

## TOWN OF WAREHAM

### FALL TOWN MEETING

OCTOBER 23, 2023

Town meeting was held in at the Wareham Elementary School Cafetorium and called to order by Town Moderator Margaret Ishihara at 7:00 pm at the Wareham Elementary School Cafetorium, 63 Minot Avenue, Wareham, MA. She confirmed the warrant was duly posted with the clerk. Madam Moderator then asked voters to stand for the pledge of allegiance. She recognized and thanked the people on the stage as well as the IT Department, Wareham community TV and the Clerk's Office, as well as the tellers. Madam Moderator then turned to Chair Judith Whiteside of the Select Board to speak and introduce her board members as well as Chair Norma Scoggins of the Finance Committee to speak and introduce her committee members.

She explained the areas for the counting of votes if a count was needed.

Counters: Priscilla Porter, Christine Smith, Howard Smith and Peter DiPasqua were sworn in prior to the start of the meeting.

Attendance: 214

Motion was made to accept the Consent Agenda for articles and  
Passed unanimously by majority vote

#### **CONSENT AGENDA**

I move that the Town:

**Pass over Article # 1** – Approve and Fund FY24 Capital Plan

**Pass over Article # 2** - Transfer of Available Funds;

**Pass over Article # 3** - Prior Year Bills and Deficits;

**Pass over Article # 7** Harbor Services Permit Receipts Reserved for Appropriation Account/Debt Payment;

**Pass over Article # 30** – Amend the Charter

**Pass over Article # 31**- Amend the Bylaws: Affordable Housing

**Article 25 the Town further study** – Amend Zoning Bylaw Section 590, Solar Energy

Town approve

**Article 4** – Peg Access Receipts Reserved for Appropriations by transferring the sum of \$214,999.52 to Wareham Community Television for the PEG Access Receipts Reserved for Appropriation Account

**Article 14** – Easement Agreement with NSTAR-Eversource/Hammond School as printed in the Warrant;

**Article 27** – Bylaw Corrections/Stormwater Permit as printed in the Warrant.

#### **ARTICLE 1 - APPROVE AND FUND FY24 CAPITAL PLAN**

I move the Town vote to transfer a sum of money from available funds and authorize borrowing subject to MGL Chapter 44, Sections 7 or 8 or any other enabling authority, for the purpose of capital improvement projects including replacement of vehicles, equipment, repairs to and improvements to town buildings, facilities and waterways

**Passed over in Consent Agenda**

#### **ARTICLE 2 – TRANSFER OF AVAILABLE FUNDS**

I move the Town vote to transfer a sum of money from available funds to the Stabilization Fund, OPEB

Trust Fund, Collective Bargaining Reserve, Benefits Reserve, Unemployment Reserve, Code Enforcement & Derelict Properties, Grant Funding,  
**Passed Over in Consent Agenda**

**ARTICLE 3 – PRIOR YEAR BILLS & DEFICITS**

I move the Town vote to raise and appropriate or transfer from available funds or by any combination of the foregoing, a sum of money to pay unpaid bills and deficits of prior fiscal years

**Passed over in Consent Agenda**

**ARTICLE 4 – PEG ACCESS RECEIPTS RESERVED FOR APPROPRIATION**

I move the Town vote to transfer \$214,999.52 from the PEG Access Receipts Reserved for Appropriation account to Wareham Community Television (WCTV) for Peg Access Programming. Account

**Approved in Consent Agenda**

**ARTICLE 5 - UNION CONTRACTS**

I move that the Town approve and fund the collective bargaining agreements between the Town and:

A. Wareham Police Sergeants Union NEPBA, Local 181;

B. Wareham Communication Officers Union NEPBA;

C. Wareham Superior Officers Union NEPBA Local 180

**Approved unanimously**

**ARTICLE 6 - HARBOR SERVICES PERMIT RECEIPTS RESERVED FOR APPROPRIATIONS ACCOUNT / SOFTWARE**

I move that the Town approve as printed in the Warrant.

**Article 6: as printed in the warrant**

To see if the Town will vote to transfer the sum of \$5,000.00 from the Harbor Services Permits Receipts Reserved for Appropriations Account, to be transferred to the Harbormaster's Maintenance and Improvements account

**Approved unanimously**

**ARTICLE 7 - HARBOR SERVICES PERMIT RECEIPTS RESERVED FOR APPROPRIATIONS ACCOUNT / DEBT PAYMENT**

I move the Town vote to transfer the sum of \$58,750.00 from the Harbor Services Permits Receipts Reserved for Appropriations Account, to be transferred to the Harbormaster's Maintenance and Improvements accounts.

**Passed over in Consent Agenda**

**ARTICLE 8 - AMENDMENT TO WATERWAY RULES**

I move that the Town approve as printed in the Warrant.

