

**PLANNING BOARD
TOWN OF WILBRAHAM**
240 Springfield Street
Wilbraham, Massachusetts 01095

Frederic Fuller, Chairman
Adam Basch
Richard Butler
David Sanders
Jeffrey Smith
Tracey Plantier, Associate



John Pearsall, Planning Director
Karen Benoit, Adm. Assistant

Phone: (413) 596-2800 Ext 203
FAX: (413) 596-9256
planning@wilbraham-ma.gov

WILBRAHAM PLANNING BOARD

PUBLIC HEARING

In accordance with M.G.L. Chapter 40A, Section 5, the Wilbraham Planning Board will hold a Public Hearing on Wednesday, April 2, 2014 at 7:30 PM in the Town Office Building, 240 Springfield Street, to give interested parties the opportunity to comment on the following proposed amendments to the Wilbraham Zoning By-Law sponsored by the Planning Board:

1. Special Event Signs: By revising Sections 12.2, 12.4 and 12.9.2;
2. Neighborhood Office Zoning District Use Regulations: By revising sections 3.4.5.4 and 3.4.5.17;
3. Solar Energy Systems: By revising sections 1.3 and 3.9.1.3 and adding new sections 3.4.3.7 and 10.7; and
4. Registered Marijuana Dispensaries: By adding a new definition in Section 1.3, by adding new sections 3.4.5.21 and 7.6, and by deleting section 10.6.

The complete text of the proposed amendments is available for review in the Town Clerk's Office and the Planning Office during normal business hours. All persons interested or wishing to be heard on this matter are urged to attend the public hearing on April 2.

Frederic Fuller
Chairman

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Proposed Amendments to the Wilbraham Zoning By-Law
April 2, 2014 Public Hearing

1. SPECIAL EVENT SIGNS (Sections 12.2, 12.4 and 12.9.2)

- A. To amend Section 12.2 by deleting the existing definition of “Special Event Sign” and substituting therefor a new definition to read as follows:**

Special Event Sign. An on-premises sign or banner that is temporarily affixed to a building, tent or other enclosure, pole or fence which advertises an upcoming or current event at that location.

- B. To amend Section 12.9.2 (Special Event Signs) by deleting the existing section in its entirety and substituting therefor a new section to read as follows:**

12.9.2 Special Event Signs

- A.** A sign permit is required from the Building Inspector and the permit will indicate the location of the sign and the duration of the special event and will stipulate timing for erection and removal of the Special Event Sign which shall not exceed thirty (30) consecutive days.
- B.** Special Event Signs may not exceed 20 square feet in area.
- C.** Pennants, Movable signs, balloons and other inflatable items are not permitted as a Special Event Sign.
- D.** No part of a Special Event Sign can be higher than the roof line at the eaves of the adjacent building on the lot or twenty (20) feet, whichever is less.

- E. A business or organization is allowed to display one sign per special event with a maximum of two special event signs per calendar year provided that in situations where there are more than one business located on the same lot then not more than two separate special event signs shall be permitted on the same lot at any one time.
- F. A Special Event Sign which obstructs the visibility of traffic, or becomes unsightly, or flaps or makes noise for any reason shall be promptly removed, relocated or replaced.

C. To amend Section 12.4 (Exempted Signs) by adding a new section 12.4.12 to read as follows:

12.4.12 A temporary sign that announces the opening of a new business subject to the limitations as to size, location and duration of special event signs as authorized under section 12.9.2.

See “Exhibit 1”

**2. NEIGHBORHOOD OFFICE ZONING DISTRICT USE REGULATIONS
(Sections 3.4.5.4 and 3.4.5.17)**

To amend sections 3.4.5.4 and 3.4.5.17 of the Wilbraham Zoning By-Law by deleting the code designation "N" and substituting therefor the code designation “ZBA” in the Neighborhood Office (“NO”) zoning district column of the Schedule of Use Regulations Table.

See “Exhibit 2”

**3. SOLAR ENERGY SYSTEMS
(Sections 1.3, 3.4.3.7, 3.9.1.3 and 10.7)**

To amend the Wilbraham Zoning By-Law in the following manner as set forth in “Exhibit 3” attached hereto:

- A. By deleting the existing definition of “Building Height” in section 1.3 and substituting therefor a new definition;
- B. By inserting in proper alphabetical order a new definition for “Large-Scale Ground-Mounted Solar Energy System” in section 1.3;
- C. By deleting existing section 3.9.1.3 (Solar Energy System Accessory Use Regulations) and substituting therefor a new section 3.9.1.3;
- D. By inserting a new section 3.4.3.7(Large-Scale Ground-Mounted Solar Energy Systems) in the Schedule of Use Regulations Table;
and
- F. By inserting a new section 10.7 (Large-Scale Ground-Mounted Solar Energy Systems).

