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# AMENDMENTS

## ADOPTED AT 1986 ANNUAL TOWN MEETING

(1)

Under Section VII Signs, subsection B. General Regulations, add a new paragraph 10. "In any district one unlighted temporary sign of a non-profit civic or charitable organization for the purpose of advertising a community or fundraising event shall be permitted, provided: it shall not exceed 32 square feet of surface area; it shall be set aback at least 10 feet from the street lot line; it shall be displayed for a period not to exceed 30 consecutive days."

(2)

### 1. Modifications to Table I-Use Regulations

A. Agricultural line 5, modify to read: "Raising of livestock for commercial use not including horses, swine or fur animals."

B. Agricultural line 6, modify to read: "Raising of livestock for noncommercial use, not including horses, swine and fur animals."

C. Agricultural line 7, delete the word "stables".

D. Agricultural add line 9, as follows: Line 9, Raising or keeping of horses

a. In conformance with land requirements (see Section XI, J) permitted in all districts.

b. Not in conformance with land requirements (see Section XI,J) permitted in all districts by Special Permit by the Board of Selectmen."

2. Addition to Section XI, Special Permit Conditions. "J. Raising and Keeping of horses. For the Raising or keeping of horses on any property in any zoning district of the Town, the following conditions shall apply:

A minimum keeping area of 2000 square feet for one horse is required with an additional 500 square feet of area required for each additional horse.

The area required for the housing of the animal (s) shall be excluded in determining the keeping area.

Horses shall be restricted from areas containing wells and septic systems including the leaching area.

The housing area and manure piles shall be 100 feet away from any well.

A fifteen (15) foot set back is required from all property lines, with proper fencing.

All plans to raise or keep a horse must be reviewed with the Zoning Enforcement Officer prior to bringing the animal onto the property.

Where the above requirements can be met, as demonstrated to the Zoning Enforcement Officer, the raising or keeping of horses will be permitted. Where the above requirements cannot be met, horses may be kept on the property only after obtaining a special permit from the Board of Selectmen and all conditions issue with said permit have been and continue to be met.

Under Table I-Use Regulations  
 Agricultural line 6, delete the word swine”.

TOWN MEETING	BY-LAW	ATTORNEY GENERAL	PUBLICATION & EFFECT
Adopted Oct. 17, 1956		APPROVAL Feb. 8, 1957	Feb. 28, 1957
Amended May 27, 1964	Major Revision	July 25, 1963	Aug. 15, 1963
Feb. 10, 1964	Rezoning Land on County Rd	Apr. 21, 1964	May 13, 1964
Sept 19, 1966	Unregistered Vehicles	Nov. 10, 1966	Jan 27, 1967
Oct. 09, 1969	Rezone Clark St. to Industrial	Jan. 09, 1970	Jan. 21, 1970
June 11 1971	Sections V, VI, IX	Aug. 23, 1971	Sept. 2, 1971
Mar. 27, 1972	Rezone for Bus. Classification	July 3, 1972	July 19, 1972
Dec. 4, 1972	Rezone land on Pequot Rd	Apr. 3, 1973	Apr. 1973
Mar. 10, 1973	Section IIA	May 17, 1973	June 1973
Feb. 13, 1979	Complete revision of Zoning laws	Apr. 19, 1979	Apr. 1979
Jan. 21, 1982	Cutter of timber Removal of Loam	Mar. 15, 1982	March 24, 25, 26, 1982
June 20, 1983	Flood Plain Ins.	Aug. 26, 1983	Sept. 16, 1983
May 19, 1986	Agriculture	July 29, 1986	Aug. 7, 14, 1986
June 24, 1989	Aquifer Protection	Sept. 26, 1989	Oct. 6, 13, 1989
Jan. 05, 1999	Wireless Communication	Feb. 16, 1999	Feb. 17, 1999
Apr. 24, 2007	Accessory Apartment	May 23, 2007	May 27, 2007
June 05, 2007	Erosion Sediment	Aug. 30, 2007	Sept. 4, 2007
June 05, 2007	Common Driveway	Aug. 30, 2007	Sept. 4, 2007
May 18, 2011	Labrie Land Changed from IPtoRn	Jan. 10, 2011	Gazette 2011
May 20, 2014	Solar Electric Generating Facilities	August 20, 2014	December 1, 2014
May 17, 2016	**Revised & Amended	**August 18, 2016	** August 19, 2016
Jan. 24, 2017	***Amended	*** March 28, 2017	*** March 29, 2017
May 20, 2014	Inclusionary Zoning (Affordable Units)	August 20, 2014	December 1, 2014
Jan. 16, 2018	Temp Moratorium on Rec Marijuana Est	Feb. 8, 2018	Feb. 8, 2018

\*\*Agricultural Preservation District By – Law, should have been added to these by laws in 1990, with amendments in 1993. They were approved at Town Meeting, approved by Attorney General and posted by the Town Clerk according to Town Clerk records. Information is on file in the Town Clerks office, this should have been added as Article XIII.

# **TOWN OF SOUTHAMPTON**

## **ZONING BY-LAW**

### **SECTION I**

#### **TITLE, AUTHORITY, AND PURPOSE**

##### **A. Title and Authority**

This By-law shall be known and may be cited as the “Southampton Zoning By-Law” which herein is called “this By-Law” and is adopted by virtue of and pursuant to the authority granted the Town by Chapter 40A of the General Laws of the Commonwealth of Massachusetts as now existing or hereafter amended (herein called” The Zoning Act”).

##### **B. Purpose**

This By-law is enacted for the following purposes: to lessen congestion in the streets; to conserve health; to secure safety from fires, flood, panic, and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to encourage housing for persons of all income levels; and to facilitate the adequate provisions of transportation, water, water supply drainage, sewerage, schools, parks, open space, and other public requirements; to conserve the value of land and buildings including the conservation of natural resources and the prevention of blight and the pollution of the environment; to encourage the most appropriate use of land throughout the town; and to preserve and increase its amenities. It is made with reasonable consideration to the character of the district and to its peculiar suitability for particular uses, with a view to giving direction or effect to land development policies and proposals of the Planning Board including the making of Southampton a viable and pleasing place to live, work, and play.

## SECTION II

### DEFINITIONS

For the purpose of this ordinance certain terms and words shall have the following meanings. Words used in the present tense include the future; the singular number includes the plural, the plural the singular; the words “used” or “occupied” include the words “designed,” “arranged,” “intended,” or “offered,” to be used or occupied; the words “building,” “structure,” “lot,” “land” or “premises” shall be construed as though followed by the words “or any portion thereof” and the word “shall” is always mandatory and not merely directory. Terms and words not defined herein but defined in the State building Code or Southampton Subdivision Regulations shall have the meanings given therein unless a contrary intention clearly appears. Words not defined in either place shall have the meaning given in Webster’s Unabridged Dictionary, Third Edition. Uses listed in the Table of Use Regulations under the classes, “Retail and Service” and “Wholesale and manufacturing” shall be further defined by the Standard Industrial Classification Manual published by the U.S. Bureau of the Census.

**Abandonment:** The visible or otherwise apparent intention of an owner to discontinue permanently a nonconforming use of a structure or premises, or the removal of the characteristic equipment or furnishing used in the performance of the nonconforming use, without its replacement by similar equipment or furnishings, or the replacement of the nonconforming use or structure by a conforming use or structure.

**Alteration:** Any construction, reconstruction or other action resulting in a change in the structural parts or height, number of stories, size, use, or location of a structure.

**Building:** A combination of any materials, whether portable or fixed, having a roof or similar covering, to form a structure for the shelter of persons, animals or property.

**Building, Accessory:** A detached building, the use of which is customarily incidental and subordinate to that of the principal building, and which is located on the same lot as that occupied by the principal building.

**Building, Area:** The aggregate of the maximum horizontal plane area of all buildings on a lot measured to their outer walls, but exclusive of cornices, eaves, gutters, chimneys, unenclosed porches, by window, balconies, and terraces.

**Building, Attached:** A building having any portion of one more walls in common with adjoining buildings.

**Building Coverage:** The building area expressed as a percentage of the total lot area.

**Building, Detached:** A building having open space on all sides.

**Building, Principal:** A building in which is conducted the principal use of the lot on which it is located.

**Certificate of Use and Occupancy:** A written form signed by the Enforcement Officer certifying that the stated and described use; structure and/or lot conform with this By-Law or in the case of an appeal, variance or special permit to written conditions of the Board of appeals, Planning Board or Board of Selectmen as appropriate.

**Cluster Development:** A residential development in which the buildings and accessory uses are clustered together into one or more groups separated from adjacent property and other groups within the development by open land.

**Commercial Forestry:** The cutting of timber where the quantity exceeds 5,000 board-feet and/or cordwood where the quantity exceeds 1,500 cubic feet in any one calendar year.

**Community Facilities:** Land and buildings owned, maintained and operated by a governmental or other chartered nonprofit organization, such as school, hospital, or church, but not including a membership club or public utility.

**Drive-in Eating Establishment:** A commercial establishment wherein food is usually served to or consumed by patrons while they are seated in parked cars.

**Dwelling:** A privately or publicly owned permanent structure for occupancy by families, the terms “one-family, two-family or multifamily dwelling” shall not include motel, guest house, hospital, membership club, trailer, or dormitory.

**Dwelling Multifamily:** A detached building occupied by three or more families including apartment house, garden apartment house, town house, or multirow house, including condominium ownership.

**Dwelling, One-family:** A detached building occupied by one family only.

**Dwelling, Two-family:** A detached building occupied by not more than two families whether they live side-by-side, over each other, or in any other combination.

**Enforcement Officer** The inspector of Buildings of the Town of Southampton.

**Essential Services:** Services and appurtenant equipment and installation provided by public utility or governmental agencies through underground or overhead gas, electrical, telephone, sewerage, drainage, refuse, water, traffic, fire and police systems Specifically excluded from this definition are buildings or overhead transmission towers

**Family:** Any number of persons related by blood or marriage living in the same dwelling, or not more than three (3) persons unrelated by blood or marriage living together as a single housekeeping unit.

**Floor Area, Net:** The sum of the areas of the several floors of a building, measured from the exterior faces of the walls but not including cellars, unenclosed porches, attics not used for human occupancy, or any floor space in accessory buildings or in the principal building designed for the parking of motor vehicles in order to meet the parking requirements of this by-law.

**Height:** The vertical distance from the average of all sides of the adjacent ground measured at the foundation to the top of the structure of highest roof beams of a flat roof, or to the main level of the highest gable or slope of a hip roof.

**Home Occupation:** An accessory use which customarily is carried on entirely within a dwelling unit, is incidental and subordinate thereto, and is carried on by the occupants of the building and not in any manner changing the residential character of the building.

**Hospital:** A building providing medical service, including 24-hour in-patient services used for the diagnosis, treatment, or other care of human ailments and may include a sanitarium, rest home, nursing home, or convalescent home. Not to be interpreted to include a doctor’s office (see “Medical Clinic”).

**Hotel:** A building or any part of a building containing rooming units with or without individual cooking facilities for transient occupancy and having a common entrance or entrances including an inn, motel, motor inn, and tourist court, but not including an apartment house, boarding house, lodging house, or rooming house.

**Junk:** Any worn out cast off or discarded articles or materials which are ready for destruction or disposal or have been collected or stored for salvage or conversion to some use. Any article or material which, unaltered or unchanged or without further reconditioning, can be used for its original purpose as readily as when new, shall not be considered junk.

**Loam:** Loam borrow as defined by subsection MI.05.0 Loam Borrow of the Standard Specifications for Highway and Bridges of the Commonwealth of Massachusetts.

**Lodging House (Boarding):** A house containing one or more rooms for the semi-permanent use of one, two or more individuals not living as a single housekeeping unit and not having cooking facilities within the individual rooms

**Lot:** An area of land in one ownership, with definite boundaries, used, or available for use, as the site of one or more buildings.

**Lot, Corner:** A lot at the point of intersection of and abutting on two or more intersecting streets. The angle of intersection of the street lot line, or in case of a curved street extended tangent lines, being not more than 135 degrees.

**Lot Depth:** The main horizontal distance between the front lot line and the rear lot line.

**Lot Frontage:** The horizontal distance measured along the front lot line between the points of intersection of the side lot lines with the front lot line.

**Lot Line, Front:** The property line dividing a lot from a street (right-of-way). On a corner lot the owner shall designate one street line as the front lot line.

**Lot Line, Rear:** The lot line opposite from the front lot line.

**Lot Line, Side:** Any lot line not a front or a rear lot line.

**Lot, Nonconforming:** A lot lawfully existing at the effective date of this By-Law or any subsequent amendment thereto, which is not in accordance with all provisions of this by-law, or any subsequent amendment

**Lot, Through:** An interior lot, the front and rear lot lines of which abut streets, or a corner lot two opposite lines of which abut streets.

**Lot, Width:** The horizontal distance between the side lot lines as measured at the required from yard depth or setback which may or may not coincide with the actual front of an existing structure. For a corner lot the owner shall designate which of the two street frontages shall be for the front yard or direction of the principal building faces. The two adjacent lot lines shall be side lot lines.

**Medical Clinic:** Building providing out-patient services used for the diagnosis, treatment, or other care of human ailments.

**Membership Club:** A building used to house nonprofit social, veterans, sports, or fraternal organization not connected or associated with any business, which is used by members and their guests.

**Mobile Home:** A dwelling unit built on a chassis and containing complete electrical plumbing and sanitary facilities and designed to be installed on a temporary or permanent foundation for permanent living quarters.

**Owner:** The duly authorized agent, attorney, purchaser, devisee, trustee, lessee, or any person having vested or equitable interest in the use, structure, or lot in question.

**Parking Space:** An off-street space at least nine feet in width and 21 feet in length, having an area of not less than 189 sq. feet, plus access and maneuvering space, whether inside or outside a structure of exclusive use as a parking stall for one motor vehicle.

**Parties of Interest:** The petitioner, abutters, owners of land directly opposite on any public or private street or way and owners of land within 300 feet of the property line all as they appear on the most recent applicable tax list, nevertheless that the land of any owner is located in another city or town, the Planning Board of the city or town, and the Planning Board of every abutting city or town.

**Sign:** any permanent or temporary structure, device, letter, word, model, banner, pennant, insignia, trade flag, or representation used as, or which is in the nature of, and advertisement, announcement, or direction, or is designed to attract the eye by any means including intermittent or repeating motion or illumination.

**Sign, Business:** A sign used to direct attention to a service, product sold, or other activity performed on the same premises upon which the sign is located.

**Sign, General Advertising:** Any sign advertising products or services other than products or services available on the lot on which the sign is located, or any sign which is not located within 200 feet of the building or other structure at which the products or services advertised thereon are available.

**Sign, Identification:** A sign used simply to identify the name, address, and title of an individual, family or firm occupying the premises upon which the sign is located.

**Sign, Surface Area of:** For a sign, either free-standing or attached, the area shall be considered to include all lettering, working, and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed but not including any supporting framework and bracing, which are incidental to the display itself. For a sign consisting of individual letters, designs and symbols attached to or painted on a surface, building, wall or window the area shall be considered to be that of the smallest quadrangle which encompasses all the letters, designs and symbols.

**Sign Wall:** A sign affixed to the exterior wall of a building and extending not more than 15 inches therefrom.

**Soil:** Including borrow, as defined by Section MI-“Soils and borrow material of the Standard Specifications for highways and Bridges of the Department of Public Works of the Commonwealth of Massachusetts.

**Special Permit Granting Authority:** The Board of Selectmen, Board of Appeals or the Planning Board of the Town of Southampton as empowered in this By-Law to issue certain classes of special permits.

**Story:** That part of a building comprised between a floor and the floor or roof next above. If a mezzanine floor area exceeds one-third of the area of the floor immediately below, it shall be deemed to be a story. A basement shall be classified as a story when its ceiling is six or more feet above the average finished grade.

**Story, Half:** A story under a gable, hipped, or gambrel roof, the floor area of which does not exceed two-thirds of the floor immediately below when measured where the vertical distance between the floor and ceiling is four feet or more.

**Street:** A way which is dedicated or devoted to public use by legal mapping by the user or by any other lawful procedure. A street includes all public ways, a way which the Town Clerk certifies is maintained and used as a public way, a way shown on a plan approved and endorsed in accordance with the “Subdivision Rules and Regulations of



Southampton, Massachusetts,” and a way having in the opinion of the Planning Board sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed uses of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

**Structure:** A combination of materials assembled at affixed location to give support or shelter, such as a building, bridge, trestle, tower, framework, retaining wall, fence tank, tunnel, stadium, pool, reviewing stand, platform, bin, sign, or the like.

**Trailer:** Any vehicle which was originally or is still immediately portable or mobile, and is arranged, intended, designed, or used for sleeping, eating, or business, or is a place in which persons may congregate including a horse trailer, or camper. Such vehicle which is no longer immediately portable by virtue of having its wheels removed or skirts attached still shall be considered a trailer for the purpose of the By-Law.

**Use:** The purpose for which a structure or lot is arranged, designed, or intended to be used, occupied or maintained.

**Use, Accessory:** A use incidental and subordinate to the principal use of a structure or lot, or a use not the principal use which is located on the same lot as the principal structure. Accessory use by area shall be interpreted not to exceed 40 percent of the area of the total use of the structure or lot on which it is located.

**Use, Nonconforming:** A use lawfully in existence or lawfully authorized by a special permit issued before the first publication of notice of the public hearing on this By-law or subsequent amendment thereto.

**Use, Principal:** The main or primary purpose for which a structure or lot is designed, arranged, or intended, or for which it may be used, occupied, or maintained under this by-law.

**Wet Area:** An area which is subject to the Wetlands Protection Act, Ch. 131, Sec. 40, General Laws, as amended.

**Yard:** A portion of a lot, other than the principal building, unobstructed artificially from the ground to the sky, except as otherwise provided therein.

**Yard Front:** The yard extending for the full width of the lot between the front line of the nearest wall of the principal building and the front lot line.

**Yard Rear:** The yard extending for the full width of the lot between the nearest wall of the principal building and the rear lot line.

**Yard Side:** The yard extending for the full length of a principal building between the nearest building wall and side lot line.

## ESTABLISHMENT OF ZONING DISTRICTS

- A. Division Into Districts. The Town of Southamptton, Massachusetts is hereby divided into Zoning Districts to be designated as follows:

Full Name	Short Name
Residential-Rural	R-R
Residential-Neighborhood	R-N
Residential-Village	R-V
Commercial-Village	C-V
Commercial-Highway	C-H
Industrial-Park	I-P
Flood Plain	F-P

- B. Zoning Map. The location and boundaries of the Zoning Districts are hereby established as shown on a map titled "Zoning Map of the Town of Southamptton, Massachusetts, Dated September 5, 1978" which accompanies and is hereby declared to be part of this By-Law. The authenticity of the zoning Map, the original of which shall be filed with the Town Clerk, shall be certified by the Signature of the Town Clerk and the imprinted Town Seal, together with the words: "This is to certify that this is the Zoning Map referred to in Section III of the Zoning By-law of the Town of Southamptton, Massachusetts," together with the effective date of this By-law. Photographic reductions of the original map may be used for printing purposes. The original map shall be the final determinant in all matters of dispute. Changes to the map shall be authenticated by the Town Clerk in the same manner as the authentication of the initial adoption.

The Flood Plain District is herein established as an overlay district on the above designated Zoning Map. The Flood Plain District included as special flood hazard areas designated as Zone A, AI-30 on the Southamptton Flood Insurance Rate maps (FIRM), and the Flood boundary and Floodway Maps, dated December 4, 1979 on file with the Town Clerk, Planning Board and Zoning Enforcement Officer. These maps as well as the accompanying Southamptton Flood Insurance study are incorporated herein by reference. The underlying permitted uses are allowed, provided that they meet the additional requirements for F-P Zones set forth in Section V of these regulations.

- C. Boundaries of Districts. Where any uncertainty exists with respect to the boundary of any district as shown on the Zoning Map, the following rules apply:
1. Where a boundary is indicated as a street, alley, railroad, watercourse, or other body of water, it shall be construed to be the centerline or middle thereof, or where such boundary approximates a town boundary, then to the Limits of the town Boundary.
  2. Where a boundary is indicated as following approximately or parallel to a street, alley, railroad, watercourse, or other body of water, it shall be construed to be parallel thereto and at such distance therefrom as shown on the Zoning Map if no dimension is given, such distance shall be determined by the use of the scale shown on the Zoning Map.

3. Where a dimensioned boundary coincides within 10 feet or less with a lot line, the boundary shall be construed to be the lot line.
4. Where a boundary is indicated as intersecting the centerline of a street, railroad, watercourse, or other water body, it shall be construed to intersect at right angles to said centerline, or in the case of a curved centerline, at right angles to the tangent to the curve at the point of intersection.
5. The abbreviation "PL" means property line as shown on the Town Assessor's Maps as in effect at the effective date of this By-law. The abbreviation "PL" when used in conjunction with a subsequent amendment to this By-law, shall mean a property line as shown on the Town Assessor's maps as on effect at the effective date of such amendment.
6. The abbreviation "SLC" means "Straight Line Connection." "CL" means "Centerline" and "CI" means "Center of Intersection."
7. When a district boundary line divides any lot in one ownership of record at the time such line is adopted, a use that is permitted on one portion of the lot may be extended 30 feet into the other portion provided the first portion includes the required frontage.
8. The designated F-P district shall be as defined on the Southampton Flood Insurance Rate Maps, Flood Boundary and Floodway Maps and Flood Insurance Study and overlaid on the Zoning Map. In all matters of dispute, the Planning Board shall make the final determination as to the location of the F-P district boundaries and the flood elevation.

## SECTION IV

### INTERPRETATION AND APPLICATION

- A. Interpretation. The provisions of this By-law shall be interpreted to be the minimum requirements adopted for the promotion of health, safety, morale, or the general welfare of the Town of Southampton, Massachusetts, and except for the Zoning By-law approved by the Attorney General on February 8, 1957, and all subsequent amendments thereto, the provisions of this By-law are not intended to repeal; amend, abrogate, annul, or in any way impair or interfere with any lawfully adopted by-law covenants, regulations, or rules. Whenever the regulations made under the authority hereof differ from those prescribed by any statute, by-law, or other regulation, that provision which imposes the greater restriction or the higher standard shall govern.
- B. Application. Except as provided herein, or as specifically exempted by the Zoning Act, this By-law shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first notice of the public hearing, to any reconstruction extension or structural change of such structure and to any alteration of a structure begun after the first notice of said public hearing to provide for its use for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent, except where alteration,. Reconstruction, extension or structural change to a single or two family structure does not increase the nonconforming nature of said structure.
- C. Mixed Uses. In cases of mixed occupancy, the regulation for each use shall apply to the portion of the building or land so used.

## SECTION V

### USE REGULATIONS

- A. Applicability of Use Regulations. Except as provided by the Zoning Act or in this By-law, in each district no building, structure, water body, or lot shall be used or occupied except for the purposes permitted in the district as described in this section. Any use not listed shall be construed to be prohibited.
- B. Permitted Uses. In the following Table 1. Use Regulations, the uses permitted by right in the district shall be designated by the letter (P). Those uses that may be permitted by special permit by the Board of Appeals, in accordance with the provisions of Sections X and XI shall be designated by the letter (S). Those uses that may be permitted by special permit of the Planning Board, in accordance with the provisions of Sections X and XI shall be designated by the Letters (SPB). Those Uses that may be permitted by special permit of the Board of Selectmen in accordance with the provision of Section X and XI shall be designated by the letters (SBS). Uses designated (-) shall not be permitted in the district.
- C. Uses Subject to Other Regulations. Uses permitted by right or by special permit shall be subject, in addition to use regulations, to all other provisions of this By-law.
- D. Table of Use Regulations. See Table 1. On accompanying pages which are declared to be a part of this By-law.
- E. Special Regulations in F-P Districts. Within the designated overlay district the following additional use regulations shall apply. All otherwise permitted underlying uses are allowed provided that they meet these special regulations.
  - 1. Within Zone A, where the base flood elevation is not provided on the FIRM, the applicant shall obtain any existing base flood elevation data and it shall be reviewed by the Zoning Enforcement Officer and the Planning Board, for its reasonable utilization toward meeting the elevation or flood proofing requirements, as appropriate, of the Massachusetts State Building Code. (Presently Section 744).
  - 2. All development, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws (“Wetlands Protection Act”) and with the requirements of the Massachusetts State Building Code pertaining to construction in flood plains.
  - 3. All encroachments, including fill, new construction, substantial improvements to existing structures, and other development are prohibited unless certification by a registered professional engineer or architect is provided by the applicant, demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the 100 year flood.

