

DRAFT BESS BYLAW

To see if the Town will vote to amend the Southampton Zoning Bylaw Chapter 275 of the Code of Southampton, by amending § 275-2.2 “Terms defined in other sections” to insert a new section regarding “Battery Energy Storage Systems”; amend § 275-7.6 “Solar Electric Generating Facilities” regarding Battery Energy Storage Systems; Article VII “Overlay Districts; Specific Use and Development Regulations” to insert a new Section § 275-7.17 “Battery Energy Storage Systems”; and Attachment 1 – Table 1 Use Regulations regarding “Battery Energy Storage Systems” and how such solar generating facilities are permitted or prohibited.

In Section § 275-2.2 “Terms defined in other sections”, insert the following:

D. Battery Energy Storage Systems terms

In Section § 275-7.6 “Solar Electric Generating Facilities” by adding the following sentences to § 275-7.6.C.(5):

All Battery Energy Storage Systems shall conform to the provisions of § 275-7.17. In the event of any conflict between § 275-7.6 and § 275-7.17 regarding Battery Energy Storage Systems, the provisions of § 275-7.17 shall govern.

In Attachment 1 – Table 1 Use Regulations, insert the following regarding “Battery Energy Storage Systems” and indicate how they are permitted or prohibited within the various zoning districts:

Primary Use	R-R	R-N	R-V	C-V	C-H	I-P
Tier 1	N	N	N	N	N	SP
Tier 2	SP	PB	N	N	SP	SP
Tier 3	PB	PB	N	N	PB	SP

Accessory Use	R-R	R-N	R-V	C-V	C-H	I-P
Tier 1	P	P	P	P	P	P
Tier 2	SP	SP	N	N	SP	SP
Tier 3	PB	PB	N	N	PB	SP

Accessory Use						
Solar Facility BESS	R-R	R-N	R-V	C-V	C-H	I-P
Tier 1	P	P	P	P	P	P
Tier 2	SP	SP	N	N	SP	SP
Tier 3	PB	PB	N	N	PB	SP

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In Article VII “Overlay Districts; Specific Use and Development Regulations”, insert the new § 275-7.17 regarding “Battery Energy Storage Systems” to read as follows:

A. Purpose

The purpose of this § 275-7.17 is to allow for the development and installation of new Battery Energy Storage Systems (BESS) where consistent with Southampton goals and objectives and applicable State and municipal laws, rules, and regulations by providing standards for placement, design, construction, operation, monitoring, modification, and removal of such systems that address public safety, minimize the impacts on the scenic, natural and historic resources, and to provide adequate financial assurance for the eventual decommissioning of such installations.

This § 275-7.17 is intended to be consistent and align with the consolidated siting and permitting process for small clean energy infrastructure facilities established under Chapter 239 of the Acts of 2024.

B. Definitions.

Accessory Use: A BESS Installation is considered an Accessory Use when it is secondary to the use of the premises for other lawful purposes. An Accessory Use cannot exist without a Primary Use on the same lot.

Accessory Use Solar Facility BESS. A BESS Installation co-located with solar photovoltaic facilities is considered to be an accessory use to the solar electric generating facility.

As-of-Right or By Right Siting: As-of-Right Siting shall mean that development may proceed without the need for a Special Permit, variance, amendment, waiver, or other discretionary approval. As-of-Right development may be subject to site plan review to determine conformance with local zoning ordinances or bylaws. Projects allowed As-of-Right, including those subject to Site Plan Review, cannot be prohibited except as provided by 225 CMR 29.00, but can be reasonably regulated by the person or board designated by local ordinance or bylaw. The designated person or board may be the Planning Board or the inspector of buildings, building commissioner or local inspector, or if there is none in a town, the board of selectmen, or person or board designated by local ordinance or bylaw.

Aggregate Energy Capacity: Total amount of energy stored that can be stored in all batteries that are part of the BESS measured in kilowatt-hours (kWh) or megawatt-hours (MWh).

Battery or Batteries: A single cell or group of cells connected electrically in series, in parallel, or combination of both, which can charge, discharge and store energy electrochemically. For the purposes of this bylaw, batteries utilized in consumer products are excluded from these requirements.

