# Chapter 275

# ZONING



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**[HISTORY: Adopted by the Town Meeting of the Town of Southampton 5-9-2023 by Art. 33, approved by the Attorney General 3-4-2024. Amendments noted where applicable.]**

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ARTICLE I
**General Provisions**

### § 275-1.1. Title and authority.

This bylaw shall be known and may be cited as the "Southampton Zoning Bylaw" which herein is called "this bylaw" and is adopted by virtue of and pursuant to the authority granted the Town by MGL c. 40A as now existing or hereafter amended (herein called the "Zoning Act"). All such regulations and restrictions contained in this bylaw shall be uniform for each class or kind of buildings, structures, or land, and for each class or kind of use, throughout each district.

### § 275-1.2. Purpose.

A. This bylaw is enacted for the following purposes:

(1) To promote the general welfare of Southampton.

(2) To lessen congestion in the streets.

(3) To conserve health.

(4) To secure safety from fires, flood, panic, and other dangers.

(5) To provide adequate light and air.

(6) To prevent the overcrowding of land.

(7) To avoid undue concentration of population.

(8) To encourage housing for persons of all income levels.

(9) To facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space, and other public requirements.

(10) To conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and the pollution of the environment.

(11) To encourage the most appropriate use of land throughout the Town.

(12) To preserve and increase its amenities.

(13) To maintain the agricultural and rural character of the Town.

(14) To reduce the hazard from fire by regulating the location and use of buildings and the open spaces around them.

B. This bylaw was developed giving reasonable consideration to the character of each district and to its peculiar suitability for particular uses, with a view to giving direction or effect to land development policies and proposals of the Planning Board, including the making of Southampton a viable and pleasing place to live, work, and play.

### § 275-1.3. Severability.

In the event that any section or provision of this bylaw should be decided by the courts or by the Attorney General to be unconstitutional or invalid, such decision shall not affect the validity of this bylaw as a whole

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or any part thereof other than the part so decided as being unconstitutional or invalid.

### § 275-1.4. Matters not covered.

For matters not covered by this bylaw reference is made to MGL c. 40A (Zoning Act) and MGL c. 41, §§ 81K to 81GG (Subdivision Control Law).

### § 275-1.5. Interpretation.

A. The provisions of this bylaw shall be interpreted to be the minimum requirements adopted for the promotion of health, safety, morals, or the general welfare of the Town of Southampton, Massachusetts, and except for the Zoning Bylaw approved by the Attorney General on February 8, 1957, and all subsequent amendments thereto, the provisions of this bylaw are not intended to repeal, amend, abrogate, annul, or in any way impair or interfere with any lawfully adopted bylaw, covenants, regulations, or rules.

B. Whenever the regulations made under the authority hereof differ from those prescribed by any statute, bylaw, or other regulation, that provision which imposes the greater restriction or the higher standard shall govern.

### § 275-1.6. Repealer.

All bylaws or parts of bylaws heretofore passed, and inconsistent herewith, are hereby repealed.

### § 275-1.7. Subdivision Regulations.

Subdivision control in accordance with MGL c. 41 is in effect in the Town of Southampton. Current copies of the Subdivision Regulations may be procured from the Planning Board.

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ARTICLE II
**Definitions and Word Usage**

## § 275-2.1. Word usage.

For the purpose of this bylaw, certain terms and words shall have the following meanings:

A. Words used in the present tense include the future.

B. The word "used" or "occupied" includes the words "designed, arranged, intended or offered" to be used or occupied.

C. The word "building," "structure," "lot," "land" or "premises" shall be construed as though followed by the words "or any portion thereof" and the word "shall" is always mandatory and not merely directory.

D. Terms and words not defined herein but defined in the State Building Code or Southampton Subdivision Regulations shall have the meaning given therein unless a contrary intention clearly appears. Words not defined in either place shall have the meaning given in Webster's Unabridged Dictionary, Third Edition.

E. Uses listed in Table 1, Use Regulations,[1] under the classes "Retail and Service" and "Wholesale, Transportation and Industrial" shall be further defined by the Standard Industrial Classification Manual published by the U.S. Bureau of the Census.

## § 275-2.2. Terms defined in other sections.

While most terms are as defined in § 275-2.3 or as provided in § 275-2.1, there are also particular terms related to special topics such as affordable housing and inclusionary zoning, earth removal and excavation, and floodplain management defined in the following sections:

A. Section 275-7.1R: Floodplain Overlay District terms.

B. Section 275-7.7B: inclusionary zoning terms.

C. Section 275-7.12A(2) and B(2), movement, excavation, removal of soil, loam, sand, gravel, quarry, or other earth materials terms.

## § 275-2.3. Definitions.

For the purpose of this bylaw, certain terms and words shall have the following meanings:

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

ACCESSORY APARTMENT — A second dwelling unit either in or added to an existing single-family detached dwelling for use as a complete, independent living facility with provision within the accessory apartment for cooking, eating, sanitation and sleeping. Such a dwelling is an accessory use to the main dwelling.

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1. **Editor's Note: Table 1 is included as an attachment to this chapter.**

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

AQUIFER — Geologic formation composed of rock or sand and gravel that contains significant amounts of potentially recoverable potable water.

BED-AND-BREAKFAST — A house, or portion thereof, where short-term lodging rooms and meals are provided. The operator of the bed-and-breakfast shall live on the premises or in adjacent premises.

BILLBOARD — A sign which advertises products or services not sold or provided on the premises on which the sign is located.

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

BUILDING AREA — The aggregate of the maximum horizontal plane area of all buildings on a lot measured to their outer walls, but exclusive of cornices, eaves, gutters, chimneys, unenclosed porches, bay windows, balconies, and terraces.

BUILDING COVERAGE — The building area expressed as a percentage of the total lot area.

BUILDING, ACCESSORY — A detached building, the use of which is customarily incidental and subordinate to that of the principal building, and which is located on the same lot as that occupied by the principal building.

BUILDING, ATTACHED — A building having any portion of one or more walls in common with adjoining buildings.

BUILDING, DETACHED — A building having open space on all sides.

BUILDING, PRINCIPAL — A building in which is conducted the principal use of the lot on which it is located.

CERTIFICATE OF USE AND OCCUPANCY — A written form signed by the Zoning Enforcement Officer certifying that the stated and described use, structure and/or lot conforms with this bylaw or, in the case of an appeal, variance or special permit, with written conditions of the Zoning Board of Appeals, Planning Board or Select Board as appropriate.

CHILD CARE CENTER — A facility operated on a regular basis, whether known as a child nursery, nursery school, kindergarten, child play school, progressive school, child development center, or preschool or known under any other name, which receives children not of common parentage under seven years of age, or under 16 years of age if those children have special needs, for nonresidential custody and care during part or all of the day separate from their parents. "Child care center" shall not include: any part of a public school system; any part of a private, organized educational system, unless the services of that system are primarily limited to kindergarten, nursery or related preschool services; a Sunday school conducted by a religious institution; a facility operated by a religious organization in which children are cared for during short periods of time while persons responsible for the children are attending religious services; a family child care home; an informal cooperative arrangement among neighbors or relatives; or the occasional care of children with or without compensation.

CHILD CARE HOME, FAMILY — A private residence which, on a regular basis, receives for temporary custody and care, during part or all of the day, children under seven years of age, or children under 16 years of age if those children have special needs, and receives for temporary custody and care for a limited number of hours children of school age under regulations adopted by the Board of Early Education and Care. The total number of children under 16 in a family child care home shall not exceed six, including participating children living in the residence. "Family child care home" shall not mean a private residence

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used for an informal cooperative arrangement among neighbors or relatives, or the occasional care of children with or without compensation.

CHILD CARE HOME, LARGE FAMILY — A private residence which, on a regular basis, receives for temporary custody and care, during part or all of the day, children under seven years of age, or children under 16 years of age if such children have special needs, and receives for temporary custody and care for a limited number of hours children of school age under regulations promulgated by the Board of Early Education and Care, but the number of children under the age of 16 in a large family child care home shall not exceed 10, including participating children living in the residence. A large family child care home shall have at least one approved assistant when the total number of children participating in child care exceeds six. "Large family child care home" shall not mean a private residence used for an informal cooperative arrangement among neighbors or relatives, or the occasional care of children with or without compensation.

CHILD CARE PROGRAM, SCHOOL-AGED — A program or facility operated on a regular basis which provides supervised group care for children not of common parentage who are enrolled in kindergarten and are of sufficient age to enter first grade the following year, or an older child who is not more than 14 years of age, or not more than 16 years of age if the child has special needs. Such a program may operate before and after school and may also operate during school vacation and holidays. It shall provide a planned daily program of activities that is attended by children for specifically identified blocks of time during the week, usually over a period of weeks or months. A school-aged child care program shall not include: a program operated by a public school system; a part of a private, organized educational system, unless the services of that system are primarily limited to a school-aged child care program; a Sunday school or classes for religious instruction conducted by a religious organization where the children are cared for during short periods of time while persons responsible for those children are attending religious services; a family child care home, except as provided under "large family child care home"; an informal cooperative arrangement among neighbors or relatives; or the occasional care of children with or without compensation.

CLUSTER DEVELOPMENT — A residential development in which the buildings and accessory uses are clustered together into one or more groups separated from adjacent property and other groups within the development by open land. The term "cluster development" shall include the term "open space residential development" as defined in MGL c. 40A, §§ 1A and 9.

COMMERCIAL FORESTRY — The cutting of timber where the quantity exceeds 5,000 board feet and/or cordwood where the quantity exceeds 1,500 cubic feet in any one calendar year.

COMMERCIAL/INDUSTRIAL COMPOSTING — Large-scale composting which is designed to handle a very high volume of organic compostable waste (such as from restaurants/grocery stores/other commercial facilities which handle food, yard waste, other source-separated compostable materials, etc.), as opposed to private or home composting, which handles organic waste from one household or facility. The compost produced can be sold commercially to farms and nurseries, applied to municipal landscaping, or sold to individuals.

COMMON DRIVEWAY — Any drive, right-of-way or private way which provides access to two or more lots but which does not qualify as a street for determining frontage under MGL c. 40A and MGL c. 41.

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

CONGREGATE HOUSING FOR ELDERLY AND HANDICAPPED PERSONS — A structure or structures arranged or used for the residence of persons age 55 or older, or for handicapped persons, as defined in MGL c. 121B, with some shared facilities and services.

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CONVENIENCE STORE — Any retail establishment offering for sale prepackaged food products, household items and other goods commonly associated with the same and having a gross floor area of less than 5,000 square feet.

DRIVE-IN EATING ESTABLISHMENT — A commercial establishment wherein food is usually served to or consumed by patrons while they are seated in parked cars.

DRIVE-UP OR DRIVE-THROUGH FACILITY — Any portion of a commercial establishment that, by design, is either an automatic teller machine that can be accessed by customers while in their vehicles or which allows customers to interact with an employee of the establishment through a window or similar structural feature while remaining in their vehicles.

DWELLING — A privately or publicly owned permanent structure for occupancy by families. The term "one-family dwelling," "two-family dwelling" or "multifamily dwelling" shall not include motel, guesthouse, hospital, membership club, trailer, or dormitory.

DWELLING, MULTIFAMILY — A detached building with three or more residential dwelling units, including apartment house, garden apartment house, townhouse, or multirow house, including condominium ownership.

DWELLING, ONE-FAMILY — A detached building occupied by one family only.

DWELLING, TWO-FAMILY — Includes a building containing two dwelling units joined side by side, sharing a common wall for all or substantially all of its height and depth, i.e., a duplex in which no part of one dwelling unit is over any part of the other dwelling unit, or a house containing two dwelling units, in which part of one dwelling unit is over part of the other dwelling unit. "Two-family dwelling" does not include a detached single-family dwelling with an accessory apartment.

ELDER CARE HOME — A private residence where care, protection and supervision are provided, for a fee, at least twice a week to no more than six adults over the age of 60 at one time, including participating elder adults living in the residence.

ENCROACHMENT — Fill, construction of new structures, substantial improvement to existing structures or other development.

ESSENTIAL SERVICES — Facilities necessary for the provision of services ordinarily provided by municipalities, public corporations, and public or private utilities, which facilities must provide a link (interrupted only by intermediate facilities) between central facilities of the utility and individual lots served, including but not necessarily limited to gas, water, and sewer mains; storm sewers; electrical and communication wires, whether underground or overhead; police and/or fire call boxes, hydrants and other stations or terminals of such continuous systems; and facilities accessory to such systems, including but not limited to manholes, telephone poles, and the like, but not including any intermediate facility, such as a major electrical substation; a telephone dial center; a sewage pumping station; or any Town facility or any facility of a public corporation or of a public or private utility which is separately listed in Table 1, Use Regulations.[2]

FAMILY — Any number of individuals residing together on the premises as a single housekeeping unit.

FARM BUSINESS — Business established for the processing of farm products, 50% by volume of which must have been raised or produced on the premises or elsewhere in the Town of Southampton.

FARMSTAND — Stand established for the display or sale of farm products during the months of June, July and August, 50% by volume of which must have been raised or produced on the premises or elsewhere in the Commonwealth of Massachusetts.

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**2. Editor's Note: Table 1 is included as an attachment to this chapter.**

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FLOODPLAIN — Areas which would be flooded during the occurrence of the 100-year flood, shown as Zones A and A1-30 on the Southampton Flood Insurance Rate Maps, and further defined by the flood profiles contained in the Southampton Flood Insurance Study.

FLOODPROOFED — Watertight with walls substantially impermeable to the passage of water and with structural components having the capacity of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

FLOODWAY — The channel of a river or other watercourse plus any adjacent areas that must be kept free of encroachment in order that the 100-year flood may be carried without any increase in flood heights, as shown on the Southampton Flood Boundary and Floodway Map.

FLOOR AREA, NET — The sum of the areas of the several floors of a building, measured from the exterior faces of the walls, but not including cellars, unenclosed porches, attics not used for human occupancy, or any floor space in accessory buildings or in the principal building designed for the parking of motor vehicles in order to meet the parking requirements of this bylaw.

FUR-BEARING ANIMAL — Animals which bear fur of marketable value and are raised for the harvesting of their fur, such as, but not limited to, badgers, beavers, fox, mink, muskrats, nutria, opossums, otters, raccoons, rabbits, squirrels, ring-tailed cats, skunks and civet cats (spotted skunk).

GROUNDWATER — All water found beneath the surface of the ground.

GROUP CARE FACILITY — A facility which provides care and custody for one or more children under 18 years of age, on a regular, twenty-four-hour-a-day, residential basis by anyone other than a relative by blood or marriage, notwithstanding that the care may include educational instruction. Private schools shall be considered group care facilities only if the schools provide special services to children with special needs. "Group care facility" shall not mean family foster care, a hospital, ward or comprehensive center licensed under MGL c. 19, § 19, a hospital, ward or comprehensive center operated by the commonwealth or any subdivision thereof, a hospital, institution for unwed mothers, convalescent or nursing home, rest home, or infirmary licensed under MGL c. 111, or any facility operated under MGL c. 123. "Group care facility" shall not be limited to a facility defined as a group residence under the State Building Code.

GROUP HOME — A nonprofit or for-profit facility for the sheltered care of persons with special needs, including developmentally disabled, which, in addition to providing food and shelter, may also provide some combination of personal care and social or counseling services conducive to the residents' welfare, and must qualify under the exemption of MGL c. 40A, § 3.

HAZARDOUS WASTE — A waste which is hazardous to human health or the environment. Hazardous wastes have been designated by the U.S. Environmental Protection Agency under 40 CFR 261, Identification and Listing of Hazardous Waste, and the regulations of the Massachusetts Hazardous Waste Management Act, MGL c. 21C.

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

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

HOSPITAL — A building providing medical service, including twenty-four-hour in-patient services, used for the diagnosis, treatment, or other care of human ailments, and may include a sanitarium, sanatorium, rest home, nursing home, or convalescent home. Not to be interpreted to include a doctor's office (see "medical clinic").

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

HOUSING FOR THE ELDERLY/SENIOR APARTMENTS — Multifamily dwelling units occupied by persons 55 years or older. In the case of double occupancy of a unit, only one resident is required to be at least 55 years of age. The housing must be self-contained and physically accessible to elderly citizens.

IMPERVIOUS SURFACES — Material or structures on or above the ground that do not allow precipitation to infiltrate the underlying soil.

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

LEACHABLE WASTES — Waste materials, including solid wastes, sludge and pesticide and fertilizer wastes, capable of releasing waterborne contaminants to the environment.

LIFE CARE FACILITY — A facility for the transitional residency of elderly and/or disabled persons, progressing from independent living in single-family units to congregate apartment living where residents share common meals and culminating in a full health and continuing care nursing home facility.

LOAM — Loam borrow as defined by Subsection M1.05.0, Loam Borrow, of the Standard Specifications for Highways and Bridges of the Commonwealth of Massachusetts.

LODGING HOUSE (BOARDING) — A house containing one or more rooms for the semipermanent use of one, two or more individuals not living as a single housekeeping unit and not having cooking facilities within the individual rooms.

LOT — An area of land in one ownership with definitive boundaries as shown in the record title of the property or by a plan recorded in the Registry of Deeds, used or available for use as the site for one or more buildings.

LOT ACCESS — Vehicular egress/access to a lot must be across and from the front lot line and lot frontage. Such egress/access may not encroach onto abutting lots unless part of an approved common driveway.

LOT AREA — The area of the lot, exclusive of any area in a street or recorded way open to public use.

LOT AREA, MINIMUM — The smallest sized lot to be considered as a building lot. The following shall not be counted toward land within the minimum lot area: land under permanent water bodies (measured at the average high-water mark) and bordering vegetated wetlands as defined under MGL c. 40, § 131, as defined by the Conservation Commission, land within public ways, and land within private ways and rights-of-way where the general public has the right of access by automotive vehicles. Not less than 80% of land in the minimum lot area shall have a slope in excess of 33%, nor may the remaining 20% of land in the minimum lot area have a slope in excess of 50% (as determined by the Town's geographic information system, or by a registered land surveyor's equivalent topographic plan). That land comprising the minimum lot area must be contiguous.

LOT DEPTH — The mean horizontal distance, measured perpendicular (at right angles) to the front lot line, between the front lot line and the rear of the lot. Said distance shall be measured from a portion of the front lot line that equals the minimum lot frontage, and no (principal) structure may be placed on a portion of the lot that has a depth less than the minimum lot depth required.

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LOT FRONTAGE —

A. The uninterrupted length of the front lot line, along a single street, as defined herein, whether straight or not, which conforms to the minimum lot frontage requirement. Frontage may not be illusory and must provide practicable access to the buildable portion of the lot. It should be noted that even though a lot complies with the minimum frontage requirement, because it may be measured on a curve, such lot may not conform to other provisions of zoning (i.e., lot width, lot layout, etc.).

B. In the case of a subdivision lot approved under the Subdivision Control Law,[3] the lot frontage requirement may be reduced by not more than 20% for lots situated around a cul-de-sac, provided that:

(1) They are approved as a part of and are shown on the approved definitive subdivision plan; and

(2) The minimum lot width must be achieved at the front of the principal structure on the lot and continued from that point to the rear of the lot.

LOT LAYOUT — In addition to the minimum lot area, depth, width and frontage requirements, lots shall be laid out in such a manner that a square, with the sides equal to the minimum frontage requirement for the zoning district in which it is located, can be placed within the lot with at least one point of the square lying on the front lot line with no portion of the square extending beyond the boundaries of the lot.

LOT LINES —

A. FRONT — The property line dividing a lot from a single street right-of-way. On a corner lot the owner shall designate one street line as the front lot line.

B. REAR — The lot line(s) most nearly opposite from and parallel to the front lot line.

C. SIDE — Any lot line not a front or rear lot line.

LOT WIDTH — The horizontal distance (measured in a straight line at the narrowest point) between the side lot lines. At no point, between the front lot line and the rear of the principal structure (said rear being the furthest point of the structure from the front lot line) located on the lot, shall the lot have a width less than the minimum lot width required. In the case of a cul-de-sac lot with a twenty-percent frontage reduction, the minimum lot width must be achieved at the front of the principal structure on the lot and continued from that point to the rear of the lot.

**3. Editor's Note: See MGL c. 41, §§ 81K to 81GG.**

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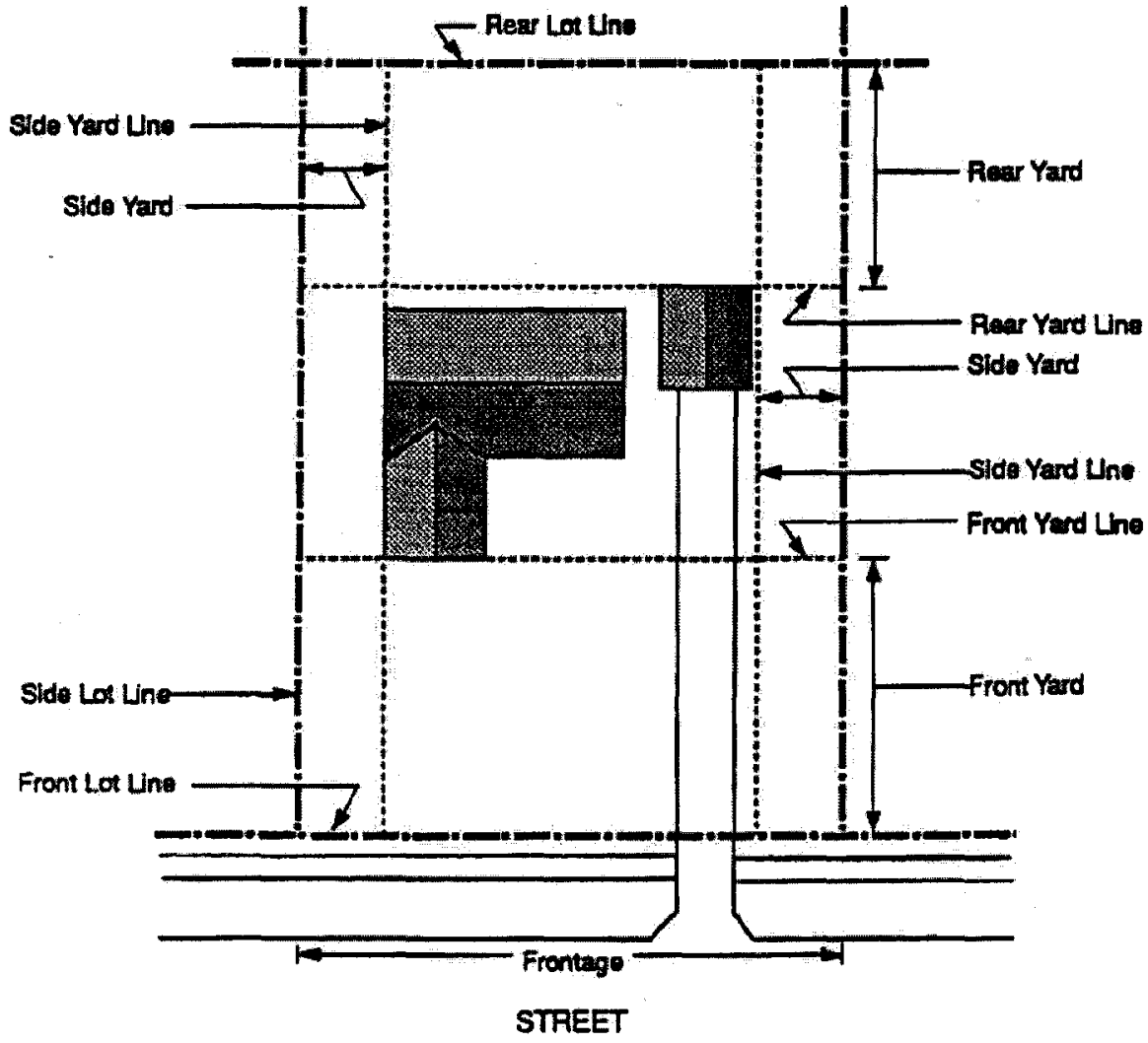
**Diagram 1**




LOT, CORNER — A lot at the point of intersection of and abutting on two or more intersecting streets, the interior angle of intersection of the street lot lines, or extended lot lines in case of a curved street, being not more than 135°. For purposes of this bylaw, the yard adjacent to each street shall be considered a front yard and shall meet the front setback requirements unless otherwise stated in this bylaw. In the case where an already developed lot is made a corner lot by the subsequent construction of a new street, the setbacks adjacent to said new street shall be considered side setbacks.

LOT, INTERIOR — Any lot other than a corner lot or a through lot.

LOT, NONCONFORMING — A lot lawfully existing at the effective date of this bylaw, or any subsequent amendment thereto, which is not in accordance with all provisions of this bylaw, or any subsequent amendment.

LOT, THROUGH — A lot which abuts two streets, but not at their intersection.

MAJOR RESIDENTIAL DEVELOPMENT — The creation of more than 10 lots (unless restricted from residential use), whether a subdivision or not, or construction of more than 10 dwelling units within a four-year period from or on a property or set of contiguous properties in common ownership as of the date of

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adoption of this bylaw, within the R-R or R-N Zone.

MEDICAL CLINIC — A building providing outpatient services used for the diagnosis, treatment, or other care of human ailments.

MEMBERSHIP CLUB — A building used to house a nonprofit social, veterans, sports, or fraternal organization not connected or associated with any business, which is used by members and their guests.

MOBILE HOME — A dwelling unit built on a chassis and containing complete electrical, plumbing and sanitary facilities and designed to be installed on a temporary or permanent foundation for permanent living quarters.

NONPROFIT RECREATION FACILITY — A place designed and equipped for the conduct of sports, leisure time activities and other customary recreational activities which is operated by a government agency or other nonprofit organization.

OPEN SPACE — The space, not occupied by buildings or other roofed structures, on the same lot as the principal building. "Open space" may include, but it is not limited to, lawns, decorative plantings, walkways, active and passive recreation areas, playgrounds, fountains, swimming pools, wooded areas, and watercourses. "Open space" shall not be deemed to include driveways, parking lots, or other surfaces designed or intended for vehicular travel.

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

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

PARTIES IN INTEREST — The petitioner, abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line of the petitioner as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town; the Planning Board of the Town; and the Planning Board of every abutting city or town.

PERFORMANCE GUARANTEE — Any security accepted by the Town in the form of cash, certified check, performance bond, surety bond or certificate of deposit endorsed to the Town.

PRIMARY AQUIFER RECHARGE AREA — Areas which are underlain by surficial geologic deposits, including glaciofluvial or lacustrine stratified drift deposits or alluvium or swamp deposits, and in which the prevailing direction of groundwater flow is toward the area of influence of public and private water supply wells.