See “Exhibit 3”

**4. REGISTERED MARIJUANA DISPENSARIES
(Sections 1.3, 3.4.5.21, 7.6 and 10.6)**

To amend the Wilbraham Zoning By-Law in the following manner as set forth in “Exhibit 4” attached hereto:

- A. By inserting in proper alphabetical order a new definition for “Registered Marijuana Dispensary (RMD)” in section 1.3;
- B. By inserting a new section 3.4.5.21 (Registered Marijuana Dispensary) in the Schedule of Use Regulations Table;
- C. By inserting a new section 7.6 (Registered Marijuana Dispensary (Regulations); and
- D. By deleting existing section 10.6 (Temporary Moratorium on Medical Marijuana Treatment Centers).

See “Exhibit 4”

EXHIBIT 1
SPECIAL EVENT SIGNS

A. SECTION 12.2

Special Event Sign. ~~A~~ An on-premises ~~temporary~~ sign or banner that is temporarily affixed to a building, tent or other enclosure, pole or fence which advertises an upcoming or current event at that location.

B. SECTION 12.9.2

12.9.2 Special Event Signs

- A. A sign permit is required from the Building Inspector and the permit will indicate the location of the sign and the duration of the special event and will stipulate timing for erection and removal of the Special Event Sign which shall not exceed thirty (30) consecutive days.
- B. Special Event Signs may not exceed 20 square feet in area.
- C. Pennants, Movable signs, balloons and other inflatable items are not permitted as a Special Event Sign.¹
- D. No part of a Special Event Sign can be higher than the roof line at the eaves of the adjacent building on the lot or twenty (20) feet, whichever is less.
- E. ~~A maximum of two Special Event Signs are permitted per lot at any one time.~~ A business or organization is allowed to display one sign per special event with a maximum of two special event signs per calendar year provided that in situations where there are more than one business located on the same lot then not more than two separate special event signs shall be permitted on the same lot at any one time.
- F. A Special Event Sign which impairs traffic visibility or becomes unsightly or flaps or makes noise for any reason shall be promptly removed, relocated or replaced.

¹ Note: Section 12.3.2 (A) prohibits Movable Signs like "A-Frame" signs as defined in Section 12.2 in all zoning districts. Section 12.3.2 (B) prohibits Streamers, Pennants, ribbons, balloons as defined in Section 12.2 in all zoning districts.

C. SECTION 12.4.12

12.4 EXEMPTED SIGNS

12.4.12 Temporary sign that announces the opening of a new business subject to the limitations as to size, location and duration of special event signs as authorized under section 12.9.2.

EXHIBIT 3

SOLAR ENERGY SYSTEMS

- A. *By deleting the existing definition of “Building Height” in section 1.3 and substituting therefor a new definition to read as follows:***

Building Height.* The vertical distance measured from the mean elevation of the finished grade within ten (10) feet of the walls of the building to the highest point of any roof or parapet excluding radio and television antennae, solar energy system equipment, ventilators, cooling towers chimneys, spires, cupolas and similar appurtenances usually carried above the roof which do not enclose potentially habitable floor space and are not intended for human occupancy; except that in the Hillside and Ridgeline District, said vertical distance is measured from the mean elevation at the foundation perimeter of the natural grade existing prior to construction grading or filling.

- B. *By inserting in proper alphabetical order a new definition for “Large-Scale Ground-Mounted Solar Energy System” in section 1.3 to read as follows:***

Large-Scale Ground-Mounted Solar Energy System. A solar energy system with solar panels structurally mounted on the ground in an array that occupies a total footprint area greater than 10,000 square feet of land, said footprint being measured as the total area of the vertical projection on the ground of all panels in the installation’s most horizontal tilt position including all spaces between the panels.

- C. *By deleting existing section 3.9.1.3 (Solar Energy System Accessory Use Regulations) and substituting therefor a new section 3.9.1.3 to read as follows***

3.9.1.3 **Solar Energy System** is permitted in all zoning districts as an accessory use to the principal use subject to the following requirements.

- A.** The Solar Energy System shall be designed for the primary purpose of supplying electrical or thermal power for the principal use and/or accessory use of the property on which the system is located, although this provision shall not prohibit a net metered solar energy system to be installed for the purpose of generating electricity on-site that is interconnected with the electric grid and which allows the on-site consumer to feed surplus electricity into the electrical grid with the approval of the local utility company.
- B.** The Solar Energy System may only be constructed or

materially modified after the issuance of a building permit by the Building Commissioner.