**Table 1. Use Regulations**

Principal Uses	Residential			Commercial		Industrial
	R-R	R-N	R-V	C-V	C-H	I-P
Residential						
1. One-family detached dwelling	P	P	P	-	-	-
2. Two-family dwelling	-	S	S	-	-	-
3. Multifamily dwelling (section XL. E)	-	-	S	S	-	-
4. Cluster development (section XL. B)	SPS	SPB	SPB	-	-	-
5. Elderly housing	-	-	S	S	-	-
6. Permanent (over 60 days in any calendar year) Mobile home or trailer (other than for storage-see accessory uses)	-	-	-	-	-	-
7. Temporary (up to 60 days in any calendar year) Mobile home or trailer (other than for storage-see accessory uses)	S	S	S	-	-	-
Community Facilities						
1. Church or other religious purpose	P	P	P	P	P	P
2. Educational institution	P	P	P	P	P	P
3. Nursey school	S	S	S	-	-	-
4. Public recreation use	P	P	P	P	P	P
5. Nonprofit recreational facilities including country, tennis and hunting club	S	S	S	-	S	-
6. Camp for children	S	S	S	-	-	-
7. Town building except public works garage and fire station.	P	P	P	P	P	P
8. Cemetery	S	S	S	-	-	-
9. Library or Museum	P	P	P	P	P	P
10. Hospital or nursing home	S	S	S	-	-	-
11. Street and bridge	P	P	P	P	P	P
12. Town public works garage and fire station	S	S	S	S	P	P
13. Public utilities	S	S	S	S	S	S
14. Essential Services	P	P	P	P	P	P

**Table 1 (Continued). Use Regulations**

Principle Uses	Residential			Commercial		Industrial
	R-R	R-N-R-V		C-V	C-H	I-P
Agricultural						
1. Agriculture, horticulture and floriculture	P	P	P	P	P	P
2. Noncommercial forestry	P	P	P	P	P	P
3. Year round farm products stand or greenhouses	S	S	S	P	P	P
4. Temporary (3month maximum in any year) farm products stand	P	P	S	-	P	P
5. Raising of livestock for commercial use not including swine or fur animal	P	S	S	-	-	S
6. Raising of livestock for noncommercial use not including swine or fur animals	P	S	S	-	-	P
7. Commercial or noncommercial kennels, stables, farms or veterinary hospital, at least 25 feet from any residential lot line	S	S	-	-	S	S
8. Commercial forestry	SBS	SBS	SBS	SBS	SBS	SBS

**Retail and Service**

1. Retail establishment selling principally convenience goods						
a. With a maximum floor area of 5,000 sq. feet per establishment	-	-	-	P	P	-
b. With no limitation on floor area	-	-	-	S	S	-
2. Retail establishment selling general merchandise	-	-	-	S	S	-
3. Eating and drinking places including drive-in establishments	-	-	-	S	S	-
4. Establishments selling motor vehicles and/or accessories	-	-	-	S	S	-
5. Hotels and Motels	-	-	-	S	S	-
6. Lodging house	-	-	S	S	-	-

**Table 1 (Continued). Use Regulations**

Principal Uses	R-R	R-N	R-V	C-V	C-H	I-P
7. Funeral establishment	-	S	S	S	S	-
8. Bank or other personal and consumer service establishment	-	-	-	P	S	-
9. Membership club	S	S	S	S	S	-
10. Professional and business offices and services	-	-	-	P	S	S
11. Automotive or other business repair services	-	-	-	S	S	-
12. Amusement or recreation service	-	-	-	-	S	S
13. Communications and television towers	S	S	-	-	-	S
14. Commercial parking lot (section VIII)	-	-	-	P	P	P
15. Filling or excavating of land or water area (section XI.G)	S	S	S	S	S	S
16 Planned business development (section XI.C)	-	-	-	SPB	SPB	SPB

**Wholesale, Transportation and Industrial**

Principal Uses	Residential			Commercial		Industrial
	R-R	R-N	R-V	C-V	C-H	I-P
1. Earth removal (Section XI.F)	SBS	SBS	SBS	SBS	SBS	SBS
2. Processing earth products (Section XI.F)	SBS	SBS	-	-	SBS	SBS
3. Manufacturing	-	-	-	-	-	S
4. Construction industry and supplies	-	-	-	-	S	P
5. Freight terminal and warehousing	-	-	-	-	S	P
6. Bus passenger terminal	-	-	-	P	S	P
7. Other transportation service	-	-	-	S	S	S
8. Wholesale trade and distribution	-	-	-	-	S	S
9. Open storage of materials and equipment	-	-	-	-	S	S
10. Research offices and development activities	-	-	S	S	P	P
11. Planned industrial development (section XI,D)	-	-	-	-	-	S
12. Facilities for the storage, transfer, treatment, incineration (including but not limited to low level Radioactive wastes). (Section XI, I)n						
13. Roof Mounted Solar Electric Generating Facility	P	P	P	P	P	P
14. Small Scale (16kW or less) DC Solar Electric Generating Facility	P	P	-	-	P	P



15. Medium Scale (greater than 16kW to 250kW) DC Solar Electric Generating Facility	SPB	SPB	-	-	P	P
16. Intermediate Scale (greater than 250kW to 500kW) DC Solar Electric Generating Facility	SPB	SPB	-	-	SPB	P
17. Large Scale (greater than 500KW) Solar Electric Generating Facility	SPB	SPB	-	-	SPB	P
18. Registered Marijuana Dispensary (RMD) (See Section XIX)	N	N	N	N	SPB	SPB
19. Craft Marijuana Cooperative	N	N	N	N	N	SPB
20. Marijuana Cultivator	N	N	N	N	N	SPB
21. Marijuana Product Manufacturer	N	N	N	N	N	SPB
22. Marijuana Retailer	N	N	N	N	SPB	SPB
23. Marijuana Independent Testing Laboratory	N	N	N	N	SPB	SPB
24. Marijuana Microbusiness	N	N	N	N	N	SPB
25. Marijuana Research Facility	N	N	N	N	N	SPB
26. Marijuana Transporter	N	N	N	N	SPB	SPB
27. Any other type of licensed marijuana- related business, except a medical marijuana treatment center	N	N	N	N	N	SPB

**Table 1 (continued), Use Regulations**

Accessory Uses Industrial	Residential			Commercial		
	R-R	R-N	R-V	C-V	C-H	I-P
1. Home occupation (Section XI,H)	S	S	S	P	P	-
2. Professional Office	S	S	P	P	P	-
3. Accessory building, swimming pool, or other structure subject to provisions of Section VI	P	P	P	P	P	-
4. Private day nursery provided it shall occupy less than 40 percent of gross floor area and have a minimum of 75 sq. feet of outside play area for each enrolled child	S	S	S	-	-	-
5. Accessory private garage for not more than three vehicles, except on farm	P	P	P	P	P	-
6. Storage of one unregistered motor vehicle not less than 25 feet from any front lot line	P	P	P	P	P	-
7. Storage of one unoccupied mobile home or trailer and/or two boat not less than 25 feet from any front lot line	P	P	P	P	P	-
8. Accessory outside storage necessary to operation of principal use	-	-	-	S	S	P
9. Accessory commercial service for occupants within a hotel hospital, office, industrial building or transportation terminal	-	-	S	P	P	-
10. Up to two lodging units with no cooking facilities in and existing dwelling	S	S	P	S	S	-
11. Accessory Signs (Section VII)	P	P	P	P	P	P
12. Accessory parking and loading spaces (Section VII)	P	P	P	P	P	P
13. Fences up to 6 feet in height	P	P	P	P	P	P
14 Accessory uses the principal use permitted by right which is necessary in connection with scientific research or scientific development or related products	S	S	S	S	S	S

**Table 1 (Continued). Use Regulations**

**SOLAR**

*(Added 5/17/2016)*

*(Amended 1/24/17)*

- A. Applicability of Use Regulations. Except as provided by the Zoning Act or in this By-law, in each district no building, structure, water body, or lot shall be used or occupied except for the purposes permitted in the district as described in this section. Any use not listed shall be construed to be prohibited.
  
- B. Permitted Uses. In the following Table 1. Use Regulations, the uses permitted by right in the district shall be designated by the letter (P). Those uses that may be permitted by special permit by the Board of Appeals, in accordance with the provisions of Sections X and XI shall be designated by the letter (S). Those uses that may be permitted by special permit of the Planning Board, in accordance with the provisions of Sections X and XI shall be designated by the Letters (SPB). Those Uses that may be permitted by special permit of the Board of Selectmen in accordance with the provision of Section X and XI shall be designated by the letters (SBS). Those uses that may be permitted by Site Plan Review, in accordance with the provisions of Section XVI.G., shall be designated by the letters (SPR). Those uses that may be permitted by Site Plan Approval, in accordance with the provisions of Section XVI.H., shall be designated by the letters (SPA). Uses designated (-) shall not be permitted in the district.

**TABLE 1 USE REGULATIONS**

Principal Uses	Residential			Commercial		Industrial
	R-R	R-N	R-V	C-V	C-H	I-P
Roof Mounted Solar Electric Generating Facility	P	P	P	P	P	P
Small Scale (16kW or less) DC Solar Electric Generating Facility	SPR	SPR	-	-	SPR	SPR
Medium Scale (greater than 16kW to 200kW) DC Solar Electric Generating Facility	SPB/SPA	SPB/SPA	-	-	SPA	SPA
Intermediate Scale (greater than 200kW to 500kW) DC Solar Electric Generating Facility	SPB/SPA	SPB/SPA	-	-	SPB/SPA	SPB/SPA
Large Scale (greater than 500KW) Solar Electric Generating Facility	SPB/SPA	SPB/SPA	-	-	SPB/SPA	SPB/SPA

## SECTION VI

### AREA, HEIGHT AND BULK REGULATIONS

- A. Applicability of Area, Height, and Bulk Regulations. The regulations for each district pertaining to minimum lot area minimum lot frontage, minimum front yard depth, minimum side yard width, minimum rear yard depth, maximum height of buildings, maximum number of stories, maximum building coverage of lot and minimum two family and multifamily residential net floor area shall be specified in the section and set forth in tables 2 and 3, Area Regulations and Height and Bulk Regulations, and subject of the further provisions of this further provisions section.
- B. Tables of Area and Height and Bulk Regulations. See Tables 2 & 3, on accompanying pages plus attached notes, which are declared to be a part of this By-Law.
- C. Reduction of Lot Areas. The lot, yard areas, or open space required for any new building or use may not include any part of a lot that is required by any other building or use to comply with any provisions of this By-law, nor may these areas include any property of which the ownership has been transferred subsequent to the effective date of this By-law, if such property was a part of the area required for compliance with the dimensional regulations applicable to the dimensional regulations applicable to the lot from which such transfer is made.
- D. Separations of Lots. Lots shall not be so separated or transferred in ownership so as not to comply with the provisions of this By-Law.
- F. Screening and Buffer Strips-Industrial and Business Districts  
Screening and Buffer strips shall be required in any industrial or business district which adjoins a residential district at the time of construction of any permitted industrial or business building in the industrial or business district as follows: these strips shall be at least 35 feet in width and shall contain a screen of plantings. The screen shall not be less than five feet in width and six feet in height at the time of occupancy of such lot. Individual shrubs and trees shall be planted as close as necessary to create a visual screen and shall thereafter be maintained by the owner or occupants so as to maintain dense screen year round. At least 50 percent of the plantings shall consist of evergreens. A solid wall or fence not to exceed six feet in height complemented by suitable plantings may be substituted for such landscape buffer strip by special permit of the Planning Board as provided for in Section X and XI of this By-law. The strip may be part of the yard area. Where an "I" or "C" district abuts and "R" District no building within the "L" or "C" District shall be within 25 feet of the boundary line of the "R" District.

1District	Use	Area	Lot	Lot		Yards	Rear
		(sq. ft.)	Width (ft.)	Depth (ft.)	Front (ft.)	Side (ft.)	(ft.)
R-R**	Any permitted principal structure or use	60,000	175	200	50	30	50
R-N**	Any permitted principal Structure or use	40,000	140	150	35	20	50
R-V**	Any permitted principal Structure or use	30,000	130	125	30	15	45
C-V	Any permitted principal Structure or use	25,000	120	150	50	30*	50
C-H	Any permitted principal Structure or use	40,000	140	150	75	30*	50
I-P	Any permitted principal Structure or use	80,000	200	250	75	50	50

**\*50 feet when adjacent to a “R” district.**

\*\* Minimum lot dimensions for Cluster development provisions in Section XI.B.

F. Other General Dimensional and Density Provisions. In addition to the regulations in A thru E, the following regulations shall apply:

Except for cluster developments, planned business developments, industrial developments,

Community facilities, and public utilities, only one principal structure shall be permitted on one lot. Minimum distance between buildings shall be twice the required side yard.

In all districts, the lot width shall not be less that that prescribed in the Table Area Regulations as measured at all points between the front lot lone and the rear building line;

Except that between the front lot line and the required setback line, the lot may be reduced to 80 percent of the width requirement.

A corner lot shall have minimum street yards with depths which shall be the same as the required front yard depths for the adjoining lots.

4. At each end of a through lot, there shall be a setback depth required which is equal to the front yard depth required for the district in which each street frontage is located.

5. Projections into required yards or other required open spaces are permitted subject to the following:

Balcony or bay window, limited in total length to one-half the length of the building, not more than two feet.

b. Open terrace or steps or stoop, under four feet in height, up to one-half the required yard setback.

c. Steps or stoop over four feet in height, windowsill, chimney roof eave, fire escape, fire tower, storm enclosure or similar architectural features, not more than two feet.

At no street intersection in any district shall any obstruction to vision exceeding 3-1/2 feet in height above the plans established by the intersecting streets be placed or permitted to grow, on any lot within the triangle formed by the lot lines abutting the

intersecting streets and a line connecting points on these lot lines at a distance of 25 feet from the point of intersection of the lot lines.

In any “R” District, a detached accessory building shall conform to the following provisions:

It shall not occupy more than 25 percent of the required rear yard.

It shall not be less than 20 feet from the front street line, nor less than 10 feet from any other lot line or from any principal building.

It shall not exceed 20 feet in height.

An accessory building attached to the principal building shall be considered as an integral part thereof and shall be subject to front, side, and rear yard requirements applicable to the principal building.

An accessory private swimming pool in any district shall be completely enclosed by a fence at least four feet in height having a self-closing gate with a latch.

No swimming pool shall be located neither within any required front yard nor within 10 feet from any side or rear lot line.

Accessory buildings in the “C” and “I” Districts may be located on the lot so as not to violate the maximum building coverage requirements set forth in the Table 3, of Height and Bulk Regulations.

Table 3. Height and Bulk Regulations

(See Notes)

District	Maximum Permitted height (1) (ft.)	Maximum permitted height (stories) *3	Maximum building coverage of lot (covered Area as percent of Total lot area	Min. two or multifamily residential net floor area (sq. ft.)
R-R	35	2 ½ *note 3	15	Not permitted
R-N	35	2 ½ *note 3	20	(See#1.)
R-V	45	3	25	768 by special Permit
C-V	30	2	40	(See #2.)
C-H	30	2	25	Not permitted
I-P	45	3	25	Not permitted

\*1.) Two family-768 Sq. Feet by Special Permit

Multifamily-not permitted

\*2.) Two family-not permitted

**Multifamily-768 Sq. Feet by Special Permit**

\*3.) House with walkout basement will not be considered as a story but the maximum height criteria of 35’ will prevail

1. Any maximum height permitted in this By-Law shall not apply to:
  - a. Community facility and public utility structures provided the side and rear yards or setbacks required in the district for the highest permitted principal structure shall be increased two feet in width for each foot by which the height of such structures exceeds the height permitted in the district.
  - b. Necessary appurtenant structures, such as church spire, smokestack, monument, flagpole, radio or television tower, aerial, airplane hanger,

chimney or parapet wall, or any similar appurtenances not in any manner used for human occupancy.

- c. Special industrial structures, such as a cooling tower and other similar structure, where the industrial process requires a greater height.

## SECTION VII

### SIGNS

**A. Applicability.** As authorized by the Zoning Act and Sections 29 through 33 of Chapter 93 of the Massachusetts General Laws, as amended, no signs shall be attached, erected or otherwise installed on any property without first obtaining a sign permit from the Enforcement Officer, such permit to be granted only in accordance with the following regulations of Article 4 of the State Building Code.

**B. General Regulations**

1. Any traffic or directional sign or construction sign (for the duration of the construction) owned or installed by a governmental agency shall be permitted.
2. Temporary interior window displays of temporary banners for automotive establishments shall be permitted except as provided in No. 4 below. Temporary shall be construed to mean any period not exceeding 30 consecutive days.
3. A sign (including temporary interior window displays or banners) or its illuminator shall not be reason of its location, shape, size, or color interfere with traffic or be confused with or obstruct the view or effectiveness of any official traffic sign, traffic signal or traffic marking. Therefore, flashing or animated signs are not permitted and red, yellow or green colored lights shall not be permitted.
4. No more than two signs shall be allowed for any one business or industrial establishment in the "C" and "I" Districts.
5. No more than one other sign in addition to a nameplate shall be allowed for any one premise in the "R" District.
6. The limitations as to the number of signs permitted does not apply to traffic or directional signs which are necessary for the safety and direction of residents, employees, customers, and visitors, whether in vehicle or on foot, of any business, industry or resident.
7. No sign shall extend above the roof line of the building to which it is attached. Roof signs are not allowed.
8. In any district one unlighted temporary sign offering premises for sale or lease for each parcel in one owner-ship shall be permitted, provided: it shall not exceed six square feet in surface area; and it shall be set back at least 10 feet from the street lot line.
9. In any district one unlighted temporary sign of an architect, engineer or contractor erected during the period such person is performing work on the premises on; which such sign is erected shall be permitted, provided: It shall not exceed four square feet in surface area: and it shall be set back at least 10 feet from the street lot line

**C. Signs Permitted in any "R" District.**

1. One professional nameplate for each medical doctor or dental practitioner, provided;

Such sign shall not exceed one square foot in surface area.

2. One identification sign for each dwelling unit, provided: such sign shall not exceed one square foot in surface area; if lighted, it shall be illuminated with white light by indirect method only; and it shall not be used other than for identifying the occupancy.



3. One identification sign for each membership club, funeral establishment, community facility or public utility, provided: the sign shall not exceed 10 feet in surface area; and if lighted, it shall be illuminated with white light by indirect method only.
4. One unlighted temporary sign relating to a new residential subdivision during the actual period of construction, provided; it shall not exceed 20 square feet in surface area; and it shall be set back at least 10 feet from any street lot line
5. Except for professional name plates and the residential nameplate, any other sign in an "R" District shall be set back at least one half of the required depth of the front yard.

D. Signs Permitted in any "C" District

1. Signs permitted in Subsection C., Subject to the same regulations, and business signs. General advertising signs shall be prohibited. Projecting signs are prohibited.
2. One wall sign for each lot street frontage of each establishment, provided: it shall be attached and parallel to the main wall of a building; the surface area of the sign shall not aggregate more than ten percent of the area of the wall on which is displayed, or 40 square feet, whichever is the lesser; and if lighted, it shall be illuminated or by indirect method with white light only
3. One pole sign for each street frontage of each establishment provided; it shall not exceed 40 square feet in surface area; no portion of it shall be set back less than 10 feet from any street lot line; it shall not be erected so that any portion of it is over 30 feet above the ground or sidewalk; and if lighted, it shall be illuminated internally or by indirect method with white light only.

One standing sign for each lot street frontage of a business establishment in the "C-H" District, provided it shall not exceed 40 square feet in surface area, on any one side; no portion of it shall be set back less than 10 feet from any street lot line; it shall not rise to more than 12 feet from the ground or sidewalk; and it shall be illuminated internally or by indirect method with white or blue light only. Where a single lot is occupied by more than one business whether in the same structure or not, there shall not be more than one standing sign.

E. Signs Permitted in the "I" District

1. Wall Signs permitted in Subsection D., subject to the same regulations.
2. One standing sign for each establishment, provided; it shall not exceed 40 square feet in surface area; it shall be set back at least 25 feet from any street lot line; it shall not be erected so that any portion of it is over 15 feet above the ground or sidewalk; and if lighted, it shall be illuminated internally or by indirect method with white light only.

## **SECTION VIII**

### **OFF-STREET PARKING AND LOADING REGULATIONS**

Off-Street Parking and Loading Requirements. If any structure is constructed, enlarged, or extended, and any use of land established, or any existing use is changed after the effective date of this By-law, off-street parking and loading spaces shall be provided in accordance with Tables 4 and 5. When the computation of required spaces results in the requirement of a fractional space, a fraction of one-half or more shall require an additional space. An existing structure which is enlarged or an existing use which is extended after the effective date of this By-law shall be required to provide off-street parking and loading spaces in accordance with the following table for the entire structure or use, unless the increase in units or measurements amounts to less than 25 percent whether such increase occurs at one time or in successive stages.

#### **General**

1. Parking or loading spaces being maintained in any district in connection with any existing use on the effective date of this By-law shall not be decreased so long as said use remains, unless a number of parking or loading spaces is constructed elsewhere such that the total number of spaces conforms to the requirements of the following tables, provided: this regulation shall not require the maintenance of more parking or loading spaces than is required according to the tables.
2. Except in a "C-V", or "I-P" District, the parking spaces required for the uses listed in Table 4 shall be on the same lot as the use they are intended to serve or, when practical difficulties prevent their establishment upon the same lot as determined by the enforcement Officer, they shall be established no further than 300 feet from the premises which they serve. In no case shall the required parking space be part of the area used to satisfy any loading requirements of this By-Law.
1. In any "C-V", "C-H", or "I-P" District, off-street parking requirements may be fulfilled by use of common off-street parking areas so long as the common area is located no further than 300 feet from the use it is intended to serve and that the total off-street parking provided is equal to that which would be required by normal application of Table 4.
2. The loading spaces required for the uses listed in Table 5 shall in all cases be on the same lot as the use they are intended to serve. In no case shall the required loading spaces be part of the area use to satisfy the Off-street parking requirements of this By-law.

**Table 4. Off-Street Parking Standards**

Use	Number of parking spaces per unit
Home Occupation	Three per use
Lodging house, motel, or hotel	One and one-half per rental unit
Automotive retail and service establishment and other retail and service establishments utilizing extensive display areas, either indoor or outdoor which are unusually extensive in relation to customer traffic	One per 1,000 sq. feet of gross floor space. In the case of outdoor display areas, one for each 1,000 sq feet of lot area in such use.
Other retail service, finance insurance, or real estate establishment or eating place	One per each 75 sq. feet of net floor area
Lumber yard or similar building materials establishment	One per each 75 sq. feet of retail sales area
Transportation terminal establishment	One per each 600 sq. feet of heavy equipment parking area.
Wholesale establishment, ware house, or storage establishment	One per each 300 sq. feet of net floor area
Manufacturing or industrial establishment	One per each 600 sq. feet of net floor area
Theater, restaurant, auditorium, church, or other place of public assembly	One for each 4 seats of total seating capacity
Hospital	Two per bed at design capacity
School or college	Two per classroom in an elementary and junior high school and four per classroom in a senior high school plus one space for each four seats in any auditorium or gymnasium whichever has the larger capacity
Other Community facility (town building, recreation, etc.) or public utilities	Dependent on individual needs but not less than one per such 200 sq. feet of net floor

**Table 5. Off-Street Loading Standards**

Use	Number of loading spaces per unit
Business, industrial, community facility (school, church, town building, recreation, etc.) or public utility establishment with over 5,000 sq. feet of floor space.	One per 15,000 sq. feet or any fraction thereof of net floor area

C. Parking and Loading Lot Standards.

1. All Parking or loading areas containing over five spaces, including automobile service establishments shall be either contained within structures, or subject to the following:
  - a. The area shall be effectively screened from sight on all sides which adjoin or face the side or rear lot line of a lot situated in any “R” District. The screening shall consist of a solid fence or wall not less than three feet nor more than six feet in height or a visual screen of trees and shrubs planted as close as necessary to create a dense visual buffer, at least two feet from the lot line, and all maintained in good condition, The screening required by this Subsection shall be set back a minimum of 15 feet from each street lot line
  - a. The area and access driveways thereto shall be surfaced with bituminous or cement concrete material and shall be graded and

drained so as to dispose of all surface water accumulation, in an approved manner.

