

# Town of Southamptton

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## Annual Town Meeting

### Warrant

Tuesday, May 6, 2025

7:00 P.M.



**NORRIS ELEMENTARY SCHOOL  
34 POMEROY MEADOW ROAD  
SOUTHAMPTON, MASSACHUSETTS**

<b>Article 1</b>	Annual Operating Budget for Fiscal Year 2026_____	<b>4</b>
<b>Article 2</b>	Elected Official Salaries for Fiscal Year 2026_____	<b>6</b>
<b>Article 3</b>	Water Enterprise Fund Fiscal 2026 Budget_____	<b>6</b>
<b>Article 4</b>	Transfer Station Enterprise Fund Fiscal 2026 Budget_____	<b>6</b>
<b>Article 5</b>	Transfer from Free Cash to Snow Removal Budgets_____	<b>7</b>
<b>Article 6</b>	Transfer from Free Cash to the Operating Stabilization Fund_____	<b>7</b>
<b>Article 7</b>	Transfer from Free Cash to the Capital Stabilization Fund_____	<b>7</b>
<b>Article 8</b>	Transfer from Free Cash to the OPEB Fund_____	<b>7</b>
<b>Article 9</b>	Transfer of Free Cash to Hampshire Regional School Assessment_____	<b>7</b>
<b>Article 10</b>	Transfer for FY 26 Capital Requests_____	<b>7</b>
<b>Article 11</b>	Rescind Previous Year Capital Appropriations_____	<b>7</b>
<b>Article 12</b>	Rescind Unused Borrowing Authorizations_____	<b>8</b>
<b>Article 13</b>	Adoption of M.G.L. Chapter 41, Sections 45 and 47 – Board of Commissioners of Trust Funds_____	<b>8</b>
<b>Article 14</b>	Appointment of the Board of Commissioners of Trust Funds by the Select Board_____	<b>8</b>
<b>Article 15</b>	Transfer for Funding for FY 26 Retained Earnings to Water Enterprise Line_____	<b>8</b>
<b>Article 16</b>	Funding for Highway Department Heating System (Borrowing)_____	<b>9</b>
<b>Article 17</b>	Water Main Replacement Project for College Highway (Borrowing)_____	<b>9</b>
<b>Article 18</b>	Unpaid Accounts from Prior Fiscal Years_____	<b>9</b>
<b>Article 19</b>	To Authorize the Select Board to Negotiate and Enter Into an Agreement in Lieu of Taxes_____	<b>9</b>
<b>Article 20</b>	Amendment to General Bylaws Article X: Swimming Pools Safety_____	<b>9</b>
<b>Article 21</b>	Wetlands Protection Bylaw Amendment_____	<b>11</b>
<b>Article 22</b>	Raise Exemption Amount Clause 17D for Senior Citizens, Surviving Spouses and Minors_____	<b>21</b>
<b>Article 23</b>	Raise Asset Limits Clause 17D for Senior Citizens, Surviving Spouses and Minors_____	<b>21</b>
<b>Article 24</b>	Accessory Dwelling Unit Amendment_____	<b>21</b>
<b>Article 25</b>	Site Plan Review and Approval Amendment_____	<b>23</b>
<b>Article 26</b>	Site Plan Review and Approval Amendment to Conform with Amendment to Article IX_____	<b>29</b>
<b>Article 27</b>	Solar Bylaw Amendment_____	<b>29</b>
<b>Article 28</b>	Annual Community Preservation Program Budget_____	<b>39</b>

<b>Article 29</b>	CPA Funding for 2025 Grant Match for Greenway Design_____	<u>39</u>
<b>Article 30</b>	Revolving Fund Spending Limits_____	<u>39</u>

## Budget and Financial Items

### Article 1      Annual Operating Budget for Fiscal Year 2026

To see if the Town will vote to establish the Town's Annual Operating Budget for Fiscal Year 2026, and to see what sums of money the Town will raise by taxation or otherwise to pay Town debts and charges for the ensuing 12 months, effective July 1, 2025, and appropriate the same; or take any other action relative thereto.

**Motion:**

Move that the Town appropriate \$23,527,778.57 to fund all municipal departments and the public schools during Fiscal Year 2026, all as shown in the Town's Annual Operating Budget and identified in the Column Labeled "FY 26 Recommended Budget A Non-Contingent Appropriations", and to fund this appropriation, \$16,166,532.63 be raised from taxation, \$17,500.00 transferred from WPAT loan, \$269,090.40 transferred from Ambulance Fees, and \$97,184.60 transferred from Ambulance Stabilization. Move further to raise and appropriate from taxation the additional sum of \$897,069 for Norris Elementary School, the amounts shown in the column captioned "FY 26 Budget B With Contingent Appropriations", said supplemental appropriation contingent upon passage of a Proposition 2½ ballot question under General Laws Chapter 59, § 21C.

Department	FY 25 Budget	"FY 26 Recommended Budget A Non-Contingent Appropriations"	"FY 26 Budget B With Contingent Appropriations"
Norris Elementary School			
Operations	\$6,562,602.00	\$6,622,718.00	\$7,291,712.00
Town Contributions	\$5,631,506.00	\$5,859,582.00 (4.05%/\$228,076.00)	\$6,528,575.00 (15.93%/\$897,069.00)
Select Board			
Operations		\$6,250.00	\$6,250.00
Town Administrator			
Operations		\$2,250.00	\$2,250.00
Salary		\$188,957.58	\$188,957.58
Information Technology			
Operations		\$111,750.00	\$111,750.00
Facilities Maintenance			
Operations		\$94,000.00	\$94,000.00
Salary		\$19,786.41	\$19,786.41
Debt Service			
Operations		\$540,559.88	\$540,559.88
Employee Benefits			
Operations		\$2,817,414.30	\$2,817,414.30
Town Wide Expenses			
Operations		\$274,821.00	\$274,821.00
Hampshire Regional			
Operations		\$5,961,676.00	\$5,961,676.00
Town School Costs (Tuition and Transportation)			
Operations		\$1,979,402.69	\$1,979,402.69

Accounting		
Operations	\$50,050.00	\$50,050.00
Salary	\$93,211.97	\$93,211.97
Assessors		
Operations	\$42,970.00	\$42,970.00
Salary	\$86,208.30	\$86,208.30
Board of Health		
Operations	\$41,200.00	\$41,200.00
Salary	\$58,537.44	\$58,537.44
Building		
Operations	\$11,900.00	\$11,900.00
Salary	\$63,473.41	\$63,473.41
Cemetery Commission		
Operations	\$7,050.00	\$7,050.00
Conservation Commission		
Operations	\$5,000.00	\$5,000.00
Salary	\$5,728.32	\$5,728.32
Council on Aging		
Operations	\$2,500.00	\$2,500.00
Salary	\$121,176.04	\$121,176.04
Finance Committee		
Operations	\$5,200.00	\$5,200.00
Fire Department		
Operations	\$189,500.00	\$189,500.00
Salary	\$804,286.30	\$804,286.30
Highway Department		
Operations	\$578,974.68	\$578,974.68
Salary	\$624,142.83	\$624,142.83
Historical Commission		
Operations	\$1,000.00	\$1,000.00
Library		
Operations	\$65,886.44	\$65,886.44
Salary	\$163,631.66	\$163,631.66
Open Space Committee		
Operations	\$500.00	\$500.00
Parks Commission		
Operations	\$1,000.00	\$1,000.00
Planning Board		
Operations	\$500.00	\$500.00
Police Department		
Operations	\$326,553.49	\$326,553.49
Salary	\$1,233,175.81	\$1,233,175.81

Town Clerk		
Operations	\$18,500.00	\$18,500.00
Personnel	\$92,681.31	\$92,681.31
Treasurer/Collector		
Operations	\$26,734.00	\$26,734.00
Personnel	\$152,333.02	\$152,333.02
Veterans' Agent		
Operations	\$21,650.00	\$21,650.00
Personnel	\$12,947.69	\$12,947.69
Total	\$23,527,778.57	\$24,196,972.57
Estimated Revenue	\$23,527,778.57	\$24,196,972.57
	<i>See Appendix A for detail Budget A Non-Contingent</i>	<i>See Appendix B for detail Budget B Contingent</i>

## **Article 2        Elected Official Salaries for Fiscal Year 2026**

To see if the Town will vote to fix the salaries and compensation of certain elected officials, as provided by G.L. c. 41 §108, or to take any other action in relation thereto.

## **Article 3        Water Enterprise Fund for Fiscal 2026 Budget**

To see if the Town will vote to raise and appropriate or transfer from available funds to operate the Water Enterprise, according to the following budget:

Salaries & Wages	\$301,426.00
Operating Expenses	\$257,748.55
Capital Outlay	\$50,000.00
Indirect Costs	\$164,820.13
Debt Services	\$234,108.66
Total	\$1,010,188.73

And that \$1,010,188.73 be raised from Water Enterprise Revenues, \$845,368.60 from retained earnings, and \$164,820.13 be appropriated in General Fund (Indirect Costs); or take any other action relative thereto.

## **Article 4        Transfer Station Enterprise Fund Fiscal 2026 Budget**

To see if the Town will vote to raise and appropriate or transfer from available funds to operate the Transfer Station Enterprise according to the following budget:

Wages	\$41,379.44
Operating Expenses	\$169,860.00

Total \$211,103.72

And that \$211,103.72 be raised from Transfer Station Enterprise Revenues, or take any other action relative thereto.

**Article 5 Transfer from Free Cash to Snow Removal Budgets**

To see if the Town will vote to transfer the sum of \$118,271.39 from Free Cash for the purpose of supplementing the Fiscal Year 2025 snow removal budget (01-423-5115, 01-423-5700); or take any other action relative thereto.