**Article 8: as printed in the warrant**

To see if the Town will vote to amend DIVISION XIII, Article 1, WATERWAYS RULES, which was adopted by the Town of Wareham during the October 24, 2022 Annual Fall Town Meeting; approved by the Attorney General on May 15, 2023 as follows:

In section 1.02 Definitions

Change the definition of GREAT PONDS to

Great Ponds – Any pond which contained more than ten acres in its natural state, as calculated based on the surface area of lands lying below the natural high water mark. The Department shall presume that any pond presently larger than ten acres is a Great Pond, unless the applicant presents topographic, historic, or other information demonstrating that the original size of the pond was less than ten acres, prior to any alteration by damming or other human activity.

Change the definition of Vessel or Boat to as follows:

Vessel or Boat - watercraft of every description, except a seaplane on the water used or capable of being used as a means of transportation on water.

Change the definition of Personal Watercraft

By deleting:

Includes every description of watercraft propelled by an internal combustion engine commonly referred to as "jet skis" and watercraft shaped like a surfboard propelled by the wind, commonly referred to as "wind surfers".

And substituting

"shall mean a vessel propelled by a water jet pump or other machinery as its primary source of motor propulsion which is designed to be operated by a person sitting, standing or kneeling on the vessel rather than being operated in the conventional manner by a person sitting or standing inside."

In §103.1 HARBOR SERVICES PERMIT GENERAL RULES

Delete:

No person will keep any vessel within the waters of the Town of Wareham, held by mooring or dock, without first obtaining a Harbor Service Permit from the Harbormaster. This will include all personal watercraft. No vessel may be anchored in the waters of Wareham for more than six (6) consecutive days without a Harbor Service Permit. Anchoring will be prohibited within all designated mooring areas. Anchorage will be at the discretion of the Harbormaster.

And substitute:

No person will keep any vessel within the waters of the Town of Wareham, held by mooring or dock, for more than six (6) consecutive days without obtaining a Harbor Service Permit. This will include all personal watercraft. Temporary or transient anchoring of vessels within designated mooring areas is prohibited. Anchorage will be at the discretion of the Harbormaster.

In section 109.1 VESSELS LEFT ON TOWN OF WAREHAM PROPERTY, BEACHES OR SHORELINE

Amend by removing the sentence: (Only vessels used as tenders are permitted to be left in designated areas)

Insert "Only tenders and kayaks with permits issued by the Harbormaster may be seasonally stored in designated public areas."

Delete in entirety 4

(This section refers to kayak storage)

In §112.1 VESSEL OPERATION

Delete the following language in item 2 B

'unless operating in an area designated for higher speeds.'

In §113.7 DIVERS

Delete 1 & 2 in entirety

Replace with:

Every scuba diver or group of scuba divers while swimming on or under the surface of the waters of the commonwealth shall display for each diver or group of divers as a warning device to boat operators, a diver's flag, so called, constructed of rigidly supported material at least twelve inches by fifteen inches in area of red background with a white diagonal stripe. Such diver's flag shall be displayed on a boat or surface float and shall extend a minimum distance of three feet from the surface of the water. Divers shall remain in an area within one hundred feet of such displayed diver's flag while at or near the surface of the water. A boat operator within sight of a diver's flag shall proceed with caution and within a radius of one hundred feet of such flag shall proceed at a speed not to exceed three miles per hour.

No person shall dive withing any navigational channels within Wareham's waterways without notifying the Harbormaster

#### In §115.3 PENALTIES

Delete:

The Harbormaster, Assistant Harbormaster, Deputy Harbormaster, Natural Resource Officer and any Police Officer of the Town of Wareham, hereinafter referred to as the enforcing officer(s), taking cognizance of a violation of a specific by-law, or rule which he is empowered to enforce, as an alternative to initiating criminal proceedings, may elect to give to the offender a written notice to appear before the clerk of the Wareham District Court at any time during office hours, not later than twenty-one (21) days after the date of such notice.

And substitute:

The provisions of this chapter and all rules and regulations made under the authority thereof shall be enforced by the director, deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement, environmental police officers and deputy environmental police officers of the division of law enforcement, department of fisheries, wildlife and environmental law enforcement, by harbor masters and assistant harbor masters, by police officers assigned to harbor patrol, by fish and game wardens, by members of the state police, and by city and town police officers assigned to patrol the waters of the Commonwealth

**Approved unanimously**

#### **ARTICLE – 9 #6 CHAPEL LANE**

I move that the Town vote to appropriate from the Community Preservation Affordable Housing Reserve Fund, the sum of \$150,000.00, for a grant to 6 Chapel Lane LLC, located at 6 Chapel Lane, Wareham MA, for the construction of six (6) affordable rental housing units, and further to require an Affordable Housing Restriction on the three (3) buildings at this location.

**Approved by Majority**

**Vote taken Yes 106 No 75**

#### **ARTICLE 10 - MARKS COVE VISTA**

I move that the Town vote to appropriate from the Community Preservation Open Space Reserve Fund, the sum of \$250,000 to acquire a Conservation restriction to be held by the Wareham Conservation Commission and to fund the associated due diligence cost of the acquisition the 3.58 acre parcel (Wareham Assessors Map 54, lot 1009) at 120 Cromesett Road, Wareham, MA.