- C. The Solar Energy System may be integrated into or attached to the principal structure and/or accessory building or mounted on the ground in accordance with the requirements of this by-law and all other applicable building and electrical codes.
- D. Roof-Mounted Solar Energy Systems shall conform to height regulations specified for the applicable principal or accessory building type in the underlying zoning district or to such other height as is determined by the Building Commissioner to be essential for proper system operation provided that such height will not present any undue hardships on abutting properties. A structural engineering report may be required by the Building Commissioner documenting the structural integrity of the structure and its ability to support the proposed roof-mounted solar facility.
- E. Ground-mounted Solar Energy Systems shall be considered structures which must comply with the following standards:
 - 1. Ground-Mounted Solar Energy Systems must comply with all minimum setback requirements for the Zoning District where it is to be installed except that the rear yard setback for such Systems can be reduced by one-third of the required setback in the District.
 - 2. Ground-Mounted Solar Energy Systems shall be installed as close to the ground as practicable and shall not exceed twelve (12) feet in height.
 - 3. Ground-Mounted Solar Energy Systems must comply with the accessory structure regulations applicable to the Zoning District where it is located except that in Residential Districts the detached accessory structure restrictions imposed under section 4.4.8 shall not apply to Ground-mounted Solar Energy Systems that otherwise comply with the standards imposed in this section 3.9.3.1.
 - 4. Ground-Mounted Solar Energy Systems shall be designed and located to minimize adverse visual impacts on surrounding properties and, if necessary, the Building Commissioner may require that the property owner make reasonable efforts to screen the system from the view of streets and abutting residential property, where feasible and economically practicable, through the use of architectural features, earth berms, landscaping, or other screening which

will harmonize with the character of the property and surrounding area.

5. Ground-Mounted Solar Energy Systems shall not be installed over existing septic systems or the septic system reserve area.
 6. Ground-Mounted Solar Energy Systems with solar energy collector panels occupying a total footprint of more than 1,000 square feet of land area shall require special permit approval from the Planning Board subject to the provisions of section 13.6 and the Planning Board may impose conditions reasonably appropriate to improve site design, protect the public health, safety and welfare and/or otherwise serve the purpose of this section. For the purpose of this regulation, such footprint shall be measured as the total area of the vertical projection on the ground of all panels in the installation's most horizontal tilt position including all spaces between the panels.
 7. Large-scale Ground-mounted Solar Energy systems as defined in section 1.3 shall be considered a principal use which are subject to regulation under section
- F.** Solar Energy Systems shall be maintained in good working order and the owner shall have it removed if the Building Commissioner determines it has become a nuisance or hazard.
- G.** The Planning Board acting as the Special Permit Granting Authority in accordance with Section 13.6 of this By-Law may consider and grant a special permit for Solar Energy Systems that deviate from the standards set forth in this Section 3.9.1.3 subject to a finding that:
1. The benefit of installing solar energy power at the installation site will not conflict with the public health, safety and welfare concerns that the regulations of this Section 3.9.1.3 are intended to protect; or
 2. That the particular design, mitigation measures, offsets, agreements, or other provisions of the proposed installation address such concerns in an alternative and satisfactory manner.

D. By inserting a new section 3.4.3.7(Large-Scale Ground-Mounted Solar Energy Systems) in the Schedule of Use Regulations Table to read as follows:

TABLE ONE: SCHEDULE OF USE REGULATIONS												
BY-LAW NUMBER	LAND USE CLASSIFICATION WITH APPLICABLE STANDARDS & CONDITIONS	ZONING DISTRICT										
		R15	R26	R34	R40	R60	RMD	NO	NS	ACF	GB	IPG
3.4.3*	PRINCIPAL USES: GOVERNMENT & PUBLIC SERVICE											
3.4.3.7	Large-Scale Ground-Mounted Solar Energy Systems.	N	N	PB	PB	PB	N	N	N	N	PB	SPA

(Note: A Large-Scale Ground-Mounted Solar Energy System is a use which is allowed by site plan approval from the Planning Board in the I-POP-GB zoning district, by special permit from the Planning Board in the GB, R-34, R-40 and R-60 zoning districts, and is prohibited in all other zoning districts.)

E. By inserting a new section 10.7 (Large-Scale Ground-Mounted Solar Energy Systems) to read as follows:

10.7 Large-Scale Ground-Mounted Solar Energy Systems

10.7.1 Purpose

The purpose of this section of the Zoning By-Law is to promote and facilitate the orderly development of Large-Scale Ground-Mounted Solar Energy Systems in the Town of Wilbraham by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such systems, to protect public safety, to minimize impacts on scenic, natural and historic community resources, and to provide adequate financial assurance for the eventual decommissioning of such systems.