**Article 6 Transfer from Free Cash to the Operating Stabilization Fund**

To see if the Town will vote to transfer/appropriate \$276,019.39 to the Operating Stabilization Fund; said sum to be taken from Free Cash; or take any other action relative thereto.

**Article 7 Transfer from Free Cash to the Capital Stabilization Fund**

To see if the Town will vote to transfer/appropriate \$308,492.26 to the Capital Stabilization Fund; said sum to be taken from Free Cash; or take any other action relative thereto.

**Article 8 Transfer from Free Cash to the OPEB Fund**

To see if the Town will vote to transfer/appropriate \$64,945.74 to the Other Post-Employment Benefits (OPEB) account; said sum to be taken from Free Cash; or take any other action relative thereto.

**Article 9 Transfer from Free Cash to Hampshire Regional School Assessment Prior Year**

To see if the Town will vote to transfer the sum of \$200,000.00 from Free Cash to the account known as "Bills of Prior Years" for the payment of and for services rendered by the Hampshire Regional School District's Central Office on behalf of the Southampton Norris Elementary School.

**Article 10 Transfer for FY 26 Capital Requests**

To see if the Town will vote to transfer the sum of \$367,584.50 from the Capital Stabilization Fund to fund the following approved requests, or take any other action relative thereto.

Police Cruiser - \$75,691.93	Norris Shop Door - \$5,236.00	Kindergarten Carpeting - \$40,892.00
Police Cruiser - \$75,266.93	Library Fire Door - \$6,260.00	Fire Pickup Truck - \$54,650.00
Norris Gym Doors - \$10,494.64	Fire SCBA Compressor - \$83,303.00	Cemetery Software - \$15,850.00

**Article 11 Rescind Previous Year Capital Appropriations**

To see if the Town will vote to rescind the actions taken under previous Town Meetings to transfer funds from the Capital Stabilization Fund for certain purchases, acquisitions and projects as listed, or to take any other action relative thereto.

<u>Account</u>	<u>Amount</u>	<u>Year</u>	<u>Purpose</u>
30-196-5700-00000	\$7,500.00	FY 19	Computer Network Server
30-210-5801-00000	\$18,000.00	FY 21	Police Portable Radios
30-196-5705-00000	\$1,869.79	FY 20	PC and Software
30-300-5808-00000	\$329.00	FY 17	Laptops
30-300-5815-00000	\$600.00	FY 20	Sidewalk Repairs
30-610-5703-00000	\$7,627.00	FY 25	Library Flooring
30-610-5700-00000	\$2,640.00	FY 22	Library Boiler
30-220-5815-00000	\$600.00	FY 21	Sidewalk Repair
30-422-5804-00000	\$35,103.00	FY 20	Highway Plow
30-422-5811-00000	\$6,608.10	FY 21	F550 Wing Sander Truck
30-422-5815-00000	\$2,266.07	FY 23	Highway Dump Truck
30-300-5817-00000	\$1,906.73	FY 21	PA System

## **Article 12      Rescind Unused Borrowing Authorizations**

To see if the Town will vote to rescind unused borrowing authorizations previously voted by the Town, or to take any other action related thereto.

<u>Year</u>	<u>Amount</u>	<u>Purpose</u>
2023	\$98,000	Norris Elementary School 7D Van

## **Article 13      Adoption of M.G.L. Chapter 41, Sections 45 and 47 – Board of Commissioners of Trust Funds**

To see if the Town will vote to accept the provisions of Massachusetts General Laws Chapter 41, Sections 45 and 47, to establish a Board of Commissioners of Trust Funds to assume responsibility for the custody and management of all trust funds held by the Town, unless otherwise provided by the donor or by law; or take any other action relative thereto.

## **Article 14      Appointment of the Board of Commissioners of Trust Funds by the Select Board**

Contingent upon the acceptance of the preceding article, to see if the Town will vote to provide that the members of the Board of Commissioners of Trust Funds shall be appointed by the Select Board, as authorized under M.G.L. Chapter 41, Section 1B; or take any other action relative thereto.

## **Article 15      Transfer for Funding for FY 26 Retained Earnings to Water Enterprise Line**



To see if the Town will vote to transfer the sum of \$65,000 from Retained Earnings line to the Water Enterprise Fund Line to FY2026 61-Water Enterprise Fund Line for maintenance to the Glendale O2 Well; or to take any other action relative thereto.

**Article 16      Funding for Highway Department Heating System (Borrowing)**

To see if the Town will vote to appropriate the sum of \$190,000.00 to purchase and install a new heating system for the Highway Department facility, and to authorize the Treasurer, with the approval of the Board of Selectmen, to borrow the sum of \$190,000.00 for said appropriation under applicable sections of Chapter 44 of the General Laws.

**Article 17      Water Main Replacement Project for College Highway (Borrowing)**

To see if the Town will vote to authorize the Water Department to borrow the sum of Two Million Sixty-Nine Thousand Eight Hundred Forty-Two Dollars (\$2,069,842.00) for the purpose of replacing and upgrading water mains on College Highway, including all costs incidental and related thereto, such borrowing to be made under and pursuant to Chapter 44, Section 8 of the Massachusetts General Laws or pursuant to any other enabling authority, and further to authorize the Treasurer, with the approval of the Select Board, to issue bonds or notes of the Town therefor; and further, that any premium received upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of project costs in accordance with Chapter 44, Section 20 of the General Laws; and further, that the repayment of such borrowing shall be made from the Water Enterprise Fund, so that the amounts required for repayment shall be raised through water user fees and shall not affect the tax levy of the Town, or to take any other action relative thereto.

**Article 18      Unpaid Accounts from Prior Fiscal Years**

To see if the Town will vote to raise and appropriate or otherwise provide a sum of money for the payment of unpaid bills of previous years, incurred by the departments, board and officers of the Town of Southamptn, or take any other action relative thereto.

Year	Title	Vendor	Amount
FY 25	Interpreter Services	Big Language Solutions	\$18.81

**Article 19      Authorize the Select Board to Negotiate and Enter into an Agreement in Lieu of Taxes**

To see if the Town will vote to authorize the Select Board to negotiate and enter into agreements for payments in lieu of taxes pursuant to G.L. c.59, §5, Clause 45 on such terms and conditions as the Select Board deems to be in the best interests of the Town for the proposed solar agrivoltaic array located at 160 East Street, Southamptn, MA 01073 Assessor's Map: #36; Parcel #1, or to take any other action in relation thereto.

<b>General By-Law Amendments</b>
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**Article 20      Amendment to General Bylaws Chapter 234: Swimming Pools Safety**

To see if the Town will vote to change the town bylaw entitled Swimming Pools, by amending the existing language as noted below, deleting existing language with a strikethrough and replacing it with new language shown in boldface text which reads as follows:

“Chapter 234. Swimming Pools

~~[HISTORY: Adopted by the Town Meeting of the Town of Southampton as Art. X of the General Bylaws. Amendments noted where applicable.]~~

~~§ 234-1. Swimming pool defined.~~

~~A swimming pool, within the meaning of this bylaw, shall be any permanent depression in the ground, or a permanent container of water, either above or below the ground, in which water of more than 12 inches in depth is contained and which is primarily for the purpose of bathing and swimming.~~

~~§ 234-2. Barrier required.~~

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

~~§ 234-3. Setback from lot lines.~~

~~A pool shall not be nearer than 10 feet to any lot line.~~

~~§ 234-4. Violations and penalties.~~

~~[Amended 5-9-2023 ATM by Art. 31]~~

~~A person who violates this bylaw shall be liable to a penalty as provided in Chapter 203, Noncriminal Disposition.”~~

“Chapter 234. Swimming Pools

**Definitions:**

**Definitions for the purposes of this bylaw:**

**Swimming Pools et al:** Any body of water more than ~~twelve (12) inches~~ **twenty-four (24) or more inches** in depth above or below ground in an artificial or semi-artificial receptacle or container, permanent or temporary, whether located indoors or outdoors, used or intended to be used for swimming by adults and/or children, and includes all structures, equipment, appliances, and all other facilities appurtenant to or intended for the operation and maintenance of a swimming pool. (780 CMR, §120.M101).

**Self-Latching Gate:** a self-closing and self-latching mechanism that ensures gates automatically close and latch after opening, without requiring manual action to engage. The latch is a mechanism that engages with a strike plate to hold the gate closed.

**Restrictions:**

- 1. All swimming pools when installed in the rear yard shall be placed no less than ~~ten (10) feet~~ fifteen (15) feet from the rear and/or side lot line.**
- 2. No swimming pool shall be placed less than forty feet (40 ft.) from the front lot line.**
- 3. Pools, inground or above ground, will be enclosed in a barrier at least 4 feet in height. Above ground pools may include the height of the pool and may require an addition on the pool to attain the required height. In addition to any other protective measures, a fence is still required by Southampton. Chain link fencing mesh size shall not exceed 2¼ inches.**
- 4. Pools located on fenced property also require an adequate barrier immediately surrounding the pool.**
- 5. Pursuant to the Town of Southampton’s swimming pool bylaw, the installation of a power safety cover shall not constitute an exemption from the standard barrier requirements. All in-ground swimming pools shall be enclosed in accordance with applicable fence requirements, regardless of the presence of an automatic or retractable safety cover.**
- 6. Pool fencing must have a self-latching gate and swing outward. All gates and doors opening through such enclosures shall be kept locked when the pool is not in actual use or left unattended.**

7. In compliance with MA Building Code 780 CMR §120.M101, above-ground pools must be removed when the pool is not in use, if not secured by fencing.

