

## Town of Rowe

FRANKLIN COUNTY

Massachusetts 01367

*Settled as Myrifiold 1763 – Incorporated as Rowe 1785*

# ZONING BYLAWS

Revision September 19, 2019

ARTICLE VII<sup>i</sup>  
PROTECTIVE REGULATIONS

**Section 1:** The purpose and intent of these regulations shall be to promote the health, safety, convenience and general welfare of the inhabitants of the Town of Rowe, and to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment.

**Section 2:** Use Regulations

A. District Uses

(1) The Town of Rowe is hereby divided into the following types of districts:

Residential-Agricultural.....R-A  
Industrial .....I

(2) The boundaries of each district are hereby established as shown, defined and bounded on the Official Zoning Map dated September 13, 2011 which accompanies and is hereby declared to be a part of this by-law; such map is filed with the Town Clerk. **[See Official Zoning Map at the end of by-laws.]** *[Art V, Sec A.(2) adopted 11-2-2011 STM; approved by AGO 2-28-2012].*

(3) In each district the use of land, buildings, and structures shall be regulated as set forth in Section 2B of this Article, Table of Use Regulations, and as provided elsewhere in this by-law.

(4) A use listed in Section 2B is permitted as a right in any district under which it is denoted by the word “Yes.” If designated in the Table by the letters “SP.” The use may be permitted as a special exception only if the Planning Board so determines and grants a special permit therefore as provided in Section 2C, subject to such restrictions as said Board may establish.

(5) No building, structure or land in any district may be used, erected or designed to be used, in whole or in part, for any use not denoted in Section 2B by the word “Yes,” or by the letters “SP” if the Planning Board so determines and grants a special permit therefore, except nonconforming uses which may be continued under the provisions for Section 6 of Chapter 40A of the General Laws.

(6) Where an activity might be classified under more than one of the following uses, the more restrictive classification shall determine permissibility.

B. Table of Use Regulations

	Zones	
	R-A	I
I. Residential Uses		
a. Detached, Single Family Dwelling	Yes	Yes
b. Two-Family or Semi-Detached Dwelling	SP	SP
c. Multi-Family	No	No
d. Trailer Park or Mobile Home Park	No	No
II. Municipal Uses	Yes	Yes
III. Religious Uses	Yes	Yes
IV. Educational Uses	Yes	Yes
V. Recreational Uses		
a. Non-Profit	Yes	Yes
b. Profit	SP	SP
VI. Agricultural Uses		
a. Farm Uses	Yes	Yes
b. Display & Sale at Roadside Stand of Natural Products, the Major Portion of which are raised on Farms of the Town of Rowe	Yes	Yes
c. Greenhouses and Nurseries	SP	SP
VII. Commercial Uses		
a. Professional Office conducted by Resident of Premises in Room or Rooms of Dwelling or Accessory Building with no More than two (2) employees	Yes	Yes
b. A Customary “Home Occupation” conducted by a Resident of Premises in Room or Rooms of Dwelling or Accessory Building with no more than two (2) employees	Yes	Yes
c. Scientific Research or Development as described in Chapter 40A, Section 9	SP	SP
d. Restaurants, Inns, Hotels, Motels or Tourist Home	SP	SP
e. Print Shop	SP	SP
f. Retail Stores	SP	SP
g. General Contractors	SP	SP

<b>VIII. Industrial Uses [Art V, Sec 2.B.VIII adopted 11-2-2011 STM; approved by AGO 2-28-2012]</b>		<b>Residential Agriculture (R-A)</b>	<b>Industrial (I)</b>
a. Sawmills		SP	SP
b. Public Utilities			
i) Generating Plants <i>except for Solar Electric Generating Installations</i>		No	SP
ii) Accessory Buildings, Structures & Uses		SP	Yes

iii) Transmission Lines, Substations and Switchyards		SP	Yes
iv) Solar Electric Generating Installations <sup>1,2</sup> (see Section 23)		SP	SP

*<sup>1</sup> – Solar Electric Generating Installations of 10kW or less which are an accessory use to a residential or non-residential use are allowed “by right” (Yes).*

*<sup>2</sup> – Solar Electric Generating Installations greater than 10 kW up to 250 kW occupying no more than one acre that meet the requirements of Section 23 and are located in the Solar Overlay District are allowed by-right (Yes) but are subject to Site Plan Review.*

C. Special Permit Guidelines

Special Permits shall be granted only for proposals in compliance with the provisions of this by-law, and of Chapter 40A, General Laws, and upon written determination by the Special Permit Granting Authority that the proposal will not have adverse effects which overbalance its beneficial effects on the Town, as measured by the Purposes of this by-law. The determination shall indicate consideration of each of the following: (a) community and regional needs which are served by the proposal; (b) traffic flow and safety; (c) adequacy of town services; (d) effects on neighborhood character; (e) protection of the natural environment; (f) potential impact on employment and incomes; (g) potential impact on town finances.

D. Variances

Under the provisions of Section 10 of Chapter 40A, General Laws, use variances may be granted by the Board of Appeals.