10.7.2 Applicability

- A.** This section applies to the construction and operation of Large-Scale Ground-Mounted Solar Energy Systems as defined in section 1.3. This section also pertains to physical modifications that materially alter the type, configuration or size of Large-Scale Ground-Mounted Solar Energy Systems or related equipment throughout the useful life of the system.
- B.** The requirements of this section shall apply to a Large-Scale Ground-Mounted Solar Energy System regardless of whether it is the primary use of property or an accessory use.
- C.** Large-Scale Ground-Mounted Solar Energy Systems may only be constructed or materially modified after the issuance of site plan approval or a special permit from the Planning Board in accordance section 3.4.3.7
- D.** Municipal facilities owned, operated by, or developed for and on behalf of the Town of Wilbraham are allowed as-of-right in all zoning districts with site plan approval from the Planning Board.
- E.** Ground-Mounted Solar Energy Systems with a footprint size less than 10,000 square feet in area that are an accessory structure to an existing use do not need to comply with this section but shall require a building permit and must comply with Section 3.9.1.3 of the Wilbraham Zoning By-Law as applicable.

10.7.3 General Requirements

- A. Compliance.** The construction, maintenance, operation, modification and removal of the Large-Scale Ground-Mounted Solar Energy System shall comply with all applicable local, state, and federal requirements.

B. Building Permit and Inspection. No Large-Scale Ground-Mounted Solar Energy System shall be constructed, installed or modified, as provided in this Section, without first obtaining a building permit.

C. Fees. The application for a Large-Scale ground-Mounted Solar Energy System must be accompanied by the required fee.

10.7.4 Site Control

The applicant shall demonstrate legal access to and control over the proposed site sufficient to allow for the construction and operation of the proposed Large-Scale Ground-Mounted Solar Energy System.

10.7.5 Utility Notification

The applicant shall demonstrate that it has notified the operator of the electric grid that it intends to connect the Large-Scale Ground-Mounted Solar Energy System to the electric grid. Off-grid installations are exempt from this requirement.

10.7.6 Filing Requirements

Applicants seeking to construct or modify a Large-Scale Ground-Mounted Solar Energy System shall submit the following information to the Planning Board. All maps to be submitted must be drawn at appropriate scales and be signed by a registered professional engineer or licensed surveyor. The Planning Board may, in its discretion, waive any of the filing requirements.

A. Contact Information – Provide the applicant’s and property owner’s name, address, phone number, email address, and signature.

B. Site Identification – Provide the address and the map, lot and block number of the proposed site.

C. Site Plans – Provide site plans showing the following:

- (1)** Property lines of the proposed site.
- (2)** Outlines of all existing and proposed buildings and structures on the proposed site, including distances from the proposed Large-Scale Ground-Mounted Solar Energy System.
- (3)** Existing and proposed access roads, driveways, public ways, private ways, and recreational trails on the proposed site.
- (4)** Detailed layout of the proposed Large-Scale Ground-Mounted Solar Energy System, including but not limited to panel mounts, foundations, appurtenant equipment and fencing.

- (5) Detailed layout of the electric infrastructure to connect the Large-Scale Ground-Mounted Solar Energy System to the electric grid or net metering equipment.
- (6) Delineation of all wetland resources and associated buffer areas.
- (7) Locations of rare, threatened or endangered species existing on the site.
- (8) Proposed changes to the site, including grading, cut and fill, landscaping, native vegetation for screening and vegetation to be removed or altered.
- (9) Engineering controls at the site and on the access road to control erosion and sedimentation both during construction and after construction as a permanent measure. Such engineering controls shall conform to the Massachusetts Department of Environmental Protection's Stormwater Policy.

D. Technical Information – Provide the following information

- (1) Blueprints or drawings of the Large-Scale Ground-Mounted Solar Energy System signed by a professional engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the installation and any potential shading from nearby trees or structures.
- (2) One or three line electrical diagram detailing the solar photovoltaic installation, appurtenant equipment and electrical interconnection methods with all National Electric Code compliant devices.
- (3) Documentation of the major Large-Scale Ground-Mounted Solar Energy System components to be used, including but not limited to PV panels, panel mounts and inverter.

E. Operation & Maintenance Plan. Provide a plan for the operation and maintenance of the Large-Scale Ground-Mounted Solar Energy System which shall include measures for maintaining safe access to the installation, proper security, vegetation and stormwater controls, and general procedures for operations and maintenance of the system.

