Thermal Systems in the Town of Marion, while protecting public health, safety, and welfare and preserving the character of the Town.

16.2 Definitions

1. *Solar Systems* -- (hereinafter “System(s)”) installed in Marion, whether roof or ground mounted shall include any engineered and constructed structure that

- converts sunlight into (1) electrical energy (PV Systems) through an array of solar panels that connect to a building's electrical system or to the electrical grid, or (2) heat energy (Thermal Systems) through an array of solar panels that heats water to be used on site.
2. ***Size of Solar Panel*** – All size limitations cited herein shall apply to the full-face areas of an array of solar panels themselves, not their projected areas on roofs or ground.
 3. ***Solar Panel*** - A panel is any part of a System that absorbs solar energy for use in the system's energy transformation process.
 4. ***Accessory Use*** – An accessory use is a feature that is sized and designed to support the primary function of the buildings located on the property
 5. ***Photovoltaic*** - The technology that uses a semi-conductor material to convert light directly into electricity.
 6. ***Solar Farm*** - Solar Farms are Systems designed for the primary purpose of generating power for the sale to third parties via the electric grid. These Systems can be roof-mounted systems or ground-mounted systems that may or may not have accessory structures on the same lot.
 7. ***Applicant*** - For the purposes of this Bylaw, “Applicant” may include: (1) fee owners of real property who also own the System or (2) fee owners of real property who intend on leasing the System to a third party pursuant to a legally binding instrument or (3) third parties who are not the fee owners of the real property but who have obtained written permission from the fee owners of the real property to submit an application for a System pursuant to the terms and conditions of this Bylaw.

16.3 Applicability: General Standards for Solar Systems

The following represents the general standards that shall apply to Systems installed pursuant to the provisions of this Bylaw.

1. Systems and Solar Panels shall be placed and arranged such that reflected solar radiation or glare shall not be directed onto adjacent buildings, properties or roadways.
2. A System shall not be used to display advertising, including signage, streamers, pennants, spinners, reflectors, ribbons, tinsel, balloons, flags, banners, or similar materials, with the exception of the following:
 - a. Necessary equipment information, warnings, or indication of ownership shall be allowed on any equipment of the System or where required by the Building Code.
3. No System or any of its components shall be illuminated, except to the degree minimally necessary for public safety and/or maintenance and only in compliance with the Marion Zoning Bylaw.

4. All Systems shall be considered either a “structure” or an “accessory structure” as defined in the Marion Zoning Bylaw and shall have setbacks on all sides in accordance with existing zoning requirements as stated in the Dimensional Requirements Table found within Section 5.1 of the Marion Zoning Bylaw or as further defined in this Bylaw.
5. A System installation shall limit the visual and other impacts on the adjacent properties. The Systems shall be screened from ground and water level view of the line of sight from public ways or waterway and adjacent properties by appropriate year-round landscaping, fencing, screening, or other type of buffers consistent and compatible with the character of the neighborhood where the System is located.
6. Large-scale clearing of forested areas for the purpose of constructing Systems is prohibited.
7. No System shall be used or constructed such that it becomes a private or public nuisance or hazard, and no System shall be abandoned or not maintained in good order and repair. Any System that is deemed a private or public nuisance or hazard or otherwise abandoned or not maintained in good order and repair shall be removed from the property at the property owner’s sole expense.
8. Storm water and snowmelt runoff and erosion control shall be managed in a manner consistent with all applicable federal, state and local regulations and shall not impact neighboring properties.
9. Wall mounting or any other form of face mounted System on any building or structure is prohibited in all zoning districts.
10. Utility Connections: All electrical work shall be in accordance with the National Electrical Code and the Massachusetts Building Code and have received all applicable permits including but not limited to environmental permits as may be required. All power transmission lines from a ground-mounted System to any building or other structure shall be located underground unless otherwise required by the State Building Code or impeded by special ground site conditions.
11. Any deviation from the requirements set forth in Design Standards for all Districts shall be subject to a Streamlined Special Permit Process as defined in Section 16.9.