8. Permits for swimming pools can be obtained from the Building Department.

**Exemptions:**

Small plastic or inflatable children's pools are exempt as are hot tubs with approved safety covers.

These bylaws shall take effect on July 1, 2025. Any swimming pool permitted prior to this date shall be exempt from the provisions herein and shall be considered legally nonconforming under this bylaw.

**Enforcement:**

The Building Commissioner/Inspector is the enforcing authority and will issue notices of violation to property owners for failure to comply with this bylaw. Penalties/fines will be levied per bylaw Ch. 203, Non-Criminal Disposition."

Or take any other action relative thereto.

**Article 21 Chapter 264 General Bylaws: Wetlands Protection Amendment**

To see if the Town will vote to change the town bylaw entitled Wetlands Protection, by amending the existing language as noted below, deleting existing language with a strikethrough and replacing it with new language shown in boldface text which reads as follows:

Chapter 264. Wetlands Protection

§ 264-1. Authority; intent.

The Wetlands Protection Bylaw (hereinafter referred to as the "bylaw") is promulgated by the Town of Southampton Conservation Commission (hereinafter the "Commission") pursuant to the authority granted by the Town of Southampton. The Wetlands Protection Bylaw was adopted to protect additional resource areas, with additional standards and procedures to augment those of the Wetlands Protection Act (MGL c. 131, § 40) and regulations thereunder (310 CMR 10.00).

§ 264-2. Purpose.

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

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

(1) Protection of public water supply.

(2) Protection of groundwater.

(3) Flood control.

(4) Erosion and sedimentation control.

- (5) Storm damage prevention.
- (6) Prevention of water pollution.
- (7) Protection of fisheries and wildlife habitat and rare species habitat, including rare plant species.
- (8) Recreation, agriculture and aquaculture.

#### § 264-3. Definitions.

Except as otherwise provided in this bylaw, the definitions of terms in this bylaw shall be as set forth in the Wetlands Protection Act, which terms, as used herein, shall include the provisions of MGL c. 131, § 40, and in 310 CMR 10.00.

Includes the following actions, without limitation, when undertaken to, upon, within or affecting resource area values protected by this bylaw:

- A. Removal, excavation or dredging of soil, sand, gravel, or aggregate materials of any kind.
- B. Changing of preexisting drainage characteristics, flushing characteristics, sedimentation patterns, flow patterns, or flood retention characteristics.
- C. Drainage or other disturbance of water level or water table.
- D. Dumping, discharging or filling with any material which may degrade water quality.
- E. Placing of fill or removal of material which would change elevation.
- F. Driving of piles, erection, or expansion of buildings, or structures of any kind.
- G. Dredging or filling of land under water bodies.
- H. Placing of obstructions or objects in water or waterways.
- I. Destruction of plant life including cutting of trees.
- J. Changing water temperature, biochemical oxygen demand or other physical, biological, or chemical characteristics of any waters.
- K. Any activities, changes or other work which may cause or tend to contribute to pollution of any body of water or groundwater, including, without limitation, any activity that may cause surface water runoff contaminated with sediments, chemicals, or animal wastes.
- L. Application of pesticides or herbicides.
- M. Storage of floodwaters and stormwater runoff waters.
- N. Incremental activities that have or may have a cumulative adverse impact on the resource area values protected by this bylaw.

#### RESOURCE AREA

Any freshwater wetlands; marshes; wet meadows; bogs; swamps; lakes; ponds; rivers; streams; creeks; banks; beaches; vernal pools; isolated wetlands; lands under water bodies; lands subject to flooding or inundation by groundwater or surface waters; riverfront area as stated in the Wetlands Protection Act, MGL c. 131, § 40, and in regulations 310 CMR 10.58(2).

#### § 264-4. Resource areas, buffer zones and conservation zones.

A. Resource areas. Except as permitted by the Commission or as provided by the bylaw, no person shall commence to remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter any resource area or conservation zone.

B. Buffer zones.

(1) Any activity proposed or undertaken within 100 feet of a resource area, which shall be referred to as a "buffer zone," shall be subject to regulation under this bylaw. Buffer zones are vital in protecting the resource area of the bylaw in many ways, including but not limited to:

(a) Slowing water flow, thereby decreasing water velocities, allowing infiltration, providing flood control and reducing the erosion potential of stormwater runoff.

(b) Trapping sediment and other insoluble pollutants, thereby decreasing or preventing pollution of the wetlands and water bodies.

(c) Reducing nutrient overloading by filtering nutrients bound to sediment in the surface flow and removing nutrients from groundwater through uptake in vegetation.

(d) Providing permeable soils that contribute to groundwater recharge.

(e) Producing leaf litter and biomass which increases the humus content of the soil and increase in absorption and infiltration.

(f) Scattering sunlight and providing shade thereby lowering water temperature within wetlands and water bodies.

(g) Providing essential habitat for wetland-associated species.

(h) Providing a visual separation between wetlands and developed environments.

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

C. Conservation zone.

(1) Land within a buffer zone is deemed by the Conservation Commission to be significant to wildlife, public and private water supply, and to the prevention of pollution. The natural vegetation plant communities and indigenous soils provide important shelter, nesting, feeding, and migratory areas for wildlife associated with the adjacent wetlands. Forested upland vegetation provides an important buffer that maintains air temperatures, light regimes, and habitat quality within the resource area. These areas provide key function in the attenuation and uptake of pollutants that would otherwise be discharged to water bodies or wetlands. These areas act as filters which prevent erosion and decrease the nonpoint source loading of contaminants that may alter the water quality of wetlands and other surface waters. An activity that disturbs the vegetation and/or soil which occurs within a buffer zone is likely to result in the alteration of the wetland through siltation, over grading or deposition of construction debris.

(2) Based on this information, the Conservation Commission shall require that a twenty-five-foot-wide strip of undisturbed vegetation within a buffer zone, called the "conservation zone," be maintained adjacent to any resource area but not including lands subject to flooding or the 200-foot riverfront area. No work, structures or alterations will be allowed within the conservation zone unless permitted by the Commission, except for minor activities, such as mowing, gardening, and pruning within existing lawn, garden or landscaped areas, currently occurring at the time of the adoption of this bylaw (January 19, 2021).[1] The conservation zone shall not apply to artificially created stormwater management structures such as detention and retention basins, artificially lined ponds, and constructed wastewater treatment lagoons.

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

(4) Where the conservation zone is already altered in such a manner that the presumed protection offered by the buffer zone is not being met, the Commission may issue an order of conditions for a project, provided that it finds that the proposed activities will not increase adverse impacts on that specific portion of the conservation zone or associated resource areas, and that there is no technically feasible alternative. In such cases the Commission may modify the scope and detail of the proposed project to minimize impact on or improve protection of the values protected by the bylaw.

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

(6) Rivers (perennial streams). For the purpose of this bylaw, the protections afforded to riverfront areas under the 1996 amendment to the Massachusetts Wetlands Protection Act shall extend the reach of jurisdiction 200 feet from the mean annual high-water line (MAHWL) of a stream or river as specified by the Act.

(7) Vernal pools.

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

(b) The Commission shall presume that all areas meeting the definition of "vernal pools" of this bylaw, and the adjacent upland area, perform essential habitat functions. This presumption may be overcome only by the presentation of credible evidence which, in the judgment of the Commission, demonstrates that the basin or depression does not provide essential vernal pool habitat functions. Any formal evaluation should be performed by an individual meeting the qualifications under the wildlife habitat section of the Wetlands Protection Act regulations.[2]

(8) Isolated wetlands. Isolated wetlands are areas of wetland vegetation which are subject to flooding and consist of isolated depressions or closed basins which serve as a ponding area for runoff or high groundwater. Such areas must be at least 400 square feet in area and may include kettle holes and bogs.

§ 264-5. Notice of intent; request for determination of applicability; permit issuance and conditions.

Within 100 feet horizontally outward from the edge of a resource area, 200 feet horizontally outward from the mean annual high-water line (MAHWL) of a perennial stream, any activity proposed or undertaken which, in the judgment of the Commission, alters any area subject to protection under the bylaw is subject to regulation under the bylaw and requires the filing of a notice of intent (NOI). If the applicant is in any doubt as to whether an activity is subject to regulation, a request for a determination of applicability (RDA) should be filed.

A. Commission quorum. More than half of the members of the Commission **currently in office** must be present to conduct business and to hold a public meeting.

B. Time frames for submission of documentation.

(1) All documentation, including plans, maps, tables, charts, consultant reports, etc., to be considered by the Commission for permit filing must be submitted to the Commission no later than two weeks before the Commission

meeting date. The Commission meets once or twice a month (dates are subject to change; meeting agendas are posted in Town Hall).

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

(3) The Commission, in an appropriate case, may combine its hearing under this bylaw with the hearing conducted under the Wetlands Protection Act, MGL c. 131, § 40, and regulations 310 CMR 10.00.

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

C. Requests for determination of applicability (RDA, WPA Form 1). The purpose of the request for determination of applicability (RDA) is to allow the Commission to determine whether a project will alter or change a resource area and, if this is the case, a notice of intent (NOI) will have to be filed. The RDA shall be submitted on a WPA Form 1 and shall include such additional information and plans as are deemed reasonably necessary by the Commission. **All RDA applications will be treated as public hearings by the Commission.**

D. Notice of intent (NOI, WPA Form 3). Any person who proposes to do work that will remove, fill, dredge, build upon, or alter any resource area shall submit a notice of intent (NOI) consisting of application materials required under notice of intent (MGL c. 131, § 40, and 310 CMR 10.00). The NOI shall be submitted on a WPA Form 3 and shall include such additional information and plans as are deemed reasonably necessary by the Commission.