PROFESSIONAL OFFICE — The office of a recognized profession maintained for the conduct of that profession.

PUBLIC RECREATION USE — A recreation use or facility operated by a government agency and open to the general public.

RESEARCH OFFICES — A building or group of buildings in which are located facilities for scientific research, investigation, testing or experimentation but not facilities for the manufacture or sale of products except as incidental to the main purpose of the laboratory.

RESTAURANT — A business establishment whose principal business is the selling of unpackaged food to the customer in a ready-to-consume state, in individual servings, or in nondisposable containers, and where the customer consumes these foods while seated at tables or counters located within the building.

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RESTAURANT, FAST-FOOD — An establishment that offers quick food service, which is accomplished through a limited menu of items already prepared and held for service, or prepared, fried or grilled quickly, or heated in a device such as a microwave oven. Orders are not generally taken at the customer's table and food is generally served in disposable wrapping or containers.

RIVERBANK — The mean annual high-water line, located within a river or stream bank, that is apparent from visible markings, changes in the character of soils or vegetation due to the prolonged presence of water, and which distinguishes between predominantly aquatic and predominantly terrestrial land.

RIVERINE MATERIAL — Stone, rock, gravel, soil or other materials which comprise the river's bed or riverbank.

SELF-SERVICE STORAGE FACILITY — A building or group of structures consisting of individual, small, self-contained units that are leased or owned for the storage of business and household goods or contractors supplies.

SENIOR APARTMENTS — See "housing for the elderly/senior apartments."

SIGN — Any device designed to direct, inform, advertise, announce or attract attention. Any exterior building surfaces which are internally illuminated or decorated with gaseous tube or other lights are considered signs, as are advertising devices attached to vehicles, trailers or other movable objects if regularly located for display. The following, however, shall not be considered signs within the context of this bylaw:

A. Flags and insignia of any government except when displayed in connection with commercial promotion.

B. Legal notices, or informational devices erected or required by public agencies.

C. Standard gasoline pumps bearing thereon in usual size and form the name, type, and price of gasoline.

D. Integral decorative or architectural features of buildings. However, letters, registered trademarks, moving parts, and parts internally illuminated or decorated with gaseous tube or other lights shall be considered signs, even if an integral part of the building.

E. On-premises devices guiding and directing traffic, parking, and public services (i.e., restrooms, telephones), not exceeding two square feet in area, and bearing no advertising matter.

SIGN, BUSINESS — A sign used to direct attention to a service, product sold, or other activity performed on the same premises upon which the sign is located.

SIGN, GENERAL ADVERTISING — Any sign advertising products or services other than products or services available on the lot on which the sign is located, or any sign which is not located within 200 feet of the building or other structure at which the products or services advertised thereon are available.

SIGN, IDENTIFICATION — A sign used simply to identify the name, address, and title of an individual, family or firm occupying the premises upon which the sign is located.

SIGN, POLE — A sign supported by or suspended from a freestanding column, pipe or pole.

SIGN, PROJECTING — A sign attached to and projecting away from the face of a building or structure.

SIGN, SURFACE AREA OF —

A. For a sign, either freestanding or attached, the area shall be considered to include all lettering, wording, and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed, but not including any supporting framework and bracing

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which are incidental to the display itself.

B. For a sign consisting of individual letters, designs and symbols attached to or painted on a surface, building, wall or window, the area shall be considered to be that of the smallest quadrangle which encompasses all the letters, designs and symbols.

SIGN, WALL — A sign affixed to the exterior wall of a building and extending not more than 15 inches therefrom.

SOIL — Includes borrow, as defined by Section M1, Soils and Borrow Material, in the current edition of Standard Specifications for Highways and Bridges of the Department of Transportation of the Commonwealth of Massachusetts.

SPECIAL PERMIT GRANTING AUTHORITY (SPGA) — The Select Board, Zoning Board of Appeals or the Planning Board of the Town of Southampton as empowered in this bylaw to issue certain classes of special permits.

STORY — That part of a building comprised between a floor and the floor or roof next above. If a mezzanine floor area exceeds 1/3 of the area of the floor immediately below, it shall be deemed to be a story. A basement shall be classified as a story when its ceiling is six or more feet above the average finished grade.

STORY, HALF — A story under a gable, hipped, or gambrel roof, the floor area of which does not exceed 1/3 of the floor immediately below when measured where the vertical distance between the floor and ceiling is four feet or more.

STREET — A way which is dedicated or devoted to public use by legal mapping by the user, or by any other lawful procedure. "Street" includes all public ways, a way which the Town Clerk certifies is maintained and used as a public way, a way shown on a plan approved and endorsed in accordance with the Subdivision Rules and Regulations of Southampton, Massachusetts, and a way having in the opinion of the Planning Board sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed uses of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

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

STRUCTURE, NONCONFORMING — A structure lawfully in existence or lawfully begun or lawfully authorized by a building or special permit issued before the first publication of notice of the public hearing on this bylaw, or subsequent amendment thereto, which is not in accordance with all provisions of this bylaw, or any subsequent amendment.

SUBSTANTIAL IMPROVEMENT — Improvement to a structure or building which exceeds 25% of the original footprint of such structure or building.

TRAILER — Any vehicle which was originally or is still immediately portable or mobile, and is arranged, intended, designed, or used for sleeping, eating, or business, or is a place in which persons may congregate, including a house trailer or camper. Such vehicle which is no longer immediately portable by virtue of having its wheels removed or skirts attached still shall be considered a trailer for the purposes of this bylaw.

TREE FARM — A forested land parcel enrolled under MGL c. 61 and MGL c. 61A and which has an approved forest management plan, but not including commercial forest cutting.

TRUCKING TERMINAL — Business which services or repairs commercial trucks which are not owned by the business.

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USE — The purpose for which a structure or lot is arranged, designed, or intended to be used, occupied or maintained.

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

USE, NONCONFORMING — A use lawfully in existence or lawfully authorized by a special permit issued before the first publication of notice of the public hearing on this bylaw, or subsequent amendment thereto, which is not in accordance with all provisions of this bylaw, or any subsequent amendment.

USE, PRINCIPAL — The main or primary purpose for which a structure or lot is designed, arranged, or intended, or for which it may be used, occupied, or maintained under this bylaw.

WATERSHED — Lands lying adjacent to watercourses and surface water bodies which create the catchment or drainage areas of such watercourses and water bodies.

WET AREA — An area which is subject to the Wetlands Protection Act, MGL c. 131, § 40, as amended.

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

YARD — A portion of a lot, other than the principal building, unobstructed artificially from the ground to the sky, except as otherwise provided herein.

YARD LINE — A line parallel to a lot line a distance therefrom equal to the depth of the required yard.

YARD, FRONT — The yard extending for the full width of the lot between the front line of the nearest wall of the principal building and the front lot line.

YARD, REAR — The yard extending for the full width of the lot between the nearest wall of the principal building and the rear lot line.

YARD, SIDE — The yard extending for the full length of a principal building between the nearest building wall and side lot line.

ZONING ENFORCEMENT OFFICER — The Building Commissioner/Inspector of the Town of Southampton.

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ARTICLE III
**Administration and Enforcement**

## § 275-3.1. Applicability; mixed uses.

A. Applicability. Except as provided herein, or as specifically exempted by the Zoning Act, this bylaw shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued, before the first publication of notice of the public hearing on such bylaw required by MGL c. 40A, § 5, but shall apply to any change or substantial extension of such use, to a building or special permit issued after the first notice of said public hearing, to any reconstruction, extension or structural change of such structure and to any alteration of a structure begun after the first notice of said public hearing to provide for its use for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent, except where alteration. reconstruction, extension or structural change to a single- or two-family residential structure does not increase the nonconforming nature of said structure.

B. Mixed uses. In cases of mixed occupancy, the regulation for each use shall apply to the portion of the building or land so used.

## § 275-3.2. (Reserved)

## § 275-3.3. Enforcement; permits and certificates; violations and penalties.

A. This bylaw shall be administered and enforced by the Building Commissioner/Inspector as the Zoning Enforcement Officer of the Town of Southampton. The Zoning Enforcement Officer shall have the assistance of such other persons as the Select Board or Town Meeting may direct.

B. Duties of the Zoning Enforcement Officer under this bylaw shall include:

(1) The receiving of applications.

(2) The issuing of building permits.

(3) The inspection of premises.

(4) The issuing of certificates of use and occupancy.

(5) Taking action on violations.

(6) Any other lawful actions necessary to assure conformance with this bylaw.

C. Permits and certificates.

(1) It shall be unlawful to construct, enlarge, alter, remove or demolish a building or change the occupancy or use of a building or land from one use to another without first filing an application with the Zoning Enforcement Officer in writing and obtaining the required permits therefor.

(2) The Zoning Enforcement Officer shall withhold a permit for the construction, alteration or moving of any building or structure if the building or structure as constructed, altered or moved would be in violation of this bylaw.

(3) No building or structure hereafter erected and no land shall be used or occupied in whole or in part, and no building or structure hereafter enlarged, extended or altered to change the use in whole or in part, shall be occupied or used until a certificate of use and occupancy has been

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issued. No such certificate shall be issued for a new use of a building, structure or land which use would be in violation of this bylaw.

(4) Permit and certificate application requirements.

(a) All applications for permits shall be accompanied by two copies of a plot plan.

[1] Such plot plan shall:

[a] Be drawn to scale showing the actual dimensions of the lot to be built upon.

[b] Show the size and location on the lot of the building and accessory buildings to be erected.

[c] Show the location and design of off-street parking and loading spaces and signs.

[d] Include such other information as may be necessary to determine and provide for the enforcement of this bylaw.

[2] The information required on the plot plan may be combined with the information required under Article IX for any site plan.

[3] The Zoning Enforcement Officer may refuse the application for a permit because of an inadequate or inaccurate plot plan.

[4] One copy of such plan shall be returned to the applicant, if approved by the Zoning Enforcement Officer.

(b) Application for a certificate of use and occupancy shall be made upon completion of construction for a structure prior to occupancy and for use of a lot not involving construction at the same time as the application for a permit.

(c) Time limits for permits and certificates.

[1] The Zoning Enforcement Officer shall have 30 days from the date of submittal for review and action on the application for a permit.

[2] Any work for which a permit has been issued by the Zoning Enforcement Officer shall be actively prosecuted within six months of the date of issue.

[3] For cause, one or more extensions of time, for periods not exceeding 90 days each, may be allowed in writing by the Zoning Enforcement Officer.

[4] For the purposes of this section, any permit issued shall not be considered invalid if such suspension or abandonment is due to a court order prohibiting such work as authorized by such permit; provided, however, that in the opinion of the Zoning Enforcement Officer the person so prohibited by such court order adequately defends such action before the court.

[5] Any work for which a permit has been issued by the Zoning Enforcement Officer shall be completed within one year of the date of issuance.

[6] Any permit issued for a project which is actively prosecuted for one year may be extended at the discretion of the Zoning Enforcement Officer.

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[7] If the work described in any permit has not begun and been substantially completed within one year of the date of issue, the permit shall expire and the Zoning Enforcement Officer shall give written notice thereof to the persons affected.

(d) Permit, certificate and application fees shall be computed according to the fee schedule and procedures adopted by the Select Board.

(5) Where authorization for a use of land or of a structure has been given through appeal, variance or special permit, a copy of such written authorization shall be sent by the granting authority to the Zoning Enforcement Officer within 10 days of granting, and no building permit shall be issued until the Zoning Enforcement Officer has received documentation from the Hampshire County Registry of Deeds that said authorization has been recorded.

D. Violations.

(1) The Zoning Enforcement Officer shall serve, by certified mail, a notice of violation and order to any person:

(a) Responsible for the erection, construction, reconstruction, conversion, or alteration of a structure or change in use or extension or displacement of use of any building, sign, other structure or lot in violation of any approved plan, information, or drawing pertinent thereto.

(b) In violation of a permit or certificate issued under the provisions of this bylaw.

(2) Such order shall direct the immediate discontinuance of the unlawful action, use, or condition and the abatement of the violation.

(3) Any owner who has been served with a notice and ceases any work or other activity shall not leave any structure or lot in such a condition as to be a hazard or menace to the public safety, health, morals or general welfare.

(4) Except where another penalty is prescribed, any person who violates or refuses to comply with any of the provisions of this bylaw may, upon conviction, be fined a sum of $300 or such other amount as may be authorized or prescribed by Massachusetts state law for each offense. Each day or portion of a day that any violation continues shall constitute a separate offense.

(5) Any person who violates or refuses to comply with the provisions of § 275-7.12, Soil, loam, sand, gravel, quarry or other earth materials, shall, upon conviction, be fined $50 for a first offense, $100 for a second offense, and $200 for subsequent offenses or such other amount as may be authorized or prescribed by Massachusetts state law.

## § 275-3.4. Zoning Board of Appeals.

A. There is hereby created a Zoning Board of Appeals of five members and two associate members.

(1) Members of the Zoning Board of Appeals in office at the effective date of this bylaw shall continue in office.

(2) Hereafter, as terms expire or vacancies occur, the Select Board shall make appointments pursuant to MGL c. 40A, § 12.

(3) The Zoning Board of Appeals shall adopt rules for the conduct of its business and shall file a copy of its rules with the Town Clerk.

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B. The Zoning Board of Appeals shall have the power to:

(1) Hear and decide appeals in accordance with MGL c. 40A, § 8.

(2) Hear and decide petitions for variances in accordance with MGL c. 40A, § 10.

(3) Hear and decide applications for certain classes of special permits it is specifically empowered to decide upon by this bylaw in accordance with MGL c. 40A, § 9.

(4) Hear and decide applications for findings for changes, extensions or alterations to preexisting nonconforming structures or uses in accordance with MGL c. 40A, § 6.

### § 275-3.5. Appeals.

A. An appeal to the Zoning Board of Appeals may be taken by:

(1) Any person aggrieved by reason of their inability to obtain a permit or enforcement action from any administrative officer.

(2) The Lower Pioneer Valley Regional Planning Commission.

(3) Any person, including an officer or board of the Town of Southampton or of an abutting city or town, aggrieved by an order or decision of the Zoning Enforcement Officer or other administrative official, in violation of the Zoning Act or this bylaw.

B. Appeals shall be made in accordance with the process specified in MGL c. 40A, §§ 8, 11 and 15, and the Southampton Zoning Board of Appeals rules, policies and procedures. Written application shall be made on forms provided by the Zoning Board of Appeals and include a copy of all information submitted to the Zoning Enforcement Officer on the application for a permit.

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

### § 275-3.6. Special permits.

See Article X.

### § 275-3.7. Variances.

A. Variances shall be processed and issued in accordance with MGL c. 40A, §§ 8, 10, 11 and 15, the Southampton Zoning Board of Appeals rules, policies and procedures, and the special permit granting authority's rules, policies and procedures on file with the Town Clerk.

(1) Such rules, policies and procedures shall prescribe:

(a) A size.

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(b) Form.

(c) Contents.

(d) Style.

(e) Number of copies of plans and specifications.

(f) The procedure for a submission and approval of such permits.

(2) The authority may require additional information as necessary to adequately judge the merits of the request.

B. A site plan shall be included with all variance applications (unless waived by the Zoning Board of Appeals) and shall be included as part of that variance application and process. Any conditions for said site plan shall be in addition to and incorporated as a part of the conditions of the variance. Said plan shall comply with all of the requirements of Article IX and the Southampton Zoning Board of Appeals rules.

C. A decision approving a variance must include written affirmative findings specifying how the application complies with all of the following:

(1) There must be circumstances relating to either the soil conditions or the shape or the topography of such land or structure especially affecting such land or structure but not affecting generally the zoning district in which it is located;

(2) A literal enforcement of the provisions of this bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant; and

(3) That desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this bylaw.

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

E. If the rights authorized by a variance are not exercised within one year of the date of grant of such variance such rights shall lapse; provided, however, that the permit granting authority in its discretion and upon written application by the grantee of such rights may extend the time for exercise of such rights for a period not to exceed six months; and provided, further, that the application for such extension is filed with such permit granting authority prior to the expiration of such one-year period. If the permit granting authority does not grant such extension within 30 days of the date of application therefor, and upon the expiration of the original one-year period, such rights may be reestablished only after notice and a new hearing pursuant to the provisions of this section.

### § 275-3.8. Applications relating to nonconforming structures or uses.

A. Applications for changes, extensions and alterations to preexisting nonconforming structures or uses as required in MGL c. 40A, § 6, and Articles VIII through X of this bylaw shall be processed and issued in accordance with the requirements for special permits (see Article X) and the special permit granting authority's rules, policies and procedures on file with the Town Clerk.

(1) Such rules, policies and procedures shall prescribe:

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(a) A size.

(b) Form.

(c) Contents.

(d) Style.

(e) Number of copies of plans and specifications.

(f) The procedure for a submission and approval of such permits.

(2) The authority may require additional information as necessary to adequately judge the merits of the request.

B. A site plan shall be included with all applications (unless waived by the Zoning Board of Appeals) and shall be included as part of that permit application and process. Any conditions for said site plan shall be in addition to and incorporated as a part of the conditions of the decision. Said plan shall comply with all of the requirements of Article IX.

C. A decision approving any change, extension or alteration to a preexisting nonconforming structure or use must include a written affirmative finding specifying how such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming use to the neighborhood.

**§ 275-3.9. Site plan review and approval.**

See Article IX.

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ARTICLE IV
**Establishment of Districts**

## § 275-4.1. Division into districts; purpose of districts.

A. The Town of Southampton, Massachusetts, is hereby divided into zoning districts to be designated as follows:

| Full Name | Short Name | Purpose |
|---|---|---|
| Residential-Rural | R-R | To accommodate agriculture, horticulture or floriculture uses as well as single-family detached dwellings at lower densities which minimally impact the aquifer and preserve the Town's open space while providing protection for environmentally sensitive areas, agricultural resources, and other similar lands; these are areas where a full range of municipal facilities and services is not available and not likely to be available in the near future |
| Residential-Neighborhood | R-N | To provide for residential areas of medium densities which are serviced by public water |
| Residential-Village | R-V | To provide for residential neighborhoods, within and adjacent to village centers, that are of medium densities and that are intended to provide for a transition between the Commercial-Village District and surrounding residential districts |
| Commercial-Village | C-V | To provide areas within the village centers of Southampton that allow for a mix of uses, including retail, commercial, office and housing of moderate to high density |

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| Full Name | Short Name | Purpose |
|---|---|---|
| Commercial-Highway | C-H | To provide areas for a wide range of retail uses and services and commercial activities in appropriate locations along primary roads within the Town |
| Industrial-Park | I-P | To provide areas for manufacturing, warehousing, wholesaling and similar noncommercial activities |
| Floodplain (Overlay) | F-P | To protect life and property against the hazards of floods and erosion and to protect the public health, safety, and welfare by restricting the number and types of uses allowed |
| Water Supply Protection (Overlay) | WSP | To promote the health, safety and welfare of the community by protecting and preserving the surface water and groundwater resources of the Town and the region from any use of land or buildings which may reduce the quality of its water resources |

### § 275-4.2. Zoning Map.

A. The location and boundaries of the zoning districts are hereby established as shown on a map titled "Zoning Map of the Town of Southampton, Massachusetts," dated September 5, 1978, as amended, which accompanies and is hereby declared to be part of this bylaw.

B. The authenticity of the Zoning Map, the original of which shall be filed with the Town Clerk, shall be certified by the signature of the Town Clerk and the imprinted Town Seal, together with the words: "This is to certify that this is the Zoning Map referred to in Article IV of the Zoning Bylaw of the Town of Southampton, Massachusetts," together with the effective date of this bylaw. Photographic reductions of the original map may be used for printing purposes. The original map shall be the final determinant in all matters of dispute. Changes to the map shall be authenticated by the Town Clerk in the same manner as the authentication of the initial adoption.

### § 275-4.3. Rules for determining district boundaries.

Where any uncertainty exists with respect to the boundary of any district as shown on the Zoning Map, the following rules apply:

A. Where a boundary is indicated as a street, alley, railroad, watercourse, or other body of water, it shall

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be construed to be the center line or middle thereof, or where such boundary approximates a Town boundary, then it shall be construed to be the limits of the Town boundary.

B. Where a boundary is indicated as following approximately or parallel to a street, alley, railroad, watercourse, or other body of water, it shall be construed to be parallel thereto and at such distance therefrom as shown on the Zoning Map; if no dimension is given, such distance shall be determined by the use of the scale shown on the Zoning Map.

C. Where a dimensioned boundary coincides within 10 feet or less with a lot line, the boundary shall be construed to be the lot line.

D. Where a boundary is indicated as intersecting the center line of a street, railroad, watercourse, or other water body, it shall be construed to intersect at right angles to said center line, or in the case of a curved center line, at right angles to the tangent to the curve at the point of intersection.

E. The abbreviation "PL" means property line as shown on the Town Assessor's Maps as in effect at the effective date of this bylaw. The abbreviation "PL" when used in conjunction with a subsequent amendment to this bylaw shall mean a property line as shown on the Town Assessor's Maps as in effect at the effective date of such amendment.

F. The abbreviation "SLC" means straight line connection; "CL" means center line; and "CI" means center of intersection.

G. When a district boundary line divides any lot in one ownership of record at the time such line is adopted, a use that is permitted on one portion of the lot may be extended 30 feet into the other portion provided the first portion includes the required frontage.

H. The designated F-P District shall be as defined on the Southampton Flood Insurance Rate Maps, Flood Boundary and Floodway Maps and Flood Insurance Study and overlayed on the Zoning Map. In all matters of dispute, the Planning Board shall make the final determination as to the location of the F-P District boundaries and the flood elevation.

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# ARTICLE V
# Use Regulations

## § 275-5.1. Applicability of use regulations.

Except as provided by the Zoning Act or in this bylaw, in each district no building, structure, water body, or lot shall be used or occupied except for the purposes permitted in the district as described in this article and Table 1, Use Regulations.[4] Any use not listed shall be construed to be prohibited.

## § 275-5.2. Uses subject to other regulations.

Uses permitted by right or by special permit shall be subject, in addition to use regulations, to all other provisions of this bylaw.

## § 275-5.3. Table of Use Regulations.

See Table 1, Use Regulations, which is included as an attachment to this chapter and is declared to be a part of the Zoning Bylaw.

4. **Editor's Note: Table 1 is included as an attachment to this chapter.**

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ARTICLE VI
**Dimensional and Density Regulations**

## § 275-6.1. Area, height and bulk regulations.

A. Applicability of area, height and bulk regulations. The regulations for each district pertaining to minimum lot area, minimum lot frontage, minimum front yard depth, minimum side yard width, minimum rear yard depth, maximum height of buildings, maximum number of stories, maximum building coverage of lot and minimum two-family and multifamily residential net floor area shall be as specified in this section and set forth in applicable tables, Table 2, Area Regulations, and Table 3, Height and Bulk Regulations, and subject to the further provisions of this article.

B. Tables of area and height and bulk regulations. See Tables 2 and 3 below inclusive of attached notes, which are declared to be a part of this bylaw.

Table 2: Area Regulations

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

NOTES:

* 50 feet when adjacent to a "R" district (R-R, R-N and/or R-V District).

** Minimum lot dimensions for cluster development provisions are in § 275-7.8.

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| Table 3: Height and Bulk Regulations | | | | | |
|---|---|---|---|---|---|
| District | Maximum Permitted Height (feet) | Maximum Permitted Height (stories) | Maximum Building Coverage of Lot (covered area as percent of total lot area) | Minimum Two-Family or Multifamily Residential Net Floor Area (square feet) | Maximum Impervious Coverage (covered area as percent of total lot area) |
| R-R | 35 | 2 1/2 (See *3) | 15% | Not permitted | 25% |
| R-N | 35 | 2 1/2 (See *3) | 20% | (See *1) | 30% |
| R-V | 45 | 3 | 25% | 768 by special permit | 30% |
| C-V | 30 | 2 | 40% | (See *2) | 60% |
| C-H | 30 | 2 | 30% | Not permitted | 80% |
| I-P | 45 | 3 | 50% | Not permitted | 75% |

NOTES:

*1. Two-family: 768 square feet by special permit; multifamily: not permitted.

*2. Two-family: not permitted; multifamily: 768 square feet by special permit.

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

(1) Any maximum height permitted in this bylaw shall not apply to:

(a) Community facility and public utility structures, provided the side and rear yards or setbacks required in the district for the highest permitted principal structure shall be increased two feet in width for each foot by which the height of such structures exceeds the height permitted in the district.

(b) Necessary appurtenant structures, such as a church spire, smokestack, monument, flagpole, radio or television tower, aerial, airplane hanger, chimney or parapet wall, or any similar appurtenances not in any manner used for human occupancy.

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

(2) Maximum impervious coverage shall include the percentage of a lot covered by the maximum building coverage, plus that portion of a lot covered by driveways, parking areas, walkways, tennis courts, swimming pools or other similar surfaces. For the purposes of this bylaw, all such surfaces, whether constructed of impermeable materials (i.e., concrete, bituminous asphalt, oil and stone and the like) or constructed of permeable materials (i.e., gravel, pea stone and the like) shall be included in the calculation of maximum lot coverage.

C. Reduction of lot areas. The lot, yard areas, or open space required for any new building or use may not include any part of a lot that is required by any other building or use to comply with any

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provisions of this bylaw, nor may these areas include any property of which the ownership has been transferred subsequent to the effective date of this bylaw, if such property was a part of the area required for compliance with the dimensional regulations applicable to the lot from which such transfer is made.

D. Separations of lots. Lots shall not be so separated or transferred in ownership so as not to comply with the provisions of this bylaw.

### § 275-6.2. Screening and buffer strips in industrial and business districts.

Screening and buffer strips shall be required in any industrial or business district which adjoins a residential district at the time of construction of any permitted industrial or business building in the industrial or business district as follows: these strips shall be at least 35 feet in width and shall contain a screen of plantings. The screen shall not be less than five feet in width and six feet in height at the time of occupancy of such lot. Individual shrubs and trees shall be planted as close as necessary to create a visual screen and shall thereafter be maintained by the owner or occupants so as to maintain dense screen year round. At least 50% of the plantings shall consist of evergreens. A solid wall or fence not to exceed six feet in height complemented by suitable plantings may be substituted for such landscape buffer strip by special permit of the Planning Board as provided for in Article X. The strip may be part of the yard area. Where an I-P or C-V or C-H District abuts an "R" District (R-R, R-N and/or R-V District) no building within the I-P or C-V or C-H District shall be within 25 feet of the boundary line of the "R" District (R-R, R-N and/or R-V District).