**Approved unanimously**

#### **ARTICLE 11 - WESTGATE PROPERTY**

I move that the Town vote to appropriate from the Community Preservation Open Space reserve fund the sum of \$26,000 for a grant to the Town of Wareham to be expended by its Conservation Department to improve the trail system and construct an observation/sitting deck at the Douglas S. Westgate conservation and river walk property in the Town of Wareham.

**Approved unanimously**

#### **ARTICLE 12 - AFFORDABLE HOUSING TRUST**

I move that the Town vote to appropriate from the Community Preservation Undesignated Fund, the sum of \$150,000.00, as a grant to Wareham Affordable Housing Trust, to be used by the Trust to provide for the creation and preservation of affordable housing in the Town of Wareham for the benefit of low-income and moderate-income households and further to require an affordable housing restriction

**Approved by majority**

#### **ARTICLE 13 - DELETE LOTTERY REQUIREMENTS FOR TOWN MEETING ARTICLES**

I move that the Town approve as printed in the Warrant.

**Article 13: as printed in the warrant:**

To see if the Town will vote to stop the practice of calling warrant articles by lottery and to accomplish it by deleting Division I, Article I, Section 2 of the Town By-Laws and inserting a new Section 2, which states:

Section 2. Town meetings shall be legally called and all petitions for insertion of any articles in any warrant shall be in accordance with Section 2-4 of the Wareham Home Rule Charter.

Articles at the Annual Spring and Fall Town Meeting and any Special Town Meeting shall be taken up in order as presented in the warrant. Articles which are contingent upon action in another article shall be acted upon in succession. Further, those articles which the Board of Selectmen certifies to the Moderator are of such financial or emergency nature as to warrant action early in the town meeting may be taken out of order.

**Motion Failed Yes 46 No 130**

#### **ARTICLE 14 – EASEMENT AGREEMENT WITH EVERSOURCE/HAMMOND SCHOOL**

I move that the Town approve as printed in the Warrant.

##### **Article 14: as printed in the warrant**

To see if the Town will vote to authorize the Select Board to enter into a lease agreement with NSTAR ELECTRIC COMPANY, d/b/a Eversource Energy, a copy of said lease agreement and exhibit on file with the Town Clerk, for the purpose of distribution of electricity, and lines for control, relay and communication purposes over, across, upon and under a certain parcel of land Town owned land known as the Hammond School.

**Passed Unanimously in Consent Agenda**

#### **ARTICLE 15 - ELECTED CONSTABLES**

I move that the Town approve as printed in the Warrant.

##### **Article 15: as printed in the warrant**

To see if the Town will vote to decrease the number of elected Constables from 1 to 0 (one to zero) pursuant to M.G.L. c.41, § 2

**Approved unanimously**

#### **Article 16: Road Commissioners**

I move that the Town approve as printed in the Warrant.

##### **Article 16: As printed in the warrant**

To see if the Town will vote to petition the General Court for special legislation to rescind Wareham Charter Section 3-9 "Board of Road Commissioners", with the terms of the Road Commissioners to expire upon adoption, thereby returning the authority of the Road Commission

**Approved by Majority**

#### **ARTICLE 17 - MGL 41 SECTION 110A: SATURDAY OFFICE HOURS**

I move that the Town approve as printed in the Warrant.

##### **Article 17: as printed in the warrant.**

To see if the Town will vote to accept Massachusetts General laws Chapter 41 Section 110A: Office hours on Saturday

Section 110A. Any public office in any city or town may remain closed on any or all Saturdays as may be determined from time to time, in a city by the city council, subject to the provisions of the city charter, or, in a town, by vote of the town at a special or regular town meeting, and the provisions of section nine of chapter four shall apply in the case of such closing of any such office on any Saturday to the same extent as if such Saturday were a legal holiday.

**Approved by Majority**

## **ARTICLE – 18 DELETE ZONING BYLAW SECTION 1216.9**

I move that the Town approve as printed in the Warrant.

### **Article 18 – As printed in the warrant**

To see if the Town will vote to amend the Wareham Zoning Bylaw to DELETE Section 1216.9, which exempts Special Permit projects from all of the criteria of the Zoning By-Laws found in Article 12. This would make all Special Permit projects have to conform to Article 12 standards; or to do or act in any manner relative thereto.

**Approved unanimously**

## **ARTICLE – 19 AMEND ZONING BYLAWS ARTICLE 16**

I move that the Town approve as printed in the Warrant.

### **Article 19 – As printed in the warrant**

To see if Town Meeting will vote to amend the Zoning By-Laws, Article 16 to include the following changes:

Change the dictionary reference to “The Merriam-Webster Dictionary, current edition”

Add “ACCESSORY STRUCTURE: A structure that is accessory to and incidental to that of the principle structure and that is located on the same lot.

Add “APPLICANT: An Owner or the Owner’s agent or representative who submits an application, petition, appeal or request to the Zoning Board of Appeals, Planning Board or Select Board in their capacity as a Permit Granting Authority under the By-laws. The term “Applicant” shall also mean a petitioner or appellant under the By-laws.”

Add “ASSISTED LIVING FACILITY: A facility licensed by the State that provides housing and services for individuals who cannot or choose not to live independently.”.