Battery Energy Storage System (BESS): A system consisting of one or more battery modules for storing electrical energy, any equipment needed to support the safe and proper function or usage of the battery modules, and one or more physical containers providing secondary containment to any of the above. It may be a primary use or an Accessory Use to a solar generating facility, power generation facility, electrical substation, or other similar uses. BESS are classified as Tier 1, Tier 2, Tier 3, and Tier 4 as follows:

- (1) Tier 1 BESS Installations include systems with an aggregate energy capacity of less than 250 kWh. The facility must comply with the State's Electrical Code (527 CMR. 12.00), the State's Fire Code (527 CMR 1.00), and National Fire Protection Association (NFPA) 855 or subsequent standard.
- (2) Tier 2 BESS Installations include systems with an aggregate energy capacity of 250 kWh, but less than 10 MWh. The facility must comply with the State's Electrical Code (527 CMR. 12.00), the State's Fire Code (527 CMR 1.00), and NFPA 855 or subsequent standard.
- (3) Tier 3 BESS Installations include systems with an aggregate energy capacity of 10 MWh or more and less than 100 MWh. The facility must comply with the State's Electrical Code (527 CMR. 12.00), the State's Fire Code (527 CMR 1.00), and NFPA 855 or subsequent standard.
- (4) Tier 4 BESS Installations include systems with an aggregate energy capacity of 100 MWh or more. Permitting Tier 4 BESS Installations lies within the jurisdiction of the Massachusetts Energy Facilities Siting Board pursuant to Massachusetts General Laws. The provisions of the Southampton Zoning Bylaw shall apply to the extent allowed by law.

Brownfield: A disposal site that has received a release tracking number from MassDEP pursuant to 310 CMR 40.0000: Massachusetts Contingency Plan, the redevelopment or reuse of which is hindered by the presence of oil or hazardous materials, as determined by the Department, in consultation with MassDEP. The terms "disposal site," "release tracking number," "oil," and "hazardous materials" shall have the meanings given to such terms in 310 CMR 40.0006: Terminology, Definitions and Acronyms. No disposal site

that otherwise meets this definition shall be excluded from consideration as a Brownfield because its cleanup is also regulated by the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601-9675, the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6921 - 6939g, or any other federal program.

Building-Integrated BESS: A BESS facility that is installed within, on, or directly adjacent to the building or structure the BESS will serve. This does not include a building constructed for the primary purpose of housing a BESS Installation.

Co-located BESS: A BESS Installation developed within or directly adjacent to the boundaries of an existing or proposed solar photovoltaic installation, power generating station, electrical substation, or similar facility.

Community Benefits Agreement (CBA): A legally binding, negotiated agreement between a project applicant and a community, often represented by a coalition of community groups or a local government body, which outlines benefits the communities will receive and is prepared and executed in accordance with applicable laws. This agreement should be based on the final Community Benefits Plan.

Community Benefits Plan (CBP): A document that details how a project will engage with and benefit local communities during development and operation of a Solar Photovoltaic Installation or BESS Installation and is developed in accordance with applicable laws and standards including this bylaw. The draft of the plan is to be provided by the applicant proposing to develop a Solar Photovoltaic Installation or BESS Installation while the final plan is one agreed to by both the applicant and the Town of Southampton Selectboard.

The purpose of the Community Benefits Plan is to establish commitments to provide meaningful and measurable benefits to the Town of Southampton and its residents in connection with the development and operation of a specific facility. Accordingly, the CBP should detail and address the following topics as appropriate for the proposed facility:

- (1) Mitigation measures
- (2) Emergency Services Support
- (3) Road Maintenance and infrastructure
- (4) Vegetation and Land Management Benefits
- (5) Annual Payments to the Community
- (6) Municipal Energy Cost Reduction
- (7) Municipal Capital Improvement Contribution

(8) Community Benefits Fund

DOER: The Massachusetts Department of Energy Resources.

Emergency Operations Plan (EOP): A written plan that defines plans and procedures used to shut down or isolate the system in the event of an emergency that addresses threats to personnel, the environment, and system hardware. This includes practices and procedures needed to mitigate the chances of an emergency occurring as well as the appropriate and necessary measures for responding to anticipated emergencies.

National Fire Protection Association (NFPA): Association of fire safety professionals that provides safety standards for the aid in the development of local and state fire codes.

PFAs (Per And Polyflouroalkyl Substances): A class of man-made chemicals used in many consumer products to alter their water, grease, and heat-resistant properties. They are frequently used in fire suppression foams.