E. Notice of intent (NOI) permit.

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

(2) Before work can commence on the project:

(a) The order of conditions has become final and then recorded in the Registry of Deeds of Hampshire County or the Land Court, within the chain of title of the affected property. A copy of such filing shall be sent to the Commission, including the book and page or document reference number. The applicant is responsible for such recording of the order of conditions.

(b) A pre-construction site visit shall be conducted with the applicant or representative, builder and **Conservation Commission agent and/or** Commission members to review all orders of conditions including inspection and approval of all erosion control measures.

(3) If work commences before the above conditions are met, an enforcement order may be issued by the Commission.

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

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

- (a) For failure to meet the requirements of the bylaw.
- (b) For failure to provide necessary information and plans requested by the Commission.
- (c) For failure to avoid or prevent unacceptable or cumulative effects upon the resource area values protected by the bylaw.
- (d) Where no conditions are adequate to safeguard the resource area values protected by the bylaw.
- (6) A permit shall be valid for three years.

§ 264-6. Exemptions and exceptions; ongoing permits; emergency projects.

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

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

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

D. The application and permit required by this bylaw shall not be required for work performed for normal maintenance or improvement of land which is lawfully land in agricultural use, as defined in the Wetlands Protection Act regulations, 310 CMR 10.04, at the time the work takes place.

E. Exceptions clearly stated in the Wetlands Protection Act and regulations thereunder are not extinguished by the bylaw.

§ 264-7. Permit extensions.

A. The Commission can extend a permit twice for an additional one-year period. Request for extensions shall be made in writing to the Commission with the filing fee (see § 264-9) at least 30 days prior to the expiration of the permit.

B. The extension permit shall be recorded in the Registry of Deeds of Hampshire County or the Land Court. A copy of such filing shall be sent to the Commission, including the book and page or document reference number. The applicant is responsible for the recording of such extension permit. If work commences without the applicant so recording the extension permit, an enforcement order may be issued by the Commission.



C. If the applicant does not request an extension for his/her project at the end of the three-year period of the order of conditions, any work on the project must stop until a new notice of intent has been filed with the Commission, and a new order of conditions duly issued and recorded.

#### § 264-8. Certificate of compliance.

A. Upon completion of the work described herein, the applicant shall submit a written request for a certificate of compliance, WPA Form 8A. The Commission shall act upon the request within 21 business days.

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

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

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

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

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

G. The certificate of compliance (including any continuing conditions) will be recorded by the applicant in the Registry of Deeds or the Land Court of Hampshire County, within the chain of title of the affected property. A copy of such filing shall be sent to the Commission, including the book and page or document reference number. The applicant is responsible for recording of such certificate of compliance.

#### § 264-9. Filing fees.

The following pertains to the filing fees:

A. Any person filing an application for request for determination of applicability (RDA) or notice of intent (NOI) pursuant to the bylaw shall, at the same time, pay a filing fee in accordance with the filing fee schedule.

B. Filing fees should be made payable to the Town of Southampton.

C. The filing fee does not include the cost of the public legal notice in the local newspaper.

D. All recording costs at the Hampshire County Registry of Deeds or the Land Court are the responsibility of the applicant.

E. Applicant shall agree, in writing, to pay the reasonable fees, cost and expenses of any expert consultant deemed necessary by the Commission.

F. Town of Southampton, county, state, federal and legal nonprofit organization projects are exempt from these fees.

#### § 264-10. Conservation Commission regulations.

After public notice and public hearing, the Commission ~~shall~~ **may** promulgate rules and regulations to effectuate the purposes of this bylaw. Notice shall be given at least one week prior to the public hearing by publication in a newspaper of general circulation in the Town and by posting with the Town Clerk. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the

effect of this bylaw. At a minimum, these regulations shall define key terms in this bylaw not inconsistent with the bylaw and procedures governing the amount and filing of fees.

§ 264-11. Outside consultants; project review fee.

The Southampton Conservation Commission hereby adopts the following rules in accordance with the authority of MGL c. 44, § 53G:

A. When reviewing an application for, or when conducting inspections in relation to, request for determination of applicability (RDA), notice of intent (NOI), an abbreviated notice of intent (ANOI) or an abbreviated notice of resource area delineation (ANRAD), the Southampton Conservation Commission may determine that the assistance of outside consultants is warranted due to the size, scale, technical or scientific complexity of a proposed project, because of the project's potential impact on resource area(s), or the Southampton Conservation Commission lacks the necessary expertise to perform the work related to the approval and definition of order of conditions.

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

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

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

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

F. Any applicant may take an administrative appeal from the selection of the outside consultant to the Select Board. Such appeal must be made in writing and may be taken only within 20 days after the Commission has mailed, by first-class mail, or hand delivered notice to the applicant of the selection. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist either of an educational degree in or related to the field at issue or three or more years of practice in the field at issue or a related field. The required time limit for action upon an application by the Commission shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Select Board within one month following the filing of the appeal, the selection made by the Commission shall stand.

§ 264-12. Enforcement; violations and penalties.

A. No person shall remove, fill, dredge, build upon, degrade, or otherwise alter resource areas protected by this bylaw, or cause, suffer, or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order (WPA Form 9) issued pursuant to this bylaw.

B. The filing of a permit application or request for determination of applicability (RDA) shall constitute the consent of the owner and grant the authority for the Commission and its agents, with proper identification, to enter upon privately

owned land for the purpose of performing their duties under this bylaw. The Commission may make or cause to be made such examinations, surveys or sampling as the Commission deems reasonable and necessary, subject to the laws of the United States and the commonwealth.

C. The Commission shall have the authority to enforce this bylaw and permits issued thereunder by violation notices, noncriminal citations under MGL c. 40, § 21D, administrative orders, and civil and criminal court actions. Any person who violates provisions of this bylaw may be ordered to restore the property to its original condition and/or take other action deemed reasonable and necessary to remedy such violations, or may be fined, or both. Any person who violates any provisions of this bylaw may be subject to a fine in the amount of \$300 per day per offense.

### **Wildlife Habitat Study**

**The Commission may require a wildlife habitat study of the project area, to be paid for by the applicant, whenever it deems appropriate, regardless of the type of resource area or the amount or type of alteration proposed. The decision will be based upon the Commission's estimation of the importance of the habitat area considering (but not limited to) such factors as proximity to other areas suitable for wildlife, importance of wildlife "corridors" in the area, or actual or possible presence of rare plant or animal species in the area. The work will be performed by an individual who at least meets the qualifications set out in the wildlife habitat section of the Wetlands Protection Act regulations (310 CMR 10.60).**

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

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

(3) Any person who violates any provision of this bylaw, permits or enforcement orders issued thereunder shall be served with a notice of violation enumerating the alleged violations. If after 10 business days the Commission has not received what it deems to be either sufficient evidence demonstrating that no violations have occurred or a filing that will remove the violations along with evidence that sufficient progress is being made to correct the violation, then the violator shall be punished by a fine of \$300 per day per offense. Beginning 10 business days after the date of the notice of violation each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the bylaw, permits, or enforcement orders violated shall constitute a separate offense.

### **§ 264-13. Security.**

The intent of this section is to secure against the potential of significant environmental damage. As part of a permit issued under this bylaw, in addition to any security required by any other Town or state board, agency or official, the Commission may require that the performance and observance of the conditions imposed hereunder (including conditions requiring mitigation work) be secured wholly or in part by one or more of the methods described below:

A. By a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Commission, to be released in whole or in part upon issuance of a certificate of compliance for work performed pursuant to the permit.

B. By a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of the Town of Southampton and members of the public, whereby the permit conditions shall be performed and observed before any lot may be conveyed, other than by mortgage deed. This method shall be used only with the consent of the applicant. The bond or covenant shall, in the case of the bond, be given to the Town, and in the case of a covenant, be recorded in the Registry of Deeds or the Land Court at least 10 business days before the start of any work under the permit.

### **§ 264-14. Burden of proof.**

A. The applicant for a permit shall have the burden of proving, by a preponderance of credible evidence, that the work proposed in the permit application will not have unacceptable significant or cumulative effect upon the resource area values protected by this bylaw.

B. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

#### § 264-15. Waivers.

A. Strict compliance with the bylaw may be waived when, in the judgment of the Commission, such action is in the public interest and is consistent with the intent and purpose of the bylaw.

B. Any request for a waiver must be submitted to the Commission in writing and presented at the time of filing along with a written justification stating why a waiver is desired or needed, is in the public benefit, and is consistent with the intent and purpose of the bylaw. The waiver is intended to be employed only in rare and unusual cases.

#### § 264-16. Appeals.

A decision of the Conservation Commission under this bylaw shall be reviewable in Superior Court in accordance with MGL c. 249, § 4.

#### § 264-17. Severability.

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

#### § 264-18. Relation to Wetlands Protection Act.

This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the home rule statutes, independent of the Wetlands Protection Act, MGL c. 131, § 40, and the regulations, 310 CMR 10.00, thereunder.

#### § 264-19. Effective date; applicability.

The effective date of this bylaw is the date after the bylaw has been approved by the Attorney General and published by the Town Clerk as set forth in MGL c. 40, § 32. The bylaw shall not, however, apply to:

A. Any structure or activity lawfully in existence or lawfully begun prior to the effective date.

B. Any structure or activity which is the subject of a pending notice of intent or request for determination of applicability filed under the Massachusetts Wetlands Protection Act (MGL c. 131, § 40) prior to the effective date.

C. Any structure or activity which has an orders of conditions, order of resource area delineation, or determination of applicability or other Commission decision filed under the Massachusetts Wetlands Protection Act (MGL c. 131, § 40) and that is still in effect prior to the effective date. These orders or determinations shall expire at the end of their legally regulated term, which is usually three years from date of issuance, after which any new work will be subject to the provisions of this bylaw.