E. Signs

In the Residential-Agricultural District, signs shall be limited to two (2) in number with an aggregate area of not more than twelve (12) square feet. No signs shall flash or display movement or utilize neon or colored lighting.

**Section 3:** No parcel of land shall be used for the parking or keeping for a period of more than thirty (30) days a total of more than two (2) motor vehicles which are unregistered, incomplete or inoperable if they are visible from any public or private way or from any other parcel of land owned by another in the Town. The term “Motor Vehicle” does not include operable farm equipment. For the purpose of this section “Parcel of Land” as used in the first instance shall mean all land in the Town owned by an individual, individuals or corporation.

**Section 4:** Any building or structure other than a dwelling and including roadside stands, gasoline pumps and accessory buildings hereafter erected shall not be located within twenty (20) feet of any street or highway line.

**Section 5:** Any dwelling hereafter erected shall not be located within sixty (60) feet of any street or highway line.

**Section 6:** Except as provided under Section 2(B) I (b) of this Article, no more than one (1) dwelling unit shall be constructed on any dwelling lot and no existing structure shall be converted for use as a dwelling unit unless a dwelling lot is created in accordance with Section 7 of this Article. A dwelling unit shall be defined as a single unit providing complete, independent living facilities for one or more persons.

**Section 7:** No dwelling unit hereinafter placed in any district shall be located on a lot having less than the minimum requirements set forth below. No existing lot shall be changed as to size or shape so as to result in the violation of the requirements set forth below.

(A) Class A Lot:

A Class A Dwelling Lot shall not be less than four (4) acres and shall have a minimum frontage on a public road of four hundred (400) contiguous feet. In the case of a Class A Lot at the junction of two public roads, the minimum frontage on each such public road shall be four hundred (400) contiguous feet.

- (i) A Class A Lot has none of the following qualities in the area of proposed usage:
  - (a) Bedrock, ledge, hardpan or other impermeable or poorly permeable subsurface layer within six (6) feet of existing surface grade.
  - (b) Seasonal surface water present during the year for a period of 30 days or more, within 100 feet of an area of proposed usage.
  - (c) Ground water within six (6) feet of existing surface grade during any period when percolation tests are permitted.
- (ii) The Soils Map designations of “slight limitation” and “moderate limitation” may be used for reference location of Class A Lots.

(B) Class B Lot:

A Class B Lot is any lot which has in the area of proposed usage one or more of the qualities listed in the definition of a Class A Lot. An in-ground sewage system shall not be permitted in a Class B Lot.

- (i) The Soils Map designation of “severe limitation” may be used for reference location of Class B Lots.

DEFINITIONS:

A DWELLING LOT is hereby defined as a continuous parcel of land in one ownership with legally definable boundaries described in a deed recorded in the Franklin County Registry of Deeds or Land Court, which complies with the minimum requirements of this section.

AREA OF PROPOSED USAGE shall mean the location of an in-ground sewage system, the area of such location to be not less than twice the area required for the initial installation of that system.

SOILS MAP shall mean the map on file with the Town Clerk entitled "Soils Limitation for Septic Tank Sewage Disposal" prepared for the Town of Rowe based on U.S. Department of Agricultural Soil Conservation Service Survey.

The classification of all lots on which an approved in-ground sewage system exists at the time of the adoption of this by-law is to be designated as Class A. The classification of any lot designated as Class B may be changed by the Planning Board to Class A upon presentation to that Board of a certificate from the Board of Health that said lot has an area of proposed usage suitable for the installation of an approved in-ground sewage system.

**Section 8:** No dwelling or other structure shall be constructed closer than thirty (30) feet from the side or rear lines of any lot, nor shall any existing lot be divided so as to leave any building closer than thirty (30) feet from the side or rear lines of any lot.

**Section 9:** In the Residential-Agricultural District, no area shall be occupied or used by a camping trailer or mobile home for a total time in excess of thirty (30) days during any one calendar year except that camping trailers owned by the occupants of the premises and their immediate family may be stored in the rear or side of the yard when not in use. For the purposes of these By-Laws, a mobile home shall mean a dwelling unit built on a chassis, whether on wheels or on a temporary or permanent foundation.

**Section 10:** No dwelling in the Town of Rowe shall be occupied by more than one family; one family being defined as one or more persons related by birth, marriage or adoption including minors under the legal guardianship or control of one or more adults or up to four (4) unrelated individuals or a combination of these living together on a premises as a single housekeeping unit.

**Section 11:** Cutting Operations: Every owner, lessee, tenant or occupant of lands of any rights or interests therein, who cuts or permits the cutting of brush, wood or timber on lands which border upon a highway shall dispose of the slash caused by such cutting in such a manner that the same will not remain on the ground within seventy-five (75) feet of the centerline of the highway.

**Section 12:** Earth Removal Operations:

(A) Permit Required:

No soil, loam, sand, gravel, stone or other earth materials shall be removed from any premises within the Town unless such removal will constitute an exempt operation as hereinafter provided or is done pursuant to a special permit therefor issued by the Planning Board.