Stand-Alone Primary-Use BESS Installation: A BESS facility that is a Primary Use of the parcel and is not co-located with solar photovoltaic installations, power generating stations, and electrical substation and is not an Accessory Use to the Primary Use of the parcel.

C. Applicability and Permitting

(1) Pre-Filing Requirements

(a) As applicable per 225 CMR 29.08: Pre-Filing Requirements and the DOER Guideline on Pre-Filing Stakeholder Engagement, Applicants must complete several pre-filing steps including, but not limited to, filing a Notice of Intent to File Application, meeting Public Notice Requirements, and submitting a Pre-Filing Engagement Completion Checklist.

(2) This § 275-7.17 shall apply to the construction, installation, operation, expansion, and/or decommissioning of BESS Installations within the Town of Southamptn as permitted by applicable laws. Modifications, replacements, expansions, and/or retrofit of pre-existing BESS installations which increase total battery energy storage capacity, designed discharge duration or power rating of said installations shall also be subject to the provisions of this § 275-7.17.

(3) Building Permit and Building Inspection. No BESS Installation shall be constructed, installed, or modified as provided in this section without first obtaining building and/or electrical permits. All applications for the required building permit must

include the required application materials including but not limited to the application fees.

(4) Building-Integrated and Accessory Use BESS

(b) BESS that are Building-Integrated, whether with a residential or commercial building, shall not be erected, constructed, installed, or modified as provided in this section without obtaining a building permit from the Building Inspector.

(c) Building-Integrated BESS may be coupled with rooftop solar or behind the meter applications for peak shaving.

(d) Building-Integrated BESS are classified by tier based on aggregate energy capacity and are subject to the applicable permitting requirements of the appropriate tier as specified herein.

(5) Co-Located Accessory Use Solar Facility BESS

(a) BESS that is co-located with solar photovoltaic facilities shall not be erected, constructed, installed, or modified as provided in this section unless approved as part of the permitting for the solar electric generating facility as provided in §275-7.6.

(b) BESS that is co-located with solar photovoltaic facilities may be coupled with any permitted solar electric generating facility and must be appropriately and reasonably sized for such facility.

(c) BESS that is co-located with solar photovoltaic facilities are classified by tier based on aggregate energy capacity and are subject to the applicable permitting requirements of the appropriate tier as specified herein. Where this § 275-7.17 imposes more stringent requirements on the BESS than are imposed on the associated solar facility under §275-7.6, the provisions of this § 275-7.17 shall govern relative to the BESS.

(6) Stand-Alone Primary-Use BESS Installation. ESS that are not co-located with solar photovoltaic installations, power generation stations, and electrical substations are only permitted in locations specified in Attachment 1 – Table 1 Use Regulations.

(7) Prohibited within Water Supply Protection Overlay District. Notwithstanding the classification of permitted and prohibited uses in Attachment 1 – Table 1 Use Regulations, no Tier 2, Tier 3, or Tier 4 BESS shall be located within the Water Supply Protection Overlay District.

- (8) Project Site Ownership or Control. As part of any application (Building Permit, Site Plan Review, Special Permit, Variance, etc.), the project owner or operator shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed BESS Installation.
- (9) Pre-permitting baseline data.
 - (a) Prior to submitting any permitting application, the applicant shall develop and document baseline pre-development data regarding water quality at the property lines of the site on which a Tier 2, Tier 3, or Tier 4 BESS Installation is proposed. Such data must be supported by on-site test well logs.
 - (b) To the extent practical, prior to submitting any permitting application, the applicant shall develop and document baseline pre-development data regarding noise levels at the property lines of the site on which a Tier 2, Tier 3, or Tier 4 BESS Installation is proposed.