16.4 Applicability: Roof-Mounted System

1. Roof-mounted Systems may be installed in all Zoning Districts by an Applicant, requiring only that a building permit has been issued by the Marion Building Commissioner and that the System conforms to the Marion Zoning Bylaw and to Sections 16.4.2, 16.4.3, and 16.4.4, below.
2. Within Residential Districts, roof-mounted Systems shall conform to existing roof contours, extending not more than 12 inches above roof surfaces. Roof-mounted Systems shall be set back a minimum of 8 inches from all roof edges (eaves, gutter line, ridge) of the roof surface and 24 inches from adjacent roof or abutting roof or walls of adjoining property. All residential flat roof systems shall conform to requirements of 16.3.6.
3. Flat roof mounted systems shall have a 4 ft. (four) set back from the edge of the building perimeter. Screening is not a requirement.
4. In non-Residential Districts, roof-mounted solar panels as part of the System may be installed at angles of up to 50 (fifty) degrees from the horizontal on flat roofs (defined as having a roof pitch less than 2 inches per foot). The top most points of the solar panels shall not exceed a total height of 4 (four) feet above the roof surface. On a pitched roof system (roof pitch equal or greater than 2 (two) inches per foot, the top most point of the solar panel shall not exceed 2 (two) feet measured perpendicular to the roof surface. Systems shall be set back from building edge a minimum of 4 (four) feet. All these systems are considered to be building-mounted mechanical systems and shall meet all requirements thereof. All flat roof systems shall conform to requirements of 16.4.3, above.

16.5 Applicability: Ground Mounted System in Non-Residential Districts

This section of the Bylaw applies to ground-mounted Systems not classified as Solar Farms.

1. Ground-mounted Systems equal to or less than 900 s.f. or 1.5% of lot size, whichever is larger, may be installed by an Applicant via issuance of a building permit by the Marion Building Commissioner.
2. A solar panel array greater than 900 s.f. or 1.5% of lot size, whichever is larger, with a maximum System size of 1500 square feet shall be reviewed and approved by the Planning Board pursuant to the provisions of Section 16.9 (Streamlined Special Permit) and is subject to a Minor Site Plan Review (Section 16.7).
3. A solar panel array greater than 1500 s.f. shall be reviewed and approved by the Planning Board pursuant to the provisions of Section 16.9 (Streamlined Special Permit) and is subject to Major Site Plan review (16.8).
4. The maximum height above ground level of any portion of the system shall be 6 (six) feet, measured as the vertical distance from the mean natural grade on the street

side(s) and, if not abutting a street, from the mean natural ground level along the System's designated front yard, as said front yard is designated by the Building Commissioner.

5. The system shall be screened from view from adjacent residential properties.

16.6 Applicability: Ground-Mounted System in Residential Districts

This section of the Bylaw applies to ground-mounted Systems for onsite electrical use.

1. A solar panel array limited in size to 600 square feet (600 s.f.) or 1.5% of lot size, whichever is larger, may be installed after obtaining a building permit from the Building Commissioner.
2. System(s) greater than 600 s.f. or 1.5% of lot size, whichever is larger, shall have been reviewed and approved by the Planning Board pursuant to the provisions of Section 16.9 (Streamlined Special Permit) and to a Minor Site Plan Review (Section 16.7). A solar panel array greater than 600 s.f. or 1.5% of lot size, whichever is larger, with a maximum System size of 1500 square feet shall be reviewed and approved by the Planning Board pursuant to the provisions of Section 16.9 (Streamlined Special Permit) and is subject to a Major Site Plan Review (Section 16.8).
3. The maximum height above surrounding ground level of any portion of the system shall be 6 (six) feet measured as the vertical distance from the mean natural grade on the street side(s) and, if not abutting a street, from the mean natural ground level along the System's designated front yard, as said front yard is designated by the Building Commissioner.
4. At the expense of the Applicant, all parties in interest shall be notified of the Planning Board meeting during which a Minor Site Plan Review application is to be held pursuant to the provisions of G.L. c.40A, s.11 notwithstanding that a public hearing shall not be required.

