

**ZONING BY-LAWS  
OF THE TOWN OF  
SOUTHAMPTON, MASS.**



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# AMENDMENTS

## ADOPTED AT 1986 ANNUAL TOWN MEETING

(1)

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

(2)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Under Table I-Use Regulations

Agricultural line 6, delete the word swine".

I hereby certify that the attached is a true copy of the Zoning By-Law of the Town of Southampton;  
 adopted, approved, and amended as follows

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

Attest:

Eileen Couture, Clerk  
 Town of Southampton

# **TOWN OF SOUTHAMPTON**

## **ZONING BY-LAW**

### **SECTION I**

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

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

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

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

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

## **SECTION II**

### **DEFINITIONS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## ESTABLISHMENT OF ZONING DISTRICTS

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

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

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

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

be construed to be parallel thereto and at such distance therefrom as shown on the Zoning Map if no dimension is given, such distance shall be determined by the use of the scale shown on the Zoning Map.

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

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

1. Where a boundary is indicated as a street, alley, railroad, watercourse, or other body of water, it shall be construed to be the centerline or middle thereof, or where such boundary approximates a town boundary, then to the Limits of the town Boundary.
2. Where a boundary is indicated as following approximately or parallel to a street, alley, railroad, watercourse, or other body of water, it shall



## SECTION IV

### INTERPRETATION AND APPLICATION

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

## SECTION V

### USE REGULATIONS

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

**Table 1. Use Regulations**

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

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

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

**Retail and Service**

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

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

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

**Wholesale, Transportation and Industrial**

1. Earth removal (Section XI.F)	SBS	SBS	SBS	SBS	SBS	SBS
2. Processing earth products (Section XI.F)	SBS	SBS	-	-	SBS	SBS
3. Manufacturing	-	-	-	-	-	S
4. Construction industry and supplies	-	-	-	-	S	P
5. Freight terminal and warehousing	-	-	-	-	S	P
6. Bus passenger terminal	-	-	-	P	S	P
7. Other transportation service	-	-	-	S	S	S
8. Wholesale trade and distribution	-	-	-	-	S	S
9. Open storage of materials and equipment	-	-	-	-	S	S
10. Research offices and development activities	-	-	S	S	P	P
11. Planned industrial development (section XI,D)	-	-	-	-	-	S
12. Facilities for the storage, transfer, treatment, incineration (including but not limited to low level Radioactive wastes). (Section XI, I)n						

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

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

## SECTION VI

### AREA, HEIGHT AND BULK REGULATIONS

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

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

\*50 feet when adjacent to a "R" district.

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

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

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

Community facilities, and public utilities, only one principal structure shall be permitted on

one lot. Minimum distance between buildings shall be twice the required side yard.

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

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

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



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

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

Following:

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

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

c. Steps or stoop over four feet in height, windowsill, chimney roof eave, fire escape,

fire tower, storm enclosure or similar architectural features, not more than two feet.

At no street intersection in any district shall any obstruction to vision exceeding 3-1/2 feet in

height above the plans established by the intersecting streets be placed or permitted to grow, on any lot within the triangle formed by the lot lines abutting the intersecting streets and a line connecting points on these lot lines at a distance of 25 feet from the point of intersection of the lot lines.

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

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

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

It shall not exceed 20 feet in height.

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

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

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

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

Table 3. Height and Bulk Regulations

(See Notes)

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

\*1.) Two family-768 Sq. Feet by Special Permit  
Multifamily-not permitted

\*2.) Two family-not permitted

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

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

1. Any maximum height permitted in this By-Law shall not apply to:

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

The height permitted in the district.

- b. Necessary appurtenant structures, such as church spire, smokestack, monument, flagpole, radio or television tower, aerial, airplane hanger, chimney or parapet wall, or any similar

Appurtenances not in any manner used for human occupancy.

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

## SECTION VII

### SIGNS

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

**B.** General Regulations

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

9. In any district one unlighted temporary sign of an architect, engineer or contractor erected during the period such person is performing work on the premises on; which such sign is erected shall be permitted, provided: It shall not exceed four square feet in surface area: and it shall be set back at least 10 feet from the street lot line

C. Signs Permitted in any "R" District.

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

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

2. One identification sign for each dwelling unit, provided: such sign shall not exceed one square foot in surface area; if lighted, it shall be illuminated with white light by indirect method only; and it shall not be used other than for identifying the occupancy.
3. One identification sign for each membership club, funeral establishment, community facility or public utility, provided: the sign shall not exceed 10 feet in surface area; and if lighted, it shall be illuminated with white light by indirect method only.
4. One unlighted temporary sign relating to a new residential subdivision during the actual period of construction, provided; it shall not exceed 20 square feet in surface area; and it shall be set back at least 10 feet from any street lot line

5. Except for professional name plates and the residential nameplate, any other sign in an "R" District shall be set back at least one half of the required depth of the front yard.

D. Signs Permitted in any "C" District

1. Signs permitted in Subsection C., Subject to the same regulations, and business signs. General advertising signs shall be prohibited.  
Projecting signs are prohibited.
2. One wall sign for each lot street frontage of each establishment, provided: it shall be attached and parallel to the main wall of a building; the surface area of the sign shall not aggregate more than ten percent of the area of the wall on which is displayed, or 40 square feet, whichever is the lesser; and if lighted, it shall be illuminated or by indirect method with white light only

3. One pole sign for each street frontage of each establishment provided; it shall not exceed 40 square feet in surface area; no portion of it shall be set back less than 10 feet from any street lot line; it shall not be erected so that any portion of it is over 30 feet above the ground or sidewalk; and if lighted, it shall be illuminated internally or by indirect method with white light only.

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

E. Signs Permitted in the "I" District

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

## SECTION VIII

### OFF-STREET PARKING AND LOADING REGULATIONS

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

#### General

1. Parking or loading spaces being maintained in any district in connection with any existing use on the effective date of this By-law shall not be decreased so long as said use remains, unless a number of parking or loading spaces is constructed elsewhere such that the total number of spaces conforms to the requirements of the following tables, provided: this regulation shall not require the maintenance of more parking or loading spaces than is required according to the tables.

2. Except in a "C-V", or "I-P" District, the parking spaces required for the uses listed in Table 4 shall be on the same lot as the use they are intended to serve or, when practical difficulties prevent their establishment upon the same lot as determined by the enforcement Officer, they shall be established no further than 300 feet from the premises which they serve. In no case shall the required parking space be part of the area used to satisfy any loading requirements of this By-Law.

1. In any "C-V", "C-H", or "I-P" District, off-street parking requirements may be fulfilled by use of common off-street parking areas so long as the common area is located no further than 300 feet from the use it is intended to serve and that the total off-street parking provided is equal to that which would be required by normal application of Table 4.

2. The loading spaces required for the uses listed in Table 5 shall in all cases be on the same lot as the use they are intended to serve. In no case shall the required loading spaces be part of the area used to satisfy the Off-street parking requirements of this By-law.

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

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

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

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

C. Parking and Loading Lot Standards.

1. All Parking or loading areas containing over five spaces, including automobile service establishments shall be either contained within structures, or subject to the following:
  - a. The area shall be effectively screened from sight on all sides which adjoin or face the side or rear lot line of a lot situated in any "R" District. The screening shall consist of a solid fence or wall not less than three feet nor more than six feet in height or a visual screen of trees and shrubs planted as close as necessary to create a dense visual buffer, at least two feet from the lot line, and all maintained in good condition, The screening required by this Subsection shall be set back a minimum of 15 feet from each street lot line
  - a. The area and access driveways thereto shall be surfaced with bituminous or cement concrete material and shall be graded and drained so as to dispose of all surface water accumulation, in an approved manner.
  - b. A substantial bumper of masonry, steel, or heavy timber, or a concrete curb or berm curb which is backed shall be placed at the edge of surfaced areas except driveways in order to protect abutting structures, properties, and sidewalks.
  - c. Any fixture used to illuminate any area shall be so arranged as to direct the light away from the street and away from adjoining premises used for residential purposes.
  - d. Any permitted repair or service facility such as gas, oil or water, for use by vehicles, shall not be less than 25 feet from any lot line.



2. Any parking or loading area shall be also subject to the following:
  - a. There shall not be any motor vehicle parked within five feet of any side or rear lot line.
  - b. There shall not be any vehicle repair facilities or any repair made to any motor vehicles within the required parking or loading area.
  - c. There shall not be any outside storage of materials or equipment or display of merchandise within the required parking or loading area.
  - d. No portion of any parking area shall be permitted closer than 15 feet from any street lot line
  - e. Parking and loading spaces shall be so arranged as not to permit backing of automobiles onto any state highway.
  - f. Any portion of a driveway for a parking or loading area associated with a nonresidential use which enters or leaves any state highway shall be at least 75 feet from any street intersection.
  - g. Any two driveways leading to or from a street and to or from a single area shall not be within 50 feet of each other when the premises are located on any state highway. Such distance shall be measured between their nearest edges at their intersections with the front lot line. For other streets the distance shall be 20 feet
  - h. All driveways in "R" Districts shall be placed a minimum of five feet from any property line.
  - i. Any entrance or exit driveway shall not exceed 24 feet in width at its intersection with the front lot line.

