

# TOWN OF SOUTHAMPTON GENERAL BY-LAWS

## ARTICLE I Town Meeting

Sec. 1. The Annual Meeting of the Town shall be held on the first Tuesday in May, commencing at 7:00 p.m. in the evening, and if not completed in a reasonable time, prescribed by the Moderator, shall continue on successive evenings beginning at 7:00 p.m. until its conclusion, excluding Sundays and Holidays. The Annual Election of Town Officers shall be held on the third Tuesday in May of each year.

Sec. 2. Warrants for all Town meetings shall be posted in six (6) places in the Town (including the Town's website); at least seven (7) days in advance of the scheduled Annual Town Meeting and, at least fourteen (14) days in advance of a Special Town Meeting.

Sec. 3. After a motion is made orally in Town meeting, it will be presented in writing, when required by the Moderator, with copies provided to the Town Clerk and the Town Moderator.

Sec. 4. If the Moderator, or the meeting by majority vote, so orders, a vote on any question at a Town Meeting shall be conducted by paper ballot.

Sec. 5. Any Town Meeting Article requiring bonding, the Moderator shall require a paper ballot vote.

Sec. 6. Articles in the warrant shall be acted upon in the order of their arrangement unless the meeting, by majority vote, revises the order in which the articles will be considered.

Sec. 7. At all Town Meetings, fifty (50) registered voters shall be necessary to constitute a quorum to conduct business, provided that a number less than a quorum may from time to time adjourn the meeting.

Sec. 8. The Warrant for an Annual or Special Town Meeting may specify that the meeting is to be held in an accessible auditorium or other facility in any of the surrounding municipalities; and the Town Meeting may also, by majority vote, adjourn to such a facility if it deems appropriate.

Sec.9. All speakers at Town Meeting shall be recognized by and address the moderator, and shall face and speak directly to the voters in attendance in the meeting hall; All public officials located at tables in the front of the hall shall face toward the voters and shall also stand and be recognized by and first address the moderator, and shall then also face and speak directly to the voters; Speakers shall not address specific individuals within the hall nor engage in any rude behavior toward any individuals.

Sec. 10. The formal Rules of evidence, including those relating to hearsay evidence, that apply at formal proceedings such as court trials, shall not be applied to Town Meetings, inasmuch as their complexity makes it difficult, if not impossible, to apply consistently. Accordingly, duly recognized speakers, whose statements comport with requirements for decorum, shall not be prevented from speaking by the Moderator when the speakers are acting in good faith, with the

reasonable belief their statements are true and that their statements are material and pertinent to matters legitimately before the Town meeting.

Sec 11. Candidates running for Town offices secure a place on the ballot either by timely submitting valid nomination papers with a sufficient number of signatures of registered voters or being so voted at the Town Caucus. A non-partisan town caucus shall be held at least thirty-eight (38) days prior to the annual town election, as described in MGL c. 53, §. 121.

ARTICLE II  
Finance Committee

Sec. 1, There shall be a Finance Committee for the Town consisting of five (5) voters of the Town, who shall perform the duties set forth in the following sections of this article and be governed by the provisions thereof. The committee shall be elected as provided in Section II of this article. Finance Committee members may serve as liaisons to other committees, boards, commissions, and/or *ad hoc* committees, as needed, to maintain communication and coordination between those bodies and the Finance Committee. Finance Committee members may serve on appointed committees, commissions, boards, or *ad hoc* committees, with voting rights, unless otherwise stipulated in the Town's By-laws.

Sec. 2. Upon adoption of this by-law, there shall be elected by the voter's two (2) members of the Finance Committee to serve for a term of one (1) year, two (2) members to serve for a term of two (2) years, and one (1) member to serve for a term of three (3) years. At each annual election thereafter, there shall be an election of Finance Committee member or members for terms of three (3) years to succeed the member whose terms may expire that year or to fill the balance of a term where a vacancy has occurred.

If after such election, there are one or more vacancies on the Finance Committee, the Selectboard shall in writing appoint a person or persons to fill such vacancy (ies). Any person so appointed shall be a registered voter of the Town and shall perform the duties of the office until the next annual election or until another is qualified.

Sec. 3. The Finance Committee shall consider all articles in any warrant thereafter issued for any Town meeting, Annual or Special, calling for the expenditures and/or transfer of money shall consider such articles and report in writing or otherwise to the Town meeting its recommendations as deemed to the best interest of the Town.

- a. No appropriation and/or transfer of money shall be made under the report of a committee, or an individual until the matter has been considered and reported upon by the Financial Committee.

Sec. 4 It shall also be the duty of the Finance Committee to make an Annual report in print of its doings, with the recommendations relative to financial matters.

## ARTICLE III

### Selectboard

*Approved ATM 6-13-2021-A/G Approved 9-21-2021*

Sec. 1. The Select Board shall consist of five (5) members each elected to three-year (3), staggered terms during Town elections. Re-election will be for three (3) year terms, or the balance of any term created by a vacancy/resignation.

*Approved ATM 6-13-2021 A/G Approval 9-21-2021*

Sec. 2. The Select Board shall have the authority to direct and manage the property of the Town so as to promote and maintain the general well-being of the Town except as otherwise provided by law or by these by-laws. No member of the Select Board may act on their own or engage in any business of the Town without authorization from the full Select Board.

*Approved ATM 6-13-2021 A/G Approval 9-21-2021*

Sec. 3. The Select Board shall have the authority to prosecute and/or defend any legal controversy involving the Town. As agents and officers of the Town the Select Board may appoint and/or employ a counsel for the Town and its various officers and boards. The Select Board shall also have the authority to determine the compensation for the Town Counsel. This shall not apply to such matters that are within the scope and duties of the Tax Collector.

*Approved ATM 6-13-2021 A/G Approval 9-21-2021*

Sec. 4. The Select Board shall appoint a Town Administrator for a period of time to be determined within contractual terms, but not more than three years per contract. The Town Administrator shall not hold an elective office in Southampton Town government.

*Approved ATM 6-13-2021 -A/G Approval 9-21-2021*

Sec. 5. The Select Board shall appoint, and may remove:

- **a Chief of Police, and such other Police Officers as may be necessary, and make suitable regulations governing the Police Department**
- **a Fire Chief and such other Fire Department personnel as may be necessary, and make suitable regulations**
- **a Highway Superintendent, and such other Highway Department personnel as may be necessary and make suitable regulations governing the Highway Department.**
- **a Town Accountant, and other such Accounting Department personnel as may be necessary and make suitable regulations governing the Accounting Department.**

*Approved ATM 6-13-2021 -A/G Approval 9-21-2021*

Sec. 6. The Select Board shall appoint and may remove in accordance with any applicable provision of law, qualified members of committees/boards/commissions/councils/groups not otherwise elected by vote in Town elections.

*Approved 6-13-2021-Approved by A/G 9-21-2021*

Sec. 7. The Select Board is authorized to sell and otherwise dispose of any equipment or material held by any department, and that is deemed, by said department to be obsolete and/or of no further use by the Town. The Select Board shall determine if the equipment or material is of sufficient value to sell, by competitive bid or auction. At least two weeks in advance of any competitive bid or auction, notices including a descriptive listing of the articles available and the time and place of such sale, shall be posted in six (6) public places (including the Town website) and at least once in a daily newspaper of general circulation. The Select Board may reject all bids determined to be inadequate or not in the best interest of the Town. Proceeds from the sale of any equipment or material are deposited into the General Fund.

*Approved ATM 6-13-2021 Approved A/G 9-21-2021*

Sec. 8. Unless otherwise provided by a vote of Town Meeting, the Select Board or its designee, pursuant to G.L. c 30B, is authorized to enter into any contract for the exercise of the Town's corporate powers, on such terms and conditions as are deemed appropriate. The Select Board or its designee shall not contract for any purpose, or any terms, or under any conditions inconsistent with any applicable provisions of any General Law.

*Approved ATM 6-13-2021 Approved A/G 9-21-2021*

Sec 9. The Select Board is authorized to close temporarily, or cause to be closed temporarily, any street or highway in an impending or existing emergency, or for any lawful assemblage or procession provided there is reasonable justification for closing of such street.

ARTICLE IV  
Town Administrator

*Approved STM 2-11-20 A/G Approved 5-22-2020*

The Town Administrator serves as an Agent of the Select Board with duties and responsibilities delegated by the Select Board and delineated in the Town Administrator's contract, which may not exceed three years.

The Town Administrator may not hold elective office and may not be a voting member of any appointed Town group.

The Town Administrator acts as the Town's Chief Administrative Officer, Chief Procurement Officer pursuant to MGL c. 30B, and Chief Financial Officer.

## ARTICLE V

### Town Clerk

*Approved STM 2-11-20 A/G Approved 5-22-20*

Sec. 1. The Town Clerk is an elected position with a three-year term. S/he is the official keeper of town records and the town seal and serves as the main Public Records Access Officer, s/he responds to inquiries from the public in a timely fashion, as determined by MA State Law.

Sec. 2. The Town Clerk, as Notary Public, attests by signature and seal to bonds, all borrowing, contracts, by-laws, resolutions and any other documents requiring town certification. The Town Clerk records and certifies town meeting legislation, appropriations and decisions of the Planning and Zoning Board of Appeals.

Sec. 3. The Town Clerk is the Chief Election Official and Public Records Access Officer and, serves on the Board of Registrars. The Town Clerk shall, immediately after every Town Meeting, notify or cause to be notified, any person elected, chosen or appointed to any Town office or to serve upon any board or committee, of his election, choice or appointment.

Sec. 4. The Town Clerk conducts the annual town census and prepares the street list of residents.

Sec. 5. The Town Clerk submits general by-laws and zoning by-laws, as approved at Annual and/or Special Town Meetings, to the Attorney General for approval.

Sec. 6. The Town Clerk issues marriage licenses, gasoline dispensing licenses and dog licenses and provides certified copies of vital records (births, marriages, and deaths). S/he also serves as the Burial Agent for the Town.

Sec.7. The Town Clerk shall permanently retain official Town records, as may be required to be retained by the Town Clerk according to the Commonwealth of Massachusetts Records Retention Schedule and Town By-Laws. The Town Clerk shall not allow original paper or documents of the Town to be removed from the Town Clerk's office, except as they remain in his/her custody, or by authority of law.

ARTICLE VI  
Town Treasurer

*Approved STM 2-11-20 A/G Approved 5-22-20*

Sec. 1. The Treasurer/Collector is an elected position with a three-year term. S/he receives all money belonging to the Town and expends and accounts for it. The Treasurer/Collector performs duties in accordance with the General Laws of Massachusetts as it relates to the management of all town finances, which include, but are not limited to:

1. Maintaining custody of all monies belonging to the Town and accounting for these monies.
2. Issuing debt required for authorized short-term and long-term borrowing.
3. Issuing bonds to raise money for certain projects or expenditures.
4. Issuing and maintaining records of Municipal Lien Certificates which are filed at the Registry of Deeds.
5. Collecting and recording all taxes, payments, fees and/or penalties received by various Town Departments, Boards, Commissions, and Committees.
6. Having the authority to take title to the taxpayer's property and to undertake proceedings to foreclose the owner's right to redeem that property when a taxpayer becomes delinquent.
7. Possessing a number of responsibilities relating to payment of salaries and wages.
8. Issuing, in the Town Annual Report, a detailed report of payroll earnings, trust fund balances and committed, collected and outstanding taxes and a statement of Town debt.



ARTICLE VII  
General Government

Sec. 1. The Town shall, each fiscal year, fund through taxation and hire an independent third-party accounting firm to perform an annual audit of the financial records of the Town and to report its findings to the Town; such report to be made public within thirty (30) days of its completion.

*Approved ATM 6-7-22 A/G 9-7-22*

Sec. 2. Unless otherwise provided by a vote of Town Meeting the Select Board, or its designee, is authorized to enter into any contract for the exercise of the Town's corporate powers, on such terms and conditions as are deemed appropriate.

*Approved ATM 6-13-2021 Approved A/G 9-21-2021*

Sec. 3. Every officer in charge of a department shall annually, on or before March 1, transmit to the Select Board a written report containing a description of activities and accomplishments of her/his department for the past financial year to be printed in the Annual Report and distributed at least 14 days prior to the Annual Town Meeting.

*Approved ATM 6-13-2021 - A/G Approval 9-21-2021*

Sec. 4. These by-laws may be altered or amended at any annual or special Town meeting, an article or articles for such purpose having been inserted in the warrant for such meeting, specifying the alteration or amendment proposed.

Sec. 5. All public offices in Town may remain closed on Saturdays as provided by GL c. 41, sec. 110A

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Sec. 6. These by-laws may be altered or amended at any annual or special Town meeting, an article or articles for such purpose having been inserted in the warrant for such meeting, specifying the alteration or amendment proposed.

Sec. 7. Any Town meeting requiring bonding shall require the Moderator to take a paper ballot count.

ARTICLE VIII  
Local Licenses or Permits

*Amended to change title Approved 6-13-21 A/G 9-21-21*

Sec. 1 The Town of Southampton may deny any application for, or revoke or suspend a building permit or any local license or permit including renewals and transfer issued by any board, officer, department for any person, corporation or business enterprise, who has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges, including amounts assessed under the provisions of section twenty-one D or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate whose owner has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges. Such by-law or shall provide that:

(a) The tax collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the tax collector shall annually, and may periodically furnish to each department, board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfer, a list of any person, corporation, or business enterprise. Hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.

(b) The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfer of any party whose name appears on said list furnished to the licensing authority from the tax collector or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the tax collector provide, however, that written notice is given to the party and tax collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial revocation or suspension of said license or permit to any party. The tax collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the tax collector that the party is in good standing with respect to any and all local taxes, fee, assessments, betterments or other municipal charges, payable to the municipality as the date of issuance of said certificate.

(c) Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the

suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.

(d) The Selectboard may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in M.G.L. Chapter 268A, §1 in the business or activity conducted in or on said property.

*Approved to delete section 1 E 6-13-2021 ATM A/G approval 9-21-2021  
Approved ATM 6-13-2021 A/G 9-21-2021*

Sec 2. The Select Board may license suitable persons to be collectors of, dealers in, or keepers of shop for the purchase, sale, or barter of junk, old metal, or secondhand articles; and no such person shall be a dealer, or keeper of shop as aforesaid without such a license.

*Approved ATM 6-13-2021 A/G 9-21-2021*

Sec. 3. This bylaw shall not apply to the following licenses and permits open burning; bicycle permits; sales of articles for charitable purposes; children work permits; clubs, association dispensing food or beverage licenses; dog licenses; fishing, hunting, trapping licenses; marriage licenses; and theatrical events or public exhibition permits.

ARTICLE IX  
Swimming Pools

Sec. 1. A swimming pool, within the meaning of this by-law, shall be any permanent depression in the ground, or a permanent container of water, either above or below the ground, in which water of more than twelve (12") inches in depth is contained and which is primarily for the purpose of bathing and swimming.

Sec. 2. All outdoor pools to be constructed or which are already constructed shall be enclosed by a barrier not less than four (4') feet in height, which shall be constructed in such a manner and of a type not readily climbed by children. All gates and doors opening through such enclosures shall be of the self-latching lock type and shall be kept locked when the pool is not in actual use or left unattended.

Sec. 3. A pool shall not be nearer than ten (10') feet to any lot line.

Sec. 4. A person who violates this by-law shall be liable to a penalty not to exceed five (\$5.00) dollars for each day of violation.

## ARTICLE X

### The Keeping of Unregistered Motor Vehicles

Sec. 1. The keeping of more than one unregistered motor vehicle, assembled or disassembled, except a person licensed under General Laws, Chapter 140, Section 59, on any premises shall not be permitted, unless said motor vehicles are stored within an enclosed building.

Sec. 2. A special permit to keep more than one unregistered motor vehicle on any premises not within an enclosed building may be granted by the Selectboard if it finds that such keeping:

- a. In harmony with the general purpose and intent of this by-law,
- b. Will not adversely affect the neighborhood, and
- c. Will not be a nuisance.

Sec. 3 All such permits granted shall limit the number of unregistered motor vehicles to be kept on the premises by the permit holder, shall not run with the land, and shall be limited to a reasonable length of time.

Sec. 4. This article shall not apply to motor vehicles, which are designed and used for farming.

Sec. 5. Whoever violates any provisions of the article of the by-law shall be liable to a penalty of ten (\$10.00) dollars per day of violation; commencing ten (10) days following the date of receipt of written notice from the Select Board.

## ARTICLE XI

### LITTERING and DUMPING MATERIALS on PUBLIC WAYS or Places

Sec. 1. Littering is not permitted on public highways, streets, roads and on other properties owned or controlled by the Town. A fine, plus all costs incurred by the Town to clean up the violation, shall be imposed for littering and/or dumping of material(s) along public highways, streets, roads and other properties owned or controlled by the Town of Southampton.