Add “BY-LAWS: The Town of Wareham Zoning By-Laws and applicable Rules and Regulations, including any amendments or modifications.”

Add “COTTAGE: A small frame, one-family dwelling.”

Under DWELLING UNIT, SEASONAL change “Building” to “Inspectional Services”

Add “ELDERLY OR SENIOR HOUSING: Congregate housing units principally for persons 55 years or older. May have common areas and dining services, and may have medical services, but is not an assisted living facility for those people who cannot or choose not to live independently.”

Add to the term FLOOR AREA, GROSS “OR TOTAL”

Add “GENERAL LAWS: The General Laws of the Commonwealth, including all applicable amendments and revisions to the corresponding chapters and sections of any recodification or rearrangement of statutes adopted subsequent to the adoption of the By-laws.”.

Add “ PERMIT GRANTING AUTHORITY: The Select Board, Zoning Board of Appeals or Planning Board, as the case maybe for those uses or purposes prescribed in the By-laws including but not limited to those under Articles 3, 5 and 15 of the By-laws.”

Add “ RULES AND REGULATIONS: Rules and Regulations including any additions or modifications issued by the applicable Zoning Board of Appeals, Planning Board or Select Board for the administration of their respective powers under the By-laws including the conduct of its business and otherwise carrying out the purposes of the General Laws.”

Add "SITE PLAN REVIEW AUTHORITY: The Zoning Board of Appeals or Planning Board as the case may be, designated by the By-laws to conduct site plan review."

Add "SPECIAL PERMIT GRANTING AUTHORITY: The Select Board, Zoning Board of Appeals or Planning Board as the case may be, designated by the By-laws and of the General Laws for the issuance of special permits."

Under STRUCTURE, add "dock" to list of typical structures

Add "TOWN: The Town of Wareham"

Add "TOWN BY-LAWS The Town of Wareham By-laws"

**Approved unanimously**

### **ARTICLE – 20 UPDATE ZONING BYLAWS ARTICLE 3**

I move that the Town approve as printed in the Warrant.

#### **Article 20 – As printed in the warrant**

To see if the Town will vote to amend the Wareham Zoning Bylaw to update Section 320 TABLE OF PRINCIPAL USE REGULATIONS, Section 330 TABLE OF ACCESSORY USE REGULATIONS, and Section 340 USE DEFINITIONS as shown below:

Change Section 320 Section 321 PROVISIONS FOR TABLES OF USES AND USE DEFINITIONS

Change the Use Designation abbreviation for the \* designation to correct the reference from "see Section 390" to correctly read "see Section 380" as follows :

\* The use is subject to special conditions in certain districts, see Section 380.

Change the Use Designation abbreviations for the ‡ designation to add the word "and" between Site Plan Review – Special Permit as follows:

‡ Residential subdivisions on 30 acres or greater are subject to Site Plan Review and Special Permit (Article 15)

Change Section 320 Table of Principal Uses:

Change the designations in the Row for Large-Scale Ground-Mounted Solar Photovoltaic Installations as follows:

PRINCIPAL USE	R130	R60	R43	R30	MR30	WV1	WV2	WV1R
Large-Scale Ground-Mounted Solar Photovoltaic Installations	SPR, SPP	SPR, SPP	N	N	N	N	N	N

PRINCIPAL USE	OV1	OV2	CS	CG	CP	CNF	MAR	INS	IND
Large-Scale Ground-Mounted Solar Photovoltaic Installations	N	N	SPR, SPP	SPR, SPP	SPR, SPP	SPR, SPP	N	N	N

Change the heading in the "CNF" column to correctly read "CR".

Change Section 340 USE DEFINITIONS Section 340.2 ANIMAL RELATED USES as follows:

Change Animal Kennels

From

Harboring and/or care of more than three dogs for three or more months per year.

To

Animal Kennel, commercial – a commercial establishment in which (3) three or more dogs or domesticated animals are housed, groomed, bred, boarded, trained, or sold

Change Section 340 USE DEFINITIONS Section 340.5 EDUCATIONAL AND INSTITUTIONAL USES as follows:

**Add Municipal Use**

Use of any building, facilities and/or area owned or operated by the Town of Wareham (Town) for the (1) general use and welfare of the Town, its inhabitants or businesses located in the Town or (2) emergency vehicular or pedestrian access over land owned by the Town.

**Add Educational Uses, Nonexempt**

Educational facilities not exempt from regulation by Ch. 40A, section 3 of the General Laws.

**Add Membership Club**

Buildings, structures and premises used by a nonprofit social or civic organization or by an organization catering exclusively to members and their guests for social, civic recreational or athletic purposes which are not conducted primarily for gain and provided that there are no vending stands, merchandising or commercial activities except as may be required for membership purposes for such organization.

Change Section 340 USE DEFINITIONS Section 340.6 COMMERCIAL USES as follows:

**Banks**

Change from:

A freestanding building, with or without a drive-up window, for the custody, loan, or exchange of money; for the extension of credit; and for facilitating the transmission of funds.