D. Any structure or activity for which any extensions of or modifications or amendments to a current order of conditions or notice of intent were approved prior to the effective date. These extensions, modifications and amendments shall remain in effect until the end of their legally regulated term, which is usually three years from date of issuance, after which any new work will be subject to the provisions of this bylaw.

#### § 264-20. Associate members of Conservation Commission.

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

## **Article 22      Raise Exemption Amount Clause 17D for Senior Citizens, Surviving Spouses and Minors**

To see if the Town will vote to accept General Laws Chapter 59, Section 5, Clause 17F, which authorizes an annual increase in the amount of the exemption granted to senior citizens, surviving spouses and surviving minors under General Laws Chapter 59, Section 5, Clause 17D by 100% of the percentage increase in the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index (CPI) for the previous year as determined by the Commissioner of Revenue, and to fix that annual increase at 100% of CPI to be effective for exemptions granted for any fiscal year beginning on or after July 1, 2025.

## **Article 23      Raise Asset Limits Clause 17D for Senior Citizens, Surviving Spouses and Minors**

To see if the Town will accept General Laws Chapter 59, Section 5, Clause 17E, which authorizes an annual increase in the asset (whole estate) limit for exemptions granted to senior citizens, surviving spouses and surviving minors under General Laws Chapter 59, Section 5, Clause 17D, by the percentage increase in the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index for the previous year as determined by the Commissioner of Revenue, to be effective for exemptions granted for any fiscal year beginning on or after July 1, 2025.

### **Zoning Articles**

## **Article 24      Chapter 275 - Accessory Dwelling Unit Amendment**

To see if the Town will vote to amend the Southampton Zoning Bylaw Chapter 275 of the Code of Southampton, by amending § 275-2.3 “Definitions” to delete the current definition for “Accessory Apartment” and insert in its place a definition regarding “Accessory Dwelling Unit” and insert a definition for “Bus Station”; deleting § 275-7.5 “Accessory dwelling units” and inserting its place a new § 275-7.5 “Accessory Dwelling Units”; and revising Attachment 1 – Table 1 Use Regulations by deleting the use “Accessory apartment” and inserting a new use regarding Accessory Dwelling Unit; as written below, or any other action relative thereto.

- A. Amend § 275-2.3 “Definitions” to delete the current definition for “Accessory Apartment” and insert in its place a definition regarding “Accessory Dwelling Unit” written as follows:

“A self-contained housing unit, inclusive of sleeping, cooking and sanitary facilities on the same lot as a principal dwelling, subject to otherwise applicable dimensional and parking requirements.”

- B. Amend § 275-2.3 “Definitions” to insert “Bus Station” to be defined as follows:

Bus Station. As defined in 760 CMR 71.02 A location serving as a point of embarkation for any bus operated by a Transit Authority.”

- C. Repeal § 275-7.5 “Accessory dwelling units” in its entirety and replace with a new § 275-7.5 “Accessory Dwelling Units” to read as follows:

§ 275-7.5. Accessory dwelling units.

- A. Permit required. Accessory dwelling units conforming to the provisions of §275-2.3C are permitted by right. A building permit is required prior to beginning any alterations of an existing structure to create an accessory dwelling unit or to build a new structure to contain an accessory dwelling unit.

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

- (1) Provide older homeowners with a means of obtaining, through tenants in accessory dwelling units, 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 dwelling units are installed under such-conditions as may be appropriate to further the purposes of this bylaw; and
- (5) Legalize conversions to encourage compliance with the State Building Code.
- (6) To provide reasonable regulations for the development of accessory dwelling units as allowed by MGL Chapter 40A, Section 3.

C. Accessory dwelling unit standards. Except as may be approved by a Special Permit under § 275-7.5E, an accessory dwelling unit shall conform to the following standards:

- (1) The dwelling unit will be a complete separate housekeeping unit that functions as a separate unit from the original unit.
- (2) Only one dwelling unit will be created within or on the same parcel as a single- family house.
- (3) The Lot must conform to the definition of “lot” as specified in 760 CMR 71.02
- (4) Development of an accessory dwelling unit as part of a “pre-existing nonconforming structure or lot” is permitted as provided in 760 CMR 71.03(3)(b)(9).
- (5) No more than one (1) accessory dwelling unit shall be provided on a single lot.
- (6) An accessory dwelling unit shall maintain a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the state building code for safe egress.
- (7) The accessory dwelling unit shall be clearly a subordinate part of, or accessory to, the single-family dwelling.
- (8) An accessory dwelling unit shall not be larger in gross floor area than 1/2 the gross floor area of the principal dwelling or 900 square feet, whichever is smaller.
- (9) Only one (1) off street parking space is required for each accessory dwelling unit on the same lot.
  - (a) Where the accessory dwelling unit is part of or attached to a primary residence on the property, the parking space for the accessory dwelling should be incorporated into the parking area for the primary structure if feasible.
  - (b) No additional on-street or off-street parking space is required for an accessory dwelling unit if any portion of the lot on which it is located its Lot is located within a 0.5-mile radius of a Bus Station.
  - (c) Provision of more than two off-street parking spaces requires approval by the Planning Board.
- (10) 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 building permit can be obtained. This is to ensure that the existing sewage disposal system is adequate for the proposed accessory apartment.
- (11) The construction of any accessory apartment must be in conformity with the State Building Code requirements.

D. Accessory Dwelling Unit by Special Permit. Where an accessory dwelling unit would not meet the definition of a “Protected” accessory dwelling unit as defined in 760 CMR 71.02, the accessory dwelling unit may be permitted only upon issuance of a Special Permit by the Planning Board subject to the following provisions:

- (1) The Special Permit may allow for more than one Accessory Dwelling Unit on the same lot.
- (2) The Special Permit may allow for a larger Accessory Dwelling Unit than otherwise permitted by the provisions of § 275-7.5C (6).
- (3) The Special Permit may require the additional Accessory Dwelling Unit and/or the larger Accessory Dwelling Unit to have additional parking spaces.
- (4) Except as specified in § 275-7.5 (1) through (3), no Special Permit shall otherwise allow for an Accessory Dwelling Unit to deviate from the provisions of § 275-7.5C.
- (5) In considering whether to grant the requested Special Permit, the Planning Board may consider whether the proposed additional Accessory Dwelling Unit or Larger Accessory Dwelling Unit will be compatible with the architectural style of the Primary Dwelling and any other Accessory Dwelling Unit on the lot.

E. Application procedure.

- (1) The procedure for an accessory dwelling unit shall be the same as prescribed in Article IX, Site Plan Review and Approval.

F. Pre-existing/Approved Accessory Dwelling Units.

- (1) Statement of intent. To ensure that accessory dwelling units which meet the definition of protected use accessory dwelling units in existence or previously approved are treated in accordance with M.G.L. c. 40A, § 3 and 760 CMR 71.00.
- (2) If the accessory dwelling unit meets the definition and standards for a protected use accessory dwelling unit under 760 CMR 71.00, any conditions which were attached to the approval for any such accessory dwelling unit that are considered “Prohibited Regulation” or “Unreasonable Regulation” under 760 CMR 71.00 are not to be enforced.
- (3) If the accessory dwelling unit does not meet the definitions and standards for a protected use accessory dwelling unit under 760 CMR 71.00, the conditions attached to such prior approval shall continue to be enforced.

D. Amend Attachment 1 – Table 1 Use Regulations as follows:

1. Under the Accessory Uses category, delete the use “Accessory apartment” and insert in its place a new use regarding Accessory Dwelling Unit and indicate that the Accessory Dwelling Unit use is permitted subject to Site Plan Approval under the various zoning districts in which Accessory Apartment is currently permitted by Special Permit from the Planning Board.

## **Article 25 Chapter 275 - Site Plan Review and Approval Amendment**

To see if the Town will vote to amend the Southampton Zoning Bylaw Chapter 275 of the Code of Southampton, by amending § 275 by deleting Article IX Site Plan Review and Approval as written and replace with a new Article IX entitled “Site Plan Review” as written below, or any other action relative thereto.

ARTICLE IX  
**Site Plan Review**

§ 275-9.1 Purpose.

The overall purpose of site plan review is to ensure that subject developments and uses are designed in a manner that protects the health, safety, convenience and general welfare of residents of the Town. In implementing Site Plan Review the Town intends to ensure that the proposed development activity/use:

- A. Complies with all applicable bylaws and regulations;
- B. Fulfills any applicable site design guidance provided by the Southampton Master Plan and applicable design Standards adopted by the Planning Board;
- C. Preserves or enhances the unique character and visual qualities of the Town, including, where appropriate, historic character, rural character, natural areas, environmental and natural resources, and scenic vistas;
- D. Does not unreasonably impact adjoining and nearby properties or the neighborhood in which it is located; and,
- E. Promotes sustainable design and development that supports long-term economic vitality and ecological integrity.

§ 275-9.2 Applicability.

- A. Except as may be exempted in § 275-9.4, site plan review by the Planning Board is required for the following activities and uses.
  - (1) Construction, alteration, or expansion of the following:
    - (a) any residential buildings of two dwelling units or more,
    - (b) any principal or accessory building used for exempt use under MGL c. 40A, § 3,
    - (c) Any nonresidential building
  - (2) Any exempt use under MGL c. 40A, § 3.
  - (3) Any use identified in Attachment 1 - Table 1 Use Regulations as "Use permitted by right with site plan approval"
  - (4) Change of use where the new use will require more parking than the previous use
  - (5) Construction or expansion of a parking lot for a municipal, institutional, commercial, industrial, or multi-family structure or purpose

§ 275-9.3 Site Plan Review for Exempt Uses

- A. Site Plan Review for uses exempt from Zoning under Massachusetts General Laws, Chapter 40A, Section 3 is limited to ensuring compliance with reasonable regulations as related to parking, open spaces, building height, and building setbacks requirements as provided for in MGL c. 40A and § 275-7.5 (Accessory Dwelling Units).