(B) Exceptions:

The removal of earth material in any of the following operations shall be an exempt operation:

- 1) The removal of less than ten (10) cubic yards of material in the aggregate in any one premises.
- 2) The transfer of less than fifty (50) cubic yards of material from one part of a premises to another part of the same premises.
- 3) The removal of material from land in use by the Town.
- 4) The removal of material necessarily excavated in connection with the lawful construction of a building or structure, or of a street, driveway, sidewalk or path incidental to any such building or structure, provided that the quantity of material does not exceed that actually displaced by the portion of the building, structure, driveway, sidewalk or path below finished grade.

(C) No commercial prospecting for minerals or other underground deposits involving the use of electronic devices, core drilling or excavation shall be permitted on any land in the Town of Rowe unless a special permit has been issued therefor in accordance with Section 18 of this Article.

**Section 13:** No construction, building, exterior or structural alteration to existing construction or building shall be started or made until a permit has been issued therefor by the Town Building Inspector who is hereby authorized to grant such permits consistent with the State Building Code. The Town Building Inspector shall also serve as the Town Zoning Enforcement Officer. The Zoning Enforcement Officer shall have the power to withhold a permit for the construction, alteration or moving of any building or structure if such action would be in violation of these By-Laws. Also, no permit or license shall be granted for a new use of a building, structure or land which would be in violation of these By-Laws. Should the Zoning Enforcement Officer refuse to act on a written complaint of zoning violation, he must give reasons for his failure to do so in writing within fourteen (14) days.

**Section 14:** All sewage and disposal systems shall be installed under the rules and regulations of the Board of Health of the Town of Rowe and in accordance with the State Sanitary Code.

**Section 15:** There shall be a Board of Appeals consisting of five members appointed by the Selectmen. Each member shall serve a three year term and the date of expiration of each term shall be staggered so that the term of two members expires the first year, the term of two members expires the succeeding year and the term of the remaining member on the third year and so on. The Zoning Board of Appeals shall elect a chairman from within its own membership and a clerk each year. A member from the Board can only be removed for cause by the appointing authority and only after written charges have been made and a public hearing has been held. Vacancies in the Board shall be filled in the same manner as appointments. This Board of Appeals shall act in all matters authorized by this By-Law and Chapter 40A of the General Laws including the allowance of zoning variances and exceptions, use variances, and hearing of denials of special permits and licenses, but excluding the granting of special permits which shall be under the jurisdiction of the Planning Board.

**Section 16:** After the issuance of a building permit or a special permit, construction or operations must begin within six (6) months of the date of such permit being granted. If construction or operations have not begun within the time period required, or if construction is not continuing towards completion in as continuous and expeditious manner as reasonable, after the required time period, the construction or operations must conform to any amendment of the By-Law in effect at such time.

**Section 17:** Pre-existing non-conforming structures or uses may be extended or altered when the permit granting authority or special permit granting authority makes a finding as designated by the By-Law that such change, extension or alteration is not substantially more detrimental than the existing non-conforming use is to the neighborhood.

**Section 18:** Special Permits shall only be issued after a public hearing which must be held within sixty-five (65) days after the effective date of filing of a special permit application. A special permit application shall be filed with the Planning Board at one of its regular meetings and the applicant is also responsible for transmitting a copy of the application to the Town Clerk forthwith. The effective date of filing is the date the application is filed with the Planning Board. If substantial use or construction has not commenced without good cause within a period of one (1) year from the date of the granting of a special permit, the special permit shall lapse. This time limit includes time required to pursue or await the determination of an appeal.

**Section 19:** The provisions of these regulations shall not apply to any legally existing buildings or structures, nor to any legally existing use of any building or structure or land at the time of passage of these By-Laws. Should any non-conforming uses and/or structures be abandoned or not used for a period of two (2) years or more, such uses and/or structures shall be not revived without special permit.

**Section 20:** The Planning Board and the Board of Appeals shall mail notice of their public hearings to all property owners in the Town.

**Section 21:** No change or amendment of this By-Law shall be adopted except after a public hearing by the Planning Board and then if it is passed by a two-thirds (2/3) vote of a town meeting, subject to the regulations set down in Section 5, Chapter 40A of the General Laws. If



such change or amendment is defeated, it may not be reconsidered for two (2) years after such defeat except as otherwise provided by the above law. Amendments or changes of this By-Law may be initiated by the Selectmen, the Zoning Board of Appeals, the Planning Board, petition of ten (10) registered voters or a landowner whose land would be affected by such an amendment, and shall be made in the manner set out by the law cited above.

**Section 22: SITE PLAN REVIEW** *[Art V, Sec 22 adopted 11-2-2011 STM; approved by AGO 2-28-2012]*

Site Plan Review is required for all uses as provided in this bylaw and as described in this Section.

**A. Purpose**

The purpose of Site Plan Review is to ensure that new development is designed in a manner which reasonably protects the environmental resources and scenic qualities of the neighborhood and the Town. Site Plan Review addresses the layout and development of structures, parking, pedestrian facilities, access roads, and other site features and considers the concerns listed below. As a result of this process, a modification of the development proposal may be required to maximize benefits and minimize impacts. The Planning Board is responsible for Site Plan Review.