- b. A substantial bumper of masonry, steel, or heavy timber, or a concrete curb or berm curb which is backed shall be placed at the edge of surfaced areas except driveways in order to protect abutting structures, properties, and sidewalks.
  - c. Any fixture used to illuminate any area shall be so arranged as to direct the light away from the street and away from adjoining premises used for residential purposes.
  - d. Any permitted repair or service facility such as gas, oil or water, for use by vehicles, shall not be less than 25 feet from any lot line.
2. Any parking or loading area shall be also subject to the following:
- a. There shall not be any motor vehicle parked within five feet of any side or rear lot line.
  - b. There shall not be any vehicle repair facilities or any repair made to any motor vehicles within the required parking or loading area.
  - c. There shall not be any outside storage of materials or equipment or display of merchandise within the required parking or loading area.
  - d. No portion of any parking area shall be permitted closer than 15 feet from any street lot line
  - e. Parking and loading spaces shall be so arranged as not to permit backing of automobiles onto any state highway.
  - f. Any portion of a driveway for a parking or loading area associated with a nonresidential use which enters or leaves any state highway shall be at least 75 feet from any street intersection.
  - g. Any two driveways leading to or from a street and to or from a single area shall not be within 50 feet of each other when the premises are located on any state highway. Such distance shall be measured between their nearest edges at their intersections with the front lot line. For other streets the distance shall be 20 feet
  - h. All driveways in "R" Districts shall be placed a minimum of five feet from any property line.
  - i. Any entrance or exit driveway shall not exceed 24 feet in width at its intersection with the front lot line.

## **SECTION IX NONCONFORMING USES, STRUCTURES, AND LOTS**

- A. Nonconformity by Initial Enactment of Amendment. The provisions of this section apply to nonconforming uses, structures, and lots as created by the initial enactment of this By-law or by any subsequent amendment thereto.

### **B. EXTENSION AND ALTERATION**

1. Any nonconforming use, except primarily for agriculture horticulture or floriculture on parcels of more than five acres in area, of a portion of any open space on a lot outside a structure, shall not be extended.
  2. Any nonconforming use, except primarily for agriculture, horticulture or floriculture on parcels of more than five acres, of a lot not occupied by a structure other than a sign, shall not be extended.
  3. Any nonconforming principal use of a structure shall not be extended.
  4. Any conforming principal use of a nonconforming structure may be extended throughout the existing structure.
  5. Any nonconforming accessory use of a portion of a structure or any conforming accessory use of a portion of a nonconforming structure may be extended up to a maximum of 40 percent of the floor area of the existing structure.
  6. Any nonconforming structure may be altered and the use extended throughout the altered portion provided: any conforming use shall not be made nonconforming; and any resultant alteration shall not cause the structure to violate the maximum building area and yard regulations of the district in which it is located.
  7. Any nonconforming structure or portion thereof which has come in to conformity shall not again become nonconforming.
- B. Residential Lot of Record. Any increase in area, frontage, width, yard, or depth requirements imposed by the provisions of the amendments to this By-law of which this Paragraph C. is a part, shall not apply to a lot for a single or two-family residential use which at the time of recording or endorsement, whichever occurs sooner, conformed to then existing requirements and had less than the proposed requirement but at least 5,000 sq. feet of area and 50 feet of frontage.

The applicability of provisions of this By-law to preliminary and definitive subdivision plans submitted to the Planning Board for approval under the Subdivision Control Law (Chapter 41, Section 81-K through 81-GG) of the Subdivision Control Law shall be governed by provisions of Section 6 of the Zoning Act.

Any lot lawfully laid out by plan or deed duly recorded, or any lot shown on a plan endorsed with the Words “approval under the subdivisions control law not required” or words of similar import, which complies at the time of such recording or such endorsement, whichever is earlier, with the minimum area, frontage, width, and depth requirements, of the zoning By-law in effect in the Town of Southampton, notwithstanding the adoption or amendment of provisions of the zoning By-law in the Town of Southampton, imposing minimum area frontage, width, depth, or yard requirements, or more than one such requirement, in excess of those in effect at the time of such recording or endorsement (1) may thereafter be built upon for residential use if, at the time of the adoption of such requirements or increased requirements, or while building on such lot was otherwise permitted, whichever occurs later, such lot was held in ownership separate from that of adjoining land located in the same residential district, or (2) MAY BE built

upon for residential use for a period of five years from the date of such recording or such endorsement, whichever is earlier, if, at the time of the adoption of such requirements or increased requirements, such lot was held in common ownership with that of adjoining land located in the same residential district; and further provided, in either instance, at the time of building (a) such lot has an area of five thousand square feet or more and a frontage of fifty feet or more, is in a district zoned for residential use, and conforms except as to area, frontage, width, and depth with the applicable provisions of the zoning By-law in effect in Southampton and (b) any proposed structure is to be located on such lot so as to conform with the minimum requirements of front, side, and rear yard setbacks, in effect at the time of such recording or such endorsement, whichever is earlier, and to all other requirements for such structure in effect at the time of building.

The provisions of this section shall not be construed to prohibit a lot being built upon, if at the time of building, building upon such lot is not prohibited by the zoning By-law in effect in Southampton.

#### **D. REDUCTION OR INCREASE**

1. Any nonconforming lot or open space on the lot (yards, setbacks or courts), if already smaller than that required, shall not be further reduced so as to be in greater nonconformity.
3. Any off-street parking or loading spaces, if already less than the number required to serve their intended use shall not be further reduced in number.
4. Any nonconforming building on a lot if already larger than required shall not be further increase so as to be in greater nonconformity.

#### **E. Change**

1. Any nonconforming use of a structure may be changed to another nonconforming use, provided; the changed use is not for a substantially different purpose.
2. Any nonconforming use which has been once changed to a permitted use or another nonconforming use, which is not for a substantially different purpose, shall not again be changed to another nonconforming use.
3. Any nonconforming lot which has come into conformity shall not again be changed to a nonconforming lot.

F. Restoration. Any nonconforming structure damaged by fire or other cause may be rebuilt within the limits only of its original location and reused for its original use or a conforming use.

G. Abandonment. Any nonconforming use, except for agriculture, horticulture, or floriculture use, of a structure and/or lot which has been in nonuse for a continuous period of two years or more, or abandoned, shall not be used again, except by a conforming use, for agricultural uses, the nonuse period shall be five years.

H. Moving. Any nonconforming structure shall not be moved to any other location on the lot or any other lot unless every portion of such structure, the use thereof and the lot shall be conforming.

I. Unsafe Structure. Any structure determined by the Inspector of Buildings to be unsafe may be restored to a safe condition, provided such work on any nonconforming structure shall not place it in greater nonconformity.

## **SECTION X ADMINISTRATION AND ENFORCEMENT**

- A. **Enforcement Officer and Duties.** This By-law shall be administered and enforced by the Enforcement Officer of the Town of Southampton. The Enforcement Officer shall have the assistance of such other persons as the board of Selectmen or Town Meeting may direct. Duties of the Enforcement Officer under this By-law shall include the receiving of applications, issuing building permits, inspection of premises, issuing certificates of use and occupancy, action on violations, and any other lawful actions necessary to assure conformance with the By-law.
- B. **Permits and Certificates Required.** It shall be unlawful to construct, enlarge, alter, remove or demolish a building or change the occupancy or use of a building or land, from one use to another without first filing an application with the Enforcement Officer in writing and obtaining the required permits therefore.

The Enforcement Officer shall withhold a permit for the construction, alteration or moving of any building or structure if the building or structure as constructed, altered or moved would be in violation of this By-law.

No building or structure hereafter erected and no land shall be used or occupied in whole or in part, and no building or structure hereafter enlarged, extended or altered to change the use in whole or in part, shall be occupied or used until a certificate of use and occupancy has been issued. No such certificate shall be issued for a new use of a building, structure or land which use would be in violation of this By-law.

- C. **Permit and Certificate Application Requirements.** All applications for permits shall be accompanied by two copies of a plot plan. One copy of such plan shall be accompanied by two copies of a plot plan. One copy of such plan shall be returned to the applicant, if approved by the Enforcement Officer. Such plot plan shall be drawn to scale showing the actual dimensions of the lot to be built upon. The size and location on the lot of the building and accessory buildings to be erected. Location and design of off-street parking and loading spaces, signs, and such other information as may be necessary to determine and provide for the enforcement of this By-law. The information required on the plot plan may be combined with the information required under Section XI of this By-law for any site plan. The Enforcement Officer may refuse the application for permit because of an inadequate or inaccurate plot plan.  
Application for a certificate of use and occupancy shall be made upon completion of construction for a structure prior to occupancy and for use of a lot not involving construction at the same time as the application for a permit.
- D. **Time Limits for Permits and Certificates.** The Enforcement Officer shall have 30 days from the date of submittal for review and action on the application for a permit. Any work for which a permit has been issued by the Enforcement Officer shall be actively prosecuted within six months of the date of issue. For cause, one or more extensions of time, for periods not exceeding ninety (90) days each, may be allowed in writing by the Enforcement Officer. For purposes of this section, any permit issued shall not be considered invalid, if such suspension or abandonment is due to a court order prohibiting such work as authorized by such permit, provided, however, in the opinion of the Enforcement Officer, the person so prohibited by such court order, adequately defends such action before the court. Any work for which a permit has been issued by the Enforcement Officer

shall be completed within one year of the date of issuance. Any permit issued for a project which is actively prosecuted for one year may be extended at the discretion of the Enforcement Officer. If the work described in any permit has not begun and substantially completed within one year of the date of issue, the permit shall expire and the Enforcement Officer shall give written notice thereof to the persons affected.

- E. Permit and Certificates and Application Fees. Fees shall be computed according to the fee schedule and procedures adopted by the Board of Selectmen.
- F. Violations. The Enforcement Officer shall serve, by certified mail, a notice of VIOLATION AND ORDER to any person responsible for the erection, construction, reconstruction, conversion, alteration of a structure or change in use, or extension or displacement of use of any building, sign, other structure or lot in violation of any approved plan, information, or drawing pertinent thereto; or in violation of a permit or certificate issued under the provisions of this By-law, and such order shall direct the immediate discontinuance of the unlawful action, use, or condition and the abatement of the violation. Any owner, who has been served with a notice and ceases any work or other activity, shall not leave any structure or lot in such a condition as to be hazard or menace to the public safety, health, morale or general welfare.

Any person who violates or refuses to comply with any of the provisions of this By-law may, upon conviction, be fined a sum of One Hundred Dollars (\$100) for each offense. Each day or portion of a day that any violation continues shall constitute a separate offense.

- G. Board of Appeals. There is hereby created a Board of Appeals of five members and two associate members. Members of the Board of Appeals in office at the effective date of this By-law shall continue in Office, Hereafter, as terms expire or vacancies occur, the Board of Selectman shall make appointment pursuant to Section 12 of the Zoning Act. The Board of Appeals shall adopt rules for the conduct of its business and shall file a copy of its rules with the Town Clerk.

The Board of Appeals shall have the power to:

- 1. Hear and decide appeals in accordance with Section 8 of the Zoning Act.  
Hear and decide petitions for variance in accordance with Section 10 of the Zoning Act.  
  
Hear and decide application for certain classes of special permits it is specifically empowered to decide upon by the By-law, in accordance with Section 9 of the Zoning Act.

- H. Appeals. An appeal to the Board of Appeals may be taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer, by the Lower Pioneer Valley Regional Planning commission, or by any person including an office or board of the Town of Southampton, or of an abutting city or town aggrieved by an order or decision of the Enforcement Officer or other administrative official, in violation of the Zoning Act or the By-law.

Appeals shall be made in accordance with Section 15 of the Zoning Act, and written application shall be made on forms provided by the Board of Appeals and include a copy of all information submitted to the Enforcement Officer on the application of a permit.

- 1. Special Permits. Certain uses, structures, or conditions are designated as permitted only by special permit in Sections V. Table 1. Use Regulations and elsewhere in this By-law. As provided in this By-law certain classes of special permits shall be issued



by the Planning Board and other shall be issued by the Board of Selectmen. Upon written application duly made to the Special permit granting authority the Special permit Granting Authority may, in appropriate cases subject to the applicable condition set forth in Section X and XI of this By-law and elsewhere, and subject to other appropriate conditions and safeguards, grant a special permit for such uses, structures or conditions and no others. The Special Permit Granting Authority Shall adopt and from time to time amend rules relative to the issuance of such permits, and shall file copy of such rules in the Office of the Town Clerk.

1. Special Permit Procedure

- a. For uses permitted by Special Permit in Table 1, Use Regulations, and for all other actions regulated by this By-law, which require a special permit, the applicant shall file a request for a special permit with the appropriate Special permit Granting Authority, application for a special permit shall be filed in four copies of forms provided by the Authority. The authority may require additional information as necessary to adequately judge the merits of the request. In order that the above mentioned restrictions are to be met, a site plan shall be submitted, in quadruplicate, to the Special Permit Granting Authority by the applicant. Said site plan shall show, among other things, all existing and proposed buildings, structures, parking spaces, driveway openings, driveways, service areas, and other open uses, all facilities for sewerage, refuse, and other waste disposal, and for surface water drainage, and all landscape features such as fences, walls, planting areas, and walks.
- b. Applications shall be distributed immediately by the applicant to the Town Clerk and to such other municipal boards as the Special Permit Granting Authority may direct.
- c. A public hearing shall be held within 65 days after the filing of the special permit application as prescribed in section X of this By-law.
- d. The Special Permit Granting Authority shall make a decision on the special permit within 90 days following the public hearing. Failure to take final action upon an application for a Special Permit within said 90 days shall be deemed to be a grant of the permit.
- e. Special permits shall require a vote of at least four members of the Board of Appeals.
- f. The decision of the "Special Permit Granting Authority shall be filed with the Town Clerk along with detailed reasons therefore and all plans as finally approved. Certified copies shall be sent to the Enforcement Officer and to the applicant in accordance with the Zoning Act. Issuance of a special permit does not constitute issuance of a building permit, which must be obtained by filling an application with the Enforcement Officer.
- g. Once a special permit has been issued, the application for a building permit shall be filed with the Enforcement Officer accompanied by the plan, if any, approved by the Special Permit Granting Authority and an application indicating all conditions set forth by the Special Permit Granting Authority when approving the plan. In cases where the setbacks of single-family houses have been prescribed in the special permit. The Enforcement Officer shall verify that the building permit application for each lot is in conformity with the special permit

A special permit granted under this By-law shall lapse within one year of the date of approval if a substantial use thereof has not sooner commences

except for good cause or in the case of permit for construction if construction has not begun by such date except for good cause.

2. Conditions and Safeguards.

a. The Special Permit Granting Authority shall not grant any special permit unless necessary conditions including, but not limited to, the following are met:

1. The use requested is listed in the table 1 of Use Regulations (Article V) as a special permit in the District for which application is made or is so designated elsewhere in the By-law.
2. The use is in harmony with the purpose of this By-law.
3. The requested use is not detrimental to the public convenience or welfare.
4. The requested use will not create undue traffic congestion or unduly impair pedestrian safety.
5. The requested use will not overload any public water, drainage or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the town will be unduly subjected to: hazards affecting health, safety or the general welfare.
6. Any special provisions for the use, set forth in Section XI, are fulfilled.
7. The requested use will not impair the integrity or character of the district or adjoining zones, nor be detrimental to the health, safety or welfare.

b. The Special Permit Granting Authority may also impose in addition to any applicable conditions in this By-law such conditions and safeguards as it finds reasonably appropriate to protect the neighborhood, or otherwise serve the purposes of this By-law, including, but not limited to, the following

1. Requirement of screening, buffers or planting strips, fences or walls.

Limitations of signs or other advertising features beyond the minimum established under Section VII of this By-law

Limitations of number or density of occupants, times or nature of operation, size, scale, or other characteristics of the use or facility.

Regulation of the number, design and location of access drives or circulation facilities

Requirements of off-street parking, loading or other features beyond the minimum otherwise required by this By-law

Requirements of front, side or rear yards greater than the minimum otherwise prescribed by this By-law.

Any other conditions, safeguards, and limitations in time and use which are consistent with the purpose of this By-law. Such conditions shall be imposed in writing and the applicant may be required to post bond or other security for compliance with said conditions in an amount satisfactory to the Special Permit Granting Authority.

J. Variances. The Board of Appeals may, after a public hearing for which notice has been given by publication and posting as provided in Section X.,M., of this By-law and the Zoning Act, and by mailing to all parties in

interest as defined in this By-law. The Board of Appeals shall find that owing to circumstance relating to soil conditions shape, or topography of such land or structures, and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this By-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the purpose of this By-law. No variance may, however, authorize a use or activity not otherwise permitted in the district in which the land or structure is located.

The Board of Appeals may impose conditions, safeguards and limitations both of time and of use including the continued existence of any particular structures, but excluding and condition, safeguards or limitations based upon continued ownership of the land or structures to which the variance pertains by the applicant, petitioner or owner.

If the rights authorized by a variance are not exercised within one year of the date of the grant of such variance, they shall lapse and may be reestablished only after notice and a new hearing as herein prescribed.

The concurring vote of at least four members of the Board of Appeals shall be necessary to effect any variance in the application of this By-law. The decision of the Board of Appeals shall be made within 75 days after the date of filing of an application for variance. Failure of the board of Appeals to act within said 75 days shall be deemed to be the grant of the variance

- K. **Public Hearing Notice Requirements.** In all cases when notice of a public hearing is required, the board holding such hearing shall cause to be given by publication in a newspaper of general circulation in the town once in each of two successive weeks, the first publication to be not less than fourteen days before the day of the hearing and by posting such notice in a conspicuous place in the town Hall for a period of not less than fourteen days before the day of such hearing. In all cases where notice to individuals or specific boards or other agencies is required, notice shall be sent by mail, postage prepaid. The assessors maintaining any applicable tax list shall certify to the board holding the hearing the names and addresses of parties in interest, as defined in this By-law and such certification shall be conclusive for all purposes. The Board holding the hearing may accept a waiver of notice from, or an affidavit or actual notice to any party in interest or, in his stead, any successor, owner of record who may not have received a notice by mail, and may order special notice to any such person, giving not less than five nor more than ten additional days to reply.

Publications and notices required by this section; shall contain the name of the petitioner, a description of the area or premises, street address, if any, or other adequate identification of the location, of the area or of premises which is the subject of the petition, the date and place of the public hearing, the subject matter of the hearing, and the nature of action or relief requested if any. No such hearing shall be held on any day on which a state or municipal election, caucus or primary is held in the town.

- L. **Action Following Approval of Appeals. Variances and Special Permits.** Where authorization for a use of land or of a structure has been given through appeal, variance or special permit, a copy of such written authorization shall be sent by the granting authority to the Enforcement officer within 10 days of

granting, and no building permit shall be used until the Enforcement Officer has submitted an affidavit from the Hampshire County Registry of Deeds that said authorization has been recorded.

Repeat Action on Appeal, Variances and Special Permits. No appeal or application or petition for a variance or special permit which has been unfavorable and finally acted upon shall be acted favorably upon within two years after the date of final unfavorable action unless the appropriate authority finds by a vote of at least four members of the Board of Appeals. A vote of at least four members of the Board of Appeals. A vote of at least four members of the Planning Board, or a vote of at least two members of the Board of Selectmen, as appropriate, specific and material changes in conditions upon which the previous action was based, and describes such changes in the record of its proceedings, and unless all but one member of the Planning Board consents thereto and after notice is given to parties of interest, as defined in the By-law, of the time and place of the proceedings where the question of such consent will be considered.

- N. Read Connections. Before any private driveway or parking or loading area is connected to a town road, permission in writing shall be obtained from the Southampton Highway Department.
- O. Other Requirements. The granting of any appeal, variance or special permit, shall not exempt the applicant from any provision of this By-law not specifically ruled upon by the Board or specifically set forth as excepted in this particular case by a provision of this By-law. It shall be unlawful for any person to reconstruct, convert, or alter a structure or change the use, increase the intensity of use, or extend or displace the use of any building, other structure or lot, or change any required limitations or special conditions imposed in authorizing a special permit or variance without appealing as a new case, which the Board shall have complete administrative power to den, approve or modify.

**SECTION XI  
SPECIAL PERMIT CONDITIONS**

Information Required. In addition to the General Conditions set forth in Section X, of this By-law for all special permits the following special conditions shall apply to the following uses in this section listed as special permits in various districts in Table 1, Use Regulations (Section V).

- A. Cluster Development. For One-family detached dwelling residential development and related open land uses in any “R” District in a cluster concept, **the** following conditions shall apply:
  1. The tract of single or consolidate ownership at the time of application shall be at least 30 acres in size and may be subject to approval by the Planning Board under the Rules and Regulations Governing the Subdivision of Land in the Town of Southampton.
  2. A site plan for the entire tract at an appropriate scale as outlined in item “A” above, shall be prepared and sealed by a Registered Land Surveyor, Registered Civil Engineer, and Registered Landscape Architect.
  3. The following uses shall be permitted: one-family detached dwellings; and community facilities (religious or educational); membership club for exclusive use of the residents of the development; and open land.
  4. The following condition shall apply:
    - a. Each individual lot shall be subject to the minimum lot dimensions for cluster development as defined in Table 6 Cluster Area Regulations as well as standard height and bulk regulations as not forth in Table 3.

**Table 6. Cluster Area Regulations**

District	Minimum Clustered lot area (sq. ft)	Minimum Lot width (ft.)	Front (ft.)	Minimum yards side (ft.)	Rear (ft.)
RR	40,000	140	35	20	50
RN	30,000	130	30	15	45
RV	20,000	120	30	15	40

B. The total number of proposed lots in the development shall not exceed the number of lots which could be development under normal application of the zoning requirements of the district. Land within wet areas shall not be considered in determining the number of lots which could be developed under the normal requirements of the “R”

District.

- B. The development in the RV District shall be served by the municipal water system and designated adequate in terms of fire protection and domestic use, leaching areas for on-lot septic systems located within the open land shall meet the minimal requirements of the State Sanitary Code. Article XI and an additional area shall be reserved for expansion which can also meet the same requirements.

C. The leaching area for any on-lot sewage disposal system shall be at least 100 feet from any water body, inland wetland area or any other wet area.

5. At least 20 percent of the total tract area (of which at least 80 percent) shall not be wet lands or land with a slope over 10 percent) shall either be conveyed to the town and accepted by it for open space use, or to conveyed to a nonprofit corporation the principal purpose of which is the conservation of open space or to be conveyed to a corporation or trust owned or to be owned by the owners of lots within the plot. If such a corporation or trust is utilized, ownership thereof shall pass with conveyances of the lots. In any case where such land is not conveyed to the town a restriction enforceable b the Town shall be recorded providing that such land shall be kept in an open or natural state and shall not be built upon for residential use or developed for accessory use
6. Such open land shall be offered in writing to the town or may be permanently covenanted simultaneously with the Planning Board's approval of the Subdivision Plan. If the Town Meeting fails to accept the offered land within two years of the receipt of such offer, then the officer shall utilize another method for guaranteeing the open land identified herein.
7. Such open land shall be restricted to open space, recreational uses such as tot lot, park, playground, playfield, golf courses, or conservation area.
8. Such open land shall have suitable access to a street.
9. Open spaces shall be of a size, shape, and character which in the opinion of the Board makes it suitable 4 for the following purposes;
  - a. Recreation land.
  - b. Buffers between clusters of housing (minimum of 100 foot width) which shall include plantings which will retain the individual identity of each cluster.
  - c. Buffers between clusters and other adjacent land (minimum of 125 foot width except that where buffering against major highways or other objectionable adjacent land uses, in which case the minimum buffer shall be increased to 150 foot) which shall also retain the individual identity of each cluster.
  - d. Agricultural land.
  - e. Historic land
  - f. Conservation.
10. The primary streets shall be offered for acceptance as public ways. The minimum roadway width of streets hall be in accordance with the rules and regulations governing subdivision or land in Southampton.
11. Clusters hall be provided access by secondary streets only; that is, streets which primarily provided access to the properties and do not collect traffic from several secondary streets and distribute traffic to primary streets.
12. No more than 10 one-family detached dwellings shall be located within any one cluster. Each cluster shall be separated from each other cluster by a buffer of open space.
13. Where development is planned to occur in stages, the Planning Board shall require that all provisions of this Subsection are met with each individual stage of development.

D. Planned Business Development. For planned business development of land subject to maximum building coverage more than the maximum permitted in Table 3, Height and Bulk Regulations and less than the parking requirement contained in Table 4, Off-street Parking Standards, the following conditions shall apply:

1. The tract shall be in single or consolidated ownership at the time of application and shall be at least 5 acres in size.
2. A site plan shall be presented for the entire tract as out-lined in Section X of this By-law and shall be subject to approval by the Planning Board where it constitutes a subdivision as per the Subdivision Control Law.
3. Uses shall be contained in one continuous building except that groupings of buildings may be allowed by the Board where such groupings are consistent with the safety of the users of the development and are further consistent with the overall intent of this section.
4. The maximum building coverage of the lot shall be 40 percent.
5. The development shall be served by one common parking area and by common exit and entrance areas.
6. Any reduction in parking space requirements shall not exceed more than 10 percent of those required under normal application of requirements for the particular uses proposed.
7. The development shall be adequately served by a water system adequate in terms of fire protection and domestic use and the designated leaching area for on-lot septic systems meets with the minimum requirements of the State Sanitary Code Article XI and an additional area can be served for expansion which can also meet the same requirements.

