

AMY LAVALLEE  
TOWN CLERK

PHYSICAL ADDRESS:

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WHATELY, MA 01093

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## TOWN OF WHATELY MASSACHUSETTS

OFFICE OF THE TOWN CLERK

### TOWN BULLETIN

Town of Whately  
Zoning and General Bylaw Approvals

On October 4, 2023, the Attorney General of Massachusetts approved the following attached changes to the General and Zoning Bylaws voted at the May 23, 2023 Annual Town Meeting under Warrant Articles #24, #25, & #26 (Zoning).

Each of the newly approved zoning and general bylaws is attached as well as the Attorney General's letter of approval is attached.

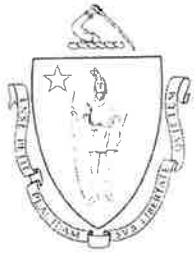
Pursuant to G.L. c. 40 § 32, neither general nor zoning by-laws take effect unless the town has first satisfied the posting/publishing requirements of the statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were approved by Town Meeting, unless a later effective date is prescribed in the by-law.



Amy E. Lavallee  
Town Clerk of Whately

Posted by October 11, 2023 at the Whately Town Offices, Post Office, Library and Transfer Station as well as on the town website [www.whately.org](http://www.whately.org).





THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION  
10 MECHANIC STREET, SUITE 301  
WORCESTER, MA 01608

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ANDREA JOY CAMPBELL  
ATTORNEY GENERAL

October 4, 2023

Amy E. Lavallee, Town Clerk  
Town of Whately  
4 Sandy Lane  
Whately, MA 01373

Re: **Whately Annual Town Meeting of May 23, 2023 -- Case # 11126**  
**Warrant Articles # 24, 25 and 26 (Zoning)**

Dear Ms. Lavallee:

**Articles 24, 25 and 26** - We approve Articles 24, 25 and 26, and the map amendment related to Article 26, from the May 23, 2023 Whately Annual Town Meeting. We will return the approved map to you by mail. Our comments regarding Article 24 are provided below.

**Article 24** - Under Article 24 the Town amended its zoning by-laws. Section 171-28.5, "Solar Electric Generating Facilities," Subsection H (3), "Design and Performance Standards: Utility Connections," to require solar installation utility connections to be underground when feasible. We approve Article 24. However, we encourage the Town to consult with Town Counsel to ensure that Section 171-28.5 (H) (3), and the existing provisions of the Solar Electric Generating Facilities by-law, are applied consistent with the protections granted to solar energy systems under G.L. c. 40A, § 3, as discussed further in the case of Tracer Lane II v. City of Waltham, 489 Mass. 775 (2022), and this Office's recent decisions related to solar by-laws.<sup>1</sup>

**Note:** Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

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<sup>1</sup> Decisions issued by the Attorney General's Municipal Law Unit can be found at <https://www.mass.gov/municipal-law-review> by clicking the link for "Decision Look-up" and choosing the topic "Solar" from the search page topic pull down menu.

Very truly yours,

ANDREA JOY CAMPBELL  
ATTORNEY GENERAL

*Nicole B. Caprioli*

By: Nicole B. Caprioli  
Assistant Attorney General  
Municipal Law Unit  
10 Mechanic Street, Suite 301  
Worcester, MA 01608  
(508) 792-7600 ext. 4418

cc: Town Counsel David J. Doneski

AMY LAVALLEE  
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## TOWN OF WHATELY MASSACHUSETTS

OFFICE OF THE TOWN CLERK

### Town Meeting Action

I, Amy E. Lavallee, Town Clerk for the Town of Whately, do hereby certify that at the Annual Town Meeting held on May 23, 2023 on the grounds of the Whately Elementary School, 273 Long Plain Road, the following vote was taken under Article 24.

#### Article 24.

Voted to amend the Town of Whately Zoning Bylaws, § 171-28.5 "Solar Electric Generating Facilities" to require that all utility connections for solar installations be underground when feasible by inserting the language shown below:

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**NOTE: Text in *italics underlined* font is proposed as an addition to the Zoning Bylaw**

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#### H. Design and Performance Standards

##### (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."

Moderator declared article passed by the required 2/3<sup>rd</sup>'s vote

A true copy,

Attest:

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Amy E Lavallee  
Town Clerk, Town of Whately



AMY LAVALLEE  
TOWN CLERK

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## TOWN OF WHATELY MASSACHUSETTS

### OFFICE OF THE TOWN CLERK

#### Town Meeting Action

I, Amy E. Lavallee, Town Clerk for the Town of Whately, do hereby certify that at the Annual Town Meeting held on May 23, 2023 on the grounds of the Whately Elementary School, 273 Long Plain Road, the following vote was taken under Article 25.