F. Liability Insurance. Provide proof of liability insurance.

10.7.7 Design Requirements & Performance Standards

- A. Lot Size.** The minimum lot size for Large-Scale Ground-Mounted Solar Energy Systems shall be five (5) acres.

- B. Setbacks.** Large-Scale Ground-Mounted Solar Energy Systems shall maintain a minimum front yard setback distance of 75 feet and a minimum side yard and rear yard setback distance of 50 feet. Where a proposed Large-Scale Ground-Mounted Solar Energy System does not abut a residential zoning district or use, the Planning Board may reduce the above-listed minimum setback distances as provided in subsection 10.7.13.
- B. Height.** The height of the solar panels in a Large-Scale Ground-Mounted Solar Energy System shall not exceed fifteen (15) feet in height above finished grade.
- C. Appurtenant Structures.** All appurtenant structures to Large-Scale Ground-Mounted Solar Energy Systems, including but not limited to, equipment shelters, storage facilities, transformers and substations, shall be architecturally compatible with each other and subject to reasonable regulations concerning the bulk and height of such structures, setbacks, parking and building coverage requirements.
- D. Lighting** – Lighting shall be limited to that required for safety and operational purposes and shall be reasonably shielded so as not to be intrusive to abutting properties. Lighting shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.
- E. Screening.** Whenever reasonable and practical, the Large-Scale Ground-Mounted Solar Energy Systems shall be screened year round from all adjoining properties in residential use and public and private ways. If the applicant provides information that the visual buffer would have a detrimental impact on the ability to generate power, the Planning Board may grant a waiver to reduce or eliminate the screening requirement as provided in subsection 10.7.13.
- F. Vegetation Clearing** – The clearing of vegetation shall be limited to that which is necessary for the construction, operation, maintenance, modification and removal of the Large-Scale Ground-Mounted Solar Energy System.
- G. Habitat Fragmentation** – All Large-Scale Ground-Mounted Solar Energy Systems shall to the fullest extent practicable be clustered and located in or adjacent to areas of the site where the land has already been cleared to avoid habitat fragmentation. The facility shall be designed to minimize impacts to agricultural and environmentally sensitive land and to be compatible with continued agricultural use of the land whenever possible.
- H. Signs.** Signs shall comply with section 12 of the Wilbraham Zoning By-Law. A sign consistent with Wilbraham’s sign regulations shall be required to identify the owner and provide a 24-hour emergency contact phone number.

- I. **Noise.** Noise generated by Large-Scale Ground-Mounted Solar Energy Systems and associated equipment and machinery shall conform to applicable state and local noise regulations, including the Massachusetts DEP's Division of Air Quality noise regulations, 310 CMR 7.10
- J. **Utility Connections.** All utility connections from the Large-Scale Ground-Mounted Solar Energy System to existing overhead utilities shall be underground, unless the Planning Board determines that soil conditions, topography or other site factors make such connection unreasonable or unfeasible or the utility provider determines that such connection to be unsafe or impractical. Electrical transformers for utility interconnections may be above ground only if required by the utility provider.
- K. **Stormwater management.** Best management practices shall be used for controlling and managing stormwater run-off and drainage from the Large-Scale Ground-Mounted Solar Energy System in compliance with all applicable federal, state and local regulations.
- L. **Security Measures.** Large-Scale Ground-Mounted Solar Energy Systems shall be constructed to prevent unauthorized persons from accessing the Large-Scale Ground-Mounted Solar Energy System.
- M. **Emergency Access.** Large-Scale Ground-Mounted Solar Energy Systems and access roads shall be constructed and maintained to allow for safe access by local emergency vehicles. Access roads shall be constructed to minimize grading, removal of stone walls or street trees and to minimize impacts to environmental or historic resources.
- N. **Emergency Response Plan.** Upon the request of the fire chief, the owner/operator of the Large-Scale Ground-Mounted Solar Energy System shall cooperate with all local public safety officials to develop and occasionally update an emergency response plan.

10.7.8 Technical Review

Upon receipt of an application for a Large-Scale Ground-Mounted Solar Energy System, the Planning Board may engage professional and technical consultants, at the applicant's expense, pursuant to M.G.L. Chapter 44 § 53G and its Home Rule Authority to assist the Planning Board with its review of application materials. The Planning Board may direct the applicant to deposit funds with the Planning Board for such review at the time the application is accepted and to add additional funds as needed upon notice. Failure to comply with this section shall be good grounds for denying the special permit application. Upon the approval or denial of the application, any excess amounts in the account attributable to the application process, including any interest accrued shall be refunded to the applicant.