E. Planned Industrial Development. For the planned development of land for industrial purposes subject to area regulations less than the minimum required in Table 2, Area Regulations the following conditions shall apply.

1. The tract in single or consolidated ownership at the time of application shall be at least 15 acres in size.
2. A site plan shall be presented for the entire tract as out-lined in Section X of this By-law and shall be subject to approval by the Planning Board where it constitutes a subdivision under the Rules and regulations Governing the Subdivision of land in the Town of Southampton.
3. Individual lot sizes shall not be reduced more than 10 percent below that normally required for manufacturing or services industrial purposes Table 2, Area Regulations, (Page 6-2, in the "I-P" District.
4. The total number of lots in the development shall not exceed the number of lots which could be developed under normal application requirements of the district.
5. The permitted uses shall be limited to manufacturing or service industrial uses with the total use completely within the building.

6. The development shall be served by a water system designated adequate in terms of fire protection and domestic use.
7. At least 10 percent of the total tract area (of which at least 80 percent shall not be wetland or land with a slope of over 10 percent) shall either be conveyed to the Town and accepted by it for open space use, or be conveyed to a non profit corporation, the principal purpose of which is the conservation of open space or to be conveyed to a corporation or trust owned or to be owned by the owners of lots within the plot. If such corporation or trust is utilized, ownership thereof shall pass with conveyances of the lots. In any case where such land is not conveyed to the Town, a restriction enforceable by the Town shall be recorded providing that such land shall be kept in an open or natural state and shall not be built upon for industrial use or developed for accessory uses such as parking or roadway.

Such open land shall be deeded to the town or permanently covenanted simultaneously with the Planning Board's approval of the Subdivision Plan, if any. If the Town Meeting fails to accept the offered land within two years of the receipt of such offer, then the offer shall utilize another method identified herein for guaranteeing the open land.

8. Such open land shall be restricted to open space, playfield, golf course, or conservation area.
9. Such open land shall have suitable access to a street.

F. Multifamily Dwellings. For the construction, enlargement or alteration of a multifamily development in the "R-V" district, the following conditions shall apply:

1. No multifamily units shall be built on a lot of less than one and one-half acres of land. The density of the family units in any such multifamily building shall be limited to 30,000 square feet of land for the first such unit and 10,000 square feet for each additional unit thereafter.
2. For multifamily units of two or more bedrooms Where the total number of dwelling units to be developed at one time or in any successive stages exceeds 12 dwelling units. There shall be constructed and equipped an outdoor recreation area with a minimum size of 500 square feet per unit for each two-bedroom unit and 2,000 square feet per bedroom for each unit of three or more bedrooms. Specifically exempt from this requirement are one-bedroom units and housing for the elderly.
3. Paved off-street parking shall be provided in the ratio of two spaces per dwelling unit, exclusive of driveways, such to be located not less than 25 feet from the front property line and 20 feet from the back or side property lines. Where multiple-family housing is subsidized housing for the elderly, the parking spaces provided shall be one space for each unit. For purposes of this subparagraph, on parking space shall have an area of 200 square feet plus an additional 100 square feet for maneuvering.
4. Multiple-family dwellings shall have minimum street frontage of 250 feet, Minimum front yard set back shall be 30 feet. Side yards and rear yards shall be a minimum of 20 feet.



5. Maximum building height shall be 2-1/2 stories.
6. Plans as outlined in item A above conforming to Section IV and V of the Rules and Regulations Governing; the Subdivision of land in the Town of Southampton, shall be submitted to the Planning Board for approval prior to the issuance of a building permit.
7. At least 80 percent of the lot shall be buildable land, or land not wetlands, not subject to flooding, not over 6 percent slope (in final grace) and with a depth of at least four feet to the seasonally high water table.
8. The development shall be served by a public Water System adequate in terms of fire protection and domestic use. The development shall be served by an individual on-lot septic system which meets the minimum requirements of Title 5, State Environmental Code and the Rules and Regulations of the Southampton Board of Health, as amended.
9. Screening and buffers shall be required between developments of more than four units and adjacent properties. Such a buffer strip shall be at least 20 feet in width and it shall contain a screen of plantings. The screen shall be not less than five feet in width and six feet in height at the time of occupancy of such lot. Individual shrubs or trees shall be planted as close as necessary to create a visual screen and shall thereafter be maintained by the owner or occupants so as to maintain a dense screen year-round. At least 30 percent of the plantings shall consist of evergreens. A solid wall or fence, not to exceed six feet in height, complemented by suitable plantings, may be substituted for such landscape buffer strip as approved by the Board of Appeals. The strip may be part of the yard
10. The proposed multiple-family development shall be compatible with adjacent land uses.

The proposed multiple-family development shall not overload any public water system or any other municipal system to such an extent that the requested use of any developed use in the immediate area or in any other area of the Town will be unduly subjected to: hazards affecting health, safety, or the general welfare.

The proposed multiple-family development shall not create undue traffic congestion, or unduly impair pedestrian safety.

In addition to the specific requirements of this sub-section, the proposed multiple-family development shall meet all other applicable provisions of this By-law.

F. Removal of Soil, Loam, Sand, Gravel, Quarry, or Other Earth Materials.

1. The removal of soil, loam, sand, gravel, or other earth materials from wet areas is prohibited, except where such removal is connected with dredging being carried out by a governmental agency

Exceptions. The removal of the following operations shall be exempt from this section.

- a. The removal of less than 10 cubic yard of material in the aggregate in any year from any one lot.
- b. The transfer of material from one part of a lot to another part of the same lot.
- c. The removal of material necessarily excavated in connection with lawful construction of a building, structure, street, driveway, sidewalk, path or other appurtenance is allowed.

3. For the removal of soil, loam, sand, gravel, quarry, or other earth materials other than that specifically exempt above, and for the processing and treating earth materials, the following conditions shall govern;
  - a. Removal operations before restoration of the site not be conducted closer than 200 feet to a public street, except where necessary to grade to the street elevation

All equipment for sorting, washing, crushing, grading, drying, processing and treating, or other operation machinery, shall not be used closer than 100 feet from any public street or from any adjoining lot line.

Off-street parking as required in Table 4, Off-street parking, Parking Regulation, shall be provided.

Any access to excavated areas or areas in the process of excavation will be adequately posted with KEEP OUT-DANGER SIGNS.

Any work face or bank that slopes more than 30 degrees downward adjacent to a public street will be adequately fenced at the top.

Adequate provisions is to be made for drainage during and after the completion of operations.

Lateral support shall be maintained for all adjacent properties.

The use of explosives shall be done in accordance with the regulations for storage or handling of explosives as published by the Commonwealth of Massachusetts.

All operation shall be conducted in such a manner so as to comply with the laws of the Commonwealth of Massachusetts regulating water pollution and air pollution.

Before granting approval, the board of Selectmen shall find that the proposed operation will be in harmony with the purpose of this By-law and will not be injurious or dangerous to the public health; will not produce noise, dust or other affects observable from adjacent property in amounts seriously objectionable or detrimental to the normal use of the property, will not result in a change in topography and cover which will be disadvantageous to the most appropriate use of the land on which the operation is conducted and will not have a material adverse affect on the water supply, health, or safety of persons living in the neighborhood or on the use of or amenities of adjacent land.

K. In granting a permit hereunder, the Board of Selectmen shall impose reasonable conditions specially designed to safeguard the neighborhood and the Town, which may include conditions and limitations in time and use as relating to the site plan and land reuse plan requirements set forth in the paragraphs in triplicate below.

2. Site Plans. Site plans shall be filed in triplicate with the Board of Selectmen for any land which is used or intended to be used for the extraction of sand, gravel, rock, and associated earth materials. Site plans of the removal areas shall be prepared by a Registered Professional Civil Engineer and a Registered Land Surveyor at a scale of 40 feet to the inch and shall be in accordance with and indicate the following.

Lot lines and ownership.

Existing topography and proposed elevations at two-foot contour intervals.

Names of abutters as found on the most recent tax list.

Adjacent public streets and private ways.

Proper provisions for safe and adequate water supply and sanitary sewerage and for temporary and permanent drainage of the site.

A location plan at a scale of 1"=1,000.

Plan for regrading of all or parts of the slopes resulting from such excavation or fill.

Plan for replacement of at least four inches of topsoil over all excavated, filled, or otherwise disturbed surfaces and seeding with a perennial cover crop, reseeding as necessary to assure uniform growth and soil surface stabilization.

Hours of operation and plan for lighting, if night operation is contemplated.

Proposed lateral support to all adjacent property.

Proper provision for vehicular traffic, service roads, control or entrances and exits to highways.

The relation of future buildings, temporary buildings, and operations machinery to the removal areas.

Delineation of removal areas and depths.

Provision for a substantial fence enclosing the excavation or quarry where any excavating or quarry will extend under original ground level or will have a depth or ten feet or more and create a slope of more than one foot in two feet. Such fence shall be located ten feet or more from the edge of the excavation or quarry, and shall be at least six feet in height.

Method of removal.

Distance of excavation to street and lot lines.

Disposition of boulders and tree stumps.

Cleaning, repair, and/or resurfacing of streets used in the removal activities which have been adversely effected by the removal activity.

3. Land Restoration Plans(s). Land restoration plan(s) must be submitted to and approved by the Board of Selectmen subject to the regulations set forth in the following paragraphs;
  - a. The Board of Selectmen may require up to three approved alternative future land restoration plans be submitted for such land used for the extraction of sand, gravel, rock, and associated earth materials. It is recognized that land restoration of the removal areas is in the public interest.
  - b. Said land restoration plan and its implementation applies to the conversion of the abandoned site and its implementation applies to the conversion of the abandoned site and its planned restoration. It is, therefore, required that any land restoration plan correspond to a situation which could reasonably occur in the immediate future (zero to five years). And be revised as necessary as the existing physical character of the removal area changes.

- c. The land restoration plan or any part thereof which reasonably applies to an area which has been abandoned from removal use shall be put into effect within one year of the abandonment of said operation.

**Bonding.** The Board of Selectmen shall require a bond or other security to insure compliance with its conditions of authorization, unless, in a particular case it specifically finds that such security is not warranted and so states its decision giving the reasons for its finding.

**Special Permit Procedures.** The procedure for applying for a special permit for said removal, processing, or treatment shall be the same as those identified in Section X., 11 of the by-law and hearing notice requirements shall be the same as those identified in Section X. K., of this By-law. Except as provided below:

The Board of Selectmen shall be the Special Permit Granting Authority.

- b. A copy of the application as submitted to the Board of Selectmen shall also be submitted to the Planning Board. Board of Public Health. Board of Public Works, and Conservation Commission of the Town.
  - i. The Planning Board may in its discretion, investigate the case and report in writing its recommendations to the Board of Selectmen. The Board of Selectmen shall not take final action on such application until it has received a report thereon from the Planning Board, or until said Planning Board has allowed 30 days to elapse after receipt of such plan without submission or a report

**Existing Operations.** Any existing sand or gravel removal activity operating under a permit issued by the Board of Selectmen may continue until the expiration of the permit thereof; provided that no such permit shall issue: (1) if such removal shall adversely affect the water table or the natural or engineered drainage in the town; or (2) if such removal shall create unreasonable noise, dust, fumes, or other effects which are detrimental to the public health or public welfare. Discontinuance for more than 12 consecutive months shall be deemed to constitute abandonment.

**Filling of Land or Wet Area.** For the filling of any land or wet area which is subject to the Hatch Act. Ch. 131, Sc. 40 of General Laws, where such filling-in requires an amount of fill equivalent to 500 cubic yards or more; or where the area to be filled-in exceeds 10,000 square feet shall require a special permit of the Board of appeals and the following conditions apply.

Submission of a location plan at a scale of 1"=1,000 feet showing the area to be filled in or excavated, lot lines within which the filling is proposed and tie-in to the nearest road intersection.

Submission of a site plan to a scale of 1"=40 feet of the lot and surrounding area within 100 feet showing in addition to No. 1 above, existing and proposed contour lines at intervals of not more than two feet resulting from the proposed filling in, in relation to the topography of the premises, said plan to be prepared by a Registered Professional Engineer and Registered Land Surveyor.

Provision for temporary and permanent drainage of the site.

Limitation of fill to terrace fill which are not to exceed ten feet at any one time nor be within ten feet of an adjacent lot line or any cut.

Regarding of all parts of the slopes resulting from such fill.

Replacement of at least four inches of topsoil over all filled or otherwise disturbed surfaces and seeding with a perennial cover prop. Reseeding as necessary to assure uniform growth and soil surface stabilization.

Submission of plan for lighting, if night operation is contemplated.

Where any fill will have a depth of ten feet or more and create a slope of more than one foot in two feet, there shall be a substantial fence enclosing the fill at least six feet in height with suitable gates, such fence shall be located ten feet or more from the edge of the fill at the top of the slope.

In granting a permit hereunder, the Board of Appeals shall impose reasonable condition specially designed to safeguard the neighborhood and the town which may include conditions as to the overall operation and as relating to the submitted items above.

Special permit procedure identified in Section x, I. I of this By-law shall apply.

H. Home Occupation. For the use of a dwelling in any "R" district for a home occupation, the following conditions shall apply

1. No more than one nonresident shall be employed therein.
  - c. The use is carried on strictly within the principal building.
  - d. Not more than 25 percent of the existing net floor area not to exceed 400 square feet is devoted to such use.
  - e. That there shall be no display of goods or wares visible from the street.
  - f. No advertising on the premises other than a small non electric sign not to exceed two square feet in area, and carrying only the occupant's name and his occupation such as physician, artisan, teacher, day nurse, lawyer, architect, salesman (type), engineer, clergy man, accountant, osteopath, dentist, and similar occupations or professions.
  - g. The buildings or premises occupied shall not be rendered objectionable or detrimental to the residential character or the neighborhood due to the exterior appearance, emission or odor, gas, smoke, dust, noise, electrical disturbance, or in any other way.
  - h. Any such building shall include no feature of design not customary in buildings for residential use.
  - i. Such used as clinics, barber shops, bakeries, gift shops, beauty parlors, tea rooms, tourist homes, animal hospitals, kennels, and others of a similar nature shall not be considered as home occupations.
  - j. No home occupation which requires a sign visits by clientele or in any way may become objectionable or detrimental to the residential use will be allowed in a multi-family dwelling.

1. Radioactive Waste Facility: For the development of facilities for the storage, transfer, treatment, incineration and disposal of radioactive wastes the following conditions shall apply:

1. All applicable conditions of Sections D.F. and G of this Chapter
2. The facility shall be developed in accordance with all other applicable provisions of this By-law and Sec. 9,

Ch. 40A and only where the Special Permit Granting Authority finds that the proposed facility is in harmony with the intent and purpose of this By-law. The special permit shall impose such conditions and limitations, including prohibition where considered necessary, on the proposed use as the Special Permit Granting Authority may determine are necessary for the protection of the public health, safety, and welfare.

## **SECTION XII**

### **REPEAL**

All By-laws or parts of By-laws heretofore passed, and inconsistent herewith, are hereby repealed.

### **STATEMENT**

Subdivision control in accordance with Chapter 41, Massachusetts General Laws, is in affect in the Town of Southampton. Current copies of the Subdivision regulations may be procured from the Planning Board.

Article 25 To see if the Town will vote to amend the Zoning by-laws by adding a new section XII and renumbering the current Section XII and XIII to be Sections XIII and XIV, respectively, the complete text of the New Section is as follows.

## **SOUTHAMPTON WATER SUPPLY PROTECTION DISTRICT**

### **XII. WATER SUPPLY PROTECTION DISTRICT.**

#### 1.01 Purpose of District

To promote the health, safety and welfare of the community by protecting and preserving the surface and groundwater resources of the Town and the region from any use of land or buildings which may reduce the quality of its water resources.

#### 1.2 Definitions

- a. Aquifer: Geologic formation composed of rock or sand and gravel that contains significant amounts of potentially recoverable potable water.
- b. Groundwater: All water found beneath the surface of the ground.
- c. Hazardous Waste: A waste which is hazardous to human health or the environment. Hazardous wastes have been designated by the U.S. Environmental Protection Agency under 40 CFR 250 and the Regulations of the Massachusetts Hazardous Waste Management Act, Massachusetts General Laws, Chapter 21C.
- d. Impervious Surfaces: Material or structures on or above the ground that do not allow precipitation to infiltrate the underlying soil.
- e. Leachable Wastes: Waste materials including solid wastes, sludge and pesticide and fertilizer wastes capable of releasing water-borne contaminants to the environment.
- f. Primary Aquifer Recharge Area: Areas which are underlain by surficial geologic deposits including glaciofluvial or lacustrine stratified drift deposits or alluvium or swamp deposits, and in which the prevailing direction of groundwater flow is toward the area of influence of public and private water supply wells.
- g. Trucking Terminal: Business which services or repairs commercial trucks which are not owned by the business.

Watershed: Lands lying adjacent to water courses and surface water bodies which create the catchment or drainage areas of such water courses and bodies.

#### 1.2 Scope of Authority

The Water Supply Protection District is an overlay district and shall be superimposed on the other districts established by this by-law. All regulations of the Town of Southampton Zoning Bylaw applicable to such underlying districts shall remain in effect, except that where the Water supply Protection District imposes additional regulations, such regulations shall prevail.

#### 1.3 District Delineation

- 1.3 1 The Water Supply Protection District is herein established to include all lands within the Town of Southampton lying within the primary recharge areas of groundwater aquifers and watershed area of the Manhan Reservoir which now or may in the future provide public water supply. The map entitled "Water Supply Protection District", Town of Southampton, on file with the Town Clerk, delineates the boundaries of the district.
- 1.3 2 Where the bounds delineated are in doubt or in dispute, the burden of proof shall be upon the owner(s) of the land in question to show where they should properly be located. At the request of the owner(s), the Town may engage a professional hydrogeologist to; determine more accurately the location and extent of an aquifer or primary recharge area, and may charge the owner(s) for all or part of the cost of the investigation.
- 1.4 Prohibited Uses
- a. Business and industrial uses, not agricultural, which manufacture, use process, store, or dispose of hazardous materials or wastes as a principal activity. Including but not limited to metal plating, chemical manufacturing, wood preserving, furniture stripping, dry cleaning, and auto body repair, or which involve on-site disposal of process waste waters.

Trucking terminals, bus terminals, car washes, motor vehicle gasoline sales, automotive service and repair shops.

Solid waste landfills, dumps, auto recycling, junk and salvage yards, with the exception of the disposal of brush or stumps.

Underground storage and/or transmission of petroleum products excluding liquefied petroleum gas.

Outdoor storage of salt, de-icing materials, pesticides or herbicides.

Dumping or disposal on the ground, in water bodies, or in residential septic systems of any toxic chemical, including but not limited to septic system cleaners which contain toxic chemicals such as methylene chloride and I-I-I trichlorethane, or other household hazardous wastes.

#### 1.5 Restricted Uses

- 1.5 1 Excavation for removal of earth and other soils shall not extend closer than five (5) feet above the annual high groundwater table. A monitoring well shall be installed by the property owner to verify groundwater elevations. This section shall not apply to excavations incidental to permitted uses, including but not limited to providing for the installation or maintenance of structural foundations, freshwater ponds, utility conduits or on-site sewage disposal.
- a. Access road(s) to extractive operation sites shall include a gate or other secure mechanism to restrict public access to the site

1.5 2 The use of sodium chloride for ice control shall be minimized consistent with the public highway safety requirements.

1.5 3 Salt storage areas shall be covered and be located on a paved surface, with berms to prevent run-off from leaving the site

1.5 4 Commercial fertilizers, pesticides, herbicides, OR OTHER LEACHABLE MATERIALS SHALL BE USED WITH ALL NECESSARY PRECAUTIONS TO MINIMIZE ADVERSE IMPACTS ON SURFACE AND GROUNDWATER, AND SHALL NOT RESULT IN GROUNDWATER CONCENTRATIONS EXCEEDING MASSACHUSETTS DRINKING WATER STANDARDS.



1.5 5 Above-ground storage tanks for oil, gasoline or other petroleum products shall be placed in a building in a concrete basement or on a diked, impermeable surface sufficient to contain the volume of the tank to prevent spills or leaks from reaching groundwater. Floor drains shall be plugged to; prevent discharges of leak

1.5 6 The storage or stockpiling of manure shall be in an area which is covered and lined in accordance with U.S. Soil Conservation Service guidelines.

1.5 7 All animal feed lots shall be designed to restrict infiltration or other movement of livestock wastes to the aquifer.

#### 1.6 Drainage

1.6 1 For commercial and industrial uses, all run-off from impervious surfaces shall be recharged on the site by being diverted toward areas covered with vegetation for surface infiltration to the extent possible. Dry wells shall be used only where other methods are infeasible, and shall be preceded by oil, grease and sediment traps to facilitate removal of contamination. All recharge areas shall be permanently maintained in full working order by the owner(s).

#### 1.7 Special Permit Uses

##### 1.7 1 Uses Allowed by Special Permit

The following uses may be allowed by Special Permit obtained from the Board of Appeals:

- a. Commercial and industrial uses which are allowed in the underlying district;
- b. Any enlargement, intensification or alteration of an existing commercial or industrial use;
- c. The rendering impervious of more than 20% of any single residential lot.

##### 1.7 2 Requirements for Special Permit in the Water Supply Protection District

The applicant shall file six (6) copies of a site plan prepared by a qualified professional with the Board of Appeals. The site plan shall at a minimum include the following information where pertinent.

- a. 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.
- b. Those businesses using or storing such hazardous materials shall file a hazardous materials management plan with the Board of Appeals, Hazardous Materials Coordinator, and Board of Health which shall include:
  1. Provisions to protect against the discharge of hazardous material or wastes to the environment due to spillage, accidental damage, corrosion, leakage or vandalism, including spill containment and clean-up procedures.
  2. Provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces.
  3. Evidence of compliance with the Regulations of the Massachusetts Hazardous Waste Management Act 310 CMR 30, including obtaining an EPA identification number from the Mass. Department of Environmental Quality Engineering.
- c. Drainage recharge features and provisions to prevent loss of recharge.

- d. Provisions to control soil erosion and sedimentation, soil compaction, and to prevent seepage from sewer pipes

1.7 3 Additional Procedures for Special Permit in the Water Supply Protection District.

- a. The Board of Appeals shall follow all special permit procedures contained in Section XI.
- b. The Board of Appeals may grant the required special permit only upon finding that the proposed use meets the following standards and those specified in Section XI of this bylaw. The proposed use must:
  - 1. in no way, during construction or thereafter, adversely affect the existing or potential quality or quantity of water that is available in the Water Supply Protection District, and;
  - 2. be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation and other water-related natural characteristics of the site to be developed.
- C. The Board of Appeals shall not grant a special permit under this section unless the petitioner's application materials include, in the Board's opinion, sufficiently detailed, definite and credible information to support positive findings in relation to the standards given in Section 1.073 (b)

1.08 Non-conforming use

Non-conforming uses which were lawfully existing, begun or in receipt of a building or special permit prior to the first publication of notice of public hearing for this bylaw may be continued. Such non-conforming uses may be extended or altered, as specified in M.G.L. Ch.40a, Sec 6, provided that there is a finding by the Board of Appeals that such change does not increase the danger of surface or groundwater pollution from such use.

**SECTION XIII**  
**VALIDITY**

The invalidity of any section or provision of this By-law shall not invalidate any other section or provision thereof.

**WIRELESS COMMUNICATIONS FACILITY**  
**BY-LAW**

Under Article 32 it was moved and seconded that the Town vote to adopt a Wireless Communications Facility By-law within the Town's Zoning By-law as follows.

**A. Intent**

This section contains specific requirements to guide the special permit process for wireless communications facilities. These guidelines are intended to provide wireless communication coverage as mandated by Section 704 of the Federal Telecommunications Act of 1996 and to be consistent with Massachusetts General Law, while protecting the general welfare and aesthetic integrity of the town of Southampton.

**B. Definitions**

Wireless Communications Facilities-The structures and devices designed to facilitate cellular telephone services, personal communications services and enhanced specialized mobile radio service as defined in Section 704 of the Federal Telecommunications Act of 1996. Included are towers, antennae mounted to towers or other structures, and accessory structures, such as sheds, which are directly required for facility operations. Not included in this definition are antennae and dishes used solely for residential television and radio reception.