#### Article 25.

Voted to amend the Town of Whately Zoning Bylaws, § 171-28.4 "Aquifer Protection District" by deleting references to the Whately Water District's wells and to the Interim Wellhead Protection Area, which only applied to the former Whately Water District wells, as shown below:

NOTE: Text in *italics underlined* font is proposed as an addition to the Zoning Bylaw  
Text in *italics strikeout* is proposed as a deletion to the Zoning Bylaw

#### "C. CRITERIA DEFINING THE AREAS WITHIN THE AQUIFER PROTECTION DISTRICT

For the purposes of this district, there are hereby established within the Town, ~~three (3)~~ four (4) Aquifer Protection District Areas, consisting of Zone I, Zone II, and ~~Zone III~~, and an Interim Wellhead Protection Area. The criteria used to delineate these areas are set forth in the Massachusetts Drinking Water Regulations, 310 CMR 22.02, and are described in the Source Water Assessment Program Reports prepared by the Massachusetts Department of Environmental Protection for the Whately Water District (January 14, 2002) and the Whately Water Department (November 27, 2002).

1. Zone I - The protective radius around a public water supply well that should be owned or controlled by the water supplier. For the two (2) ~~Water District wells, the protective radius is 245 feet around each well.~~ For the two (2) Water Department wells, the protective radius is 400 feet around each well.

2. Zone II - The area of an aquifer which contributes water to a well under the most severe pumping and recharge conditions that can be realistically anticipated (180 days of pumping at approved yield, with no recharge from precipitation). It is bounded by the groundwater divides which result from pumping the well and by the contact of the aquifer with less permeable materials such as till or bedrock. In some cases, streams or lakes may act as recharge boundaries. In all cases, Zone II shall extend upgradient to its point of intersection with prevailing hydrogeologic boundaries (a groundwater flow divide, a contact with till or bedrock, or a recharge boundary).

~~3. Interim Wellhead Protection Area (WPA). The Massachusetts Department of Environmental Protection established on an Interim Wellhead Protection Area (IWPA) for each of the Whately Water District Wells. The WPA is a circle around each well that has a radius of 605 feet.~~

3. Zone III- Means that land area beyond the area of Zone II ~~and the IWPA~~ from which surface water and groundwater drain into Zone II ~~and the IWPA~~. The surface drainage area as determined by topography is commonly coincident with the groundwater drainage area and will be used to delineate Zone III. In some locations, where surface and groundwater drainage are not coincident, Zone III shall consist of both the surface drainage and the groundwater drainage areas.

#### E. PROHIBITED USES

2. The following uses are prohibited within Zone I, Zone II, and Zone III ~~and the Interim Wellhead Protection Area (IWPA).~~

#### F. DIMENSIONAL REQUIREMENTS FOR THE AQUIFER PROTECTION DISTRICT

(1) Within Zone II, ~~the Interim Wellhead Protection Area~~ and the Zone III, the minimum lot size for all uses is three (3) acres. A lot must have two hundred (200) feet of frontage on a street. The lot must comply with the dimensional requirements of the underlying zoning district for Front Yards and Rear Side Yards. Flag lots in these areas, excluding the access strip, shall be at least three (3) acres.

(2) Within Zone II, ~~the Interim Wellhead Protection Area~~, and the Zone III, the maximum lot coverage shall not exceed ten percent (10%) of the lot."

Moderator declared article passed by the required 2/3<sup>rd</sup>'s vote

A true copy,

Attest:

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Amy E Lavalley  
Town Clerk, Town of Whately

AMY LAVALLEE  
TOWN CLERK

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## TOWN OF WHATELY MASSACHUSETTS

### OFFICE OF THE TOWN CLERK

#### Town Meeting Action

I, Amy E. Lavallee, Town Clerk for the Town of Whately, do hereby certify that at the Annual Town Meeting held on May 23, 2023 on the grounds of the Whately Elementary School, 273 Long Plain Road, the following vote was taken under Article 26.

#### Article 26.

Voted to amend the Town of Whately Zoning Bylaws and Zoning Map, established under § 171-4 "Zoning Map established", by adopting a new Zoning Map, titled "Town of Whately Official Zoning Map April 26, 2023", a draft version of which is on file with the Town Clerk, and that includes the following corrections described below:

**NOTE: A copy of the proposed Zoning Map dated April 26, 2023, was available for viewing at the Whately Town Clerk's Office located at 4 Sandy Lane, Whately, MA and available at the Town's website ([www.whately.org](http://www.whately.org))**

1. Assessor parcels 6-0-25-26 through 6-0-25-38, Assessor parcels 6-0-25-42 through 6-0-25-44, Assessor parcels 6-0-31-6 through 6-1-31-22, and Assessor parcels 6-0-31-24 and 6-0-31-25 on Eastwood Lane, Frances Way and Grey Oak Lane are now shown as being in Ag/Residential 1 rather than Ag/Residential 2
2. Assessor parcels 6-0-25-23 and 6-0-31-23 are now shown as being partly in Ag/Residential 1 and partly in Ag/Residential 2.
3. Assessor parcels 20-0-34-4 through 20-0-34-6 on Mieczkowski Circle are now shown as being entirely within Ag/Residential 1 rather than being partly in Ag/Residential 2.
4. Assessor parcel 12-0- 24-2 on State Road is now shown as zoned Ag/Residential 1 and 2, not Commercial.