To:

A freestanding building, with or without a drive-up window and/or Automated Teller Machine (ATM), for the custody, loan, or exchange of money; for the extension of credit; and for facilitating the transmission of funds.

Change Section 340 USE DEFINITIONS Section 340.7 MARINE USES as follows:

**Marinas**

Change from: Premises used for wharves, docking, boat liveries, boat yards, yacht clubs, sale of boats and other marine equipment but not including the processing or sale of fish. Indoor marina facilities shall include restaurants, social clubs, and other membership organizations, whether including or not including the serving of alcoholic beverages.

To:

Premises used for wharves, docking, boat liveries, boat yards, boat storage, yacht clubs, sale of boats and other marine equipment but not including the processing or sale of fish. Indoor marina facilities shall include restaurants, social clubs, and other membership organizations, whether including or not including the serving of alcoholic beverages.

Change Section 340 USE DEFINITIONS Section 340.8 UTILITY as follows:

**Add**

**Large-Scale Ground-Mounted Solar Photovoltaic Installation**

A solar photovoltaic system that is structurally mounted on the ground and has a minimum Rated Nameplate Capacity of 250 kW DC.

**Approved unanimously**



## **ARTICLE – 21 ZONING BYLAW ARTICLE 14 CLARIFICATION**

I move that the Town approve as printed in the Warrant.

### **Article 21 – As printed in the warrant**

To see if the Town will vote to amend Article 14 of the Zoning By-Law ADMINISTRATION to clarify the administrative process for land use permitting, as shown below:

ARTICLE:

ZONING ADMINISTRATION and ENFORCEMENT

#### 1410 ZONING ADMINISTRATION

##### 1411 Project Review Fees

Fees for the employment of outside consultants selected by a Permit Granting Authority in connection with the review of an application for a Land Use Permit under the By-Laws may be collected from the Applicant and administered subject to and as provided in the applicable Rules and Regulations and Ch. 44, Section 53G of the General Laws. The selection of the consultant shall be in the sole discretion of the Permit Granting Authority.

##### 1412 Land Use - Performance Guaranty

###### 1412.1 Requirements

The Permit Granting Authority as a condition for granting a Special Permit and/or approval of a Site Plan or approval of a Subdivision may require that the faithful and satisfactory construction of all proposed improvements, performance of all conditions and observance of all safeguards in accordance with such grant or approval be secured by a performance guaranty in situations it deems appropriate.

###### 1412.2 Amount of Performance Guarantee

The Permit Granting Authority shall determine the amount of the performance guarantee as set forth in the applicable Rules and Regulations which shall be secured by one, or in part by the other of the methods described below:

1. Cash bond or deposit: By a proper bond or a deposit of money or negotiable securities or letter of credit, sufficient in the opinion of the Permit Granting Authority to secure compliance with the construction requirements, conditions and safeguards included in the Special Permit and/or Site Plan Review or Subdivision. Bond sureties shall be qualified to do business in the Commonwealth of Massachusetts.
2. Covenant (Subdivisions): By covenant running with the land, executed and duly recorded by the Owner of record, whereby the construction requirements, conditions and safeguards included in the Subdivision approval shall be performed before any Lot may be conveyed other than by a mortgage deed. Nothing herein shall be deemed to prohibit a conveyance of a single deed subject to such covenant of the entire parcel of land, the development of which is governed by such Subdivision approval.

###### 1412.3 Reduction of Security

Until completion and submittal of the final Project Completion Certification as provided in this Article, the sum of any security held may, from time to time be reduced by the Permit Granting Authority by an amount not to exceed fifty percent (50%) of the value of the work originally estimated.

###### 1412.4 Release of Security

Upon the satisfactory completion of the work under the Special Permit and/or Site Plan Review or Subdivision, security or performance of which was given, the Applicant shall send by registered mail to the Authority, a sworn affidavit that the construction, conditions and safeguards in connection with such security given have been complied with by the Applicant and a final Project Completion Certification as provided in this Article of the By-Laws.

If the Permit Granting Authority determines that the construction, conditions and safeguards included in the grant or approval in connection with such security have been complied with by the Applicant, the Permit Granting Authority shall release the interest of the Town in such security, return or release the security to the person who furnished the same or release the covenant by the appropriate instrument, duly acknowledged.

If the Permit Granting Authority determines that the construction, conditions and safeguards included in the grant or approval in connection with such security have not been complied with by the Applicant, the Permit Granting Authority shall specify the construction, conditions or safeguards included in the grant or approval with which the Applicant has not complied in a notice sent by registered mail to the Applicant.

#### 1412.5 Failure to Notify Applicant

If the Permit Granting Authority fails to send such a notice within sixty (60) days after it receives the affidavit of the Applicant, all obligations under the security shall cease and terminate, any deposit shall be returned and any such covenant shall be void.

#### 1412.6 Applicant's Failure to Complete Work

Upon failure of the Applicant to deliver a Project Completion Certification and to complete all work in connection with the project in accordance with the grant or approval to the satisfaction of the Permit Granting Authority and in accordance with the By-laws and Rules and Regulations, the Town shall be entitled to enforce such bond or to realize upon such securities to the extent necessary to complete all such work without delay.