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

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

**B. EXTENSION AND ALTERATION**

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

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

Any lot lawfully laid out by plan or deed duly recorded, or any lot shown on a plan endorsed with the Words "approval under the subdivisions control law not required" or words of similar import, which complies at the time of such recording or such endorsement, whichever is earlier, with the minimum area, frontage, width, and depth requirements, of the zoning By-law in effect in the Town of Southampton, not withstanding the adoption or amendment of provisions of the zoning By-law in the Town of Southampton, imposing minimum area frontage, width, depth, or yard requirements, or more than one such requirement, in excess of those in effect at the time of such recording or endorsement (1) may thereafter be built upon for residential use if, at the time of the adoption of such requirements or increased requirements, or while building on such lot was otherwise permitted, whichever occurs later, such lot was held in ownership separate from that of adjoining land located in the same residential district, or (2) MAY BE built upon for residential use for a period of five years from the date of such recording or such endorsement, whichever is earlier, if, at the time of the adoption of such requirements or increased requirements, such lot was held in common ownership with that of adjoining land located in the same residential district; and further provided, in either instance, at the time of building (a) such lot has an area of five thousand square feet or more and a frontage of fifty feet or more, is in a district zoned for residential use, and conforms except as to area, frontage, width, and depth with the applicable provisions of the zoning By-law in effect in Southampton and (b) any proposed structure is to be located on such lot so as to conform with the minimum requirements of front, side, and rear yard setbacks, in effect at the time of such recording or such endorsement, whichever is earlier, and to all other requirements for such structure in effect at the time of building.

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

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

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

4. Any nonconforming building on a lot if already larger than required shall not be further increase so as to be in greater nonconformity.
- E. Change
1. Any nonconforming use of a structure may be changed to another nonconforming use, provided; the changed use is not for a substantially different purpose.
  2. Any nonconforming use which has been once changed to a permitted use or another nonconforming use, which is not for a substantially different purpose, shall not again be changed to another nonconforming use.
  3. Any nonconforming lot which has come into conformity shall not again be changed to a nonconforming lot.
- F. Restoration. Any nonconforming structure damaged by fire or other cause may be rebuilt within the limits only of its original location and reused for its original use or a conforming use.
- G. Abandonment. Any nonconforming use, except for agriculture, horticulture, or floriculture use, of a structure and/or lot which has been in nonuse for a continuous period of two years or more, or abandoned, shall not be used again, except by a conforming use, for agricultural uses, the nonuse period shall be five years.
- H. Moving. Any nonconforming structure shall not be moved to any other location on the lot or any other lot unless every portion of such structure, the use thereof and the lot shall be conforming.
- I. Unsafe Structure. Any structure determined by the Inspector of Buildings to be unsafe may be restored to a safe condition, provided such work on any nonconforming structure shall not place it in greater nonconformity.

**SECTION X  
ADMINISTRATION AND ENFORCEMENT**

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

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

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

- C. Permit and Certificate Application Requirements. All applications for permits shall be accompanied by two copies of a plot plan. One copy of such plan shall be accompanied by two copies of a plot plan. One copy of such plan shall be returned to the applicant, if approved by the Enforcement Officer. Such plot plan shall be drawn to scale showing the actual dimensions of the lot to be built upon. The size and location on the lot of the building and accessory buildings to be erected. Location and design of off-street parking and loading spaces, signs, and such other information as may be necessary to determine and provide for the enforcement of this By-law. The information required on the plot plan may be combined with the information required under Section XI of this By-law for any site plan. The Enforcement Officer may refuse the application for permit because of an inadequate or inaccurate plot plan.

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

- D. Time Limits for Permits and Certificates. The Enforcement Officer shall have 30 days from the date of submittal for review and action on the application for a permit. Any work for which a permit has been issued by the Enforcement Officer shall be actively prosecuted within six months of the date of issue. For cause, one or more extensions of time, for periods not exceeding ninety (90) days each, may be allowed in writing by the Enforcement Officer. For purposes of this section, any permit issued shall not be considered invalid, if such suspension or abandonment is due to a court order prohibiting such work as authorized by such permit, provided, however, in the opinion of the Enforcement Officer, the person so prohibited by such court order, adequately defends such action before the court. Any work for which a permit has been issued by the Enforcement Officer shall be completed within one year of the date of issuance. Any permit issued for a project which is actively prosecuted for one year may be extended at the discretion of the Enforcement Officer. If the work described in any permit has not begun and substantially completed within one year of the date of issue, the permit shall expire and the Enforcement Officer shall give written notice thereof to the persons affected.
- E. Permit and Certificates and Application Fees. Fees shall be computed according to the fee schedule and procedures adopted by the Board of Selectmen.
- F. Violations. The Enforcement Officer shall serve, by certified mail, a notice of VIOLATION AND ORDER to any person responsible for the erection, construction, reconstruction, conversion, alteration of a structure or change in use, or extension or displacement of use of any building, sign, other structure or lot in violation of any approved plan, information, or drawing pertinent thereto; or in violation of a permit or certificate issued under the provisions of this By-law, and such order shall direct the immediate discontinuance of the unlawful action, use, or condition and the abatement of the violation. Any owner, who has been served with a notice and ceases any work or other activity, shall not leave any structure or lot in such a condition as to be hazard or menace to the public safety, health, morale or general welfare.

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

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

The Board of Appeals shall have the power to:

1. Hear and decide appeals in accordance with Section 8 of the Zoning Act.

Hear and decide petitions for variance in accordance with Section 10 of the Zoning Act.

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

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

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

1. Special Permits. Certain uses, structures, or conditions are designated as permitted only by special permit in Sections V. Table 1. Use Regulations and elsewhere in this By-law. As provided in this By-law certain classes of special permits shall be issued by the Planning Board and other shall be issued by the Board of Selectmen. Upon written application duly made to the Special permit granting authority the Special permit Granting Authority may, in appropriate cases subject to the applicable condition set forth in Section X and XI of this By-law and elsewhere, and subject to other appropriate conditions and safeguards, grant a special permit for such uses, structures or conditions and no others. The Special Permit Granting Authority Shall adopt and from time to time amend rules relative to the issuance of such permits, and shall file copy of such rules in the Office of the Town Clerk.

1. Special Permit Procedure

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



- g. Once a special permit has been issued, the application for a building permit shall be filed with the Enforcement Officer accompanied by the plan, if any, approved by the Special Permit Granting Authority and an application indicating all conditions set forth by the Special Permit Granting Authority when approving the plan. In cases where the setbacks of single-family houses have been prescribed in the special permit. The Enforcement Officer shall verify that the building permit application for each lot is in conformity with the special permit

A special permit granted under this By-law shall lapse within one year of the date of approval if a substantial use thereof has not sooner commences except for good cause or in the case of permit for construction if construction has not begun by such date except for good cause.

2. Conditions and Safeguards.

- a. The Special Permit Granting Authority shall not grant any special permit unless necessary conditions including, but not limited to, the following are met:
  - 1. The use requested is listed in the table 1 of Use Regulations (Article V) as a special permit in the District for which application is made or is so designated elsewhere in the By-law.
  - 2. The use is in harmony with the purpose of this By-law.
  - 3. The requested use is not detrimental to the public convenience or welfare.
  - 4. The requested use will not create undue traffic congestion or unduly impair pedestrian safety.
  - 5. The requested use will not overload any public water, drainage or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the town will be unduly subjected to: hazards affecting health, safety or the general welfare.

6. Any special provisions for the use, set forth in Section XI, are fulfilled.
7. The requested use will not impair the integrity or character of the district or adjoining zones, nor be detrimental to the health, safety or welfare.
  - b. The Special Permit Granting Authority may also impose in addition to any applicable conditions in this By-law such conditions and safeguards as it finds reasonably appropriate to protect the neighborhood, or otherwise serve the purposes of this By-law, including, but not limited to, the following
    1. Requirement of screening, buffers or planting strips, fences or walls.

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

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

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

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

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

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

- J. Variances. The Board of Appeals may, after a public hearing for which notice has been given by publication and posting as provided in Section X.,M., of this By-law and the Zoning Act, and by mailing to all parties in interest as defined in this By-law. The Board of Appeals shall find that owing to circumstance relating to soil conditions shape, or topography of such land or structures, and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this By-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the purpose of this By-law. No variance may, however, authorize a use or activity not otherwise permitted in the district in which the land or structure is located.

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

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

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

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

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

L Action Following Approval of Appeals. Variances and Special Permits.