The areas of concern are:

- (1) The balance of rights of landowners to use their land, with the corresponding right of abutting and neighboring land owners to live without undue disturbance from noise, traffic, lighting, signage, smoke, fumes, dust, odor, glare, or storm water run-off;
- (2) The convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent areas;
- (3) The adequacy of methods to store, handle or dispose of wastes, including hazardous materials, to protect air, groundwater and surface water from pollution;
- (4) The protection of historical, scenic, and natural environmental features on the site under review and in adjacent areas; and
- (5) The adequacy of stormwater management systems to address non-point source pollution.

**B. Projects Requiring Site Plan Review**

Site Plan review by the Planning Board is required for the following:

- (1) The installation of ground mounted solar electric generating installations greater than 10 kW or occupying more than one (1) acre of land.

For this use, no permit for construction, reconstruction or occupancy shall be given by the Building Inspector except in conformity with a Site Plan approved by the Planning Board.

### **C. Procedure**

Prior to the submission of an application for Site Plan Review, the applicant is encouraged to meet with the Planning Board at a public meeting to discuss the proposed development in general terms. While there are no formal pre-application requirements, the applicant is encouraged to prepare sufficient preliminary site drawings to inform the Planning Board of the proposed development.

- (1) An applicant for Site Plan Review shall submit a Site Plan application in accordance with this section to the Town Clerk. The Town Clerk shall forthwith transmit a copy of the application to the Planning Board. The Town Clerk shall indicate the date on which the Site Plan was received and transmit a copy of the dated application to the applicant. The date of receipt as indicated by the Town Clerk shall be considered to be the date on which the application has been filed with the Planning Board. It shall be the responsibility of the applicant to furnish all supporting documentation with the application and the dated copy received from the Town Clerk does not absolve the applicant from this responsibility.
- (2) The Planning Board shall obtain with each submission a deposit sufficient to cover any expenses connected with the public hearing and review of the plans. The Planning Board has the right to retain a Registered Professional Engineer or other qualified professionals including attorneys, scientists, etc. to advise the Planning Board on any or all aspects of the site plan. The cost of the professional consultant(s) shall be borne by the applicant.
- (3) The Town Clerk shall transmit a copy of the site plan application in a timely fashion to the Conservation Commission, Board of Health, Historical Commission, Building Inspector, Fire Department and other Boards as deemed necessary (e.g. Energy Committee for solar electric generating installations). The Boards, Commissions, and Departments have up to forty-five (45) days to submit recommendations in writing to the Planning Board concerning the items outlined in (a)-(c) below. Failure of any Board, Commission or Department to report within the allotted time shall be interpreted as non-opposition to the submitted site plan.
  - (a) The adequacy of the materials provided by the applicant to describe the site design and potential impacts of the proposed development;
  - (b) The expected impacts of the proposed development and its consistency with the provisions of the Bylaws of the Town, the General Laws of Massachusetts, and all applicable rules and regulations of State and Federal agencies; and
  - (c) The recommended conditions or remedial measures to accommodate or mitigate the expected impacts of the proposed development or to ensure consistency with the Bylaws of the Town or other regulations applicable to the development.

- (4) The Planning Board shall hold a public hearing in accordance with Section 11 of M.G.L. Chapter 40A within sixty-five (65) days of the receipt of an application and shall take final action within ninety (90) days from the time of hearing. The Planning Board's final decision in writing shall consist of one of the following actions based on a simple majority vote:
- (a) Approval of the site plan based upon determination that the proposed plan will constitute a suitable development and is in compliance with the standards set forth in this Bylaw;
  - (b) Approval of the site plan subject to any conditions, modifications, or restrictions as required by the Board which will ensure that the project meets the standards set forth in these Zoning Bylaws; or
  - (c) Denial of the site plan based upon specific findings such as a determination that there was insufficient information submitted with the proposal to adequately review it or that the project is inconsistent with the requirements of these Zoning Bylaws.

#### **D. Submission Requirements**

A site plan shall be prepared by a registered Professional Engineer, Landscape Architect, or Architect at a scale of 1 inch equals 20 feet, on standard 24" x 36" sheets, with continuation on 8 1/2" x 11" sheets as necessary for narrative. The site plan shall include all data, detail and supporting information as outlined in Appendix A. The Planning Board may waive one or more requirements for submittal as outlined in Appendix A upon written request by the applicant if the small scale or simplicity of the projects warrants such a waiver. Such determination to waive one or more of the requirements shall be in the sole discretion of the Planning Board. Seven (7) copies of the site plan and all supporting documentation shall be provided to the Town Clerk at the time of application.