D. Site Plan Review and Special Permit Applications

- (1) Site Plan Review and/or Special Permits are required for Tier 2, Tier 3, and/or Tier 4 Battery Energy Storage Systems as specified in Attachment 1 – Table 1 Use Regulations. Where such Site Plan Review or Special Permit are required, said Site Plan Review or Special Permit shall be approved by the Planning Board prior to construction, installation, or modification of said BESS.
- (2) All applications for Site Plan Review and Special Permit must be in conformance with the requirements of the Southampton Planning Board Policies and Procedures.
- (3) The Planning Board is authorized to develop Policies and Procedures governing the requirement for Site Plan Review and Special Permit applications for BESS installations. Said Policies and Procedures may specify application requirements, site plan requirements, and supplemental submission requirements and the procedures for processing and review of the applications. Among the supplemental submission requirements, the Policies and Procedures may address various topics including but not limited to community impacts, noise, environmental, safety, and ownership.
- (4) Waivers. Upon written request by the applicant, the Planning Board may waive or reduce any of the requirements of this 275-7.17 by the same majority vote required for a Special Permit itself.
 - (a) Said waiver shall only be granted upon written findings of:

- i. Special circumstances of the site, its surroundings, or the proposal design that negate the need for imposition of the requirement and substitution with a different requirement which achieves the objective of the specified requirement; and
 - ii. That such a waiver or reduction will not result in a BESS that is less protective of public health, safety, and welfare than if the waiver were not granted.
 - (a) Such waiver requests must be made by the applicant as part of their application for Site Plan Review or a Special Permit.
 - i. In the event that need for unanticipated waivers arise during the course of the Planning Board review of the Site Plan Review or Special Permit application, the applicant shall submit the request as soon as possible along with an authorization to extend the deadline for rendering of a decision on the application by a period of no less than 65 days to afford an opportunity to advertise the request for the waivers, solicit departmental comments, and provide the Planning Board sufficient time to review and evaluate the waiver requests.
 - (b) An affirmative or negative vote by the Planning Board on any requested waivers shall not be construed as an approval or disapproval of the Special Permit sought.
- E. General Requirements. The following requirements are common to all BESS Installations (except as specifically noted otherwise) to be sited in designated locations.
- (1) Compliance with Laws, Ordinances, and Regulations. The construction, operation, and decommissioning of all BESS Installations shall be consistent with all applicable local, state, and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements.
 - (a) All buildings and fixtures forming part of a BESS Installation shall be constructed in accordance with the State Building Code.
 - (b) Other applicable requirements may include but are not limited to DOER's Regulations and Guidance for Small Clean Energy Infrastructure Facility Siting and Permitting, Department of Environmental Protection (MassDEP) noise standards, the State Fire Code, the Massachusetts Environmental Policy Act (MEPA), and other applicable local bylaws and regulations.
 - (2) All permits required by State Code, including but not limited to building, electrical, and fire department permits shall be required for, and obtained prior to, installation of all BESS.

- (3) When Site Plan Review or Special Permit is required, said Site Plan Review and/or Special Permit shall be obtained prior to applying for any building, electrical, or fire department permits.
- (4) NFPA 855. BESS capacities, including array capacity and separation, are limited to the thresholds contained in NFPA 855.
- (5) Certification and Equipment Standards.
 - (a) BESS and associated equipment shall be certified by a Nationally Recognized Testing Laboratory to UL 9540 (Standard for BESS) or approved equivalent standard. or subsequent standard. All subcomponents shall meet the following standards as applicable:
 - i. UL 1973 (Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power and Light Electric Rail)
 - ii. UL standards for the battery technology used in the BESS Installation (e.g., UL 1642, Standard for Lithium Batteries)
 - iii. UL 1741 (Inverters and Power Converters)
 - iv. UL 62109 (Power Conversion Equipment - PCE)
 - (b) Any referenced UL standard incorporates any subsequently approved replacement standard.
 - (c) For all Tier 2 and Tier 3 systems, the UL9540A test report for the product shall be made available to the fire marshal, building officials, and Planning Board.
 - (d) The BESS shall be maintained in good working order and in accordance with industry standards.
 - (e) Required working space clearances shall be maintained for all BESS, components, and ancillary equipment.
 - (f) For all Tier 2, Tier 3 and Tier 4 BESS facilities, the owner or operator shall submit an Annual Compliance Certification to the Planning Board, Fire Chief and Select Board. The Certificate shall:
 - i. Be submitted annually on or before a date specified by the Special Permit.
 - ii. Be signed by a qualified professional familiar with the facility.
 - iii. Certify that no material modifications have been made without approval.
 - iv. Identify any deficiencies and include a corrective action plan.
 - (g) Failure to submit any required certifications including the Annual Compliance Certification or submission of a materially false certification shall constitute a violation this bylaw.
- (6) Fees. All applications for Site Plan Approval, Special Permit, Stormwater Permit, Building Permit, and any other required approvals or permits must be accompanied by the applicable fees.