16.7 Minor Site Plan Review and Approval

Where required by this Bylaw (Section 16, et seq.), submission to the Planning Board for Minor Site Plan Review and Approval pursuant to Section 9.1.1 of the Zoning Bylaw shall be as set forth herein and regardless of the minimum threshold requirements found in Section 9.1.1. In addition to the submission requirements found in Section 9.1.1 of the Zoning Bylaw, the Planning Board may require, where in its sole judgment it deems relevant, the submission of one or three-line electrical diagrams detailing solar PV Systems, associated components, electrical interconnection methods, all National

Electrical Code compliant disconnects and overcurrent devices, documentation of major System components to be used, including PV panels, mounting System, and inverter(s).

16.8 Major Site Plan Review and Approval

Where required by this Bylaw (Section 16, et seq.), submission to the Planning Board for Major Site Plan Review and Approval pursuant to Section 9.1.2 of the Zoning Bylaw shall be as set forth herein and regardless of the minimum threshold requirements found in Section 9.1.2. In addition to the submission requirements found in Section 9.1.2 of the Zoning Bylaw, the Planning Board may require, where in its sole judgment it deems relevant, the submission of one or three-line electrical diagrams detailing solar PV Systems, associated components, electrical interconnection methods, all National Electrical Code compliant disconnects and overcurrent devices, documentation of major System components to be used, including PV panels, mounting System, and inverter(s), the designed annual electrical output of the System and evidence of the annual on-site consumption in watt-hours. In addition, the Planning Board may require the Applicant to provide the name, address, and contact information of proposed System installer, the name, contact information and signature of any agents representing the project proponent, require the provision of evidence of site control, evidence of utility notification, an operation and maintenance plan, emergency response plan, and a description of financial surety.

16.9 Streamlined Special Permit

Certain Systems regulated by this Bylaw may be subjected to a Streamlined Special Permit procedure that obviates the need to comply with the four enumerated filing requirements contained in Section 7 of the Zoning Bylaw (Special Permit Requirements) and G.L. c.40A, s.9 of the Zoning Act as noted below. Specifically, where this Bylaw designates an application to be subject to a Streamlined Special Permit, a special permit from the Planning Board pursuant to Section 7 of the Zoning Bylaw shall be required, however the requirements of (1) a traffic study; (2) an environmental impact study, (3) a storm water study, and (4) a peer review by the Town's engineer shall not be required.

16.10 Modifications to Existing Systems

Additions and alterations to any system lawfully in existence as of the effective date of this Bylaw shall conform to the requirements of this Bylaw. All the provisions of this Bylaw, including review pursuant to Streamlined Special Permit Section 16.9 shall apply to any modification, expansion or alteration to or of, a System installed or constructed pursuant to this Bylaw or any System preexisting the effective date of this Bylaw.

16.11 Solar Farms

Ground-mounted Solar Farms are allowed in Residential Districts under the following conditions:

1. In addition to requirements provided elsewhere in this Bylaw, System(s) within a Solar Farm shall be subject to review and approval by the Planning Board pursuant to the provisions of Section 16.8, (Major Site Plan Review and Approval);
2. System(s) within a Solar Farm shall require receipt of a Special Permit as defined in Section 7 of the Marion Zoning Bylaws.
3. Solar Farms shall be located on lots with a minimum of three contiguous acres (no less than 130,680 square feet).
4. Systems within Solar Farms shall comply with setbacks according to the Marion Zoning Bylaw except where an adjacent property has or could have a dwelling unit(s) within 100 feet of the System, in which case the setback must be a minimum of 100 feet along adjacent property lines. Access paths around the perimeter of the System may be located in the setback area.
5. The maximum height of the ground-mounted solar arrays, support structures and any local berm below the structures shall be limited to eight (8) feet above the mean natural grade on the street side(s) and, if not abutting a street, from the mean natural ground level along the System's designated front yard, as said front yard is designated by the Planning Board.
6. The Planning Board shall be the Special Permit granting authority. All modifications to a Solar Farm made after issuance of the Special Permit shall require approval by the Planning Board in accordance with the existing process for modifications to Special Permits.
7. The following additional conditions apply and shall be included with an application for a Special Permit and Major Site Plan review for a Solar Farm:
 - a. The name and affiliation of the electrical engineers or electricians who will design the connection to the grid or load.
 - b. Property lines for the subject property and all properties adjacent to the subject property within 300 feet.
 - c. A plan view to scale with elevations and sight line representations that shall include:
 1. The System, all existing buildings, including description of existing use, if known (e.g., residence, garage, accessory structure and so forth) located on the property and on all adjacent properties located within 300 feet of the proposed Solar Farm.
 2. Distances, at grade, from the proposed Solar Farm to each structure shown on the vicinity plan as well as a plan for screening.
 - d. All proposed changes to the existing property, including grading, vegetation removal and temporary or permanent roads and driveways.