#### **E. Standards for Review**

The Planning Board shall review the site plan and supporting data taking into consideration the reasonable fulfillment of the following objectives:

- (1) Conformance with the provisions of the Bylaw of the Town, the General Laws of Massachusetts, and all applicable rules and regulations of State and Federal agencies.
- (2) Protection of Town resources and abutting properties by minimizing any undue disturbance from noise, traffic, lighting, hazardous materials, signage, smoke, fumes, dust, odor, glare, or storm water run-off.
- (3) Convenience and safety of vehicular and pedestrian movement within the site and in relationship to adjoining roads, parking areas, sidewalks and properties. Adequacy and arrangement of pedestrian traffic access and circulation, pedestrian walkways, control of intersections with vehicular traffic and overall pedestrian safety and convenience.

- (4) Adequacy of the methods to dispose of sewage and refuse and the protection from pollution of surface and ground water. This includes minimizing the erosion of soil both during and after construction.
- (5) Existing and future demands of the project should not exceed the ability of the Town to provide adequate services or infrastructure.
- (6) Provisions for adequate parking, lighting, internal traffic circulation, and off-street loading and unloading of vehicles incidental to the normal operation of the establishment.
- (7) Integration of the proposed site plan development into the existing landscape through design features such as vegetative buffers, and retention of open space and agricultural land.
- (8) Minimization of the area over which existing vegetation is to be removed. Where tree removal is required, special attention is to be given to the planting of replacement trees.
- (9) The setback, area, placement of parking, architectural style, signage, and landscaping of the development with preference given to native species, and how these features protect and reflect the surrounding historic and scenic landscape.
- (10) The potential impact on surface or ground water supplies from any materials, hazardous or otherwise, stored, used or generated on the site and steps taken to protect these resources.
- (11) Provision for adequate drainage and stormwater management to prevent flooding and to protect surface and ground water from pollutants.
- (12) Location of buildings to provide a solar and wind orientation which encourages energy conservation.
- (13) Provision for minimizing light pollution including the use of full cut-off fixtures.
- (14) Adequacy of fire and emergency plans and ease of access for emergency service vehicles and personnel.
- (15) Minimization of impacts to scenic landscapes and historic districts.

## **F. Enforcement**

- (1) The Planning Board may require the posting of a bond to assure compliance with the plan and stated conditions to its approval, and the Town or Building Inspector may suspend any permit or license when work is not performed as required.
- (2) Site Plan approval issued under this section shall lapse within one (1) year if a substantial use thereof has not commenced, except for good cause. This time limit shall be extended

to include the time required to pursue and await determination of a judicial appeal pursuant to Chapter 40A of the General Laws.

## APPENDIX A

### SITE PLAN CONTENTS

1. Name of project, boundaries, locus map(s) showing site's location in Town, date, north arrow and scale of plan;
2. Name(s) and address(es) of the owner(s) of the land, the developer (if applicable), and/or their designee;
3. Name, title, and address of person(s) who prepared the plan;
4. Names and addresses of all owners of record of abutting lots and those within 300 feet of the property line;
5. All existing lot lines, easements and rights of way;
6. Location of all proposed new lot lines;
7. Location and use of buildings and structures within 300 feet of the site;
8. Location and use of all existing and proposed buildings and structures, including approximate height and floor area;
9. Location of areas subject to Wetland Protection Act, M.G.L. c. 131, section 40; the Watershed Protection Act, M.G.L. c. 92, section 107A; and public drinking water supply recharge areas on site and within 300 feet of the property line, and the location on site of any Priority Habitat Areas mapped by the Natural Heritage and Endangered Species program;
10. The location and a description of all proposed septic systems, sewer connections, water supplies, storm drainage systems, utilities and other waste-disposal methods;
11. Location and date of all registered "perc" and "deep hole" tests on the site;
12. Existing and proposed topography at a two-foot contour intervals for the proposed grading and landscape plan;
13. U.S.G.S. topography for the site and within 300 feet of the property line;
14. Location of proposed public and private ways on the site;
15. Location and size of proposed parking and loading areas, driveways, walkways, access and egress points to the public way;
16. The location and a description of any proposed open space or recreation areas;
17. The location of existing permanently protected open space on the site or on abutting properties;
18. Size and location of existing and proposed sign(s);
19. Location, type of fixture, and height of any proposed lighting;
20. Surface drainage strategy that prevents increased drainage off-site or pollution;
21. Existing vegetation that will be left undisturbed and proposed landscape features, including the location and a description of screening, fencing and plantings using non-invasive species with a preference given to native species;
22. Design features which will integrate the proposed development into the existing landscape, maintain neighborhood character, and screen objectionable features from neighbors and roadways;

23. A complete list of chemicals, pesticides, fuels and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use;
24. Provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage or vandalism, including spill containment and cleanup procedures;
25. Provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces;
26. Estimated average daily and peak-hour vehicle trips to be generated by the site and traffic flow patterns for both vehicles and pedestrians, showing adequate access to and from the site and adequate circulation within the site; and
27. Noise levels expected to occur at the boundary of the property.

**Section 23: SOLAR ELECTRIC GENERATING INSTALLATIONS** *[Art V, Sec 23 adopted 11-2-2011 STM; approved by AGO 2-28-2012]*

**A. Purpose**

The purpose of this bylaw is to facilitate the creation of new Large-Scale Ground-Mounted Solar Electric Installations (see Section 23B. Definitions) by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on environmental, scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations.