F. Site Design and Operational Standards. The following standards applicable to all BESS Installations as described below in designated locations.

(1) Setbacks - General.

- (a) Front yard. All BESS shall be setback the greater of the (i) 50 feet or (ii) the minimum front yard setback for the zoning district in which it is located or (iii) the front of the principal building located on the subject property from the front lot line.
- (b) Side and Rear yard. All BESS shall be setback a minimum of 50 feet from the side and rear lot lines.
- (c) Buffer/Screening. The minimum setback area shall include a vegetated Buffer/Screening area of at least twenty (20) feet along all property lines.
 - (i) No driveways, parking areas, or utilities shall intrude into this buffer/screening area except to the minimal extent necessary to provide access or egress to the property and BESS facility.

(2) Setbacks – Tier 2, Tier 3, and Tier 4

- (a) Front, Rear, and Side yards. Tier 2, Tier 3, and Tier 4 BESS shall be setback a minimum of one hundred (100) feet from front, side, and rear lot lines that abut or are across a street from any residential zoning district or any existing residential occupancy building.
- (b) Buffer/Screening. Views of the Tier 2, Tier 3, and Tier 4 installations from adjacent properties and residential properties on the opposite side of the accessing roadway shall be minimized to the extent practical using architectural, ground, and landscaping features or other screening methods that are in harmony with the character of the property and surrounding area.
 - (i) Required screening features shall not inhibit air flow or exhaust from the BESS facilities including any associated components.
 - (ii) Required screening and buffers shall be of a species, type, and size to provide year-round screening and shall be maintained year-round.
 - (iii) Diseased or damaged elements of the buffer/screening shall be replaced as quickly as reasonably practicable.
 - (iv) Project owners are responsible for maintaining screening throughout the life of the installation.
 - (v) Waiver. Upon request by the applicant at time the application is submitted, the Planning Board may waive elements of the buffer/screening requirements.
- (c) Wells and Septic Systems. Tier 2, Tier 3, and Tier 4 BESS shall be sited at least one hundred fifty (150) feet from wells and septic systems.

(3) Dimensional Standards - Appurtenant Structures.

- (a) All appurtenant structures to BESS Installations that shall be subject the same bulk and height of structures, lot area, setbacks, open space, parking, and building coverage requirements as the primary structures.
 - i. All such appurtenant structures, including but not limited to equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other.
 - ii. Structures should be shaded from view by vegetation and/or joined or clustered to avoid adverse visual impacts.
 - iii. Waiver. The Planning Board may grant a waiver from the applicable requirements where the Board determines such a waiver is consistent with the purpose of this section and does not adversely impact adjoining or nearby residential properties.

(4) Vehicular Access – applicable to Tier 2, Tier 3, and Tier 4 Installations

- (a) All access roads/driveways shall be at least twenty (20) feet wide, constructed of an all-weather surface, and cleared of obstructions on both sides by at least two (2) feet.
- (b) A sixteen (16) foot vertical clearance shall be maintained for large vehicle access.
- (c) Access gates erected on site shall be at least twelve (12) feet wide and accessible by all designated emergency response entities.
- (d) Access is to be provided to all four sides of each enclosure to the extent practical.
- (e) Roadway grades, surfaces, and turning radii must be sufficient to accommodate fire apparatus and highway equipment.
- (f) Access shall be maintained year-round including snow removal, to the satisfaction of the Southampton Fire Department.
- (g) Waiver. The provisions of this section may be waived by the Planning Board upon request by the applicant and a submission by the Southampton Fire Department that such a waiver will not be contrary to public safety.

(5) Utility Lines – applicable to Tier 2, Tier 3, and Tier 4 Installations

- (a) All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility provider.

(6) Water Access to Site

- (a) The quantity of water and means of water supply must be readily accessible on site in case of emergency, in compliance with Fire Code standards.