**C. Authority**

1. The Southampton Planning Board shall be the Special Permit Granting Authority (SPGA) for all purposes under this section and shall adopt rules and regulations with respect to the administration of applications or Special Permits under this section, subject to the conditions set forth below and in accordance with the provisions of S. 14 XX of this Bylaw, and M.G.L., Ch. 40A, s.9 and S.11, as amended.
2. After notice and public hearing in accordance with Section 9 of the Zoning Act (M.G.L., Ch. 40A, S.9), the Planning Board may, after due consideration of the reports and recommendations of the Conservation Commission, Town Engineer and Building Inspector and other boards; or persons deemed necessary by the planning board grant such a special permit provided that the conditions in this Section 14 and any special conditions place by the Planning Board have been adequately met.

**D. Site specifications for facility requiring tower construction** A wireless communications tower, including antennae and accessory structures, may be erected upon the issuance of a special permit by the Planning Board and is subject to all of the following conditions.

1. To the extent feasible, all service providers shall co-locate on a single tower. Shall be designed to structurally accommodate the maximum number of users technically practicable.

2. New towers shall be considered only upon a finding by the Planning Board that existing or approved towers cannot accommodate the wireless communication equipment planned for the proposed tower
3. No tower shall be located closer than two miles to any other such tower.
4. Tower height shall not exceed one hundred feet above the existing terrain.
5. The base of a tower shall be a distance of at least equal to the tower's height from any property line or existing structure.
6. One tower only is permitted on any lot.
7. Accessory structures housing support equipment for towers shall not exceed four hundred square feet in area and consistent with existing zoning requirements. Structure shall be architecturally consistent and subject to planning board approval.
8. Existing vegetation shall be preserved as much as possible.
9. The Planning Board may impose conditions to ensure that wireless communications facilities are as visually unobtrusive as possible from all perspectives. These conditions may include structural design, painting, lighting and landscaping standards.

10. Any proposed extension in the height, addition of cells, antennae or panels, construction of a new facility, or replacement of a facility shall require a new application for an amendment of the special permit.

11. No tower or other facility structure shall contain any signs or other devices for advertising.
12. Announcement signs, "Danger No Trespassing" signs, and a sign with a 24 hour emergency telephone number, are required. The area of these signs will conform to the Southampton Zoning By-law, Section VII.
13. Except as required by the Federal Aviation Administration, towers shall not be artificially lighted.
14. All wireless communication facilities shall be protected against unauthorized access by the public.

E. Site Specifications for facility to be placed on existing structure A wireless communications facility other than a wireless communications tower may be erected upon the issuance of a special permit by the Planning Board subject to all of the following conditions:

1. Installations on existing buildings shall be camouflaged or screened and designed to be harmonious and architecturally consistent with the building. Any equipment associated with the facility shall be located within the building or otherwise so hidden as to be invisible from the property line.
2. No facility shall project more than ten feet above the existing roof line of the building, or more than ten feet above the top of the existing structure upon which it is mounted, or more than five feet out from the plane of the existing wall or facade to which it is attached, provided such projections do not otherwise violate existing yard dimensions or set-back requirements.
3. Any proposed addition of cells, antennae or panels, or replacement of a facility shall be the subject of a new application for an amendment to the special permit.
4. All building-mounted facilities shall be designed and located so as to appear as an integral part of the existing architecture of the building.
5. All wireless communication facilities shall be protected against unauthorized access by the public.

6. Any alteration made to a historic structure to accommodate a wireless communication facility shall be fully reversible.

#### F. Site Criteria

1. Wireless Communications Facilities are allowed by Special Permit only in all districts. These districts are: R-R, R-N, R-V, C-V, C-H, I-P and F-P.
2. Scenic Roads.

No wireless communication facility shall be located within 500 feet of a Scenic Road, or have any visual impact on any Scenic Road.

3. Environmental Standards

- a. Wireless communication facilities shall not be located in wetlands. Locating of wireless facilities in wetland buffer areas shall be avoided wherever possible and disturbance to wetland buffer areas shall be minimized. All Conservation Commission regulations and procedures must be followed.
- b. No hazardous waste shall be discharged on the site of any wireless communication facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous material stored or used on site. Applicant must comply with all federal, state and local regulations governing hazardous material.
- c. Stormwater run-off as a result of the wireless facility finished construction shall be contained on-site.
- d. Ground-mounted equipment for personal wireless service facilities shall not generate acoustic noise in excess of 50 dB at the securITy barrier.
- e. Roof-mounted or side-mounted equipment for personal wireless service facilities shall not generate noise in excess of 50 dB at ground leVEl at the base of the building closest to the antenna.

4. Safety Standards

#### **RADIO FREQUENCY RADIATION (RFR) STANDARDS**

All equipment proposed for a personal wireless service facility shall be authorized per the FCC Guidelines for Evaluating the Environmental Effect's of Radio frequency Radiation (FCC Guidelines) or any other applicable FCC Guidelines and regulations.

5. Cessation of Use and Obsolescence

All unused towers or parts thereof, or accessory facilities and structures which have not been used for one year, shall be dismantled and removed at the owner's expense. Prior to issuance of a building permit for a wireless communications tower, the applicant is required to post with the Town Treasurer a bond or other form of financial security acceptable to the town Treasurer in an amount set by the Building Inspector. The amount shall be suitable to cover demolition, removal and disposal of the tower and its accessories in the event the Building Inspector condemns the tower, parts of the tower or any parts of the tower's accessories, or deems it unused for more than one year. The Building Inspector shall give the tower's owner 45 days' written notice by registered mail before demolition commences. All demolition and removal costs will be billed to the tower's owner and any unpaid amounts will become an encumbrance on the property.

## G. Application procedures

### 1. Applicant Criteria

- a. The applicant must be a licensed communication carrier.
- b. If there are more than one applicant, at least one of the applicants must be a licensed communication carrier.

### 2. Pre-Application Conference

Prior to the submission of an application for a Special Permit under this regulation, the applicant is required to meet with the SPGA at a public meeting to discuss the proposed personal wireless service facility in general terms and to clarify the filing requirements. The SPGA shall meet with an applicant under this regulation within twenty-one (21) days following a written request submitted to the SPGA and the Town clerk. If the SPGA fails to meet with an applicant who has requested such a meeting within twenty-one (21) days of said request and said meeting has not been postponed due to mutual agreement, the applicant may proceed with a Special Permit application under this regulation without need for a pre-application conference.

### 3. Pre-Application Filing Recommendation

The purpose of the conference is to inform the SPGA as to the preliminary nature of the proposed personal wireless service facility. As such, no formal filings are required for the pre-application conference. However, the applicant is encouraged to prepare sufficient preliminary architectural and/or engineering drawings to inform the SPGA of the location of the proposed facility, as well as its scale and overall design.

### 4. Application Contents

#### a. Applicant identification

1. Name, address and telephone number of applicant and any co-applicants as well as any agents for the applicant or co-applicants, one of which must be a licensed Personal Wireless communications carrier.
2. Original signatures are required for the applicant and all co-applicants applying for the Special Permit. If the applicant or co-applicant will be represented by an agent, original signature authorizing the agent to represent the applicant and/or co-applicant is required. Photo reproductions of signatures will not be accepted.

#### b. Location Identification

1. Subject property by name of the nearest road or roads, and street address, if any, and mapping coordinates in latitude and longitude in degrees, minutes and seconds on a USGS topographical map.
2. Tax map and parcel number of subject property.
3. Zoning district designation for the subject parcel (Submit copy of Town zoning map with parcel identified)
4. A line map to scale showing the lot lines of the subject property and all properties within 300 feet and the location of all buildings, including accessory structures, on all properties shown.
5. A Town-wide map showing the other existing wireless communication facilities in the Town and outside the Town within one mile of its corporate limits.

6. The locations of all existing and proposed and future wireless communication facilities in the Town on a Town-wide map for this carrier.
7. A one inch-equals-40 feet vicinity plan showing the following:
  - a. Property lines for the subject property.
    - a. Property lines of all properties adjacent to the subject property within 300 feet.
    - b. Tree cover on the subject property and adjacent properties within 300 feet, by dominant species and average height, as measured by or available from a verifiable source.
    - c. Outline of all existing buildings and purpose on the subject property as well as buildings proposed for the subject property and all adjacent properties within 300 feet.
    - d. Proposed location of antenna, mount and equipment shelter(s).
    - e. Proposed security barrier, indicating type and extent as well as point of controlled entry.
    - f. Location of all roads, public and private, on the subject property and on all adjacent properties within 300 feet including driveways proposed to serve the wireless communication facility.
    - g. Distances, at grade, from the propose wireless communication facility to each building on the vicinity plan.
    - h. Contours at each two feet AMSL for the subject property and adjacent properties within 300 feet.
    - i. All proposed changes to the existing property, including grading, vegetation removal and temporary or permanent roads and driveways.
    - j. Representations, dimensioned and to scale, of the proposed mount, antennas, equipment shelters, cable runs, parking areas and any other construction or development attendant to the wireless communication facility.
    - k. Line representing the sight line showing viewpoint (point from which view is taken) and visible point (point being viewed) from "Sight Lines" subsection below.

Sight Lines and Photographs as described below:

Sight line representation. A sight line representation shall be drawn from any public road within 300 feet and the closest façade of each residential building (viewpoint) within 300 feet to the highest point (visible Point) of the wireless communication facility. Each sight line shall be depicted in profile, drawn at one inch equals 40 feet. The profiles shall show all intervening trees and buildings. In the event there is only one (or more) residential building within 300 feet there shall be at least two sight lines from the closest habitable structures or public roads, if any.

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 personal wireless service facility superimposed on it to show what will be seen from public roads if the proposed personal wireless service facility is built.

Siting elevation, or views at-grade from the north, south, east and west for a 50 foot radius around the proposed wireless communication facility plus from any existing public and private roads that serve the subject property. Elevations shall be at either

one-quarter inch equals one foot or one-eighth inch equals one foot scale and show the following.

Antennas, mounts and equipment shelter(s), with total elevation dimensions and AGL of the highest point.

Security barrier. If the security barrier will block views of the personal wireless service facility, the barrier drawing shall be cut away to show the view behind the barrier.

Any and all structures on the subject property.

Existing trees and shrubs at current height and proposed trees and shrubs at proposed height at time of installation, with approximate elevations dimensioned.

Grade changes, or cuts and fills to be shown as original grade and new grade line, with two-foot contours above mean sea level

#### H. Waiver of Compliance

The Southampton Planning Board, acting as the Special Permit Granting Authority under this section, in appropriate cases may waive strict compliance with such requirements of Section XIV of this Bylaw, as provided in M.G.L., Ch 40A, s9, where such action is in the public interest and not inconsistent with the purpose and intent of the Zoning Act.

Waiver requests shall be submitted in writing with the application for a wireless communication facility. Waivers granted by the Planning Board under this subsection may be limited by conditions which shall be endorsed on the plan to which said conditions relate or set forth in separate instrument attached to the plan.

Waiver of conditions shall be granted only by the affirmative vote of 4 of the 5 members of the special permit granting authority.

I Procedural and administrative rule additions and amendments. All requirements of Section 10 of this by-law apply. The Planning Board may periodically amend or add rules and regulations relating to the procedures and administration of this section

An amendment was made and seconded to amend the wireless communications facilities by-law, Section C, Authority, Subsection #1, so as to remove "S. 14. XX of this By-Law," and insert in its place, "S.10 of the Zoning by-laws".

A second amendment was made and seconded to add at the end of paragraph B (definitions) the words; Amateur radio, and private citizens bands purposes.

After a discussion on the first amendment there was a call to the question.

The call to the question was Carried

After a discussion on the second amendment there was a call to the question.

The call to the question was Carried.

A vote on the first amendment. Carried

A vote on the second amendment, Lost

A vote on the Article as amended needed a w/3 vote Vote was unanimous.

Section C. Authority, Subsection #1 should read as follows:

1. The Southampton Planning Board shall be the Special Permit Granting Authority (SPGA) for all purposes under this section and shall adopt rules and regulations with respect to the administration of applications or Special Permits under this



section, subject to the conditions set forth below and in accordance with the provisions of S.10 of the Zoning By-Laws, and M.G.L., Ch. 40A, S.9 and S.11 as amended.

A true copy attest:  
Eileen Couture, Clerk  
Town of Southampton

## **COMMON DRIVEWAY BY-LAW; Submitted (5-23-07)**

### **D. XI-K-00 COMMON DRIVEWAYS**

- 01 Purpose

The purpose of this by-law is to:

- A. Enhance the safety and welfare of residents served by common driveways.
- B. Clarify the rights and responsibilities of builders and residents of common driveways and of the Town of Southampton; and
- C. Provide access to lots over a common driveway, rather than by individual driveways on each lot.
- D. Enhance public safety by reducing the number and frequency of points at which vehicles may enter upon ways used public ways, particularly primary streets as defined in the Subdivision Rules and Regulations of Southampton, Ma.
- E. Preserve, protect and enhance environmentally sensitive land that might otherwise be cleared, excavated, filled and/or covered with impervious surface; and
- F. Encourage the protection and preservation of significant natural and roadside vistas

- 02 Definition

Common driveway- A form of access, which is not a street, but extends from a street serving to provide common vehicular access to more than one

(1) but not more than four (4) residential lots, built in accordance with standards set forth in this by-law, and allowed only by Special Permit.

The driveway shall lie entirely within the lots being served.

- 03 Scope

Common driveways may be allowed, by means of Special Permitting and plan approval of the Planning Board, for residential uses. All lots associated with the use of a common driveway must provide off-street parking in accordance with the Town of Southampton criteria. The Town of Southampton shall not be required to provide construction, reconstruction, maintenance, snow plowing, school bus pick-up, or police patrols along a common driveway.

- 04 Common Driveway Standards

The Planning Board may authorize the use of common driveways to provide access through the issuance of a Special Permit. The following conditions must be met and shall be shown on the plan submitted (for approval). Additional conditions may be required, by the Board, based on site configura-

tion(s).

A. Dimensions:

- (1) The width of the right of way shall be a minimum of thirty-five (35) feet.
- (2) The width of the common driveway surface shall be eighteen (18) feet, except where the drive serves only two lots; the width may be reduced to 16' feet.
- (3) The common drive shall have three(3) feet gravel shoulders on each side.
- (4) The common driveway shall not exceed 800 ft. in length to the last lot line.
- (5) The slope or grade of a common drive shall in no place exceed 8% if unpaved or 10% if paved.
- (6) The common drive shall intersect a public way at an angle of not less than 80 degrees.
- (7) Alignment and sight distances should be sufficient to support a designed speed of fifteen (15) mph and the minimum roadway curvature at the point of the driveway intersection shall be sufficient for an emergency vehicle to negotiate, generally no less than a radius of fifty (50) feet.
- (8) In areas where Town water is available, a fire hydrant shall be required if the terminus of the common driveway is greater than 500 feet from an existing hydrant on a public way or a connection is available on such a way.
- (9) The common driveway shall be capable of providing access for emergency vehicles (w/50'wb).
- (10) The common driveway shall lie entirely within the lots being served.

B Construction:

- (1) A common driveway shall be constructed and paved as current sub-division standards require. Inspections and approvals (at accepted construction stages) shall be completed in accordance with an approved plan design.
- (2) For applicants having special circumstances or short length designs the Planning Board may allow an alternative construction standard consisting of a minimum twelve (12) inch gravel base with a one (1) inch oil chip-seal (trap rock) top layer; The base will consist of three successive layers of ¾" crushed trap-rock stone, ½" crushed trap-rock stone and ¼" trap-rock stone, with a crown sufficient for drainage. Trap rock finish shall be at least 4" thick, compacted measure.
- (3) Drainage shall be adequate to dispose of surface runoff. Culverts shall be installed if deemed necessary by the Planning Board.
- (4) Any additional storm drainage generated by the new driveway shall not run on to any adjacent property and to the extent possible shall be recharged on-site
- (5) Any utility extensions contained within the common driveway

shall be considered privately owned and maintained.

(6) Certain construction standards may be waived if, in the opinion of the Planning Board, such action is in the public interest and not inconsistent with the purpose and intent of the Zoning Bylaw.

C. Alignment and Design

(1) The common driveway, at its intersection with the street, must provide a leveling –off area with a slope no greater than 2% for the first 20 feet and a slope no greater than 5% for the next 30 feet.

(2) There shall be a minimum of two hundred (200) feet between entrances of any two common driveways onto any road.

(3) The common driveway shall enter a roadway at a point separated by at least one hundred (100) feet from an intersection. On a state highway, the common driveway shall enter the roadway at a point separated by at least one hundred (100) feet from any other driveway, curb cut or intersection, except when Mass. Highway requirements are more stringent.

(4) The common driveway shall have adequate sight distance at its intersection with the public roadway and shall not create traffic (or pedestrian) safety hazards to its users or the public.

(5) The common driveway shall access the property over the frontage of at least one of the lots being served by the driveway.

(6) The common driveway shall provide the only vehicular egress/ access to the lots being serviced by it, and this shall be so stated in the deeds to the subject lots.

(7) Street Numbers and Identification- Permanent signage, sufficiently readable from the road to serve the purpose of emergency identification, indicating the street number address assigned to each lot served by the common driveway shall be installed within 10 feet of the intersection of the common driveway to the roadway, as well as within 10 feet of the intersection of an individual lot (drive) to the common driveway. This requirement is in addition to those for individual homes or businesses and may be expanded upon the request of the fire chief, police chief and/or the highway superintendent.

(8) Common driveway design shall, to the greatest extent possible, minimize adverse impact to wetlands, farmland, or other natural resources; allow reasonable, safe, and less environmentally damaging access to lots characterized by slopes or ledges; and result in the preservation of rural character through reduction of allowable access ways; and retain existing vegetation and topography.

(9) A neighborhood collection (NDBC) unit, located in a pull-off area within the right-of -way, shall be –onstructed to the satisfaction of the US Postal Service and shown on the application plans.

D. These standards may be modified or waived when, in the opinion of the Planning Board, such action is in the public interest and not inconsistent with the purpose(s) and intent of the Zoning By-Law.

E. No common driveway shall be extended or connected to any other way other than the approved point of intersection with the street providing frontage to the development.

F. All lots to be served by a common driveway must meet the requirements of a lot, and dimensional requirements, as defined in the Zoning Bylaws, including but not limited to, set back, dimensions of front, side, and rear yards, as measured in relation to the street (serving as the legal frontage for the lots), and shall be the same as would be required for those lots had they not shared a common driveway.

G. Each residential lot having access from an approved common driveway may be improved with no more than two (2) dwelling units and related accessory buildings and uses.

H. The landowners of all residences served by a common driveway shall be granted a right-of-way. Such right-of way shall be recorded at the Registry of Deeds within thirty (30) days of approval by the Planning Board, together with a statement of covenants as follows:

- (1) Common driveways shall at no time be used to satisfy zoning front
  - age requirements. Each lot served shall have lot frontage on a street which serves to satisfy lot frontage requirements.
- (2) The common driveway shall at no time become the responsibility of the Town of Southampton.
- (3) Each landowner served by the common driveway shall be jointly and severally responsible and liable for the repair and maintenance of all portions of the common driveway, and utilities contained within, to which more than one landowner holds a Right-of Way. Specific responsibilities shall be stipulated in a covenant included in the deed for each property served by the driveway.

(4) A covenant shall be entered into between the owner or developer the utility company(s) and the Town in a form acceptable to the Planning Board, which binds current and future owners of each lot served by the common driveway, prohibiting the sale of lots and erection of buildings except for lots approved and/or prior to the adaptation of this by-law, until such time as the common driveway has been constructed and inspected at accepted construction stages in accordance with an approved plan design. A draft covenant shall be submitted for approval with the special permit application and shall include but not be limited to specific standards for maintenance and repair of the driveway and drainage system, provision for allocating financial responsibility, and a procedure for resolution of disagreements. If the permit is granted, said covenant shall be recorded at the Registry of Deeds and shall be made part of every deed to each lot served by the common driveway.

(5) A common driveway shall not be approved until the utility design approval(s) and agreement(s), a declaration of covenants, easements and restrictions (for the use and maintenance of the common driveway) has been approved by Town Counsel.

I. Performance Guarantee- The Planning Board may require a performance bond or other security for the completion of the common driveway. Such security shall be posted prior to construction of the driveway. The driveway shall be completed, inspected by the Planning Board or its designee, and the security released prior to the issuance of occupancy permits for the lots served by the common driveway.

J. The Planning Board shall follow the procedural requirements for Special Permits as per Massachusetts General Law, Chapter 40A.

**Town of Southampton  
Stormwater Management & Erosion and Sediment Control**

- A. Purpose and Authority
- B. Definitions
- C. Applicability
- D. Exemptions
- E. Administration
- F. Enforcement and Penalties
- G. Surety
- H. Final Reports
- I. Certificate of Completion
- J. Severability

**A. Purpose and Authority**

1. Purpose

- a. The purpose of this Bylaw is to better manage land development in order to protect, maintain, and enhance the public health, safety, and general welfare of the citizens of Southampton by establishing minimum requirements and procedures to control the adverse impacts associated with stormwater runoff.
  
- b. The proper management of stormwater runoff will meet the following objectives:
  - (1) Reduce the adverse water quality impacts of stormwater discharges to rivers, lakes, reservoirs and streams in order to attain federal water quality standards;
  - (2) Prevent the discharge of pollutants, including hazardous chemicals, into stormwater runoff;
  - (3) Minimize the volume and rate of stormwater that is discharged, to rivers, streams, reservoirs, lakes and combined sewers that flows from any site during and following development;
  - (4) Prevent erosion and sedimentation from land development, and reduce stream channel erosion caused by increased runoff;
  - (5) Provide for the recharge of groundwater aquifers and maintain the base flow of streams;

- (6) Provide stormwater facilities that are attractive, maintain the natural integrity of the environment, and are designed to protect public safety;
- (7) Maintain or reduce pre-development runoff characteristics after development to the maximum extent feasible;
- (8) Minimize damage to public and private property from flooding;
- (9) Ensure that these management controls are properly maintained.

This Bylaw and its associated regulations are also intended to bring the To

“Adverse impact” means any deleterious effect on waters or wetlands, including their quality, quantity, surface area, species composition, aesthetics or usefulness for human or natural uses which are or may potentially be harmful or injurious to human health, welfare, safety or property, to biological productivity, diversity, or stability or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

“Agricultural activity” producing or raising one or more of the following agricultural commodities for commercial purposes:

1. animals, including but not limited to livestock, poultry, and bees;
2. fruits, vegetables, berries, nuts, maple sap, and other foods for human consumption; and
3. feed, seed, forage, tobacco, flowers, sod, nursery or greenhouse products, and ornamental plants or shrubs.

and as further defined by the Massachusetts Wetlands Protection Act and its implementing regulations.

“Authorized Enforcement Agency” is the Southampton Planning Board, including its agents designated to enforce this Bylaw.

“Best management practices” (BMPs) are structural or biological devices that temporarily store or treat stormwater runoff to reduce flooding, remove pollutants, and provide other amenities. They can also be non-structural practices that reduce pollutants at their source. BMPs are described in the Massachusetts Stormwater Handbook described below.

“Construction activity” is disturbance of the ground by removal of vegetative surface cover or topsoil, grading, excavation, clearing and/or filling.

“Design storm” is a rainfall event of specified size and return frequency that is used to calculate the runoff volume and peak discharge rate to a BMP.

“Detention” is the temporary storage of storm runoff in a BMP, which is used to control the peak discharge rates, and which provides gravity settling of pollutants.

“Disturbance” is any land clearing, grading, bulldozing, digging or similar activities.

“Erosion” is the wearing away of the land surface by natural or artificial forces, such as wind, water, ice, gravity, or vehicle traffic, and subsequent detachment and transportation of soil particles.

“Erosion and sediment control plan” is a document containing narrative, drawings and details—developed by a qualified professional engineer (PE) or a certified professional in erosion and sedimentation control (CPESC)—that includes best management practices

or equivalent measures designed to control surface runoff, erosion, and sedimentation during construction and construction-related land disturbance activities.

“Flooding” is a local and temporary inundation or a rise in the surface of a body of water, such that it covers land not usually under water.

“Forest Cutting Plan” is a plan for the cutting of trees on forest land that is prepared and submitted in accordance with M.G.L. c. 132, Sections 40 - 46A. The Forest Cutting Plan requires approval by a Service Forester of the Massachusetts Department of Conservation and Recreation, as provided under 302 CMR 16.00, *et seq.*

“Grading” means changing the level or shape of the ground surface.