10.7.9 Procedures and Approval Criteria

The Planning Board shall review and act upon a proposed application to construct or materially modify a Large-Scale Ground-Mounted Solar Energy System in accordance with Section 13.5 for site plan approval or in accordance with Section 13.6 for special permits, as applicable, and also taking into consideration the reasonable fulfillment of the following objectives:

- A. Conformance with the provisions of this section of the Zoning By-Law;
- B. Protection of Town resources and abutting properties by minimizing any undue disturbance from noise, traffic, lighting, hazardous materials, signage, glare or stormwater runoff. The Planning Board may request a study if any of these disturbances appear to pose a particularly significant risk.
- C. 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.

10.7.10 Operation & Maintenance

The owner/operator of the Large-Scale Ground-Mounted Solar Energy System shall maintain the facility site in good condition. This includes, but is not limited to the maintenance of access roads, stormwater control measures, security measures and vegetation screening.

10.7.11 Decommissioning or Abandonment

- A. **Removal Requirements.** Any Large-Scale Ground-Mounted Solar Energy System, or any substantial part thereof, that has reached the end of its useful life or that has discontinued operations shall be removed. The owner or operator shall physically remove the system no later than one hundred eighty (180) days after the date of discontinued operations. The owner or operator shall notify the Planning Board and Building Inspector by certified mail of the proposed date of shutdown and the anticipated schedule for removal and site restoration along with a site plan indicating the site conditions after the decommissioning is completed, including topography at the same contour interval that was provided in the initial site plan approval, if topographical changes will be made. At a minimum, decommissioning shall consist of:
 - 1. Physical removal from the site of the solar panels, structures, equipment, security barriers, and electrical transmission lines.
 - 2. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
 - 3. Stabilization or re-vegetation of the site as necessary to minimize erosion. The Building Inspector may allow the

owner or operator to leave landscaping, below-grade foundations, and/or access roads in place in order to minimize erosion and disruption of vegetation.

- B. Abandonment.** Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the Large-Scale Ground-Mounted Solar Energy System shall be considered abandoned when it fails to operate for more than one (1) year without the written consent of the Planning Board. If the owner or operator fails to remove the Large-Scale Ground-Mounted Solar Energy System in accordance with the requirements of this section within one hundred eighty (180) days after either abandonment or the proposed date of decommissioning, the Town may, to the extent it is otherwise duly authorized by law, enter the property and physically remove the system at the owner's expense. As a condition of Site Plan or Special Permit approval, an applicant shall agree to allow entry to remove an abandoned or decommissioned Large-Scale Ground-Mounted Solar Energy System. The cost for the removal will be charged to the property owner in accordance with the provisions of 139, Section 3A as a tax lien on the property.
- C. Financial Surety.** The operator of the Large-Scale Ground-Mounted Solar Energy Systems shall provide a form of surety, either through 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. 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.

10.7.12 Lapse of Approval

Any special permit or site plan approval shall automatically lapse if the Large-Scale Ground-Mounted Solar Energy System is not installed and functioning within two (2) years or the Large-Scale Ground-Mounted Solar Energy System is abandoned.

10.7.13 Waivers

The Planning Board may grant requested waivers from the dimensional or design requirements of this section upon a finding that such waiver(s) will not derogate from the intent of this By-Law or be detrimental or injurious to the public health, safety and welfare concerns that the regulations of this Section 10.7 are intended to protect.

EXHIBIT 4
REGISTERED MARIJUANA DISPENSARIES

To amend the Wilbraham Zoning By-Law in the following manner:

A. *By inserting in proper alphabetical order a new definition for “Registered Marijuana Dispensary (RMD)” in section 1.3 to read as follows:*

Registered Marijuana Dispensary (RMD). A use operated by a not-for-profit entity registered and approved by the Massachusetts Department of Public Health under 105 CMR 725.000 and pursuant to all other applicable state laws and regulations, also known as a Medical Marijuana Treatment Center, that acquires, cultivates, possesses, processes, (including development of related products such as edible marijuana infused products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. RMD refers both to facilities where medical marijuana is grown, processed, and dispensed on the same site and to facilities where the medical marijuana is dispensed from a separate location that is off-site from the cultivating/processing facility but controlled and operated by the same registered and approved not-for-profit entity.