- (b) The Planning Board will seek and rely upon the Southampton Fire Department's review and approval of the water supply in determining whether an application complies with this standard.
- (7) Fire Protection and Fuel Management Break – applicable to Tier 2, Tier 3, and Tier 4 Installations
 - (a) A fire protection buffer including a fuel break with a minimum depth of fifty feet (50) shall be maintained around all BESS equipment, enclosures, and associated infrastructure.
 - (b) The fuel break shall:
 - i. Be cleared or managed to reduce the risk of fire spread.
 - ii. Contain no combustible materials.
 - iii. Be maintained by the Owner or Operator for the life of the-facility.
 - (c) Vegetation management should balance fire risk reduction with minimization of unnecessary clearing.
 - (d) PFAs. Non-PFAS fire-suppression foams shall be employed to the extent that they are commercially available, efficacious, and compliant with federal and state fire codes.
- (8) Hazardous Materials
 - (a) Storage of hazardous materials shall be minimized to the extent essential for the safe operation and maintenance of the BESS Installation.
 - i. Any such materials shall be stored in a suitable facility.
 - ii. Information on such materials shall be provided to the Fire and Police Departments.
 - (b) Containment of Liquid Hazardous Materials. Liquid hazardous materials shall be stored in a containment area that, in the case of leaks, is capable of containing 110% of the largest volume stored in the containment area.
- (9) Fencing and Site Security – applicable to Tier 2, Tier 3, and Tier 4 Installations
 - (a) All Tier 2, Tier 3 and Tier 4 BESS facilities, including all mechanical equipment, shall be enclosed by a minimum eight-foot-high (8') chain-link or comparable fence with self-locking gates to prevent unauthorized access.
 - (b) Security barriers, fences, landscaping, and other enclosures must not inhibit required airflow to or exhaust from the BESS and its components.
 - (c) Electrical equipment greater than 1000V require a separate and additional means to restrict access.
 - (d) In accordance with NFPA 855 specialty safety systems are to be provided based on the BESS chemistry and installed locations.

- (e) If applicable, fencing for all BESS Installations shall comply with standards established by the electric utility to which the BESS connects.
- (10) Signage
- (a) Only signage necessary for the operation and maintenance of the BESS installation and associated equipment in compliance with regulatory requirements shall be installed.
 - (b) Required signage shall be clearly visible and durable and is to be installed at all site entrances and on BESS equipment as appropriate and necessary.
 - (c) Signage shall be in compliance with American National Standards Institute (ANSI) Z535 and include the type of technology associated with the battery energy storage systems, any special hazards associated, the type of suppression system installed in the area of battery energy storage systems, and 24-hour emergency contact information, including reach-back phone number.
 - (d) All information should be clearly displayed on a light-reflective surface.
 - (e) High voltage warning signage shall be Installed at pad-mounted equipment and electrical enclosures.
 - (f) All signage shall be reflective and maintained in legible condition.
 - (g) As required by the NEC, NFPA 708 (2020) Article 705.10 and Article 712.10, disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
 - (h) Signage compliant with ANSI Z535 shall be provided on doors to rooms, entrances to BESS facilities, and on BESS outdoor containers.
 - (i) Signage must be updated to reflect any changes to contact information within 60 days of any changes.
- (11) Lighting
- (a) Lighting of BESS Installations shall be consistent with local, state and federal laws, and the DOER Guideline on Common Conditions and Guideline on Public Health, Safety, and Environmental Standards.
 - (b) Lighting shall be limited to what is minimally necessary for safety and operational purposes and shall be shielded and directed downward to avoid glare onto abutting properties and roadways.
 - (c) Motion-activated lighting should be used where feasible.
 - (d) All lighting shall comply with International Dark Sky Standards FSA Certification Requirements.

(12) Noise

- (a) BESS Installations must comply with all state noise regulations (310 CMR 7.10) and local noise bylaws or regulations.
- (b) BESS Installations must be constructed and managed to ensure that noise generated from such Installations do not constitute a Nuisance in violation of Chapter 206 of the Town of Southampton General Bylaws.
- (c) Noise generated as a result of BESS and associated equipment shall be managed to ensure that it does not disrupt the enjoyment of adjoining and nearby property.
- (d) To the extent practicable, noise producing equipment shall be located at the maximum distance possible from residences and other sensitive noise receptors.
- ~~(e) Noise generated by the BESS and associated equipment shall not exceed:
 - i. Sixty (60) dBA as a one-hour average at the property line.
 - ii. A more stringent standard may be imposed if recommended by the Board of Health or other applicable authority.~~

(13) Vegetation and Tree-Cutting – applicable to Tier 2, Tier 3, and Tier 4 Installations

- (a) All combustible vegetation shall be removed for a minimum distance of fifty (50) feet from the BESS modules.
- (b) Single trees, shrubs, and cultivated ground covers (e.g., grass, ivy, succulents) are exempt if they do not facilitate rapid fire transmission.
- (c) Clearing of natural vegetation shall be limited to what is necessary for construction, operation, and maintenance of the BESS Installation and associated equipment while being in compliance with applicable laws, bylaws and regulations.