#### 1413 Project Completion Certification

An Applicant shall, upon completion of all work authorized under a Special Permit and/or Site Plan Review or Subdivision approval under this Article, other applicable provisions of the By-laws and applicable Rules and Regulations and prior to obtaining an occupancy permit deliver a Project Completion Certification by undertaking the following:

##### 1. "As-Built" Plan

File two copies of the "as built" plan and electronic copies of the same with the Planning and Community Development Office and the Permit Granting Authority. Such plan shall be certified and signed by a professional engineer and shall show, as actually constructed, all underground public and private utility lines including details of Structures and appurtenances where appropriate, all service connections and ties to same, site elevations, grades and slopes, utility invert elevations and pipe slopes, all parking requirements, curbing, and any other pertinent data relative to the grant or approval.

##### 2. Professional Certification

Provide a written certification from a professional engineer licensed by the Commonwealth of Massachusetts that the project complies with the requirement of the grant or approval, the By-laws and the applicable Rules and Regulations

##### Project Approval

Within thirty (30) days of the submission of the Project Completion Certification, the Permit Granting Authority shall approve the project or submit their recommendation regarding project completion to the Planning and Community Development Office and the Zoning Enforcement Officer.

#### Changes or Improvements

The Applicant shall make any changes and construct or install any improvements required by the Permit Granting Authority to the satisfaction of the Zoning Enforcement Officer and issue a final Project Completion Certification reflecting such changes, construction or installations required by the Permit Granting Authority.

#### Recordation of Project Completion Certification

The Applicant shall promptly record the final Project Completion Certification with the Plymouth County Registry of Deeds and provide proof of recording to the Permit Granting Authority.

#### 1420 APPEALS

##### 1421 Administrative Appeal to Zoning Board of Appeals

The Zoning Board of Appeals (hereinafter "ZBA") shall hear administrative appeals by parties aggrieved by the decision of or failure to act by the Permit Granting Authority including an inability to obtain a permit or enforcement action by the same or by an order or decision of the Building Commissioner or other administrative officer of the Town whether or not previously a party to the proceeding. Such appeals shall be made in accordance with the provisions of Ch. 40A of the General Laws.

##### 1422 Basis of Appeal

An administrative appeal to the ZBA may be taken by any one of the following parties:

1. A person aggrieved by reason of the inability to obtain a permit or enforcement action from a Permit Granting Authority or an administrative officer under the provisions of the By-laws or Ch. 40A, Section 8 of the General Laws
2. A person, including an officer or board of the Town or of any abutting town, aggrieved by an order or decision of the Town Building Commissioner or other administrative officer, in violation of provisions of the By-laws or Ch. 40A, Section 8 of the General Laws

##### 1422.1 Deadline to initiate an appeal; procedure

An appeal shall be initiated within thirty (30) days of the date of the order or decision, by filing a notice of appeal, specifying the grounds thereof, with the Town Clerk, the hearing, record and decision on which shall be in accordance with Ch. 40A, Section 15 of the General Laws.

#### 1422.2 Further Appeals

##### Appealable decisions

Any person aggrieved by a decision of the ZBA, whether or not previously a party to the proceeding or any municipal officer or board or otherwise as provided in Ch. 40A, Section 17 of the General Laws, may appeal to the Superior Court or Land Court or other court as applicable in accordance with the aforesaid Ch. 40A, Section 17.

#### 1422.3 Appeal Process

The appellant shall file a notice of appeal, specifying the grounds thereof, with the Town Clerk in accordance with the provisions of Ch. 40A, Section 17 of the General Laws. The appeal shall be filed within twenty (20) days of the date that the decision is filed with the Town Clerk.

#### 1430 Repetitive Appeal or Application – Final Unfavorable Decision

##### 1430.1 Three (3) year restriction

No appeal, application or petition for a Land Use Permit that has been unfavorably and finally acted upon by the respective Permit Granting Authority shall be acted favorably upon by the respective board for a period of three (3) years after the date of final unfavorable action unless upon a properly noticed public hearing, both of the following two conditions are met:

1. All but one member of the Permit Granting Authority shall vote their consent to the refiling of the subject appeal, application or petition within the three (3) year period
2. The applicable Permit Granting Authority finds that there are specific and material changes in the conditions upon which the previous unfavorable action was based and describe those changes in its record of the meeting

##### 1430.2 Procedure

Actions of parties involved in a repetitive petition or application process shall be taken in accordance with Ch. 40A, Section 16 of the General Laws and include notice to the parties in interest as to the time and place of the hearing when the question of such consent will be considered.

#### 1440 PROJECT ADMINISTRATION

##### 1441 Site Preparation

##### 1441.1 Purpose

It is the intent of the By-laws to promote the health, safety and welfare of the community's inhabitants by preventing the unnecessary destruction of the natural physical environment. Therefore, in all Districts, no site preparation work shall begin, including the removal of trees, except for purposes of soil testing to obtain required permits, for any project which requires one or more Land Use Permits under the By-Laws until such has been obtained

##### 1442 Site Inspection Program

##### 1442.1 Purpose and authority

All approved land Use applications shall be subject to site inspections. The Permit Granting Authority is responsible for the administration, management and implementation of the site inspection process. The Permit Granting Authority shall adopt Rules and Regulations to implement the site inspection program, including fees required to offset the cost of the inspection services which shall be the responsibility of the Applicant.