The provisions set forth in this section shall apply to the construction, operation, and/or repair and/or removal of Large-Scale Ground-Mounted Solar Electric Installations greater than 10 kW.

**(1) Applicability**

This section applies to Large-Scale Ground-Mounted Solar Electric Generating Installations greater than 10 kW. Smaller scale (10 kW or less) ground mounted solar electric generating installations which are an accessory structure to an existing residential or non-residential use 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 Rowe's Zoning Bylaws such as setback requirements.

Large-Scale Ground-Mounted Solar Electric Generating Installations greater than 10 kW up to 250 kW that occupy no more than 1 acre of land proposed to be constructed in the Solar Electric Overlay District are allowed As-of-Right but are subject to Site Plan Review (see Section 22) and the requirements of this section.

Large-Scale Ground-Mounted Solar Electric Generating Installations which require a Special Permit and Site Plan Review in accordance with the Zoning Bylaws of the Town of Rowe in addition to meeting the requirements of this section are as follows:

- (a) an installation greater than 10 kW up to 250 kW located outside of the Solar Overlay District; and
- (b) an installation larger than 250 kW or an installation occupying more than 1 acre of land on one or more adjacent parcels in common ownership (including those separated by a roadway) inside or outside the Solar Electric Overlay District.

This section also pertains to physical modifications that materially alter the type, configuration, or size of Large-Scale Ground-Mounted Solar Electric Generating Installations or related equipment.

All buildings and fixtures forming part of a solar electric installation shall be constructed in accordance with the Massachusetts State Building Code.

## **B. Definitions**

**As-of-Right Siting:** As-of-Right Siting shall mean that development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval. As-of-right development may be subject to Site Plan Review to determine conformance with the local zoning bylaws. Projects cannot be prohibited, but can be reasonably regulated by the Building Inspector.

**Building Inspector:** The individual designated by Article VI, Section 3 of the Rowe Bylaws and charged with the enforcement of the Zoning Bylaws.

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

**Designated Location:** The Solar Electric Overlay District(s) as designated by the Town of Rowe are shown on the Official Zoning Map dated September 13, 2011, in accordance with Massachusetts General Laws Chapter 40A. This map is hereby made a part of this Zoning Bylaw and is on file in the Office of the Rowe Town Clerk.

**Large-Scale Ground-Mounted Solar Electric Generating Installation:** A solar electric system that is structurally mounted on the ground and is not roof-mounted, and has a minimum nameplate capacity greater than 10 kW.

**Rated Nameplate Capacity:** The maximum rated output of electric power production of the Electric system in Alternating Current (AC) or Direct Current (DC).

**Site Plan Review:** Review by the Planning Board to determine conformance with the local Zoning Bylaws.

**Site Plan Review Authority:** For purposes of this bylaw, the Planning Board is the Site Plan Review Authority.

**Solar Photovoltaic Array:** An arrangement of solar photovoltaic panels.

### **C. General Requirements for all Large Scale Solar Ground-Mounted Solar Electric Generating Installations**

The following requirements are common to all Large-Scale Ground-Mounted Solar Electric installations.

#### **(1) Compliance with Laws, Bylaws and Regulations**

The construction and operation of all Large-Scale Ground-Mounted Solar Electric Installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar electric installation shall be constructed in accordance with the Massachusetts State Building Code.

#### **(2) Building Permit and Building Inspection**

No Large-Scale Ground-Mounted Solar Electric Installations shall be constructed, installed or modified as provided in this section without first obtaining a building permit and paying of any required fees.

### **D. Site Plan Review**

Large-Scale Ground-Mounted Solar Electric Installations shall undergo Site Plan Review (see Section 22) by the Planning Board prior to construction, installation or modification as provided in this section.

#### **(1) General**

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

#### **(2) Required Documents**

The project proponent shall provide the following documents in addition to or in coordination with those required for Site Plan Review (see Section 22):

##### **(a) A site plan showing:**

- i. Property lines, map and lot from the Assessor's records, and physical features, including roads and topography, for the project site;
- ii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures including their height;



- iii. Locations of wetlands and Priority Habitat Areas defined by the Natural Heritage & Endangered Species Program (NHESP)
  - iv. Locations of floodplains or inundation areas for moderate or high hazard dams;
  - v. Locations of local or National Historic Districts;
  - vi. 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 to the environment as appropriate;
  - vii. Blueprints or drawings of the solar electric installation 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;
  - viii. One or three line electrical diagram detailing the solar electric installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
  - ix. Documentation of the major system components to be used, including the electric generating components, transmission systems, mounting system, inverter, etc.;
  - x. Name, address, and contact information for proposed system installer;
  - xi. Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any;
  - xii. The name, contact information and signature of any agents representing the project proponent; and
  - xiii. Documentation of actual or prospective access and control of the project site;
  - xiv. Provision of water including that needed for fire protection; and
  - xv. Existing trees 6" caliper or larger and shrubs.
- (b) An operation and maintenance plan (see Section 23F.);
  - (c) Zoning district designation for the parcel(s) of land comprising the project site (submission of a copy of a zoning map with the parcel(s) identified is suitable for this purpose);
  - (d) Proof of liability insurance;
  - (e) Description of financial surety that satisfies Section 23L;
  - (f) Sight line representation. A site line representation shall be drawn from that portion of any public road within 300 feet that would have the clearest view of the proposed facility, and the closest facade of each residential building (viewpoint) within 300 feet of the highest point (visible point) of the solar electric generating installation. Each sight line shall be depicted in profile, drawn at one-inch equals 40 feet. The profiles shall show all intervening trees and buildings; and
  - (g) Existing (before condition) and proposed (after condition) photographs. Each sight line shall be illustrated by one four-inch by six-inch color photograph of what can currently be seen from any public road within 300 feet. Each of the existing condition photographs shall have the proposed solar electric generating installation superimposed on it to show what will be seen from public roads if the solar electric generating installation is built.