### § 275-6.3. Other general dimensional and density provisions.

In addition to the regulations in §§ 275-6.1 and 275-6.2, the following regulations shall apply:

A. Except for cluster developments, planned business developments, industrial developments, community facilities, and public utilities, only one principal structure shall be permitted on one lot. Minimum distance between buildings shall be twice the required side yard.

B. In all districts, the lot width shall not be less than that prescribed in Table 2, Area Regulations, as measured at all points between the front lot lone and the rear building line, except that between the front lot line and the required setback line, the lot may be reduced to 80% of the width requirement.

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

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

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

(1) Balcony or bay window, limited in total length to 1/2 the length of the building: not more than two feet.

(2) Open terrace or steps or stoop, under four feet in height: up to 1/2 the required yard setback.

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

F. At no street intersection in any district shall any obstruction to vision exceeding 3 1/2 feet in height above the plane established by the intersecting streets be placed or permitted to grow on any lot within

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

G. A fence, hedge, wall, sign or other structure or vegetation may be maintained on any lot, provided that in the front yard area, no such structure or vegetation shall be over three feet in height above the adjacent ground within five feet of the front lot line unless it can be shown that such vegetation will not restrict visibility in such a way as to hinder the safe entry of a vehicle from any driveway to the street. In residential districts, no fence shall exceed a height of 6 1/2 feet (eight feet when abutting a nonresidential district) unless a special permit has been received from the Zoning Board of Appeals.

### § 275-6.4. Accessory structures.

A. In any "R" District, a detached accessory building shall conform to the following provisions:

(1) It shall not occupy more than 25% of the required rear yard.

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

(3) It shall not exceed the maximum permitted height for principal structures in that district, or the actual height of the principal structure on the lot (as measured from mean sea level), whichever is lower.

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

C. A swimming pool shall be located neither within any required front yard nor within 10 feet from any side or rear lot line.

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

E. The Zoning Board of Appeals may issue a special permit permitting a taller height under this section when it finds extenuating circumstances where the proposed use requires a taller building and the permitting of such taller building does not derogate from the intent of this bylaw nor negatively impact the neighborhood.

### § 275-6.5. Infill and lot size/dimensional averaging.

A. Authorization. The Planning Board may issue a special permit to allow for:

(1) A reduction in the minimum lot area, frontage, and yard setback requirements of Article VI;

(2) An increase in the maximum building coverage, impervious cover and height requirements of Article VI; and/or

(3) An increase in the density (number of dwelling units per lot) requirements of Article VI.

B. Conditions. In addition to complying with the special permit standards required in Article X, lots and structures receiving a special permit under this section must also comply with all of the following:

(1) The lot and structure shall be used for residential purposes and located within a zoning district that permits residential uses.

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(2) The requested special permit will provide infill development.

(3) Said lots are not located within a Water Supply Protection or Floodplain Overlay District.

(4) The lot's:

(a) Minimum lot area, frontage, and yard setbacks are equal to or greater than the average dimensions and densities of all of the lots located within that same zoning district within 300 feet of the lot's front property line and having frontage on the same street(s) as the subject lot, but in no case shall such lot have less than 50 feet of frontage and/or 5,000 square feet of lot size; and

(b) Maximum building coverage, impervious cover, height and density are equal to or less than the average dimensions and densities of all of the lots located within that same zoning district within 300 feet of the lot's front property line and having frontage on the same street(s) as the subject lot, but in no case shall such lot have less than 50 feet of frontage and/or 5,000 square feet of lot size.

(5) The lot average dimensions specified in Subsection B(4) above shall be determined by the sum of the values divided by the number of values, and a list of all of the lot sizes, densities and frontages corresponding to the properties required above derived from the Town's Assessor's Maps, as well as the mathematical equations, shall be filed by the petitioner as part of the special permit application.

(6) The lot is serviced by both public water and public sanitary sewer.

(7) On-site parking is provided in accordance with the zoning parking requirements.

(8) No traffic congestion, health or safety limitations would be created.

(9) The proposed structure is consistent with the architectural style, scale, massing, setbacks and character of the immediate neighborhood (abutters and abutters-to-abutters) in that zoning district.

(10) The number of dwelling units shall not exceed the maximum permitted in the zoning district and, in the issuance of the special permit, the Planning Board may restrict the number of dwelling units.

**§ 275-6.6. Reduction of requirements relative to land donations.**

The Planning Board may issue a special permit for a reduction of a required dimensional or density regulation required under Article VI where such reduction is for the purposes of donating land that is contiguous and in common ownership with the land for which the reduction is requested to the Town of Southampton, or to other approved tax-exempt conservation organizations, for open space/conservation purposes. Such special permit may be issued provided that:

A. Conservation Commission recommendations.

(1) Said special permit application and all supporting documents (conservation restriction, easement plans, etc.) are forwarded by the Planning Board to the Southampton Conservation Commission for its review and recommendation relative to:

(a) The value of the resource area being protected and its consistency with the Town's Open Space and Recreation Plan.

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(b) The adequacy of the protection of said resource area.

(c) The adequacy of public accessibility to the resource area being protected.

(2) Failure of the Conservation Commission to respond within 30 days of receipt of the special permit application shall be deemed the Commission's lack of opposition thereto.

B. The land was donated, with no financial or other consideration, to the Town or another nonprofit tax-exempt conservation organization and was not transferred as a part of an open space residential development or as a condition of any other Town permit.

C. If the land is not donated to the Southampton Conservation Commission, such special permit is subject to obtaining the approval (within 12 months of the expiration of the appeal period of the special permit) of a conservation restriction/public right-of-way easement by the Town Meeting and the Secretary of the Executive Office of Environmental Affairs that will remain in effect in perpetuity for that property being transferred.

D. Prior to said donation, the lot conformed to all relevant zoning requirements or was a preexisting nonconforming lot.

E. At least 40% of the required lot size and frontage requirement remains as part of the lot exclusive of the donation, or for a preexisting nonconforming lot serviced by public sanitary sewer, at least 5,000 square feet of lot area and 40 feet of frontage remain.

### § 275-6.7. Lots located in more than one zoning district or municipality.

Where a lot is located in more than one zoning district or municipality, the following dimensional and density regulations shall apply:

A. Frontage. The frontage requirement for the district or municipality in which a majority of the frontage is located shall apply. If the lot has equal frontage in all districts or municipalities, then the most restrictive shall apply.

B. Lot area. The lot area requirement for the district or municipality in which a majority of the lot area is located shall apply. If the lot has equal area in all districts or municipalities, then the most restrictive shall apply.

C. All other dimensional and density regulations. Those dimensional and density regulations required in a particular district or municipality shall apply to that portion of the lot, or structure, located in said district.

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ARTICLE VII
**Overlay Districts; Specific Use and Development Regulations**

## § 275-7.1. Floodplain Overlay District.

A. Purpose. The purpose of the Floodplain Overlay District is to:

(1) Ensure public safety through reducing the threats to life and personal injury.

(2) Eliminate new hazards to emergency response officials.

(3) Prevent the occurrence of public emergencies resulting from water quality contamination and pollution due to flooding.

(4) Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding.

(5) Eliminate costs associated with the response to and cleanup of flooding conditions.

(6) Reduce damage to public and private property resulting from flooding waters.

B. Applicability. The Floodplain District is herein established as an overlay district. The district includes all special flood hazard areas designated on the most recent Flood Insurance Rate Map (FIRM) and Flood Boundary and Floodway Map (FBFM) for the Town of Southampton issued by the Federal Emergency Management Agency for the administration of the National Flood Insurance Program, These maps indicate the one-percent-chance regulatory floodplain. The exact boundaries of the district shall be defined by the one-percent-chance base flood elevations shown on the FIRM and further defined by the most recent Flood Insurance Study (FIS) report. The effective FIRM, FBFM, and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Commissioner/Inspector, and Conservation Commission.

C. Abrogation and greater restrictions. The floodplain management regulations found in this Floodplain Overlay District section shall take precedence over any less restrictive conflicting local laws, bylaws or codes.

D. General use regulations. The Floodplain District is established as an overlay district to all other districts. Any uses permitted in the portions of the districts so overlaid shall be permitted subject to all the provisions of the following subsections:

(1) All development, including structural and nonstructural activities, whether permitted by right or by special permit, must be in compliance with the Wetlands Protection Act, MGL c. 131, § 40, and with the requirements of the Massachusetts State Building Code pertaining to construction in the floodplains (currently Section 744) and with the State Environmental Code, Title V, and must comply in all respects to the provisions of the underlying district, except that where the Floodplain Overlay District imposes additional regulations such regulations shall prevail.

(2) In the Floodplain District no new buildings shall be erected or constructed except by special permit from the special permit granting authority, nor shall existing buildings be enlarged or moved except as hereinafter provided. No dumping, filling or earth transfer or relocation shall be permitted, and no land or building shall be used for any purpose except as hereinafter provided.

E. Permitted uses. The following uses of low flood damage potential, causing no obstructions to flood

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flows, shall be allowed in the Floodplain Overlay District, provided that they are permitted in the underlying district and they do not require structures, fill or storage of materials or equipment:

(1) Agricultural uses such as farming, grazing, truck farming, horticulture, etc.

(2) Forestry and nursery uses.

(3) Outdoor recreational uses, including fishing, boating, play areas, and foot, bicycle or horse paths.

(4) Conservation of water, plants, and wildlife.

(5) Wildlife management areas and foot, bicycle and/or horse paths.

(6) Temporary nonresidential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises.

(7) Structures existing prior to the adoption of these provisions which conform to the provisions of the bylaws regulating underlying districts, including maintenance and repair usual for continuance of such an existing structure and improvements to such structure, provided that the footprint increase of those improvements does not exceed 25% of the overall footprint of the structure. In the event such structure is destroyed, said structure may be rebuilt on the same location but no larger than the original overall footprint.

(8) Installation of driveways of minimum size necessary to serve areas outside the Floodplain District, where other access is not feasible, provided no change in grade substantially affects the purpose of this district.

F. Prohibited uses in the Floodplain District. The following uses are specifically prohibited in the Floodplain District and may not be allowed by special permit:

(1) The storage or disposal of any sand, gravel, rock or other mineral substance, refuse, trash, rubbish, debris, or dredged spoil.

(2) Draining, excavation or dredging, or removal or relocation of loam, peat, sand, gravel, soil, rock or other mineral substance, except as accessory to work permitted as of right or by special permit.

(3) The storage or disposal of materials used for snow and ice control, including sand, salt and other de-icing chemicals.

(4) The manufacture, storage or disposal of hazardous wastes, as designated by the regulations of the Massachusetts Hazardous Waste Management Act, MGL c. 21C, and by the U.S. Environmental Protection Agency under 40 CFR 261.

(5) Solid waste landfills, junkyards and dumps. The portion of any lot within the area delineated in Subsection B above may be used to meet the area and yard requirements for the district or districts in which the remainder of the lot is situated.

(6) No altering, dumping, filling or removal of riverine materials or dredging is permitted, except that maintenance of the river, including stabilization or repair of eroded riverbanks, erosion control or removal of flood debris, may be done under the requirements of MGL c. 131, § 40, and any other applicable laws, bylaws, and regulations. Riverbank repairs shall be undertaken utilizing only natural materials (i.e., rock) and not with man-made materials (i.e., tires).

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(7) All forest cutting over 25,000 board feet at one time shall require the filing of a forest cutting plan in accordance with the Massachusetts Forest Cutting Practices Act (MGL c. 132, §§ 40 to 46). In addition, no commercial cutting of forest shall occur within 50 feet of a river/stream bank. In the area between 50 feet and 100 feet from the river/stream bank, no more than 50% of existing forest shall be cut.

(8) No new impoundments, dams or other water obstructions may be located within the district.

(9) No commercial earth removal or mining operation is permitted within 100 feet of a river/stream bank.

(10) All other uses not specifically permitted or allowed by special permit approval within the overlay zone are prohibited.

G. Utilities. All utilities shall meet the following standards:

(1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the system into floodwaters.

(3) New on-site waste disposal systems shall be located to avoid impairment or contamination from them during flooding and shall be located no less than 150 feet from the riverbank. Replacement of existing on-site waste disposal systems shall be located as far away from the riverbank as is feasible.

H. Prohibited uses in the floodway. In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the Southampton Flood Boundary and Floodway Map, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

I. Special permits.

(1) Uses by special permit in the Floodplain Overlay District. No structure or building shall be erected or otherwise created or moved, except as provided in § 275-7.1E, and no earth or other materials shall be dumped, if excavated, or transferred, unless a special permit is granted by the Planning Board. The following uses may be allowed by special permit from the Planning Board in accordance with the special permit regulations in Article X of this bylaw and additional restrictions and criteria contained herein:

(a) Residential districts.

[1] Single-family residences, not including mobile homes.

[2] Residential accessory uses, including garages, driveway, private roads, utility rights-of-way and on-site wastewater disposal systems.

[3] Substantial improvements to structures or buildings.

(b) Business and industrial districts. Uses which are in compliance in all respects with the provisions of the underlying districts.

(2) Special permit requirements. The Planning Board may issue a special permit hereunder (subject

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to other applicable provisions of this bylaw) only if the application is compliant with the following conditions:

(a) Four copies of a plan determining that the construction will be in conformance with the State Building Code (specifically those sections dealing with construction in floodplains) and will not result in increased flood heights, additional threats to safety, or extraordinary public expense, create nuisances, or conflict with existing local laws. The Planning Board shall provide a copy of the plan to the Board of Health and Conservation Commission and shall be required to wait 21 days for a recommendation from each board. After 21 days the Planning Board may render its decision.

(b) Within Zones A1-30, where base flood elevation is not provided on the FIRM, the applicant shall obtain any existing base flood elevation data. These data will be reviewed by the Building Commissioner/Inspector for their reasonable utilization toward meeting the elevation or floodproofing requirements, as appropriate, of the State Building Code.

(c) No encroachments (including fill, new construction, substantial improvements to existing structures, or other development) shall be allowed unless it is demonstrated by the applicant that the proposed development, as a result of compensating actions, will not result in any increase in flood levels during the occurrence of a 100-year flood in accordance with the Federal Emergency Management Agency's regulations for the National Flood Insurance Program.

(d) The proposed use shall comply in all respects with the provisions of the underlying district, and the Planning Board may require such additional requirements and conditions as it finds necessary to protect the health, safety and welfare of the public or the occupants of the proposed use, or of the Floodplain District.

(e) A determination that the proposed use is in compliance with the Wetlands Protection Act, MGL c. 131, § 40.

(3) Special permit procedures.

(a) In addition to the special permit procedures specified in Article X, the following procedures apply: the Planning Board shall provide notice of any hearings hereunder to the Board of Health and the Conservation Commission and shall maintain a record of all special permit actions, including a finding of the reasons for their issuance, and report such special permits in the annual report submitted to the Federal Insurance Administration.

(b) In addition to the provisions of Article X, the Planning Board may issue a special permit if it finds the proposed use is compliant with the following provisions: in the Floodplain District, proposed uses must:

[1] Not create increased flood hazards which are detrimental to the public health, safety and welfare.

[2] Comply in all respects with the provisions of the underlying district or districts within which the land is located.

[3] Comply with all applicable state and federal laws, including the Massachusetts Building Code and the Massachusetts Wetlands Protection Act (MGL c. 131, § 40).

[4] Relative to river/stream banks, proposed uses must also:

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[a] Be situated in a portion of the site that will most likely conserve shoreland vegetation and the integrity of the river/stream bank.

[b] Be integrated into the existing landscape through features such as vegetative buffers and through retention of the natural shorelines.

[c] Not result in erosion or sedimentation.

[d] Not result in water pollution.

J. Disclaimer of liability. The degree of flood protection required by this bylaw is considered reasonable but does not imply total flood protection.

K. Designation of community floodplain administrator. The Town of Southampton hereby designates the position of Zoning Enforcement Officer to be the official floodplain administrator for the Town.

L. Requirement to submit new technical data. If the Town acquires data that changes the base flood elevation in the FEMA mapped special flood hazard areas, the Town will, within six months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s). Notification shall be submitted to: FEMA Region I Risk Analysis Branch Chief, 99 High Street, 6th floor, Boston, MA 02110, and a copy of notification to: Massachusetts NFIP State Coordinator, Massachusetts Department of Conservation and Recreation, 251 Causeway Street, Boston, MA 02114.

M. Variances to Building Code floodplain standards.

(1) The Town will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to the variance and will maintain this record in the community's files.

(2) The Town shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a community official, that:

(a) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage; and

(b) Such construction below the base flood level increases risks to life and property.

(3) Such notification shall be maintained with the record of all variance actions for the referenced development in the Floodplain Overlay District.

N. Variances to Zoning Bylaw related to community compliance with the National Flood Insurance Program (NFIP). In addition to the required findings for the granting of variances under § 275-3.7, a variance from this floodplain bylaw must also meet the requirements set out by state law, and may only be granted if:

(1) Good and sufficient cause and exceptional nonfinancial hardship exist;

(2) The variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and

(3) The variance is the minimum action necessary to afford relief;

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O. Permits are required for all proposed development in the Floodplain Overlay District. The Town of Southampton requires a building permit and/or any other required applicable local, state and federal approvals for all proposed construction or other development in the Floodplain Overlay District, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties.

P. Assure that all necessary permits are obtained. The Town of Southampton's permit review process includes the use of a checklist of all local, state and federal permits that will be necessary in order to carry out the proposed development in the Floodplain Overlay District. The proponent must acquire all necessary permits and must submit the completed checklist demonstrating that all necessary permits have been acquired.

Q. Additional requirements.

(1) When proposing subdivisions or other developments greater than 50 lots or five acres (whichever is less), the proponent must provide technical data to determine base flood elevations for each developable parcel shown on the design plans.

(2) In A Zones, in the absence of FEMA base flood elevation (BFE) data and floodway data, the Building Department will obtain, review and reasonably utilize base flood elevation and floodway data available from a federal, state, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A, as the basis for elevating residential structures to or above base flood level, for floodproofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways.

(3) In Zones A, A1-30 and AE, along watercourses that have not had a regulatory floodway designated, the best available federal, state, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge. In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the Town's FIRM or Flood Boundary and Floodway Map, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

(4) In a riverine situation, the Building Commissioner/Inspector shall notify the following of any alteration or relocation of a watercourse:

(a) Adjacent communities, especially upstream and downstream.

(b) Bordering states, if affected.

(c) NFIP State Coordinator, Massachusetts Department of Conservation and Recreation, 251 Causeway Street, 8th floor, Boston, MA 02114.

(d) NFIP Program Specialist, Federal Emergency Management Agency, Region I, 99 High Street, 6th Floor, Boston, MA 02110.

(5) Within Zones AO and AH on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

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(6) In A1-30, AH and AE Zones and V1-30, VE and V Zones, all recreational vehicles to be placed on a site must be elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements or be on the site for less than 180 consecutive days or be fully licensed and highway ready.

R. Definitions. The following definitions shall apply to this section:

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. (44 CFR 59)

FLOOD BOUNDARY AND FLOODWAY MAP — An official map of a community issued by FEMA that depicts, based on detailed analyses, the boundaries of the 100-year and 500-year floods and the 100-year floodway. (For maps done in 1987 and later, the floodway designation is included on the FIRM.)

FLOOD HAZARD BOUNDARY MAP (FHBM) — An official map of a community, issued by the Federal Insurance Administrator, where the boundaries of the flood and related erosion areas having special hazards have been designated as Zone A or E. (44 CFR 59)

FLOODWAY — The channel of the river, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. (Base Code, Chapter 2, Section 202)

FUNCTIONALLY DEPENDENT USE — A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities. (44 CFR 59) (Referenced Standard ASCE 24-14)

HIGHEST ADJACENT GRADE — The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. (44 CFR 59)

HISTORIC STRUCTURE — Any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(a) By an approved state program as determined by the Secretary of the Interior; or

(b) Directly by the Secretary of the Interior in states without approved programs. (44 CFR 59)

NEW CONSTRUCTION — Structures for which the start of construction commenced on or after the effective date of the first floodplain management code, regulation, bylaw, or standard adopted by the authority having jurisdiction, including any subsequent improvements to such structures. "New

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construction" includes work determined to be substantial improvement. (Referenced Standard ASCE 24-14)

RECREATIONAL VEHICLE — A vehicle which is:

(1) Built on a single chassis;

(2) Four hundred square feet or less when measured at the largest horizontal projection;

(3) Designed to be self-propelled or permanently towable by a light-duty truck; and

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. (44 CFR 59)

REGULATORY FLOODWAY — See "floodway."

SPECIAL FLOOD HAZARD AREA — The land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, A1-30, A99, AR, AO, AH, V, VO, VE or V1-30. (Base Code, Chapter 2, Section 202)

START OF CONSTRUCTION — The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns. Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. (Base Code, Chapter 2, Section 202)

STRUCTURE — For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. (44 CFR 59)

SUBSTANTIAL REPAIR OF A FOUNDATION — When work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier-supported foundation, the Building Commissioner/Inspector shall determine it to be substantial repair of a foundation. Applications determined by the Building Commissioner/Inspector to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR (as amended by Massachusetts in the Ninth Edition Building Code).

VARIANCE — A grant of relief by a community from the terms of a floodplain management regulation. (44 CFR 59)

VIOLATION — The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided. (44 CFR 59)

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## § 275-7.2. Water Supply Protection District.

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

B. Definitions. See Article II.

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

D. District delineation.

(1) The Water Supply Protection District is herein established to include all lands within the Town of Southampton lying within the primary recharge areas of groundwater aquifers and watershed area of the Manhan Reservoir which now or may in the future provide public water supply. The map titled "Water Supply Protection District, Town of Southampton," on file with the Town Clerk, delineates the boundaries of the district.

(2) Where the bounds delineated are in doubt or in dispute, the burden of proof shall be upon the owner(s) of the land in question to show where they should properly be located. At the request of the owner(s), the Town may engage a professional hydrogeologist to determine more accurately the location and extent of an aquifer or primary recharge area and may charge the owner(s) for all or part of the cost of the investigation.

E. Prohibited uses. The following uses are prohibited in the Water Supply Protection District:

(1) Business and industrial uses, not agricultural, which:

(a) Manufacture, use, process, store, or dispose of hazardous materials or wastes as a principal activity, including but not limited to metal plating, chemical manufacturing, wood preserving, furniture stripping, dry cleaning, and auto body repair; or

(b) Involve on-site disposal of process wastewaters.

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

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

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

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

(6) Dumping or disposal on the ground, in water bodies, or in residential septic systems of any toxic chemical, including but not limited to septic system cleaners which contain toxic chemicals such as methylene chloride and 1,1,1-Trichlorethane, or other household hazardous wastes.

F. Restricted uses. The following uses are restricted in the Water Supply Protection District:

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(1) Excavation for removal of earth and other soils shall not extend closer than five feet above the annual high groundwater table.

(a) A monitoring well shall be installed by the property owner to verify groundwater elevations.

(b) This subsection shall not apply to excavations incidental to permitted uses, including but not limited to providing for the installation or maintenance of structural foundations, freshwater ponds, utility conduits or on-site sewage disposal.

(c) Access drive(s) to extractive operation sites shall include a gate or other secure mechanism to restrict public access to the site.

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

(3) Salt storage areas shall be covered and be located on a paved surface, with berms to prevent runoff from leaving the site.

(4) Commercial fertilizers, pesticides, herbicides, or other leachable materials shall be used with all necessary precautions to minimize adverse impacts on surface water and groundwater and shall not result in groundwater concentrations exceeding Massachusetts drinking water standards.

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

(6) The storage or stockpiling of manure shall be in an area which is covered and lined in accordance with the U.S. Department of Agriculture's Natural Resources Conservation Service guidelines.

(7) All animal feedlots shall be designed to restrict infiltration or other movement of livestock wastes to the aquifer.

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

H. Special permit uses.

(1) Uses allowed by special permit by Zoning Board of Appeals. The following uses may be allowed by special permit obtained from the Zoning Board of Appeals:

(a) Commercial and industrial uses which are allowed in the underlying district.

(b) Any enlargement, intensification or alteration of an existing commercial or industrial use.

(c) The rendering impervious of more than 20% of any single residential lot.

(2) Requirements for special permit in the Water Supply Protection District. The applicant shall file six copies of a site plan prepared by a qualified professional with the Zoning Board of Appeals.

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The site plan shall at a minimum include the following information where pertinent:

(a) A complete list of chemicals, pesticides, fuels and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use.

(b) Those businesses using or storing such hazardous materials shall file a hazardous materials management plan with the Zoning Board of Appeals, Hazardous Materials Coordinator, and Board of Health which shall include:

[1] Provisions to protect against the discharge of hazardous material or wastes to the environment due to spillage, accidental damage, corrosion, leakage or vandalism, including spill containment and cleanup procedures.

[2] Provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces.

[3] Evidence of compliance with the regulations of the Massachusetts Hazardous Waste Management Act, 310 CMR 30, including obtaining an EPA identification number from the Massachusetts Department of Environmental Protection.

(c) Drainage recharge features and provisions to prevent loss of recharge.

(d) Provisions to control soil erosion and sedimentation and soil compaction and to prevent seepage from sewer pipes.

(3) Additional procedures for special permit in the Water Supply Protection District.

(a) The Zoning Board of Appeals shall follow all special permit procedures contained in Article X.

(b) The Zoning Board of Appeals may grant the required special permit only upon finding that the proposed use meets the following standards and those specified in Article X of this bylaw. The proposed use must:

[1] In no way, during construction or thereafter, adversely affect the existing or potential quality or quantity of water that is available in the Water Supply Protection District; and

[2] Be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation and other water-related natural characteristics of the site to be developed.

(c) The Zoning Board of Appeals shall not grant a special permit under this section unless the petitioner's application materials include, in the Board's opinion, sufficiently detailed, definite and credible information to support positive findings in relation to the standards given in Article X.

I. Nonconforming use. Nonconforming uses which were lawfully existing, begun or in receipt of a building or special permit prior to the first publication of notice of public hearing for this bylaw may be continued. Such nonconforming uses may be extended or altered, as specified in MGL c. 40A, § 6, provided that there is a finding by the Zoning Board of Appeals that such change does not increase the danger of surface water or groundwater pollution from such use.

**§ 275-7.3. Wireless communications facilities.**

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

B. Definitions. See Article II.

C. Authority.

(1) The Southampton Planning Board shall be the special permit granting authority (SPGA) for all purposes under this section and shall adopt rules and regulations with respect to the administration of applications or special permits under this section, subject to the conditions set forth below and in accordance with the provisions of Article X of this bylaw and MGL c. 40A, §§ 9 and 11, as amended.