Where authorization for a use of land or of a structure has been given through appeal, variance or special permit, a copy of such written authorization shall be sent by the granting authority to the Enforcement officer within 10 days of granting, and no building permit shall be used until the Enforcement Officer has submitted an affidavit from the Hampshire County Registry of Deeds that said authorization has been recorded

Repeat Action on Appeal, Variances and Special Permits. No appeal

or application or petition for a variance or special permit which has been unfavorable and finally acted upon shall be acted favorably upon within two years after the date of final unfavorable action unless the appropriate authority finds by a vote of at least four members of the Board of Appeals. A vote of at least four members of the Board of Appeals. A vote of at least four members of the Planning Board, or a vote of at least two members of the Board of Selectmen, as appropriate, specific and material changes in conditions upon which the previous action was based, and describes such changes in the record of its proceedings, and unless all but one member of the Planning Board consents thereto and after notice is given to parties of

interest, as defined in the By-law, of the time and place of the proceedings where the question of such consent will be considered.

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

**SECTION XI  
SPECIAL PERMIT CONDITIONS**

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

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

**Table 6. Cluster Area Regulations**

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

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

District.

- B. The development in the RV District shall be served by the municipal water system and designated adequate in terms of fire protection and domestic use, leaching areas for on-lot septic systems located within the open land shall meet the minimal requirements of the State Sanitary Code. Article XI and an additional area shall be reserved for expansion which can also meet the same requirements.
- C. The leaching area for any on-lot sewage disposal system shall be at least 100 feet from any water body, inland wetland area or any other wet area.

- 5. At least 20 percent of the total tract area (of which at least 80 percent) shall not be wet lands or land with a slope over 10 percent) shall either be conveyed to the town and accepted by it for open space use, or to conveyed to a nonprofit corporation the principal purpose of which is the conservation of open space or to be conveyed to a corporation or trust owned or to be owned by the owners of lots within the plot. If such a corporation or trust is utilized, ownership thereof shall pass with conveyances of the lots. In any case where such land is not conveyed to the town a restriction enforceable b the Town shall be recorded providing that such land shall be kept in an open or natural state and shall not be built upon for residential use or developed for accessory use
- 6. Such open land shall be offered in writing to the town or may be permanently covenanted simultaneously with the Planning Board’s approval of the Subdivision Plan. If the Town Meeting fails to accept the offered land within two years of the receipt of such offer, then the officer shall utilize another method for guaranteeing the open land identified herein.
- 7. Such open land shall be restricted to open space, recreational uses such as tot lot, park, playground, playfield, golf courses, or conservation area.
- 8. Such open land shall have suitable access to a street.

9. Open spaces shall be of a size, shape, and character which in the opinion of the Board makes it suitable for the following purposes;
    - a. Recreation land.
    - b. Buffers between clusters of housing (minimum of 100 foot width) which shall include plantings which will retain the individual identity of each cluster.
    - c. Buffers between clusters and other adjacent land (minimum of 125 foot width except that where buffering against major highways or other objectionable adjacent land uses, in which case the minimum buffer shall be increased to 150 foot) which shall also retain the individual identity of each cluster.
    - d. Agricultural land.
    - e. Historic land
    - f. Conservation.
  10. The primary streets shall be offered for acceptance as public ways. The minimum roadway width of streets shall be in accordance with the rules and regulations governing subdivision or land in Southampton.
  11. Clusters shall be provided access by secondary streets only; that is, streets which primarily provided access to the properties and do not collect traffic from several secondary streets and distribute traffic to primary streets.
  12. No more than 10 one-family detached dwellings shall be located within any one cluster. Each cluster shall be separated from each other cluster by a buffer of open space.
  13. Where development is planned to occur in stages, the Planning Board shall require that all provisions of this Subsection are met with each individual stage of development.
- D. Planned Business Development. For planned business development of land subject to maximum building coverage more than the maximum permitted in Table 3, Height and Bulk Regulations and less than the parking requirement contained in Table 4, Off-street Parking Standards, the following conditions shall apply:
1. The tract shall be in single or consolidated ownership at the time of application and shall be at least 5 acres in size.
  2. A site plan shall be presented for the entire tract as outlined in Section X of this By-law and shall be subject to approval by the Planning Board where it constitutes a subdivision as per the Subdivision Control Law.
  3. Uses shall be contained in one continuous building except that groupings of buildings may be allowed by the Board where such groupings are consistent with the safety of the users of the development and are further consistent with the overall intent of this section.

4. The maximum building coverage of the lot shall be 40 percent.
5. The development shall be served by one common parking area and by common exit and entrance areas.
6. Any reduction in parking space requirements shall not exceed more than 10 percent of those required under normal application of requirements for the particular uses proposed.
7. The development shall be adequately served by a water system adequate in terms of fire protection and domestic use and the designated leaching area for on-lot septic systems meets with the minimum requirements of the State Sanitary Code Article XI and an additional area can be served for expansion which can also meet the same requirements.

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

1. The tract in single or consolidated ownership at the time of application shall be at least 15 acres in size.
2. A site plan shall be presented for the entire tract as out-lined in Section X of this By-law and shall be subject to approval by the Planning Board where it constitutes a subdivision under the Rules and regulations Governing the Subdivision of land in the Town of Southampton.
3. Individual lot sizes shall not be reduced more than 10 percent below that normally required for manufacturing or services industrial purposes Table 2, Area Regulations, (Page 6-2, in the "I-P" District.
4. The total number of lots in the development shall not exceed the number of lots which could be developed under normal application requirements of the district.
5. The permitted uses shall be limited to manufacturing or service industrial uses with the total use completely within the building.
6. The development shall be served by a water system designated adequate in terms of fire protection and domestic use.
7. At least 10 percent of the total tract area (of which at least 80 percent shall not be wetland or land with a slope of over 10 percent) shall either be conveyed to the Town and accepted by it for open space use, or be conveyed to a non profit corporation, the principal purpose of which is the conservation of open space or to be conveyed to a corporation or trust owned or to be owned by the owners of lots within the plot. If such corporation or trust is utilized, ownership thereof shall pass with conveyances of the lots. In any case where such land is not



conveyed to the Town, a restriction enforceable by the Town shall be recorded providing that such land shall be kept in an open or natural state and shall not be built upon for industrial use or developed for accessory uses such as parking or roadway.

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

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

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

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

4. Multiple-family dwellings shall have minimum street frontage of 250 feet, Minimum front yard set back shall be 30 feet. Side yards and rear yards shall be a minimum of 20 feet.
5. Maximum building height shall be 2-1/2 stories.
6. Plans as outlined in item A above conforming to Section IV and V of the Rules and Regulations Governing; the Subdivision of land in the Town of Southampton, shall be submitted to the Planning Board for approval prior to the issuance of a building permit.
7. At least 80 percent of the lot shall be buildable land, or land not wetlands, not subject to flooding, not over 6 percent slope (in final grade) and with a depth of at least four feet to the seasonally high water table.
8. The development shall be served by a public Water System adequate in terms of fire protection and domestic use. The development shall be served by an individual on-lot septic system which meets the minimum requirements of Title 5, State Environmental Code and the Rules and Regulations of the Southampton Board of Health, as amended.
9. Screening and buffers shall be required between developments of more than four units and adjacent properties. Such a buffer strip shall be at least 20 feet in width and it shall contain a screen of plantings. The screen shall be not less than five feet in width and six feet in height at the time of occupancy of such lot. Individual shrubs or trees shall be planted as close as necessary to create a visual screen and shall thereafter be maintained by the owner or occupants so as to maintain a dense screen year-round. At least 30 percent of the plantings shall consist of evergreens. A solid wall or fence, not to exceed six feet in height, complemented by suitable plantings, may be substituted for such landscape buffer strip as approved by the Board of Appeals. The strip may be part of the yard

10..The proposed multiple-family development shall be compatible with adjacent land uses.

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

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

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

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

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

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

- a. The removal of less than 10 cubic yard of material in the aggregate in any year from any one lot.
  - b. The transfer of material from one part of a lot to another part of the same lot.
  - c. The removal of material necessarily excavated in connection with lawful construction of a building, structure, street, driveway, sidewalk, path or other appurtenance is allowed.
3. For the removal of soil, loam, sand, grave, quarry, or other earth materials other than that specifically exempt above, and for the processing and treating earth materials, the following conditions shall govern;
    - a. Removal operations before restoration of the site not be conducted closer than 200 feet to a public street, except where necessary to grade to the street elevation

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

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

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

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

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

Lateral support shall be maintained for all adjacent properties.

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

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

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

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

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

Lot lines and ownership.

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

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

Adjacent public streets an private ways.

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

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

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

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

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

Proposed lateral support to all adjacent property.

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

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

Delineation of removal areas and depths.

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

Method of removal.

Distance of excavation to street and lot lines.

Disposition of boulders and tree stumps.