§ 275-9.4 Exemptions



- A. A building wholly or partially destroyed may be rebuilt without site plan review by the Planning if rebuilt without change to the building footprint or the square footage of usable space.
- B. Site plan review is not required for changes of use where the following conditions are satisfied:
  - (1) The proposed use does not require a Special Permit.
  - (2) There are no proposed or required outside alterations or additions to the existing buildings and parking area,
  - (3) The Planning Board Chair or the Planning Board's consultant, in consultation with the Building Commissioner and the Board of Health Director, determines:
    - (a) No additional changes are required of the on-site septic disposal system or
    - (b) No additional parking will be required to conform to the parking requirements (see Section § 275-8.2. Off-street parking and loading).

#### § 275-9.5 Relationship to Building Permits and Special Permits

- A. Use, structure, or activity available as of right or Special Permit. An application for a Building Permit to perform work as set forth in § 275-9.2 shall be accompanied by an approved site plan.
- B. Commencement of Activity. Prior to the commencement of any activity set forth in § 275-9.2, the project proponent shall obtain site plan approval from the Planning Board in accordance with the Planning Board Policies and Procedures.
- C. Where a Special Permit is also required, the Site Plan Review and Special Permit shall be consolidated into a single review and approval process. Accordingly, the Planning Board Policies and Procedures shall require applicants submit Special Permits and Site Plan Review applications as a consolidated application.

#### § 275-9.6 Adoption of Policies and Procedures

- A. The Planning Board shall adopt and may from time to time amend reasonable Policies and Procedures for the administration of this Article IX Site Plan Review provisions. At a minimum, these Policies and Procedures shall specify:
  - (1) Requirements for submissions including but not limited to the size, number, and form of submissions, required contents of application submissions, style, and required narratives and impact assessments.
  - (2) Requirements for preparation of site plans and required specifications and contents of site plans.
  - (3) Procedures for submission of applications
  - (4) Procedures for review of applications including coordination of application reviews with other board and departments.
  - (5) Application and Project Review Fees and payment of said fees.
  - (6) Provisions for use of outside consultants for review of applications in accordance with State Law
  - (7) Rules for granting of waivers from strict compliance with the Planning Board Policies and Procedures.
- B. All Site Plans and Submissions for Site Plan Review shall conform to the Planning Board Policies and Procedures.

#### § 275-9.7 Procedures

- A. Site plan review applications shall be submitted, processed, and acted upon in accordance with the Planning Board Policies and Procedures on file with the Town Clerk.

- (1) When a variance or finding is also required, the applicant must obtain the variance or finding, and any associated appeal period must have expired without an appeal being filed or the appeal must have been resolved in the applicant's favor prior to submission of an application for Site Plan Review.
- B. Except for projects qualifying for Minor Site Plan Review as provided in § 275-9.12, decisions on a Site Plan Review application shall not be made until after the conclusion of public hearing held in accordance with the requirements set forth herein.
- C. Applicants for Site Plan Review shall prepare applications and plans and submit materials in accordance with the Planning Board Policies and Procedures.
- D. 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.
  - (1) Said offices shall have 30 days from their receipt of the site plan to submit their comments to the Planning Board.
  - (2) Failure to respond within 30 days shall constitute their lack of objections to the project.
- E. Decision on a site plan must be made at a public meeting in accordance with the Planning Board Policies and Procedures.
- F. Decisions on a site plan must be made within 90 calendar days of the date of submission unless the deadline is extended by mutual consent.
  - (1) Exception, if the site plan is also associated with a Special Permit, the time constraints of § 275-10.5 shall apply.

#### § 275-9.8 Public hearing.

- A. Where public hearings on applications for site plan review submissions are required, they shall be conducted in accordance with the provisions of MGL c. 40A and the Planning Board Policies and Procedures.. Accordingly, at a minimum:
  - (1) Public hearings shall commence within 45 calendar days of receipt of the site plan review application.
    - (a) Exception, if the site plan is associated with a Special Permit, the provision of § 275-10.4A shall apply.
  - (2) 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 § 275-2.3 of this Zoning Bylaw and the Planning Board Policies and Procedures.
- B. Applicant Notification of Abutters.
  - (1) 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 Hearing at which the subject application is to be heard in accordance with the Planning Board Policies and Procedures.
  - (2) Said notice shall be mailed in accordance with the Planning Board Policies and Procedures.
  - (3) Proof of such abutter notification must be submitted by the applicant in accordance with the Planning Board Policies and Procedures. to the Board at or before the first scheduled public hearing on the application.

#### § 275-9.9 Decisions

- A. 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, except in the instance of the Board failing to act as provided in § 275-9.9 H below, unless the Board and applicant have agreed to a time extension.
- B. No building permit shall be issued by the Building Commissioner without the written approval of the site plan by the Planning Board,
- C. Approval of a site plan submission shall require the affirmative votes of a majority of the qualified members of the Board in attendance at the meeting.
  - (1) This does not change the requirement for a super majority of the Board to approval a Special Permit even when the Site Plan Review and Special Permit are interconnected and undertaken by the same Board.
  - (2) Qualified members of the Board include all members except for those members who have missed a session of the public hearing or recused from consideration of the application.
- D. Site Plan Decisions shall be:
  - (1) In writing
  - (2) Made at a posted public meeting.
  - (3) Filed with the Town Clerk, mailed to the applicant, and filed with the Building Commissioner
- E. Decisions must be filed with the Town Clerk and mailed to the applicant in accordance with the Planning Board Policies and Procedures.
- F. Extension of Deadlines. The applicant may request, and the Planning Board may grant by majority vote, an extension of the time limits set forth herein.
- G. Written Decision Options. The Planning Board Decision on an application shall consist of either of the following:
  - (1) A written approval of the proposed project;
  - (2) A written denial of the application, stating reason for such denial; or
  - (3) A written approval subject to any reasonable conditions, modifications, and restrictions as the Planning Board may deem necessary to satisfy this bylaw. Such conditions may include provision for a Performance Guarantee to ensure satisfactory completion of specified elements of the approved plan in accordance with the Planning Board s.
- H. Constructive Approval. Failure of the Planning Board to file a Decision with the Town Clerk within the time specified herein shall be deemed constructive approval of the Site Plan as submitted. Where an applicant believes such constructive approval has occurred, they shall follow the procedures below:
  - (1) The applicant shall obtain a certification from the Town Clerk that no action has been taken within the specified time required.
  - (2) A copy of this Town Clerk certification shall be filed by the applicant with the Building Commissioner and the Planning Board.

#### § 275-9.10 Review Standards

- A. The Planning Board shall review the site plan and supporting data, taking into consideration whether the proposed site plan reasonably fulfills the following objectives (As used in this § 275-9.10, the word "shall" is mandatory and the words "should" and "may" are recommended but optional.):

- (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;
- (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; and,

B. The Planning Board shall consider whether the submission conforms to the relevant requirements of the Planning Board Policies and Procedures.

#### § 275-9.11 Conformity to Approved Site Plan.

- A. No deviation from an approved site plan shall be permitted without prior written approval by the Planning Board.
- B. The Planning Board Policies and Procedures shall set forth procedures for consideration and acting upon requests to deviate from an approved site plan.
- C. The Planning Board should be consulted to determine whether such changes are significant enough to require a new public hearing.

#### § 275-9.12 Minor Site Plan Review

- A. Qualify. Uses specified in § 275-9.2 as requiring Site Plan Review shall be considered as qualifying for Minor Site Plan Review if they meet one or more of the following conditions:
  - (1) The proposed activity/building do not require a special permit, variance or finding; or
  - (2) The proposed construction will not exceed a total increase in the footprint of the structure by 1,000 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 as provided in the Planning Board Policies and Procedures); or
  - (3) The proposed project will not involve the removal of trees or vegetation within the required building setback area for the purpose of expanding the parking area for the project; or,
  - (4) The project involves a use permitted by Site Plan Review and is to be located in a Residential Zoning District (R-R, R-N, or R-V).
- B. Submissions. Application submissions shall conform to the Planning Board Policies and Procedures.
  - (1) The Policies and Procedures may specify a class or classes of projects that require notification of abutters of the Planning Board meeting at which the project is to be reviewed.

- C. Review procedures. Applications are to be processed and reviewed in accordance with the Planning Board Policies and Procedures which shall set forth a process similar to § 275-9.7 above.
- D. Decisions.
  - (1) Decisions on Minor Site Plan Review submissions shall conform to § 275-9.9 paragraphs B through G above.
  - (2) Decisions must be made at a public meeting for which consideration of the minor site plan review submission is listed as an agenda item.
- E. Review Standards. The Planning Board shall review the Minor Site Plan Review submission according to the Review Standards specified in § 275-9.10.

§ 275-9.13 Lapse.

- A. 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.

- (1) The Planning Board Policies and Procedures shall set forth guidelines to be used to determine if the “substantial use” requirement has been satisfied.

§ 275-9.14 Appeal. The appeal of any decision of the permitting authority hereunder shall be made in accordance with the provisions of MGL c. 40A, § 17.

§ 275-9.15 Violations. Violations of the approved site plan or any conditions of approval shall be subject to the provisions of § 275-3.3 of the Zoning Bylaw.