Moderator declared article passed by the required 2/3<sup>rd</sup>'s vote

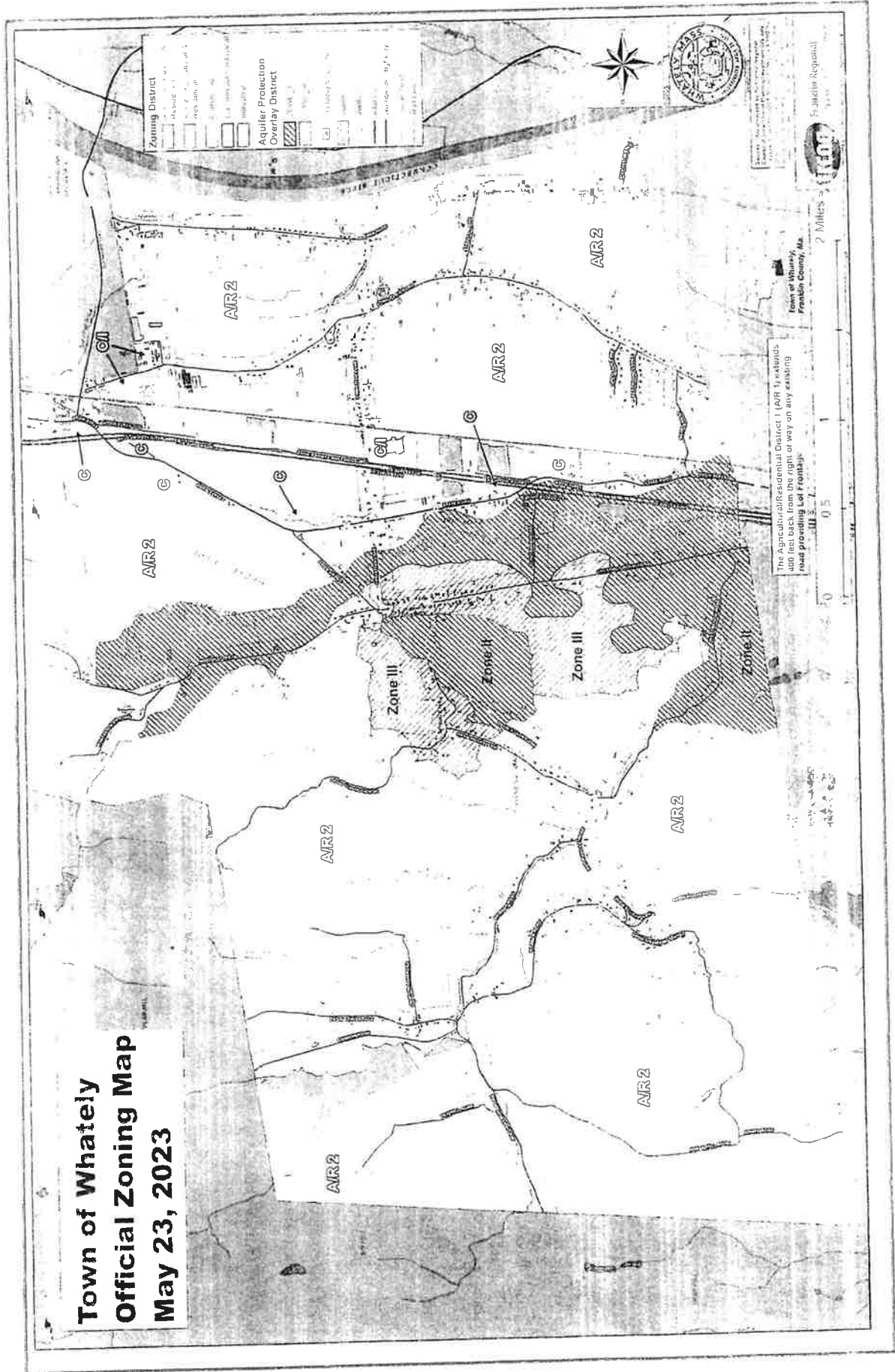
A true copy,

Attest:

---

Amy E Lavallee  
Town Clerk, Town of Whately

**Town of Whately  
Official Zoning Map  
May 23, 2023**



TRUE COPY  
ATTEST,  
[Signature]