Sec. 2. No person shall place or dispose of, discharge or cause to be distributed, any yard debris including leaves, grass clippings, and cleared snow that would present a safety hazard to any pedestrian walkway and/or vehicle passage, including motorcycles and bicycles on any street, lane, or other public place in Town (including Town Right of Way; excluding activities permitted under Right of Way Permit).

Sec. 3. No person shall place or cause to be placed in any street, lane, common park, conservation area, court, or other public place in the Town, any dirt, filth, ashes, garbage, animal feces, decaying animal and vegetable matter or rubbish of any description providing, however, that it shall not be unlawful for any person to place suitable de-icing material upon any public sidewalk in the Town for the purpose of providing traction on ice in winter.

Sec. 4. A dog owner shall be responsible for the removal of any fecal material deposited by their dog on public sidewalks, public recreation areas, school property, public properties, and private residential property as required by Connecticut River Stormwater Committee.

Sec. 5. Discarding unwanted items such as furniture, appliances, construction material and other household property along public roads and/or wooded areas is a violation of this Article and subject to fine.

Sec. 6. Items left curbside for purposes of free-taking, donation or garbage collection, shall not remain more than seven (7) days.

Sec. 7. The Police Chief or his designee are the enforcing authority for this bylaw. Violators are subject to fines per Town bylaws: Article XLII, Non-Criminal Disposition of Violations of Bylaws, Rules and Regulations and may incur possible criminal charges per MGL CH 270, Sec. 16.

ARTICLE XII  
Overnight Parking

*Amended ATM 6-13-2021 A/G Approval 9-21-2021*

Consistent with the Traffic Control Policy adopted by the Selectboard on Nov 2, 2017, the following shall be in effect.

*Approved ATM 6-13-2021 A/G 9-21-2021*

Sec. 1. It shall be unlawful for any vehicle to be parked overnight (12:00 A.M to 6:00 A.M) at any time or during a snowstorm on any street of the Town from November 1 to March 31 of each year, including storms that occur outside of that specified time frame. The Highway Superintendent, or his designee, may issue a parking ban as required during inclement weather and notify the public of the same.

Sec. 2. The Chief of Police or his/her designee is hereby authorized to prohibit parking temporarily where it is otherwise allowed or allow parking temporarily where it is otherwise prohibited on any street or highway or part thereof, or parking lots maintained by the Town of Southampton in an impending or existing emergency or for a lawful assembly or demonstration or procession. Vehicles parked in places where parking is prohibited may be towed under the direction of an officer. However, such officer shall make reasonable efforts to notify the owner of such vehicle to have such vehicle moved prior to the vehicle being towed.

Sec. 3. Any person who violates this by-law shall be liable to a \$50 fine for each violation or an amount according to rates set by the Select Board or Town Meeting.

## ARTICLE XIII

### Conflict of Interest-Town Attorney

The Town Attorney and/or any firm of office of which the Town Attorney is a member shall not henceforth represent any official, appointee, volunteer, or employee of the Town of Southampton, their family or families, and/or any legal entity in which any of the above has an interest in any manner or matter in which the Town of Southampton may have a legitimate interest.



## ARTICLE XIV

*Approved ATM 6-7-2022 A/G 9-7-2022  
Amended STM 12-14-22 Approved 3-14-23*

### Soliciting and Canvassing

#### Sec. 1. Purpose

This article, adopted pursuant to GL c. 43B, § 13 and Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts, establishes registration and specific operation requirements for persons intending to engage in soliciting or canvassing door-to-door in the Town of Southampton in order to protect its citizens from disruption of the peaceful enjoyment of their residences, from the perpetration of fraud or other crimes; and to allow for reasonable access to residents in their homes by persons or organizations who wish to communicate either commercial or non-commercial messages.

Anyone operating under a Hawker or Peddler's license must abide by the requirements of this bylaw.

#### Sec. 2. Permit Required

No person shall engage in soliciting or canvassing, as those terms are described in more detail in Sec. 3 below, without registering and obtaining a permit from the Chief of Police or Designee not less than 10 business days before commencing such solicitation or canvassing in accordance with this bylaw. The permitting requirements of this bylaw are in addition to, and separate from, the registration requirements of G.L. c. 101, § 34 regarding the employment of minors in door-to-door solicitation activities.

#### Sec. 3. Definitions

For the purpose of this bylaw, the following definitions shall apply:

- A. SOLICITING shall mean and include any one or more of the following activities conducted door-to-door:
1. Selling or seeking to obtain orders for the purchase of goods or services, including advertising in any type of publication, for any kind of consideration whatsoever;
  2. Selling, or seeking to obtain prospective customers for application for purchase of insurance of any kind or other similar product or service;
  3. Selling, or seeking to sell, subscriptions to print or online books, magazines, periodicals, newspapers or any other type of publication;
  4. Seeking to obtain gifts or contributions of money, or other valuables for the support or benefit of any association, organization corporation or project wholly or in part for commercial purposes or by a professional solicitor or commercial co-venturer (solicitor) for a charitable or other non-commercial organization; or
  5. Seeking to obtain information on the background, occupation, economic status, political affiliation, attitudes, viewpoints, or the like of the occupants of a residence

for the purpose of selling or using such data, wholly, or in part, for commercial purposes.

- B. **CANVASSING** shall mean and include any one or more of the following activities door-to-door or on a public way:
1. A person-to-person distribution of literature, periodicals, or other printed materials for commercial purposes, but shall not include placing or dropping off printed materials on the premises.
  2. Seeking to enlist membership in any organization for commercial purposes.
  3. Seeking to present, in person, organizational information for commercial purposes.
- C. **RESIDENCE** shall mean and include every individual dwelling unit occupied for residential purposes by one or more persons.
- D. **REGISTERED SOLICITOR/CANVASSER** shall mean any person who has registered and obtained a permit for same from the Chief of Police or Designee in accordance with the requirements of Sec. 5.
- E. **CHARITABLE ORGANIZATION, PROFESSIONAL SOLICITOR, and COMMERCIAL CO-VENTURE** shall be defined as set forth in G.L. c. 68, §18.

#### Sec. 4. Exceptions

- A. This article shall not apply to any individual who is acting as part of, at the direction of, or in support of any religious, charitable or political entity, group, organization or cause.
- B. This article shall not apply to any officers, officials, agents or employees of the Town, of the Commonwealth of Massachusetts or any political subdivision thereof.
- C. This article shall not apply to any youth organization or group.
- D. The Select Board may grant temporary permits to any incorporated organization of veterans who served in the military or naval service of the United States for the sale of flags, badges, medals, buttons, flowers, souvenirs and similar small articles in accordance with the provisions of G.L. c. 101, §33. Fees for this license shall be consistent with the fees required pursuant to Section 5(C).

#### Sec. 5. Application for Permit

- A. The application for a permit to solicit or canvass shall be in a form as determined by the Chief of Police or Designee. Applications for soliciting and canvassing shall be made available at the Southampton Police Station and on the Town website. Further, each such application shall be accompanied by a fee in an amount as determined by the Schedule of Fees established. All applications must be submitted to the attention of the Chief of Police at the Southampton Police Department.

Each company must obtain a permit issued in the name of the company. In addition to

company registration, each individual of said organization or business entity that intends to solicit or canvass on behalf of that company must also obtain a separate permit in their name. Each such application shall specify whether a permit is sought for soliciting, canvassing or both; further, each such application for a soliciting permit shall specify the particular goods, merchandise or services that will be marketed; further, each such application for a canvassing permit shall specify the type(s) of printed materials that will be distributed, and the specific manner(s) in which such printed materials will be left at various locations.

- B. Each person engaged in solicitation or canvassing shall prominently display in a lanyard and attached card holder worn around their neck, the permit issued by the Chief of Police or Designee while actively engaged in this activity. Violation of any of the stipulations will result in the immediate suspension of soliciting/canvassing privileges.
- C. A fee, to be periodically assessed based on recommendations from the Chief of Police or Designee, shall be set at a rate to cover the expenses of the permitting including photos, lanyards and other verification activities associated with the issuance of each permit. The fee must be paid at the time of application. Further, each such application shall be accompanied by a fee in an amount as determined by the Schedule of Fees established. All applications must be submitted to the attention of the Chief of Police at the Southampton Police Department.

#### Sec. 6. Limitations on Permit Issuance

- A. The Chief of Police or Designee shall either issue a permit in the name of the individual or provide a written denial of the application within 10 days of the submission of the application.
- B. The Chief of Police or Designee shall issue a permit to solicit or canvass solely if they determine that the applicant will not present a threat or risk to public safety. The Chief of Police or Designee shall not issue any such permit to an individual who has been convicted of a felony, is a registered sex offender, has submitted fraudulent information in the permit application, or has had a permit issued pursuant to this chapter revoked in the five years prior to the submission of the application in question. The activities that are allowed pursuant to a permit shall not be broader in scope than was requested in the application; provided, that the Chief of Police or Designee may issue a permit for activities that are narrower in scope than was requested in the application if they determine it to be in the interest of public safety.
- C. Each issued permit shall contain the signature of the Chief of Police or Designee; the name and address of the permit applicant/holder; the issuance and expiration date(s) of the permit; the permit number; the name of the licensee's organization, if any; whether the permit is valid for soliciting, canvassing or both; and in the case of soliciting, the particular goods or merchandise for which orders may be sought; and in the case of canvassing, the individual must submit a copy of the particular type(s) of printed materials to be distributed, and the specific manner(s) in which such printed materials will be left at various locations.
- D. The Chief of Police or Designee shall retain a record of all licenses for soliciting and canvassing that have been issued for a period of one (1) year after date of issue.

## Sec. 7. Restrictions and Limitations on Soliciting and Canvassing

- A. Soliciting and canvassing activities are allowed between the hours of 9:00 a.m. and 9:00 p.m.
- B. No solicitor or canvasser shall utilize deceptive, fraudulent, coercive, or other unfair practices in soliciting sales of goods or services, or in gaining entry to any residence or other building. Under no circumstances shall the permit holder misrepresent or fail to disclose to a potential customer said customer's statutory rights to cancel a solicited order for goods or services.
- C. No solicitor or canvasser shall enter onto any property, whether residential, commercial, industrial or otherwise, that displays a sign stating, "no trespassing" or "no soliciting". For the purpose of this section, a "no soliciting" sign shall be sufficient to bar canvassers as well. Furthermore, no solicitor or canvasser shall ignore a request to leave private property by any individual with the lawful authority to make such a request, whether a resident, property owner, business employee or other authorized individual. No solicitor or canvasser shall enter onto any property included on the "No Soliciting or Canvassing List" issued pursuant to Sec. 8 of this Bylaw.

## Sec. 8. No Soliciting or Canvassing List

Any residence or business that does not wish to be visited by canvassers and solicitors may make a request to the Chief of Police or Designee to be placed on the No Soliciting or Canvassing List. Each such request shall be in writing, a copy of which is maintained at the Police Department. Whenever the Chief of Police issues a permit pursuant to this chapter, they shall also provide the permit holder with an up-to-date copy of this List. The Chief of Police or Designee shall update the No Solicitation/Canvassing List each year based on information gathered by the Town Clerk during the annual Town Census. A residence or business shall remain on the List until a removal request is made in writing to the Chief of Police or Designee.

## Sec. 9. Limitations on Use of Permit

- A. Every permit to solicit or canvass shall expire three (3) months after the date of issuance unless an earlier date was requested in the application. No such permit is transferable, even to successors in interest to the permit holder.
- B. A photo identification shall be issued with every permit, which shall include the permit holder's full name and organization (if any), the seal of the Southampton Police Department, whether soliciting or canvassing activities or both are authorized, and the permit number and expiration date. The permit shall be worn so as to be visible and legible to the public at all times while soliciting or canvassing. Each permit holder additionally shall carry the issued permit at all times while conducting business pursuant to the same and said permit shall be produced for review upon the request of any Town police officer.
- C. Each permit holder shall engage in only those activities that are allowed by the terms of the issued permit. No permit holder shall operate pursuant to the terms of an issued permit until the material terms of that permit, as described in Sec. 5, shall have been published in print and/or electronically by the Town in local publications and on the Town website.

## Sec. 10. Suspension and Revocation of Permit

- A. The Chief of Police or Designee shall revoke or suspend a permit to solicit or canvass if they conclude that the permit holder has become a threat or risk to public safety, if they become aware that the permit holder submitted fraudulent information on the permit application, if the permit holder is convicted of a felony, if the permit holder becomes registered as a sex offender, or if the permit holder has violated any provision of this chapter during the permit period.

Any revocation of an individual permit is the decision of the Chief of Police or Designee. Should a permit issued in the name of a company be suspended or revoked, the company may reapply for a permit with assurance, in the opinion of the Police Chief or Designee, that the violation has been corrected and will not occur again. Any revocation may be appealed per the process set forth in Sec. 12.

## Sec. 11. Return of Permit

Upon expiration, suspension or revocation of any permit to solicit or canvass, the permit holder shall return the same to the Chief of Police or Designee.

## Sec. 12. Appeal Process

Any person or organization who is denied registration or whose registration has been revoked or suspended may appeal by filing a written notice of appeal with the Select Board. Such appeal must be filed within five (5) days after receipt of the notice of denial, revocation, or suspension. The Select Board shall hear the appeal at its next scheduled meeting after the filing of the written notice of appeal, provided, however, that if the Select Board fails to make a determination within thirty (30) days after the filing of the appeal, the registration shall be deemed granted or reinstated as the case may be.

## Sec. 13. Violations and penalties

Violations of the terms, conditions, and restrictions of this bylaw, exclusive of the fine regarding the display of permit identification (see Sec. 5B) issued pursuant to the same, may result in a fine as follows: first offense-\$100.00; second offense-\$200.00; third and any subsequent offence-\$300.00, as set forth in the Non-Criminal Violation Bylaw, Article XLII.”

Each day of a continuing violation shall be a separate violation; and further provided that each house, business, property, mailbox, or vehicle that is solicited or canvassed in violation of this chapter, including in violation of the terms, conditions and restrictions of any permit issued pursuant to the same shall, be a separate violation. Each such violation shall be enforced by the Town police officers and shall be subject to the Non-Criminal Violation of By-laws, Rules and Regulations as provided in Article XLII of these By-Laws and G.L. c. 40, § 21D.

Failure to prominently wear/display the provided permit may result in a violation of up to \$100 per individual and up to \$100 per primary employing entity per violation per day.

## Sec. 14. Severability

The provisions of this bylaw are severable. If any court of competent jurisdiction determines that any such provision is in violation of the laws, constitutions or regulations of the Commonwealth of Massachusetts or the United States of America, the remaining provisions shall not be affected thereby and shall continue in full force and effect.

## ARTICLE XV

### Dogs: Licenses, Kennels and Complaints

*Amended on 12-13-22 STM Approved A/G 3-14-23*

*Amended on 5/16/17 to include Sections 6 & 7*

*AG approved 8/30/17*

#### Sec. 1. Dogs:

- a. No person owning a dog shall permit such dog to be off leash on Town property. This bylaw does not apply to:
- Service dogs when performing their duties;
  - Licensed hunting dogs owned by a licensed hunter while engaged in the sport of hunting or training for such hunting;
  - Dogs engaged in herding farm animals.
- b. No dog should be permitted off its owner's property or onto other person's property without that person's knowledge or permission. Any such person shall be required to have said dog under control at all times.
- c. Any person walking a dog should make provisions for the proper disposal of animal waste.

#### Sec. 2. Dog Licenses (MGL c 140, S 137)

- a. The owner or keeper of a dog over the age of 6 months must obtain a license from the Town Clerk on an annual basis, for the 12-month period running April 1 to March 31.
- b. Dog owners must obtain a dog license within 30 days of obtaining their new dog.
- c. A licensing authority shall not grant a license for a dog unless the owner of the dog provides the licensing authority with a veterinarian's certificate stating that: the dog has been vaccinated for Rabies; or that such dog is exempt from the vaccination requirement; or, a notarized letter from a veterinarian that either of these certifications was issued relative to such dog in accordance with MGL c 140, S 145B.
- d. All dogs required to be licensed must wear the dog tag issued by the Town Clerk and the tag issued by a veterinarian (certifying that the dog has been vaccinated) at all times, round its neck or body by means of a collar or harness of leather or other suitable material, as required by G.L. c. 140, §137 and §145B. The owner or keeper shall securely attach such tag(s) of the licensed dog to the dog's collar. If the tag(s) becomes lost, the owner or keeper of the dog shall immediately secure a substitute tag from the licensing authority.
- e. Every dog and kennel license application shall have a description of the symptoms of Rabies printed thereon. Such description shall be supplied by the MA Dept of Public Health.
- f. The above provisions do not apply to any dog housed in a research institution.