“Groundwater” is all water beneath any land surface, including water in the soil and bedrock beneath water bodies, but not including water in manmade structures.

“Impervious surface” is any material or structure on or above the ground that prevents water from infiltrating through the underlying soil. Impervious surface is defined to include, but not limited to: paved parking lots, rooftops, driveways, patios, and paved roads.

“Infiltration” is the downward movement of water from the surface to the subsoil.

“Low impact development” is a development approach that seeks to mimic (or in the case of redevelopment, restore/recreate) a site’s predevelopment hydrology through protection of on-site natural features and environmentally sensitive site design that limits impervious areas, preserves open space, and uses decentralized small scale facilities to capture and manage rainfall (or snowmelt) close to where it falls. These small-scale facilities serve to slow, absorb, and treat flow and include bioretention areas, grass swales, porous pavements, cisterns, and green roofs and walls.

“Massachusetts Stormwater Handbook and Stormwater Standards” is the guidance issued by MassDEP, and as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act G.L. c. 131, § 40 and Massachusetts Clean Waters Act G.L. c. 21, §§ 23-56. The Handbook addresses stormwater impacts through implementation of performance standards to promote increased stormwater recharge, the treatment of runoff from polluting land uses, low impact development (LID) techniques, pollution prevention, the removal of illicit discharges to stormwater management systems, and improved operation and maintenance of stormwater best management practices (BMPs). MassDEP applies the Stormwater Management Standards pursuant to its authority under the Wetlands Protection Act, M.G.L. c. 131, § 40, and the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26-53. The revised Stormwater Management Standards have been incorporated in the Wetlands Protection Act Regulations, 310 CMR 10.05(6)(k) and the Water Quality Certification Regulations, 314 CMR 9.06(6)(a).

“New development” is any construction activities or land alteration resulting in total earth disturbances greater than 40,000 square feet (or activities that are part of a larger common plan of development disturbing greater than 40,000 square feet) on an area that has not previously been developed to include impervious cover.

“Nonpoint source pollution” is pollution from many diffuse sources caused by rainfall or snowmelt moving over and through the ground. As the runoff moves, it picks up and carries away natural and human-made pollutants, finally depositing them into water resource areas.

“Operation and maintenance plan” is a plan that defines the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to ensure that it continues to function as designed.

“Owner” is the person with a legal or equitable interest in a property.

“Peak discharge” is the maximum instantaneous rate of flow during a storm, usually in reference to a specific design storm event.

“Person” is any individual, group of individuals, or entity, including an association, partnership, corporation, company, business, organization, trust, estate, administrative agency, public or quasi-public corporation or body, the Commonwealth or political subdivision thereof.

“Point source” is any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container, from which pollutants are or may be discharged.

“Pollutant” is any element of property or sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works or Waters of the Commonwealth. Pollutants shall include:

1. Paints, varnishes and solvents;
2. Oil and other automotive fluids;
3. Nonhazardous liquid and solid wastes and yard wastes;
4. Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, accumulations and floatables;
5. Pesticides, herbicides and fertilizers;
6. Hazardous materials and wastes; sewage, fecal coliform and pathogens;
7. Dissolved and particulate metals;
8. Animal wastes and residues;
9. Rock, sand, salt and soils;
10. Construction wastes and residues;
11. Noxious or offense matter of any kind.

“Recharge” is the replenishment of underground water reserves.

“Redevelopment” is any construction, land alteration, or improvement of impervious surfaces resulting in total earth disturbances greater than 40,000 square feet or activities that are part of a larger common plan of development disturbing greater than 40,000 square feet that does not meet the definition of “new development” (see above).

“Related entities” are any corporation in which the owner is an officer, director or shareholder; a limited partnership in which the owner is a limited partner or general partner; a general partnership in which the owner is a partner; a limited liability company in which the owner is a shareholder or director; a trust in which the owner is a trustee or beneficiary; or any other entity in which the owner has a beneficial interest.

“Retention” is the holding of runoff in a basin without release except by means of evaporation, infiltration, or emergency bypass.

“Runoff” is rainfall, snowmelt, or irrigation water flowing over the ground surface.

“Sediment” is any mineral or organic soil material that is transported by wind or water from its origin to another location, the product of erosion processes.

“Sedimentation” is a process of depositing material that has been suspended and transported in water.

“Site” is the area extent of construction activities, including but not limited to the creation of new impervious cover and improvement of existing impervious cover.

“Stormwater Authority” administers, implements, and enforces the Southampton Stormwater Management and Erosion and Sediment Control Bylaw and associated



regulations. See Section A above for more information on Authority and Section E below for more information on Administration.

“Stormwater management” is the use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, and/or peak flow discharge rates.

“Stormwater management permit” is the permit issued by the Southampton Planning Board, after review of an application, including plans (stormwater management and erosion and sediment control), calculations, and other supporting documents, that is designed to protect the Town from the adverse effects of uncontrolled and untreated stormwater runoff.

“Stormwater management plan” is a plan to be submitted with the application for a Stormwater Management Permit, which shall include current and proposed site conditions, proposed improvements, proposed stormwater control measures, development schedules, and such other matters as may be required by the Southampton Planning Board.

“Stop work order” is an order issued that requires that all construction activity on a site be stopped.

### **C. Applicability**

1. This Bylaw shall apply throughout the Town of Southampton. Prior to the issuance of any Special Permit, site plan approval, or other development permit for any proposed new development or redevelopment projects listed below, a stormwater management permit, or a waiver of the requirement for a stormwater management permit, must be approved by the Southampton Planning Board. No person shall, on or after the effective date of the Bylaw, initiate any land clearing, land grading, earth moving or construction activities without first complying with this Bylaw. The following uses and activities shall be required to submit a complete stormwater management permit application which shall include: a stormwater management plan, including drainage reports, an erosion and sediment control plan, construction drawings, specifications, operation and maintenance plan, and as-built information in conformance with the requirements of this Bylaw and associated regulations:
  - a. Multi-family residential developments involving four or more units;
  - b. Any new commercial, industrial, and/or institutional structures with at least 5,000 square feet of gross floor area, 10,000 square feet of impervious surface, or that require 10 or more parking spaces.
  - c. Redevelopment or additions to existing commercial, industrial, and/or institutional uses that result in an additional impervious surface area or gross floor area of greater than 5,000 square feet, or that results in an increase of 10 or more parking spaces.
  - d. Construction of subdivisions and/or construction activities of any kind disturbing greater than 40,000 square feet.
  - e. Development or redevelopment

involving multiple separate construction activities in discontinuous locations or on different schedules if the activities are part of a larger common plan of development that all together disturbs greater than 40,000 square feet.

#### **D. Exemptions**

1. The following activities may be exempt from the requirements for submittal and approval of a stormwater management permit, but must meet the stormwater management and erosion and sediment control performance standards as described in the associated regulations:

- a. Any agricultural activity that is consistent with an approved soil conservation plan prepared or approved by the Natural Resources Conservation Service;
- b. Any logging that is consistent with a Forest Cutting Plan approved under the Forest Cutting Practices Act by Massachusetts Department of Conservation and Recreation;
- c. Additions or modifications to existing single-family structures that do not disturb more than 40,000 square feet of land;
- d. Developments—other than a single-family dwelling, where “approval is not required”—that do not disturb more than 40,000 square feet of land, provided that they are not part of a larger common development plan;
- e. Repairs to any stormwater treatment system deemed necessary by the Southampton Planning Board or Highway Department;
- f. ~~Any emergency activity that is immediately necessary for the protection of life, property or the environment, as determined by the Southampton Planning Board or Highway Department; and~~
- g. Activities that are exclusively limited to maintenance and improvement of existing sidewalks and roadways (including widening less than a single lane, adding shoulders, correcting substandard intersections with such elements as turning lanes, improving existing drainage systems, and repaving projects). Note that roadway widening or improvements that increase the amount of impervious area on the redevelopment site by greater than or equal to a single lane width are subject to the requirements of this Bylaw.

#### **E. Administration**

1. As the Stormwater Authority, the Planning Board will review all applications for a stormwater management permit under this Bylaw. Upon receipt of a complete application package at a regularly scheduled meeting of the Planning Board, the Board shall transmit one (1) copy of the completed application package to the Highway Department for review and comment and file one (1) copy of the completed application package in the office of the Town Clerk.

The date of the regularly scheduled meeting of the Board at which the completed application package is accepted shall become the date of receipt and the start date for all deadlines for action by the Board as set forth herein.

- A. **Public Hearing.** The Planning Board shall, within twenty-one (21) days of receipt of a complete application for a Stormwater Management Permit, hold a public hearing on the matter to allow comment from abutters, other boards and commissions and staff. The Board shall take final action on the application within sixty-five (65) days of the receipt of the complete application unless the time for action is extended by mutual written consent of the applicant and the Planning Board. Notice of the public hearing shall be given by publication in a newspaper of local circulation, by posting at the office of the Town Clerk, and by first-class mailings to abutters at least seven (7) days prior to the initial public hearing. The application and the Erosion and Sediment Control Plan shall be made available for inspection by the public during normal business hours at the Office of the Planning Board and the Office of the Town Clerk.

The applicant shall submit any additional information in response to all reasonable requests of the Stormwater Authority and/or any duly authorized representatives of the Stormwater Authority.

**Project Changes.** The permittee, or their agent, must notify the Stormwater Authority in writing of any change or alteration of a land disturbance or construction activity authorized in a Stormwater Management Permit before any change or alteration occurs. If the Board determines that the change or alteration is significant, the Board may require that an amended Application be filed and a new public hearing held. If any change or alteration from the Stormwater Management Permit occurs during any land disturbing activities, the Board may require the installation of interim erosion and sedimentation control measures before approving the change or alteration as part of a formal application process.

2. The Planning Board may adopt and periodically amend rules and regulations relating to the procedures, standards, and administration of this Stormwater Management Bylaw, by majority vote of the Planning Board, after conducting a public hearing to receive comments on any proposed revisions. Such hearing date shall be advertised in a newspaper of general local circulation at least seven days prior to the hearing date.
3. The Planning Board may waive strict compliance with any or all of the requirements of this Bylaw for a project that will, in its judgement, generate minimal stormwater runoff and erosion and sedimentation, have minimal impact on the municipal stormwater system and nearby surface waters, and if such action is allowed by Federal, State, and local statutes, bylaws, and/or regulations; is in the public interest; and is consistent with the purposes of this Bylaw.
4. The Planning Board's action, rendered in writing, may consist of any of the following as a result of an application for a Stormwater Management Permit: Approval; Approval subject to conditions; Disapproval.
5. The Planning Board may establish a permit review fee schedule, based on the type and complexity of projects, and may update this fee as needed, to cover the costs of permit administration for Stormwater Management Permits. The Stormwater Authority may require the applicant to pay reasonable costs to be incurred by the Stormwater Authority

for the employment of outside consultants pursuant to Stormwater Authority regulations and as authorized by G.L. c. 44, § 53G.

6. This Bylaw is intended to integrate with other parts of the Town's land use bylaws and regulations and not replace any other such requirements.

## **F. Enforcement and Penalties**

### **1. Violations**

Any construction activity that has commenced or is conducted contrary to this Bylaw may be restrained by injunction or otherwise abated in a manner provided by law.

### **2. Notice of Violation**

When the Southampton Planning Board determines that an activity is not being carried out in accordance with the requirements of this Bylaw or associated regulations, it shall issue a written notice of violation to the owner of the property. The notice of violation shall contain:

- a. The name and address of the owner applicant;
- b. The address when available or the description of the building, structure, or land upon which the violation is occurring;
- c. A statement specifying the nature of the violation;
- d. A description of the remedial measures necessary to bring the site into compliance with this Bylaw and a time schedule for the completion of such remedial action;
- e. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
- f. If the Highway Department, Stormwater Authority, or its authorized agent determines that abatement or remediation of adverse impacts is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further provide that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town may, at its option, pursue a Court Order allowing the Town to undertake such work, and expenses thereof shall be charged to the violator.

If the Highway Department or Stormwater Authority takes action upon failure of the violator or owner to abate or remediate, notice shall be given to the violator and owner of the costs, including administrative costs, incurred by the Town. Said notice shall be sent within thirty (30) days of completion of all measures necessary to abate the violation or to perform remediation. The violator or owner shall also be notified that they may, within thirty (30) days of receipt of said notice, file an appeal in writing to the Select Board objecting to either the amount or basis of the costs incurred. If the amount due is not received by the expiration of the time in which to file an appeal or within thirty (30) days following a decision by the Select Board affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory

rate provided by MGL c.59, §57 after the thirty-first day at which the costs first become due.

3. Stop Work Orders

Persons receiving a notice of violations will be required to halt all construction activities. This “stop work order” will be in effect until the Southampton Planning Board confirms that the development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a notice of violation in a timely manner can result in civil or monetary penalties in accordance with the enforcement measures authorized in this Bylaw. The Southampton Planning Board may utilize the services of a Massachusetts registered engineer to verify compliance at the Applicant’s expense.

4. Non-Criminal Disposition

The Town of Southampton may elect to utilize the non-criminal disposition procedure set forth in Southampton’s Town Bylaws. The Southampton Planning Board shall be the enforcing entity. The penalty for the 1st violation shall be \$100. The penalty for the 2nd violation shall be \$200. The penalty for the 3rd and subsequent violations shall be \$ 300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

5. Appeals

Unless otherwise stated herein, the decisions or orders of the Stormwater Authority shall be final. Further relief shall be appealed to a court of competent jurisdiction. The Stormwater Authority may require the applicant to post surety before the start of land disturbance or construction activity. The form of the surety shall be approved by Town Counsel and be in an amount deemed sufficient by the Stormwater Authority to ensure that the work will be completed in accordance with the permit. If the project is phased, the Board may release part of the surety as each phase is completed in compliance with the permit but the surety may not be fully released until the Board has received the final report as required by Section 12 and the permittee is issued a certificate of completion. If the permittee defaults on any obligations imposed by the Stormwater Management Permit, the Stormwater Authority may

**G. Surety**

(after providing written notification to the permittee) inform the holder of the surety (and the municipal treasurer if the treasurer is not holding the funds) of the default, in which event the Town shall be entitled to use the surety funds to bring the site into compliance with the Stormwater Management Permit.

**H. Final Reports**

Upon completion of the work and no later than 180 days after completion of construction, the permittee shall submit a report (including certified as-built construction plans) from a Registered Professional Engineer (PE) certifying that the project has been completed in accordance with the conditions of the Stormwater Management Permit and the plans approved thereunder. The as-built drawings must depict all on site controls, both structural and non-structural, designed to manage the stormwater associated with the completed site (post construction stormwater management). Any discrepancies with the approved permit plans shall be noted in the cover letter submitted with the report and as-built plans.

**I. Certificate of Completion**

The Board shall issue a letter certifying completion of a project following receipt and review of a final report and as-built plan showing that all work allowed under the permit

has been satisfactorily completed in conformance with this Bylaw and any regulations enacted hereunder.

#### J. Severability

The provisions of this by-law are hereby declared to be severable. If any provision, paragraph, sentence, or clause of this Bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Bylaw.

or take any other action relative thereto.

#### **PROPOSED ACCESSOR APARTMENT ZONING BY-LAW**

#### **THIS NEW BYLAW BECOMES SECTION XI-K, "ACCESSORY APARTMENTS"**

#### K. Accessory Apartments

##### 1. Special Permit Required

Accessory Apartments shall be permitted only upon issuance of a Special Permit from the Planning Board and in accordance with the additional requirements specified herein.

##### 2. General Description

An accessory apartment shall mean a separate housekeeping unit, complete with its own sleeping, cooking and sanitary facilities, that is substantially contained within the structure of a single-family dwelling, but functions as a separate unit.

##### 3. Purpose

The purpose of the accessory apartment bylaw is to

A Provide older homeowners with a means of obtaining, through tenants in accessory apartments, rental income, companionship, security, and services, and thereby to enable them to stay more comfortable in homes and neighborhoods they might otherwise be forced to leave.

- b. Add inexpensive rental units to the housing stock to meet the needs of smaller households, both young and old.
- c. Make housing units available to low and moderate-income households who might otherwise have difficulty finding homes within the Town.
- d. Protect stability, property values, and the residential character of a neighborhood by ensuring that accessory apartments are installed only in owner-occupied houses and under such additional conditions as may be appropriate to further the purposes of this bylaw, and
- e. Legalize conversions to encourage compliance with the State Building Code.

##### 4. Accessory Apartment Standards

The Planning Board may authorize a Special Permit for a use known as Accessory Apartment in Owner-Occupied Single-Family Dwelling provided that the following standards and criteria are met

- a. The apartment will be a complete separate housekeeping unit that Functions as a separate unit from the original unit.
- b. Only one apartment will be created within a single-family house

- c. The lot in which the single-family house is located must meet the minimum lot size requirement and must comply with other applicable zoning requirements for its district.
- d. The owner(s) of the residence in which the accessory apartment is located shall occupy at least one of the dwelling units on the premises.
- e. The accessory apartment shall be designed so that the appearance of the building remains that of a one-family residence as much as feasibly possible in general, any new entrances shall be located on the side or rear of the building. Any exterior changes made must conform with the single family character of the neighborhood.
- f. The accessory apartment shall be clearly a subordinate part of the single-family dwelling. It shall be no greater than six hundred (600) square feet nor have more than one (1) bedroom.
- g. At least two off-street parking spaces per dwelling unit are available for use by the owner-occupant(s) and tenant(s). Parking spaces shall be located to the side or the rear of the structure, to the extent feasible. The Planning Board may reduce the parking requirements if circumstance warrant, and if such reduction will not be inconsistent with the purposes of this bylaw.
- h. For dwellings to be served by on-site septic system, the owner must obtain a Disposal Works construction Permit from the Board of Health before a special permit can be obtained. This is to ensure that the existing sewage disposal system is adequate for the proposed accessory apartment.
- i. The construction of any accessory apartment must be in conformity with the State Building Code requirements.

#### 5. Application Procedure

- a. The procedure for the submission and approval of a Special Permit for an Accessory Apartment in Owner-Occupied, Single-Family Dwelling shall be the same as prescribed in Section IX-I Special Permits, except it shall include a notarized letter of application from the owner(s) stating that he/she will occupy one of the dwelling units on the premises. A nonrefundable fee shall be included with the application for an accessory apartment to cover the cost of processing the application and code inspections. The applicant shall also be responsible for the cost of legal notices. As part of the public hearing process, parties of interest as defined in M.G.L. Chapter 40A Sec. 11 must be notified.
  - b. Upon receiving a special permit, the owner(s) must file on subject property a Declaration of covenants at the County Registry of Deeds. The Declaration shall state that the right to rent a temporary accessory apartment ceases upon transfer of title. A time-stamped copy of the recorded Declaration shall be provided to the Planning Board.
  - c. In order to provide for the development of housing units for disabled and handicapped individuals, the Planning Board will allow reasonable deviation from the stated conditions where necessary to install features that facilitate access and mobility for disable persons.
- #### 6. Transfer of Ownership of a Dwelling with an Accessory apartment.
- a. The temporary special permit for an accessory apartment in owner-occupied, single-family dwelling shall terminate upon the sale of property or transfer of title of the dwelling, unless the Planning Board has approved a transfer of the Special Permit to the new owner.
  - b. The new owner(s) must apply for transfer of a special permit for an accessory apartment in owner-occupied single-family dwelling and shall submit a notarized letter of application stating that he/they will

occupy on of the dwelling units on the premises and a written request to the Planning Board stating that conditions at the time of the original application remain unchanged. Minor changes may be approved without a hearing.

- c. Upon receiving the transferred special permit, the new owner(s) must file on subject property a Declaration of Covenants at the County Registry of Deeds. The Declaration shall state that the right to rent a temporary accessory apartment ceases upon transfer of title. A time-stamped copy of the recorded Declaration shall be provided to the Planning Board.
7. Accessory Apartments in Existence before the Adoption of an Accessory Apartment Bylaw.
  - a. Statement of Intent

To ensure that accessory apartments or conversions in existence before the adoption of this Accessory Apartment Bylaw are in compliance with the State Building Code Regulations.

#### Application Procedure

The Planning Board may authorize, under a special permit and in conjunction with the Building Inspector, use known as an Accessory Apartment in an Owner-Occupied, Single-Family Dwelling. The Board will review each existing use on a case-by case basis to determine if the dwelling conforms to State building Code Regulations.

The applicant must follow the same procedure described in this Section including the submission of a notarized letter declaring owner occupancy and a Declaration of Covenants.

Under article 21 the town voted to change the zoning of land located on Valley and Brickyard Road, as shown on Southampton Assessors' map 39 parcels 24, 27A and 27B from the current designation of Industrial Park (IP) to Residential Neighborhood (RN).



## **SECTION XVI**

### **SOLAR ELECTRIC GENERATING FACILITIES**

*5/20/2014 - Added to Zoning Bylaws*

*5/17/2016 – Replaced in its entirety*

*1/24/17- Amended; AG  
approval 3/28/17*

- A. Purpose - The purpose of this bylaw is to facilitate the creation of new Solar Electric Generating Facilities 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.
- B. Applicability-The provisions set forth in this section shall apply to the construction, operation, repair and/or removal of Solar Electric Generating Facilities as permitted in Section V. Use Regulations. All such facilities 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 applicable provisions of Southampton's Zoning Bylaws.
- C. General Requirements
1. The construction and operation of all Solar Electric Generating Facilities 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. Solar Electric Generating Facilities shall not be constructed, installed or modified as provided in this section without first obtaining a building permit and paying any required fees.
  3. Noise generated by Solar Electric Generating Facilities and associated equipment and machinery shall conform to applicable state and local noise regulations, including the DEP's Division of Air Quality noise regulations, 310 CMR 7.10. A source of sound will be considered in violation of said regulations if the source:
    - a. Increases the broadband sound level by more than 10 db(A) above ambient, or
    - b. Produces a "pure tone" condition, when an octave band center frequency sound pressure level exceeds the two (2) adjacent center frequency sound pressure levels by three (3) decibels or more.

Said criteria are measured both at the property line and at the nearest inhabited

residence. "Ambient" is defined as the background A-weighted sound level that is exceeded 90% of the time measured during equipment hours, unless established by other means with the consent of the DEP.

D. The Solar Electric Generating Facility's 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 Facilities and any access road(s).

E. Decisions for Site Plans subject to Section XVI.G. & H.

1. Approvals - Site Plans shall be granted upon a determination by the Planning Board that the plan meets all of the following criteria:
  - a. Minimize the volume of cut and fill, the number of removed trees 10" caliper or larger, the length of removed stone walls, the area of wetland vegetation displaced, the extent of stormwater flow increase from the site, soil erosion, and threat of air and water pollution;
  - b. Maximize pedestrian and vehicular safety both on the site and entering and exiting the site;
  - c. Minimize obstruction of scenic views from publicly accessible locations;
  - d. Minimize visual intrusion by controlling the visibility of parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zoned;
  - e. Minimize glare from headlights and light trespass;
  - f. Minimize unreasonable departure from the character, materials, and scale of buildings in the vicinity, as viewed from public ways and places;
  - g. Prevent contamination of groundwater from operations on the premises involving the use, storage, handling, or containment of hazardous substances;
  - h. Ensure compliance with the provisions of this Zoning Bylaw, including parking and landscaping;
  - i. Ensure adequate access to each structure for fire and service equipment and adequate provision for utilities and stormwater drainage.
2. Conditions - The Planning Board may impose reasonable conditions at the expense of the applicant, including performance guarantees, to promote these objectives.
3. Denial - In the event the application is not revised as requested by the

Planning Board to meet the objectives in Section XVI.E.1., the Planning Board may deny the application. The decision shall be in writing and shall clearly state the reasons for denial with sufficient detail to enable the applicant to revise the site plan to meet the objectives in Section XVI.E.1.,. There shall be no time penalties against the applicant to file a new site plan application, but said application shall require filing of a new fee.

4. Approval of Site Plans shall lapse after One Year from the granting thereof if a substantial use thereof has not sooner commenced, except for good cause. Site plan approval may, for good cause, be extended in writing by the Planning Board upon the written request of the applicant.
5. Appeal - The appeal of any decision of the Planning Board hereunder shall be made in accordance with the provisions of M.G.L. Ch. 40A, Section 17.

F. Fee – The Planning Board may adopt reasonable administrative fees and technical review fees for site plan review.

G. Site Plan Review (SPR) is required for all:

- Small Scale (16kW or less) DC Solar Electric Generating Facilities.