(2) After notice and public hearing in accordance with Section 9 of the Zoning Act (MGL c. 40A, § 9), the Planning Board may, after due consideration of the reports and recommendations of the Conservation Commission, Town Engineer and Building Commissioner/Inspector and other boards or persons deemed necessary by the Planning Board, grant such a special permit provided that the conditions in this section and any special conditions placed by the Planning Board have been adequately met.

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

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

(2) New towers shall be considered only upon a finding by the Planning Board that existing or approved towers cannot accommodate the wireless communication equipment planned for the proposed tower.

(3) No tower shall be located closer than two miles to any other such tower.

(4) Tower height shall not exceed 100 feet above the existing terrain.

(5) The base of a tower shall be a distance of at least equal to the tower's height from any property line or existing structure.

(6) One tower only is permitted on any lot.

(7) Accessory structures housing support equipment for towers shall not exceed 400 square feet in area and consistent with existing zoning requirements. Structure shall be architecturally consistent and subject to Planning Board approval.

(8) Existing vegetation shall be preserved as much as possible.

(9) The Planning Board may impose conditions to ensure that wireless communications facilities are as visually unobtrusive as possible from all perspectives. These conditions may include structural design, painting, lighting and landscaping standards.

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

(11) No tower or other facility structure shall contain any signs or other devices for advertising.

(12) Announcement signs, "Danger No Trespassing" signs, and a sign with a twenty-four-hour emergency telephone number are required. The area of these signs will conform to § 275-8.3.

(13) Except as required by the Federal Aviation Administration, towers shall not be artificially lighted.

(14) All wireless communication facilities shall be protected against unauthorized access by the public.

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

(1) Installations on existing buildings shall be camouflaged or screened and designed to be harmonious and architecturally consistent with the building. Any equipment associated with the facility shall be located within the building or otherwise so hidden as to be invisible from the property line.

(2) No facility shall project more than 10 feet above the existing roofline of the building, or more than 10 feet above the top of the existing structure upon which it is mounted, or more than five feet out from the plane of the existing wall or facade to which it is attached, provided such projections do not otherwise violate existing yard dimensions or setback requirements.

(3) Any proposed addition of cells, antennas or panels or replacement of a facility shall be the subject of a new application for an amendment to the special permit.

(4) All building-mounted facilities shall be designed and located so as to appear as an integral part of the existing architecture of the building.

(5) All wireless communication facilities shall be protected against unauthorized access by the public.

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

F. Site criteria.

(1) Wireless communications facilities are allowed by special permit only in the R-R, R-N, C-H, and I-P Zoning Districts.

(2) Scenic roads. No wireless communication facility shall be located within 500 feet of a scenic road or have any visual impact on any scenic road.

(3) Environmental standards.

(a) Wireless communication facilities shall not be located in wetlands. Locating of wireless facilities in wetland buffer areas shall be avoided wherever possible and disturbance to wetland buffer areas shall be minimized. All Conservation Commission regulations and

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procedures must be followed.

(b) No hazardous waste shall be discharged on the site of any wireless communication facility. If any hazardous materials are to be used on-site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous material stored or used on-site.

(c) Applicant must comply with all federal, state and local regulations governing hazardous material.

(d) Stormwater runoff as a result of the wireless facility finished construction shall be contained on-site.

(e) Ground-mounted equipment for personal wireless service facilities shall not generate acoustic noise in excess of 50 dB at the security barrier.

(f) Roof-mounted or side-mounted equipment for personal wireless service facilities shall not generate noise in excess of 50 dB at ground level at the base of the building closest to the antenna.

G. Safety standards; radiofrequency radiation (RFR) standards. All equipment proposed for a personal wireless service facility shall be authorized per the FCC Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation (FCC Guidelines) or any other applicable FCC guidelines and regulations.

H. Cessation of use and obsolescence.

(1) All unused towers or parts thereof, or accessory facilities and structures which have not been used for one year, shall be dismantled and removed at the owner's expense.

(2) To provide for the removal of such structures pursuant to Subsection H(1), prior to issuance of a building permit for a wireless communications tower, the applicant is required to post with the Town Treasurer/Collector a bond or other form of financial security acceptable to the Town Treasurer/Collector in an amount set by the Building Commissioner/Inspector. The amount shall be suitable to cover demolition, removal and disposal of the tower and its accessories in the event the Building Commissioner/Inspector condemns the tower, parts of the tower or any parts of the tower's accessories, or deems it unused for more than one year.

(3) The Building Commissioner/Inspector shall give the tower's owner and the property owner 45 days' written notice by registered mail before demolition commences.

(4) All demolition and removal costs in excess of the amount of the financial guarantee received by the Town will be billed to the tower's owner, and any unpaid amounts will become an encumbrance on the property.

I. Application procedures.

(1) Applicant criteria.

(a) The applicant must be a licensed communications carrier.

(b) If there is more than one applicant, at least one of the applicants must be a licensed communications carrier.

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(2) Pre-application conference.

(a) Prior to the submission of an application for a special permit under this section, the applicant is required to meet with the SPGA at a public meeting to discuss the proposed personal wireless service facility in general terms and to clarify the filing requirements.

(b) The SPGA shall meet with an applicant under this section within 21 days following a written request submitted to the SPGA and the Town Clerk. If the SPGA fails to meet with an applicant who has request such a meeting within 21 days of said request and said meeting has not been postponed due to mutual agreement, the applicant may proceed with a special permit application under this section without need for a pre-application conference.

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

(4) Application contents.

(a) Applicant identification.

[1] Name, address and telephone number of applicant and any co-applicants as well as any agents for the applicant or co-applicants, one of which must be a licensed personal wireless communications carrier.

[2] Original signatures are required for the applicant and all co-applicants applying for the special permit. If the applicant or co-applicant will be represented by an agent, original signature authorizing the agent to represent the applicant and/or co-applicant is required. Photo reproductions of signatures will not be accepted.

(b) Location identification.

[1] Subject property by name of the nearest road or roads and street address, if any, and mapping coordinates in latitude and longitude in degrees, minutes and seconds on a United States Geological Survey (USGS) topographical map.

[2] Tax map and parcel number of subject property.

[3] Zoning district designation for the subject parcel. (Submit copy of Town Zoning Map with parcel identified.)

[4] A line map to scale showing the lot lines of the subject property and all properties within 300 feet and the location of all buildings, including accessory structures, on all properties shown.

[5] A Town-wide map showing the other existing wireless communication facilities in the Town and outside the Town within one mile of its corporate limits.

[6] The locations of all existing and proposed and future wireless communication facilities in the Town on a Town-wide map for this carrier.

[7] A one inch equals 40 feet vicinity plan showing the following:

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[a] Property lines for the subject property.

[b] Property lines of all properties adjacent to the subject property within 300 feet.

[c] Tree cover on the subject property and adjacent properties within 300 feet, by dominant species and average height, as measured by or available from a verifiable source.

[d] Outline of all existing buildings and purpose on the subject property as well as buildings proposed for the subject property and all adjacent properties within 300 feet.

[e] Proposed location of antenna, mount and equipment shelter(s).

[f] Proposed security barrier, indicating type and extent as well as point of controlled entry.

[g] Location of all roads, public and private, on the subject property and on all adjacent properties within 300 feet, including driveways proposed to serve the wireless communication facility.

[h] Distances, at grade, from the proposed wireless communication facility to each building on the vicinity plan.

[i] Contours at each two feet above mean sea level (AMSL) for the subject property and adjacent properties within 300 feet.

[j] All proposed changes to the existing property, including grading, vegetation removal and temporary or permanent roads and driveways.

[k] Representations, dimensioned and to scale, of the proposed mount, antennas, equipment shelters, cable runs, parking areas and any other construction or development attendant to the wireless communication facility.

[l] Line representing the sight line showing viewpoint (point from which view is taken) and visible point (point being viewed) from Subsection I(4)(b)[8] below.

[8] Sight lines and photographs as described below:

[a] Sight line representation. A sight line representation shall be drawn from any public road within 300 feet and the closest facade of each residential building (viewpoint) within 300 feet to the highest point (visible point) of the wireless communication facility. Each sight line shall be depicted in profile, drawn at one inch equals 40 feet.

[b] The profiles shall show all intervening trees and buildings. In the event there is only one (or more) residential building within 300 feet there shall be at least two sight lines from the closest habitable structures or public roads, if any.

[c] Each sight line shall be illustrated by one four-inch by six-inch color photograph of what can currently be seen from any public road within 300 feet.

[d] Each of the existing condition photographs shall have the proposed personal wireless service facility superimposed on it to show what will be seen from

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public roads if the proposed personal wireless service facility is built.

[9] Siting elevation, or views at grade from the north, south, east and west for a fifty-foot radius around the proposed wireless communication facility, plus from any existing public and private roads that serve the subject property. Elevations shall be at a scale of either 1/4 inch equals one foot or 1/8 inch equals one foot and show the following:

[a] Antennas, mounts and equipment shelter(s), with total elevation dimensions and above ground level (AGL) of the highest point.

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

[c] Any and all structures on the subject property.

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

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

J. Waiver of compliance.

(1) The Southampton Planning Board, acting as the special permit granting authority under this section, in appropriate cases may waive strict compliance with such requirements of this section, as provided in MGL c. 40A, § 9, where such action is in the public interest and not inconsistent with the purpose and intent of the Zoning Act.

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

(3) Waiver of conditions shall be granted only by the affirmative vote of four of the five members of the special permit granting authority.

K. Procedural and administrative rule additions and amendments. All requirements of Article X of this bylaw apply. The Planning Board may periodically amend or add rules and regulations relating to the procedures and administration of this section.

**§ 275-7.4. Common driveways.**

A. Purposes. The purpose of this section is to:

(1) Enhance the safety and welfare of residents served by common driveways;

(2) Clarify the rights and responsibilities of builders and residents of common driveways and of the Town of Southampton;

(3) Provide access to lots over a common driveway rather than by individual driveways on each lot;

(4) Enhance public safety by reducing the number and frequency of points at which vehicles may

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enter upon ways used as public ways, particularly primary streets as defined in the Subdivision Rules and Regulations of Southampton, Massachusetts;

(5) Preserve, protect and enhance environmentally sensitive land that might otherwise be cleared, excavated, filled and/or covered with impervious surface; and

(6) Encourage the protection and preservation of significant natural and roadside vistas.

B. Authorized usage.

(1) Common driveways may be allowed, by means of special permitting and site plan review approval of the Planning Board, for residential uses.

(2) All lots associated with the use of a common driveway must provide off-street parking in accordance with the Town of Southampton criteria.

(3) The Town of Southampton shall not be required to provide construction, reconstruction, maintenance, snowplowing, school bus pickup, or police patrols along a common driveway.

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

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

(a) Each lot must have adequate approved legal frontage on an existing public way. Frontage requirements for each lot shall be along a Town, county, state or approved subdivision road.

(b) Frontage along the length of private/common access driveways shall in no way be used to satisfy frontage requirements as specified in this section.

C. Required applications.

(1) The Planning Board may authorize the use of common driveways to provide access through the issuance of a special permit.

(2) All applications and plans must conform to the Southampton Planning Board Policies and Procedures.

(3) At a minimum, the policies and procedures shall require all applications to include:

(a) A site plan, developed by and carrying the seal of a certified professional engineer or a registered land surveyor, showing the layout for the common driveway, drainage, typical construction cross sections, and profiles and meeting all of the design specifications required for a common driveway.

(b) Drafts of easements, covenant and agreements, suitable for recording at the Registry of Deeds, for the subject lots which reflect the requirements, restrictions, and responsibilities regarding the common driveway.

(c) An easement plan which, if appropriately signed and stamped, would be suitable for

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recording at the Registry of Deeds.

D. Standards for approval. The following standards for approval shall be met:

(1) Special permit criteria set forth in § 275-3.6 of the Southampton Zoning Bylaw.

(2) Conformity to the design/construction standards set forth in § 275-7.4E.

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

(4) Demonstration of safe and efficient emergency access.

(5) Compliance with applicable Town bylaws including the Wetlands Bylaw.

E. Design/construction standards.

(1) General standards.

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

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

(c) A common driveway shall be constructed and paved as current subdivision standards require. For applicants having special circumstances or short length designs, the Planning Board may allow an alternative construction standard consisting of a minimum twelve-inch gravel base with a one-inch oil chip-seal (trap rock) top layer; The base will consist of three successive layers of three-fourths-inch crushed trap-rock stone, one-half-inch crushed traprock stone and one-fourth-inch trap-rock stone, with a crown sufficient for drainage. Trap rock finish shall be at least four inches thick, compacted measure.

(2) Dimensional standards.

(a) The width of the easement shall be a minimum of 35 feet.

(b) The width of the common driveway surface shall be 18 feet, except that where the drive serves only two lots the width may be reduced to 16 feet.

(c) The common drive shall have three-foot gravel shoulders on each side.

(d) The common driveway shall not exceed 800 feet in length to the last lot line.

(e) The slope or grade of a common drive shall in no place exceed 8% if unpaved or 10% if paved.

(3) Location standards.

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(a) The common drive shall intersect a public way at an angle of not less than 90°.

(b) Alignment and sight distances should be sufficient to support a designed speed of 15 miles per hour, and the minimum roadway curvature at the point of the driveway intersection shall be sufficient for an emergency vehicle to negotiate, generally no less than a radius of 50 feet.

(c) In areas where Town water is available, a fire hydrant shall be required if the terminus of the common driveway is greater than 500 feet from an existing hydrant on a public way or a connection is available on such a way.

(d) The common driveway shall be capable of providing access for emergency vehicles (WB-50). The applicant is to coordinate plans with the Police and Fire Departments.

(e) The common driveway shall lie entirely within the lots being served.

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

(4) Alignment and design standards.

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

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

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

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

(e) The terminus shall have a vehicular turnaround adequate for Southampton emergency vehicles.

(f) Applicants shall provide a vehicle template based on Southampton emergency vehicle equipment which demonstrates the ability of such equipment to safely access and utilize the easement for its intended functions. The template shall demonstrate the ability of such equipment to fully access the easement without "bottoming out."

(5) Drainage.

(a) Drainage shall be adequate to dispose of surface runoff. Culverts shall be installed if deemed necessary by the Planning Board.

(b) Any additional storm drainage generated by the new driveway shall not run onto any adjacent property and to the extent possible shall be recharged on-site.

(6) Utilities. Any utility extensions contained within the common driveway shall be considered privately owned and maintained.

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(7) Construction/inspection.

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

(b) Inspections and approvals (at accepted construction stages) shall be completed in accordance with an approved plan design.

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

(8) Street numbers and identification and mail service.

(a) Street numbers and identification. Permanent signage providing the street address identification for the subject property and building and conforming to the Southampton Street Number Bylaw shall be provided on each parcel and building as required by said bylaw.

(b) A U.S. Postal Service approved cluster box located in a pull-off area within the easement shall be constructed to the satisfaction of the U.S. Postal Service and shown on the application plans.

(9) Modification/waiver of standards. These standards may be modified or waived when, in the opinion of the Planning Board, such action is in the public interest and not inconsistent with the purpose(s) and intent of the Zoning Bylaw.

F. Right of access, ownership, maintenance, and liability.

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

(a) Common driveways shall at no time be used to satisfy zoning frontage requirements.

(b) Each lot served shall have lot frontage on a street which serves to satisfy lot frontage requirements.

(c) The common driveway shall at no time become the responsibility of the Town of Southampton.

(2) Each landowner served by the common driveway shall be jointly and severally responsible and liable for the repair and maintenance of all portions of the common driveway, and utilities contained within, to which more than one landowner holds a right-of-way. Specific responsibilities shall be stipulated in a covenant included in the deed for each property served by the driveway.

(3) A covenant shall be entered into between the owner or developer, the utility company(ies) and the Town in a form acceptable to the Planning Board which binds current and future owners of each lot served by the common driveway, prohibiting the transfer of individual lots and erection of buildings except for lots approved or in existence prior to the adoption of this bylaw, until such time as the common driveway has been completed to the Town's satisfaction in accordance with an approved plan design.

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(a) A draft covenant shall be submitted for approval with the special permit application and shall include but not be limited to specific standards for maintenance and repair of the driveway and drainage system, provision for allocating financial responsibility, and a procedure for resolution of disagreements.

(b) If the permit is granted, said covenant shall be recorded at the Registry of Deeds and shall be made part of every deed to each lot served by the common driveway.

(c) The covenant agreement shall provide that the covenant agreement will not be released and no individual lots transferred and no buildings erected until the common driveway has been constructed and passed all periodic inspections by the Town or its authorized agent at specified stages.

G. Approvals required before construction. Construction of a common driveway shall not begin until the utility design approval(s) and agreement(s) and a declaration of covenants, easements and restrictions (for the use and maintenance of the common driveway) has been approved by Town Counsel and subsequently recorded in the Registry of Deeds.

H. Completion and completion certification.

(1) The common driveway is to be completed within 36 months of the date the special permit is granted. "Completed" is to encompass all conditions associated with its approval.

(2) Upon completion of the common driveway, the applicant shall submit to the Planning Board as-built construction plans, prepared and stamped by a registered professional engineer, and a certified statement from a registered professional engineer that such common driveway was constructed in accordance with the approved plans.

(3) Prior to the issuance of any certificates of use and occupancy for any of the lots serviced by such common driveway, the Planning Board shall have approved the submittal required in Subsection H(2) and released the performance guarantee, if any was required to be posted.

I. Performance guarantee.

(1) The Planning Board may require a performance bond or other security for the purpose of securing compliance with special conditions attached to the Planning Board approval of the application for the common driveway. Such security shall be posted prior to construction of the driveway. The driveway and the special conditions shall be completed, inspected by the Planning Board or its designee, and the security released prior to the issuance of a certificate of use and occupancy for the lots served by the common driveway.

(2) The Planning Board may set forth procedures for release of the performance guarantee in the Southampton Planning Board Policies and Procedures. At a minimum, the Planning Board shall require submittal of the:

(a) Completion certification; and

(b) Documentation of the recording of the access easement.

J. Waivers. The Planning Board may grant waivers from the requirements of this section if it makes a finding that doing so would not be inconsistent with the purposes of this section nor have a detrimental impact on public safety.

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**§ 275-7.5. Accessory apartments.**

A. Permit required. Detached accessory apartments shall be permitted only upon issuance of a special permit from the Planning Board, whereas attached accessory apartments shall be permitted only upon issuance of a site plan approval from the Planning Board, both in accordance with the additional requirements specified herein.

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

C. Purpose. The purpose of this section is to:

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

(2) Add inexpensive rental units to the housing stock to meet the needs of smaller households, both young and old;

(3) Make housing units available to low- and moderate-income households who might otherwise have difficulty finding homes within the Town;

(4) Protect stability, property values, and the residential character of a neighborhood by ensuring that accessory apartments are installed only in owner-occupied houses and under such additional conditions as may be appropriate to further the purposes of this bylaw; and

(5) Legalize conversions to encourage compliance with the State Building Code.

D. Accessory apartment standards. The Planning Board may authorize a special permit for a use known as a detached accessory apartment or a site plan approval for an attached accessory apartment provided that the following standards and criteria are met:

(1) The apartment will be a complete separate housekeeping unit that functions as a separate unit from the original unit.

(2) Only one apartment will be created within or on the same parcel as a single-family house.

(3) The lot on which the single-family house is located must meet the minimum lot size requirement and must comply with other applicable zoning requirements for its district.

(4) The owner(s) of the residence in which the accessory apartment is located shall occupy at least one of the dwelling units on the premises.

(5) The accessory apartment shall be designed so that the appearance of the building remains that of a one-family residence as much as feasibly possible. In general, any new entrances shall be located on the side or rear of the building. Any exterior changes made must conform with the single-family character of the neighborhood.

(6) The accessory apartment shall be clearly a subordinate part of or accessory to the single-family dwelling. It shall be no greater than 600 square feet and shall not have more than one bedroom.

(7) At least two off-street parking spaces per dwelling unit are available for use by the owner-occupant(s) and tenant(s). Parking spaces shall be located to the side or the rear of the structure,

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to the extent feasible. The Planning Board may reduce the parking requirements if circumstance warrant, and if such reduction will not be inconsistent with the purposes of this bylaw.

(8) For dwellings to be served by an on-site septic system, the owner must obtain a disposal works construction permit from the Board of Health before a special permit can be obtained. This is to ensure that the existing sewage disposal system is adequate for the proposed accessory apartment.

(9) The construction of any accessory apartment must be in conformity with the State Building Code requirements.

E. Application procedure.

(1) The procedure for the submission and approval of a special permit or site plan approval for an accessory apartment shall be the same as prescribed in Article X, Special Permits, or in Article IX, Site Plan Review and Approval, except that it shall include a notarized letter of application from the owner(s) stating that he/she will occupy one of the dwelling units on the premises. A nonrefundable fee shall be included with the application for an accessory apartment to cover the cost of processing the application and code inspections. The applicant shall also be responsible for the cost of legal notices. As part of the public hearing process, parties in interest as defined in MGL c. 40A, § 11, must be notified.

(2) Upon receiving a special permit, the owner(s) must file on the subject property a declaration of covenants at the County Registry of Deeds. The declaration shall state that the right to rent a temporary accessory apartment ceases upon transfer of title. A time-stamped copy of the recorded declaration shall be provided to the Planning Board.

(3) In order to provide for the development of housing units for disabled and handicapped individuals, the Planning Board will allow reasonable deviation from the stated conditions where necessary to install features that facilitate access and mobility for disabled persons.

F. Transfer of ownership of a dwelling with an accessory apartment.

(1) The temporary permit for an accessory apartment shall terminate upon the sale of property or transfer of title of the dwelling, unless the Planning Board has approved a transfer of the permit to the new owner.

(2) The new owner(s) must apply for transfer of a permit for an accessory apartment and shall submit a notarized letter of application stating that he/they will occupy one of the dwelling units on the premises and a written request to the Planning Board stating that conditions at the time of the original application remain unchanged. Minor changes may be approved without a hearing.

(3) Upon receiving the transferred permit, the new owner(s) must file on the subject property a declaration of covenants at the County Registry of Deeds. The declaration shall state that the right to rent a temporary accessory apartment ceases upon transfer of title. A time-stamped copy of the recorded declaration shall be provided to the Planning Board.

G. Accessory apartments in existence before adoption of section.

(1) Statement of intent. To ensure that accessory apartments or conversions in existence before the adoption of this section are in compliance with the State Building Code regulations.

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(2) Application procedure.

(a) The Planning Board may authorize, under a special permit and in conjunction with the Building Commissioner/Inspector, a use known as an accessory apartment. The Board will review each existing use on a case-by-case basis to determine if the dwelling conforms to State Building Code regulations.

(b) The applicant must follow the same procedure described in this section, including the submission of a notarized letter declaring owner-occupancy and a declaration of covenants.

**§ 275-7.6. Solar electric generating facilities.**

A. Purpose. The purpose of this section is to facilitate the creation of new solar electric generating facilities by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety and minimize impacts on environmental, scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations.

B. Applicability. The provisions set forth in this section shall apply to the construction, operation, repair and/or removal of solar electric generating facilities as permitted in Article V, Use Regulations. All such facilities require a building permit and must comply with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements and other applicable provisions of Southampton's Zoning Bylaw.

C. General requirements.

(1) The construction and operation of all solar electric generating facilities shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar electric installation shall be constructed in accordance with the Massachusetts State Building Code.

(2) Solar electric generating facilities shall not be constructed, installed or modified as provided in this section without first obtaining a building permit and paying any required fees.

(3) Noise generated by solar electric generating facilities and associated equipment and machinery shall conform to applicable state and local noise regulations, including the Department of Environmental Protection's Division of Air Quality noise regulations, 310 CMR 7.10. A source of sound will be considered in violation of said regulations if the source:

(a) Increases the broadband sound level by more than 10 db(A) above ambient; or

(b) Produces a "pure tone" condition, when an octave band center frequency sound-pressure level exceeds the two adjacent center frequency sound-pressure levels by three decibels or more.

(4) Said criteria are measured both at the property line and at the nearest inhabited residence. "Ambient" is defined as the background A-weighted sound level that is exceeded 90% of the time measured during equipment hours, unless established by other means with the consent of the Department of Environmental Protection (DEP).

D. Maintenance. The solar electric generating facility's owner or operator shall maintain the facility in

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good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Management Director. The owner or operator shall be responsible for the cost of maintaining the solar electric generating facilities and any access road(s).

E. Action on site plan applications.

(1) Approvals. Site plans shall be granted upon a determination by the Planning Board that the plan meets all of the following criteria:

(a) Minimize the volume of cut and fill, the number of removed trees ten-inch caliper or larger, the length of removed stone walls, the area of wetland vegetation displaced, the extent of stormwater flow increase from the site, soil erosion, and threat of air and water pollution.

(b) Maximize pedestrian and vehicular safety both on the site and entering and exiting the site.

(c) Minimize obstruction of scenic views from publicly accessible locations.

(d) Minimize visual intrusion by controlling the visibility of parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zoned.

(e) Minimize glare from headlights and light trespass.

(f) Minimize unreasonable departure from the character, materials, and scale of buildings in the vicinity, as viewed from public ways and places.

(g) Prevent contamination of groundwater from operations on the premises involving the use, storage, handling, or containment of hazardous substances.

(h) Ensure compliance with the provisions of this Zoning Bylaw, including parking and landscaping.

(i) Ensure adequate access to each structure for fire and service equipment and adequate provision for utilities and stormwater drainage.

(2) Conditions. The Planning Board may impose reasonable conditions at the expense of the applicant, including performance guarantees, to promote these objectives.

(3) Denial. In the event the application is not revised as requested by the Planning Board to meet the objectives in Subsection E(1), the Planning Board may deny the application. The decision shall be in writing and shall clearly state the reasons for denial with sufficient detail to enable the applicant to revise the site plan to meet the objectives in Subsection E(1). There shall be no time penalties against the applicant to file a new site plan application, but said application shall require filing of a new fee.

(4) Approval of site plans shall lapse after one year from the granting thereof if a substantial use thereof has not sooner commenced, except for good cause. Site plan approval may, for good cause, be extended in writing by the Planning Board upon the written request of the applicant.

(5) Appeal. The appeal of any decision of the Planning Board hereunder shall be made in accordance with the provisions of MGL c. 40A, § 17.

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

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plan review.

G. Site plan review for small-scale solar electric generating facilities.

(1) Site plan review (SPR) is required for all small-scale (16kW or less) DC solar electric generating facilities.

(2) Procedures.

(a) Applicants for site plan review shall submit seven copies of the site plan to the Planning Board in accordance with the agenda procedures of the Southampton Planning Board Policies and Procedures.