- g. Any household of more than 4 dogs is required to obtain a Kennel License. Any household of less than 4 dogs, 3 months old or older, who does not maintain a Kennel may elect to secure a Kennel License in lieu of licensing the dogs individually.
- h. No person who has been found guilty of violating MGL c. 272, §77 (cruelty), § 80½ (devoalization), §80A (cropping ears by anyone other than licensed veterinarian), §94 (owning, breeding, training, or promoting fighting animals), or §95 (attending or exhibiting animal fighting events), or penalized in any fashion for such violations, shall be eligible to license a dog for a period of 5 years from the date of being found guilty and/or penalized.
- i. Enforcement: The Southampton Police Department or Animal Control Officer shall have authority to enforce the provisions of this By-law by violation notices, non-criminal citations under MGL Chapter 40, Section 21D as set forth under General Bylaw Article XLII, administrative orders, and civil and criminal court actions. Any person who violates Sections 1 and 2 of this bylaw, as determined by the Southampton Police Department or Animal Control Officer, shall be subject to fines as follows: first offense, \$50; second offense, \$100; third offense, \$300; fourth and subsequent offenses, \$500.
- j. No dog held in the custody of the Animal Control Facility shall be released unless and until it is properly licensed by the Town Clerk. All costs associated with the dog's detention by Animal Control must be paid in full by the owner before the dog is released.

### Sec. 3. Dog Kennels

- a. A kennel is defined as a collection of dogs on a single premise, including a commercial, boarding, training, hunting, sale, breeder, domestic charitable corporation kennel, personal kennel, or veterinary kennel. (See MGL c. 140, §137A for additional definitions applicable to this by law.)
- b. A kennel license is required for more than four (4) dogs that are six (6) months of age or older (MGL c. 140, §136A). The registering, numbering, describing, and licensing of a dog/dog kennel shall be conducted annually with the Town Clerk's office. Kennel licensing dates shall be the same as individual licensing (April 1 to March 31).
- c. A kennel licensee shall cause each dog kept in its kennel to wear, while it is at large, a collar or harness of leather or other suitable material, to which a tag shall be securely attached. The tag shall have inscribed upon it the number of the kennel license, the Town's name and the year of issue.



- d. No kennel license shall be issued by the Town Clerk, as licensing authority under the provisions of MGL c.140, §137A, unless the applicant for such license shall first comply with the requirements cited in “Animal Laws and Regulations in Massachusetts”, MGL c. 140, MGL c. 272 and MGL c. 129.
- e. The kennel owner, or other person maintaining the kennel, shall make available for inspection by an animal control officer, natural resource officer, deputy natural resource officer, fish and game warden or police officer the name and address of the dog owner and vaccination status of each dog kept in a kennel. This information must be kept at the kennel.
- f. No owner or keeper of a dog that is part of a commercial kennel, as defined in MGL c. 140, §136A, shall allow such dog to go unrestrained outside its enclosure or runway, at any time.
- g. Enforcement: The Town’s designated Animal Control Officer and/or the Southamptton Police Department shall have authority to enforce the provisions of this By-law by violation notices, non-criminal citations under MGL Chapter 40, Section 21D as set forth under General Bylaw Article XLII, administrative orders, and civil and criminal court actions. Any person who violates any of the provisions of Section 3 of this bylaw, as determined by the Southamptton Police Department and/or the Town’s designated Animal Control Officer, shall be subject to fines as follows: first offense, \$500; second and subsequent offenses, \$750.

#### Sec. 4. Dog Complaints/Hearings

- a. Dog Complaints. A written complaint must be submitted to the Select Board by the plaintiff within ten (10) days of such occurrence. The complaint shall provide names, addresses and contact information. The complaint shall describe the dog and fully identify the name of the owner, and further specify why and how the dog is considered to be a nuisance and/or behaving in a dangerous manner. The complaint shall specify times, dates and reasons and provide a list of all individuals who may have knowledge of the issue.
- b. Hearing procedures. Hearings will be conducted in accordance with MGL c. 140, §157 within 30 days of receipt of the complaint, absent extenuating circumstances. The hearing will be included in the agenda for a regular Select Board meeting and held in open session. The Town Administrator will notify the Animal Control Officer and all involved persons of the date and time of the hearing.
- c. Decision. At the conclusion of the hearing or shortly thereafter, the Select Board may render its decision or take the matter under advisement, announcing the intended date of decision. A copy of the decision will be filed with the Town Clerk’s office. Failure to comply with the Select Board decision will be referred to the Animal Control Officer/Inspector for resolution.

## ARTICLE XVI

### Fire Lanes and Fire Hydrants

*Amended ATM 6-13-21 Approved A/G 9/21/21 Combines Articles 17 and 39 with additions of Section 5 & 6.*

Sec. 1. No person shall park or leave a vehicle unattended within, or obstructing access to, a fire lane.

Sec. 2. Vehicles left unattended in fire lanes in violation of this by-law may be towed under the direction of the Police Department at the owner's expense.

Sec. 3. Any person who violates this by-law shall be subject to a fine for each violation according to the rates established by the Selectboard or Town Meeting. (See Fee/Penalty Schedule).

Sec 4. It shall be unlawful for any person(s) to willfully open or tamper with any fire hydrant or to cause damage and/or to allow water to flow on any public or private property in the Town of Southampton unless previously authorized to do so by the Water Department or Fire Chief. Each unauthorized opening/tampering of a hydrant shall constitute a separate offense; penalty shall not exceed \$200.00 per offense.

Sec 5. It shall be unlawful for any person to park a vehicle within (10) feet from a fire hydrant, whether on a public or private way or location.

Sec 6. Any resident who has a fire hydrant on his/her property and any business that has a fire hydrant on, or adjacent to their business, is responsible for clearing an area of snow at least three (3) feet from around the hydrant within 24 hours after a snowstorm.

## ARTICLE XVII

### Council on Aging

*Amended ATM 6-13-21 Approved A/G 9/21/21*

Sec. 1. There is hereby established a Council on Aging and an advisory board consisting of seven (7) members and two (2) alternatives, selected from among town residents and appointed by the selectboard to serve designated, staggered terms. Terms shall be for three (3) years.

Sec. 2. The COA Director is hired by and ultimately responsible to the appointing authority, the Select Board. The Select Board has the power to hire, evaluate and/or terminate the Director, and may delegate some or all of these functions to the Town Administrator. The Director has the responsibility for the hiring and supervision of paid staff and unpaid volunteers.

Sec. 3. It shall be the duty of the Council on Aging to carry out programs designed to meet the needs of aging residents (60 + years of age) in co-ordination with programs of the Department of Elder Affairs, pursuant to Chapter 40, Section 8B of the Massachusetts General Laws.

Sec. 4. The Council on Aging may appoint such clerks and other employees as it may require.

Sec. 5. It shall be the duty of the Council on Aging to carry out programs designed to meet problems of the aging in co-ordination with programs of the Department of Elder Affairs, pursuant to Chapter 40, Section 8B of the Massachusetts General Laws.

## ARTICLE XVIII

### Sidewalk Clearing

*Amended ATM 6-13-2021 A/G Approval 9/21/21*

Sec 1. Property owners whose property abuts sidewalks in Southampton shall be required to clear such sidewalks of ice and snow during the winter months. Such clearing of ice and snow must be completed within twenty- four (24) hours after the storm ends. If said property is not cleared, fines will be assessed according to the rates set by the Selectboard or Town Meeting. (See fee/Penalty Schedule). When removing snow and ice, consideration must be given to not worsening the problems for adjacent property owners.

Sec 2. Senior citizens with age related limitations and individuals with documented disabilities who are physically unable to clear walkways must make alternate arrangements with care givers, family, or neighbors to clear the walkway within twenty-four (24) hours.

## ARTICLE XIX

### Public Assembly

Sec. 1. No person shall consume any alcoholic beverages in the Town of Southampton on any public way, sidewalk, or while in the following: Town Hall grounds, Conant Park, all Town owned conservation property, Town Triangle, Edwards Library grounds, William E. Norris School Grounds, Primary School grounds; except by permit issued by the Selectboard.

Sec. 2. Any person who violates this by-law shall be subject to a fine of fifty (\$50.00) dollars for each violation thereof.

## ARTICLE XX

### Personnel Policies and Procedures

“Town of Southampton, Southampton Massachusetts, Personnel Policies and Procedures and Wage and Salary Administration Program” the contents of which are contained in a manual on file in the office of the Town Clerk.

ARTICLE XXI  
Numbering of Buildings

*APPROVED ATM 6-7-2022 A/G 9-7-2022*

Sec. 1. In the interest of public safety and to facilitate emergency responses, the Town needs a comprehensive system to number buildings on or near the line of public or private ways. Every building under construction, renovation, or transfer of ownership including, but not limited to, single and multiple family dwellings, apartment buildings, condominiums, municipal buildings, and all types of business establishments, shall have affixed thereto a number representing the address of such building prior to the date of occupancy. Buildings must display address numbers that are at least four (4) inches in height.

Sec. 2. Numbers shall be numeric and must meet the minimum size as designated in Sec 1. The numbers shall contrast with the background to which they are affixed to ensure readability without sight aids from the public or private way on which such building is located.

Sec. 3. If the building is located more than 80 feet from a public or private roadway, such building number shall also be:

- affixed to a sign (less than one square foot) at the intersection(s) of the public or private way(s) on which such building is located;
- displayed on signs that meet the same size and contrast requirements as numbers affixed to the building; or,
- attached to both sides of a roadside mailbox, with four (4) inch high, contrasting numbers as an acceptable alternative to a sign, when said mailbox is located on the same side of the public or private way as the building.

Sec. 4. For homes without mailboxes or when the mailbox is located on the opposite side of the public or private way on which the house/building is located, the following shall apply:

- signs must be visibly located at the driveway or lot entrance;
- address numbers must be four (4) inches in height; and,
- numbers must be attached to both sides of a sign.

Sec. 5. The address requirements for estate or subdivision lots are as follows:

- a clearly designated house number sign, not exceeding four (4) feet in height and six (6) feet in width, depicting house numbers and locations within the estate or subdivision must be displayed;
- mailboxes shall not suffice as home/building identification for estate/subdivision lots;
- address sign permits for estates/subdivisions shall be issued by the Building Department;
- failure to obtain a sign permit after 30 days of notification from the Building Department shall result in a continuous fine for every day of violation as specified by Article XLII (Non-Criminal Disposition of Violations of By-Laws, Rules, and Regulations), of the Southampton General Bylaws. No permits in relation to the site can be finalized until compliant with this article.

Sec. 6. Houses under construction shall install a permanent or temporary house number, spray paint on plywood is acceptable temporary sign, for the purpose of delivering emergency response aid to personnel engaged in lot development or home construction.

Sec. 7. It is recommended that all existing homes and businesses comply with the provisions of this bylaw as specified in Sections 1 and 2 above to facilitate efficient emergency responses.

Sec. 8. The Building Inspector shall be the designated enforcement authority and shall apply there requirements to all new construction and/or renovations that require building permits.

ARTICLE XXII  
Fees to the Town Treasury

*Approved ATM 6-7-22 A/G 9-7-22*

All Town officers will be required to pay all fees received by them, by virtue of their office, into the Town Treasury within the fiscal year in which the funds are received.

The Treasurer/Collector no longer is allowed to retain fees, returning all fees to the Town Treasury, effective May 1, 1987.

ARTICLE XXIII  
Temporary Repairs on Private Ways

The Town of Southampton, through its Select Board and Highway Superintendent shall have the general direction and management of making temporary repairs on private ways which have been opened to the public use for six (6) years or more, and in such cases Chapter 84, Section 25 shall not apply. Such temporary repairs must be determined to be of public necessity. Said repairs shall not include construction, reconstruction and resurfacing of such ways. The cost of such repairs shall be paid by the abutters. Such repairs shall be made only if petitioned for by the abutters who own 50% of the linear footage of such ways. No such repairs shall commence unless and until a cash deposit equal to the estimated cost of such repairs are determined by the Town of Southampton to do the work, is paid over to the Town of Southampton. Said temporary repairs shall only include the filling in of holes and depression with sand, gravel, cinders or other suitable material. The Town of Southampton shall be held harmless on account of any damages whatever caused by such repairs by agreement executed by the abutters who petitioned for such work.

ARTICLE XXIV  
Curb Cuts

No person shall make a curb cut unless a permit is issued by the Highway Superintendent in the case of Town ways or by the Department of Public Works of the Commonwealth of Massachusetts in the case of state highway layouts. The Southampton Select Board has

established rules and regulations for the construction of curb cuts. Provisions shall be made for traffic, bicycle, and pedestrian safety in granting such permits.

A "Curb Cut" shall mean any entrance onto a Public Way or presumptive Public Way including, but not limited to, driveways, access roads, logging roads, farm roads and are subject to "Driveway Regulations for Southampton". (Town of Southampton website, Driveway Regulations.)

## ARTICLE XXV

### Recycling

In order to implement a program of recycling in conjunction with ordinary waste collection, residents and businesses of every household or establishment in the town of Southampton shall separate waste material into the following categories before disposal at the Sanitary Landfill:

1. Glass, cans and aluminum
2. Paper and cardboard
3. Other waste classified by the Board of Health
4. Un recyclable materials.

Material that is not separated will be refused at the Sanitary Landfill.

## Solid Waste Recycling

### Section 1. AUTHORITY:

1.1) In accordance with Massachusetts General Law Chapter 40 Section 8H, the Board of Health (Board) of the Town of Southamptton (Town) shall be charged with the promulgation and implementation of this by-law and any regulation adopted under this by-law.

### Section 2. PURPOSE:

2.1) In order to protect the environment, promote recycling, and in compliance with Massachusetts mandated waste bans; the Town hereby establishes mandatory separation of recyclable and compostable yard waste from the solid waste stream.

### Section 3. DEFINITIONS

“Recyclable” or “Recyclable Material” means a material that has the potential to be recycled and which is pre-sorted. Such materials shall include but are not limited to 1) containers, films and wraps made from metal, glass, plastic or paper and 2) newspaper, office paper, cardboard and other grades of paper.

Recyclable or Recyclable Material means a material that has the potential to be recycled and which is pre-sorted. Recyclable material includes biodegradable paper, but does not include:

- (a) organic materials that will be composted or converted; or
- (b) construction and demolition waste unless it has been separated and kept separate into at least the following categories: asphalt, brick and concrete; ceiling tiles; wood; metals; plaster and wallboard; roofing materials; and carpet.

“Compostable yard waste” means leaves, grass clippings, garden wastes, weeds, pruning’s and brush.

### Section 4. APPLICABILITY

4.1) This applies to all owners, tenants, occupants, and property managers of residential, multifamily, commercial, industrial, municipal, and institutional structures and properties in the Town and to any and all waste haulers duly licensed by the Board.

### Section 5. WASTE HAULERS

5.1) Every waste hauler must be duly licensed by the Board on an annual basis to operate within the Town.



5.2) Every waste hauler shall provide an integrated waste management service whereby collection of recyclables is provided to all trash collection customers.

5.3) Every waste hauler shall, upon request, provide the Board with an updated customer list, which includes the names and addresses of customers within the Town, the degree of service, and pick-up schedule. Upon request by the Board, every waste hauler shall also provide educational material to customers.

5.4) Waste haulers shall allow for unannounced inspections of collected refuse or recyclables by the Board or its designated agent(s) where the Waste Hauler is required to demonstrate satisfactory collection procedures.

#### Section 6: PENALTIES

6.1) The following penalties apply to residents who are permitted to use the Town of Southampton Transfer Station.

- a. First offense - \$25.00
- b. Second offense - \$50.00
- c. Third offense- Permit suspension (for the remainder of the fiscal-year (July 1<sup>st</sup>, to June 30<sup>th</sup>))

Commercial trash haulers are subject to penalties as stated in **Trash Hauler and Recycling Licensing and Operational Regulations**. All penalties are enforced by the Southampton Board of Health or their designated agent.

#### Section 7: SEVERABILITY

7.1) If any section of this by-law is declared invalid or unenforceable for any reason, said decision shall not affect any other section of this by-law, which shall remain in full force and effect or take any other action relative thereto.

#### Section 8: APPEAL

Any party cited for a violation of this by-law may obtain review of such citation by filing a written notice of appeal with the Town of Southampton Board of Health within seven (7) days exclusive of Saturdays; Sundays and legal holidays from the date of said citation. A hearing will be held within 60 days from the date of the filing of the appeal. Written notice of the hearing date will be delivered to the applicant at least two weeks prior to the scheduled date.

The hearing will be conducted in accordance with the established procedures of the Board of Health. Following such hearing, the Board of Health may uphold, rescind or modify any such citation.