B. By inserting a new section 3.4.5.21 (Registered Marijuana Dispensary) in the Schedule of Use Regulations Table to read as follows:

TABLE ONE: SCHEDULE OF USE REGULATIONS												
BY-LAW NUMBER	LAND USE CLASSIFICATION WITH APPLICABLE STANDARDS & CONDITIONS	ZONING DISTRICT										
		R 15	R 26	R 34	R 40	R 60	R M D	N O	N S	ACF	GB	IPG
3.4.5.21	Registered Marijuana Dispensary as defined in Section 1.3 and subject to the restrictions in Section 7.6	N	N	N	N	N	N	N	N	N	N	PB

(Note: Registered Marijuana Dispensary is a use which is allowed by special permit from the Planning Board in the I-POP-GB Zoning district and is prohibited in all other zoning districts.)

C. *By inserting a new section 7.6 (Registered Marijuana Dispensary (Regulations) to read as follows*

7.6 Registered Marijuana Dispensary Regulations

The Planning Board, acting as the Special Permit Granting Authority, may authorize a Registered Marijuana Dispensary (RMD) as defined in Section 1.3 in the I-POP-GB District by a special permit in conformance with the requirements specified in this Section 7.6.

7.6.1 Purpose

The purpose of the Registered Marijuana Dispensary regulations is to provide for the establishment of RMD facilities in appropriate locations and under reasonable standards in accordance with state law and regulation. It is recognized that the nature of the substance cultivated, processed and/or sold by Registered Marijuana Dispensaries may have objectionable operational characteristics and should be designed and located in such a way as to ensure the health, safety and general well-being of the public as well as patients seeking treatment while minimizing adverse impacts on adjacent properties and existing residential neighborhoods and business districts. The specific and separate regulation of Registered Marijuana Dispensaries is necessary to advance these purposes and to ensure that such facilities are located where there is convenient public access, where they may be readily monitored by law enforcement for health and public safety purposes, and where they will not be within close proximity of minors or other potentially incompatible land uses.

7.6.2 Application & Review Requirements

In addition to the standard special permit application and review requirements under Section 13.6 of the Zoning By-Law, an application for a Registered Marijuana Dispensary Special Permit shall include the following:

- A.** The name and address of each owner of the RMD facility/operation;
- B.** Copy of the RMD registration issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the facility;
- C.** Evidence that the Applicant has site control and the right to use the site for a RMD facility in the form of a deed or valid purchase and sale agreement, or, in the case of a lease, a notarized statement from the property owner and a copy of the lease agreement;
- D.** A notarized statement signed by the RMD organization's Chief

Executive Officer and corporate attorney disclosing all of its designated representatives, including officers and directors, shareholders, partners, members, managers, directors, officers or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of all such responsible individual persons;

- E. In addition to what is normally required in a site plan pursuant to Section 13.3, details showing all exterior proposed security measures for the premises, including lighting, fencing, gates and alarms, etc. ensuring the safety of employees and patrons and to protect the premises from theft or other criminal activity;
- F. A detailed floor plan of the RMD facility identifying the functional uses;
- G. Architectural drawings of exterior building facades and all proposed signage for the RMD facility; and
- H. A Management Plan including a description of all activities that are to occur on site, including all provisions for the delivery of medical marijuana and related products to off-site facilities or off-site direct delivery to patients.

7.6.3 Use Regulations

- A. The RMD facility authorized under this section shall be limited to uses permitted under the definition in Section 1.3 of this Zoning By-Law and may not contain other businesses or services in the same building including offices of a physician or any other professional practitioner authorized to prescribe the use of medical marijuana.
- B. The RMD facility shall be properly registered with the Massachusetts Department of Public Health (DPH) pursuant to 105 CMR 725.000 and shall comply with all applicable state and local public health regulations and all other applicable state and local laws, rules and regulations at all times. No building permit or certificate of occupancy shall be issued for a RMD that is not properly registered with the Massachusetts DPH.
- C. No marijuana shall be smoked, burned, eaten or otherwise consumed or ingested on or within the premises of a RMD facility.
- D. The hours of operation shall be set by the Special Permit Granting Authority, but in no event shall a facility be open to the public, nor shall any sale or other distribution of marijuana occur upon the premises or via delivery from the premises between the hours of 8:00 p.m. and 8:00 a.m.
- E. All aspects of the RMD relative to the growing, processing and dispensing of marijuana, products containing marijuana, and related supplies or educational materials must take place at the approved

location within a fully enclosed building and shall not be visible from the exterior of the business. No outside storage of marijuana, related supplies or educational materials is permitted.

- F.** All facilities shall be ventilated with filters, scrubbers or such other manner to ensure that:
- (1)** No pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere, and
 - (2)** No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell outside the facility or at any adjoining use or property.
- G.** No registered medical marijuana dispensary shall be located within five hundred (500) feet of any of the following structures or uses in existence on the date of RMD special permit application:
- residential use;
 - school of any type attended by students under the age of 18;
 - licensed child care facility;
 - public park, athletic field or recreation facility where children commonly congregate on an ongoing, organized basis.