(b) The applicant shall also deliver copies of the site plan to the Building Commissioner/ Inspector, Fire and Police Departments and Highway Superintendent for their review and comment by the date that they are filed with the Town Clerk. Said offices shall have 14 days from their receipt of the site plan to submit their comments to the Planning Board. Failure to respond within 14 days shall constitute their lack of objections to the project.

(c) Site plan review shall not be subject to a public hearing, but deliberations and decisions must be made by the Planning Board at an open public meeting on which it appears on the agenda.

(d) It is the applicant's responsibility to provide notification to abutters within 300 feet of the subject land parcel of the date, time, location and subject matter of the first Planning Board meeting at which this appears as an agenda item, in accordance with "abutters list" (No. 2 and No. 3) of the Southampton Planning Board Policies and Procedures. Said notice shall be mailed, certified, no later than the date that the application is filed with the Town Clerk. Proof of such abutter notification must be submitted by the applicant to the Board at the public meeting.

(e) Approval of a site plan review shall require the affirmative votes of a majority of the Board as constituted (i.e., three out of five). The Planning Board must file its written decision with the Town Clerk within 45 days of the Planning Board meeting at which said application first appeared on the agenda or such application shall be deemed approved. This time frame may be extended by prior written agreement by both the applicant and the Planning Board and filed with the Town Clerk prior to the referenced forty-five-day expiration.

(f) No deviation from an approved site plan shall be permitted without the prior approval by the Planning Board. The Planning Board should be consulted to determine whether such changes are significant enough to require a new public meeting.

(3) Required submission documents. The project proponent shall provide the following documents as part of a complete application for site plan review:

(a) A site plan showing:

[1] Stamp and signature of a professional land surveyor or a professional engineer licensed to practice in Massachusetts that prepared the plans, as deemed required by the Planning Board.

[2] Property lines, map and lot from the Assessor's records, and physical features and

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setbacks for the project site.

[3] Proposed changes to the site, including grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures, including their height, and placement of system, including solar arrays and required appurtenances.

[4] Locations of wetlands and priority habitat areas defined by the Natural Heritage and Endangered Species Program (NHESP).

[5] Locations of floodplain area, as well as the Water Supply Protection Overlay District (Zone 2).

(b) Contact information:

[1] Name, address, and contact information for proposed system installer.

[2] Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any.

[3] The name, contact information and signature of any agents representing the project proponent.

[4] A properly completed and executed application and application fee.

(4) Dimension and height requirements.

(a) Minimum setbacks for solar electric generating facilities.

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

[2] Side yard: 20 feet. Each side yard shall have a depth of at least 35 feet.

[3] Rear yard: 20 feet.

(b) Height of structures.

[1] The height of any structure associated with a solar electric generating facility shall not exceed 35 feet.

[2] The height of solar panels and support structures shall not exceed 15 feet.

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

(6) Waivers. The Planning Board may, upon the prior written request of the applicant, waive any of the requirements of this section, but must state its reasons for doing so in writing as part of its decision.

(7) Abandonment or decommissioning. Any solar electric generating facility which has reached the end of its useful life or has been abandoned (i.e., when it fails to operate for more than one year without the written consent of the Planning Board) shall be removed. The owner or operator shall physically remove the installation within 150 days of abandonment or the proposed date of decommissioning. The owner or operator shall notify the Planning Board by certified mail of

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the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

(a) Physical removal of all structures, equipment, building, security barriers and transmission lines from the site, including any materials used to limit vegetation.

(b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.

(c) Stabilization or revegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

H. Site plan approval for medium-scale, intermediate-scale and large-scale solar electric generating facilities.

(1) Site plan approval (SPA) is required for all:

(a) Medium-scale (greater than 16kW to 250kW) DC solar electric generating facilities.

(b) Intermediate-scale (greater than 250kW to 500kW) DC solar electric generating facilities.

(c) Large-scale (greater than 500kW) solar electric generating facilities.

(2) Procedures.

(a) Applicants for site plan approval shall submit seven copies of the site plan to the Planning Board. The procedures for submitting and processing site plan approvals shall be the same as that for a special permit in accordance with MGL c. 40A, § 9, and the Southampton Planning Board Policies and Procedures except where provided below.

(b) The applicant shall also deliver copies of the application to the Building Commissioner/ Inspector, Fire and Police Departments and Highway Superintendent for their review and comment at the same time that they are filed with the Planning Board. Said offices shall have 30 days from their receipt of the site plan to submit their comments to the Planning Board. Failure to respond within 30 days shall constitute their lack of objections to the project.

(c) It is the applicant's responsibility to provide notification to abutters within 300 feet of the subject land parcel of the date, time, location and subject matter of the first Planning Board meeting at which this appears as an agenda item, in accordance with "abutters list" (No. 2 and No. 3) of the Southampton Planning Board Policies and Procedures. Said notice shall be mailed, certified, no later than the date that the application is filed with the Town Clerk. Proof of such abutter notification must be submitted by the applicant to the Board at the public meeting.

(d) Approval of a site plan review shall require the affirmative votes of a majority of the Board as constituted (i.e., three out of five) and shall be in writing.

(e) No building permit or certificate of use and occupancy shall be issued by the Building Commissioner/Inspector without the written approval of the site plan by the Planning Board, or unless 60 days lapse from the date of the submittal of the site plan without action by the Planning Board, unless the Board and applicant have agreed to a time extension.

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(f) When a special permit is also required, the Planning Board shall consolidate its site plan approval and special permit procedures.

(g) The applicant may request, and the Planning Board may grant by majority vote, an extension of the time limits set forth herein.

(h) No deviation from an approved site plan shall be permitted without the prior approval by the Planning Board. The Planning Board should be consulted to determine whether such changes are significant enough to require a new public hearing.

(3) Required submission documents. The project proponent shall provide the following documents as part of a complete application for site plan approval:

(a) A site plan showing:

[1] Stamp and signature of professional engineer licensed to practice in Massachusetts that prepared the plans.

[2] Existing conditions plan, showing property lines, map and lot from the Assessor's records and physical features, including roads and topography, for the entire project site, signed and sealed by a registered Massachusetts land surveyor.

[3] Proposed changes to the landscape of the site, including grading, vegetation clearing and planting, exterior lighting, screening vegetation, fencing or structures, including their height, and placement of system, including solar arrays and required appurtenances.

[4] Locations of wetlands and priority habitat areas defined by the Natural Heritage and Endangered Species Program (NHESP).

[5] Locations of floodplain area, as well as the Water Supply Protection Overlay District (Zone 2).

[6] Existing isolated trees ten-inch caliper or larger and shrubs.

(b) An estimate of earthwork operations listing the amount of soil material to be imported to or exported from the site.

(c) Blueprints or drawings of the solar electric installation signed by a professional engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures.

(d) A copy of an interconnection application filed with the utility including a one- or three-line electrical diagram detailing the solar electric installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices.

(e) Documentation of the major system components to be used, including the electric generating components, transmission systems, mounting system, inverter, etc. If a proposed system is located in the Water Supply Protection District, documentation must include information on elements of the system that use materials that are in any way either hazardous or toxic.

(f) Documentation by an acoustical engineer of the noise levels projected to be generated by

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the installation.

(g) Name, address, and contact information for proposed system installer.

(h) Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any.

(i) The name, contact information and signature of any agents representing the project proponent.

(j) Documentation of actual or prospective access and control of the project site.

(k) A properly completed and executed application and application fee.

(l) Proof of notification of abutters within 300 feet of subject land parcel in accordance with Planning Board Policies and Procedures and per Subsection H(2)(c) criteria.

(m) An operation and maintenance plan for solar installation.

(n) Zoning district designation for the parcel(s) of land comprising the project site [submission of a copy of the Zoning Map with the parcel(s) identified is suitable for this purpose].

(o) Proof of liability insurance.

(p) Description of financial surety for decommissioning.

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

(r) Operation and maintenance plan. The project proponent shall submit a plan for the operation and maintenance of the solar electric generating facility, which shall include measures for maintaining safe access to the installation, stormwater and vegetation controls, and general procedures for operational maintenance of the installation.

(s) Utility notification. No solar electric generating facility shall be constructed until evidence has been given to the Planning Board that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar electric installation owner's or operator's intent to install an interconnected facility and acknowledges receipt of such notification. Off-grid systems shall be exempt from this requirement.

(4) Dimension and height requirements.

(a) Minimum setbacks for solar electric generating facilities.

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

[2] Side yard: 35 feet.

[3] Rear yard: 35 feet.

(b) Height of structures.

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[1] The height of any structure associated with a solar electric generating facility shall not exceed 35 feet.

[2] The height of solar panels and associated support structures shall not exceed 15 feet.

(5) Appurtenant structures. All appurtenant structures to solar electric generating facilities shall be subject to regulations concerning the bulk and height of structures, lot area, and setbacks as specified within the appropriate section of the Southampton Zoning Code and open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be screened from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

(6) Design and performance standards.

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

(b) Signage. Solar electric generating facilities shall not be used for displaying any advertising signage except for reasonable identification of the manufacturer or operator of the solar electric installation. Signs on solar electric generating facilities shall comply with § 275-8.3, Signs. A sign consistent with § 275-8.3 shall be required to identify the owner and provide a twenty-four-hour emergency contact phone number.

(c) Utility connections. Reasonable efforts, as determined by the Planning Board, shall be made to place all utility connections from the solar electric generating facility underground, depending on appropriate soil conditions, shape and topography of the site, and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

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

(e) Vegetation management. Mowing, grazing and using geotextile materials underneath the solar array are possible alternatives. In the Water Supply Protection District, low-growing grasses are optimal. Other grasses must be regularly mowed or grazed so as to minimize the amount and height of "fuel" available in case of fire.

(f) Hazardous materials. If hazardous materials are utilized within the solar electric equipment then impervious containment areas capable of controlling any release to the environment and to prevent potential contamination of groundwater are required. Hazardous materials stored, used, or generated on-site shall not exceed the amount for a "very small quantity generator of hazardous waste" as defined by the DEP pursuant to Mass DEP regulations 310 CMR 30.000 and shall meet all requirements of the DEP, including storage of hazardous materials in a building with an impervious floor that is not adjacent to any floor drains to prevent discharge to the outdoor environment.

(g) Impact on agricultural and environmentally sensitive land. The solar electric generating facility shall be designed to minimize impacts to agricultural and environmentally

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sensitive land and to be compatible with continued agricultural use of the land whenever possible. No more than 50% of the total land area proposed for the solar electric field may be occupied by the solar panels, with the remainder of the land remaining as undeveloped open space left in its natural state.

(h) Drainage. The design shall minimize the use of concrete and other impervious materials to the greatest extent possible and minimize erosion and transport of sediment. A permit in accordance with Chapter 227, Stormwater Management and Erosion and Sediment Control, shall be required and can run concurrent with the approval process under this section.

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

(7) Safety and environmental standards.

(a) Emergency services. The solar electric generating facility's owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local Fire Chief. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar electric generating facility shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

(b) Land clearing, soil erosion and habitat impacts. Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the solar electric generating facility or otherwise prescribed by applicable laws, regulations, and bylaws. Such installations shall not occur on any slopes greater than 15% in order to minimize erosion. No more than 50% of the land parcel utilized for solar electric generating facilities shall be contain land requiring clearing of forest.

(c) No topsoil shall be removed from the land parcel under consideration for solar electric generating facilities. If earthworks operations are required, topsoil shall be stockpiled within the property bounds and protected against erosion until such time as earthwork operations are completed and topsoil can be respread over the parcel. Earthworks shall be planned to limit export of soil material (non-topsoil) to 1,000 cubic yards per acre affected by installation. A detailed earthworks estimate is a required submittal component proving this quantity is maintained.

(8) Modifications. All material modifications to a solar electric generating facility made after issuance of the required building permit shall require approval by the Planning Board [see Subsection H(2)(h) above].

(9) Waivers. The Planning Board may, upon the prior written request of the applicant, waive any of the requirements of this section but must state its reasons for doing so in writing as part of its decision.

(10) Abandonment or decommissioning.

(a) Removal requirements. Any solar electric generating facility which has reached the end of its useful life or has been abandoned shall be removed. The owner or operator shall

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physically remove the installation within 150 days of abandonment or the proposed date of decommissioning, or the Town retains the right, after the receipt of an appropriate court order, to enter and remove an abandoned, hazardous or decommissioned solar electric generating facility. As a condition of site plan or special permit approval, an applicant shall agree to allow the Town entry to remove an abandoned or decommissioned installation. Reimbursement for removal shall be obtained from the financial surety posted by the applicant as part of the special permit issuance. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

[1] Physical removal of all solar electric generating facilities, structures, equipment, building, security barriers and transmission lines from the site, including any materials used to limit vegetation.

[2] Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.

[3] Stabilization or revegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

(b) Abandonment. Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar electric generating facility shall be considered abandoned when it fails to operate for more than one year without the written consent of the Planning Board. If the owner or operator of the solar electric generating facility fails to remove the installation in accordance with the requirements of this subsection within 150 days of abandonment or the proposed date of decommissioning, the Town may enter the property and physically remove the installation.

(c) Financial surety. Proponents of solar electric generating facilities shall provide a form of surety, either through escrow account, bond or other form of surety, approved by the Planning Board to cover the cost of removal in the event the Town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Planning Board, but in no event to exceed more than 125% of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent and the Town. Such surety will not be required for municipal or state-owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

## § 275-7.7. Inclusionary zoning.

A. Purpose and intent.

(1) The purpose of this section is to:

(a) Expand housing opportunities;

(b) Promote economic diversity in our community; and

(c) Include affordable housing in typical market-rate and high-end housing development.

(2) At minimum, affordable housing produced through this section should be in compliance with

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the requirements set forth in MGL c. 40B, §§ 20 to 24, and other affordable housing programs developed by state, county and local governments. It is intended that the affordable housing units that result from this section be considered as Local Initiative Program (LIP) units, in compliance with the requirements for the same as specified by the Department of Housing and Community Development. Definitions for "affordable units" and "eligible household" can be found in Subsection B.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

AFFORDABLE HOUSING RESTRICTION — A deed restriction of affordable housing meeting statutory requirements in MGL c. 184, § 31, and the requirements of this section.

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

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

INCLUSIONARY HOUSING PLAN — A document that outlines and specifies the development's compliance with each of the applicable requirements of this section as part of the approval of a development project.

INCOME, LOW OR MODERATE — A combined household income which is less than or equal to 80% of median income or any other limit established under MGL c. 40B, its regulations or any amendment thereto.

INCOME, MEDIAN HOUSEHOLD — The median income, adjusted for household size, for the Springfield Metropolitan Statistical Area published by or calculated from regulations promulgated by the U.S. Department of Housing and Urban Development, pursuant to Section 8 of the Housing Act of 1937, as amended by the Housing and Community Development Act of 1974,[5] or any successor federal or state program.

C. Applicability.

(1) In Residential-Rural (R-R), Residential-Neighborhood (R-N), Residential-Village (R-V) and Commercial-Village (C-V) Districts, the inclusionary zoning provisions of this bylaw shall apply to the following uses:

(a) Any project that results in a net increase of 10 or more dwelling units, whether by new construction or by the alteration, expansion, reconstruction, or change of existing residential or nonresidential space;

(b) Any subdivision of land, either by filing a plan for the subdivision of land or the filing of a so-called "approval not required" plan, for development of 10 or more dwelling units; and

(c) Any life care facility or any elderly persons and/or handicapped persons housing

5. **Editor's Note: See 42 U.S.C. § 1437f.**

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development that includes 10 or more dwelling units and accompanying services.

(2) This section further stipulates that the project shall not be segmented or phased to avoid compliance with the provision of this section either by filing a plan for the subdivision or land or the filing of a so-called "approval not required" plan (ANR) or by any other means; ANR filed under the same ownership within five years will be considered as under the provision of this section. A development that occurs on adjacent parcels under common ownership shall be considered one development.

(3) Cluster developments shall be exempt from the requirements of this section.

(4) The Southampton Housing Authority and the Southampton Planning Board shall jointly review to completion any application found to be under the jurisdiction of this section.

D. Requirements.

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

(2) Methods of affordable housing contribution. While the construction of an affordable unit is the preferred method of affordable housing contribution, the applicant may offer and the Planning Board may accept the following methods of affordable housing contribution in accordance with the provisions outlined by this section:

(a) Constructed or rehabilitated on-site (see Subsection E).

(b) Constructed or rehabilitated off-site (see Subsection F).

(c) An equivalent fees-in-lieu-of-units payment may be made (see Subsection G).

(d) Donation of land in fee simple, on- or off-site, which the Planning Board in its sole discretion determines is suitable for the construction of affordable housing units. The value of donated land shall be equal to or greater than the value of the construction or set-aside of the affordable units as specified in Subsection G. The Planning Board may require, prior to accepting land as satisfaction of the requirements of this section, that the applicant submit appraisals of the land in question, as well as other data relevant to the determination of equivalent value. The donation of land, if so determined, will be accepted by the Town with a stipulation that the land donated shall be used for the development of affordable housing in lieu of construction and offering affordable units within the locus of the proposed development or at an off-site locus.

(e) Any combination of the Subsection D(2)(a) through (d) requirements, provided that in no event shall the total number of units provided be less than the equivalent number of affordable units required by this section.

(3) Affordable housing restrictions and regulatory agreements. All affordable housing units shall be subject to an affordable housing restriction and a regulatory agreement in a form acceptable to the Planning Board. Building permits shall not be issued until the restriction and the regulatory agreement are recorded at the Registry of Deeds and a copy provided to the Planning Board and

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the Building Commissioner/Inspector. The regulatory agreement shall be consistent with any applicable guidelines issued by the Department of Housing and Community Development and shall ensure that affordable units can be counted toward Southampton's Subsidized Housing Inventory. The regulatory agreement shall also address all applicable restrictions listed in this section.

(4) Affordable unit enforcement and monitoring. Long-term enforcement and monitoring of the regulatory agreement shall be by an entity approved by the Planning Board. The enforcement and monitoring program shall be paid for by an escrow account established prior to the sale of the first unit and contributed to on an annual basis at a rate negotiated between the Town and the applicant.

(5) Affordable unit cost offsets. To facilitate the objectives of this Subsection D, the applicant may offer and the Planning Board may accept the following in exchange for the provision of affordable housing units:

(a) The minimum lot area per dwelling unit normally required in the applicable zoning district may be reduced by 20%.

(b) Waiver from one or more of the dimensional requirements specified in Article VI of the Zoning Bylaw.

(c) Waiver from one or more of the subdivision regulations as specified in the Southampton Subdivision Regulations or the Zoning Bylaw.

(d) Waiver from filing fees as listed in the Exhibit C of Southampton Planning Board Policies and Procedures by 50%.

(e) Density bonus. The Planning Board may allow the addition of up to two market-rate units for each affordable unit provided. The minimum lot area per dwelling unit normally required in the applicable zoning district may be reduced by 20% to permit up to two additional market-rate units for each one affordable unit required in Subsection D(1) above. Applicants who choose affordable housing contribution methods in Subsection D(2)(c) and (d) are not eligible for a density bonus.

(f) Affordable units may be in the form of a duplex.

(g) Voluntary inclusionary housing bonus. New affordable housing development that is not subject to Subsection C and exceeds the requirements specified in Subsection D(1) may receive the same benefits specified in Subsection D(5)(a) and (b) when the development is approved by the Planning Board. The net increase in housing units shall not exceed 50% of the original property yield before any density bonuses were applied.

(6) Inclusionary housing plan. In addition to the requirements outlined in Subsection D, the applicant shall present to the Planning Board an inclusionary housing plan that outlines and specifies the development's compliance with each of the applicable requirements of this section as part of the approval of a development project. The plan shall specifically contain, at a minimum, the following information regarding the development project:

(a) Preliminary plan.

[1] A general description of the development, including whether the development will contain rental units or individually owned units, or both;

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[2] The total number of market-rate units and affordable units in the development;

[3] The total number of attached and detached residential units (as applicable);

[4] The number of bedrooms in each market-rate unit and each affordable unit;

[5] The square footage of each market-rate unit and each affordable unit;

[6] The location within any multiple-family residential structure and any single-family residential development of each market-rate unit and each affordable unit;

[7] Floor plans for each affordable unit;

[8] The amenities that will be provided to and within each market-rate unit and affordable unit; and

[9] The pricing for each market-rate unit and each affordable housing unit.

(b) Final plan.

[1] All of the information required for the preliminary inclusionary housing plan pursuant to Subsection D(6)(a).

[2] The phasing and construction schedule for each market-rate unit and each affordable unit.

[3] Documentation and plans regarding the exterior appearances.

E. Provisions applicable to affordable housing units on- and off-site.

(1) Siting of affordable units. All affordable units constructed or rehabilitated under this section shall be situated within the development so as not to be in less desirable locations than market-rate units in the development and shall, on average, be no less accessible to public amenities, such as open space, as the market-rate units. The Planning Board in its sole discretion makes the final determination of the suitability of the siting of the affordable units.

(2) Minimum design and construction standards for affordable units. Projects containing affordable units shall meet the standards set forth by the Massachusetts Department of Housing and Community Development (DHCD) Local Initiative Program (LIP). These standards are:

(a) All low- and moderate-income housing units developed through the LIP shall be indistinguishable from market-rate units as viewed from the exterior unless the project has an approved alternative developmental plan.

(b) Unit shall contain complete living facilities, including a stove, kitchen, cabinets, plumbing fixtures, a refrigerator, microwave, and access to laundry facilities.

(c) All low- and moderate-income units for families must have two or more bedrooms. Units for the elderly or accessible units for disabled persons are exempt from this minimum requirement.

(d) With respect to units for the elderly, the disabled, and/or within an age-restricted project, developers are encouraged to consider unit designs in which master bedrooms and bathrooms are located on the first floor.

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(e) In exceptional circumstances, the Director of DHCD may allow a waiver if there is a good reason (other than finances) for failure to meet the design criteria of the LIP. An alternative development plan approval would be based on DHCD's evaluation of the reason for variation from the LIP guidelines.

(3) Timing of construction or provision of affordable units or lots. The inclusionary housing plan, Subsection D(6), and the development agreement shall include a phasing plan that provides for the timely and integrated development of the affordable housing units as the development project is built out. The phasing plan shall provide for the development of the affordable housing units concurrently with the market-rate units. Building permits shall be issued for the development project based upon the phasing plan. The phasing plan may be adjusted by the Planning Board when necessary in order to account for the different financing and funding environment, economies of scale, and infrastructure needs applicable to development of the market-rate and the affordable units. The phasing plan shall also provide that the affordable housing units shall not be the last units to be built in any covered development.

(4) Marketing plan for affordable units. Applicants under this section shall submit a marketing plan or other method approved by Southampton to the Planning Board for its approval, which describes how the affordable units will be marketed to potential home buyers or tenants. This plan shall include a description of the lottery or other process to be used for selecting buyers or tenants.

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

G. Fees in lieu of affordable housing unit provision. As an alternative to the requirements of Subsection E or F, an applicant may make an equivalent payment to the Town's Affordable Housing Trust Fund or, in its absence, to a designated housing gift account established by the Town for fees in lieu of the provision of affordable units.

(1) Calculation of fee in lieu of units. The applicant for development subject to this section may pay fees in lieu of the construction of affordable units. For the purposes of this section, the fee in lieu of the construction or provision of affordable units shall be equal to three times the 80% median household income for a four-person household. The 80% figure for the median household income for a four-person household is updated annually by HUD (see Subsection B, Definitions).

(2) Schedule of fees-in-lieu-of-units payments. Fees-in-lieu-of-units payments shall be made according to the schedule set forth in Subsection E(3) above.

(3) Use of fees and creation of affordable units. Cash contributions and donations of land and/or buildings made to the Affordable Housing Trust Fund or, in its absence, to a designated housing gift account established by the Town in accordance with Subsection G shall be used only for purposes of providing affordable housing for low- or moderate-income households. Using these contributions and donations, affordable housing may be provided through a variety of means, including but not limited to the provision of favorable financing terms, subsidized prices for purchase of sites or affordable units within larger developments, or rehabilitation on existing structures that can be counted toward the 10% affordable housing goal.

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H. Maximum incomes and selling prices: initial sale.

(1) To ensure that only eligible households purchase affordable housing units, the purchaser of an affordable unit shall be required to submit copies of the last three years' federal and state income tax returns and certify, in writing and prior to transfer of title, to the developer of the housing units or his/her agent and, within 30 days following transfer of title, to the local housing trust, community development corporation, housing authority or other agency as established by the Town that his/her or their family's annual income level does not exceed the maximum level as established by the commonwealth's Department of Housing and Community Development, and as may be revised from time to time.

(2) The maximum housing cost for affordable units created under this section is as established by the commonwealth's Department of Housing and Community Development, Local Initiative Program, or as revised by the Town.

(3) Each affordable unit created in accordance with this section shall have limitations governing its resale through the use of a regulatory agreement [Subsection D(3)]. The purpose of these limitations is to preserve the long-term affordability of the unit and to ensure its continued availability for affordable income households. The resale controls shall be established through a restriction on the property and shall be in force in perpetuity.

## § 275-7.8. Cluster development.

For one-family detached dwelling residential development and related open land uses in any "R" District (R-R, R-N and R-V Districts) in a cluster concept, the following conditions shall apply:

A. The tract of single or consolidated ownership at the time of application shall be at least 30 acres in size and may be subject to approval by the Planning Board under the Rules and Regulations Governing the Subdivision of Land in the Town of Southampton.

B. A site plan for the entire tract at an appropriate scale as outlined in Article IX shall be prepared and sealed by a registered land surveyor, registered civil engineer, or registered landscape architect.

C. The following uses shall be permitted:

(1) One-family detached dwellings;

(2) Community facilities (religious or educational);

(3) Membership club for exclusive use of the residents of the development; and

(4) Open land.

D. The following conditions shall apply:

(1) Each individual lot shall be subject to the minimum lot dimensions for cluster development as defined in Table 4, Cluster Area Regulations, as well as standard height and bulk regulations as set forth in Table 3.[6]

6. **Editor's Note: Table 3 is included in § 275-6.1.**

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| Table 4: Cluster Area Regulations | | | | | |
|---|---|---|---|---|---|
| | | | Minimum Yards | | |
| District | Minimum Clustered Lot Area (square feet) | Minimum Lot Width (feet) | Front (feet) | Side (feet) | Rear (feet) |
| R-R | 40,000 | 140 | 35 | 20 | 50 |
| R-N | 30,000 | 130 | 30 | 15 | 45 |
| R-V | 20,000 | 120 | 30 | 15 | 40 |

(2) The total number of proposed lots in the development shall not exceed the number of lots which could be developed under normal application of the zoning requirements of the district. Land within wet areas shall not be considered in determining the number of lots which could be developed under the normal requirements of the "R" Districts (R-R, R-N and R-V Districts).