ARTICLE XXVI  
Wetlands Protection By-law

**1. Preface**

The Wetlands Protection Bylaw (hereinafter referred to as the “Bylaw”) is promulgated by the Town of Southampton Conservation Commission (hereinafter the “Commission”) pursuant to the authority granted by the Town of Southampton. The Wetlands Protection Bylaw was adopted to protect additional Resource Areas, with additional standards and procedures to

augment those of the Wetlands Protection Act, (M.G.L. (Massachusetts General Laws) Chapter 131, Section 40) and Regulations thereunder (310 CMR (Code of Massachusetts Regulations) 10.00).

## **2. Purpose**

The purpose of this Bylaw is to aid in the consistent and effective implementation of the Wetland Protection Act M.G.L Chapter 131, Section 40 by way of further definition. The Bylaw is to maintain the quality of the surface water, the quality and level of the groundwater table and water recharge areas for existing or potential water supplies; to protect the public health and safety; to protect persons and property against the hazards of flood water inundation, and to provide for the reasonable protection and conservation of certain irreplaceable natural features, resources and amenities for the benefit and welfare of the present and future inhabitants of the Town of Southampton.

Accordingly, this Bylaw protects the wetlands, water resources, and adjoining land areas in the Town of Southampton by providing prior review and control of activities deemed by the Commission to have significant or cumulative detrimental effect upon the following resource area values. These values (collectively, the "Resource Area Values protected by this Bylaw") include, but are not limited to:

1. Protection of public water supply.
2. Protection of groundwater.
3. Flood control.
4. Erosion and sedimentation control.
5. Storm damage prevention.
6. Prevention of water pollution.
7. Protection of fisheries and wildlife habitat, and rare species habitat including rare plant species.
8. Recreation, agriculture and aquaculture.

## **3. Definitions**

Except as otherwise provided in this Bylaw, the definitions of terms in this Bylaw shall be as set forth in the Wetlands Protection Act, which terms, as used herein, shall include the provisions of M.G.L. Chapter 131, Section 40, and in 310 CMR 10.00.

**Resource Area** - any freshwater wetlands; marshes; wet meadows; bogs; swamps; lakes; ponds; rivers; streams; creeks; banks; beaches; vernal pools; isolated wetlands; lands under water bodies; lands subject to flooding or inundation by groundwater or surface waters; riverfront area as stated in Wetlands Protection Act M.G.L Chapter 131, Section 40, and in Regulations 310 CMR 10.58 (2).

**Alter** - includes the following actions, without limitation, when undertaken to, upon, within or affecting Resource Area Values protected by this Bylaw:

1. Removal, excavation or dredging of soil, sand, gravel, or aggregate materials of any kind.
2. Changing of pre-existing drainage characteristics, flushing characteristics, sedimentation patterns, flow patterns, or flood retention characteristics.
3. Drainage or other disturbance of water level or water table.
4. Dumping, discharging or filling with any material which may degrade water quality.
5. Placing of fill or removal of material which would change elevation.
6. Driving of piles, erection, or expansion of buildings, or structures of any kind.
7. Dredging or filling of land under water bodies.

8. Placing of obstructions or objects in water or waterways.
9. Destruction of plant life including cutting of trees.
10. Changing water temperature, biochemical oxygen demand or other physical, biological, or chemical characteristics of any waters.
11. Any activities, changes or other work which may cause or tend to contribute to pollution of any body of water or groundwater including, without limitation, any activity that may cause surface water runoff contaminated with sediments, chemicals, or animal wastes.
12. Application of pesticides or herbicides.
13. Storage of flood waters and storm water runoff waters.
14. Incremental activities that have or may have a cumulative adverse impact on the Resource Area Values protected by this bylaw.

#### **4. Jurisdiction**

##### **4.1 Resource Areas**

Except as permitted by the Commission or as provided by the Bylaw, no Person shall commence to remove, fill, dredge, build upon, degrade, discharge into, or otherwise Alter any Resource Area or Conservation Zone.

##### **4.2 Buffer Zones**

Any activity proposed or undertaken within one hundred (100) feet of a Resource Area shall be referred to as a Buffer Zone and shall be subject to regulation under this Bylaw. Buffer Zones are vital in protecting the Resource Area of the Bylaw in many ways, including but not limited to:

- 1) Slowing water flow, thereby decreasing water velocities, allowing infiltration, providing flood control and reducing the erosion potential of storm water runoff.
- 2) Trapping sediment and other insoluble pollutants, thereby decreasing or preventing pollution of the wetlands and water bodies.
- 3) Reducing nutrient overloading by filtering nutrients bound to sediment in the surface flow and removing nutrients from groundwater through uptake in vegetation.
- 4) Providing permeable soils that contribute to groundwater recharge.
- 5) Producing leaf litter and biomass which increases the humus content of the soil and increase in absorption and infiltration.
- 6) Scattering sunlight and providing shade thereby lowering water temperature within wetlands and water bodies.
- 7) Providing essential habitat for wetland-associated species.
- 8) Providing a visual separation between wetlands and developed environments.

Lands within a Buffer Zone are deemed by the Commission to be important to the protection of these Resource Areas. Activities undertaken in close proximity to Resources Areas have a higher likelihood, than those activities distanced from Resource Areas, of adverse impact upon Resource Areas, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use can include, without limitation, erosion, siltation, loss of groundwater, degraded, poor water quality, and loss of wildlife habitat.

##### **4.3 Conservation Zone**

Land within a Buffer Zone is deemed by the Conservation Commission to be significant to wildlife, public and private water supply, and to the prevention of pollution. The natural vegetation plant communities and indigenous soils provide important shelter, nesting, feeding, and migratory areas for wildlife associate with the adjacent wetlands. Forested upland vegetation provides an important buffer that maintains air temperatures, light regimes, and habitat quality within the Resource Area. These areas provide key

function in the attenuation and uptake of pollutants that would otherwise be discharged to water bodies or wetlands. These areas act as filters which prevent erosion and decrease the non-point source loading of contaminant that may alter the water quality of wetlands and other surface waters. An activity that disturbs the vegetation and/or soil which occurs within a Buffer Zone is likely to result in the alteration of the wetland through siltation, over grading or deposition of construction debris.

Based on this information, the Conservation Commission shall require that a 25-foot-wide strip of undisturbed vegetation within a Buffer Zone, called the Conservation Zone, be maintained adjacent to any Resource Area but not including lands subject to flooding or the 200-foot Riverfront Area. No work, structures or alterations will be allowed within the Conservation Zone unless permitted by the Commission, except for minor activities, such as mowing, gardening, and pruning within existing lawn, garden or landscaped areas, currently occurring at the time of the adoption of this Bylaw (January 19, 2021). The Conservation Zone shall not apply to artificially created storm water management structures such as detention and retention basins, artificially lined ponds, and constructed wastewater treatment lagoons.

The Conservation Zone for vernal pools will be based on the size of the basin; with a twenty-five (25) foot setback of undisturbed vegetation for vernal pools less than 10,000 square feet, and a fifty (50) foot setback of undisturbed vegetation for vernal pools 10,000 square feet or greater in size.

Where the Conservation Zone is already altered in such a manner that the presumed protection offered by the Buffer Zone is not being met, the Commission may issue an Order of Conditions for a project, provided that it finds that the proposed activities will not increase adverse impacts on that specific portion of the Conservation Zone or associated Resource Areas, and that there is no technically feasible alternative. In such cases the Commission may modify the scope and detail of the proposed project to minimize impact on or improve protection of the values protected by the Bylaw.

#### **4.3.1 Local Stream (Intermittent)**

A Local Stream is defined as any ditch, channel, swale or naturally occurring depression that conveys any type of water for thirty (30) or more days within a calendar year. Local Streams are important for storm damage prevention, flood control, ground water protection, wildlife habitat, and recreation values. During the spring, summer and fall these streams disperse snow melt and storm runoff across the landscape, thereby preventing dangerous volumes and flows from spilling over roadways and property. This broad dispersal also allows for larger volumes of water to infiltrate into the ground, recharging groundwater supplies. Local Streams are an essential source of food and water for wildlife and are often the only source of water in higher elevations in town. During all seasons, but especially in winter and spring, Local Streams act as essential corridors for animal movement, especially when food is scarce. Accordingly, this Bylaw protects Local Streams, their associated bordering vegetated wetlands (if present) and the adjacent Buffer Zone within one hundred (100) feet of the bank of those streams.

#### **4.3.2 Rivers (Perennial Streams)**

For the purpose of the Bylaw, the protections afforded to Riverfront Areas under the 1996 amendment to the Massachusetts Wetlands Protection Act shall extend the reach of jurisdiction two hundred (200) feet from the Mean Annual High-Water Line (MAHWL) of a stream or river as specified by the Act.

#### **4.3.3 Vernal Pools**

Vernal pools are temporary pools of water that provide habitat for distinctive plants and animals. They are considered to be a distinctive type of wetland usually devoid of fish, and thus allow the safe development of natal amphibian and insect species unable to withstand competition or predation by fish.

The Commission shall presume that all areas meeting the definition of “Vernal Pools” of this Bylaw, and the adjacent upland area, perform essential habitat functions. This presumption may be overcome only by the presentation of credible evidence which, in the judgment of the Commission, demonstrates that the basin or depression does not provide essential Vernal Pool habitat functions. Any formal evaluation should be performed by an individual meeting the qualifications under the Wildlife Habitat section of the Wetlands Protection Act Regulations.

#### **4.3.4 Isolated Wetlands**

Isolated Wetlands are areas of wetland vegetation which are subject to flooding and consist of isolated depressions or closed basins which serve as a ponding area for run-off or high ground water. Such areas must be at least 400 square feet in area and may include kettle holes and bogs.

### **5. Application for Permits**

Within one hundred (100 feet) horizontally outward from the edge of a Resource Area, two hundred (200) feet horizontally outward from the Mean Annual High-Water Line (MAHWL) of a perennial stream, any activity proposed or undertaken, which, in the judgment of the Commission, alters any area subject to protection under the Bylaw, is subject to regulation under the Bylaw and requires the filing of a Notice of Intent (NOI). If the applicant is in any doubt as to whether an activity is subject to regulation, a Request for a Determination of Applicability (RDA) should be filed.

#### **5.1 Commission Quorum**

More than half of the members of the Commission must be present to conduct business and to hold a public meeting.

#### **5.2 Timeframes for Submission of Documentation**

All documentation including plans, maps, tables, charts, consultant reports, etc. to be considered by the Commission for Permit filing must be submitted to the Commission no later than two weeks before the Commission meeting date. The Commission meets once or twice a month (dates are subject to change; meeting agendas are posted in Town Hall).

An Administrative Review will be conducted upon submission which includes fees, plans, documents, maps, wetland delineation data, drainage studies, required for the submission. The Administrative Review will last up to 5 days. Only after said review has determined that the application is complete will the Public Hearing date be scheduled, and a Public Notice will be issued. The Commission shall have 21 days to hold a public hearing from the date a completed application is received.

The Commission, in an appropriate case, may combine its hearing under this Bylaw with the hearing conducted under the Wetlands Protection Act, MGL C. 131, § 40, and Regulations 310 CMR 10.00.

The Commission shall have the authority to continue the hearing to a date certain announced at the hearing, for reasons stated at the hearing, which may include receipt of additional information offered by the applicant deemed necessary by the Commission in its discretion, or comments and recommendations of other Town boards and officials, as appropriate. In the event the applicant objects to a continuance or postponement, the

hearing shall be closed, and the Commission shall take action on such information as is available.

### **5.3 Requests for Determination of Applicability (RDA, WPA Form 1)**

The purpose of the Request for Determination of Applicability (RDA) is to allow the Commission to determine whether a project will Alter or change a Resource Area and if this is the case, a Notice of Intent (NOI) will have to be filed. The RDA shall be submitted on a WPA Form 1 and shall include such additional information and plans as are deemed reasonably necessary by the Commission.

### **5.4 Notice of Intent (NOI, WPA Form 3)**

Any person who proposes to do work that will remove, fill, dredge, build upon, or Alter any Resource Area shall submit a Notice of Intent (NOI) consisting of application materials required under Notice of Intent (M.G.L. Chapter 131, Section 40 and 310 CMR 10.00). The NOI shall be submitted on a WPA Form 3 and shall include such additional information and plans as are deemed reasonably necessary by the Commission.

### **5.5 Notice of Intent (NOI) Permit**

Within twenty-one (21) days of the close of the public hearing, the Commission shall issue a Permit approving the project, or deny approval of the project. The written decision shall be signed by more than half of the Commissioners in office. The signed Permit will be issued by certified mail or hand delivery to the applicant or the applicant's representative. If the project is approved, the commission shall impose conditions as are necessary for the protection of the interests of the Bylaw.

Before work can commence on the project:

- a) The Order of Conditions has become final and then recorded in the Registry of Deeds of Hampshire County or the Land Court, within the chain of title of the affected property. A copy of such filing shall be sent to the Commission, including the Book and Page or Document Reference Number. The applicant is responsible for such recording of the Order of Conditions.
- b) A pre-construction site visit shall be conducted with the applicant or representative, builder and Commission members to review all Order of Conditions including inspection and approval of all erosion control measures.

If work commences before the above conditions are met, an Enforcement Order may be issued by the Commission.

Any change made or intended to be made in the plans shall require the applicant to file an Amended Notice of Intent or to inquire in writing of the Commission whether the change is so substantial as to require a new filing. The applicant shall not proceed with any changes until the Commission issues its written approval.

Under the Bylaw, a Permit shall prohibit any work or portion thereof that cannot be conditioned to protect said interests. If the Permit is denied, it shall be for one of the following reasons:

1. For failure to meet the requirements of the Bylaw.
2. For failure to provide necessary information and plans requested by the Commission.
3. For failure to avoid or prevent unacceptable or cumulative effects upon the Resource Area Values protected by the Bylaw.
4. Where no conditions are adequate to safeguard the Resource Area Values protected by the Bylaw.

A Permit shall be valid for three (3) years.

## **6. Exemptions and Exceptions**

The Application and Permit required by this Bylaw shall not be required for maintaining, repairing, remodeling, but not substantially changing or enlarging, an existing and lawfully located single family residential structure or customary appurtenance thereto, as long as the footprint of any proposed addition is not any closer to the wetland or other Resource Areas than the existing structure, and there is no reasonable alternate location on the owner's property for the new structure that is further from the Resource Areas, as determined by the Commission.

The Commission may issue a generic or on-going Permit for maintaining, repairing, or replacing an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph or other telecommunication services, storm drainage, and sewer, provided that the structure or facility is not substantially changed or enlarged, as determined by the Commission, and provided that written application has been given to the Commission prior to commencement of work, and provided that the work conforms to performance standards and design specifications adopted by the Commission. These standards and specifications shall conform to the best management practices in the Commonwealth of Massachusetts. This on-going Permit may apply to other institutions in town with facilities and structures for normal maintenance activities within the Buffer Zone, as determined by the Commission. Examples include but are not limited to educational institutions, fire districts, golf courses, spraying for aquatic plant management and residential retirement communities.

The Application and Permit required by this Bylaw shall not apply to emergency projects necessary for the protection of the health or safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth, or a political subdivision thereof, provided that advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement of the emergency project, and provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

The Application and Permit required by this Bylaw shall not be required for work performed for normal maintenance or improvement of land, which is lawfully Land in Agricultural Use, as defined in the Wetlands Protection Act Regulations 310 CMR 10.04, at the time the work takes place.

Exceptions clearly stated in the Wetlands Protection Act and Regulations thereunder are not extinguished by the Bylaw.

## **7. Extensions**

The Commission can extend a Permit twice for an additional one-year period. Request for Extensions shall be made in writing to the Commission with the filing fee (see Filing Fee section) at least thirty (30) days prior to the expiration of the Permit.

The Extension Permit shall be recorded in the Registry of Deeds of Hampshire County or the Land Court. A copy of such filing shall be sent to the Commission, including the Book and Page or Document Reference Number. The applicant is responsible for recording of such Extension Permit. If work commences without the applicant so recording the Extension Permit, an Enforcement Order may be issued by the Commission.



If the applicant does not request an Extension for his/her project at the end of the three (3) year period of the Orders of Condition, any work on the project must stop until a new Notice of Intent has been filed with the Commission, and a new Order of Conditions duly issued and recorded.

#### **8. Certificate of Compliance (WPA Form 8B)**

Upon completion of the work described herein, the applicant shall submit a written Request for a Certificate of Compliance; WPA Form 8A. The Commission shall act upon the Request within twenty-one (21) business days.

For projects completed according to plans stamped and signed by a Professional Engineer or other registered professional, the Request must include written indication (usually in the form of a letter) from such professional that the work was completed in compliance with the Permit and to explain any deviations, if any. As built plans are to be submitted if the project has changed from the original project plans.