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

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

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

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

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

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

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

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

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

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

Provision for temporary and permanent drainage of the site.

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

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

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

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

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

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

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

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

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

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

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

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

**SECTION XII**  
**REPEAL**

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



**STATEMENT**

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

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

## **SOUTHAMPTON WATER SUPPLY PROTECTION DISTRICT**

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

#### 1.01 Purpose of District

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

#### 1.2 Definitions

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

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

#### 1.2 Scope of Authority

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

#### 1.3 District Delineation

- 1.3 1 The Water Supply Protection District is herein established to include all lands within the Town of Southampton lying within the primary recharge areas of groundwater aquifers and watershed area of the Manhan Reservoir which now or may in the future provide public water supply. The map

entitled "Water Supply Protection District", Town of Southampton, on file with the Town Clerk, delineates the boundaries of the district.

1.3 2 Where the bounds delineated are in doubt or in dispute, the burden of proof shall be upon the owner(s) of the land in question to show where they should properly be located. At the request of the owner(s), the Town may engage a professional hydrogeologist to; determine more accurately the location and extent of an aquifer or primary recharge area, and may charge the owner(s) for all or part of the cost of the investigation.

#### 1.4 Prohibited Uses

- a. Business and industrial uses, not agricultural, which manufacture, use process, store, or dispose of hazardous materials or wastes as a principal activity. Including but not limited to metal plating, chemical manufacturing, wood preserving, furniture stripping, dry cleaning, and auto body repair, or which involve on-site disposal of process waste waters.

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

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

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

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

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

#### 1.5 Restricted Uses

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

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

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

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

1.5 4 Commercial fertilizers, pesticides, herbicides, OR OTHER LEACHABLE MATERIALS SHALL BE USED WITH ALL NECESSARY PRECAUTIONS TO MINIMIZE ADVERSE IMPACTS ON SURFACE AND GROUNDWATER, AND

SHALL NOT RESULT IN GROUNDWATER CONCENTRATIONS EXCEEDING MASSACHUSETTS DRINKING WATER STANDARDS.

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

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

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

1.6 Drainage

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

1.7 Special Permit Uses

1.7 1 Uses Allowed by Special Permit

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

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

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

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

- a. A complete list of chemicals, pesticides, fuels and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use.
- b. Those businesses using or storing such hazardous materials shall file a hazardous materials management plan with the Board of Appeals, Hazardous Materials Coordinator, and Board of Health which shall include:
  1. Provisions to protect against the discharge of hazardous material or wastes to the environment due to spillage, accidental damage, corrosion, leakage or vandalism, including spill containment and clean-up procedures.

2. Provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces.
  3. Evidence of compliance with the Regulations of the Massachusetts Hazardous Waste Management Act 310 CMR 30, including obtaining an EPA identification number from the Mass. Department of Environmental Quality Engineering.
- c. Drainage recharge features and provisions to prevent loss of recharge.
  - d. Provisions to control soil erosion and sedimentation, soil compaction, and to prevent seepage from sewer pipes

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

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

1.08 Non-conforming use

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

SECTION XIII  
VALIDITY

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

## WIRELESS COMMUNICATIONS FACILITY BY-LAW

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

### A. Intent

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

### B. Definitions

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

### C. Authority

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

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

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

2. New towers shall be considered only upon a finding by the Planning Board that existing or approved towers cannot accommodate the wireless communication equipment planned for the proposed tower
3. No tower shall be located closer than two miles to any other such tower.
4. Tower height shall not exceed one hundred feet above the existing terrain.
5. The base of a tower shall be a distance of at least equal to the tower's height from any property line or existing structure.
6. One tower only is permitted on any lot.
7. Accessory structures housing support equipment for towers shall not exceed four hundred square feet in area and consistent with existing zoning requirements. Structure shall be architecturally consistent and subject to planning board approval.
8. Existing vegetation shall be preserved as much as possible.
9. The Planning Board may impose conditions to ensure that wireless communications facilities are as visually unobtrusive as possible from all perspectives. These conditions may include structural design, painting, lighting and landscaping standards.
10. Any proposed extension in the height, addition of cells, antennae or panels, construction of a new facility, or replacement of a facility shall require a new application for an amendment of the special permit.
11. No tower or other facility structure shall contain any signs or other devices for advertising.
12. Announcement signs, "Danger No Trespassing" signs, and a sign with a 24 hour emergency telephone number, are required. The area of these signs will conform to the Southampton Zoning By-law, Section VII.
13. Except as required by the Federal Aviation Administration, towers shall not be artificially lighted.
14. All wireless communication facilities shall be protected against unauthorized access by the public.

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

1. Installations on existing buildings shall be camouflaged or screened and designed to be harmonious and architecturally consistent with the building. Any equipment associated with the facility shall be located within the building or otherwise so hidden as to be invisible from the property line.
2. No facility shall project more than ten feet above the existing roof line of the building, or more than ten feet above the top of the existing structure upon which it is mounted, or more than five feet out from the plane of the existing wall or facade to which it is attached, provided such projections do not otherwise violate existing yard dimensions or set-back requirements.



3. Any proposed addition of cells, antennae or panels, or replacement of a facility shall be the subject of a new application for an amendment to the special permit.
4. All building-mounted facilities shall be designed and located so as to appear as an integral part of the existing architecture of the building.
5. All wireless communication facilities shall be protected against unauthorized access by the public.
6. Any alteration made to a historic structure to accommodate a wireless communication facility shall be fully reversible.

#### F. Site Criteria

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

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

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

#### 4. Safety Standards

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

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

#### 5. Cessation of Use and Obsolescence

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

#### G. Application procedures

##### 1. Applicant Criteria

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

##### 2. Pre-Application Conference

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

##### 3. Pre-Application Filing Recommendation

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

##### 4. Application Contents

###### a. Applicant identification

1. Name, address and telephone number of applicant and any co-applicants as well as any agents for the applicant or co-applicants, one of which must be a licensed Personal Wireless communications carrier.
2. Original signatures are required for the applicant and all co-applicants applying for the Special Permit. If the applicant or co-applicant will be

represented by an agent, original signature authorizing the agent to represent the applicant and/or co-applicant is required. Photo reproductions of signatures will not be accepted.

b. Location Identification

1. Subject property by name of the nearest road or roads, and street address, if any, and mapping coordinates in latitude and longitude in degrees, minutes and seconds on a USGS topographical map.
2. Tax map and parcel number of subject property.
3. Zoning district designation for the subject parcel (Submit copy of Town zoning map with parcel identified)
4. A line map to scale showing the lot lines of the subject property and all properties within 300 feet and the location of all buildings, including accessory structures, on all properties shown.
5. A Town-wide map showing the other existing wireless communication facilities in the Town and outside the Town within one mile of its corporate limits.
6. The locations of all existing and proposed and future wireless communication facilities in the Town on a Town-wide map for this carrier.
7. A one inch-equals-40 feet vicinity plan showing the following:
  - a. Property lines for the subject property.
    - a. Property lines of all properties adjacent to the subject property within 300 feet.
    - b. Tree cover on the subject property and adjacent properties within 300 feet, by dominant species and average height, as measured by or available from a verifiable source.
    - c. Outline of all existing buildings and purpose on the subject property as well as buildings proposed for the subject property and all adjacent properties within 300 feet.
    - d. Proposed location of antenna, mount and equipment shelter(s).
    - e. Proposed security barrier, indicating type and extent as well as point of controlled entry.
    - f. Location of all roads, public and private, on the subject property and on all adjacent properties within 300 feet including driveways proposed to serve the wireless communication facility.
    - g. Distances, at grade, from the propose wireless communication facility to each building on the vicinity plan.
    - h. Contours at each two feet AMSL for the subject property and adjacent properties within 300 feet.
    - i. All proposed changes to the existing property, including grading, vegetation removal and temporary or permanent roads and driveways.
    - j. Representations, dimensioned and to scale, of the proposed mount, antennas, equipment shelters, cable runs, parking areas and any

other construction or development attendant to the wireless communication facility.

- k. Line representing the sight line showing viewpoint (point from which view is taken) and visible point (point being viewed) from "Sight Lines" subsection below.

Sight Lines and Photographs as described below:

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

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

Each of the existing condition photographs shall have the proposed personal wireless service facility superimposed on it to show what will be seen from public roads if the proposed personal wireless service facility is built.

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

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

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

Any and all structures on the subject property.

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

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

#### H. Waiver of Compliance

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

Waiver requests shall be submitted in writing with the application for a wireless communication facility. Waivers granted by the Planning Board under this subsection

may be limited by conditions which shall be endorsed on the plan to which said conditions relate or set forth in separate instrument attached to the plan.

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

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

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

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

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

The call to the question was Carried

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

The call to the question was Carried.