(3) The development in the R-V District shall be served by the municipal water system and designated adequate in terms of fire protection and domestic use. On-lot septic systems shall conform to State Environmental Code Title 5, 310 CMR 15.00, and be installed as approved by the Southampton Board of Health.

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

(5) At least 20% of the total tract area (of which at least 80% shall not be wetlands or land with a slope over 10%) shall either be conveyed to the Town and accepted by it for open space use, or conveyed to a nonprofit corporation the principal purpose of which is the conservation of open space, or conveyed to a corporation or trust owned or to be owned by the owners of lots within the plot.

(6) Such open land shall be offered in writing to the Town or may be permanently covenanted simultaneously with the Planning Board's approval of the subdivision plan. If the Town Meeting fails to accept the offered land within two years of the receipt of such offer, then the offer shall utilize another method for guaranteeing the open land identified herein.

(7) Such open land shall be restricted to open space; recreational uses, such as a tot lot, park, playground, playfield, or golf course; or conservation area.

(8) Such open land shall have suitable access to a street.

(9) Open space shall be of a size, shape, and character which in the opinion of the Board makes it suitable for the following purposes:

(a) Recreation land.

(b) Buffers between clusters of housing (minimum width of 100 feet) which shall include plantings which will retain the individual identity of each cluster.

(c) Buffers between clusters and other adjacent land (minimum width of 125 feet, except where buffering against major highways or other objectionable adjacent land uses, in which case the minimum buffer shall be increased to 150 feet) which shall also retain the individual identity of each cluster.

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(d) Agricultural land.

(e) Historic land.

(f) Conservation.

(10) The primary streets shall be offered for acceptance as public ways. The minimum roadway width of streets shall be in accordance with the Rules and Regulations Governing the Subdivision of Land in Southampton.

(11) Clusters shall be provided access by secondary streets only; that is, streets which primarily provide access to the properties and do not collect traffic from several secondary streets and distribute traffic to primary streets.

(12) No more than 10 one-family detached dwellings shall be located within any one cluster. Each cluster shall be separated from each other cluster by a buffer of open space.

(13) Where development is planned to occur in stages, the Planning Board shall require that all provisions of this Subsection D are met with each individual stage of development.

### § 275-7.9. Planned business development.

For planned business development of land subject to maximum building coverage more than the maximum permitted in Table 3, Height and Bulk Regulations, and less than the parking requirement contained in Table 5, Off-Street Parking Standards,[7] the following conditions shall apply:

A. The tract shall be in single or consolidated ownership at the time of application and shall be at least five acres in size.

B. A site plan shall be presented for the entire tract as outlined in Article IX of this bylaw and shall be subject to approval by the Planning Board where it constitutes a subdivision as per the Subdivision Control Law.[8]

C. Uses may be contained in one continuous building or within a grouping of buildings. The configuration shall be deemed consistent with the safety of the users of the development and further consistent with the overall intent of this section.

D. The maximum building coverage of the lot shall be 40%.

E. The development shall be served by one common parking area and by common exit and entrance areas.

F. Any reduction in parking space requirements shall not exceed more than 10% of those required under normal application of requirements for the particular uses proposed.

G. The development shall be adequately served by a water system adequate in terms of fire protection and domestic use, and the designated leaching area for on-lot septic systems meets with the minimum requirements of the State Sanitary Code, and an additional area shall be reserved for expansion which can also meet the same requirements.

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**7. Editor's Note: Table 3 is included in § 275-6.1. Table 5 is included in § 275-8.2.**

**8. Editor's Note: See MGL c. 41, §§ 81K to 81GG.**

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## § 275-7.10. Planned industrial development.

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

A. The tract in single or consolidated ownership at the time of application shall be at least 15 acres in size.

B. A site plan shall be presented for the entire tract as outlined in Article IX of this bylaw and shall be subject to approval by the Planning Board where it constitutes a subdivision under the Rules and Regulations Governing the Subdivision of Land in the Town of Southampton.

C. Individual lot sizes shall not be reduced more than 10% below that normally required for manufacturing or service industrial uses in Table 2, Area Regulations.[9]

D. The total number of lots in the development shall not exceed the number of lots which could be developed under normal application requirements of the district.

E. The permitted uses shall be limited to manufacturing or service industrial uses with the total use completely within the building.

F. The development shall be served by a water system designated adequate in terms of fire protection and domestic use.

G. At least 10% of the total tract area shall be retained in permanently maintained open space.

(1) No more than 20% of the open space may consist of either wetland and/or land with a slope of over 10%.

(2) Said open space shall be conveyed to and accepted by either:

(a) The Town of Southampton;

(b) A nonprofit corporation, the principal purpose of which is the conservation of open space; or

(c) A corporation or trust owned or to be owned by the owners of lots within the plot. If such corporation or trust is utilized, ownership thereof shall pass with conveyances of the lots.

(3) In any case where such land is not conveyed to the Town, a restriction enforceable by the Town shall be recorded providing that such land shall be kept in an open or natural state and shall not be built upon for industrial use or developed for accessory uses such as parking or roadway.

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

(5) Such open land shall be restricted to open space, playfield, golf course, or conservation area.

(6) Such open land shall have suitable access to a street.

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**9. Editor's Note: Table 2 is included in § 275-6.1.**

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### § 275-7.11. Multifamily dwellings.

For the construction, enlargement or alteration of a multifamily dwelling, the following conditions shall apply:

A. No multifamily units shall be built on a lot of less than 1 1/2 acres of land. The density of the family units in any such multifamily building shall be limited to 30,000 square feet of land for the first such unit and 10,000 square feet for each additional unit thereafter.

B. For multifamily units of two or more bedrooms where the total number of dwelling units to be developed at one time or in any successive stages exceeds 12 dwelling units there shall be constructed and equipped an outdoor recreation area with a minimum size of 500 square feet per unit.

C. Paved off-street parking shall be provided in the ratio of two spaces per dwelling unit, exclusive of driveways, such to be located not less than 25 feet from the front property line and 20 feet from the back or side property lines. Where multifamily housing is subsidized housing for the elderly, the parking spaces provided shall be one space for each unit. For purposes of this subsection, one parking space shall have an area of 200 square feet plus an additional 100 square feet for maneuvering.

D. Maximum building height shall be 2 1/2 stories

E. Plans as outlined in § 275-7.8 above conforming to Sections IV and V of the Rules and Regulations Governing the Subdivision of Land in the Town of Southampton shall be submitted to the Planning Board for approval prior to the issuance of a building permit.

F. At least 80% of the lot shall be buildable land, or land not wetlands, not subject to flooding, not over 6% slope (in final grade) and with a depth of at least four feet to the seasonally high water table.

G. The development shall be served by a public water system adequate in terms of fire protection and domestic use. The development shall be served by an individual on-lot septic system which meets the minimum requirements of Title 5, State Environmental Code,[10] and the rules and regulations of the Southampton Board of Health, as amended.

H. Screening and buffers shall be required between developments of more than four units and adjacent properties. Such a buffer strip shall be at least 20 feet in width and it shall contain a screen of plantings. The screen shall be not less than five feet in width and six feet in height at the time of occupancy of such lot. Individual shrubs or trees shall be planted as close as necessary to create a visual screen and shall thereafter be maintained by the owner or occupants so as to maintain a dense screen year round. At least 30% of the plantings shall consist of evergreens. A solid wall or fence, not to exceed six feet in height, complemented by suitable plantings, may be substituted for such landscape buffer strip as approved by the Zoning Board of Appeals. The strip may be part of the yard.

I. The proposed multifamily development shall be compatible with adjacent land uses.

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

   (2) The proposed multifamily development shall not create undue traffic congestion or unduly impair pedestrian safety.

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**10. Editor's Note: See 310 CMR 15.00.**

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(3) In addition to the specific requirements of this section, the proposed multifamily development shall meet all other applicable provisions of this bylaw.

**§ 275-7.12. Soil, loam, sand, gravel, quarry or other earth materials.**

A. Residential development.

(1) Purpose. The movement and removal of earth materials can lead to environmental, topographical, and aesthetic degradation within the Town of Southampton. The Town intends to mitigate the impact of construction and of commercial operations on nearby properties and neighborhoods and on the Town as a whole by regulating the movement or removal of earth materials.

(2) Definition. As used in this Subsection A, the following terms shall have the meanings indicated:

EARTH MATERIALS — The soils, subsoil and rock that make up the topography of the land as it exists prior to movement or removal. "Earth materials" include, but are not limited to, sod, loam, sand, clay, gravel, stone, quarry stone, peat, hardpan, or mineral products.

(3) Any movement, excavation, or removal of soil, loam, sand, gravel, quarry, or other earth materials relative to the development of a parcel for residential purposes requires a special permit issued by the Planning Board.

(a) Exemptions. The following activities relative to the development of a parcel for residential purposes are exempt from the required special permit provided they comply with all stormwater management and erosion/sedimentation control standards and practices:

[1] Earth removal may take place on a permitted site for one-family and two-family dwellings under the regulations contained herein up to 150% of the volume needed to complete the project infrastructure. Said infrastructure shall include foundations, sanitary sewer systems, drainage systems, and structures, driveways, trails, paths and other appurtenant infrastructure. Removal of topsoil shall not be included in this calculation.

[2] The transfer of material from one part of a lot to another part of the same lot.

[3] Site work in conjunction with an order of conditions issued by the Southampton Conservation Commission or the Department of Environmental Protection.

[4] Site work in conjunction with a disposal works permit.

[5] All municipal governmental projects authorized by law and/or permits.

[6] All municipal government public works maintenance and repair projects in conjunction with the continued safe use of public and private ways.

[7] Site work in conjunction with a permit issued by the Southampton Board of Health or the Department of Environmental Protection.

(b) Special permit applications. For all activities relative to the development of a parcel for residential purposes that are not exempt from the required special permit, in addition to the standard application requirements for a special permit (see Article X), the applicant shall file with the Planning Board a written application setting forth:

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[1] Description of the land for which the permit is sought.

[2] The estimated quantity of topsoil to be stripped, stockpiled, and replaced during restoration.

[3] Estimated quantity of material to be removed from the site.

[4] An approximate date of earthwork commencement and anticipated duration of the earthwork.

[5] Proposed daily operation times.

[6] Descriptions of measures proposed for mitigating potential noise, dust, visual impact, and other hazardous waste or emissions from the site.

(c) In addition to the application materials required under Subsection A(3)(b) above, a map or plan drawn by a registered professional engineer or a registered land surveyor shall accompany the special permit application, which shall show:

[1] Location of the proposed excavation.

[2] Owner, and the legal name and address of the applicant.

[3] A plan of the land to be excavated plus a 100-foot buffer surrounding said excavation and all existing and proposed features, including fencing, access gates, property lines, public and private ways, vegetative cover, watercourses and water bodies (including all Rivers Protection Act[11] bodies), floodplains, wetlands, drainage swales or other drainage structures, high groundwater elevations, direction of groundwater flow, rate of groundwater flow, private and public wells, soils and bedrock characteristics.

[4] Existing topography and proposed finish grade contours after completion of the proposed excavation.

[5] Names and addresses of all abutting property owners.

[6] A plan for erosion and sediment control during the excavation activities using best management practices.

[7] Measures proposed for mitigating potential noise, dust, visual impact, and other hazardous waste or emissions from the site.

(d) Performance bond.

[1] In approving a special permit, the Planning Board may require a reasonable performance bond in an amount sufficient to guarantee the movement or removal of earth materials in a manner consistent with the provisions of this bylaw.

[2] The Zoning Enforcement Officer is responsible for monitoring any performance bond that may be required by the permit granting authority.

[3] The Planning Board in consultation with the Zoning Enforcement Officer shall be responsible for reviewing the amount of the bond every two years and may require

**11. Editor's Note: Chapter 258, Acts of 1996, MGL c. 131, § 40.**

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an increase in the bond if necessary to ensure satisfactory compliance with the conditions of this bylaw.

[4] The bond shall not be released or reduced until the applicant has certified in writing and the Zoning Enforcement Officer has determined that all conditions of this bylaw have been met and that any restoration or reclamation that may have been mandated has been satisfactorily completed.

(4) Other permitted residential uses. All other legal and permitted residential uses requiring earth removal must obtain a special permit from the Planning Board. Said permit may be sought in conjunction with any other permit required.

B. Commercial earth excavation or removal of soil, loam, sand, gravel, quarry, or other earth materials.

(1) Purpose. The removal of earth materials can lead to environmental, topographical, and aesthetic degradation within the Town of Southampton. The Town intents to mitigate the impact of commercial operations on nearby properties and neighborhoods and on the Town as a whole by regulating commercial earth removal.

(2) Definitions. As used in this Subsection B, the following terms shall have the meanings indicated:

COMMERCIAL EARTH REMOVAL — The removal of earth materials for purposes other than, or exceeding that which is necessary for, construction.

EARTH or EARTH MATERIALS — The soils, subsoil and rock that make up the topography of the land as it exists prior to removal. "Earth materials" include, but are not limited to, sod, loam, sand, clay, peat, hardpan, rock, gravel, stone, quarry stone or mineral products.

(3) Special permit. Any commercial earth removal activity requires a special permit issued by the Planning Board.

(a) Application. The applicant shall file with the Planning Board a written application setting forth:

[1] A description of the land for which the permit is sought.

[2] If the applicant for the special permit is someone other than the owner, the owner shall also sign the application.

[3] An approximate date of earthwork commencement and anticipated duration of the earthwork.

[4] Proposed daily operation times.

[5] A list of the equipment to be used on-site and the number and type of vehicle trips per day during hauling, including the routes the vehicles will utilize.

[6] Measures proposed for mitigating potential noise, dust, visual impact and other hazardous waste or emissions from the site.

[7] Measures to protect groundwater, including the installation of monitoring wells.

[8] Estimated quantity of material to be removed or added to the site.

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[9] The estimated quantity of topsoil to be stripped, stockpiled, and replaced during restoration.

[10] Quality and quantity of materials from off-site for restoration of the site.

[11] Description of any processing of materials to be carried out on-site

(b) The application shall be accompanied by a map(s) or plan(s) drawn by a registered professional engineer or a registered land surveyor which shall show:

[1] Location of the proposed excavation and the legal name of the property.

[2] Owner, and the legal name and address of the applicant.

[3] A plan of the land involved, plus a 300-foot buffer surrounding said property showing all existing and proposed features, including signs, parking, lighting, fencing, access gates, property lines, public and private ways, vegetative cover, watercourses and water bodies, floodplains, wetlands, drainage swales or other drainage structures, maximum high groundwater elevations, direction of groundwater flow, rate of groundwater flow, private and public wells, soils and bedrock characteristics.

[4] Existing topography and proposed finish grade contours after completion of the proposed excavation at two-foot intervals.

[5] Names and addresses of all abutting property owners.

[6] A plan for erosion and sediment control during the excavation activities using best management practices.

[7] Measures proposed for mitigating potential noise, dust, visual impact and other hazardous waste or emissions from the site.

[8] Haul routes to be utilized within the municipal boundaries.

[9] Setback requirements for fixed on-site equipment.

[10] Construction of accessways to screen the operation from public view.

[11] Treatment and construction of accessways to minimize dust and mud.

[12] Measures to protect groundwater, including the installation of monitoring wells.

[13] Erection of fences or barriers to prevent unauthorized access.

[14] Stockpiling of topsoil and subsoil stripped from the site for restoration of the site. Said material may be utilized as on-site berms.

[15] Erosion control measures.

[16] Restoration standards, including elevations, grades, distribution and treatment of topsoil, planting and type of vegetation, drainage, and time for completion.

[17] Location of structures proposed in the operation, both permanent and temporary.

[18] Location of any processing of materials to be carried out on-site. The Planning Board

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reserves the right to retain the services, at the applicant's expense, of a qualified consultant to assist it in its review of the plan.

(c) Time period for special permit. The time period to commence commercial earth removal after the grant of a special permit shall be one year from the date of certification by the Town Clerk that 20 days have elapsed since approval and no appeal has been filed or that, if such appeal has been filed, it has been dismissed or denied. The special permit shall be reviewed every three years thereafter or upon change of ownership, and if required by the Planning Board, a new public hearing conducted, and new special permit may be issued.

(d) General conditions. In addition to the following list of general conditions, the Planning Board may impose any other conditions intended to protect plant and animal habitat, aesthetics, property values, the neighborhood and the Town from permanent or temporary hazards, including those which may result from conditions after excavation operations have ceased, methods of handing materials on-site, or from the transport of extracted materials throughout the Town.

[1] An opaque fence or solid barrier at least six feet in height shall be erected to limit access where excavation is occurring.

[2] No material shall be removed and no excavation shall be permitted within 300 feet of any lot line or street.

[3] All buffer areas, whatever their extent, shall be vegetated with native trees and shrubs, maintaining naturally existing vegetation, to screen neighboring uses from visual, noise, dust, and other impacts of the operation. Whenever no natural vegetation exists, the applicant shall be responsible for planting and maintaining appropriate vegetation.

[4] Total area within the lot under excavation at any one time shall not exceed five acres.

[5] No material shall be removed below an elevation which is five feet above the historical high groundwater table (as determined from on-site monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey, whichever is higher). The property owner, to verify groundwater elevations, shall install a monitoring well.

[6] The Planning Board shall require a performance bond in amount sufficient to ensure satisfactory compliance with this section and with the terms of the special permit. The Zoning Enforcement Officer is responsible for monitoring the performance bond required by the Planning Board. The Planning Board in consultation with the Zoning Enforcement Officer shall be responsible for reviewing the amount of the bond every two years and may require an increase in the bond if necessary to ensure satisfactory compliance with this section and with the terms of the special permit, including any amendments. The bond shall not be reduced or released until the applicant has certified in writing and the Zoning Enforcement Officer has determined that all conditions of this section and the special permit have been met.

(e) Required reuse/reclamation plan. A land reuse/reclamation plan on a scale of 100 feet to the inch or greater must be submitted to and approved by the Planning Board as a part of the special permit application process.

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[1] The Planning Board may require that up to three approved alternative future land reuse plans be submitted for such land as is used for the extraction of sand, gravel, rock, loan, sod, and associated earth materials. A land reuse plan is also required where an existing extraction operation is extended below the grade of adjacent ground.

[2] Said land reuse plan and its implementation applies to the conversion of the abandoned site and its planned reuse, including landscaping and suitable erosion control. It is therefore required that any land reuse plan correspond to a situation which could reasonably occur in the immediate future, zero to five years, and be revised as necessary as the existing physical character of the removal area changes.

[3] The land reuse plan or any part thereof which reasonably applies to an area which has been abandoned from removal use shall be put into effect within one year of the abandonment of said operation. "Abandonment" for the purposes of this subsection shall be defined as the visible or otherwise apparent intention of the owner or user of the land to discontinue the use of the land for a continuous period one year. Temporary operating of less than 30 days shall not be construed to interrupt any continuous period of abandonment.

### § 275-7.13. Home occupations.

For the use of a dwelling in any "R" District (R-R, R-V and R-N Districts) for a home occupation, the following conditions shall apply:

A. No more than one nonresident shall be employed therein.

B. The use is carried on strictly within the principal building.

C. Not more than 25% of the existing net floor area not to exceed 400 square feet is devoted to such use.

D. There shall be no display of goods or wares visible from the street.

E. There shall be no advertising on the premises other than a small, nonelectric sign not to exceed two square feet in area, and carrying only the occupant's name and his occupation, such as physician, artisan, teacher, day nurse, lawyer, architect, salesman (type), engineer, clergyman, accountant, osteopath, dentist, and similar occupations or professions.

F. The buildings or premises occupied shall not be rendered objectionable or detrimental to the residential character or the neighborhood due to the exterior appearance, emissions of odor, gas, smoke, or dust, noise, electrical disturbance, or in any other way.

G. Any such building shall include no feature of design not customary in buildings for residential use.

H. Such uses as clinics, barbershops, bakeries, gift shops, beauty parlors, tea rooms, tourist homes, animal hospitals, kennels, and others of a similar nature shall not be considered as home occupations.

I. No home occupation which requires a sign or visits by clientele or in any way may become objectionable or detrimental to the residential use will be allowed in a multifamily dwelling.

### § 275-7.14. Radioactive waste facility.

For the development of facilities for the storage, transfer, treatment, incineration and disposal of

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radioactive wastes, the following conditions shall apply:

A. All applicable conditions of §§ 275-7.9 and 275-7.12 of this article.

B. The facility shall be developed in accordance with all other applicable provisions of this bylaw and MGL c. 40A, § 9, and only where the special permit granting authority finds that the proposed facility is in harmony with the intent and purpose of this bylaw. The special permit shall impose such conditions and limitations, including prohibition where considered necessary, on the proposed use as the special permit granting authority may determine are necessary for the protection of the public health, safety, and welfare.

**§ 275-7.15. Adult use marijuana establishments.**

A. Purposes.

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

(2) Subject to the provisions of this Zoning Bylaw, MGL c. 40A, MGL c. 94G, and 935 CMR 500.000, marijuana establishments will be permitted to engage in the legal cultivation, product manufacturing and retail sale of marijuana for non-medical adult marijuana use in a manner that complies with state regulations.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

CANNABIS or MARIJUANA or MARIHUANA — All parts of any plant of the genus Cannabis, not excepted in Subsections (1) through (3) of this definition and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; clones of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin, including tetrahydrocannabinol as defined in MGL c. 94C, § 1, provided that cannabis shall not include:

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

(2) Hemp; or

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

COMMISSION — The Massachusetts Cannabis Control Commission established by MGL c. 10, § 76, or its designee.

CRAFT MARIJUANA COOPERATIVE — A marijuana cultivator comprised of residents of the commonwealth and organized as a limited liability company, limited liability partnership, or cooperative corporation under the laws of the commonwealth. A cooperative is licensed to cultivate, obtain, manufacture, process, package and brand cannabis or marijuana products and to transport

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marijuana to marijuana establishments, but not to consumers.

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

LICENSEE — A person or entity licensed by the Commission to operate a marijuana establishment under 935 CMR 500.000.

MARIJUANA CULTIVATOR — An entity licensed to cultivate, process and package marijuana, and to transfer marijuana to other marijuana establishments, but not to consumers. A craft marijuana cooperative is a type of marijuana cultivator.

MARIJUANA ESTABLISHMENT — A marijuana cultivator, craft marijuana cooperative, marijuana product manufacturer, marijuana retailer, marijuana independent testing laboratory, marijuana research facility, marijuana transporter, or any other type of licensed marijuana-related business, except a medical marijuana treatment center. Marijuana establishments permitted in accordance with these regulations are considered to be a commercial and/or manufacturing use and are not considered being subject to any agricultural exemptions under zoning.

MARIJUANA INDEPENDENT TESTING LABORATORY — A laboratory that is licensed by the Commission to test marijuana and marijuana products.

MARIJUANA MICROBUSINESS — A co-located marijuana establishment that can be either a Tier 1 marijuana cultivator in accordance with 935 CMR 500.000 or a marijuana product manufacturer or both, in compliance with the operating procedures for each state license. A microbusiness that is a marijuana product manufacturer may purchase no more than 2,000 pounds of marijuana per year from other marijuana establishments.

MARIJUANA PRODUCT MANUFACTURER — An entity licensed to obtain, manufacture, process and package marijuana products and to transfer these products to other marijuana establishments, but not to consumers.

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

MARIJUANA RESEARCH FACILITY — An entity licensed to engage in research projects by the Commission.

MARIJUANA RETAILER — An entity licensed to purchase and transport cannabis or marijuana product from marijuana establishments and to sell or otherwise transfer this product to marijuana establishments and to consumers. Retailers are prohibited from delivering cannabis or marijuana products to consumers and from offering cannabis or marijuana products for the purposes of on-site social consumption on the premises of a marijuana establishment.

MARIJUANA TRANSPORTER — An entity, not otherwise licensed by the Commission, that is licensed to purchase, obtain, and possess cannabis or marijuana product solely for the purpose of transporting, temporary storage, sale and distribution to marijuana establishments, but not to consumers. Marijuana transporters may be an existing licensee transporter or third party transporter.

PROVISIONAL MARIJUANA ESTABLISHMENT LICENSE — A certificate issued by the

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Commission confirming that a marijuana establishment has completed the application process.

C. Applicability. Nothing in this section shall be construed to supersede federal and state laws governing the sale and distribution of marijuana. This section does not apply to the cultivation of industrial hemp as is regulated by the Massachusetts Department of Agricultural Resources pursuant to MGL c. 128, §§ 116 to 123.

D. Additional requirements/conditions. In addition to the standard requirements for uses permitted by right or requiring a special permit or site plan approval, the following shall also apply to all marijuana establishments:

(1) Use.

(a) Any type of marijuana establishment may only be involved in the uses permitted by its definition and may not include other businesses or services.

(b) No marijuana shall be smoked, eaten or otherwise consumed or ingested within the premises.

(c) The hours of operation shall be set by the special permit granting authority, but in no event shall a marijuana establishment be open to the public, and no sale or other distribution of marijuana shall occur upon the premises or via delivery from the premises between the hours of 8:00 p.m. and 8:00 a.m.

(d) No marijuana establishment may commence operation or apply for a building permit prior to its receipt of all required permits and approvals, including, but not limited, to its provisional marijuana establishment license from the Cannabis Control Commission.

(e) The number of adult use marijuana retailers permitted to be located within the Town of Southampton shall not exceed 50% of the number of licenses issued within the Town for the retail sale of alcoholic beverages not to be drunk on the premises where sold under MGL c. 138. For the purposes of determining this number, any fraction shall be rounded up to the next highest whole number.

(2) Physical requirements.

(a) With the exception of the lawful transportation of marijuana and marijuana products, all aspects of the any marijuana establishment relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing, or administration of marijuana, products containing marijuana, related supplies, or educational materials shall take place at a fixed location within a fully enclosed building (including greenhouses) and shall not be visible from the exterior of the business. Marijuana establishments shall not be located in a trailer, storage freight container, motor vehicle or other similar type potentially movable enclosure.

(b) No outside storage is permitted.

(c) No marijuana retailer shall have a gross floor area open to the public in excess of 2,500 square feet.

(d) Ventilation. All marijuana establishments shall be ventilated in such a manner that no:

[1] Pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere; and

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

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

(f) All other signage must comply with all other applicable signage regulations in the Zoning Bylaw and 935 CMR 500 et seq.