1. Procedures

- a. Applicants for site plan review shall submit seven (7) copies of the site plan to the Planning Board in accordance with the AGENDA PROCEDURES of the SOUTHAMPTON PLANNING BOARD POLICIES AND PROCEDURES.
- b. The Applicant shall also deliver copies of the site plan to the Building Inspector, Fire and Police Departments and Highway Superintendent for their review and comment by the date that they are filed with the Town Clerk. Said offices shall have 14 days from their receipt of the site plan to submit their comments to the Planning Board. Failure to respond within 14 days shall constitute their lack of objections to the project.
- c. Site plan reviews shall not be subject to a public hearing, but deliberations and decisions must be made by the Planning Board at an open public meeting on which it appears on the Agenda.
- d. It is the Applicants responsibility to provide Notification to abutters within 300-feet of subject land parcel of the date, time, location and subject matter of the first Planning Board meeting at which this appears as an Agenda item, in accordance with ABUTTERS LIST (#2 & #3) of the SOUTHAMPTON PLANNING BOARD POLICIES AND PROCEDURES. Said notice shall be mailed, certified, no later than the date that the application is filed with the Town Clerk. Proof of such

abutter Notification must be submitted by the Applicant to the Board at the Public Meeting.

- e. Approval of a Site Plan Review shall require the affirmative votes of a majority of the Board as constituted (i.e. 3 out of 5). The Planning Board must file its written decision with the Town Clerk within 45 days of the Planning Board meeting at which said application first appeared on the Agenda or such application shall be deemed approved. This time frame may be extended by prior written agreement by both the Applicant and the Planning Board and filed with the Town Clerk prior to the referenced 45 day expiration.
  - f. No deviation from an approved site plan shall be permitted without the prior approval by the Planning Board. The Planning Board should be consulted to determine whether such changes are significant enough to require a new Public Meeting.
2. Required Submission Documents - The project proponent shall provide the following documents as part of a complete application for Site Plan Review:
- a. A site plan showing:
    - i. Stamp and signature of a Professional Land Surveyor or a Professional Engineer licensed to practice in Massachusetts that prepared the plans; as deemed required by the Planning Board.
    - ii. Property lines, map and lot from the Assessor's records, and physical features and setbacks for the project site;
    - iii. Proposed changes to the site including grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures including their height and placement of system including, solar arrays and required appurtenances;
    - iv. Locations of wetlands and Priority Habitat Areas defined by the Natural Heritage & Endangered Species Program (NHESP);
    - v. Locations of Floodplain area, as well as Water Supply Protection Overlay District (Zone 2)
  - b. Contact information:
    - i. Name, address, and contact information for proposed system installer;
    - ii. Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any;
    - iii. The name, contact information and signature of any agents representing the project proponent;

iv. A properly completed and executed application and application fee.

3. Dimension and Height Requirements

a. Minimum Setbacks For Solar Electric Generating Facilities:

i. Front yard: no facilities are permitted between the front of the principal building and the front lot line. Where no building is located on the lot, the minimum front setback for the underlying zoning district shall apply

ii. Side yard: 20'. Each side yard shall have a depth of at least 35 feet

iii. Rear yard: 20'

b. Height of Structures

i. The height of any structure associated with a Solar Electric Generating Facility shall not exceed 35 feet.

ii. The height of solar panels and support structures shall not exceed 15'.

4. Screening - Whenever reasonable, structures should be screened from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

5. Waivers - The Planning Board may, upon the prior written request of the applicant, waive any of the requirements of this sub-section, but must state their reasons for doing so in writing as part of their decision.

6. Abandonment or Decommissioning - Any solar electric generating facility which has reached the end of its useful life or has been abandoned (i.e. when it fails to operate for more than one year without the written consent of the Planning Board) shall be removed. The owner or operator shall physically remove the installation within 150 days of abandonment or the proposed date of decommissioning. 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 structures; equipment, building, security barriers and transmission lines from the site, including any materials used to limit vegetation.

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 may allow the owner or operator to leave

landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

H. Site Plan Approval (SPA) is required for all:

- Medium Scale (greater than 16kW to 250kW) DC Solar Electric Generating Facilities
- Intermediate Scale (greater than 250kW to 500kW) DC Solar Electric Generating Facilities
- Large Scale (greater than 500kW) Solar Electric Generating Facilities

1. Procedures

- a. Applicants for Site Plan Approval shall submit seven (7) copies of the site plan to the Planning Board. The procedures for submitting and processing Site Plan Approvals shall be the same as that for a Special Permit in accordance with M.G.L. Chapter 40A, Sec. 9 and the SOUTHAMPTON PLANNING BOARD POLICIES AND PROCEDURES except where provided below.
- b. The Applicant shall also deliver copies of the application to the Building Inspector, Fire and Police Departments and Highway Superintendent for their review and comment at the same time that they are filed with the Planning Board. Said offices shall have 30 days from their receipt of the site plan to submit their comments to the Planning Board. Failure to respond within 30 days shall constitute their lack of objections to the project.
- c. It is the Applicants responsibility to provide Notification to abutters within 300-feet of subject land parcel of the date, time, location and subject matter of the first Planning Board meeting at which this appears as an Agenda item, in accordance with ABUTTERS LIST (#2 & #3) of the SOUTHAMPTON PLANNING BOARD POLICIES AND PROCEDURES. Said notice shall be mailed, certified, no later than the date that the application is filed with the Town Clerk. Proof of such abutter Notification must be submitted by the Applicant to the Board at the Public Meeting.
- d. Approval of a Site Plan Approval shall require the affirmative votes of a majority of the Board as constituted (i.e. 3 out of 5) and shall be in writing.
- e. No building permit or certificate of occupancy shall be issued by the Building Inspector without the written approval of the site plan by the Planning Board, or unless 60 days lapse from the date of the submittal of the site plan without action by the Planning Board, unless the Board and

applicant have agreed to a time extension.

- f. When a Special Permit is also required the Planning Board shall consolidate its site plan approval and special permit procedures.
- g. The applicant may request, and the Planning Board may grant by majority vote, an extension of the time limits set forth herein.
- h. No deviation from an approved site plan shall be permitted without the prior approval by the Planning Board. The Planning Board should be consulted to determine whether such changes are significant enough to require a new Public Hearing.

2. Required Submission Documents - The project proponent shall provide the following documents as part of a complete application for Site Plan Approval:

- a. A Site Plan showing:
  - i. Stamp and signature of Professional Engineer licensed to practice in Massachusetts that prepared the plans;
  - ii. Existing Conditions Plan, showing property lines, map and lot from the Assessor's records, and physical features, including roads and topography, for the entire project site signed and sealed by a Registered Massachusetts Land Surveyor;
  - iii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation, fencing or structures including their height and placement of system signed and including, solar arrays and required appurtenances;
  - iv. Locations of wetlands and Priority Habitat Areas defined by the Natural Heritage & Endangered Species Program (NHESP);
  - v. Locations of Floodplain area, as well as Water Supply Protection Overlay District (Zone 2)
  - vi. Existing isolated trees 10" caliper or larger and shrubs.
- b. An estimate of earthwork operations listing the amount of soil material to be imported or exported from the site.
- c. 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.
- d. A copy of an Interconnection Application filed with the utility including a 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.

- e. Documentation of the major system components to be used, including the electric generating components, transmission systems, mounting system, inverter, etc. If proposed system is located in Water Supply Protection District, documentation must include information on elements of the system that use materials that are in any way either hazardous or toxic.
- f. Documentation by an acoustical engineer of the noise levels projected to be generated by the installation.
- g. Name, address, and contact information for proposed system installer.
- h. Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any.
- i. The name, contact information and signature of any agents representing the project proponent.
- j. Documentation of actual or prospective access and control of the project site.
- k. A properly completed and executed application and application fee.
- l. Proof of Notification of abutters within 300-feet of subject land parcel in accordance with Planning Board Policies and Procedures and per Sec. H.1.c. criteria.
- m. An operation and maintenance plan for solar installation.
- n. 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).
- o. Proof of liability insurance
- p. Description of financial surety for decommissioning
- q. 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.
- r. Operation & Maintenance Plan - The project proponent shall submit a plan for the operation and maintenance of the Solar Electric Generating Facility, which shall include measures for maintaining safe access to the installation, storm water and vegetation controls, and general procedures for operational maintenance of the installation.
- s. Utility Notification - No Solar Electric Generating Facility 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 and acknowledges receipt of such notification. Off-grid systems shall be exempt from this requirement.

### 3. Dimension and Height Requirements

#### a. Minimum Setbacks For Solar Electric Generating Facilities:

i. Front yard: no facilities are permitted between the front of the principal building and the front lot line. Where no building is located on the lot the minimum front yard setback shall not be less than 50 feet.

ii. Side yard: 35 feet.

iii. Rear yard: 35 feet.

#### b. Height of Structures

i. The height of any structure associated with a Solar Electric Generating Facility shall not exceed 35 feet.

ii. The height of solar panels and associated support structures shall not exceed 15'.

4. Appurtenant Structures - All appurtenant structures to Solar Electric Generating Facilities shall be subject to regulations concerning the bulk and height of structures, lot area, and setbacks as specified with the appropriate section of the Southampton Zoning Code, 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.

### 5. Design and Performance Standards

a. Lighting - Lighting of Solar Electric Generating Facilities 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 Generating Facility shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

b. Signage - Solar Electric Generating Facilities shall not be used for displaying any advertising signage except for reasonable identification of the manufacturer or operator of the solar electric installation. Signs on

Solar Electric Generating Facilities shall comply with Southampton's sign bylaw. A sign consistent with Southampton's sign bylaw shall be required to identify the owner and provide a 24-hour emergency contact phone number.

- c. Utility Connections - Reasonable efforts, as determined by the Planning Board, shall be made to place all utility connections from the Solar Electric Generating Facility 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.
- d. Roads - Access roads shall be constructed to minimize grading, removal of stone walls or trees and minimize impacts to environmental or historic resources.
- e. Vegetation Management - Herbicides, pesticides, or chemical fertilizers may not be used to manage vegetation at the Solar Electric Generating Facility. Mowing, grazing or using geotextile materials underneath the solar array are possible alternatives. In the Water Supply Protection district, low growing grasses are optimal. Other grasses must be regularly mowed or grazed so as to minimize the amount and height of "fuel" available in case of fire.
- f. Hazardous Materials - 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 ground water are required. 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 Mass DEP 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.
- g. Impact on Agricultural and Environmentally Sensitive Land - The Solar Electric Generating 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. No more than 50-percent of the total land area proposed for the solar electric field may be occupied by the solar panels, with the remainder of the land remaining as undeveloped open space left in its natural state.
- h. Drainage - The design shall minimize the use of concrete and other impervious materials to the greatest extent possible, and to minimize erosion and transport of sediment. A permit in accordance with the Southampton Erosion and Sediment Control for Stormwater Management shall be required

and can be run concurrent with the approval process under this section.

- i. Screening - Solar Electric Generating Facilities shall be screened from view by a minimum fifteen (15) foot wide staggered and grouped planting of shrubs and small trees. Such plantings shall use native plants and a mix of deciduous and evergreen species and may be located within the setback area.

6. Safety and Environmental Standards

- a. Emergency Services - The Solar Electric Generating Facility's 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 Generating Facility shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

- b. 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 Solar Electric Generating Facility or otherwise prescribed by applicable laws, regulations, and bylaws. Such installations shall not occur on any slopes greater than 15% in order to minimize erosion. No more than 50% of the land parcel utilized for Solar Electric Generating Facilities shall be contain land requiring clearing of forest.

- c. No topsoil shall be removed from the land parcel under consideration for Solar Electric Generating Facilities. If earthworks operations are required, topsoil shall be stockpiled within the property bounds and protected against erosion until such time earthwork operations are completed and topsoil can be re-spread over parcel. Earthworks shall be planned to limit export of soil material (non-topsoil) to 1000 cubic yards per acre affected by installation. A detailed earthworks estimate is a required submittal component proving this quantity is maintained.

7. Modifications - All material modifications to a Solar Electric Generating Facility made after issuance of the required building permit shall require approval by the Planning Board. (see Sec. XVI.H.1.g. above)

8. Waivers - The Planning Board may, upon the prior written request of the applicant, waive any of the requirements of this sub-section, but must state their reasons for doing so in writing as part of their decision.

9. Abandonment or Decommissioning

- a. Removal Requirements - Any Solar Electric Generating Facility which

has reached the end of its useful life or has been abandoned shall be removed. The owner or operator shall physically remove the installation within 150 days of abandonment or the proposed date of decommissioning, or the town retains the right, after the receipt of an appropriate court order, to enter and remove an abandoned, hazardous or decommissioned Solar Electric Generating Facility. As a condition of Site Plan or Special Permit approval, an applicant shall agree to allow the Town entry to remove an abandoned or decommissioned installation. Reimbursement for removal shall be obtained from the financial surety posted by the Applicant as part of the Special Permit issuance. 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:

- i. Physical removal of all Solar Electric Generating Facilities, structures; equipment, building, security barriers and transmission lines from the site, including any materials used to limit vegetation;
  - ii. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations;
  - iii. Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
- b. Abandonment - Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the Solar Electric Generating Facility 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 Solar Electric Generating Facility fails to remove the installation in accordance with the requirements of this section with 150 days of abandonment or the proposed date of decommissioning, the Town may enter the property and physically remove the installation.
- c. Financial Surety - Proponents of Solar Electric Generating Facilities 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, 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.

END OF SECTION

## **SECTION XVII INCLUSIONARY ZONING BYLAW**

### **01.0 Purpose and Intent**

The purpose of this bylaw is to:

- expand housing opportunities
- promote economic diversity in our community, and
- include affordable housing in typical market-rate and high-end housing development

At minimum, affordable housing produced through this regulation should be in compliance with the requirements set forth in G.L. c. 40B sect. 20-24 and other affordable housing programs developed by state, county and local governments. It is intended that the affordable housing units that result from this bylaw be considered as Local Initiative Program (LIP) Units, in compliance with the requirements for the same as specified by the Department of Housing and Community Development. Definitions for affordable housing unit and eligible household can be found in the Definitions Section.

### **02.0 Definitions**

Affordable Units: Housing units which the Planning Board finds are affordable for rent or purchase by eligible households making 80% of the median household income for Springfield Median Household Income as calculated by the U.S. Department of Housing and Urban Development, with adjustments for family size, provided that there are deed restrictions, easements, covenants or other mechanisms to ensure that the units are affordable in perpetuity.

Affordable Housing Restriction: A deed restriction of Affordable Housing meeting statutory requirements in MGL c. 184, s 31, and the requirements of this bylaw.

Eligible Household: An individual or household whose annual income is less than 80% of the area-wide median income as determined by the United States Department of Housing and Urban Development (HUD), adjusted for household size, with income computed using HUD's rules for attribution of income to assets.

Inclusionary Housing Plan: A document that outlines and specifies the development's compliance with each of the applicable requirements of this Bylaw as part of the approval of a development project.

Income, Low or Moderate: A combined household income which is less or equal to 80% of median income or any other limit established under MGL c. 40B, its regulations or any amendment thereto.

Income, Median Household: The median income, adjusted for household size, for the Springfield Metropolitan Statistical Area published by or calculated from regulations promulgated by the United States Department of Housing and Urban Development, pursuant to Section 8 of the Housing Act of 1937, as amended by the Housing and Community Development Act of 1974, or any successor federal or state program.

### 03.0 Applicability

1. In Rural Residential (RR), Residential Neighborhood (RN), Residential Village (RV) and Commercial Village (CV), the inclusionary zoning provisions of this bylaw shall apply to the following uses:
  - a) Any project that results in a net increase of ten (10) or more dwelling units, whether by new construction or by the alteration, expansion, reconstruction, or change of existing residential or non-residential space; and
  - b) Any subdivision of land, either by filing a plan for the subdivision of land or the filing of a so-called approval not required plan, for development of ten (10) or more dwelling units; and
  - c) Any life care facility or any elderly persons and/or handicapped persons housing development that includes ten (10) or more dwelling units and accompanying services.
  - d) This bylaw further stipulates that the project shall not be segmented or phased to avoid compliance with the provision of this bylaw either by filing a plan for the subdivision or land or the filing of a so-called approval not required plan (ANR) or by any other means. ANR filed under the same ownership within five years will be considered as under the provision of this bylaw. A development that occurs on adjacent parcels under common ownership shall be considered one development.
  - e) Cluster developments shall be exempt from the requirements of this by-law.
2. The Southampton Housing Authority and the Southampton Planning Board shall jointly review to completion any application found to be under the jurisdiction of this bylaw.

### 04.0 Requirements

1. Affordable Housing Contribution: All new residential development outlined in section 3.0 shall contribute at least ten (10) percent of the total number of units for affordable housing. Calculation of the number of total affordable units shall, if the required percent of the total results in a fraction, be rounded up to the next whole number where the fractional portion is equal to 0.5 or greater, and shall be rounded down to the next whole number where the fractional portion is less than 0.5.

2. Methods of Affordable Housing Contribution: While the construction of an affordable unit is the preferred method of affordable housing contribution, the applicant may offer, and the Planning Board may accept the following methods of affordable housing contribution in accordance with the provisions outlined by this bylaw:
  - a) Constructed or rehabilitated onsite (see Section 05.0); or
  - b) Constructed or rehabilitated off-site (see Section 06.0); or
  - c) An equivalent fees-in-lieu-of-units payment may be made (see Section 07.0);
  - d) Donation of land in fee simple, on or off site, which the Planning Board in its sole discretion determines are suitable for the construction of affordable housing units. The value of donated land shall be equal to or greater than the value of the construction or set-aside of the affordable units as specified in Section 07.0. The Planning Board may require, prior to accepting land as satisfaction of the requirements of this bylaw that the applicant submit appraisals of the land in question, as well as other data relevant to the determination of equivalent value. The donation of land, if so determined, will be accepted by the town with a stipulation that the land donated shall be used for the development of affordable housing in lieu of construction and offering affordable units within the locus of the proposed development or at an off-site locus.
  - e) Any combination of the Section 04.2(a-d) requirements provided that in no event shall the total number units provided be less than the equivalent number of affordable units required by this bylaw.
3. Affordable Housing Restrictions and Regulatory Agreements: All affordable housing units shall be subject to an affordable housing restriction and a Regulatory Agreement in a form acceptable to the Planning Board. Building permits shall not be issued until the restriction and the Regulatory Agreement are recorded at the Registry of Deeds and a copy provided to the Planning Board and the Inspector of Buildings. The Regulatory Agreement shall be consistent with any applicable guidelines issued by the Department of Housing and Community Development and shall ensure that affordable units can be counted toward Southampton's Subsidized Housing Inventory. The Regulatory Agreement shall also address all applicable restrictions listed in this bylaw.
4. Affordable Unit Enforcement and Monitoring: Long-term enforcement and monitoring of the Regulatory Agreement shall be by an entity approved by the Planning Board. The enforcement and monitoring program shall be paid for by an escrow account established prior to the sale of the first unit and contributed to on an annual basis at a rate negotiated between the Town and the Applicant.
5. Affordable Unit Cost Offsets:

To facilitate the objectives of this Section 05.0, the applicant may offer and the

Planning Board may accept, the following in exchange for the provision of affordable housing units:

- a) The minimum lot area per dwelling unit normally required in the applicable zoning district may be reduced by twenty percent (20%)
  - b) Waiver from one or more of the dimensional requirements specified in Section 6 of the Zoning bylaw
  - c) Waiver from one or more of the subdivision regulations as specified in the Southampton Subdivision Regulations of the Zoning bylaws
  - d) Waiver from filing fees as listed in the exhibit C of Southampton Planning Board Policies and Procedures by 50%
  - e) Density Bonus. The Planning Board may allow the addition of up to two market rate units for each affordable unit provided. The minimum lot area per dwelling unit normally required in the applicable zoning district may be reduced by 20 percent to permit up to two additional market rate units for each one affordable unit required in Section 04.1 (above). Applicants who choose affordable housing contribution methods 04.2 (c-d) are not eligible for a density bonus.
  - f) Affordable units may be in the form of a duplex.
  - g) Voluntary Inclusionary Housing Bonus. New affordable housing development that is not subject to Section 03.0 and exceeds the requirements specified in Section 04.1(a) may receive the same benefits specified in Sections 04.5(a) and 04.5(b) when the development is approved by the Planning Board. The net increase in housing units shall not exceed fifty percent (50%) of the original property yield before any density bonuses were applied.
6. Inclusionary Housing Plan: In addition to the requirements outlined in Section 04.0, the Applicant shall present to the Planning Board an Inclusionary Housing Plan that outlines and specifies the development's compliance with each of the applicable requirements of this bylaw as part of the approval of a development project. The plan shall specifically contain, at a minimum, the following information regarding the development project:
- (a) Preliminary Plan:
    - (1) A general description of the development, including whether the development will contain rental units or individually owned units, or both;
    - (2) The total number of market rate units and affordable units in the development;
    - (3) The total number of attached and detached residential units (as applicable);



- (4) The number of bedrooms in each market rate unit and each affordable unit;
- (5) The square footage of each market rate unit and each affordable unit;
- (6) The location within any multiple-family residential structure and any single family residential development of each market rate unit and each affordable unit;
- (7) Floor plans for each affordable unit;
- (8) The amenities that will be provided to and within each market rate unit and affordable unit; and
- (9) The pricing for each market rate unit and each affordable housing unit.

(b) Final Plan:

- (1) All of the information required for the preliminary Inclusionary Housing Plan pursuant to 04.6(a);
- (2) The phasing and construction schedule for each market rate unit and each affordable unit;
- (3) Documentation and plans regarding the exterior appearances;

05.0 Provisions Applicable to Affordable Housing Units On- and Off-Site:

1. Siting of affordable units: All affordable units constructed or rehabilitated under this Bylaw shall be situated within the development so as not to be in less desirable locations than market-rate units in the development and shall, on average, be no less accessible to public amenities, such as open space, as the market-rate units. The Planning Board in its sole discretion makes the final determination of the suitability of the siting of the affordable units.
2. Minimum design and construction standards for affordable units: Projects containing affordable units shall meet the standards set forth by the Massachusetts Department of Housing and Community Development Local Initiative Program (LIP). These standards are:
  - a) All low and moderate income housing units developed through the LIP shall be indistinguishable from market-rate units as viewed from the exterior unless the project has an approved alternative developmental plan
  - b) Unit shall contain complete living facilities including a stove, kitchen, cabinets, plumbing fixtures, a refrigerator, microwaves, and access to laundry facilities.
  - c) All low and moderate-income units for families must have two or more bedrooms. Units for the elderly or accessible units for disabled persons are exempt from this minimum requirement.
  - d) With respect to units for the elderly, the disabled, and/or within an age restricted Project, Developers are encouraged to consider unit designs in which master bedrooms and bathrooms are located on the first floor.

- e) In exceptional circumstances, the Director of DHCD may allow a waiver if there is a good reason (other than finances) for failure to meet the design criteria of the LIP. An “Alternative Development Plan” approval would be based on DHCD’s evaluation of the reason for variation from the LIP guidelines.

- 3. Timing of construction or provision of affordable units or lots:  
The Inclusionary Housing Plan, Section 4.6, and the development agreement shall include a phasing plan that provides for the timely and integrated development of the affordable housing units as the development project is built out. The phasing plan shall provide for the development of the affordable housing units concurrently with the market rate units. Building permits shall be issued for the development project based upon the phasing plan. The phasing plan may be adjusted by the Planning Board when necessary in order to account for the different financing and funding environment, economies of scale, and infrastructure needs applicable to development of the market rate and the affordable units. The phasing plan shall also provide that the affordable housing units shall not be the last units to be built in any covered development.
- 4. Marketing Plan for Affordable Units: Applicants under this bylaw shall submit a marketing plan or other method approved by Southampton, to the Planning Board for its approval, which describes how the affordable units will be marketed to potential home buyers or tenants. This plan shall include a description of the lottery or other process to be used for selecting buyers or tenants.

06.0 Provision of Affordable Housing Units Off-Site

As an alternative to the requirements of Section 05.0, an applicant subject to the bylaw may develop, construct or otherwise provide affordable units equivalent to those required by Section 04.0 off-site. All requirements of this bylaw that apply to on-site provision of affordable units, shall apply to the provision of off-site affordable units. In addition, the location of the off-site units to be provided shall be approved by the Planning Board as an integral element of the approval process.

07.0 Fees-in-Lieu-of Affordable Housing Unit Provision

- 1. As an alternative to the requirements of Section 05.0 or Section 06.0, an applicant may make an equivalent payment to the Town’s Affordable Housing Trust Fund, or, in its absence, to a designated housing gift account established by the Town for fees-in-lieu-of the provision of affordable units.
  - a) Calculation of fee-in-lieu-of-units: The applicant for development subject to this bylaw may pay fees-in-lieu of the construction of affordable units. For the purposes of this bylaw, the fee-in-lieu of the construction or provision of affordable units shall be equal to three times the 80 percent Median Household Income for a four person household. The 80 percent figure for the Median Household Income for a four person household is updated annually by HUD (see 02.0 Definitions).