Prior to the issuance of the Certificate of Compliance, a site visit by the Commission is to be made in the presence of the applicant or a representative of the applicant.

If the Commission finds that all general and specific conditions have been met, and the project has proceeded according to the approved plans, a Certificate of Compliance is issued.

If the Commission determines, after review and inspection that the work has not been done in compliance with the Permit, it may refuse to issue a Certificate of Compliance. A partial Certificate of Compliance can be issued for a portion of the project, as long as all work and mitigation for that portion have been completed.

If the Permit contains conditions which continue past the completion of work, such as maintenance or monitoring, the Certificate of Compliance shall certify which, if any, of such conditions shall continue. The Certificate shall also specify to what portions of the work it applies, if it does not apply to all the work regulated by the Permit.

The Certificate of Compliance (including any continuing conditions) will be recorded by the applicant in the Registry of Deeds or the Land Court of Hampshire County, within the chain of title of the affected property. A copy of such filing shall be sent to the Commission, including the Book and Page or Document Reference Number. The applicant is responsible for recording of such Certificate of Compliance.

#### **9. Filing Fees**

The following pertains to the filing fees:

1. Any person filing an Application for Request for Determination of Applicability (RDA) or Notice of Intent (NOI) pursuant to the Bylaw shall, at the same time, pay a filing fee in accordance with the Filing Fee Schedule.
2. Filing fees should be made payable to the Town of Southampton.
3. The filing fee does NOT include the cost of the Public Legal Notice in the local newspaper.
4. All recording costs at the Hampshire County Registry of Deeds or the Land Court are the responsibility of the applicant.
5. Applicant shall agree, in writing, to pay the reasonable fees, cost and expenses of any expert consultant deemed necessary by the Commission
6. Town of Southampton, County, State, Federal and Legal Nonprofit Organization projects are exempt from these fees.

## **10. Regulations**

After public notice and public hearing, the Commission shall promulgate rules and regulations to effectuate the purposes of this chapter. Notice shall be given at least one (1) week prior to the public hearing by publication in a newspaper of general circulation in the Town and by posting with the Town Clerk. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this chapter. At a minimum, these regulations shall define key terms in this chapter not inconsistent with the bylaw and procedures governing the amount and filing of fees.

## **11. Consultation/Peer Review**

The Southampton Conservation Commission hereby adopts the following rules in accordance with the authority of MG.L. Chapter 44, Section 53G.

When reviewing an application for, or when conducting inspections in relation to, Request for Determination of Applicability [RDA], Notice of Intent [NOI], an Abbreviated Notice of Intent, [ANOI] or an Abbreviated Notice of Resource Area Delineation [ANRAD], the Southampton Conservation Commission may determine that the assistance of outside consultants is warranted due to the size, scale, technical or scientific complexity of a proposed project, because of the project's potential impact on Resource Area(s) or the Southampton Conservation Commission lacks the necessary expertise to perform the work related to the approval and definition of Order of Conditions.

If the Commission determines that such assistance of outside consultant(s) is warranted, it may require the applicant(s) to pay a "project review fee" consisting of the reasonable costs incurred by the Commission for the employment of outside consultants engaged by the Commission to assist in the review of a proposed project.

In hiring outside consultant(s) the Commission may engage engineers, planners, lawyers, urban designers or any other appropriate professional who can assist the Commission in analyzing the project and to ensure compliance with all relevant laws, ordinance/bylaws, and regulations. Such assistance may include, but is not limited to, analyzing an application, monitoring or inspecting a project or site for compliance with Commission's Bylaw or decision, or inspecting a project during construction or implementation.

Funds received by the Commission pursuant to these rules shall be deposited with the Town of Southampton's Treasurer who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Commission without further appropriation. Expenditures from this special account shall be made only for services rendered in connection with a specific project or projects for which a project review fee has been or will be collected from the applicant. Accrued interest may also be spent for this purpose. Failure of an applicant to pay a review fee shall be grounds for denial of the approval of the project.

At the completion of the Commission's review of a project, any excess amount in the account, including interest, attributable to a specific project shall be repaid to the applicant or the applicant's successor in interest. A final report of said account shall be made available to the applicant or applicant's successor in interest. For the purpose of this rule, any person or entity claiming to an applicant's successor in interest shall provide the Commission with documentation establishing such succession in interest.

Any applicant may take an administrative appeal from the selection of the outside consultant to the Select Board. Such appeal must be made in writing and may be taken only within 20 days after the Commission has mailed, by first class mail, or hand-delivered notice to the applicant of

the selection. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist either of an educational degree in or related to the field at issue or three or more years of practice in the field at issue or a related field. The required time limit for action upon an application by the Commission shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Select Board within one month following the filing of the appeal, the selection made by the Commission shall stand.

## **12. Enforcement Order (WPA Form 9)**

No person shall remove, fill, dredge, build upon, degrade, or otherwise Alter Resource Areas protected by this Bylaw, or cause, suffer, or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a Permit or an Enforcement Order (WPA Form 9) issued pursuant to this Bylaw.

The filing of a Permit Application or Request for Determination of Applicability (RDA) shall constitute the consent of the owner and grant the authority for the Commission and its agents, with proper identification, to enter upon privately owned land for the purpose of performing their duties under this Bylaw. The Commission may make or cause to be made such examinations, surveys or sampling as the Commission deems reasonable and necessary, subject to the laws of the United States and the Commonwealth.

*Amended ATM 6/13/2021 A/G approved 9/21/21*

The Commission shall have the authority to enforce this Bylaw and Permits issued there under by violation notices, non-criminal citations under M.G.L. Chapter 40, Section 21D, administrative orders, and civil and criminal court actions. Any person who violates provisions of this Bylaw may be ordered to restore the property to its original condition and/or take other action deemed reasonable and necessary to remedy such violations, or may be fined, or both.

**Any person who violates any provisions of this by law may be subject to a fine in the amount of \$300 per day per offense**

Upon request of the Commission, the Select Board may direct the Town Counsel to take legal action for enforcement under civil law. Upon request of the Commission, the Chief of Police may take legal action for enforcement under criminal law.

Town boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.

Any person who violates any provision of this Bylaw, Permits or Enforcement Orders issued there under, shall be served with a Notice of Violation enumerating the alleged violations. If after ten (10) business days the Commission has not received what it deems to be either (a) sufficient evidence demonstrating that no violations have occurred, or (b) a filing that will remove the violations along with evidence that sufficient progress is being made to correct the violation, then the violator shall be punished by a fine ~~per offense of~~ **\$300 per day per offense** (see Southampton Conservation Commission Fee Schedule for fine amount). Beginning ten business days after the date of the Notice of Violation each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the Bylaw, Permits, **or** Enforcement Orders violated shall constitute a separate offense.

In addition to any fine, the Town shall be entitled to reimbursement for all expenses, including legal fees, incurred in prosecuting said violation, either civilly or criminally.

## **13. Security**

The intent of this section is to secure against the potential of significant environmental damage. As part of a Permit issued under this Bylaw, in addition to any security required by any other

town or state board, agency or official, the Commission may require that the performance and observance of the conditions imposed hereunder (including conditions requiring mitigation work) be secured wholly or in part by one or more of the methods described below:

1. By a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Commission, to be released in whole or in part upon issuance of a Certificate of Compliance for work performed pursuant to the Permit.
2. By a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of the Town of Southamptton and members of the public, whereby the Permit Conditions shall be performed and observed before any lot may be conveyed, other than by mortgage deed. This method shall be used only with the consent of the applicant. The bond or covenant shall, in the case of the bond, be given to the Town, and in the case of a covenant, be recorded in the Registry of Deeds or the Land Court at least 10 business days before the start of any work under the permit.

#### **14. Burden of Proof**

The applicant for a Permit shall have the burden of proving, by a preponderance of credible evidence, that the work proposed in the Permit Application will not have unacceptable significant or cumulative effect upon the Resource Area Values protected by this Bylaw. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a Permit or grant a Permit with conditions.

#### **15. Waivers**

Strict compliance with the Bylaw may be waived when, in the judgment of the Commission, such action is in the public interest and is consistent with the intent and purpose of the Bylaw. Any request for a Waiver must be submitted to the Commission in writing and presented at the time of filing along with a written justification stating why a Waiver is desired or needed, is in the public benefit, and is consistent with the intent and purpose of the Bylaw. The Waiver is intended to be employed only in rare and unusual cases.

#### **16. Appeals**

A decision of the Conservation Commission under this bylaw shall be reviewable in Superior Court in accordance with M.G.L. Chapter 249, Section 4.

#### **17. Severability**

The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision or phrase thereof, nor shall it invalidate any Permit, which previously has been issued.

#### **18. Relation to the Wetlands Protection Act**

This Bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, and the Regulations, 310 CMR 10.00, there under.

#### **19. Effective Date**

The Effective Date of this Bylaw is the date after the Bylaw has been approved by the Attorney General and published by the Town Clerk as set forth in M.G.L. Chapter 40 Section 32. The Bylaw shall not, however, apply to:

1. Any structure or activity lawfully in existence or lawfully begun prior to the Effective Date.
2. Any structure or activity which is the subject of a pending Notice of Intent, or Request for Determination of Applicability filed under the Massachusetts Wetlands Protection Act (M.G.L. Chapter 131, Section 40) prior to the Effective Date.
3. Any structure or activity which has an Orders of Conditions, Order of Resource Area Delineation, or Determination of Applicability or other Commission decision filed under the Massachusetts Wetlands Protection Act (M.G.L. Chapter 131, Section 40) and that is still in effect prior to the Effective Date. These Orders or Determinations shall expire at

the end of their legally regulated term, which is usually three years from date of issuance, after which any new work will be subject to the provisions of this Bylaw.

4. Any structure or activity for which any extensions of or modifications or amendments to a current Orders of Conditions or Notice of Intent were approved prior to the Effective Date. These extensions, modifications and amendments shall remain in effect until the end of their legally regulated term, which is usually three years from date of issuance, after which any new work will be subject to the provisions of this Bylaw.

## **20. Associate Members of the Commission**

The Chairman, with the approval of a majority of the Commission, may appoint individuals for the purpose of assisting the Commission. Such individuals shall be referred to as Associate Members, shall be non-voting members, and shall serve for a term of one year and may be reappointed as deemed appropriate by a majority of the Commission.

## ARTICLE XXVII

### Conservation Commission Fees

*Fee schedule as amended 5-21-13 ATM; AG's approval 9-10-13)*

Sec. 1. Permit fees are payable at the time of application and are non-refundable.

Sec. 2. Permit fees shall be calculated by the Commission per the schedule below.

Sec. 3. Town, County, State and Federal projects are exempt from fees.

Sec. 4. There shall be no fees for activities involving improvements for the agricultural use of land or for conversion to agricultural use.

Sec. 5 No fee is charged for Requests for Determination under the law or extensions of Orders of Conditions. (removed)

**Conservation Commission Fees**

**Fee schedule (separate from State Filing Fees, Newspaper Public Notice and Potential Use of Consultants):**

1. Notice of intent (NOI)  
\$100.00- work on single family lot' addition, pool, or other minor work; site work without a house; control vegetation; resource improvement; work on septic system separate from house.  
\$250- construction of single-family house; parking lot; electric generating facility activities; control vegetation in development.  
\$1,000- site preparation (for development) beyond Notice of Intent scope; each building (for development) including site; hazardous cleanup.
2. Abbreviate Notice of Resource Area Delineation (ANRAD)  
\$1.00 per square foot/\$100 min \$1000 max
3. Request for Determination of Applicability (RDA) - \$75.00
4. Certificate of Compliance-\$50.00
5. Site visit (separate from NOI/RDA/ANRAD/ Certificate of Compliance)-\$50.00

The Conservation Commission Fees can be modified periodically with the approval of the Select Board.

ARTICLE XXVIII

Public Buildings

Sec. 1. All public buildings are non-smoking.

ARTICLE XXIX  
Capital Improvement Committee

Sec. 1. The Select Board shall establish and appoint a committee to be known as the “Capital Improvement Committee”, composed of not more than five (5) voting citizens of the Town of Southampton. Each member to serve a three-year term upon adoption of this by-law, there shall be appointed by the Select Board, two (2) members to serve for a term of one (1) year, two (2) members to serve for a term of two (2) years, and one (1) member to serve for a term of three (3) years. The Committee shall elect its own officers.

Sec. 2. The Committee shall study proposed capital projects and improvements involving major tangible assets or projects which are purchases or undertaken at intervals of not less than one

year, have a useful life of at least one year or cost five thousand (\$5,000.00) dollars or more. Such a Capital Improvement Program, after its adoption, shall permit the expenditure on projects included therein of sums from departmental budgets for surveys, architectural or engineering advice, options or appraisals.

All Department Heads, Boards and Committees, shall by October 1st of each year, give to the Committee on forms prepared by it, information concerning all anticipated projects requiring Town meeting action during the ensuing five (5) years.

The Committee shall consider the relative need, impact, timing and cost of these expenditures and the effect each will have on the financial position of the Town. No appropriation shall be voted for a capital expenditure requested by a department, Board or Commission, unless the proposed Capital Improvement is considered in the Committee's report, or the Committee shall first have submitted a report to the Select Board explaining the omission.

Sec. 3. The Committee shall prepare an annual report recommending a Capital improvement budget for the next fiscal year and a Capital Improvement Program including recommended capital improvements for the following five fiscal years. (Continued on next page) The Board shall submit its' capital budget to the Annual Town meeting for adoption by the Town after joint review with Finance Committee of funding available for capital budgets.

Sec. 4. The Committee's recommended capital budget shall be published in advance and made available to Town meeting members.

## ARTICLE XXX

### Non-Criminal Disposition

To provide for Non-Criminal Disposition of violations of Town By-laws and Regulations, including Tobacco Regulations of the Board of Health:

Sec. 1 Whoever violates any provision of these by-laws, the violation of which is subject to a specific penalty, may be penalized by a Non-Criminal Disposition as provided in MGL c.40, § 21D. The Non-Criminal method of Disposition may also be used for violation of any rule or regulation of any municipal officer, Board or Department which is subject to a specific penalty.



Sec. 2 Without intending to limit the Generality of the foregoing, it is the intention of this article that the following By-laws and regulations are to be included within the scope of this article, that the specific penalties as listed here shall apply in such cases, that in addition to police officers who shall in all cases be considered enforcing persons for the purpose of this article, the municipal personnel listed for each section, if any, shall also be enforcing persons for such section, and that each day on which any violation exists shall be deemed to be a separate offense.

BY-LAWS:	PENALTY
Regulations:	
• Board of Health Tobacco Control	As stated in the Regulations
• Board of Health Trash Hauler and Recycling Operational Regulations	As stated in the Regulations
• Board of Health Title V Septic System Inspection Regulations	As stated in the Regulations
Or take any other action relative thereto.	

## ARTICLE XXXI

### Community Preservation By-law

*Amended ATM 6-13-2021 A/G Approval 9-21-21*

Sec 1. There is hereby established a Community Preservation Committee, consisting of nine (9) voting members pursuant to the provisions of G.L. C. 44B. The composition of the Committee, the Appointing Authority and the term of office for the committee members shall be as follows:

- a member of the Conservation Commission as designated by the Conservation Commission,
- a member of the Historical Commission as designated by the Historical Commission.
- a member of the Planning Board as designated by the Planning Board.

the Highway Superintendent, whose responsibilities include the duties of the board of Park Commissioner established under G.L. c. 45, §2, or his designee.  
a member of the Housing Authority as designated by the Housing Authority.  
a member of the Finance Committee as designated by the Finance Committee.  
a member of the Selectboard, as designated by the Selectboard,  
two members at Large, to be elected for a term of three years.

Each member of the committee shall serve for a term of three years or until the person no longer serves in the position or on the board or committee as set forth above, whichever is earlier.

Should any of the officers and commissions, boards, or committees who have appointing authority under this by-law be no longer in existence for whatever reason, the Board of Selectman shall appoint a suitable person to serve in their place?

Any member of the committee may be removed for cause by their respective appointing authority after hearing.

## Section 2: Duties

*Amended ATM 6-13-21 A/G Approval 9-21-21*

The Community Preservation Committee shall study the needs, possibilities, and resources of the Town in regard to following areas as designated by G.L 44B: preservation of Open Space, creation and preservation or rehabilitation of land for recreational use, the acquisition and preservation of historical resources and preservation and support for community housing.