(g) Marijuana plants, products, and paraphernalia shall not be visible from outside the building in which the marijuana establishment is located and shall comply with the requirements of 935 CMR 500.000. Any artificial screening device erected to eliminate the view from the public way shall also be subject to a vegetative screen, and the Board shall consider the surrounding landscape and viewshed to determine if an artificial screen would be out of character with the neighborhood.

(3) Location.

(a) Marijuana establishments are encouraged to utilize existing vacant buildings where possible.

(b) No marijuana establishment shall be located on a parcel which is within 300 feet of a parcel occupied by a public or private school providing education in kindergarten or any of grades one through 12 in existence at the time a marijuana establishment license is filed with the Cannabis Control Commission.

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

(d) No marijuana establishment shall be located inside a building containing residential units, including transient housing such as motels and dormitories.

(e) No marijuana establishment is permitted to utilize or provide a drive-through service.

(4) Reporting requirements.

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

(b) The local Building Commissioner/Inspector, Board of Health, Police Department, Fire Department and special permit granting authority shall be notified in writing by the marijuana establishment facility owner/operator/manager:

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[1] A minimum of 30 days prior to any change in ownership or management of that establishment.

[2] A minimum of 12 hours following a violation or potential violation of any law or any criminal or potential criminal activities or attempts of violation of any law at the establishment.

(c) Permitted marijuana establishments shall file an annual written report to, and appear before, the special permit granting authority no later than January 31 of each calendar year, providing a copy of all current applicable state licenses for the facility and/or its owners, and demonstrate continued compliance with the conditions of the special permit.

(d) The owner or manager of a marijuana establishment is required to respond by phone or email within 24 hours of contact by a Town official concerning their marijuana establishment at the phone number or email address provided to the Town as the contact for the business.

(5) Issuance/transfer/discontinuance of use.

(a) Special permits shall be issued to the marijuana establishment owner.

(b) Special permits shall be issued for a specific type of marijuana establishment on a specific site/parcel.

(c) Special permits shall be nontransferable to either another marijuana establishment owner or another site/parcel.

(d) Special permits shall have a term limited to the duration of the applicant's ownership/ control of the premises as a marijuana establishment, and shall lapse/expire if:

[1] The marijuana establishment ceases operation (not providing the operation or services for which it is permitted) for 365 days; and/or

[2] The marijuana establishment's license from the Commission expires or is terminated. The marijuana establishment shall notify the Zoning Enforcement Officer and special permit granting authority in writing within 48 hours of such expiration or termination.

(e) A marijuana cultivator or marijuana product manufacturer shall be required to remove all material, plants, equipment and other paraphernalia prior to surrendering its state license or ceasing its operation.

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

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E. Application requirements.

(1) Applications for special permits and site plan approvals for marijuana establishments will be processed in the order that they are filed with the Town. The approval of a special permit for any marijuana establishment is up to the discretion of the Planning Board, which will be making its determination based on approving marijuana establishments that comply with the standards and intent of this section.

(2) In addition to the standard application requirements for special permits, applications for a marijuana establishment shall include the following:

(a) The name and address of each owner and operator of the marijuana establishment facility/ operation.

(b) A copy of an approved host agreement.

(c) A copy of its provisional license from the Cannabis Control Commission pursuant to 935 CMR 500 et seq.

(d) If the marijuana establishment is proposed in conjunction with an approved registered marijuana dispensary (RMD), a copy of its provisional certificate of registration as an RMD from the Massachusetts Department of Public Health in accordance with 105 CMR 725.000 or from the Cannabis Control Commission in accordance with 935 CMR 500 et seq.

(e) Proof of liability insurance coverage or maintenance of escrow as required in 935 CMR 500 et seq.

(f) Evidence that the applicant has site control and right to use the site for a marijuana establishment in the form of a deed or valid purchase and sales agreement or, in the case of a lease, a notarized statement from the property owner and a copy of the lease agreement.

(g) A notarized statement signed by the marijuana establishment organization's chief executive officer and corporate attorney disclosing all of its designated representatives, including officers, directors, shareholders, partners, members, managers, or other similarly situated individuals and entities and their addresses. If any of the above are entities rather than persons, the applicant must disclose the identity of all such responsible individual persons.

(h) In addition to what is normally required in a site plan, details showing all exterior proposed security measures for the marijuana establishment, including lighting, fencing, gates and alarms, ensuring the safety of employees and patrons and to protect the premises from theft or other criminal activity. Security information shall be submitted and retained by the Planning Board as a confidential document and forwarded to the Police Chief for review and comment.

(i) A detailed floor plan identifying the areas available and functional uses (including square footage).

(j) All signage being proposed for the facility.

(k) A pedestrian/vehicular traffic impact study, prepared by a registered professional engineer

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specializing in traffic engineering, to establish the marijuana establishment's impacts at peak demand times, including a line queue plan to ensure that the movement of pedestrian and/or vehicular traffic, including but not limited to along the public rights-of-way, will not be unreasonably obstructed.

(l) An odor control plan detailing the specific odor-emitting activities or processes to be conducted on-site, the source of those odors, the locations from which they are emitted from the facility, the frequency of such odor-emitting activities, the duration of such odor-emitting activities, and the administration of odor control, including maintenance of such controls.

(m) A management plan including a description of all activities to occur on site, including all provisions for the delivery of marijuana and related products to marijuana establishment or off-site direct delivery.

(n) Individual written plans, which at a minimum comply with the requirements of 935 CMR 500 et seq., relative to the marijuana establishment's:

[1] Operating procedures.

[2] Marketing and advertising.

[3] Waste disposal.

[4] Transportation and delivery of marijuana or marijuana products.

[5] Energy efficiency and conservation.

[6] Security and alarms.

[7] Decommissioning of the marijuana establishment, including a cost estimate taking into consideration the community's cost to undertake the decommissioning of the site.

F. Findings. In addition to the standard findings for a special permit, the special permit granting authority must also find all the following:

(1) That the marijuana establishment is consistent with and does not derogate from the purposes and intent of this section and the Zoning Bylaw.

(2) That the marijuana establishment is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest.

(3) That the marijuana establishment facility demonstrates that it meets or exceeds all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations.

(4) That the applicant has satisfied all of the conditions and requirements of this section and other applicable articles of this bylaw.

(5) That the marijuana establishment provides adequate security measures to ensure no direct threat to the health or safety of other individuals, and that the storage and/or location of cultivation is adequately secured on-site or through transportation off-site.

(6) That the marijuana establishment adequately addresses issues of traffic demand, circulation

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flow, parking and queuing, particularly at peak periods at the facility, and its impact on neighboring uses.

### § 275-7.16. Registered marijuana dispensary.

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

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

REGISTERED MARIJUANA DISPENSARY (RMD) —

(1) A use registered and approved by the Cannabis Control Commission in accordance with 935 CMR 501.000, and pursuant to all other applicable state laws and regulations, also to be known as a "medical marijuana treatment center," that acquires, cultivates, possesses, processes (including development of related products such as edibles, marijuana-infused products (MIPs), tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. Unless otherwise specified, "RMD" refers to the site(s) of dispensing, cultivation, and preparation of marijuana.

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

C. Additional requirements/conditions. Subject to the provisions of this Zoning Bylaw, MGL c. 40A, MGL c. 94I (Medical Use of Marijuana), and all regulations which have or may be issued thereunder, including but not limited to 935 CMR 501.000 et seq., RMDs will be permitted to provide medical support, security, and physician oversight that meet or exceed state regulations. In addition to the standard requirements for uses permitted by right or requiring a special permit or site plan approval, the following shall also apply to all RMDs:

(1) Use.

(a) An RMD may only be involved in the uses permitted by its definition and may not include other businesses or services.

(b) No marijuana shall be smoked, eaten or otherwise consumed or ingested within the premises.

(c) The hours of operation shall be set by the special permit granting authority, but in no event shall an RMD be open to the public, and no sale or other distribution of marijuana shall occur upon the premises or via delivery from the premises between the hours of 8:00 p.m. and 8:00 a.m.

(2) Physical requirements.

(a) All aspects of the RMD relative to the acquisition, cultivation, possession, processing,

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sales, distribution, dispensing, or administration of marijuana, products containing marijuana, related supplies, or educational materials must take place at a fixed location within a fully enclosed building and shall not be visible from the exterior of the business.

(b) No outside storage is permitted.

(c) No RMD which provides retail sales to the public shall have a gross floor area open to the public in excess of 2,500 square feet.

(d) Ventilation. All RMDs shall be ventilated in such a manner that no:

[1] Pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere; and

[2] No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the RMD or at any adjoining use or property.

(e) Signage shall be displayed on the exterior of the RMD entrance in plain sight of clients stating that "Registration card issued by the Cannabis Control Commission required" in text two inches in height.

(3) Location.

(a) No RMD shall be located on a parcel which is within 500 feet (to be measured in a straight line from the nearest points of each property line) of a parcel occupied by:

[1] A public or private elementary, junior high, middle, vocational or high school, college, junior college, university or child care facility or any other use in which children commonly congregate in an organized, ongoing, formal basis, including but not limited to dance, gymnastics or karate studios, or youth recreational facilities; or

[2] Another RMD.

(b) No RMD shall be located inside a building containing residential units, including transient housing such as motels and dormitories.

(4) Reporting requirements.

(a) All special permit and site plan approval holders for an RMD facility shall provide the Police Department, Fire Department, Building Commissioner/Inspector and the special permit granting authority with the names, phone numbers and email addresses of all management staff and key holders, including a minimum of two operators or managers of the facility identified as contact persons to whom one can provide notice if there are operating problems associated with the establishment. All such contact information shall be updated as needed to keep it current and accurate.

(b) The local Building Commissioner/Inspector, Board of Health, Police Department, Fire Department and special permit granting authority shall be notified in writing by an RMD owner/operator/manager:

[1] A minimum of 30 days prior to any change in ownership or management of that facility.

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[2] A minimum of 12 hours following a violation or potential violation of any law or any criminal or potential criminal activities or attempts of violation of any law at the RMD.

(c) Permitted RMD facilities shall file an annual report to and appear before the special permit granting authority no later than January 31 of each year, providing a copy of all current applicable state licenses for the facility and/or its owners, and demonstrate continued compliance with the conditions of the special permit.

(d) The owner or manager is required to respond by phone or email within 24 hours of contact by a Town official concerning their RMD at the phone number or email address provided to the Town as the contact for the business.

(5) Issuance/transfer/discontinuance of use.

(a) Special permits/site plan approvals shall be issued to the RMD operator.

(b) Special permits/site plan approvals shall be issued for a specific site/parcel.

(c) Special permits/site plan approvals shall be nontransferable to either another RMD operator or site/parcel.

(d) Special permits/site plan approvals shall have a term limited to the duration of the applicant's ownership/control of the premises as an RMD and shall lapse if:

[1] The permit holder ceases operation of the RMD; and/or

[2] The permit holder's registration by the Cannabis Control Commission expires or is terminated.

(e) The permit holder shall notify the Zoning Enforcement Officer and special permit granting authority in writing within 48 hours of such lapse, cessation, discontinuance or expiration.

(f) An RMD facility shall be required to remove all material, plants, equipment and other paraphernalia prior to surrendering its state registration or ceasing its operation.

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

D. Application requirements. All RMDs require a special permit issued by the Planning Board in accordance with Article X. In addition to the standard application requirements for special permits, such applications for an RMD shall also include the following:

(1) The name and address of each owner of the RMD.

(2) A copy of its provisional certificate of registration as an RMD from the Cannabis Control

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Commission or documentation that demonstrates that said RMD facility, and its owner/ operators, qualify and are eligible to receive a certificate of registration and meet all of the requirements of an RMD in accordance with 935 CMR 501.00 of the Cannabis Control Commission.

(3) Evidence that the applicant has site control and right to use the site for an RMD in the form of a deed or valid purchase and sales agreement or, in the case of a lease, a notarized statement from the property owner and a copy of the lease agreement.

(4) A notarized statement signed by the RMD organization's chief executive officer and corporate attorney disclosing all of its designated representatives, including officers, directors, shareholders, partners, members, managers, or other similarly situated individuals and entities and their addresses. If any of the above are entities rather than persons, the applicant must disclose the identity of all such responsible individual persons.

(5) In addition to what is normally required in a site plan, details showing all exterior proposed security measures for the RMD, including lighting, fencing, gates and alarms, etc., ensuring the safety of employees and patrons and to protect the premises from theft or other criminal activity. Security information shall be submitted and retained by the Planning Board as a confidential document and forwarded to the Police Chief for review and comment.

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

(7) All signage being proposed for the facility.

(8) A traffic study to establish the RMD impacts at peak demand times.

(9) A management plan, including a description of all activities to occur on site, including all provisions for the delivery of medical marijuana and related products to RMDs or off-site direct delivery to patients.

E. Findings. In addition to the standard findings for a special permit, the special permit granting authority must also find all the following:

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

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

(3) That the applicant has satisfied all of the conditions and requirements of this section and other applicable articles of this bylaw.

(4) That the RMD meets a demonstrated need.

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

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

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ARTICLE VIII
**General Regulations for Uses and Special Permits**

## § 275-8.1. Preexisting nonconforming uses and structures.

A. Nonconformity by initial enactment or amendment. The provisions of this section apply to nonconforming uses, structures, and lots as created by the initial enactment of this bylaw or by any subsequent amendment thereto.

B. Extension and alteration.

(1) Any nonconforming use, except primarily for agriculture, horticulture or floriculture on parcels of more than five acres in area, of a portion of any open space on a lot outside a structure shall not be extended.

(2) Any nonconforming use, except primarily for agriculture, horticulture or floriculture on parcels of more than five acres, of a lot not occupied by a structure, other than a sign, shall not be extended.

(3) Any nonconforming principal use of a structure shall not be extended.

(4) Any conforming principal use of a nonconforming structure may be extended throughout the existing structure.

(5) Any nonconforming accessory use of a portion of a structure or any conforming accessory use of a portion of a nonconforming structure may be extended up to a maximum of 40% of the floor area of the existing structure.

(6) Any nonconforming structure may be altered and the use extended throughout the altered portion, provided that any conforming use shall not be made nonconforming, and any resultant alteration shall not cause the structure to violate the maximum building area and yard regulations of the district in which it is located.

(7) Any nonconforming structure or portion thereof which has come into conformity shall not again become nonconforming.

C. Residential lot of record.

(1) Any increase in area, frontage, width, yard, or depth requirements imposed by the provisions of the amendments to this bylaw of which this Subsection C is a part shall not apply to a lot for a single- or two-family residential use which at the time of recording or endorsement, whichever occurs sooner, conformed to then existing requirements and had less than the proposed requirement but at least 5,000 square feet of area and 50 feet of frontage.

(2) The applicability of provisions of this bylaw to preliminary and definitive subdivision plans submitted to the Planning Board for approval under the Subdivision Control Law (MGL c. 41, §§ 81K through 81GG) shall be governed by provisions of MGL c. 40A, § 6.

(3) Any lot lawfully laid out by plan or deed duly recorded, or any lot shown on a plan endorsed with the words "Approval Under the Subdivision Control Law Not Required" or words of similar import, which complies at the time of such recording or such endorsement, whichever is earlier, with the minimum area, frontage, width, and depth requirements of the Zoning Bylaw in effect in the Town of Southampton, notwithstanding the adoption or amendment of provisions

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of the Zoning Bylaw in the Town of Southampton imposing minimum area, frontage, width, depth, or yard requirements, or more than one such requirement, in excess of those in effect at the time of such recording or endorsement, may thereafter be built upon for residential use if, at the time of the adoption of such requirements or increased requirements, or while building on such lot was otherwise permitted, whichever occurs later, such lot was held in ownership separate from that of adjoining land located in the same residential district, or may be built upon for residential use for a period of five years from the date of such recording or such endorsement, whichever is earlier, if, at the time of the adoption of such requirements or increased requirements, such lot was held in common ownership with that of adjoining land located in the same residential district, and further provided that, in either instance, at the time of building:

(a) Such lot has an area of 5,000 square feet or more and a frontage of 50 feet or more, is in a district zoned for residential use, and conforms except as to area, frontage, width, and depth with the applicable provisions of the Zoning Bylaw in effect in Southampton; and

(b) Any proposed structure is to be located on such lot so as to conform with the minimum requirements of front, side, and rear yard setbacks in effect at the time of such recording or such endorsement, whichever is earlier, and with all other requirements for such structure in effect at the time of building.

(4) The provisions of this section shall not be construed to prohibit a lot being built upon, if at the time of building, building upon such lot is not prohibited by the Zoning Bylaw in effect in Southampton.

D. Reduction or increase.

(1) Any nonconforming lot or open space on the lot (yards, setbacks or courts), if already smaller than that required, shall not be further reduced so as to be in greater nonconformity.

(2) Any off-street parking or loading spaces, if already less than the number required to serve their intended use, shall not be further reduced in number.

(3) Any nonconforming building on a lot, if already larger than required, shall not be further increased so as to be in greater nonconformity.

E. Change.

(1) Any nonconforming use of a structure may be changed to another nonconforming use, provided the changed use is not for a substantially different purpose.

(2) Any nonconforming use which has been once changed to a permitted use or another nonconforming use, which is not for a substantially different purpose, shall not again be changed to another nonconforming use.

(3) Any nonconforming lot which has come into conformity shall not again be changed to a nonconforming lot.

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

G. Abandonment. Any nonconforming use, except for agriculture, horticulture, or floriculture use, of a structure and/or lot which has been in nonuse for a continuous period of two years or more, or

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abandoned, shall not be used again, except by a conforming use; for agriculture, horticulture, or floriculture uses, the nonuse period shall be five years.

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

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

### § 275-8.2. Off-street parking and loading.

A. General off-street parking and loading requirements.

(1) If any structure is constructed, enlarged, or extended, and any use of land established, or any existing use is changed after the effective date of this bylaw, off-street parking and loading spaces shall be provided in accordance with Subsections B through H of this section.

(2) When the computation of required spaces results in the requirement of a fractional space, a fraction of 1/2 or more shall require an additional space.

(3) An existing structure which is enlarged or an existing use which is extended after the effective date of this bylaw shall be required to provide off-street parking and loading spaces in accordance with the following table in Subsection B for the entire structure or use, unless the increase in units or measurements amounts to less than 25%, whether such increase occurs at one time or in successive stages.

(4) Unless otherwise indicated, the required parking shall be provided on the same lot as the use that requires it.

B. Required minimum/maximum parking spaces. Off-street parking shall be provided and maintained in the following amounts:

Table 5: Off-Street Parking Standards

| | Spaces Required per 1,000 Square Feet of Gross Floor Area | |
|---|---|---|
| Land Use | Maximum | Minimum |
| **Residential** | | |
| Single- and two-family residences | 4 per dwelling unit | 2 per dwelling unit |
| | | 1 per accessory apartment |
| | | 1 per unit <700 square feet total area |
| Home occupation | 4 per dwelling unit plus 1.5 per nonresident employee | 2 per dwelling unit plus 1 per nonresident employee |
| Bed-and-breakfast | 1.2 per guest room or suite | 1 per guest room or suite |
| Multifamily residence | 2.5 per dwelling unit | 1 per dwelling unit |

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| Table 5: Off-Street Parking Standards | | |
|---|---|---|
| | Spaces Required per 1,000 Square Feet of Gross Floor Area | |
| Land Use | Maximum | Minimum |
| Elderly and handicapped congregate housing | 1 1/2 for each sleeping room | 1/2 for each sleeping room |
| **Institutional** | | |
| Theater, assembly hall or auditorium having fixed seats | 1 for each 4 seats | |
| Other places of public assembly and public recreation including: | | |
| Museums, libraries, art galleries, government buildings, craft centers | 2 | 1 |
| Social/fraternal clubs and organizations | 4 | 3 |
| Indoor recreation facilities | 5 | 5 |
| Churches and places of worship | 1 per 3 seats in portion of the building used for services | 1 per 5 seats in the portion of the building used for services |
| Day-care centers | 1 per 4 children at maximum capacity | 1 per 8 children at maximum capacity |
| Elementary, middle and high schools | 1 per 3 seats in the auditorium (plus 1 for each 10 students for high schools) | 1 per 5 seats in the auditorium (plus 1 for each 10 students for high schools) |
| Nursing home | 3 | 2 |
| **Business** | | |
| General office building | 4 | 2 |
| Medical office building | 8 | 2 |
| Bank/personal services | 3 | 2 |
| Freestanding retail | 3 | 1 |
| Small shopping centers | 6 | 3 |
| Big box retail | 4 | 2 |
| Gymnasiums, physical fitness centers, health spas, martial arts centers and dance studios | 3 | 1 |
| Restaurants, taverns | 10 | 6 |
| Drive-through restaurant | 9 | 2 |
| Commercial kennel, veterinary establishments | 3 | 1 |

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| Table 5: Off-Street Parking Standards | | |
|---|---|---|
| | Spaces Required per 1,000 Square Feet of Gross Floor Area | |
| Land Use | Maximum | Minimum |
| Hotels, motels, tourist homes | 1.2 per guest room or suite | 1 per guest room or suite |
| Automotive repair and/or service | 4 | 2 |
| Automotive sales and/or rentals | 3 | 1 |
| Outdoor recreation facilities | As determined by the SPGA based on a parking demand study | As determined by the SPGA based on a parking demand study |
| **Industrial** | | |
| Industrial plant | 2 | 1 |
| Warehouse | 1 | 1 |
| Self-service warehouse | 1 per 10 compartments | 1 per 20 compartments |
| **Other** | | |
| Any use permitted in this bylaw not interpreted to be covered by this table | Closest similar use as shall be determined by the Building Commissioner/Inspector | Closest similar use as shall be determined by the Building Commissioner/Inspector |

C. Parking spaces for dwellings. Parking spaces for dwellings may be provided in a garage or as open parking spaces.

D. Parking lot space dimensions. A required parking space shall contain not less than 180 square feet in the case of a parking lot, or at least 130 square feet in the case of garage parking, with free access to each space.

E. Marking and striping. Except for single- and two-family dwellings, parking spaces must be clearly marked and striped.

F. Access. One driveway per lot shall be permitted as a matter of right. Where deemed necessary by the Planning Board, two driveways may be permitted as part of the site plan approval process, which shall be clearly marked "entrance" and "exit."

G. The Planning Board may issue a special permit allowing for more than the number of maximum parking spaces permitted where it makes a finding that the proposed use warrants a larger number of parking spaces and doing so would not be inconsistent with the purposes of this section nor have a detrimental impact.

H. Additional off-street parking requirements for Commercial-Village, Commercial-Highway and Industrial-Park Districts.

(1) The purpose of this subsection is to establish flexible regulations designed to ensure that adequate parking is provided for the commercial and industrial districts. This subsection balances the need for providing adequate parking with the need to maintain the character and fabric of Southampton. With the clustering of commercial/industrial uses and buildings in these

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districts, creative alternatives can be utilized to reduce the number of parking spaces required, but still meet the parking demand, strengthening the center's economy and improving its appearance. These alternatives provide an opportunity for landowners and developers to work with the Town to arrive at innovative parking solutions.

(2) For the commercial and industrial districts, no additional off-street parking is required for the continued use or reuse of existing buildings, as long as that use or reuse does not increase the total floor area within the building. However, off-street parking shall be provided for any new structure, or for an enlargement or addition to an existing building, in accordance with § 275-8.2B. For purposes of this subsection, the replacement of an amount of floor space equal to that in existence at the time of enactment of this bylaw is not considered to be an addition of new space.

(3) Location.

(a) All required parking shall be provided on the same lot with the main use it is to serve or on a lot that is in the same ownership as and located within 500 feet of the main use, except as provided in Subsection H(11) and (13) of this section.

(b) Parking required for two or more buildings or uses must be provided on the same lot as the main use or on a lot under the same ownership in combined facilities where it is evident that such facilities will continue to be available for the several buildings or uses, except as provided in Subsection H(11) and (13) of this section.

(c) In the Commercial-Village District all off-street parking shall be located behind or to the side of the principal building. This is intended to maintain the pedestrian-friendly orientation and the historic character of the district.

(4) Size. In a parking lot or parking building up to 60% of the parking bays must be nine feet by 18 feet in size. The remaining 40% may have a reduced bay size of eight feet by 16 feet to accommodate smaller cars. These bay sizes are exclusive of adequate driveways and aisles which must have direct access to a street or alley. In the case of perpendicular parking, a minimum aisle width of 24 feet must be maintained. Bumper or wheel guards shall be provided when needed. Compact car spaces shall be grouped together to the greatest possible extent in areas clearly designated for compact cars.

(5) Access/curb cuts. Access to lots shall be in accordance with the following provisions:

(a) One driveway per business shall be permitted as a matter of right. Where deemed necessary by the Planning Board, two driveways may be permitted as part of the site plan approval process, which shall be clearly marked "entrance" and "exit."

(b) The number of curb cuts on local roads shall be minimized. To the extent feasible, access to businesses shall be provided via one of the following:

[1] Access via a common driveway serving adjacent lots or premises.

[2] Access via an existing side street.

[3] Access via a cul-de-sac or loop road shared by adjacent lots or premises.

(c) Driveway widths shall be limited to the minimum for safe entering and exiting.

(d) All driveways shall be designed to afford motorists exiting onto local roads with safe sight

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distance as determined by the American Association of State Highway and Transportation Officials (AASHTO).

(e) The proposed development shall have assured safe interior circulation within its site by separating pedestrian and vehicular traffic.

(f) In an effort to reduce the number of curb cuts and turning movements where an existing parcel has more than one curb cut accessing, the Planning Board may issue a special permit allowing for a reduction of up to an additional 20% of required parking spaces where it finds that:

[1] Some or all of these extra curb cuts will be eliminated and discontinued;

[2] Such eliminated and discontinued curb cut(s) is sufficiently designed to physically prevent vehicles from using said curb cut; and

[3] There is still sufficient parking provided on-site (or as otherwise permitted under this bylaw) to accommodate the use.

(g) Abutting property owners are encouraged to coordinate access to their lots, including utilizing common curb cuts and driveways under reciprocal easements. In the issuance of a required special permit or site plan approval, the permit granting authority can waive and/or reduce setback and related requirements to achieve this where the applicant demonstrates that the curb cut and access driveway design improves traffic circulation and reduces the number of turning movements. Said special permit/site plan approval shall not become effective until the easement has been recorded, notwithstanding the provisions above.

(6) Loading areas. Provisions shall be made for the loading and unloading of all trucks off the street and highway right-of-way, and without encroachment of required areas. The adequacy of space, and suitably located area, shall be determined among other things by expected volume, building use, and relation to streets and access driveways. A minimum of one loading space, 12 feet by 75 feet with 14 feet height clearance, shall be required for a building with a gross floor area of 10,000 square feet or more.