- b) Schedule of fees-in-lieu-of-units payments: Fees-in-lieu-of-units payments shall be made according to the schedule set forth in Section 05.3, above.
  
- c) Use of Fees and Creation of Affordable Units: Cash contributions and donations of land and/or buildings made to the Affordable Housing Trust Fund or, in its absence, to a designated housing gift account established by the Town in accordance with Section 07.1 shall be used only for purposes of providing affordable housing for low or moderate income households. Using these contributions and donations, affordable housing may be provided through a variety of means, including but not limited to the provision of favorable financing terms, subsidized prices for purchase of sites, or affordable units within larger developments, rehabilitation on existing structures that can be counted toward the 10% affordable housing goal.

#### 08.0 Maximum Incomes and Selling Prices: Initial Sale

1. To ensure that only eligible households purchase affordable housing units, the purchaser of an affordable unit shall be required to submit copies of the last three years' federal and state income tax returns and certify, in writing and prior to transfer of title, to the developer of the housing units or his/her agent, and within thirty (30) days following transfer of title, to the local housing trust, community development corporation, housing authority or other agency as established by the Town, that his/her or their family's annual income level does not exceed the maximum level as established by the Commonwealth's Department of Housing and Community Development, and as may be revised from time to time.
  
2. The maximum housing cost for affordable units created under this bylaw is as established by the Commonwealth's Department of Housing and Community Development, Local Initiative Program or as revised by the Town.
  
3. Each affordable unit created in accordance with this bylaw shall have limitations governing its resale through the use of a regulatory agreement (Section 04.3). The purpose of these limitations is to preserve the long-term affordability of the unit and to ensure its continued availability for affordable income households. The resale controls shall be established through a restriction on the property and shall be in force in perpetuity.

#### 09.0 Omitted

#### 10.0 Severability

If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the Southampton's zoning bylaw.

**SECTION XVIII**  
**ADULT USE MARIJUANA ESTABLISHMENTS**

*(Approved at 2-5-19 STM)*

*Approved by A/G 3-20-19*

1. Purposes

It is recognized that the nature of the substance cultivated, processed, and/or sold by adult use Marijuana Establishments may have objectionable operational characteristics and should be located in such a way as to ensure the health, safety, and general well-being of the public as well as legally authorized adult customers seeking to legally purchase marijuana for their own use. The specific and separate regulation of Marijuana Establishments (hereafter also referred to as an ME) is necessary to advance these purposes and ensure that such facilities are not located within close proximity to areas frequented by minors and do not become concentrated in any one area within the Town of Southampton.

Subject to the provisions of this Zoning Bylaw, Chapter 40A of the Massachusetts General Laws, Chapter 94G of the Massachusetts General Laws and 935 CMR 500.00, Marijuana Establishments will be permitted to engage in the legal cultivation, product manufacturing and retail sale of marijuana for non-medical adult marijuana use in a manner that complies with state regulations.

2. Definitions

Cannabis or Marijuana or Marihuana: All parts of any plant of the genus Cannabis, not excepted in 935 CMR 500.002: Cannabis or Marijuana or Marihuana (a) through (c) and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; clones of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in M.G.L. c. 94G, § 1; provided that cannabis shall not include:

(a) the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil, or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination;

(b) hemp; or

(c) the weight of any other ingredient combined with cannabis or marijuana to prepare topical or oral administrations, food, drink or other products.

Marijuana Products: Marijuana and its products unless otherwise indicated. These include products have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

Commission: The Massachusetts Cannabis Control Commission established by M.G.L. c. 10, § 76, or its designee.

Craft Marijuana Cooperative: A Marijuana Cultivator comprised of residents of the Commonwealth and organized as a limited liability company, limited liability

partnership, or cooperative corporation under the laws of the Commonwealth. A cooperative is licensed to cultivate, obtain, manufacture, process, package and brand cannabis or marijuana products to transport marijuana to Marijuana Establishments, but not to consumers.

Hemp: The plant of the genus Cannabis or any part of the plant, whether growing or not, with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3% on a dry weight basis of any part of the plant of the genus Cannabis, or per volume or weight of cannabis or marijuana product, or the combined percent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus Cannabis regardless of moisture content.

Marijuana Independent Testing Laboratory: A laboratory that is licensed by the Commission to test marijuana and marijuana products.

Licensee: A person or entity licensed by the Commission to operate a Marijuana Establishment under 935 CMR 500.000.

Marijuana Cultivator: An entity licensed to cultivate, process and package marijuana, and to transfer marijuana to other Marijuana Establishments, but not to consumers. A Craft Marijuana Cooperative is a type of Marijuana Cultivator.

Marijuana Establishment: A Marijuana Cultivator, Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Retailer, Marijuana Independent Testing Laboratory, Marijuana Research Facility, Marijuana Transporter, or any other type of licensed marijuana-related business, except a medical marijuana treatment center. Marijuana Establishments permitted in accordance with these regulations are considered to be a commercial and/or manufacturing use and are not considered being subject to any agricultural exemptions under zoning.

Marijuana Microbusiness: A co-located Marijuana Establishment that can be either a Tier 1 Marijuana Cultivator in accordance with 935 CMR 500.00 or Product Manufacturer or both, in compliance with the operating procedures for each state license. A Microbusiness that is a Marijuana Product Manufacturer may purchase no more than 2,000 pounds of marijuana per year from other Marijuana Establishments.

Marijuana Product Manufacturer: An entity licensed to obtain, manufacture, process and package marijuana products and to transfer these products to other Marijuana Establishments, but not to consumers.

Marijuana Research Facility: An entity licensed to engage in research projects by the Commission.

Marijuana Retailer: An entity licensed to purchase and transport cannabis or marijuana product from Marijuana Establishments and to sell or otherwise transfer this product to Marijuana Establishments and to consumers. Retailers are prohibited from delivering cannabis or marijuana products to consumers; and from offering cannabis or marijuana products for the purposes of on-site social consumption on the premises of a Marijuana Establishment.

Marijuana Transporter : An entity, not otherwise licensed by the Commission, that is licensed to purchase, obtain, and possess cannabis or marijuana product solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments, but not to consumers. Marijuana Transporters may be an Existing Licensee Transporter or Third Party Transporter.

Provisional Marijuana Establishment License: A certificate issued by the Commission confirming that a Marijuana Establishment has completed the application process.

### 3. Applicability

Nothing in this section shall be construed to supersede federal and state laws governing the sale and distribution of marijuana. This bylaw does not apply to the cultivation of industrial hemp as is regulated by the Massachusetts Department of Agricultural Resources pursuant to General Laws, Chapter 128, Sections 116-123.

### 4. Additional Requirements/Conditions

In addition to the standard requirements for uses permitted By-right or requiring a Special Permit or Site Plan Approval, the following shall also apply to all Marijuana Establishments:

#### a. Use:

- 1) Any type of Marijuana Establishment may only be involved in the uses permitted by its definition and may not include other businesses or services.
- 2) No marijuana shall be smoked, eaten or otherwise consumed or ingested within the premises.
- 3) The hours of operation shall be set by the Special Permit Granting Authority, but in no event shall a Marijuana Establishment be open to the public, and no sale or other distribution of marijuana shall occur upon the premises or via delivery from the premises, between the hours of 8:00 p.m. and 8:00 a.m.
- 4) No Marijuana Establishment may commence operation or apply for a building permit prior to its receipt of all required permits and approvals including, but not limited, to its Provisional Marijuana Establishment License from the Cannabis Control Commission.
- 5) The number of adult use Marijuana Retailers permitted to be located within the Town of Southampton shall not exceed 50% of the number of licenses issued within the town for the retail sale of alcoholic beverages not to be drunk on the premises where sold under chapter 138 of the General Laws. For the purposes of determining this number, any fraction shall be rounded up to the next highest whole number.

#### b. Physical Requirements:

- 1) With the exception of the lawful transportation of marijuana and marijuana products, all aspects of the any Marijuana Establishment relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing, or administration of marijuana, products containing marijuana, related supplies, or educational materials shall take place at a fixed location within a fully enclosed building (including greenhouses) and shall not be visible from the exterior of the business. Marijuana Establishments shall not be located in a trailer, storage freight container, motor vehicle or other similar type potentially movable enclosure.
- 2) No outside storage is permitted.
- 3) No Marijuana Retailer shall have a gross floor area open to the public in excess of 2,500 square feet.
- 4) Ventilation – all Marijuana Establishments shall be ventilated in such a manner that no:
  - a) Pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere, and

b) No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the medical marijuana business or at any adjoining use or property.

5) Signage shall be displayed on the exterior of the Marijuana Establishment's entrance in plain sight of the public stating that "Access to this facility is limited to individuals 21 years or older." in text two inches in height.

6) All other signage must comply with all other applicable signage regulations in the Zoning Bylaw and 935 CMR 500.

7) Marijuana plants, products, and paraphernalia shall not be visible from outside the building in which the Marijuana Establishment is located and shall comply with the requirements of 935 CMR 500. Any artificial screening device erected to eliminate the view from the public way shall also be subject to a vegetative screen and the Board shall consider the surrounding landscape and viewshed to determine if an artificial screen would be out of character with the neighborhood.

c. Location:

1) Marijuana Establishments are encouraged to utilize existing vacant buildings where possible.

2) No Marijuana Establishment shall be located on a parcel which is within three hundred (300) feet (to be measured in a straight line from the nearest point of the property line in question to the nearest point of the property line where the Marijuana Establishment will be located) of a parcel occupied by a public or private school providing education in kindergarten or any of grades 1-12 in existence at the time a Marijuana Establishment license is filed with the Cannabis Control Commission.

3) No Marijuana Retailer shall be located on a parcel which is within three hundred (300) feet (to be measured in a straight line from the nearest point of the property line in question to the nearest point of the property line where the Marijuana Retailer is or will be located) of a parcel occupied by another Marijuana Retailer.

4) No Marijuana Establishment shall be located inside a building containing residential units, including transient housing such as motels and dormitories.

5) No Marijuana Establishment is permitted to utilize or provide a drive-through service.

d. Reporting Requirements:

1) Prior to the commencement of the operation or services provided by a Marijuana Establishment, it shall provide the Police Department, Fire Department, Building Commissioner/Inspector and the Special Permit Granting Authority with the names, phone numbers and email addresses of all management staff and key-holders, including a minimum of two (2) operators or managers of the facility identified as contact persons to whom one can provide notice if there are operating problems associated with the establishment. All such contact information shall be updated as needed to keep it current and accurate.

2) The local Building Commissioner/Inspector, Board of Health, Police Department, Fire Department and Special Permit Granting Authority shall be notified in writing by the Marijuana Establishment facility owner/operator/ manager:

a) A minimum of 30 days prior to any change in ownership or management of that establishment.

b) A minimum of 12 hours following a violation or potential violation of any law or any criminal or potential criminal activities or attempts of violation of any law at the establishment.

3) Permitted Marijuana Establishments shall file an annual written report to, and appear before, the Special Permit Granting Authority no later than January 31st of each calendar year, providing a copy of all current applicable state licenses for the facility

and/or its owners and demonstrate continued compliance with the conditions of the Special Permit.

4) The owner or manager of a Marijuana Establishment is required to respond by phone or email within twenty-four hours of contact by a town official concerning their Marijuana Establishment at the phone number or email address provided to the Town as the contact for the business.

e. Issuance/Transfer/Discontinuance of Use

1) Special Permits shall be issued to the Marijuana Establishment owner.

2) Special Permits shall be issued for a specific type of Marijuana Establishment on a specific site/parcel.

3) Special Permits shall be non-transferable to either another Marijuana Establishment owner or another site/parcel.

4) Special Permits shall have a term limited to the duration of the applicant's ownership/control of the premises as a Marijuana Establishment, and shall lapse/expire if:

a) the Marijuana Establishment ceases operation (not providing the operation or services for which it is permitted) for 365 days, and/or

b) the Marijuana Establishment's license from the Commission expires or is terminated. The Marijuana Establishment shall notify the Zoning Enforcement Officer and Special Permit Granting Authority in writing within 48 hours of such expiration or termination.

5) A Marijuana Cultivator or Marijuana Product Manufacturer shall be required to remove all material, plants equipment and other paraphernalia prior to surrendering its State License or ceasing its operation.

a) Prior to the issuance of a Building Permit for a Marijuana Establishment the applicant is required to post with the Town Treasurer a bond or other form of financial security acceptable to said Treasurer in an amount set by the Planning Board. The amount shall be sufficient to cover the costs of the Town removing all non-marijuana materials, equipment and other paraphernalia if the applicant fails to do so. The Building Inspector shall give the applicant 45 days' written notice in advance of seeking a Court order authorizing the Town to take such action. Should the applicant remove all materials, equipment and other paraphernalia to the satisfaction of the Building Inspector prior to the expiration of the 45 days written notice, said bond shall be returned to the applicant.

#### 4. Application Requirements

Applications for Special Permits and Site Plan Approvals for Marijuana Establishments will be processed in the order that they are filed with the Town. The approval of a Special Permit for any Marijuana Establishment is up to the discretion of the Planning Board which will be making its determination based on approving Marijuana Establishments that comply with the standards and intent of this Bylaw.

In addition to the standard application requirements for Special Permits, applications for a Marijuana Establishment shall include the following:

a. The name and address of each owner and operator of the Marijuana Establishment facility/operation.

b. A copy of an approved Host Agreement.

c. A copy of its Provisional License from the Cannabis Control Commission pursuant to 935 CMR 500.

d. If the Marijuana Establishment is proposed in conjunction with an approved RMD, a copy of its provisional certificate of registration as an RMD from the Massachusetts Department of Public Health in accordance with 105 CMR 725.000 or from the Cannabis Control Commission in accordance with 935 CMR 500.

e. Proof of Liability Insurance Coverage or Maintenance of Escrow as required in 935 CMR 500.



- f. Evidence that the Applicant has site control and right to use the site for a Marijuana Establishment in the form of a deed or valid purchase and sales agreement or, in the case of a lease a notarized statement from the property owner and a copy of the lease agreement.
- g. A notarized statement signed by the Marijuana Establishment organization's Chief Executive Officer and corporate attorney disclosing all of its designated representatives, including officers, directors, shareholders, partners, members, managers, 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.
- h. In addition to what is normally required in a Site Plan, details showing all exterior proposed security measures for the Marijuana Establishment including lighting, fencing, gates and alarms ensuring the safety of employees and patrons and to protect the premises from theft or other criminal activity. Security information shall be submitted and retained by the Planning Board as a confidential document and forwarded to the Police Chief for review and comment.
- i. A detailed floor plan identifying the areas available and functional uses (including square footage).
- j. All signage being proposed for the facility.
- k. A pedestrian/vehicular traffic impact study, prepared by a registered professional engineer specializing in traffic engineering, to establish the Marijuana Establishment's impacts at peak demand times, including a line queue plan to ensure that the movement of pedestrian and/or vehicular traffic, including but not limited to, along the public right of ways will not be unreasonably obstructed.
- l. An odor control plan detailing the specific odor-emitting activities or processes to be conducted on-site, the source of those odors, the locations from which they are emitted from the facility, the frequency of such odor-emitting activities, the duration of such odor-emitting activities, and the administrative of odor control including maintenance of such controls.
- m. A Management Plan including a description of all activities to occur on site, including all provisions for the delivery of marijuana and related products to Marijuana Establishment or off-site direct delivery.
- n. Individual written plans which, at a minimum comply with the requirements of 935 CMR 500, relative to the Marijuana Establishment's:
  - 1) Operating procedures
  - 2) Marketing and advertising
  - 3) Waste disposal
  - 4) Transportation and delivery of marijuana or marijuana products
  - 5) Energy efficiency and conservation
  - 6) Security and Alarms
  - 7) Decommissioning of the Marijuana Establishment including a cost estimate taking into consideration the community's cost to undertake the decommissioning of the site.

## 5. Findings

In addition to the standard Findings for a Special Permit the Special Permit Granting Authority must also find all the following:

- a. That the Marijuana Establishment is consistent with and does not derogate from the purposes and intent of this Section and the Zoning Bylaw;

- b. That the Marijuana Establishment is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest;
- c. That the Marijuana Establishment facility demonstrates that it meets or exceeds all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations;
- d. That the applicant has satisfied all of the conditions and requirements of this Section and other applicable Sections of this Bylaw;
- e. That the Marijuana Establishment provides adequate security measures to ensure no direct threat to the health or safety of other individuals, and that the storage and/or location of cultivation is adequately secured on-site or through transportation off-site;
- f. That the Marijuana Establishment adequately addresses issues of traffic demand, circulation flow, parking and queuing, particularly at peak periods at the facility, and its impact on neighboring uses.

## XIX

### REGISTERED MARIJUANA DISPENSARY (RMD)

*(approved at 2-5-19 STM)*

#### 19-10 Registered Marijuana Dispensary (RMD)

##### 1. Purposes

It is recognized that the nature of the substance cultivated, processed, and/or sold by Registered Marijuana Dispensaries and off-site medical marijuana dispensaries may have objectionable operational characteristics and should be located in such a way as to ensure the health, safety, and general well-being of the public as well as patients seeking treatment. The specific and separate regulation of Medical Marijuana Treatment Centers as Registered Marijuana Dispensaries (RMD) is necessary to advance these purposes and ensure that such facilities are not located within close proximity to areas frequented by minors and do not become concentrated in any one area within the Town of Southamton.

##### 2. Definitions

**REGISTERED MARIJUANA DISPENSARY (RMD):** A use registered and approved by the Cannabis Control Commission in accordance with 935 CMR 501.00, and pursuant to all other applicable state laws and regulations, also to be known as a Medical Marijuana Treatment Center, that acquires, cultivates, possesses, processes (including development of related products such as edible MIPs 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. Unless otherwise, specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of marijuana.

The cultivation and processing of medical marijuana in accordance with these regulations is considered to be a manufacturing use and is not agriculturally exempt from zoning.

##### 3. Additional Requirements/Conditions

Subject to the provisions of this Zoning Bylaw, Chapter 40A of the General Laws; Chapter 94I (Medical Use of Marijuana) of the General Laws, and all regulations which have or may be issued thereunder, including, but not limited to and 935 CMR 501.00, et seq., RMDs will be permitted to provide medical support, security, and physician oversight that meet or exceed state regulations.

In addition to the standard requirements for uses permitted By-right or requiring a Special Permit or Site Plan Approval, the following shall also apply to all RMDs:

a. Use:

- 1) RMDs may only be involved in the uses permitted by its definition and may not include other businesses or services.
- 2) No marijuana shall be smoked, eaten or otherwise consumed or ingested within the premises.
- 3) The hours of operation shall be set by the Special Permit Granting Authority, but in no event shall an RMD be open to the public, and no sale or other distribution of marijuana shall occur upon the premises or via delivery from the premises, between the hours of 8:00 p.m. and 8:00 a.m.

b. Physical Requirements:

- 1) All aspects of the RMD relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing, or administration of marijuana, products containing marijuana, related supplies, or educational materials must take place at a fixed location within a fully enclosed building and shall not be visible from the exterior of the business.
- 2) No outside storage is permitted.
- 3) No RMD which provides retail sales to the public shall have a gross floor area open to the public in excess of 2,500 square feet.
- 4) Ventilation – all RMDs shall be ventilated in such a manner that no:
  - a) Pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere, and
  - b) No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the RMD or at any adjoining use or property.
- 5) Signage shall be displayed on the exterior of the RMD entrance in plain sight of clients stating that “Registration Card issued by the Cannabis Control Commission required” in text two inches in height.

c. Location:

- 1) No RMD shall be located on a parcel which is within five hundred (500) feet (to be measured in a straight line from the nearest points of each property line) of parcel occupied by:
  - a) a public or private elementary, junior high, middle, vocational or high school, college, junior college, university or child care facility or any other use in which children commonly congregate in an organized, ongoing formal basis, including but not limited to dance, gymnastics or karate studios, or youth recreational facilities; or
  - b) another RMD
- 2) No RMD shall be located inside a building containing residential units, including transient housing such as motels and dormitories.

d. Reporting Requirements.

- 1) All Special Permit and Site Plan Approval holders for an RMD facility shall provide the Police Department, Fire Department, Building Commissioner/Inspector and the Special Permit Granting Authority with the names, phone numbers and email addresses of all management staff and key-holders, including a minimum of two (2) operators or managers of the facility identified as contact persons to whom one can provide notice if there are operating problems associated with the establishment. All such contact information shall be updated as needed to keep it current and accurate.
- 2) The local Building Commissioner/Inspector, Board of Health, Police Department, Fire Department and Special Permit Granting Authority shall be notified in writing by an RMD owner/operator/ manager:

- a) A minimum of 30 days prior to any change in ownership or management of that facility
- b) A minimum of 12 hours following a violation or potential violation of any law or any criminal or potential criminal activities or attempts of violation of any law at the RMD.
- 3) Permitted RMD facilities shall file an annual report to and appear before the Special Permit Granting Authority no later than January 31st of each year, providing a copy of all current applicable state licenses for the facility and/or its owners and demonstrate continued compliance with the conditions of the Special Permit.
- 4) The owner or manager is required to respond by phone or email within twenty-four hours of contact by a town official concerning their RMD at the phone number or email address provided to the Town as the contact for the business.
- e. Issuance/Transfer/Discontinuance of Use
  - 1) Special Permits/Site Plan Approvals shall be issued to the RMD Operator.
  - 2) Special Permits/Site Plan Approvals shall be issued for a specific site/parcel
  - 3) Special Permits/Site Plan Approvals shall be non-transferable to either another RMD Operator or site/parcel
  - 4) Special Permits/Site plan Approvals shall have a term limited to the duration of the applicant's ownership/control of the premises as a RMD and shall lapse:
    - a) If the permit holder ceases operation of the RMD, and/or
    - b) The permit holder's registration by the Cannabis Control Commission expires or is terminated.
  - 5) The permit holder shall notify the Zoning Enforcement Officer and Special Permit Granting Authority in writing within 48 hours of such lapse, cessation, discontinuance or expiration.
  - 6) An RMD facility shall be required to remove all material, plants equipment and other paraphernalia prior to surrendering its state Registration or ceasing its operation.
  - 7) Prior to the issuance of a Building Permit for a RMD the applicant is required to post with the Town Treasurer a bond or other form of financial security acceptable to said Treasurer in an amount set by the Planning Board. The amount shall be sufficient to cover the costs of the town removing all non-marijuana materials, equipment and other paraphernalia if the applicant fails to do so. The Building Inspector shall give the applicant 45 days' written notice in advance of seeking a Court order authorizing the Town to take such action. Should the applicant remove all materials, equipment and other paraphernalia to the satisfaction of the Building Inspector prior to the expiration of the 45 days written notice, said bond shall be returned to the applicant.

#### 4. Application Requirements

All RMDs require a Special Permit issued by the Planning Board in accordance with Section XI. In addition to the standard application requirements for Special Permits, such applications for an RMD shall also include the following:

- a. The name and address of each owner of the RMD;
- b. A copy of its provisional certificate of registration as an RMD from the Cannabis Control Commission or documentation that demonstrates that said RMD facility, and its owner/operators, qualify and are eligible to receive a Certificate of Registration and meet all of the requirements of a RMD in accordance with 935 CMR 501.00 of the Cannabis Control Commission.
- c. Evidence that the Applicant has site control and right to use the site for a RMD in the form of a deed or valid purchase and sales 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, directors, shareholders, partners, members, managers, 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, details showing all exterior proposed security measures for the RMD 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. Security information shall be submitted and retained by the Planning Board as a confidential document and forwarded to the Police Chief for review and comment;

f. A detailed floor plan identifying the functional uses of all areas (including square footage)

g. All signage being proposed for the facility;

h. A traffic study to establish the RMD impacts at peak demand times;

i. A Management Plan including a description of all activities to occur on site, including all provisions for the delivery of medical marijuana and related products to RMDs or off-site direct delivery to patients.

## 5. Findings

In addition to the standard Findings for a Special Permit the Special Permit Granting Authority must also find all the following:

a. That the RMD is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest;

b. That the RMD demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations;

c. That the applicant has satisfied all of the conditions and requirements of this Section and other applicable Sections of this Bylaw;

d. That the RMD meets a demonstrated need;

e. That the RMD provides adequate security measures to ensure that there is no direct threat to the health or safety of other individuals, and that the storage and/or location of cultivation is adequately secured;

f. That the RMD adequately addresses issues of traffic demand, circulation flow, parking and queuing, particularly at peak periods at the facility, and its impact on neighboring uses.