The 500-foot distance shall be measured in a straight line from the nearest property line of the lot containing any of the above-listed structures or uses to the nearest point of any principle building housing the proposed RMD.

The 500-foot separation distance may be waived or reduced if the Planning Board, acting as the Special Permit Granting Authority, determines that the above-listed uses or structures will be sufficiently buffered or separated from the proposed RMD facility such that occupants of the above-listed facilities will not be adversely impacted by the operation of the RMD.

- G.** All signage shall be approved by the Planning Board acting as the Special Permit Granting Authority and shall conform to the applicable requirements of Section 12 of the Zoning By-Law unless expressly authorized by the Planning Board. A number of signs determined to be sufficient by the Special Permit Granting Authority shall be displayed on the exterior of the facility's entrance in plain sight of clients stating that "Registration Card Issued by the MA Department of Public Health Required" in text two inches in height.

7.6.4 Reporting Requirements

- A.** The special permit holder of an RMD facility shall provide the Wilbraham Police Department, Fire Department, Building

Commissioner, Board of Health, and the Special Permit Granting Authority with the name, phone number, mailing address and email address of a main contact person and two back-up contact persons to whom notice can be given if there are operating problems associated with the RMD. All such contact information shall be updated as needed to keep it current and accurate.

- B.** The designated contact persons shall notify the Police Department, Fire Department, Building Commissioner, Board of Health, and Special Permit Granting Authority in writing:
 - (1) A minimum of thirty (30) days prior to any change in ownership or management of a facility regulated under this section, and
 - (2) A minimum of twelve (12) hours following a violation, a potential violation or any attempts to violate any applicable law, or any criminal, potential criminal, or attempted criminal activities at a facility regulations under this section.
- C.** The designated contact persons shall be required to respond by phone or email within twenty-four (24) hours of the time of contact and inquiry regarding operation of the facility by a Town official to the telephone number or email address provided as the contact for the business.
- D.** The special permit holder of an RMD facility shall file an annual report with the Special Permit Granting Authority no later than January 31st of each year, providing a copy of all current applicable state licenses for the owners and facilities, to demonstrate continued compliance with the conditions of the Special Permit.
- E.** Information regarding the security measures to be implemented to deter and prevent unauthorized entrances and protect the premises, dispensary agents and registered qualifying patients or their caregivers shall be provided to the Wilbraham Police Department, including updates and amendments.
- F.** The Special Permit Holder shall allow for periodic inspections by the Wilbraham Police Department, the Building Commissioner, and/or the Board of Health during the hours when the premises are open for business. The purpose of the periodic inspections is to determine if the licensed premises are operated in accordance with the requirements of the special permit and the conditions outlined therein.

7.6.5 Issuance/Transfer/Discontinuance of Use

- A.** A RMD Special Permit granted under this section is non-transferable and shall have a term limited to the duration of the applicant's ownership/control of the premises as a RMD.
- B.** A RMD Special Permit granted under this shall lapse if the permit

holder ceases operation of the RMD and/or the permit holder's Massachusetts Department of Public Health Registration expires or is terminated. The permit holder shall notify the Zoning Enforcement Officer and the Special Permit Granting Authority within 48 hours of such lapse, cessation, discontinuance or expiration.

- C. Any RMD permitted under this section shall be required to remove all material, plants, equipment and other paraphernalia in compliance with state regulations prior to the expiration of its Massachusetts Department of Public Health Registration or immediately following revocation or voiding of its DPH Registration.

7.6.6 Required Findings

In addition to the findings for a Special Permit required under Section 13.6.5 of the Zoning By-Law, the Special Permit Granting Authority shall also find that the proposed use:

- A. Meets a demonstrated need;
- B. Meets all of the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will as proposed be in compliance with all applicable state laws and regulations.
- C. Meets all of the conditions and requirements of this section and all other applicable Sections of the Zoning By-Law;
- D. Is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest.
- E. Provides a secure indoor waiting area for patients.
- F. Provides an adequate pick-up/drop-off area.
- G. Provides adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals, and that the storage and/or location of cultivation of marijuana is adequately secured in enclosed, locked facilities.

D. By deleting existing section 10.6 (Temporary Moratorium on Medical Marijuana Treatment Centers) and replacing with a reference as follows:

Section deleted. Refer to Section 3.4.5.21 for Medical Marijuana Use Regulations.