A vote on the first amendment. Carried

A vote on the second amendment, Lost

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

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

1. The Southampton Planning Board shall be the Special Permit Granting Authority (SPGA) for all purposes under this section and shall adopt rules and regulations with respect to the administration of applications or Special Permits under this section, subject to the conditions set forth below and in accordance with the provisions of S.10 of the Zoning By-Laws, and M.G.L., Ch. 40A, S.9 and S.11 as amended.

A true copy attest:

Eileen Couture, Clerk  
Town of Southampton

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

- 01 Purpose

The purpose of this by-law is to:

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

- 02 Definition

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

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

The driveway shall lie entirely within the lots being served.

- 03 Scope

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

- 04 Common Driveway Standards

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

A. Dimensions:

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

B Construction:

- (1) A common driveway shall be constructed and paved as current sub-division standards require. Inspections and approvals (at accepted construction stages) shall be completed in accordance with an approved plan design.
- (2) For applicants having special circumstances or short length designs the Planning Board may allow an alternative construction standard consisting of a minimum twelve (12) inch gravel base with a one (1) inch oil chip-seal (trap rock) top layer; The base will consist of three successive layers of  $\frac{3}{4}$ " crushed trap-rock stone,  $\frac{1}{2}$ " crushed trap-rock stone and  $\frac{1}{4}$ " trap-rock stone, with a crown sufficient for drainage. Trap rock finish shall be at least 4" thick, compacted measure.
- (3) Drainage shall be adequate to dispose of surface runoff. Culverts shall be installed if deemed necessary by the Planning Board.
- (4) Any additional storm drainage generated by the new driveway shall

not run on to any adjacent property and to the extent possible shall be recharged on-site

- (5) Any utility extensions contained within the common driveway shall be considered privately owned and maintained.
- (6) Certain construction standards may be waived if, in the opinion of the Planning Board, such action is in the public interest and not inconsistent with the purpose and intent of the Zoning Bylaw.

C. Alignment and Design

- (1) The common driveway, at its intersection with the street, must provide a leveling –off area with a slope no greater than 2% for the first 20 feet and a slope no greater than 5% for the next 30 feet.
- (2) There shall be a minimum of two hundred (200) feet between entrances of any two common driveways onto any road.
- (3) The common driveway shall enter a roadway at a point separated by at least one hundred (100) feet from an intersection. On a state highway, the common driveway shall enter the roadway at a point separated by at least one hundred (100) feet from any other driveway, curb cut or intersection, except when Mass. Highway requirements are more stringent.
- (4) The common driveway shall have adequate sight distance at its intersection with the public roadway and shall not create traffic (or pedestrian) safety hazards to its users or the public.
- (5) The common driveway shall access the property over the frontage of at least one of the lots being served by the driveway.
- (6) The common driveway shall provide the only vehicular egress/ access to the lots being serviced by it, and this shall be so stated in the deeds to the subject lots.
- (7) Street Numbers and Identification- Permanent signage, sufficiently readable from the road to serve the purpose of emergency identification, indicating the street number address assigned to each lot served by the common driveway shall be installed within 10 feet of the intersection of the common driveway to the roadway, as well as within 10 feet of the intersection of an individual lot (drive) to the common driveway. This requirement is in addition to those for individual homes or businesses and may be expanded upon the request of the fire chief, police chief and/or the highway superintendent.
- (8) Common driveway design shall, to the greatest extent possible, minimize adverse impact to wetlands, farmland, or other natural resources; allow reasonable, safe, and less environmentally damaging access to lots characterized by slopes or ledges; and result in the preservation of rural character through reduction of allowable access ways; and retain existing vegetation and topography.
- (9) A neighborhood collection (NDBC) unit, located in a pull-off area within the right-of -way, shall be –onstructed to the satisfaction of the US Postal Service and shown on the application plans.



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

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

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

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

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

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

(4) A covenant shall be entered into between the owner or developer the utility company(s) and the Town in a form acceptable to the Planning Board, which binds current and future owners of each lot served by the common driveway, prohibiting the sale of lots and erection of buildings except for lots approved and/or prior to the adaptation of this by-law, until such time as the common driveway has been constructed and inspected at accepted construction stages in accordance with an approved plan design. A draft covenant shall be submitted for approval with the special permit application and

shall include but not be limited to specific standards for maintenance and repair of the driveway and drainage system, provision for allocating financial responsibility, and a procedure for resolution of disagreements. If the permit is granted, said covenant

shall be recorded at the Registry of Deeds and shall be made part of every deed to each lot served by the common driveway.

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

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

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

## SECTION XIV EROSION AND SEDIMENT CONTROL FOR STORMWATER MANAGEMENT

### A. *Purpose and Authority*

#### 1. Purpose

- a. The purpose of this bylaw is to better manage land development in order to protect, maintain, and enhance the public health, safety, and general welfare of the citizens of Southampton by establishing minimum requirements and procedures to control the adverse impacts associated with stormwater runoff.
- b. The proper management of stormwater runoff will meet the following objectives:
  - (1) Reduce the adverse water quality impacts of stormwater discharges to rivers, lakes, reservoirs and streams in order to attain federal water quality standards;
  - (2) Prevent the discharge of pollutants, including hazardous chemicals, into stormwater runoff;
  - (3) Minimize the volume and rate of stormwater which is discharged, to rivers, streams, reservoirs, lakes and combined sewers that flows from any site during and following development;
  - (4) Prevent erosion and sedimentation from land development, and reduce stream channel erosion caused by increased runoff;
  - (5) Provide for the recharge of groundwater aquifers and maintain the base flow of streams;
  - (6) Provide stormwater facilities that are attractive, maintain the natural integrity of the environment, and are designed to protect public safety;
  - (7) Maintain or reduce pre-development runoff characteristics after development to the extent feasible;
  - (8) Minimize damage to public and private property from flooding;
  - (9) Ensure that these management controls are properly maintained.

#### 2. Authority

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

#### **B. Definitions**

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

"Authorized Enforcement Agency": The Planning Board, its employees or agents designated to enforce this bylaw.

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

"Best management" practices (BMP)" are structural or biological devices that temporarily store or treat stormwater runoff to reduce flooding, remove pollutants, and provide other amenities. They can also be non-structural practices that reduce pollutants at their source. BMPs are described in a stormwater design

manual, Stormwater Management, Volume Two: Stormwater Technical Handbook (March, 1997, Mass. Department of Environmental Protection, as updated or amended).

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

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

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

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

"Drainage area" means that area contributing runoff to a single point measured in a horizontal plane, which is enclosed by a ridge line.

"Drywell" is similar to an infiltration trench but smaller with inflow from a pipe; commonly covered with soil and used for drainage areas of less than 1 acre such as roadside inlets and rooftops runoff.

"Easement" means a grant or reservation by the owner of land for the use of such land by others for a specific purpose or purposes, and which must be included in the conveyance of land affected by such easement.

"Flow attenuation" means prolonging the flow time of runoff to reduce the peak discharge.

"Hydrology model" may include one of the following:

- TR-20, a watershed hydrology model developed by the Natural Resources Conservation Service that is used to route a design storm hydrograph through a pond;
- TR 55, or Technical Release 55, "Urban Hydrology for Small Watersheds" is a publication developed by the Natural Resources Conservation Service to calculate stormwater runoff and an aid in designing detention basins;
- Hydrocad, computer software for modeling stormwater runoff and designing stormwater management systems.

"Impervious surfaces" are areas, such as pavement or rooftops, which prevent the infiltration of water into the soil.

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

"Infiltration trench" is a stormwater management excavation filled with aggregate, materials used in construction, including gravel, crushed stone, slag, or recycled crushed concrete, which removes both soluble and particulate pollutants. Trenches are not intended to trap coarse sediments.

"Outfall" is the terminus of a storm drain or other stormwater structure where the contents are released.

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

"Permeable soils" are soil materials with a sufficiently rapid infiltration rate so as to greatly reduce or eliminate surface and stormwater runoff. These soils are generally classified as NRCS hydrologic soil types A and B.

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

"Related entities" are any corporation in which the owner is an officer, director or shareholder; a limited partnership in which the owner is a limited partner or general partner; a general partnership in which the

owner is a partner; a limited liability company in which the owner is a shareholder or director; a trust in which the owner is a trustee or beneficiary; or any other entity in which the owner has a beneficial interest.

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

"Start of construction" is the first land-disturbing activity associated with a development, including land preparation such as: clearing, grading and filling; installation of streets and walkways; excavation for basements; footings, piers or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

"Swale" is a natural depression or wide shallow ditch used to temporarily store, route, or filter runoff.