**E. Site Control**

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

**F. Operation & Maintenance Plan**

The project proponent shall submit a plan for the operation and maintenance of the Large-Scale Ground-Mounted Solar Electric Generating Installation, which shall include measures for maintaining safe access to the installation, storm water and vegetation controls, as well as general procedures for operational maintenance of the installation.

**G. Utility Notification**

No Large-Scale Ground-Mounted Solar Electric Generating Installations shall be constructed until evidence has been given to the Planning Board that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar electric installation owner or operator’s intent to install an interconnected facility. Off-grid systems shall be exempt from this requirement.

**H. Dimension and Height Requirements**

**(1) Setbacks**

For Large-Scale Ground-Mounted Solar Electric Generating Installations, front, side and rear setbacks shall be as follows:

- (a) Front yard: The front yard depth shall not be less than 50 feet.
- (b) Side yard. Each side yard shall have a depth of at least 50 feet.
- (c) Rear yard. The rear yard depth shall not be less than 50 feet.

The required setback areas should not be included in the 1 acre maximum calculation for By-Right solar electric generating installations (see Section 23A.).

**(2) Appurtenant Structures**

All appurtenant structures to Large-Scale Ground-Mounted Solar Electric Generating Installations shall be subject to regulations concerning the bulk and height of structures, lot area, and setbacks as specified in Section 23H., open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be screened from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

**(3) Height of Structures**

The height of any structure associated with a Large-Scale Ground-Mounted Solar Electric Generating Installation shall not exceed 35 feet.

## **I. Design and Performance Standards**

### **(1) Lighting**

Lighting of solar electric installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Lighting of the solar electric installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

### **(2) Signage**

Signs on Large-Scale Ground-Mounted Solar Electric Generating Installations shall comply with Rowe's sign bylaw, Article V. Section 2E.. A sign consistent with Article V. Section 2E shall be required to identify 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.

### **(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 may be above ground if required by the utility provider.

### **(4) Roads**

Access roads shall be constructed to minimize grading, removal of stone walls or trees and minimize impacts to environmental or historic resources.

### **(5) Control of Vegetation**

Herbicides may not be used to control vegetation at the solar electric installation. Mowing or the use of pervious pavers or geotextile materials underneath the solar array are possible alternatives.

### **(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 hazardous materials are utilized within the solar electric equipment then impervious containment areas capable of controlling any release to the environment and to prevent potential contamination of groundwater are required.

(7) **Noise**

Sound or noise levels may not exceed 50 dBA, at the boundary of the property.

(8) **Visual Impacts**

The solar electric generating installation shall be designed to minimize visual impacts including preserving natural vegetation to the maximum extent possible, blending in equipment with the surroundings, and adding vegetative buffers to screen abutting residential properties whether developed or not. Siting shall be such that the view of the solar electric generating installation from other areas of Town shall be as minimal as possible.

**J. Safety and Environmental Standards**

(1) **Emergency Services**

The Large-Scale Ground-Mounted Solar Electric Generating Installations owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local Fire Chief. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar electric installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

(2) **Land Clearing, Soil Erosion and Habitat Impacts**

Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the Large-Scale Ground-Mounted Solar Electric Installation or otherwise prescribed by applicable laws, regulations, and bylaws.

**K. Monitoring, Maintenance and Reporting**

(1) **Solar Electric Generating Installation Conditions**

The Large-Scale Ground-Mounted Solar Electric Generating Installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Management Director. The owner or operator shall be responsible for the cost of maintaining the solar electric generating installation and any access road(s).

(2) **Modifications**

All material modifications to a solar electric generating installation made after issuance of the required building permit shall require approval by the Planning Board.

(3) **Annual Reporting**

The owner or operator of the installation shall submit an Annual Report which certifies compliance with the requirements of this bylaw and their approved site plan including control of vegetation, noise standards, and adequacy of road access. The Annual Report shall also provide information on the maintenance completed during the course of the year and the amount of electricity generated by the facility. The Annual Report shall be submitted to the Select Board, Planning Board, Fire Chief,

Emergency Management Director, Building Inspector, Board of Health and Conservation Commission (if Wetlands Permit was issued) no later than 45 days after the end of the calendar year.