- (1) The Community Preservation committee shall study the needs, possibilities, and resources of the town regarding Community Preservation. The committee shall consult with existing municipal boards, including the Conservation Commission, the Historical Commission, the Planning Board the Department of Public Works, and the Housing Authority, or persons acting in those capacities or performing like duties, in conducting such studies, as part of its study, the committee shall hold one annual public informational hearing, or more at its discretion, on the needs, possibilities and resources of the town regarding Community Preservation possibilities and resources, notice of which shall be posted public and published for each of two weeks preceding a hearing in a newspaper of general circulation in the town.
- (2) The Community Preservation committee shall make recommendations to the Town meeting for the acquisition, creation and preservation of open space, for the acquisition and preservation of historic resources, for the acquisition, creation and preservation of land for recreational use, for the creation, preservation and support of community housing and for rehabilitation or restoration of such open space, historic resources, land for recreational use and community housing that is acquired or created as provided in this section,. With respect to community housing, the community preservation committee shall recommend, wherever possible, the reuse of existing buildings or construction of new building on previously developed sites.
- (3) The Community Preservation committee may include in its recommendation to the Town Meeting a recommendation to set aside for later spending funds for specific purposes that are consistent with Community Preservation but for which sufficient revenues are not then available in the community preservation fund to accomplish that specific purpose or to set aside for later spending funds for general purposes that are consistent with Community Preservation.
- (4) In every fiscal year, the Community Preservation committee must recommend either that the legislative body spend, or set aside for later spending, not less than 10% of the

annual revenues in the Community Preservation fund for (a) open space (not including land for recreational use), (b) historic resources; and (c) community housing.

Sec 3. The Community Preservation shall receive funding from a surcharge on local taxes and a yearly matching grant from an earmarked state fund under the supervision of the state Department of Revenue. Funds received are to be used in the designated areas and while are under the supervision of the Community Preservation Committee may not be spent without a majority vote of a Town Meeting. Funds not spent each year remain with the Community Preservation account and do not revert to the Town.

Sec 4. The Community Preservation Committee shall hold one annual public informational hearing to inform the Town of the activities of the Community Preservation Committee and to receive project proposals accompanied by comparative cost estimates. A notice of the hearing shall be posted and published two weeks prior to said hearing. Boards, Commissions, Committees of the Town and Individuals are eligible to submit proposals at any time during the year.

Sec 5. The Community Preservation Committee shall comply with the provisions of the Open Meeting Law, G L c 30A SS 18-25. The Committee shall not meet to conduct business without the presence of a majority of its members. A majority vote is needed to approve all actions including forwarding projects to a Town Meeting vote.

Sec 6. All projects forwarded to a Town meeting for final approval shall include the cost that will be determined by the Town's approved procurement process.

#### Section 7: Amendments

*Amended 6-13-2021 ATM A/G Approval 9-21-21*

This by-law may be amended from time to time by a majority vote of the Town Meeting, consistent with the provisions of G.L., C.44B.

#### Section 8: Severability

In case any section, paragraph or part of this by-law be for any reason declared invalid or unconstitutional by any court, every other section, paragraph or part shall continue in full force and effect.

#### Section 9: Effective Date

Provided that the Community Preservation act is accepted at the 2001 Annual Town Election, this by-law shall take effect upon approval by the Attorney of the commonwealth, and after all requirements of G.L. C40, §32 have been met. Each appointing authority shall have thirty days after approval by the Attorney General to make their initial appointments.

## ARTICLE XXXII

### Agricultural Commission

Agricultural Commission to represent the Southampton commercial farming and agricultural community, as well as other farming and forestry activities.

#### Purpose:

The purpose of the Agricultural Commission will be to support commercial agriculture and other farming activities in the Town of Southampton. The Commission's duties shall

include, but are not limited to, the following, serve as facilitators for encouraging the pursuits of agriculture in Southampton; promote agricultural based economic opportunities in Town; act as mediators, advocates, educators, and/ or negotiators on farming issues; work for the preservation of prime agricultural lands; advise the Select Board, Planning Board, Zoning Board of Appeals, Conservation Commission, Board of Health, Historical Commission, Board of Assessors and the Open Space Committee, or any other appropriate Town boards, on issues involving agriculture; and shall pursue all initiatives appropriate to creating a sustainable agricultural community.

The Commission shall consist of five members appointed by the Select Board, of which the majority of the membership shall be primarily engaged in the pursuit of agriculture. All member of the commission must either be residents of the Town, or owners and farmers of agriculture property within the Town, with first consideration going to individuals engaging in farming.

There may be up to three alternates appointed to the Commission by the Select Board and will fill any vacancies at a meeting of the Commission.

In making its appointments, the Select Board is asked specifically to consider the intent of the Commission to represent the agricultural interests of the Town.

The terms will be as follows: Two members for a term of three years; two members for a term of two years and three thereafter; and one member for a term of one year and three years thereafter.

The Select Board shall fill a vacancy based on the unexpired term of the vacancy in order to maintain the cycle of appointments, based upon the recommendations of the Commission.

## ARTICLE XXXIII

### Illicit Connections and Discharges to Municipal Storm Drain System By-law

#### **Sec. 1 Purpose**

Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of the Town of Southampton's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment. Increased and contaminated stormwater runoff are major causes of:

- (1) impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater.
- (2) contamination of drinking water supplies.
- (3) alteration or destruction of aquatic and wildlife habitat; and
- (4) flooding.

The objectives of this by-law are:

- (1) To prevent pollutants from entering the Town of Southampton's municipal separate storm sewer system (MS4).
- (2) To prohibit illicit connections and unauthorized discharges to the MS4.
- (3) To require the removal of all such illicit connections.
- (4) To comply with state and federal statutes and regulations relating to stormwater discharges; and,
- (5) To establish the legal authority to ensure compliance with the provisions of this by-law through inspection, monitoring, and enforcement.

## **Sec. 2 Definitions**

For the purposes of this by-law, the following shall mean:

Authorized Enforcement Agency: The Highway Department, its employees or agents designated to enforce this by-law.

Best Management Practice (BMP): An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.

Clean Water Act: The Federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*) as hereafter amended

Discharge of Pollutants: The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth from any source.

Groundwater: All water beneath the surface of the ground.

Illegal Discharge: Any direct or indirect non-stormwater discharge to the municipal storm drain system, except as specifically exempted in Section 7 or permitted pursuant to Section 8 of this by-law. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or resulting from fire fighting activities exempted pursuant to Section 7, subsection 4 of this by-law.

Illicit Connection: Any surface or subsurface drain or conveyance, which allows an illegal discharge into the municipal storm drain system. Illicit connections include conveyances which allow a non-stormwater discharge to the municipal storm drain system including sewage, process wastewater or wash water and any connections from indoor drains sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this by-law.

Impervious Surface: Any material or structure on or above the ground that prevents water [from infiltrating the underlying soil

Municipal separate storm sewer system (MS4) or municipal storm drain system: The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Southampton.

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit: A permit issued by United States Environmental Protection Agency or jointly with the State that authorizes the discharge of pollutants to waters of the United States.

Non-Stormwater Discharge: Any discharge to the municipal storm drain system not composed entirely of stormwater.

Person: Any individual, partnership, association, firm, company, trust, corporation, and, any agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

Pollutant: Any element or property of 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) liquid and solid wastes and yard wastes.
- (4) refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatable.
- (5) pesticides, herbicides, and fertilizers.
- (6) hazardous materials and wastes; sewage, fecal coliform and pathogens.
- (7) dissolved and particulate metals.
- (8) animal wastes.
- (9) rock; sand; salt, soils.
- (10) construction wastes and residues.
- (11) and noxious or offensive matter of any kind.

Process wastewater means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

Recharge: The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

Stormwater: Runoff from precipitation or snow melt.

Toxic or Hazardous Material or Waste: Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under M.G.L. Ch.21C and Ch.21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

Watercourses: A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.

Waters of the Commonwealth: all waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, costal waters, and groundwater.

Wastewater: any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

### **Sec. 3 Applicability**

This by-law shall apply to flows entering the municipally owned storm drainage system.

### **Sec. 4 Responsibility for Administration**

The Highway Department shall administer, implement and enforce this by-law. Any powers granted to, or duties imposed upon the Highway Department may be delegated in writing by the Highway Department to employees or agents of the Highway Department.

### **Sec. 5 Regulations**

The Highway Department may promulgate rules and regulations to effectuate the purposes of this by-Law. Failure by the Highway Department to promulgate such rules and regulations shall not have the effect of suspending or invalidating this by-law.

### **Sec. 6 Prohibited Activities**

#### **1. Illegal Discharges**

No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal storm drain system, watercourse, or into the waters of the Commonwealth. Emergency pumping performed by the Fire Department must utilize appropriate best management practices (BMPs) and follow hazardous materials disposal guidelines to prevent contamination of the municipal storm drainage system with hazardous materials. If hazardous materials are observed within the flooded area or are suspected to be contained within the flooded area, a qualified hazmat technician must be consulted before pumping. If hazardous materials are observed at any point during pumping,

cessation of pumping is required until a qualified hazmat technician can be consulted and BMPs put in place to prevent the contamination of nearby water ways and the municipal storm drainage system.

2. Illicit Connections

No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.

3. Obstruction of Municipal Storm Drain System

No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior approval from the Highway Department.

4. Exemptions

This section shall not apply to any of the following non-stormwater discharges or flows provided that the source is not a significant contributor of a pollutant to the municipal storm drain system.

- (1) Waterline flushing.
- (2) Flows from potable water sources.
- (3) Springs.
- (4) Flows from riparian habitats and wetlands.
- (5) Diverted stream flows.
- (6) Rising groundwaters.
- (7) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater.
- (8) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation.
- (9) Discharges from landscape irrigation or lawn watering.
- (10) Water from individual residential car washing.
- (11) Discharges from dechlorinated swimming pool water (less than one ppm chlorine) provided it is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance.
- (12) Discharges from street sweeping.
- (13) Discharges or flows resulting from firefighting activities.
- (14) Dye testing provided written notification is given to the Highway Department prior to the time of the test.
- (15) Non-stormwater discharges permitted under an NPDES permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and
- (16) Discharges for which advanced written approval is received from the Highway Department if necessary to protect public health, safety, welfare or the environment.

**Sec. 7 Emergency Suspension of Storm Drainage System Access**

The Highway Department may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened illegal discharge that presents or may



present imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Highway Department may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

### **Sec. 8 Notification of Spills**

Notwithstanding any other requirements of local, state or federal law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials at that facility operation which is resulting or may result in illegal discharge of pollutants that person shall take all necessary steps to ensure containment, and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the municipal fire and police departments and the Highway Department. In the event of a release of non-hazardous material, said person shall notify the Highway Department no later than the next business day. Written confirmation of all telephone, facsimile or in person notifications shall be provided to the Highway Department within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

### **Sec. 9 Enforcement**

(4) 1. Enforcement Agent

(5) The Highway Department or an authorized agent of the Highway Department shall enforce this by-law, and the regulations promulgated thereunder, as well as the terms and conditions of all permits, notices, and orders, and may pursue all civil and criminal remedies for such violations.

(6) 2. Orders

The Highway Department may issue a written order to enforce the provisions of this by-law or the regulations thereunder, which may include: (a) elimination of illicit connections or discharges to the storm drainage system; (b) termination of access to the storm drainage system; (c) performance of monitoring, analyses, and reporting; (d) cessation of unlawful discharges, practices, or operations; and (e) remediation of contamination in connection therewith. If the Highway Department determines that abatement or remediation of contamination is required, the order shall set forth a deadline for completion of the abatement or remediation. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Southampton may, at its option, undertake such work, and expenses thereof shall be charged to the violator or property owner.

Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town of Southampton, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Highway Department within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or

within thirty (30) days following a decision of the Highway Department 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 in M.G.L. Ch. 59, § 57 after the thirty-first day at which the costs first become due.

### 3. Equitable Remedy

If anyone violates the provisions of this by-law, regulations, permit, notice, or order issued thereunder, the Highway Department may seek injunctive relief in a court of competent jurisdiction to restrain the person from activities which would create further violations or compelling the person to abate or remediate the violation.

### 4. Non-Criminal Disposition

3. As an alternative to criminal prosecution or civil action, the Town of Southamptton may elect to utilize the non-criminal disposition procedure set forth in M.G.L. Ch. 40, §21D. The Highway Department shall be the enforcing person. The penalty for the 1st violation shall be \$50. The penalty for the 2nd violation shall be \$100. The penalty for the 3rd and subsequent violations shall be \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

### 5. Right-of-Entry

To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Highway Department, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this by-law and regulations and may make or cause to be made such examinations, surveys or sampling as the Highway Department deems reasonably necessary

### 6. Remedies Not Exclusive

The remedies listed in this by-law are not exclusive of any other remedies available under any applicable federal, state or local law.

## **Sec. 10 Severability**

If any provision, paragraph, sentence, or clause, of this by-law shall be held invalid for any reason, all other provisions shall continue in full force and effect.

## **Sec. 11 Transitional Provisions**

Residential property owners shall have 120 days from the effective date of the by-law to comply with its provisions provided good cause is shown for the failure to comply with the by-law during that period.

ARTICLE XXXIV  
Southampton Water Use

**Sec. 1. Authority**

This By-law is adopted by the Town of Southampton under its police powers to protect public health and welfare and its powers under M.G.L. c.40, §§21 et seq. And implements the Town's authority to regulate water use pursuant to M.G.L. c. 41, §69B. This by-law also implements the Town's authority under M.G.L. c. 40 §41A, conditioned Upon a declaration of water supply emergency issued by the Department of Environmental Protection.

**Sec. 2. Purpose.**

The purpose of this by-law is to protect, preserve and maintain the public health, safety and welfare whenever is in force a State of Water Supply conservation or State of Water Supply Emergency by providing for enforcement of any duly imposed restrictions, requirements, provisions or conditions imposed by the Town of Southampton or by the Department of Environmental Protection.

### **Sec. 3. Definitions**

**Person** shall mean any individual, corporation trust, partnership or association, or other entity.

**State of Water Supply Emergency** shall mean a State of Water Supply Emergency declared by the Department of Environmental Protection under M.G.L. c 21G, §15-17.

**State of Water Supply Conservation** shall mean a State of Water Supply Conservation declared by the Town pursuant to section 4 of this by-law.

**Water Uses or Water Consumers** shall mean all public and private users of the Town's public water system, irrespective of any person's responsibility for billing purposes for water used at any particular facility.

### **Sec. 4. Declaration of a State of Water Supply Conservation**

The Town of Southampton, acting through its Board of Water Commissioners, may declare a State of Water Supply Conservation upon a determination by a majority vote of the Board that a shortage of water exists, and conservation measures are appropriate to ensure an adequate supply of water to all water consumers. Public notice of a State of Water conservation shall be given under section 6 of this by-law before it may be enforced.

### **Sec. 5. Restricted Water Uses**

A declaration of a State of Water Supply Conservation shall include one or more of the following restriction, conditions, or requirements limiting the use of water as necessary to protect the water supply. The applicable restrictions, conditions or requirements shall be included in the public notice required under section 6.

- a) **Odd/Even Day Outdoor Watering:** Outdoor watering by water users with odd numbered addresses is restricted to odd numbered days. Outdoor watering by water users with even numbered addresses is restricted to even numbered days.
- b) **Outdoor Water Ban:** Outdoor watering is prohibited.
- c) **Outdoor Watering Hours:** Outdoor watering is permitted only during daily periods of low demand, to be specified in the declaration of a State of Water Supply Conservation and public notice thereof.
- d) **Filling Swimming Pools:** Filling of swimming pools is prohibited.
- e) **Automatic Sprinkler Use:** The use of automatic lawn sprinkler system is prohibited.

### **Sec. 6. Public Notification of a State of Water Supply Conservation:**

Notification of DEP

Notification of any provision, restriction, requirement or condition imposed by the Town as part of a State of Water Supply Conservation shall be published in a newspaper of general circulation within the Town, or by such other means reasonably calculated to reach and inform all users of water of the State of Water Supply Conservation. Any restriction imposed under section 5 shall not be effective until such notification is provided. Notification of the State of Water Supply Conservation shall also be simultaneously provided to the Massachusetts Department of Environmental Protection.

## **Sec. 7. Termination of a State of Water Supply Conservation; Notice**

A state of Water Supply Conservation may be terminated by a majority vote of the Board of Water Commissioners, upon a determination that the water supply shortage no longer exists. Public notification of the termination of a State of Water supply conservation shall be given in the same manner required by section 6.

## **Sec. 8. State of Water Supply Emergency; Compliance with DEP Orders**

Upon notification to the public that a declaration of a State of Water Supply Emergency has been issued by the Department of Environmental Protection, no person shall violate any provision, restriction, condition of any order approved or issued by the Department intended to bring about an end to the State of Emergency.