### **C. Applicability**

1. Prior to the issuance of any Special Permit or site plan approval or development permit for any proposed development listed below, a stormwater management permit, or a waiver of the requirement for a stormwater management permit, must be approved by the Planning Board. No person shall, on or after the effective date of the bylaw, initiate any land clearing, land grading, earth moving or development activities without first complying with this bylaw. The following uses and activities shall be required to submit drainage reports, plans, construction drawings, specifications and as-constructed information in conformance with the requirements of this bylaw:
  - a. Multi-family residential developments involving four or more units;
  - b. Any new commercial, industrial, and institutional structures under the same ownership or owned by related entities with at least 5,000 square feet of gross floor area, 10,000 square feet of impervious surface, or that require 10 or more parking spaces.
  - c. Redevelopment or additions to existing commercial, industrial, and institutional uses which result in an additional impervious surface area or gross floor area of greater than 5,000 square feet, or which results in an increase of 10 or more parking spaces.
  - d. Subdivisions and construction activities of any kind disturbing greater than 40,000 square feet.
  - e. Development or redevelopment involving multiple separate activities in discontinuous locations or on different schedules if the activities are part of a larger common plan of development that all together disturbs one or more acres.
2. The Planning Board may issue a waiver of any or all of the requirements of this bylaw for a project that will, in its judgement, generate minimal stormwater, erosion or sedimentation, and will have minimal impact on the municipal stormwater system.

### **E. Exemptions**

1. To prevent the adverse impacts of stormwater runoff, the Southampton Planning Board has developed a set of performance standards that must be met at new development sites. These standards apply to construction activities as described under Section C-1. The following activities may be exempt from these stormwater performance standards:

- a. Any agricultural activity which is consistent with an approved soil conservation plan prepared or approved by the Natural Resource Conservation Service;
- b. Any logging which is consistent with a timber management plan approved under the Forest Cutting Practices Act by Massachusetts Department of Conservation and Recreation;
- c. Additions or modifications to existing single family structures;
- d. Developments that do not disturb more than 40,000 square feet of land, provided that they are not part of a larger common development plan; and,
- e. Repairs to any stormwater treatment system deemed necessary by the Southampton Planning Board or Highway Department.
- f. Any emergency activity that is immediately necessary for the protection of life, property or the environment, as determined by the Southampton Planning Board or Highway Department.

**F. Stormwater Design Manual**

1. A stormwater design manual, Stormwater Management, Volume Two: Stormwater Technical Handbook (March, 1997, Mass. Department of Environmental Protection, as updated or amended) is hereby incorporated by reference as part of this ordinance, and shall furnish additional policy, criteria and information including specifications and standards, for the proper implementation of the requirements of this bylaw.
2. This manual includes a list of acceptable stormwater treatment practices, including the specific design criteria for each stormwater practice. The manual may be updated and expanded from time to time, based on improvements in engineering, science, monitoring and local maintenance experience, at the discretion of the Southampton Planning Board or Massachusetts Department of Environmental Protection. Stormwater treatment practices that are designed and constructed in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards.

**G. Permit Procedures and Requirements**

**1. Approval of Stormwater Management Permit Required**

No land owner or land operator shall receive any of the building, grading, or other land development permits required for land disturbance activities, and no land owner shall commence land disturbance activities, without approval of a Stormwater Management Permit from the Planning Board and meeting the requirements of this bylaw.

**2. Application Requirements**

Application for approval of a Stormwater Management Permit shall include the following:

- a. A stormwater management plan, or an application for waiver, shall be submitted to the Southampton Planning Board for review and approval for any proposed development specified in Section 3.1. Three copies of the application and stormwater management plan shall be submitted, and clearly labeled. The plan shall contain supporting computations, drawings, and sufficient information describing the manner, location, and type of measures in which stormwater runoff will be managed from the entire development. The plan shall serve as the basis for all subsequent construction.

- b. An erosion and sediment control plan, which shall contain sufficient information to describe the nature and purpose of the proposed development.
- c. An ongoing maintenance agreement.
- d. A non-refundable permit review fee. Applicable stormwater permit review fees shall be paid to the Planning Board on submittal of an application. The Planning Board may establish a permit review fee schedule, based on the type and complexity of projects, and may update this fee as needed, to cover the costs of permit administration for Stormwater Management Permits.
- e. Applicants shall select a consultant engineer from the Planning Board's approved list of peer review consultants, and shall pay for the services of the selected consultant to:
  - (1) complete a review and evaluation of all permit application materials and file a written report with the Planning Board;
  - (2) complete all construction-related inspections required under Section F-6, and file a written report on these inspections with the Planning Board.

The applicant may request, and the Southampton Planning Board may grant, a waiver from any information requirements it judges to be unnecessary to the review of a particular plan, upon the recommendations of the Highway Department or other agent designated by the Planning Board.

### 3. Procedures for Review and Approval of Stormwater Permits

- a. The procedures for review and approval of stormwater management plans shall be consistent with the Subdivision Definitive Plan approval process, as appropriate to the use.
- b. The plan shall be circulated to the Planning Board, Building Inspector, Conservation Commission, Board of Health and Highway Department to determine compliance with the requirements of this Bylaw prior to approval. Said bodies shall submit comments and recommendations to the Planning Board.
- c. The Planning Board shall hold a public hearing within sixty-five (65) days of the receipt of a complete application and shall take final action within ninety (90) days from the close of the hearing unless such time is extended by agreement between the applicant and the Planning Board. Notice of the public hearing shall be in accordance with the procedures in M.G.L. Chapter 40A, Section 11.

### 4. Criteria for Review of Stormwater Permits

In addition to other criteria used by the Southampton Planning Board in making permit decisions, for the uses specified in this bylaw, the Planning Board must also find that the Stormwater Management Plan submitted with the permit application meets the following criteria:

- a. the Stormwater Management Plan and the Erosion and Sediment Control Plan are consistent with the Purposes and Objectives of this Bylaw in Section A;
- b. the Stormwater Management Plan meets the Performance Standards described in Section H;
- c. the Erosion and Sediment Control plan must meet the Design Requirements in Section I.

## 5. Board Action

The Planning Board's action, rendered in writing, shall consist of either:

- a. Approval of the Stormwater Management Permit Application based upon determination that the proposed plan meets the purposes in Section A and the standards in Section H and will adequately protect the water resources of the community and is in compliance with the requirements set forth in this bylaw;
- b. Approval of the Stormwater Management Permit Application subject to any conditions, modifications or restrictions required by the Board which will ensure that the project meets the purposes in Section A and the standards in Section H and adequately protects water resources, set forth in this bylaw;
- c. Disapproval of the Stormwater Management Permit Application based upon a determination that the proposed plan, as submitted, does not meet the purposes in Section A and the standards in Section H or adequately protect water resources, as set forth in this bylaw.

Failure of the Board to take final action upon an Application within the time specified above shall be deemed to be approval of said Application. Upon certification by the Town Clerk that the allowed time has passed without Board action, the Board must issue a Stormwater Management Permit.

## 6. Inspections

No plan will be approved without adequate provision for inspection of the property before development activity commences. The applicant shall arrange with the Southampton Highway Department or other agents designated by the Planning Board for scheduling the following inspections:

- a. Initial inspection: prior to approval of any plan
- b. Erosion Control Inspections: after site clearing, rough grading and final grading to ensure erosion control practices are in accord with the plan.
- c. Bury inspection: prior to backfilling of any underground drainage or stormwater conveyance structures;
- d. Final Inspection: when all work, including construction of stormwater management facilities and landscaping, have been completed.

The Southampton Highway Department or other agents designated by the Planning Board shall inspect the work and either approve it or notify the applicant in writing in what respects there has been a failure to comply with the requirements of the approved plan. The applicant shall promptly correct any portion of the work which does not comply or the applicant will be subject to the bonding provisions of Section K or the penalty provisions of Section L. The Town may conduct random inspections to ensure effective control of erosion and sedimentation during all phases of construction.

## 7. Performance Surety

The Southampton Planning Board may require the applicant to post a surety to ensure performance regarding the satisfactory installation of stormwater controls or practices required by the board to ensure compliance with this bylaw.

## 8. Application Review Fees

The fee for review of any Stormwater Permit application shall be based on the fee structure established by the Planning Board.