(14) Stormwater and Drainage

- (a) Stormwater management shall be designed, permitted, constructed, and maintained in accordance with the Town's Stormwater Management and Erosion and Sediment Control Bylaw (Chapter 227 of the Town's General Bylaws)
- (b) Stormwater systems shall comply with all applicable local, state, and federal requirements and shall be shown on the approved site plan.
- (c) At a minimum, stormwater management systems shall be designed to:
 - i. Prevent erosion and sedimentation
 - ii. Protect surface and groundwater resources
 - iii. Avoid off-site runoff impacts

G. Utility Notification

- (1) No BESS Installation 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 BESS owner or operator's intent to install an interconnected customer-owned generator.

(a) Off-grid systems shall be exempt from this requirement.

H. Emergency Services

(1) Emergency Response Plan

(a) For all Tier 2, Tier 3, and Tier 4 BESS Installations the proponent shall prepare an Emergency Response Plan which addresses the following elements:

- i. Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions.
- ii. Procedures for inspection and testing of associated alarms, interlocks, and controls.
- iii. Procedures to be followed in response to notifications from the BESS management system, when provided, that could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to fire department personnel for potentially hazardous conditions in the event of a system failure.
- iv. Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures can include sounding the alarm, notifying the fire department, evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire.
- v. Response considerations similar to a safety data sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required.
- vi. Procedures for dealing with BESS equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged battery energy storage system equipment from the facility.
- vii. Other procedures as determined necessary by the Municipality to provide for the safety of occupants, neighboring properties, and emergency responders.
- viii. Procedures and schedules for conducting drills of these procedures and for training local first responders on the contents of the plan and appropriate response procedures.

- (b) Preparation of the Emergency Response Plan shall be undertaken in consultation with the Southampton Emergency Management Director.
 - (c) The Emergency Response Plan shall be submitted to and approved by the Southampton Emergency Management Director prior to submission of any application for Site Plan Review or Special Permit.
 - (d) Any revisions to the Emergency Response Plan resulting from changes to the project made during the Site Plan Review and/or Special Permit approval process shall be submitted to the Emergency Management Director prior to system commissioning.
 - (e) A permanent copy shall be placed in an approved location to be accessible to facility personnel, fire code officials, and emergency responders.
- (2) The BESS owner or operator shall provide a copy of the project summary, electrical schematics, and site plan to the Southampton Fire Department for review. At a minimum, this submittal shall:
 - (a) Clearly mark all means of shutting down the BESS.
 - (b) Identify a person responsible for public inquiries throughout the life of the installation.
 - (c) Identify any hazardous materials to be stored on site and the means of containment.
- (3) Any fire, explosion, thermal event, release, system failure, or other emergency incident involving a BESS shall be reported immediately to the Fire Department, the Southampton Emergency Management Department and the Southampton Town Administrator.
 - (a) A written incident report shall be submitted to the Fire Chief, Planning Board, and Selectboard within 24 hours of the incident having occurred.
- (4) In the event of a fire, battery leakage, or any system failure that may impact the health, welfare, or safety of residents of Southampton or surrounding communities, the Building Commissioner acting as the Zoning Enforcement Officer shall have the authority to require an immediate shutdown of the BESS and/or associated solar operation, notifying Southampton Fire Department and Police Department of same.
 - (a) The facility shall remain non-operational until it successfully passes all inspections, testing, and certifications required to demonstrate that it can safely resume operations to the satisfaction of the Building Commissioner and Fire Chief or their designated agents.
 - (b) Subsequent to any emergency shutdown, the Southampton Fire Chief may hire a qualified third-party Energy Safety Expert to inspect the BESS operations for

safety and regulatory compliance. The cost of this inspection shall be borne by the applicant or current owner/operator of the facility.

(5) Training and Emergency Response Drills

(a) For Tier 2, Tier 3 and Tier 4 BESS facilities, the owner or operator shall conduct emergency response training and drills for local emergency responders.