## **L. Abandonment or Decommissioning**

### **(1) Removal Requirements**

Any Large-Scale Ground-Mounted Solar Electric Generating Installation which has reached the end of its useful life or has been abandoned consistent with Section 23L.(2) of this bylaw shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

- (a) Physical removal of all Large-Scale Ground-Mounted Solar Electric Generating Installations, structures, equipment, security barriers and transmission lines from the site.
- (b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- (c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board Authority may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

### **(2) Abandonment**

Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar electric installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Planning Board. If the owner or operator of the Large-Scale Ground-Mounted Solar Electric Generating Installation fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town retains the right, after the receipt of an appropriate court order, to enter and remove an abandoned, hazardous or decommissioned Large-Scale Ground-Mounted Solar Electric Generating Installation. As a condition of Site Plan or Special Permit approval, an applicant shall 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.

### **(3) Financial Surety**

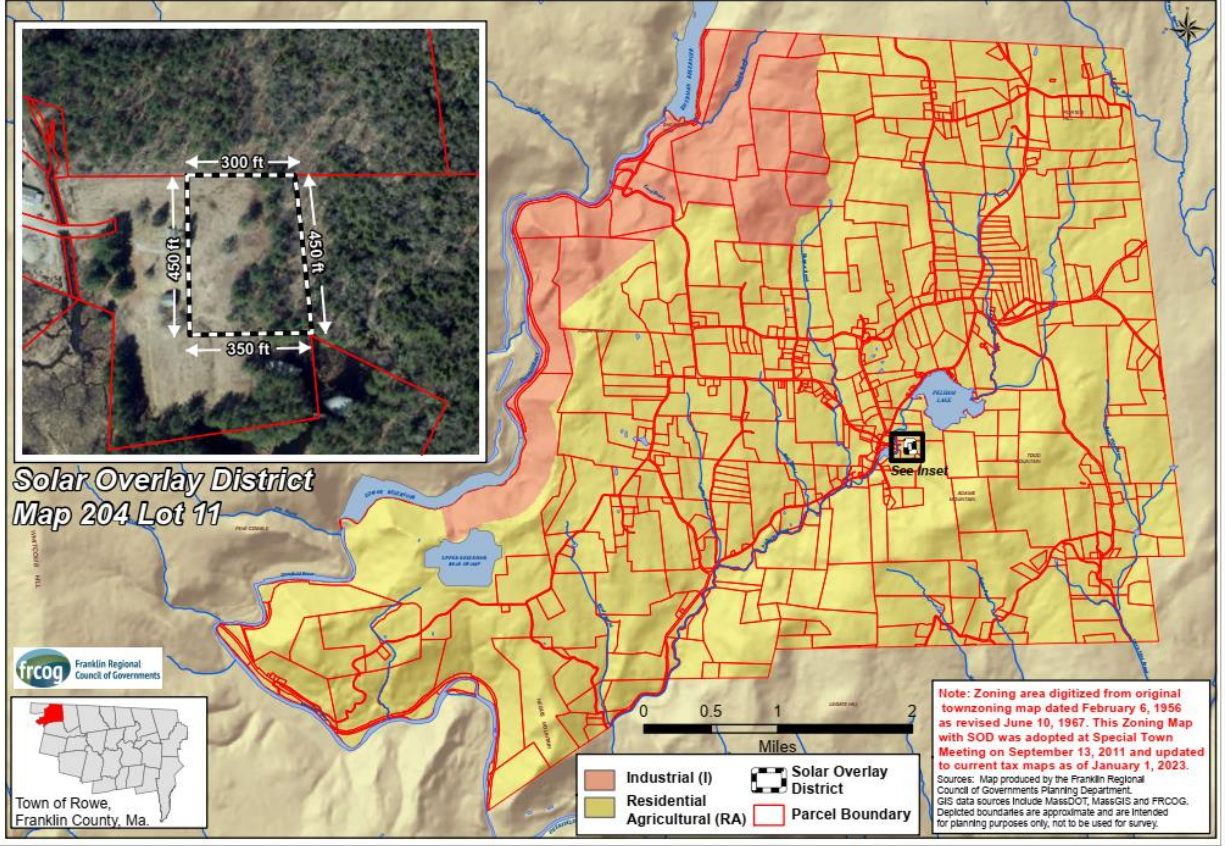
Proponents of Large-Scale Ground-Mounted Solar Electric Generating Installations shall provide a form of surety, either through an escrow account, bond or other form of surety approved by the Planning Board, to cover the cost of removal in the event the town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Planning Board, but in no event to exceed

more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent and the Town. Such surety will not be required for municipal or state-owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

Rowe Zoning Map

Town of Rowe Official Zoning Map  
With Solar Overlay District

September 13, 2011



## Changes

Under Article III, Section 12 of the general bylaws, all non-substantive changes must be submitted by the Town Clerk to the Board of Selectmen. Once approved, changes must be notated in some way in the document. Those changes are below.

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<sup>i</sup> Changed Article V to Article VII. (Change approved by Board of Selectmen 2-0-0, 9/19/19)