- e. A map or plan, as required, showing the connection to the grid or load, as applicable.
- f. Colored photographs or Google Earth or equivalent view of the current conditions and view of the site from at least 4 locations from the north, south, east, and westerly directions shall be submitted.
- g. Material safety data sheets identifying the presence of any hazardous or potentially hazardous materials.

16.12 Abandonment or Discontinuation of Use of Solar Farms

1. At such time as the holder of a special permit issued or subsequent owner (s) elects to abandon or discontinue the use of the Solar Farm, the holder shall notify the Planning Board by certified mail, return receipt requested, of the proposed date of abandonment or discontinuance. In the event that a holder fails to give such notice, the Solar Farm facility shall be considered abandoned or discontinued if the Solar Farm has not been operational for 180 days unless the Planning Board has authorized an extension pursuant to G.L. c.40A, s.9.

2. Upon abandonment or discontinuation of use, the owner shall physically remove the Solar Farm facility within 120 days from the date of abandonment or discontinuation of use. For good cause shown this period may be extended at the request of the holder of the special permit at the discretion of the Planning Board. "Physically remove" shall include, but not be limited to:

- a. Removal of the Solar Collection Panels frames, supporting structures, foundations, electrical equipment, and connections, all other equipment, equipment shelters and vaults, security barriers and all appurtenant structures from the Solar Farm site,
- b. Proper disposal of all solid or hazardous materials and wastes from the site in accordance with local and state solid waste disposal regulations,
- c. Restoration of the location of the Solar Farm facility site to its natural condition except that any landscaping consistent with the character of the site and neighborhood may remain.

16.13 Financial Surety, Removal, Decommissioning, and Abandonment of Solar Farms

Prior to the issuance of a special permit or Building Permit for any Solar Farm Ground-mounted System is otherwise permitted pursuant to this Bylaw, an escrow agreement (the "Escrow Agreement") in form and substance acceptable to the property owner and the Planning Board shall be executed by the Applicant for said special permit or Building Permit, the property owner, and an Escrow Agent (such party to be acceptable to the property owner, the Applicant, and the Planning Board), with the Town of Marion named as a third party beneficiary under such Escrow Agreement. The Escrow Agreement shall require, among other things, that the Applicant shall deposit a specified sum of money in an escrow account (the "Escrow Account") to be held by the Escrow Agent. The Escrow Agent shall be a financial institution that regularly acts as an "escrow agent" or "trustee".

The Escrow Amount shall be sufficient to cover the estimated cost to the property owner to remove the facility in full and remediate the landscape. Where the Applicant is not the property owner, the Escrow Agreement shall contain a provision to the satisfaction of the Planning Board, that any funds released from the Escrow Account following the expiration or earlier termination of the lease between the property owner and the Applicant shall (i) first be used by the property owner solely to complete said removal and remediation up to the amount set forth in the lease, (ii) second, to be used by the property owner to complete any additional removal and remediation as prescribed by the Planning Board (and consented to by the property owner) up to the amount set forth in the Escrow Agreement; (iii) and any excess be returned to the Applicant.