##### 1442.2 Site inspections

Site Inspections include, but are not limited to, daily field inspections, field reports, field tests, laboratory work, meetings, conferences and related professional inspection and/or coordination services by the Permit Granting Authority or its representative(s). As a condition of a permit issued under the By-laws, the Applicant shall provide the Town with a "Site Access Certificate" specifying that the Permit Granting Authority and its representative will have unlimited access to the Applicant's land and property for the purpose of inspecting the sitework.

##### 1443 Certificate of Occupancy

No Certificate of Occupancy shall be issued for any Building, Structure or Use, or portion(s) thereof, subject to a Land Use Permit until all of the following requirements have been met:

1. The Building Commissioner or designated Town engineer receives certification from a registered architect, engineer or land surveyor, that all construction (including utilities) has been completed in accordance with the approved Land Use Permit

2. The Building Commissioner and the designated Town engineer verifies that all conditions of the approved Land Use Permit have been met

3. The Building Commissioner and/or the Director of Planning confirms with the Permit Granting Authority, at a regularly scheduled meeting of that Board, that all conditions of the approved Land Use Permit have been met. Such notification shall be recorded in the minutes of the Permit Granting Authority.

#### 1450 ENFORCEMENT AND VIOLATION

##### 1451 Zoning Enforcement Officer

The Town Building Commissioner shall be the Zoning Enforcement Officer pursuant to Ch. 40A, Section 7 of the General Laws and shall be charged with the enforcement of the Town By-laws, these By-Laws, including any applicable Rules and Regulations issued relative thereto and other applicable laws, codes or regulations. The Zoning Enforcement Officer shall withhold a permit for the construction, alteration or moving of any Building or Structure if the Building or Structure as constructed, altered or moved would be in violation of any provision of the By-laws or applicable Rules and Regulations.

The Zoning Enforcement Officer shall not approve applications of any kind or plans or specifications or intended Uses, which are not in conformity in all respects with the By-laws and applicable Rules and Regulations. No permit or license shall be granted for a new Use of a Building, Structure or land which Use would be in violation of the By-laws or applicable Rules and Regulations. The Zoning Enforcement Officer may from time to time delegate administrative duties under this Article such as conducting inspections, investigations of complaints, assessments, etc. to the Zoning Enforcement Officer's staff and agents including but not limited to engineers and other professionals engaged by the Town.

##### 1452 Enforcement

If the Zoning Enforcement Officer has reason to believe that a provision of the Town By-laws, these By-laws or any applicable Rule or Regulation, any applicable government laws, codes or regulation or any approval, permit, plan, decision or certificate issued thereunder, including any conditions under which it has been issued, has been or is being violated the Zoning Enforcement Officer shall upon such officer's own initiative or upon written complaint of a citizen or Owner of property within the Town make or cause to be made an investigation of the facts, including the inspection of the premises where the violations may exist, and if a violation is found, immediate notice shall be given by the Zoning Enforcement Officer in writing to the Owner or duly authorized agent and the occupants of the premises.

Violations shall include but not be limited to the erection, construction, reconstruction, conversion, and alteration of a Building, Structure or change in Use, increase in intensity, or extension or displacement of Use.

##### 1453 Notice of Violation and Order

If after notice, such violation, the Zoning Enforcement Officer shall institute any appropriate action or proceedings in the name of the Town to prevent, restrain or abate any violations of the By-laws by service of a notice of VIOLATION AND ORDER as provided in Ch. 40A, Section 7 of the General Laws on any Owner or person so responsible for such violation. Such order shall direct the immediate discontinuance of the unlawful action, Use or condition and the abatement of the violation. Any Owner or person so responsible for such violation who has been served with a notice and ceases any work or other activity shall leave the Building, Structure or lot in such condition as not to be or create a hazard or menace to the public safety, health, morals or general welfare.

##### 1454 Prosecution of Violation

If the notice of VIOLATION AND ORDER is not complied with promptly, the Select Board may institute the appropriate action or proceeding at law or equity to prevent any unlawful action, Use or condition and to restrain, correct, or abate such violation.

#### 1460 PENALTIES FOR VIOLATION

##### 1461 Fines

Any person, firm or corporation violating any of the provisions of the By-Law or applicable Rules and Regulations shall be liable for a fine of not more than three hundred dollars (\$300.00) or such higher amount as provided in Ch. 40, Section 21 for each violation. Each day that a violation continues shall constitute a separate offense.

##### 1462 Criminal and Non-Criminal Disposition

Any violation may be enforced by criminal complaint brought in the manner provided in Ch. 40, Sections 21 of the General Laws or alternatively by a noncriminal complaint brought in the manner provided in Ch. 40, Section 21D of the General Laws and otherwise as set forth in the Town By-laws.