## **G. The Stormwater Management and Erosion Control Plan**

### 1. Contents of the Stormwater Management and Erosion Control Plan



The application for a stormwater management permit shall consist of submittal of a stormwater management and erosion control plan, prepared by a professional engineer licensed by the Commonwealth of Massachusetts, which meets the design requirements provided by this bylaw. The plan shall include sufficient information to evaluate the environmental characteristics of the affected areas, the potential impacts of the proposed development on water resources; and the effectiveness and acceptability of measures proposed for managing stormwater runoff. The Plan must be designed to meet the Massachusetts Stormwater Management Standards as set forth in Section H-2 of this bylaw and the DEP Stormwater Management Handbook Volumes I and II. The applicant shall certify on the drawings that all clearing, grading, drainage, construction, and development shall be conducted in strict accordance with the plan. The minimum information submitted for support of a stormwater management plan shall be as follows:

- a. A locus map;
- b. The existing zoning and land use at the site;
- d. The proposed land use;
- e. The location(s) of existing and proposed easements;
- f. The location of existing and proposed utilities;
- g. The site's existing & proposed topography with contours at 2 foot intervals;
- h. The existing site hydrology;
- i. A description & delineation of existing stormwater conveyances, impoundments, and wetlands on or adjacent to the site or into which storm water flows;
- j. A delineation of 100-year flood plains, if applicable;
- k. Estimated seasonal high groundwater elevation (November to April) in areas to be used for storm water retention, detention, or infiltration;
- l. The existing and proposed vegetation and ground surfaces with runoff coefficient for each;
- m. A drainage area map showing pre and post construction watershed boundaries, drainage area and storm water flow paths;
- n. A description and drawings of all components of the proposed drainage system including:
  - (1) locations, cross sections, and profiles of all brooks, streams, drainage swales and their method of stabilization;
  - (2) all measures for the detention, retention or infiltration of water;
  - (3) all measures for the protection of water quality;
  - (4) the structural details for all components of the proposed drainage systems and storm water management facilities;
  - (5) notes on drawings specifying materials to be used, construction specifications, and typicals;
  - (6) expected hydrology with supporting calculations;
  - (7) Proposed improvements including location of buildings or other structures, impervious surfaces, and drainage facilities, if applicable;
  - (8) A description of construction and waste materials expected to be stored on-site, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to storm water, and spill prevention and response;
  - (9) Timing, schedules, and sequence of development including clearing, stripping, rough grading, construction, final grading, and vegetative stabilization;
  - (10) A maintenance schedule for the period of construction.

## **H. Stormwater Management Performance Standards**

### 1. Minimum Control Requirements

Projects must meet the Standards of the Massachusetts Stormwater Management Policy. These Standards are:

- a. No new stormwater conveyances (e.g. outfalls) may discharge untreated stormwater directly to or cause erosion in wetlands or water of the Commonwealth.
- b. Stormwater management systems must be designed so that post-development peak discharge rates do not exceed pre-development peak discharge rates.
- c. Loss of annual recharge to groundwater should be minimized through the use of infiltration measures to the maximum extent practicable. The annual recharge from the post-development site should approximate the annual recharge rate from the pre-development or existing site conditions, based on soil types.
- d. For new development, stormwater management systems must be designed to remove 80% of the average annual load (post development conditions) of Total Suspended Solids (TSS). It is presumed that this standard is met when:
  - (1) Suitable nonstructural practices for source control and pollution prevention and implemented;
  - (2) Stormwater management best management practices (BMPs) are sized to capture the prescribed runoff volume; and
  - (3) Stormwater management BMPs are maintained as designed.
- e. Stormwater discharges from areas with higher potential pollutant loads require the use of specific stormwater management BMPs (see Stormwater Management Volume I: Stormwater Policy Handbook). The use of infiltration practices without pretreatment is prohibited.
- f. Stormwater discharges to critical areas must utilize certain stormwater management BMPs approved for critical areas (see Stormwater Management Volume I: Stormwater Policy Handbook). Critical areas are Outstanding Resource Waters (ORWs), shellfish beds, swimming beaches, cold water fisheries and recharge areas for public water supplies.
- g. Redevelopment of previously developed sites must meet the Stormwater Management Standards to the maximum extent practicable. However, if it is not practicable to meet all the Standards, new (retrofitted or expanded) stormwater management systems must be designed to improve existing conditions.
- h. Erosion and sediment controls must be implemented to prevent impacts during disturbance and construction activities.
- i. All stormwater management systems must have an operation and maintenance plan to ensure that systems function as designed.

When the proposed discharge may have an impact upon a sensitive receptor, including streams and storm sewers, the Highway Superintendent may require an increase in these minimum requirements, based on existing stormwater system capacity.

### 2. Stormwater Management Measures

- a. Stormwater management measures shall be required to satisfy the minimum control requirements and shall be according to the following order of preference:
  - (1) Infiltration, flow attenuation, and pollutant removal of runoff on-site to existing areas with grass, trees, and similar vegetation and through the use of open vegetated swales and natural depressions;
  - (2) Use of stormwater on-site to replace water used in industrial processes or for irrigation;
  - (3) Stormwater detention structures for the temporary storage of runoff which is designed so as not to create a permanent pool of water; and
  - (4) Stormwater retention structures for the permanent storage of runoff by means of a permanent pool of water.
  - (5) Retention and evaporation of stormwater on rooftops or in parking lots;
- b. Infiltration Practices shall be utilized to reduce runoff volume increases. A combination of successive practices may be used to achieve the applicable minimum control requirements. Justification shall be provided by the applicant for rejecting each practice based on site conditions.
- c. Best Management Practices shall be employed to minimize pollutants in stormwater runoff prior to discharge into a separate storm drainage system or water body.
- d. All stormwater management facilities shall be designed to provide an emergency overflow system, and incorporate measures to provide a non-erosive velocity of flow along its length and at any outfall.
- e. The designed release rate of any stormwater structure shall be modified if any increase in flooding or stream channel erosion would result at a downstream dam, highway, structure, or normal point of restricted stream flow.

### 3. Specific Design Criteria

Additional policy, criteria, and information including specifications and design standards may be found in the Stormwater Design Manual.

#### a. Infiltration systems

- (1) Infiltration systems shall be equipped with clean stone and or filter fabric adjacent to the soil or other sediment removal mechanisms;
- (2) Infiltration systems greater than 3 feet deep shall be located at least 10 feet from basement walls;
- (3) Due to the potential for groundwater contamination from dry wells, they shall not be an acceptable method for management runoff containing pollutants;
- (4) Infiltration systems designed to handle runoff from commercial or industrial impervious parking areas shall be a minimum of 100 feet from any drinking water supply well;
- (5) Infiltration systems shall not be used as sediment control basins during construction unless specific plans are included to restore or improve the basin surface;

- (6) Infiltration basins shall be constructed with a three foot minimum separation between the bottom of the structure and the seasonal high groundwater elevation, as determined by a certified soil evaluator; and
  - (7) Provisions shall be made for safe overflow passage, in the event of a storm which exceeds the capacity of an infiltration system.
- 
- b. Retention and detention ponds shall be designed and constructed in accordance with the criteria of the Stormwater Management, Volume Two: Stormwater Technical Handbook (March, 1997, Mass. Department of Environmental Protection, as updated or amended).
  - c. The applicant shall give consideration in any plan to incorporating the use of natural topography and land cover such as natural swales, and depressions as they exist prior to development to the degree that they can accommodate the additional flow of water.
  - d. The Planning Board shall give preference to the use of swales in place of the traditional use of curbs and gutters based on a case by case review of stormwater management plans by the Highway Department.
  - e. The applicant shall consider public safety in the design of any stormwater facilities. The banks of detention, retention, and infiltration basins shall be sloped at a gentle grade into the water as a safeguard against personal injury, to encourage the growth of vegetation and to allow the alternate flooding and exposure of areas along the shore. Basins shall have a 4:1 slope to a depth two feet below the control elevation. Side slopes must be stabilized and planted with vegetation to prevent erosion and provide pollutant removal. The banks of detention and retention areas shall be designed with sinuous rather than straight shorelines so that the length of the shoreline is maximized, thus offering more space for the growth of vegetation;
  - f. Where a stormwater management plan involves direction of some or all runoff off of the site, it shall be the responsibility of the applicant to obtain from adjacent property owners any easements or other necessary property interests concerning flowage of water. Approval of a stormwater management plan does not create or affect any such rights.
  - g. All applicants for projects which involve the storage or use of hazardous chemicals shall incorporate handling and storage "best management" practices that prevent such chemicals from contaminating runoff discharged from a site into infiltration systems, receiving water bodies or storm drains, and shall include a list of such chemicals in the application.
  - h. Runoff from parking lots shall be treated by oil and water separators or other controls to remove oil and sediment;
  - i. The basic design criteria methodologies, and construction specifications, subject to the approval of the Planning Board and Town Engineer, shall be those generally found in the most current edition of the Stormwater Management, Volume Two: Stormwater Technical Handbook (March, 1997, Mass. Department of Environmental Protection, as updated or amended).