**Article 26      Site Plan Review and Approval Amendment to Conform with Amendment to Article IX**

To see if the Town will vote to amend the Southampton Zoning Bylaw Chapter 275 of the Code of Southampton, by amending § 275-3.2.B, § 275-3.9, § 275-7.4.B(1), § 275-7.5.E(1), and § 275-7.15.E(1) regarding references to “site plan review/approval”, “Site Plan review and approval”, “Site Plan Review”, and “Site Plan Approval” to conform with the amendment to Article IX as detailed below or any other action relative thereto.

**In § 275-3.2.B, change the reference to “site plan review/approval” by deleting “/approval”**

**In § 275-3.9, change the title of the section “Site plan review and approval” by deleting “and approval”**

**In § 275-7.4.B(1), change the reference to “site plan review approval” by deleting “approval”**

**In § 275-7.5.E(1), change the reference to “Article IX, Site Plan Review and Approval” by deleting “and Approval”**

**In § 275-7.15.E(1), change the reference to “site plan approvals” to “site plan review”**

**Article 27      Solar Bylaw Amendment**

To see if the Town will vote to amend the Southampton Zoning Bylaw Chapter 275 of the Code of Southampton, by amending § 275-2.3 “Definitions” to insert new definitions regarding solar electric generating installations; § 275-7.6 “Solar electric generating facilities”; and

Attachment 1 – Table 1 Use Regulations regarding “small-scale solar electric generating facility”, “Intermediate-scale (greater than 250 kW to 500 kW) DC solar electric generating facility”, Medium-scale solar generating facility”, and “Large-scale solar generating facility” and “Due Use solar electric generating facility and agricultural use” and how such solar generating facilities are permitted or prohibited.

**Amend § 275-2.3. “Definitions” by inserting the following new definitions**

Solar electric generating facility - A device, structure, or structural design feature, a substantial purpose of which is to provide for the collection, storage and distribution of solar energy for space heating or cooling, generation of electricity, or water heating. This includes all appurtenant equipment necessary for the collection, storage and distribution of electricity to buildings, equipment, to the electric grid.

Solar electric generating facility, Accessory - Any size building- or roof-mounted solar electric generating facility whether it be on a building, over any legal parking lot or driveway, or ground-mounted where the electricity generated is used primarily as part of the operation of the buildings and equipment located on-site provided that the solar generating facility is sized to generate no more than 200% of the annual projected electric use of the site’s building or use.

Solar electric generating facility, Dual-use and agriculture use – A solar electric generating facility of any size where agricultural production and electricity production from solar photovoltaic (PV) panels are occurring together on the same piece of land. These facilities may also be referred to as agrivoltaic systems, agrisolar, or co-location of solar and agriculture.

Solar electric generating facility, Ground-mounted - A solar electric generating facility that is structurally mounted on the ground and is not roof-mounted.

Solar electric generating facility, Large-scale – A solar electric generating facility that has a maximum rated nameplate capacity more than 250 Kw DC or a collective area of solar panel arrays greater than 2,000 square feet and where the electricity generated is primarily distributed to the electric grid and not used on site.

Solar electric generating facility, Medium-scale – A solar electric generating facility that has a maximum rated nameplate capacity of at least 100 Kw DC but not more than 250 Kw DC. Medium-scale facilities shall not have a collective area of solar panel arrays greater than 2,000 square feet.

Solar electric generating facility, Roof-mounted - An Active solar electric generating facility that is structurally mounted to the roof of a building or structure; may be of any size (small-, medium- or large-scale).

Solar electric generating facility, Small-scale – A solar electric generating facility that has a maximum rated nameplate capacity of less Than 100 Kw DC.

Solar panels array – A component or series of components which are part of a solar electric generating facility that converts sunlight into electricity.

**Amend Attachment 1 – Table 1 Use Regulations in the “Wholesale, Transportation and Industrial” uses category as follows:**

- 1) Delete the existing uses of “Small-scale (16 kW or less) DC solar electric generating facility”, “Medium-scale (greater than 16 kW to 250 kW) DC solar electric generating facility”, “Intermediate-scale (greater than 250 kW

to 500 kW) DC solar electric generating facility”, and “Large-scale (greater than 500 KW) solar electric generating facility”.

- 2) Insert the following uses regarding solar electric generating facilities and indicate how they are to be permitted:
  - a) Small-scale solar electric generating facility
    - a. Indicate that Small-scale solar electric generating facilities are to be permitted by right in all zoning districts.
  - b) Medium-scale solar electric generating facility
    - a. Indicate that Medium solar electric generating facilities are to be permitted by Site Plan Review by the Planning Board in R-R and R-N zoning districts.
    - b. Indicate that Medium solar electric generating facilities are to be permitted by Minor Site Plan Review by the Planning Board in C-H and I-P zoning districts.
  - c) Large-scale solar electric generating facility
    - a. Indicate that Large-scale solar electric generating facilities which do not qualify as either Accessory or Dual-use solar facilities are to be permitted by Special Permit from the Planning Board in R-R, R-N, and C-H districts.
    - b. Indicate that Large-scale solar electric generating facilities which do not qualify as either Accessory or Dual-use solar facilities are to be permitted by Site Plan Review in the I-P district.
  - d) Accessory solar electric generating facility.
    - a. Indicate that Accessory solar electric generating facility are to be permitted either By Right or by Site Plan Review in all zoning districts.
  - e) Dual-use solar electric generating facility
    - a. Indicate that Dual Use solar electric generating facilities are to be permitted either By Right or by Site Plan Review in all zoning districts.
  - f) Insert “§ 275-7.6” under “Notes” regarding all of the solar electric generating facility uses (Small-scale, Medium-scale, Large-scale, Accessory solar, and Dual-use solar)

**Repeal the existing § 275-7.6 “Solar electric generating facilities” in its entirety and replace as follows:**

- 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).
  - (5) All plans for any solar generating electric facility shall depict the location of and describe any Battery Energy Storage System proposed to be installed and operated in association with the solar electric generating facility.
- D. Maintenance. The solar electric generating facility's owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Management Director. The owner or operator shall be responsible for the cost of maintaining the solar electric generating facilities and any access road(s).
- E. Site Plans.
- (1) Where Site Plan Review is required for a solar generating facility, the processing of applications, decisions, approvals/denials, lapsing, application fees, application review fees, and appeals shall be in accordance with the provisions of Article IX and the Planning Board Policies and Procedures.
- F. Solar electric generating facilities allowed by right.
- (1) The following type of solar electric generating facilities are permitted by right.
    - (a) Small-scale solar electric generating facilities
    - (b) Accessory solar electric generating facilities with a nameplate rating capacity of less than 250 kW DC
    - (c) Dual use solar electric generating facilities with a nameplate rating capacity of less than 250 kW DC
  - (2) Procedures.
    - (a) Solar electric generating facilities which are allowed by right, in regards to the Zoning Bylaw, only require a building permit prior to construction.
    - (b) The building permit shall be approved and received prior to beginning any site work on any solar generating facility allowed by right including any appurtenance or associated elements or structures.



- (c) Prior to the issuance of a building permit for a “By-right” solar electric generating facility, the Building Commissioner shall submit the application for administrative review by the Planning Board in accordance with the Planning Board’s Policies and Procedures.
- (d) The Planning Board review of the building permit application and plans for any By-right solar electric generating facility shall be limited to confirming whether or not the proposal complies with the Zoning Bylaw requirements for such facilities inclusive of any requests for waivers submitted in accordance with § 275-7.6F(6).
  - [1] Applicants for a building permit must provide sufficient information to the Planning Board documenting that the proposed facility meets the standards to be considered “By-Right”.
- (3) This limitation of review of By-right solar electric generating facilities does not limit or remove the requirement for compliance with other applicable bylaws, laws, and regulations including, but not limited to, approval by the Conservation Commission where applicable.
- (4) Dimension and height requirements.
  - (a) Minimum setbacks for By-right 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. Structures shall be substantially screened from view from adjoining public roadways and residential properties.
- (6) Waivers.
  - (a) Prior to applying for a building permit, proponents may seek a waiver from any of the requirements of this § 275-7.6F from the Planning Board.
  - (b) Any such waiver request must be submitted in accordance with the provisions of the Planning Board’s Policies and Procedures.
  - (c) The Planning Board may, upon review of said submission, waive any of the requirements of this § 275-7.6F, but must state its reasons for doing so in writing as part of its decision.
- (7) Over parking areas. Where the facility is being constructed in or over an existing parking area, the facility:
  - (a) May not diminish the number of parking spaces below the minimum number required by the Zoning Bylaw.
  - (b) May not alter the stormwater runoff or drainage flow without an approved Stormwater Management Permit.
- (8) Abandonment or decommissioning. Any solar electric generating facility which has reached the end of its useful life or has been abandoned (i.e., when it fails to operate for more than one year without the written consent of the Planning Board) shall be removed. The owner or operator shall physically remove the installation within 150 days of abandonment or the proposed date of decommissioning. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:
  - (a) Physical removal of all structures, equipment, building, security barriers and transmission lines from the site, including any materials used to limit vegetation.
  - (b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.