## **Sec. 9. Penalties**

Any person violating this by-law shall be liable to the Town in the amount of \$25.00 for the second violation and \$50.00 for each subsequent violation which shall inure to the Southampton Water Department Enterprise Fund for such uses as the Board of Water Commissioners may direct. A warning shall be given for the first violation. Fines shall be recovered by non-criminal deposition in accordance with section 21D of chapter 40 of the general laws. Each day of violation shall constitute a separate offense. On the fourth violation the Water Department may throttle the offending water service to reduce flow of water to the water consumer until accommodation is reached.

## **Sec. 10. Severability**

The invalidity of any portion or provision of this by-law shall not invalidate any other portion or provision thereof.

### ARTICLE XXXV

#### The Preservation of Historically Significant Buildings

##### Sec. 1. Intent and Purpose

This by-law is enacted for the purpose of preserving and protecting significant buildings within the Town which constitute or reflect distinctive features of the architectural, cultural, economic, political or social history of the town and to limit the detrimental effect of demolition on the character of the town. Through this bylaw, owners of preferably preserved buildings are encouraged to seek out alternative options that will preserve, rehabilitate or restore such buildings and residents of the town are alerted to impending demolitions of significant buildings. By preserving and protecting significant buildings, streetscapes and neighborhoods, this bylaw promotes the public welfare by making the town a more attractive and desirable place in which to live and work. To achieve these purposes the Historical Commission is authorized to advise the Building Inspector with respect to demolition permit applications. The issuance of demolition permits is regulated as provided by this by-law.

##### Sec. 2. Definitions

Applicant: -Any person, entity or approved licensed contractor who files an application for a demolition permit. If the applicant is not the owner of the premises upon which the building is situated, the owner must indicate on or with the application his/her assent to the filing of the application.

Application: An application for the demolition of a building.

Building: Any combination of materials forming a shelter for persons, animals, or property.

Building inspector: The person occupying the office of Building inspector or otherwise authorized to issue demolition permits.

Commission: The Southampton Historical Commission or its designee.

Demolition: Any act of pulling down, destroying, removing, dismantling or razing a building or commencing the work of total or substantial destruction with the intent of completing the same.

Demolition Permit: The building permit issued by the Building Inspector for a demolition of a building, excluding a building permit issued solely for the demolition of the interior of a building.

Massachusetts Cultural Resource Inventory System: a database maintained by the Massachusetts Historical Commission containing information on historic properties.

Preferably Preserved: Any significant building which the Commission determines, following a public hearing, that it is in the public interest to be preserved rather than demolished. A preferably preserved building is subject to the twelve-month demolition delay period of this bylaw.

Significant Building: Any building within the town of Southampton which is in whole or in part 100 years or more old and which has been determined by the Commission or its designee to be significant based on any of the following criteria:

- The building is importantly associated with one or more historic persons or events, or with the broad architectural, cultural, political, economic or social history of the Town or the Commonwealth; or
- The building is historically or architecturally important (in terms of period, style, method of building construction or association with a recognized architect or builder) either by itself or in the context of a group of buildings.

### Sec. 3. Procedure

No demolition permit for a building which is in whole or in part 100 years or more old and/or listed on the Massachusetts Cultural Resource Inventory System for Southampton shall be issued without following the provisions of this bylaw. If a building is of unknown age, it shall be assumed that the building is over 100 years old for the purposes of this bylaw.

1. An applicant proposing to demolish a building subject to this bylaw shall file with the Building Inspector an application containing the following information:
  - The address of the building to be demolished.
  - The owner's name, address and telephone number.
  - A description of the building.
  - The reason for requesting a demolition permit.
  - A brief description of the proposed reuse, reconstruction or replacement.
  - A photograph or photograph(s) of the building.
2. The Building Inspector shall within seven days forward a copy of the application to the Commission. The Commission shall within fifteen days after receipt of the application, make a written determination of whether the building is significant.
3. Upon determination by the Commission that the building is not significant, the Commission shall so notify the Building Inspector and applicant in writing. The Building Inspector may then issue the demolition permit.

4. Upon determination by the Commission that the building is significant, the Commission shall so notify the Building Inspector and the applicant in writing. No demolition permit may be issued at this time. If the Commission does not notify the Building Inspector within fifteen days of receipt of the application, the Building Inspector may proceed to issue the demolition permit.
5. If the Commission finds that the building is significant, it shall hold a public hearing within thirty days of the written notification to the Building Inspector. Public notice of the time, place and purpose of the hearing shall be posted in a conspicuous place in town hall for a period of not less than seven days prior to the date of said hearing and the applicant and the building inspector shall be notified in writing of the meeting time and place.
6. The Commission shall decide at the public hearing or within fourteen days after the public hearing whether the building should be preferably preserved. If agreed to in writing by the applicant, the determination of the Commission may be postponed.
7. If the Commission determines that the building is not preferably preserved, the Commission shall so notify the Building Inspector and applicant in writing. The building inspector may then issue the demolition permit.
8. If the Commission determines that the building is preferably preserved, the Commission shall notify the Building Inspector and applicant in writing. No demolition permit may then be issued for a period of twelve months from the date of the determination unless otherwise agreed to by the Commission. If the Commission does not so notify the Building Inspector in writing within twenty-one days of the public hearing, the Building Inspector may issue the demolition permit.
9. Upon a determination by the Commission that a building is preferably preserved, no building permit for new construction or alterations to the subject building shall be issued for a period of twelve months from the date of the determination unless otherwise agreed to by the Commission.
10. No permit for demolition of a building determined to be a preferably preserved building shall be granted until all plans for future use and development of the site have been filed with the Building Inspector and have been found to comply with all laws pertaining to the issuance of a building permit or if for a parking lot, a certificate of occupancy for that site. All approvals necessary for the issuance of such building permit or certificate of occupancy including without limitation any necessary zoning variances, permits or approvals must be granted and all appeals from the granting of such approvals must be concluded, prior to the issuance of a demolition permit under this section.
11. The Building Inspector may issue a demolition permit or a building permit for a preferably preserved building within the twelve months if the Commission notifies the Building Inspector in writing that the Commission finds that the intent and purpose of this bylaw is served even with the issuance of the demolition permit or the building permit.
12. Following the twelve-month delay period, the Building Inspector may issue the demolition permit, a copy of which shall be provided to the Historical Commission.

#### Sec. 4. Administration

The Commission may adopt such rules and regulations as are necessary to administer the terms of this bylaw.

The Commission is authorized to adopt a schedule of reasonable fees to cover the costs associated with the administration of this bylaw payable by the applicant. All fees must be approved by the Select Board.

The Commission may delegate authority to make initial determinations of significance to one or more members of the Commission or to a municipal employee.

The Commission may pro-actively develop a list of significant buildings that will be subject to this bylaw. Buildings proposed for the significant building list shall be added following a public hearing.

#### Sec. 5. Emergency Demolition

If after an inspection, the building inspector finds that a building subject to this bylaw is found to pose an immediate threat to public health or safety due to its deteriorated condition and that there is no reasonable alternative to the immediate demolition of the building, then the Building Inspector may issue an emergency demolition permit to the owner of the building. The Building Inspector shall then prepare a report explaining the condition of the building and the basis for his decision which shall be forwarded to the Commission.

#### Sec. 6. Enforcement and Remedies

The Commission and/or the Building Inspector are each specifically authorized to institute any and all actions and proceedings, in law or equity, as they may deem necessary and appropriate to obtain compliance with the requirements of this by-law or to prevent a threatened violation thereof.

Any owner of a building subject to this bylaw that demolished the building without first obtaining a demolition permit in accordance with the provisions of this bylaw shall be subject to a fine of not more than Three Hundred Dollars. Each day the violation exists shall constitute a separate offense until a faithful restoration of the demolished building is completed or unless otherwise agreed to by the Commission.

If a building subject to this bylaw is demolished without first obtaining a demolition permit, no building permit shall be issued for a period of two years from the date of the demolition on the subject parcel of land or any adjoining parcels of land under common ownership and control unless the building permit is for the faithful restoration referred to above or unless otherwise agreed to by the Commission.

#### Sec. 7. Historic District Act

Following a determination that the building is significant and preferably preserved, the Commission may recommend to town meeting that the building be protected through the provisions of Massachusetts General Law, Chapter 40C, the Historic Districts Act. The steps required under M.G.L. Chapter 40C shall be followed prior to the establishment of a local historic district. Nothing in this by-law shall be deemed to conflict with the provisions of the Historic District Act, Massachusetts General Laws Chapter 40C. If any of the provisions of this by-law do so conflict, that act shall prevail. Buildings included within the boundaries of a local historic district established under M.G.L Chapter 40C shall not be subject to this bylaw so long



as the proposed demolition is regulated by the local historic district bylaw.

#### Sec. 8. Severability

In case any section, paragraph or part of this by-law be for any reason declared invalid or unconstitutional by any court, every other section, paragraph, and part shall continue in full force and effect.

## ARTICLE XXXVI Stretch Energy Code

#### **Sec. 1. Definitions**

**International Energy Conservation Code (IECC)** - The IECC is a building energy code created by the [International Code Council](#). It is a model code adopted by many state and municipal governments in the [United States](#) for the establishment of minimum design and construction requirements for energy efficiency, and is updated on a three-year cycle. The baseline energy conservation requirements of the Massachusetts State Building Code are the IECC with Massachusetts amendments, as approved by the Board of Building Regulations and Standards.

**Stretch Energy Code** - Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA of the 9<sup>th</sup> edition Massachusetts building code, the Stretch Energy Code is an appendix to the Massachusetts building code, based on further amendments to the (IECC) to improve the energy efficiency of buildings built to this code.

#### **Sec. 2.- Purpose**

The purpose of 780 CMR 115.AA is to provide a more energy efficient alternative to the Base Energy Code applicable to the relevant sections of the building code for both new construction and existing buildings.

**Sec. 3. Applicability**

This code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 13, 34, 51, as applicable.

**Sec. 4. Stretch Code**

The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA, including any future editions, amendments or modifications, is herein incorporated by reference into the Town of Southampton General Bylaws, Chapter XXXVIII.

The Stretch Code is enforceable by the inspector of buildings or building commissioner.

**ARTICLE XXXVII**

**Non-Criminal Disposition of Violations of By-Laws, Rules and Regulations**

*Approved 10/18/16 STM; AG approved 1/27/17  
Amended 5/16/17 ATM; AG approved 8/30/17*

**Sec. 1.**

There is hereby established in the Town of Southampton, pursuant to the provisions of MGL Ch. 40, §21D, a system of non-criminal disposition of violations of the Town By-laws, and/or the rules and regulations of its departments, boards, commissions, committees, and officials, the violation of which is subject to a specific penalty.

**Sec. 2.**

Any person taking cognizance of a violation of any by-law, rule, or regulation which that person is empowered to enforce, may give to the offender written notice to appear before the Clerk of the District Court having jurisdiction thereof at any time during office hours, but not later than twenty-one (21) days after the date of said notice. The form, content, timing,

manner of delivery, and processing of such notice shall comply with the provisions of said MGL Ch. 40, §21D.

**Sec. 3.**

Any person notified to appear before the Clerk of the District Court as hereinbefore provided, may, either personally or through a duly authorized agent, appear and make payment of the stipulated fine to the Southampton Town Clerk, or mail to the Southampton Town Clerk, together with the notice, such sum of money not exceeding three hundred dollars as the Town may fix for the penalty for violation of the by-law, rule, or regulation. While payment in person may be made in cash, any payment mailed to the Town Clerk must be in the form of postal note, money order, or check. Payment to the Town Clerk shall operate as a final disposition of the case and shall not be deemed to be a criminal proceeding.

**Sec. 4.**

Any person so notified to appear who desires to contest the violation alleged in the notice may, within twenty-one (21) days of the date of said notice, submit a request for hearing, in writing, to the Clerk of the District Court. Any such hearing shall not be deemed to be a criminal proceeding.

**Sec. 5.**

Any person so notified who fails to confess the offense charged by paying the fine within the time specified, or who fails to pay the sum fixed as a penalty after hearing and finding, shall be subject to an application for, and the issuance of a criminal complaint for the violation of the said By-law, rule, or regulation.

**Sec. 6.**

Non-criminal disposition may be applied to the following by-laws, rules, and regulations, enforced by the authorized personnel indicated (with the Police Department to be considered an enforcement authority in all cases, even if not specifically noted), and with penalties as noted:

<b><u>Violation</u></b>	<b><u>Enforcement</u></b>	<b><u>Fine</u></b>
Alcohol on Public Grounds (Gen. Bylaw Art. XX)	Police Department	\$50 per Offense
Dog Kennels (Gen. Bylaw Art. IIIX)	Animal Control Officer(s) Animal Inspector	\$20 per Offense
Dogs At Large (Gen. Bylaw Art. XV)	Animal Control Officer Police Department	\$20 per Offense
Fire Lanes (Gen. Bylaw Art. XVI)	Fire Chief or authorized Designee Police Department	\$50 per Offense
Illicit Connections Discharge (Gen. Bylaw Art. XXXV)	Highway Superintendent or authorized designee	\$50 1 <sup>st</sup> Offense \$100 2 <sup>nd</sup> Offense \$300 3 <sup>rd</sup> + Offense
Littering (Gen. Bylaw Art. XIX)	Police Department	\$300 per Offense

Matter on Public Way (Gen. Bylaw Art. XI)	Police Department Building Commissioner Highway Superintendent or authorized designee	\$20 per day
Overnight Parking (Gen. Bylaw Art. XII)	Police Department Highway Superintendent or authorized designee	\$20 per day
Preservation Historical Buildings (Gen. Bylaw Art. XXXVII)	Building Commissioner	\$300 per day
Sidewalk Clearing (Gen. Bylaw Art. XVIII)	Police Department	\$10 per Day
Soliciting Prohibited (Gen. Bylaw Art. XIV)	Police Department	\$20 per Offense
Swimming Pools (Gen. Bylaw Art. IX)	Building Commissioner	\$5 per day
Unauthorized taking of water from a hydrant (Gen. Bylaw Art. XXXIX)	Water Superintendent of Authorized Designee	\$200 per Offense
Unregistered Motor Vehicle (Gen. Bylaw Art. (X)	Building Commissioner Selectboard	\$10 per day
Water Use (Gen. Bylaw Art. XXXVI)	Water Superintendent	\$0 1 <sup>st</sup> Offense \$25 2 <sup>nd</sup> Offense \$50 3 <sup>rd</sup> + Offense
Right to Farm Disclosure Notification (Gen. Bylaw Art. XLI, Sec 4)	Selectboard or its designee	\$100 1 <sup>st</sup> Offense \$200 2 <sup>nd</sup> Second Offense \$300 3 <sup>rd</sup> & Subsequent Offenses

**ARTICLE XXXVIII**  
**Right To Farm By-Law**

*Approved 5/16/17 ATM.  
AG approved 8/30/17*

**Section 1 Legislative Purpose and Intent**

The purpose and intent of this By-law is to state with emphasis the Right to Farm accorded to all citizens of the Commonwealth under Article 97, of the Constitution, and all state statutes and regulations thereunder including but not limited to Massachusetts General Laws Chapter 40A, Section 3, Paragraph 1: Chapter 90, Section 9, Chapter 111, Section 125A and Chapter 128 Section 1A. We the citizens of Southamptton restate and republish these rights pursuant to the Town’s authority conferred by Article 89 of the Articles of Amendment of the Massachusetts Constitution, (“Home Rule Amendment”).

This General By-law encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmlands within the Town of Southamptton by allowing

agricultural uses and related activities to function with minimal conflict with abutters and Town agencies. This By-law shall apply to all jurisdictional areas within the Town.

## **Section 2 Definitions**

The word "farm" shall include any parcel or contiguous parcels of land, or water bodies used for the primary purpose of commercial agriculture, or accessory thereto.

The words "farming" or "agriculture" or their derivatives shall include, but not be limited to the following:

- farming in all its branches and the cultivation and tillage of the soil.
- dairying.
- production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities.
- growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations.
- raising of livestock including horses.
- keeping of horses as a commercial enterprise; and
- keeping and raising of poultry, swine, cattle, ratites (such as emus, ostriches and rheas) and camelids (such as llamas and camels), and other domesticated animals for food and other agricultural purposes, including bees and fur-bearing animals.

"Farming" shall encompass activities including, but not limited to, the following:

- operation and transportation of slow-moving farm equipment over roads within the Town.
- control of pests, including, but not limited to, insects, weeds, predators and disease organism of plants and animals.
- application of manure, fertilizers and pesticides.
- conducting agriculture-related educational and farm-based recreational activities, including agri-tourism, provided that the activities are related to marketing the agricultural output or services of the farm.
- processing and packaging of the agricultural output of the farm and the operation of a farmer's market or farm stand including signage thereto.
- maintenance, repair, or storage of seasonal equipment, or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management, or sale of the agricultural products; and
- on-farm relocation of earth and the clearing of ground for farming operations.