I. *Design Requirements for Erosion and Sediment Control Plan*

1. The design requirements of the Erosion and Sediment Control Plan are:
  - a. Minimize total area of disturbance
  - b. Sequence activities to minimize simultaneous areas of disturbance.
  - c. Minimize peak rate of runoff in accordance with the MA DEP Stormwater Policy.
  - d. Minimize soil erosion and control sedimentation during construction. Prevention of erosion is preferred over sedimentation control.
  - e. Divert uncontaminated water around disturbed areas
  - f. Maximize groundwater recharge.
  - g. Install, and maintain all Erosion and Sediment Control measures in accordance with the manufacturer's specifications and good engineering practices
  - h. Prevent off-site transport of sediment.
  - i. Protect and manage on and off-site material storage areas (overburden and stockpiles of dirt, borrow areas, or other areas used solely by the permitted project are considered a part of the project).
  - j. Comply with applicable Federal, State and local laws and regulations including waste disposal, sanitary sewer or septic system regulations, and air quality requirements, including dust control
  - k. Prevent adverse impact from the proposed activities to habitats mapped by the Massachusetts Natural Heritage & Endangered Species Program as Endangered, Threatened or of Special concern, Estimated Habitats of Rare Wildlife and Certified Vernal Pools, and Priority Habitats of Rare Species.
  - l. Institute interim and permanent stabilization measures. The measures shall be instituted on a disturbed area as soon as practicable but no more than 14 days after construction activity has temporarily or permanently ceased on that portion of the site.
  - m. Properly manage on-site construction and waste materials.
  - n. Prevent off-site vehicle tracking of sediments.

#### **J. Maintenance**

1. Operation, Maintenance and Inspection Agreement
  - a. Prior to issuance of any building permit for which stormwater management is required, the Planning Board shall require the applicant or owner to execute an operation, maintenance and inspection agreement binding on all subsequent owners of land served by the private stormwater management facility. The agreement shall be designed to ensure that water quality standards are met in all seasons and throughout the life of the system. Such agreement shall provide for access to the facility at reasonable times for regular inspections by the Town or its authorized representative and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any provision established. The agreement shall include:
    - (1) The name(s) of the owner(s) for all components of the system.

- (2) Maintenance agreements that specify:
    - (a) The names and addresses of the person(s) responsible for operation and maintenance.
    - (b) The person(s) responsible for financing maintenance and emergency repairs.
    - (c) A Maintenance Schedule for all drainage structures, including swales and ponds.
    - (d) A list of easements with the purpose and location of each.
    - (e) The signature(s) of the owner(s).
  - (3) Stormwater management easements as necessary for:
    - (a) Access for facility inspections and maintenance.
    - (b) Preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities, including flood routes for the 100-year storm event.
    - (c) Direct maintenance access by heavy equipment to structures requiring regular cleanout.
  - (4) Stormwater management easement requirements:
    - (a) The purpose of each easement shall be specified in the maintenance agreement signed by the property owner.
    - (b) Stormwater management easements are required for all areas used for off-site stormwater control, unless a waiver is granted by the Town.
    - (c) Easements shall be recorded with the Registry of Deeds prior to issuance of a Certificate of Completion.
  - (5) Changes to Operation and Maintenance Plans
    - (a) The owner(s) of the stormwater management system must notify the Planning Board of changes in ownership or assignment of financial responsibility.
    - (b) The maintenance schedule in the Maintenance Agreement may be amended to achieve the purposes of this by-law by mutual agreement of the Planning Board and the Responsible Parties. Amendments must be in writing and signed by all Responsible Parties. Responsible Parties must include owner(s), persons with financial responsibility, and persons with operational responsibility.
- b. The agreement shall be recorded by the applicant and/or owner in the land records of the Registry of Deeds.
  - c. The agreement shall also provide that, if after notice by the Highway Superintendent to correct a violation requiring maintenance work, satisfactory corrections are not made by the owner(s) within thirty days, the Planning Board may perform all necessary work to place the facility in proper working condition. The owner(s) of the facility shall be assessed the cost of the work and any penalties.

## 2. Maintenance Responsibility

- a. The owner of the property on which work has been done pursuant to this Bylaw for private stormwater management facilities, or any other person or agent in control of such property, shall maintain in good condition and promptly repair and restore all grade surfaces, walls, drains, dams and structures, vegetation, erosion and sediment control measures and other protective devices. Such repairs or restoration and maintenance shall be in accordance with approved plans.
- b. A maintenance schedule shall be developed for the life of any stormwater management facility and shall state the maintenance to be completed, the time period for completion, and who shall be legally responsible to perform the maintenance. This maintenance schedule shall be printed on the stormwater management plan.
- c. Records of installation and maintenance
- d. Failure to maintain practices

#### **K. Performance Bond**

The Planning Board shall require from the developer a surety or cash bond, irrevocable letter of credit, or other means of security acceptable to the Planning Board prior to the issuance of any building permit for the construction of a development requiring a stormwater management facility. The amount of the security shall not be less than the total estimated construction cost of the stormwater management facility. The bond so required in this section shall include provisions relative to forfeiture for failure to complete work specified in the approved stormwater management plan, compliance with all of the provisions of this Bylaw and other applicable laws and regulations, and any time limitations. The bond shall not be fully released without a final inspection of the completed work by the Highway Department, submission of "As-built" plans, and certification of completion by the Planning Board of the stormwater management facilities being in compliance with the approved plan and the provisions of this bylaw.

#### **L. Enforcement and Penalties**

##### 1. Violations

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

##### **Notice of Violation**

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

The notice of violation shall contain:

- a. the name and address of the owner applicant;
- b. the address when available or the description of the building, structure, or land upon which the violation is occurring;
- c. a statement specifying the nature of the violation;
- d. a description of the remedial measures necessary to bring the development activity into compliance with this Bylaw and a time schedule for the completion of such remedial action;
- e. a statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
- f. a statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within fifteen (15) days of service of notice of violation.

3. Stop Work Orders

Persons receiving a notice of violations will be required to halt all construction activities. This "stop work order" will be in effect until the Southampton Planning Board confirms that the development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a notice of violation in a timely manner can result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this Ordinance.

4. Criminal and Civil Penalties

Any person who violates any provision of this ordinance, valid regulation, or the terms or conditions in any permit or order prescribed or issued thereunder, shall be subject to a fine not to exceed \$300.00 for each day such violation occurs or continues or subject to a civil penalty, which may be assessed in an action brought on behalf of the Town in any court of competent jurisdiction.

5. Non-Criminal Disposition

As an alternative to criminal prosecution or civil action, the Town of Southampton may elect to utilize the non-criminal disposition procedure set forth in Southampton's town bylaws. The Planning Board shall be the enforcing entity. The penalty for the 1<sup>st</sup> violation shall be up to \$100. The penalty for the 2<sup>nd</sup> violation shall be up to \$200. The penalty for the 3<sup>rd</sup> and subsequent violations shall be \$ 300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

6. Restoration of Lands

Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Southampton Planning Board may take necessary corrective action.

**M. Severability**

The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision thereof.



**PROPOSED ACCESSOR APARTMENT ZONING BY-LAW  
THIS NEW BYLAW BECOMES SECTION XI-K, "ACCESSORY  
APARTMENTS"**

**K. Accessory Apartments**

**1. Special Permit Required**

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

**2. General Description**

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

**3. Purpose**

The purpose of the accessory apartment bylaw is to

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

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

**4. Accessory Apartment Standards**

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

- a. The apartment will be a complete separate housekeeping unit that Functions as a separate unit from the original unit.
- b. Only one apartment will be created within a single-family house
- c. The lot in which the single-family house is located must meet the minimum lot size requirement and must comply with other applicable zoning requirements for its district.
- d. The owner(s) of the residence in which the accessory apartment is located shall occupy at least one of the dwelling units on the premises.
- e. The accessory apartment shall be designed so that the appearance of the building remains that of a one-family residence as much as feasibly possible in general, any new entrances shall be located on the side or rear

of the building. Any exterior changes made must conform with the single family character of the neighborhood.

- f. The accessory apartment shall be clearly a subordinate part of the single-family dwelling. It shall be no greater than six hundred (600) square feet nor have more than one (1) bedroom.
- g. At least two off-street parking spaces per dwelling unit are available for use by the owner-occupant(s) and tenant(s). Parking spaces shall be located to the side or the rear of the structure, to the extent feasible. The Planning Board may reduce the parking requirements if circumstance warrant, and if such reduction will not be inconsistent with the purposes of this bylaw.
- h. For dwellings to be served by on-site septic system, the owner must obtain a Disposal Works construction Permit from the Board of Health before a special permit can be obtained. This is to ensure that the existing sewage disposal system is adequate for the proposed accessory apartment.
- i. The construction of any accessory apartment must be in conformity with the State Building Code requirements.

5. Application Procedure

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

6. Transfer of Ownership of a Dwelling with an Accessory apartment.

- a. The temporary special permit for an accessory apartment in owner-occupied, single-family dwelling shall terminate upon the sale of property or transfer of title of the dwelling, unless the Planning Board has approved a transfer of the Special Permit to the new owner.
- b. The new owner(s) must apply for transfer of a special permit for an accessory apartment in owner-occupied single-family dwelling and shall submit a notarized letter of application stating that he/they will occupy on of the dwelling units on the premises and a written request to the Planning Board stating that conditions at the time of the original

application remain unchanged. Minor changes may be approved without a hearing.

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

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

#### Application Procedure

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

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