The Escrow Amount shall be established by the Applicant to the satisfaction of the Planning Board and the property owner based upon the Applicant's delivery of a fully inclusive estimate of the costs (the "Removal Cost Estimate") associated with said removal and remediation (such amount not to be less than the amount set forth in the lease), prepared by a qualified engineer. The Removal Cost Estimate shall be re-evaluated every seventh (7th) anniversary of the Building Permit by the Applicant's designated engineer and, in the event of any adjustments to said Removal Cost Estimate that are approved in writing by both the Planning Board and the property owner, the Escrow Amount shall be correspondingly adjusted to reflect such updated Removal Cost Estimate. Within 90 days of each said 7th anniversary, the property owner shall confirm in writing to the Planning Board the continued compliance and fully funded status of the Escrow Account in satisfaction of this condition.

Any System that does not comply with the above noted requirements, including the re-evaluation requirements governing the Removal Cost Estimate and any System that has been abandoned or not used for a two years or more shall be deemed to no longer comply with the Marion Zoning Bylaws and shall be subject to the enforcement and penalty provisions of civil and criminal laws of the Town of Marion and Commonwealth of Massachusetts.

16.14 Utility Notification Regarding Solar Farms

Prior to the issuance of a building permit for the construction of a Solar Farm, the Solar Farm applicant shall provide the Building Commissioner with documentation that the utility company that operates the electrical grid where the Solar Farm is to be located has executed a non-contingent, binding and enforceable utility interconnection agreement with the Solar Farm owner and applicant for the electrical generation of the Solar System.

16.15 Changes in Ownership Regarding Solar Farms

Once a Special Permit for a Solar Farm has been approved, the applicant shall duly record a copy of the Special Permit with the Plymouth County Registry of Deeds. All subsequent deeds to the property shall refer to the Special Permit and incorporate it by

reference. All conditions under which the Special Permit was originally granted shall be binding on all successive owners and operators of the property.

16.16 Severability of Provisions

The provisions of this Bylaw are severable. If any provision of this Bylaw is held invalid, the other provisions shall not be affected thereby. If the application of this Bylaw or any of its provisions to any person or circumstance is held invalid, the application of this Bylaw and its provisions to other persons and circumstances shall not be affected thereby.

Article S11 To see of the Town will vote to amend the Zoning Bylaws of the Town of Marion in Section 3.2.2 by deleting the first paragraph of said section in its entirety and inserting in place thereof the following:

The Floodplain/Flood Hazard District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Marion designated as Zone A, AE, AO, or VE on the Plymouth County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Plymouth County FIRM that are wholly or partially within the Town of Marion are panel numbers 25023C0468J, 25023C0469J, 25023C0556J, 25023C0558J, 25023C0566J, 25023C0586J, and 25023C0587J dated July 17, 2012, and panel numbers 25023C0557K, 25023C0559K, 25023C0567K, 25023C0576K, 25023C0578K, and 25023C0579K dated February 5, 2014. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Plymouth County Flood Insurance Study (FIS) report dated July 17, 2012. The FIRM and FIS report are incorporated herein by reference and are on file with the Marion Town Clerk.”

And you are directed to serve this Warrant by posting up attested copies thereof, one at the Elizabeth Taber Library, one at the Town House and one at the Marion Post Office, all in said Marion, fourteen days at least before the time of holding said meeting aforesaid.

Hereof fail not to make due return of this Warrant with your doings thereon to the Town Clerk at the time and place of meeting aforesaid.

Given our hands this 10th day of September in the Year Two Thousand Thirteen.

Jonathan E. Dickerson
Chairman

Stephen M. Cushing
Vice-Chairman

Jonathan F. Henry
Clerk

BOARD OF SELECTMEN

A true copy, ATTEST:

I, Lincoln W. Miller, being a duly appointed constable of the Town of Marion, in the County of Plymouth, Commonwealth of Massachusetts, hereby make affidavit that legal notice of the meeting called under this Warrant has been served on the voters of said Town of Marion by posting up attested copies in not less than three public places within the said Town on September 12, 2013, said date being fourteen days, at least, before the date of the meeting, in accordance with Article 2, Section 3 of the By-laws of said Town.

Lincoln W. Miller
CONSTABLE