(7) Buffer strip landscaping.

(a) A continuous landscaped buffer strip shall be provided to visually separate parking and other uses from the road. This buffer shall be at least 15 feet wide unless the building is located closer than 15 feet to the road, in which case the buffer area shall be the distance between the building and the road.

(b) Except for sidewalks and approved driveways, the buffer strip shall be planted with grasses, medium-height shrubs, and shade trees (minimum 2.5-inch caliper, planted at least every 50 feet along the road frontage). Shade trees may be planted within the right-of-way provided that no tree is located closer than two feet to any curb, subject to Tree Warden approval.

(c) Where power lines are present, trees shall be placed as far back from the power lines as possible, and it is acceptable to select smaller (at maturity) and slower growing shade trees or ornamental trees (e.g., American hornbeam, Amur maple, eastern red bud, flowering dogwood, etc.).

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(d) A five-foot-wide sidewalk, approved by the Town Highway Department, shall be constructed along the length of the property within the right-of-way. The Planning Board may waive this requirement, or may approve a wider sidewalk to accommodate on-street dining or other commercial purposes compatible with the village center.

(8) Parking area landscaping.

(a) At least one tree (minimum 2.5-inch caliper) per 10 parking spaces shall be provided within the parking area.

(b) Parking areas shall have a landscaped strip at least five feet wide around their entire perimeter. Vegetative screening at least three feet high upon planting shall be provided to obscure car grills.

(c) Large parking areas shall be subdivided with landscaped islands such that no paved parking surface shall extend more than 20 contiguous spaces.

(d) Landscaped islands shall contain at least one tree (minimum 2.5-inch caliper), shall be at least five feet wide, and shall contain a minimum of 36 square feet per tree. Islands shall primarily contain vegetation and/or sidewalk.

(e) Landscaping shall be protected from intrusion and damage by parked vehicles (e.g., using wheel stops).

(9) Parking area surface and maintenance. For all new construction, all off-street parking facilities shall be surfaced with bituminous concrete or its equal ("equal" to be determined by the Building Commissioner/Inspector for by-right uses and by the permit granting authority for special permits/site plan approvals), with adequate drainage, and periodically maintained by the owner or operator, and such facilities shall be arranged for convenient access and safety of pedestrians and vehicles. Surfacing, grading, and drainage shall facilitate groundwater recharge in order to reduce stormwater runoff.

(10) Shared parking. The Planning Board may issue a special permit permitting the use of parking spaces for more than one use on the same parcel or on a lot that is in the same ownership as, and located within, 500 feet of the uses when it finds that the applicant has submitted an adequate parking management plan (including supportive documentation).

(a) The parking management plan shall demonstrate to the Board's satisfaction that:

[1] The peak parking demand generated by the uses occurs at different times; and

[2] There will be adequate parking for the combined uses at all times.

(b) The parking management plan (including supportive documentation) shall be prepared by a registered land surveyor, engineer, landscape architect, architect or transportation planner licensed (where required) to practice in Massachusetts. The Planning Board may permit said parking management plan to be prepared by others in cases where it finds that because of the size or nature of the project the above level of expertise is not required.

(c) Shared parking can also be provided on a lot that is not under the same ownership in conjunction with the requirements of this section provided that it also receives a special permit and complies with the requirements of Subsection H(11) and (13) of this section.

(11) Off-site parking. The Planning Board may issue a special permit permitting the providing of

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required parking for a use on a lot that is not under the same ownership when it finds that the applicant has submitted an adequate parking management plan (including supportive documentation).

(a) To be adequate, the parking management plan must demonstrate to the Board's satisfaction that:

[1] The parking spaces are also located in the same district as the use(s) that they serve.

[2] The parking is suitably located in the neighborhood in which it is proposed.

[3] The parking has adequate paving, landscaping, screening, lighting, curbing or wheel stops, and provides for safe vehicular and pedestrian circulation on the site and at all curb cuts with abutting streets.

[4] The applicant has submitted sufficient legal documentation (approved by the Planning Board and shall be included as an enforceable condition of any building permit, site plan approval, or special permit) guaranteeing access to, use of, and management of designated shared parking spaces on the parcel.

(b) It should be noted that said special permit is contingent upon the continued ability to legally use the off-site facility and that said special permit, and any uses dependent on it, shall terminate upon the termination of any legal agreements permitting the use of said off-site parking. The use for which the parking was being provided at the off-site facility shall cease upon the termination of said special permit until such time as adequate parking is provided in accordance with the requirements of the Zoning Bylaw.

(c) The parking management plan (including supportive documentation) shall be prepared by a registered land surveyor, engineer, landscape architect, architect or transportation planner licensed (where required) to practice in Massachusetts. The Planning Board may permit said parking management plan to be prepared by others in cases where it finds that because of the size or nature of the project the above level of expertise is not required.

(12) Reduction of required parking. In the issuance of a required special permit or site plan approval, the permitting authority can approve a reduction of up to 20% in the number of required parking spaces in § 275-8.2B where the applicant can provide a parking management plan demonstrating that a reduction is warranted as a result of the utilization of transportation demand management measures which reduce automobile use, which may include:

(a) The availability of public transportation.

(b) The subject property lies within walking distance from shopping, employment, restaurants, housing, schools, and other trip destinations.

(c) The provision of bicycle storage facilities to encourage bicycling.

(13) Combined parking lots.

(a) Abutting property owners are encouraged to coordinate parking layouts and access, including combining and connecting with adjacent parking lots and utilizing common curb cuts and driveways under reciprocal easements. In the issuance of a required special permit or site plan approval, the permit granting authority can waive and/or reduce setback and related requirements to achieve this where the applicant demonstrates that the parking

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design improves traffic circulation and provides better utilization and higher occupancy rates and minimizes trips onto the primary street.

(b) The permit granting authority may also permit a reduction in the number of parking spaces required if the applicant demonstrates that the combined parking will still provide sufficient parking to meet the needs of the project.

(c) Said special permit/site plan approval shall not become effective until the easement has been recorded, notwithstanding the provisions above.

(d) It should be noted that said special permit is contingent upon the continued ability to legally use the combined parking facility and that said special permit, and any uses dependent on it, shall terminate upon the termination of any legal agreements permitting the use of said combined parking. The use for which the parking was being provided at the combined parking facility shall cease upon the termination of said special permit until such time as adequate parking is provided in accordance with the requirements of the Zoning Bylaw.

(14) Fees in lieu of parking. Within the Commercial-Village District, in cases where it is not possible or desirable to meet the required number of off-street parking spaces, the Planning Board may issue a special permit allowing a fee of $5,000 per required parking space to be paid to the Town of Southampton for required off-street parking spaces not provided.

(a) To grant such special permit, the Board must find that:

[1] The parking required cannot be physically provided to serve the use; and

[2] The payment into the fund would ultimately lead towards addressing the parking demand generated by the use by adding parking spaces in municipal parking areas and facilities serving the same general area in which the increased parking demand will be generated.

(b) Fees paid to the Town in lieu of providing required parking spaces on-site shall be deposited into a Commercial-Village District Parking Reserve Account to be used solely for expenses related to increasing parking to serve the Commercial-Village District.

**§ 275-8.3. Signs.**

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

B. General regulations.

(1) Any traffic or directional sign or construction sign (for the duration of the construction) owned or installed by a governmental agency shall be permitted.

(2) Temporary interior window displays or temporary banners for automotive establishments shall be permitted except as provided in Subsection B(4) below. "Temporary" shall be construed to mean any period not exceeding 30 consecutive days.

(3) A sign (including temporary interior window displays or banners) or its illuminator shall not by

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reason of its location, shape, size, or color interfere with traffic or be confused with or obstruct the view or effectiveness of any official traffic sign, traffic signal or traffic marking. Therefore, flashing or animated signs are not permitted, and red, yellow or green colored lights shall not be permitted.

(4) No more than two signs shall be allowed for any one business or industrial establishment in the "C" and "I" Districts.

(5) No more than one other sign in addition to a nameplate shall be allowed for any one premises in the "R" Districts.

(6) The limitations as to the number of signs permitted does not apply to traffic or directional signs which are necessary for the safety and direction of residents, employees, customers, and visitors, whether in vehicle or on foot, of any business, industry or residence.

(7) No sign shall extend above the roofline of the building to which it is attached. Roof signs are not allowed.

(8) In any district, one unlighted temporary sign offering premises for sale or lease for each parcel in one ownership shall be permitted, provided:

(a) It shall not exceed six square feet in surface area; and

(b) It shall be set back at least 10 feet from the street lot line.

(9) In any district, one unlighted temporary sign of an architect, engineer or contractor erected during the period such person is performing work on the premises on which such sign is erected shall be permitted, provided:

(a) It shall not exceed four square feet in surface area; and

(b) It shall be set back at least 10 feet from the street lot line.

C. Signs permitted in any "R" District (R-R, R-N and R-V Districts).

(1) One professional nameplate for each medical doctor or dental practitioner, provided such sign shall not exceed one square foot in surface area.

(2) One identification sign for each dwelling unit, provided:

(a) Such sign shall not exceed one square foot in surface area;

(b) If lighted, it shall be illuminated internally or by indirect method with white light only; and

(c) It shall not be used other than for identifying the occupancy.

(3) One identification sign for each membership club, funeral establishment, community facility or public utility, provided:

(a) The sign shall not exceed 10 feet in surface area; and

(b) If lighted, it shall be illuminated internally or by indirect method with white light only.

(4) One unlighted temporary sign relating to a new residential subdivision during the actual period of construction, provided:

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(a) It shall not exceed 20 square feet in surface area; and

(b) It shall be set back at least 10 feet from any street lot line.

(5) Except for professional nameplates and the residential nameplate, any other sign shall be set back at least 1/2 of the required depth of the front yard.

D. Signs permitted in any "C" District (C-V and C-H Districts).

(1) Signs permitted in Subsection C, subject to the same regulations, and business signs. General advertising signs shall be prohibited. Projecting signs are prohibited.

(2) One wall sign for each lot street frontage of each establishment, provided:

(a) It shall be attached and parallel to the main wall of a building;

(b) The surface area of the sign shall not aggregate more than 10% of the area of the wall on which is displayed, or 40 square feet, whichever is the lesser; and

(c) If lighted, it shall be illuminated internally or by indirect method with white light only.

(3) One pole sign for each street frontage of each establishment. provided:

(a) It shall not exceed 40 square feet in surface area;

(b) No portion of it shall be set back less than 10 feet from any street lot line;

(c) It shall not be erected so that any portion of it is over 30 feet above the ground or sidewalk; and

(d) If lighted, it shall be illuminated internally or by indirect method with white light only.

(4) One freestanding sign for each lot street frontage of a business establishment in the C-H District, provided:

(a) It shall not exceed 40 square feet in surface area on any one side;

(b) No portion of it shall be set back less than 10 feet from any street lot line;

(c) It shall not rise to more than 12 feet from the ground or sidewalk;

(d) If lighted, it shall be illuminated internally or by indirect method with white or blue light only; and

(e) Where a single lot is occupied by more than one business, whether in the same structure or not, there shall not be more than one freestanding sign.

E. Signs permitted in the I-P District.

(1) Wall signs permitted in Subsection D, subject to the same regulations.

(2) One freestanding sign for each establishment, provided:

(a) It shall not exceed 40 square feet in surface area;

(b) It shall be set back at least 25 feet from any street lot line;

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(c) It shall not be erected so that any portion of it is over 15 feet above the ground or sidewalk; and

(d) If lighted, it shall be illuminated internally or by indirect method with white light only.

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ARTICLE IX
**Site Plan Review and Approval**

## § 275-9.1. Site plan review.

A. Purpose. The purpose of this section is to protect the health, safety, convenience and general welfare of the inhabitants of the Town by providing for a review of plans for uses and structures which do not require definitive subdivision, special permit, variance or finding reviews and may have significant impacts, both within the site and in relation to adjacent properties and streets, on pedestrian and vehicular traffic; public services and infrastructure; environmental, unique and historic resources; abutting properties; and community needs.

B. Applicability. Site plan review is required for all projects which involve new construction, alteration or expansion of any residential buildings of two dwelling units or more, any exempt use under MGL c. 40A, § 3, or nonresidential buildings and where such construction or use will not:

(1) Require a special permit, variance or finding;

(2) Exceed a total increase in the footprint of the structure by 2,000 square feet (for the purpose of computing the total increase in the footprint of the structure, the permit granting authority shall aggregate all such prior new construction, alterations and expansions for the building); or

(3) Generate the need for more than 10 parking spaces.

C. Procedures.

(1) Site plan reviews shall be processed and issued in accordance with the Southampton Planning Board Policies and Procedures on file with the Town Clerk.

(a) Such rules, policies and procedures shall prescribe:

[1] A size.

[2] Form.

[3] Contents.

[4] Style.

[5] Number of copies of plans and specifications.

[6] The procedure for a submission and approval of such permits.

(b) The authority may require additional information as necessary to adequately judge the merits of the request.

(2) Site plan reviews under this section shall not be subject to a public hearing, but deliberations and decisions must be made by the Planning Board at an open public meeting on which it appears on the agenda. It is the applicant's responsibility to provide notification to abutters within 300 feet of the subject land parcel of the date, time, location and subject matter of the first Planning Board meeting at which this appears as an agenda item, in accordance with "abutters list" (No. 2 and No. 3) of the Southampton Planning Board Policies and Procedures. Said notice shall be mailed, certified, no later than the date that the application is filed with the Town Clerk. Proof of such abutter notification must be submitted by the applicant to the Board

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at the public meeting.

(3) Approval of a site plan review shall require the affirmative votes of a majority of the Board as constituted (i.e., three out of five). The Planning Board must file its written decision with the Town Clerk within 45 days of the Planning Board meeting at which said application first appeared on the agenda or such application shall be deemed approved. This time frame may be extended by prior written agreement by both the applicant and the Planning Board and filed with the Town Clerk prior to the referenced forty-five-day expiration.

(4) No deviation from an approved site plan shall be permitted without the prior approval by the Planning Board. The Planning Board should be consulted to determine whether such changes are significant enough to require a new public meeting.

D. Approval. Site plan review shall be granted upon determination by the permitting authority that the plan meets the following objectives. The permitting authority may impose reasonable conditions at the expense of the applicant, including performance guarantees, to promote these objectives:

(1) Minimize the volume of cut and fill, the number of removed trees six-inch caliper or larger, the length of removed stone walls, the area of wetland vegetation displaced, the extent of stormwater flow increase from the site, soil erosion, and threat of air and water pollution;

(2) Maximize pedestrian and vehicular safety both on the site and entering and exiting the site;

(3) Minimize obstruction of scenic views from publicly accessible locations;

(4) Minimize visual intrusion by controlling the visibility of parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zoned;

(5) Minimize glare from headlights and light trespass;

(6) Minimize unreasonable departure from the character, materials, and scale of buildings in the vicinity, as viewed from public ways and places;

(7) Prevent contamination of groundwater from operations on the premises involving the use, storage, handling, or containment of hazardous substances;

(8) Ensure compliance with the provisions of this Zoning Bylaw, including parking and landscaping; and

(9) Ensure adequate access to each structure for fire and service equipment and adequate provision for utilities and stormwater drainage consistent with the requirements of the Planning Board's Subdivision Regulations.

E. Denial. In the event the application is not revised as requested by the permitting authority to meet the objectives in § 275-9.1D, the permitting authority may deny the application. The decision shall be in writing and shall clearly state the reasons for denial with sufficient detail to enable the applicant to revise the site plan to meet the objectives in § 275-9.1D. There shall be no time penalties against the applicant to file a new site plan application, but said application shall require filing of a new fee.

F. Lapse. Site plan approval shall lapse after two years from the granting thereof if a substantial use thereof has not sooner commenced, except for good cause. Site plan approval may, for good cause, be extended in writing by the permitting authority upon the written request of the applicant.

G. Appeal. The appeal of any decision of the permitting authority hereunder shall be made in accordance

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with the provisions of MGL c. 40A, § 17.

H. Fee. The permitting authority may adopt reasonable administrative fees and technical review fees for site plan review.

**§ 275-9.2. Site plan approval.**

A. Purpose. The purpose of this section is to protect the health, safety, convenience and general welfare of the inhabitants of the Town by providing for a review of plans for uses and structures of larger projects which are more likely to have significant impacts, both within the site and in relation to adjacent properties and streets, on pedestrian and vehicular traffic; public services and infrastructure; environmental, unique and historic resources; abutting properties; and community needs.

B. Multiple permits. If site plan approval is required for a use or structure that also requires an additional use special permit, variance or finding, said site plan approval shall be heard by the same permit granting authority and shall be included as part of and combined with that special permit application, and, further, any approval, findings and conditions for said site plan approval shall be in addition to and incorporated and combined as a part of the findings and conditions of the special permit.

C. Applicability. Site plan approval is required for all projects which involve new construction, alteration or expansion of any residential buildings of two dwelling units or more, any exempt use under MGL c. 40A, § 3, or nonresidential buildings, and where such construction or use will:

(1) Require a special permit, variance or finding

(2) Exceed a total increase in the footprint of the structure by 2,000 square feet (for the purposes of computing the total increase in the footprint of the structure, the permit granting authority shall aggregate all such prior new construction, alterations and expansions for the building); or

(3) Generate the need for more than 10 parking spaces.

D. Procedures.

(1) Site plan reviews shall be processed and issued in accordance with the Southampton Planning Board Policies and Procedures on file with the Town Clerk.

(a) Such rules, policies and procedures shall prescribe:

[1] A size.

[2] Form.

[3] Contents.

[4] Style.

[5] Number of copies of plans and specifications.

[6] The procedure for a submission and approval of such permits.

(b) The authority may require additional information as necessary to adequately judge the merits of the request.

(2) The applicant shall also deliver copies of the application to the Building Commissioner/ Inspector, Fire and Police Departments and Highway Superintendent for their review and

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comment at the same time that they are filed with the Planning Board. Said offices shall have 30 days from their receipt of the site plan to submit their comments to the Planning Board. Failure to respond within 30 days shall constitute their lack of objections to the project.

(3) It is the applicant's responsibility to provide notification to abutters within 300 feet of the subject land parcel of the date, time, location and subject matter of the first Planning Board meeting at which this appears as an agenda item, in accordance with "abutters list" (No. 2 and No. 3) of the Southampton Planning Board Policies and Procedures. Said notice shall be mailed, certified, no later than the date that the application is filed with the Town Clerk. Proof of such abutter notification must be submitted by the applicant to the Board at the public meeting.

(4) Approval of a site plan review shall require the affirmative votes of a majority of the Board as constituted (i.e., three out of five) and shall be in writing.

(5) No building permit or certificate of use and occupancy shall be issued by the Building Commissioner/Inspector without the written approval of the site plan by the Planning Board, or unless 60 days lapse from the date of the submittal of the site plan without action by the Planning Board, unless the Board and applicant have agreed to a time extension.

(6) When a special permit, variance or finding is also required, the permitting authority shall consolidate its site plan approval and special permit procedures.

(7) The applicant may request, and the Planning Board may grant by majority vote, an extension of the time limits set forth herein.

(8) No deviation from an approved site plan shall be permitted without the prior approval by the Planning Board. The Planning Board should be consulted to determine whether such changes are significant enough to require a new public hearing.

E. Approval. Site plan approval shall be granted upon determination by the permitting authority that the plan meets the following objectives. The permitting authority may impose reasonable conditions at the expense of the applicant, including performance guarantees, to promote these objectives:

(1) Minimize the volume of cut and fill, the number of removed trees six-inch caliper or larger, the length of removed stone walls, the area of wetland vegetation displaced, the extent of stormwater flow increase from the site, soil erosion, and threat of air and water pollution;

(2) Maximize pedestrian and vehicular safety both on the site and entering and exiting the site;

(3) Minimize obstruction of scenic views from publicly accessible locations;

(4) Minimize visual intrusion by controlling the visibility of parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zoned;

(5) Minimize glare from headlights and light trespass;

(6) Minimize unreasonable departure from the character, materials, and scale of buildings in the vicinity, as viewed from public ways and places;

(7) Prevent contamination of groundwater from operations on the premises involving the use, storage, handling, or containment of hazardous substances;

(8) Ensure compliance with the provisions of this Zoning Bylaw, including parking and landscaping; and

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(9) Ensure adequate access to each structure for fire and service equipment and adequate provision for utilities and stormwater drainage consistent with the requirements of the Planning Board's Subdivision Regulations.

F. Denial. In the event the application is not revised as requested by the permitting authority to meet the objectives in § 275-9.2E, the permitting authority may deny the application. The decision shall be in writing and shall clearly state the reasons for denial with sufficient detail to enable the applicant to revise the site plan to meet the objectives in § 275-9.2E. There shall be no time penalties against the applicant to file a new site plan application, but said application shall require filing of a new fee.

G. Lapse. Site plan approval shall lapse after two years from the granting thereof if a substantial use thereof has not sooner commenced, except for good cause. Site plan approval may, for good cause, be extended in writing by the permitting authority upon the written request of the applicant.

H. Appeal. The appeal of any decision of the permitting authority hereunder shall be made in accordance with the provisions of MGL c. 40A, § 17.

I. Fee. The permitting authority may adopt reasonable administrative fees and technical review fees for site plan approval.

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# ARTICLE X
# Special Permits

## § 275-10.1. Applicability.

Certain uses, structures, or conditions are designated as permitted only by special permit in Article V, Table 1, Use Regulations, and elsewhere in this bylaw. As provided in this bylaw, certain classes of special permits shall be issued by the special permit granting authority which shall be designated as either the Planning Board, Zoning Board of Appeals or Select Board and specified in Table 1, Use Regulations, or elsewhere in the Zoning Bylaw.[12]

## § 275-10.2. Applicable procedures.

Special permits shall be processed and issued in accordance with MGL c. 40A, §§ 8, 11 and 15, and the special permit granting authority's rules, policies and procedures on file with the Town Clerk.

A. Such rules, policies and procedures shall prescribe:

   (1) A size.

   (2) Form.

   (3) Contents.

   (4) Style.

   (5) Number of copies of plans and specifications.

   (6) The procedure for a submission and approval of such permits.

B. The authority may require additional information as necessary to adequately judge the merits of the request.

## § 275-10.3. Site plan required.

A site plan shall be included with all special permit applications (unless waived by the special permit granting authority) and shall be included as part of that special permit application and process. Any approvals, findings and conditions for said site plan shall be in addition to and incorporated as a part of the findings and conditions of the special permit. Said plan shall comply with all of the requirements of Article IX and the Southampton Planning Board's Policies and Procedures.

## § 275-10.4. Public hearing.

Public hearings on applications for special permits shall be conducted in accordance with the provisions of MGL c. 40A and the special permit granting authority's rules, policies, and procedures. Accordingly, at a minimum:

A. Public hearings shall commence within 65 calendar days of receipt of the special permit application.

B. Notice of the public hearing date, time, location, and subject matter shall be posted at Town Hall, published in a newspaper of general circulation, and given to all parties in interest as defined in MGL

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**12. Editor's Note: Table 1, Use Regulations, is included as an attachment to this chapter.**

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c. 40A and the special permit granting authority's rules, policies, and procedures.

### § 275-10.5. Decisions.

A. Within 90 calendar days following a public hearing, the special permit granting authority shall:

(1) Decide to approve, approve with modifications or conditions, or disapprove an application for a special permit.

(2) File a written notice of its decision with the Town Clerk stating its decision and reasons therefor.

B. The special permit granting authority shall inform, in writing, the applicant, the Building Commissioner/Inspector, and the Select Board of its decision and its reasons therefor.

### § 275-10.6. Findings required and review criteria.

Decisions approving a special permit must include written specific findings for how the application complies with all of the following required criteria for approval:

A. The use requested is listed in the Table 1, Use Regulations (Article V),[13] as a special permit in the district for which application is made or is so designated elsewhere in this bylaw.

B. The use is in harmony with the purpose of this bylaw.

C. The requested use is not detrimental to the public convenience or welfare.

D. The requested use will not create undue traffic congestion or unduly impair pedestrian safety.

E. The requested use will not overload any public water, drainage or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the Town will be unduly subjected to hazards affecting health, safety or the general welfare.

F. The requested use will not impair the integrity or character of the district or adjoining zones, nor be detrimental to the health, safety or welfare.

G. Any applicable special provisions/conditions/requirements for the use, specified in other sections of the Zoning Bylaw, are fulfilled.

### § 275-10.7. Imposition of special conditions.

A. The special permit granting authority may also impose, in addition to any applicable conditions specified in other sections of the Zoning Bylaw, such conditions and safeguards as it finds reasonably appropriate to protect the neighborhood or otherwise serve the purposes of this bylaw, including, but not limited to, the following:

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

(2) Limitations of signs or other advertising features beyond the minimum established under § 275-8.3 of this bylaw.

(3) Limitations of number or density of occupants, times or nature of operation, size, scale, or other

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**13. Editor's Note: Table 1, Use Regulations, is included as an attachment to this chapter.**

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characteristics of the use or facility.

(4) Regulation of the number, design and location of access drives or circulation facilities.

(5) Requirements of off-street parking, loading or other features beyond the minimum otherwise required by this bylaw.

(6) Requirements of front, side or rear yards greater than the minimum otherwise prescribed by this bylaw.

(7) Any other conditions, safeguards, and limitations in time and use which are consistent with the purpose of this bylaw.

B. Such conditions shall be imposed in writing and the applicant may be required to post bond or other security for compliance with said conditions in an amount satisfactory to the special permit granting authority.

### § 275-10.8. Relationship to building permit.

A. Issuance of a special permit does not constitute issuance of a building permit, which must be obtained by filling an application with the Zoning Enforcement Officer.

B. Once a special permit has been issued, the application for a building permit shall be filed with the Zoning Enforcement Officer accompanied by the plan, if any, approved by the special permit granting authority and an application indicating all conditions set forth by the special permit granting authority when approving the plan. In cases where the setbacks of single-family houses have been prescribed in the special permit, the Zoning Enforcement Officer shall verify that the building permit application for each lot is in conformity with the special permit.

### § 275-10.9. Expiration of special permit.

A special permit granted under this bylaw shall lapse within three years of the date of approval filed with the Town Clerk, which shall not include such time required to pursue or await the determination of an appeal referred to in MGL c. 40A, § 17, if a substantial use thereof has not sooner commenced except for good cause, or in the case of permit for construction if construction has not begun by such date except for good cause. The special permit granting authority may grant extensions for good cause, upon written request by the applicant, provided:

A. Said request is submitted prior to the expiration of this approval; and

B. Said extension approval requires the affirmative vote of a two-thirds majority of the full Board taken at a public meeting (a public hearing is required).

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