- (c) Stabilization or 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.
- G. General Requirements applicable to all solar electric generating facilities requiring either Site Plan Review (Section IX) or a Special Permit (Section X).
  - (1) Applicability. The provisions of this § 275-7.6G are applicable to any solar electric generating facility requiring either Site Plan Review or Special Permit approval whether they are a Primary use, Accessory electric generating facility, or a Dual Use solar electric generating facility.
  - (2) 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.
      - [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.
  - (3) 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.
  - (4) Over parking areas. Where the facility is being constructed in or over an existing parking area, the facility:
    - (a) May not diminish the number of parking spaces below the minimum number required by the Zoning Bylaw.
    - (b) May not alter the stormwater runoff or drainage flow without an approved Stormwater Management Permit.
  - (5) Waivers. The Planning Board may, upon the prior written request of the applicant, waive any of the requirements of this § 275-7.6G but must state its reasons for doing so in writing as part of its decision on the Site Plan Review or Special Permit, whichever is applicable.
  - (6) Abandonment or decommissioning.
    - (a) Removal requirements. Any solar electric generating facility which has reached the end of its useful life or has been abandoned shall be removed. The owner or operator shall physically remove the installation within 150 days of abandonment or the proposed date of decommissioning, or the Town retains the right, after the receipt of an appropriate court order, to enter and remove an abandoned, hazardous or decommissioned solar electric generating facility. As a condition of site plan or special permit approval, an applicant shall agree to allow the Town entry to remove an abandoned or decommissioned installation. Reimbursement for removal shall be obtained from the financial surety posted by the applicant as part of the special permit issuance. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

- [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.
- (7) 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.
- (8) Design and performance standards.
    - (a) Lighting. Lighting of solar electric generating facilities shall be consistent with local, state and federal law.
      - [1] 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.
      - [2] 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.
      - [1] Signs on solar electric generating facilities shall comply with § 275-8.3, Signs.
      - [2] 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) Access. Access drives shall be constructed to minimize grading and removal of stone walls or trees and minimize impacts to environmental or historic resources.
  - (e) Vegetation management.
    - [1] Herbicides, pesticides, or chemical fertilizers may not be used to manage vegetation at the solar electric generating facility.
    - [2] Mowing, grazing and using geotextile materials underneath the solar array are possible alternatives.
    - [3] 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.
    - [1] The solar electric generating facility shall be designed to minimize impacts to agricultural and environmentally sensitive land and to be compatible with continued agricultural use of the land whenever possible.
    - [2] 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.
    - [1] If a permit in accordance with Chapter 227, Stormwater Management and Erosion and Sediment Control, is required, consideration of the permit application and plans submitted pursuant to Chapter 227 shall run concurrently 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.
- (9) 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. The owner and/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.
    - [1] Solar electric generating facilities shall be designed and constructed so as no such installations shall occur on any slopes greater than 15% in order to minimize erosion.
    - [2] No less than 50% of the land parcel utilized for solar electric generating facilities shall remain forested.

[3] No topsoil shall be removed from the land parcel under consideration for solar electric generating facilities.

[4] 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.

[5] A detailed earthworks estimate, and topsoil management plan is a required site plan submittal component. These documents demonstrate to the Board's satisfaction that the quantity is to be maintained.

H. Solar electric generating facilities requiring Site Plan Approval in accordance with Section IX.

- (1) The following type of solar electric generating facilities require an approved site plan in accordance with Section IX prior to obtaining a building permit.
  - (a) Large-scale solar electric generating facilities
  - (b) Medium-scale solar electric generating facilities.
    - [1] However, Medium-scale electric generating facilities may be approved under a Minor Site Plan Review pursuant to § 275-9.12 where.
      - The applicant is not requesting any waivers, or
      - The application demonstrates that the electricity being generated is primarily for on-site consumption, or
      - Not more than 20% of the trees on the site will be removed unless there is a plan to replace the removed trees with a similar number of new trees.
  - (c) Accessory solar electric generating facilities with a nameplate rating capacity greater than 250 kW DC.
    - [1] However, Accessory solar electric generating facilities may be approved under a Minor Site Plan Review pursuant to § 275-9.12 where the nameplate rating capacity is not more than 500 kW DC.
  - (d) Dual use solar electric generating facilities with a nameplate rating capacity greater than 250 kW DC.
    - [1] However, Accessory solar electric generating facilities may be approved under a Minor Site Plan Review pursuant to § 275-9.12 where the nameplate rating capacity is not more than 500 kW DC.
- (2) Procedures.
  - (a) Applicants shall submit applications and plans in accordance with § 275-Article IX and the procedures of the Southampton Planning Board Policies and Procedures.
  - (b) 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.
  - (c) 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 documentation has been received from the Town Clerk that constructive approval has occurred due to the Planning Board's failure to act.
- (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 conforming to the Planning Board Policies and Procedures and § 275-Article IX.
  - (b) Demonstration that the proposed project meets the standards for approval.
  - (c) Contact information
  - (d) Information demonstrating the project will conform to the provisions of § 275-7.6G.

- (e) For projects which will be connected to allow for distribution of the generated electricity or portion thereof to the electric distribution grid, information demonstrating agreement by the utility to allow connection to the grid.
- (f) An estimate of earthwork operations listing the amount of soil material to be imported to or exported from the site.
- (g) Existing isolated trees or shrubs ten-inch caliper or larger.
- (h) A schedule for filing an interconnection application with the utility.
- (i) 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.
- (j) Documentation by an acoustic engineer of the noise levels projected to be generated by the installation.
- (k) 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.

I. Solar electric generating facilities requiring Special Permit approval

- (1) In addition to Site Plan Review, a Special Permit is required for certain categories of solar electric generating facilities as indicated in § 275 Attachment 1 – Table 1 Use Regulations.
- (2) No building permit or certificate of use and occupancy shall be issued by the Building Commissioner/Inspector without the written approval of the Special Permit and certification by the Town Clerk that no appeal of the Special Permit decision has been filed.
- (3) Where a Special Permit and Site Plan Review are required, the Planning Board shall consolidate the review process but issue separate decisions on the two applications for the project.

J. Accessory solar electric generating facilities

- (1) Where the facility is being added to a facility for which Site Plan Review or Approval or a Special Permit has been granted, the Accessory solar electric generating facility must:
  - (a) Conform to all conditions of the previous Site Plan or Special Permit decision.
  - (b) Be approved as an amendment to the previously approved Site Plan or Special Permit. The Planning Board may grant such an amendment as a minor modification.
- (2) Where the facility is being constructed in or over an existing parking area, the facility:
  - (a) May not diminish the number of parking spaces below the minimum number required by the Zoning Bylaw.
  - (b) May not alter the stormwater runoff or drainage flow without an approved Stormwater Management Permit.

K. Dual Use solar electric generating facilities

- (1) Applications for any Dual Use solar electric generating facility must demonstrate it will not diminish the use of the property for an agricultural purpose.

**Article 28      Annual Community Preservation Program Budget**

To appropriate or reserve for later appropriation monies from Community Preservation Fund annual revenues or available funds for the administrative expenses of the Community Preservation Committee, the payment of debt service, the undertaking of community preservation projects and all other necessary and proper expenses for the year or take any other action relative thereto.

**Appropriations**

Community Preservation Committee- Administrative Expenses	\$7,500.00
Bond payment for 68 Pomeroy Meadow Rd. land	\$49,750.00

**Reserves**

Budgeted Reserves	\$348,424.00
Historic Resources	\$49,775.00
Community Housing Reserves	\$49,775.00
Open Space/Recreation Reserves (residual after bond payment)	\$25.00

**Article 29      CPA Funding for 2025 Grant Match for Greenway Design**

To see if the town will vote to transfer the sum of \$66,000 from Community Preservation Act Funds to the Greenway Committee, said funds to be transferred from Community Preservation Surcharges–Undesignated Account for the purpose of matching grant funds from 2025 MassTrails Grant for Phase 4 of the Greenway bicycle and pedestrian path design, or take any other action relative thereto.

<b>Revolving Funds</b>
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**Article 30      Revolving Fund Spending Limits**

To see if the town will vote to set the Revolving Fund FY 2026 spending limits for such funds as follows or take any other action relative thereto.

Program or Purpose	Use of Fund	FY 26 Spending Limit
Conservation	Operating Expenses/Admin. Expenses	\$ 10,000
Conservation Forestry	Oversight and Management of the Conservation Areas including forestry land	\$ 20,000
Council on Aging Van	Payment for Operation of COA Van	\$ 31,000
Dog Licensing & Control	Expenses Related to Admin. Of Licenses & Dog Control	\$ 8,000

Electrical Inspections	Payment for Electrical Inspection services	\$ 20,000
Fire Department (Brush Services)	Fire Chief to purchase brush firefighting equipment	\$ 10,000
Park Commission	Operating Expenses/Admin Expenses	\$ 10,000
Planning Board	Admin. Expenses	\$ 10,000
Planning Board	Consultant Costs	\$ 15,000
Plumbing Inspections	Payment for Plumbing inspection services	\$ 20,000
Tax Title	Tax Title related costs	\$ 10,000
Weights & Measures	Weights & Measures Fees	\$ 5,000
Zoning Board of Appeals	ZBA Expenditures	\$ 5,000



And you are hereby directed to serve this Warrant by posting attested copies thereof in six usual places in said Town, seven (7) days at least before the time of holding said meeting. Hereof, fail not, and make due return of the Warrant, with your doings thereon, to the Town Clerk, at the time and place of meeting, as aforesaid.

Given under our hands this twenty fifth day of April in the year Two Thousand and Twenty-Five.

SELECT BOARD

\_\_\_\_\_  
Christine Fowles

\_\_\_\_\_  
Jon Lumbra

\_\_\_\_\_  
Stephen Johnson

\_\_\_\_\_  
Dan LaValley

A True Copy:

ATTEST: \_\_\_\_\_  
Constable

OFFICER'S RETURN  
Hampshire, SS

Date: \_\_\_\_\_

This is to certify that I have served the within warrant by posting attested copies thereof in six usual places seven (7) days at least before the time of holding said meeting.

\_\_\_\_\_  
Constable

A True Copy, ATTEST:  
Lucille Dalton, Town Clerk of Southampton