- i. A training and drill plan shall be submitted to and approved prior to operation of the BESS by the Fire Chief and/or his/her delegate.
- ii. Training shall include reviews of the system layout, hazards, shutdown procedures, and response protocols.
- iii. Training frequency and scope shall be consistent with the approved Emergency Operations Plan.
- iv. Training will include the emergency response to residents who may be impacted in the surrounding area.

I. Monitoring and Maintenance

(1) BESS Installation Conditions. The BESS Installation 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 at a level acceptable to the Southampton Fire Department and Emergency Management Director. The owner or operator shall be responsible for the cost of maintaining the BESS Installation and any access road(s), unless accepted as a public way.

(2) Modifications. All material modifications to BESS installations which require a Site Plan Review made after the issuance of the required building permit shall require approval by the Planning Board.

(a) Any increase in Site Footprint or capacity in kWDC or kWhDC, or significant alterations to project configuration shall constitute a material modification.

(3) Change of Ownership. The BESS Installation owner or operator must provide written notification to the Southampton Planning Board, Building Commissioner, and Selectboard at least 60 prior to any change of project ownership. Notifications must include name, business address, phone number, email address, and emergency phone number of the new owner.

J. Abandonment or Decommissioning

(1) Removal Requirements. The BESS Installation responsible party (owner and/or operator) shall comply with all decommissioning and abandonment standards set forth in the DOER's Guideline on Public Health, Safety, and Environmental

Standards and Guideline on Common Conditions and the Decommissioning Plan submitted as part of the Site Plan Review and/or Special Permit application.

- (a) In the event that the Decommissioning Plan approved as part of the Site Plan Review and/or Special Permit approval differs from the requirements set forth in the DOER's Guideline on Public Health, Safety, and Environmental Standards and Guideline on Common Conditions, the more stringent requirements that result in the quickest and most complete vegetative restoration of the site consistent with the public health shall govern.
- (b) Any BESS Installation which has reached the end of its useful life or has been abandoned consistent with this bylaw shall be removed.
- (c) The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations.
- (d) The owner or operator shall notify the Southampton Planning Board, Building Commissioner, and Town Administrator by certified mail of the proposed date of discontinued operations and plans for removal.

(2) Decommissioning shall consist of:

- (a) Physical removal of all BESS Installations, structures, equipment, security barriers, and distribution and/or transmission lines from the site.
- (b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- (c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or designated below-grade foundations to minimize erosion and disruption to vegetation.

(3) Abandonment.

- (a) The BESS shall be considered abandoned when it ceases to operate consistently for more than twelve (12) months.
- (b) The system shall be presumed abandoned if the owner and/or operator fails to respond affirmatively within thirty (30) days to a written inquiry from the Building Inspector as to the continued validity and operation of the system.
- (c) If the owner or operator fails to comply with decommissioning upon any abandonment, the Town of Southampton shall have the right, to the extent it is otherwise duly authorized by law, to enter the property and physically remove the installation at the expense of the owner of the installation and the owner(s) of the site on which the installation is located. The Town may use the financial surety as described under "Decommissioning Fund" below for this purpose.

- (4) Decommissioning Fund.
- (a) Prior to construction, the project owner shall provide to the Town of Southampton, in cash, bond, letter of credit, escrow, or another form reasonably acceptable to the Town of Southampton, a surety to cover the cost of removal in the event the owner has failed to remove the BESS Installation and restore the site and the Town of Southampton determines it is in the public health interest to remove the BESS Installation and remediate the landscape.
 - (b) The amount of the surety shall be established by the Southampton Planning Board as part of the Site Plan Review and/or Special Permit approval process.
 - i. The Planning Board may set the surety amount at 125 percent (125%) of a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer and upon review of said estimate by the Planning Board's Peer Review Engineer for the project.
 - ii. The project owner shall provide an updated estimate after ten (10) years of project operation and subsequent updates in five-year intervals after that date, for the remainder of the project's lifetime. The project owner shall provide additional surety in the amount of 125 percent of the most recent estimated cost of decommissioning as reflected in an estimate prepared by a qualified engineer and upon review of said estimate by the Planning Board's Peer Review Engineer for the project.
 - (c) This surety will not be required for municipally or state-owned facilities.