## **Section 3 Right to Farm Declaration**

The Right to Farm is hereby recognized to exist within the Town of Southampton. The above-described agricultural activities may occur on holidays, weekdays, and weekends by night or day and shall include the attendant incidental noise, odors, dust, and fumes associated with normally accepted agricultural practices. It is hereby determined that whatever impact may be caused to others through the normal practice of agriculture is more than offset by the benefits of farming to the neighborhood, community, and society in general. The benefits and protections of this By-law are intended to apply exclusively to those commercial agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. Moreover, nothing in this Right to Farm By-law shall be deemed as acquiring any interest in land, or as imposing any land use regulation, which is properly the subject of state statute, regulation, or local zoning law.

## **Section 4 Disclosure Notification**

Not later than 21 days after the purchase and sale contract is entered into, or prior to the sale or exchange of real property if no purchase and sale agreement exist, for the purchase or exchange of real property, or prior to the acquisition of a leasehold interest or other possessory interest in real property, located in the Town of Southampton, the landowner shall present the buyer or occupant with a disclosure notification which states the following:

“It is the policy of this community to conserve, protect and encourage the maintenance and improvement of agricultural land for the production of food, and other agricultural products, and also for its natural and ecological value. This disclosure notification is to inform buyers or occupants that the property they are about to acquire or occupy lies within a town where farming activities occur. Such farming activities may include, but are not limited to, activities that cause noise, dust and odors. Buyers or occupants are also informed that the location of property within the Town may be impacted by commercial agricultural operations including the ability to access water services for such property under certain circumstances.”

A copy of the disclosure notification shall be given on a form prepared by the Town and shall be signed by the landowner prior to the sale, purchase, exchange or occupancy of such real property. A copy of the disclosure notification must be filed with the Select Board or its designee prior to the sale, purchase, exchange or occupancy of such real property. In addition to the above, a copy of this disclosure notification shall be provided by the Town to landowners each fiscal year by mail.

A violation of Section 4 shall be subject to a fine of \$300 and shall be enforced by the Select Board or its designee. The Town is authorized to enforce Section 4 under the non-criminal disposition provision of G.L. c. 40, § 21D and Article XXXII of the Town By-laws in the amounts set forth below:

First Offense \$100.00

Second Offense \$200.00

Third and Subsequent Offenses \$300.00

A copy of the disclosure notification shall be given on a form prepared by the Town and shall be signed by the landowner prior to the sale, purchase, exchange or occupancy of such real property. A copy of the disclosure notification must be filed with the Select Board or its designee prior to the sale, purchase, exchange or occupancy of such real property. In addition to the above, a copy of this disclosure notification shall be provided by the Town to landowners each fiscal year by mail.

### **Section 5 Resolution of Disputes**

Any person who seeks to complain about the operation of a farm may, notwithstanding pursuing any other available remedy, file a grievance with the Select Board, the Zoning Enforcement Officer, or the Board of Health, depending upon the nature of the grievance. The filing of the grievance does not suspend the time within which to pursue any other available remedies that the aggrieved may have. The Zoning Enforcement Officer or Select Board may forward a copy of the grievance to the Agricultural Commission or its agent, which shall review and facilitate the resolution of the grievance and report its recommendations to the referring Town authority within an agreed upon time frame.

The Board of Health, except in cases of imminent danger or public health risk, may forward a copy of the grievance to the Agricultural Commission or its agent, which shall review and facilitate the resolution of the grievance, and report its recommendations to the Board of Health within an agreed upon time frame.

### **Section 6 Severability Clause**

If any part of this By-law is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this By-law. The Town of Southampton hereby declares the provisions of this By-law to be severable.

ARTICLE XXXIX  
Revolving Funds

Section 1: Revolving funds as set forth in Article 24 of the Warrant for the Annual Town Meeting of May 16, 2017, be hereby established; and further, that the limitation on expenditures for each revolving fund be established according to Article 24 of the May 16, 2017, Annual Town Meeting (see chart on next page).

*Amendment from May 7, 2019 Annual Town Meeting –approved by AG 5/17/19  
Amend Article XLII of the Town General by Bylaws, pursuant to the provisions of Section 53E1/2 of Chapter 44 of the Massachusetts General Laws, as most recently amended, by inserting two new categories to the revolving funds, “Conservation Commission and Fire Chief “ and specifying the departmental receipts to be credited to each fund, the departmental purposes or programs for which each fund may be expended, and the entity authorized to expend each fund, with the new language noted in italics, as per Article 31 of the Warrant for the May 7, 2019 Annual Town Meeting and to set the FY spending limits as specified in Article 31*

<b>Program or Purpose</b>	<b>Representative or Board Authorized to Spend Fund</b>	<b>Department Receipts</b>
<b>Conservation</b>	Conservation Commission	Receipts from Fees and filings
<b>Council on Aging Van</b>	Council on Aging Director	Receipts from Operation of Van
<b>Dog Licensing and Control</b>	Town Clerk and Dog Officer	Dog License Fees and Other Related Charges
<b>Electrical Inspections</b>	Electrical Inspector	Electrical Inspection Receipts
<b>Park Commission</b>	Park Commission	Field Usage Fees
<b>Planning Board</b>	Planning Board	Filing Fees
<b>Planning Board</b>	Planning Board	Consultant Charges
<b>Plumbing Inspections</b>	Plumbing Inspector	Plumbing Inspection Receipts
<b>Conservation Commission and Fire Chief</b>	Fire Chief	Receipts from department
<b>Tax Title</b>	Treasurer/ Collector	Receipts from Tax Title
<b>Weights &amp; Measures</b>	Weights & Measures	Receipts from fees
<b>Zoning Board of Appeals</b>	Zoning Board of Appeals	Receipts from Fees

Expenditures from each revolving fund set forth herein shall be subject to the limitation established annually by Town Meeting or any increase therein as may be authorized in accordance with G.L. c.44, §53E½.

## ARTICLE XL Town Budget Process

1. Purpose: To provide voters with ample time to review all budget-related items prior to consideration at Town Meeting, to mandate early, timely budget deliberations, to reinforce collaboration and communication, and to discourage budget-related items being introduced at Town Meeting without ample opportunity for all stakeholders to consider the implications, this bylaw sets forth a process for development of the annual budget presented to Town Meeting.
2. Annual Operating Budget and Select Board Budget Priorities. The Select Board shall prepare the annual operating budget for submission to Town Meeting. Annually, the Select Board shall determine budget priorities for the upcoming Fiscal Year, after consultation with the Finance Team (Town Administrator, Finance Committee Member(s), Town Accountant, Treasurer, and Principal Assessor) as the Select Board deems necessary and appropriate.



3. Budget Schedule. On or about December 1, the Town Administrator shall forward to all Departments and Committees a budget schedule, which schedule shall include time frames and deadlines for actions necessary to prepare the annual budget, together with the Select Board's budget priorities and guidelines for budget preparation. This schedule shall include a date, no later than April 1 (or at least two weeks after the Select Board's Budget is submitted to the Finance Committee as provided for in the budget schedule, whichever is later), for the Finance Committee to provide its budget recommendations to the Select Board.

4. Availability of Final Budget and Final Budget Recommendations. The Select Board's Final Budget, and the Finance Committee's Final Budget Recommendations for each line item of the Select Board's Final Budget, shall, at least one week prior to the Annual Town Meeting, be posted on the Town's website and be made available at Town Hall.

## ARTICLE XLI

### Marijuana

#### Section 1. Limitation on Adult Use retail Establishments

The number of adult uses "marijuana retailer" establishments, as defined in G.L. c.94G, §1 - 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 were 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 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.

#### Section 2. Prohibition on Public Consumption of Marijuana or Tetrahydrocannabinols

No person shall inhale, ingest, or otherwise use or consume marijuana or THC with the exception of prescribed medical marijuana or tetrahydrocannabinols (THC) in all forms (as defined in G.L. c. 94C, § 1, as amended) while in or upon any public place, including but not limited to any public or private street to which the public has a right of access, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, schoolhouse, school grounds, cemetery, parking lot, or any area owned by or under the control of the Town; or in or upon any bus or other passenger conveyance operated by a common carrier; or in any place which members of the public have access as invitees or licensees, or in or upon any other place accessible to the public. Whoever is found in violation of this bylaw shall, when requested by an official authorized to enforce this bylaw, state their true name and address to such official.

This Bylaw may be enforced by any police officer of the Town through any lawful means in law or in equity including, but not limited to, enforcement by criminal indictment or complaint pursuant to G.L. c.40, § 21, or by noncriminal disposition pursuant to G.L. c. 40, § 21D. The fine for violation of this Bylaw shall be three hundred dollars (\$300) for each offense. Any penalty imposed under this Bylaw shall be in addition to any civil penalty imposed under G.L. c. 94C, § 32L.

“This Bylaw may be enforced through any lawful means in law or in equity including, but not limited to, enforcement by criminal indictment or complaint pursuant to G.L. c.40, §21, or by noncriminal disposition pursuant to G.L. c. 40, §21D, or any police officer. The fine for violation of this Bylaw shall be three hundred dollars (\$300) for each offense. Any penalty imposed under this Bylaw shall be in addition to any civil penalty imposed under G.L. c. 94c, §32L.”

This Bylaw shall not alter or affect the jurisdiction of the Board of Health under the provisions of G.L. c.111, §31 or any other applicable law, including but not limited to the regulation of combustion and inhalation of tobacco and non-tobacco products in workplaces and public spaces in the Town.

## ARTICLE XLII

### The Naming of Public Buildings, Structures, Bridges, and Public Lands

*APPROVED ATM 6-7-22 A/G 9-7-22*

#### Sec. 1. Purpose.

This bylaw is enacted to establish the process by which, in naming, renaming or otherwise designating public buildings, structures, bridges, and public lands, the Town seeks to recognize individuals, locations and/or events of significance in local history and local affairs.

#### Sec. 2. Definitions.

Designate – The act of calling by a distinctive title, term, or expression any public buildings, structures or public lands as defined in this bylaw.

Name – A word or phrase that constitutes the distinctive designation of any public building, structure, bridges, or public lands as defined in this bylaw.

Rename – The act of redesignating any public buildings, structures, bridges, or public lands as defined in this bylaw.

Nominee – The individual or entity whose name is proposed.

Public Building/Structure – Any structure, edifice, bridge or other facility owned or maintained by the Town of Southampton or any department or agency thereof.

Public Lands – Any real property owned or maintained by the Town of Southampton, or any department or agency thereof, including, but not limited to, playgrounds, parks, courts, athletic fields, intersections and medians, and private ways on public lands, but not including public ways regulated by Article III, Sec. 9 of the General Bylaws.

Features – Benches, bricks, flagpoles, plaques, parking spaces, trees, scoreboards, and signs or other markers located on public lands or within public buildings or structures.

Sec 3. Procedure.

The naming, renaming or other designation of any public building, structure, bridge, or public lands shall be by majority vote at an Annual or Special Town Meeting. Once public buildings, structures, bridges, or public lands have been named, they shall not be renamed unless changes are recommended by the Select Board and approved by Town Meeting.

Sec. 4 Criteria.

Any proposed name or designation of any public building, structure, bridge, or public lands, shall be submitted to the Select Board, in writing, for its review and recommendation as to the appropriateness thereof.

A. Applicable criteria for naming/renaming consideration shall include, but is not limited to:

- nominee's past residence in Southampton;
- nominee's extraordinary service to the Town;
- nominee's significant contribution to the Town;
- the designated item to be named relates to the individual's service or contribution to the Town;
- no public building, structure, bridge, or public lands shall be named for any living person, or commercial enterprise;
- letter of support from the Southampton Historical Commission, where applicable.

B. The Select Board may consider additional standards and criteria for consideration of proposed names or designations. Following a duly advertised public hearing, the Select Board shall forward its recommendation(s) to Special or Annual Town Meeting for approval.

C. The naming, renaming or other designation of individual rooms, areas or sub-areas within a public building, structure, or areas or sub-areas associated with any public lands, shall be by the department or agency having jurisdiction over the same. The Select Board shall be notified in writing in advance of the intent to name/rename or designate any sub-area within public buildings, structures, and public lands. The Select Board shall be notified within seven (7) days of the installation and naming or renaming permitted under this section. The requirements of Sec. 3.2(B) shall not apply to the naming, renaming or other designation authorized by this paragraph Sec.

3.3, provided that the naming, renaming, or other designation is consistent with the following criteria.

- such rooms, areas, or sub-areas constitute less than 25% of the public building, structure or public lands at or in which the same may be located
  - no such room, area or sub-area shall be named for any living person;
  - no such room, area or sub-area shall bear the name of a commercial enterprise; and
  - a duly advertised public hearing is held at which such naming, renaming or designation is considered and acted upon by said department or agency. Any person objecting to such naming, renaming or designation by the department or agency may, within 10 days thereafter, appeal the action in writing to the Select Board, which shall, after a duly advertised public hearing, approve or reject the action.
- D. The installation and naming, renaming or other designation of features shall be by the department or agency having jurisdiction over the same. The Select Board may, after a duly advertised public hearing, establish standards and specifications for signs, plaques, markers or other features to be erected on public property within the Town.

### ARTICLE XLIII

#### Stormwater Management & Erosion and Sediment Control

Approved ATM 6-13-2021

- 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.
- c. This Bylaw and its associated regulations are also intended to bring the Town of Southampton into compliance with requirements in the United States Environmental Protection Agency National Pollutant Discharge Elimination System (NPDES)

General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems in Massachusetts (“Massachusetts Small MS4 General Permit”).

2. Authority

The Southamptton Planning Board will serve as the Stormwater Authority and shall administer, implement, and enforce this Bylaw. Any powers granted to or duties imposed upon the Planning Board hereunder may be delegated in writing by the Planning Board to any Town Official, including but not limited to the Highway Superintendent.

B. Definitions

The following definitions describe the meaning of the terms used in this Bylaw:

“Alter” is any activity that will measurably change the ability of a ground surface area to absorb water or will change existing surface drainage patterns. Alter may be similarly represented as “alteration of drainage characteristics,” and “conducting land disturbance activities.”

“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 Southamptton 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 Southamptton 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 Southamptton 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.

ARTICLE XLIV  
Marking of Town Owned Vehicles

Town-owned vehicles excluding Police Department vehicles specially designated by the Select Board, shall be appropriately marked with the name of Southampton together with the Town Seal and name of the department on both sides of the vehicle. Police Department and Fire/EMS Department vehicles may substitute the Police Badge or Fire Maltese Cross in place of the Town Seal. This requirement also applies to smaller, Town-owned motorcycles, all-terrain vehicles (ATV's), etc. which shall be marked with "Town of Southampton" only. Each vehicle will be marked with appropriate and contrasting lettering that is highly visible and easily identifiable as a Southampton Town-owned vehicle.

ARTICLE XLV  
Humane Care and Treatment of Domesticated Animals

Sec. 1. Definitions. The definitions set forth at MGL c. 140, §136A are hereby incorporated by reference to the extent not inconsistent with or otherwise defined in the subsequent provisions of this Bylaw.

Sec. 2. Domesticated Animals, for the purpose of this bylaw, are defined by the MA Division of Fisheries and Wildlife (321 CMR 9.02(3)) and shall include, without limitation, dogs, cats, or any animal which is kept for companionship, entertainment, service or livelihood

Sec. 3. Every owner or keeper of domesticated animals shall provide their animals with sufficient potable water, food, proper shelter and protection from the weather, including extremes of heat and cold. Owners shall also provide veterinary care sufficient to prevent suffering and the spread of disease. Owners shall provide humane care and treatment for

animals. An owner's humane care and treatment of animals shall include, but not be limited to, treating and caring for all domesticated animals in a manner consistent with the requirements of G.L. c. 140, §174E.

Sec. 4. In accordance with MGL c. 140, §174F, it shall be a violation of this bylaw to confine an animal in a motor vehicle in a manner that could reasonably be expected to threaten the health of the animal due to exposure to extreme heat or cold. Animals shall not be left outdoors for extended periods of time when owners, keepers, or other individuals are not home to care for or monitor them.

Sec. 5. No owner or keeper shall abandon any animal. For the purpose of this section, "abandonment" shall be defined as the willful desertion of an animal, which shall include, but not be limited to, the failure to claim an impounded animal upon receipt of notice that the period of impoundment has ended.

Sec. 6. Enforcement. The designated animal control officer and/or the Southampton Police Department shall have authority to enforce the provisions of this By-law by violation notices, non-criminal citations under MGL Chapter 40, Section 21D as set forth under General Bylaw Article XLII, administrative orders, and civil and criminal court actions.

Sec. 7. Penalties. Any person who violates this by-law, as determined by the Southampton Police Department or the designated animal control officer shall be subject to fines, as follows: first offense, \$50; second offense, \$100; third and subsequent offenses, \$300.