**Approved unanimously**

## **ARTICLE 22 - ZONING BYLAW ARTICLE 15 LAND USE PERMIT CLARIFICATION**

I move that Town Meeting vote to approve Article 22 to amend Article 15 of the Zoning Bylaws as printed in the Warrant with the following changes.

Delete the first paragraph of section 1521.1. "Establishment and Composition"

Add under the "Powers" section: Wareham Planning Board (hereinafter "WPB")

Add in section 1521.2: Wareham Select Board (hereinafter "WSB")

### **Article 22. As printed in the warrant**

To see if the Town will vote to amend Article 15 of the Zoning By-Law SITE PLAN REVIEW to clarify the regulations, standards, criteria, and other provisions for granting Land Use Permits, as shown below:

## **ARTICLE 15: LAND USE PERMITS PERMITTING REQUIREMENTS**

### **1510 GENERAL**

#### **1511 Introduction**

This Article is adopted to promote the general welfare of the Town by encouraging the most appropriate use of land throughout the Town, to protect the health and safety of its inhabitants and to increase the amenities of the Town by defining the regulations, standards, criteria, and other provisions for granting Land Use Permits within the Town all as authorized by, but not limited by the provisions of The Zoning Act, Ch. 40A of the General Laws.

#### **1512 Applicability**

Land Use in the Town may be permitted as provided in Article 3 and other provisions of the By-laws by:

1. Right
2. Right subject to Site Plan Review
3. Waiver
4. Special Permit
5. Special Permit/Site Plan Review
6. Variance
7. A combination thereof

#### **1513 Definitions**

All capitalized terms used in this Article shall have the meaning ascribed to them in Article 16 or elsewhere in the By-laws.

### **1520 Boards**

#### **1521 Land Use Permit Reviewing and Granting Entities**

##### **1521.1 Planning Board**

##### **Establishment and Composition**

There shall be a Planning Board (hereinafter "WPB") consisting of five (5) members, all residents of the Town, appointed by the Select Board (hereinafter "WSB") under the provisions of Ch. 41, Section 81A of the General Laws which shall act on all matters within its jurisdiction under the By-laws and in the manner prescribed in said Ch. 41 of the General Laws. The Select Board shall have the authority to appoint one (1) associate member.

##### **Powers**

The WPB shall have and exercise all the powers granted to it by Ch. 40A and 41 of the General Laws and the By-laws, subject to any general or specific rules therein contained and subject to any appropriate conditions and safeguards imposed by the WPB. The powers of the WPB include:

1. To hear and decide as the Special Permit Granting Authority, applications for Residential Cluster Developments, Large Ground-Mounted Solar Photovoltaic Installations and for such other Uses as are provided in Article 3, Article 12, this Article and other provisions of the By-laws or the General Laws
2. To review and decide applications for ANR plans
3. To hear and decide as the Permit Granting Authority, applications for Sub-Division approval
4. To hear and decide as the Site Plan Review Authority, applications for Site Plan Review as provided in Article 3, this Article and elsewhere in the By-laws

##### **Rules and Regulations**

The WPB shall adopt Rules and Regulations not inconsistent with the provisions of the By-laws for the administration of its powers including the conduct of its business and otherwise carrying out the purposes

of the By-laws, said Ch.'s 40A, 41 and other applicable provisions of the General Laws. A copy of such Rules and Regulations is filed in the office of the Town Clerk and posted on the Town Website.

#### Fees

The WPB may impose reasonable administrative fees and technical review fees for review of any Land Use Permit application received by it.

### 1521.2 Zoning Board of Appeals

#### Establishment and Composition

There shall be a Zoning Board of Appeals (hereinafter "ZBA") consisting of five (5) members and three (3) associate members, all residents of the Town, appointed by the WSB under the provisions of Ch. 40A, Section 12 of the General Laws which shall act on all matters within its jurisdiction under the By-laws and in the manner prescribed in said Ch. 40A and other provisions of the General Laws.

#### Powers

The ZBA shall have and exercise all the powers granted to it by Ch.'s 40A, 40B and 41 of the General Laws and the By-laws subject to any general or specific rules therein contained and subject to any appropriate conditions and safeguards imposed by the ZBA. The powers of the ZBA include:

1. To hear and decide as the Special Permit Granting Authority applications for Special Permits for those Uses provided in the By-laws including Article 3, Article 13 and this Article and Ch. 40A, Section 9 of the General Laws including applications for all changes, Alterations, or extensions of a Non-Conforming Structure, Lot or Use, except where the WPB or WSB is specifically designated as the Special Permit Granting Authority by the By-laws.
2. To hear and decide as the Permit Granting Authority, appeals or petitions for Variances from the terms of the By-laws with respect to particular Uses, land or Structures including issuance and modification of Use Variances as set forth in Ch. 40A, Section 10 of the General Laws.
3. To hear and decide as the Permit Granting Authority, applications for comprehensive permits for construction of low- or moderate-income housing as set forth in Ch. 40B, Sections 20-23 of the General Laws.
4. To hear and decide appeals taken by any person aggrieved by reason of the inability to obtain a permit or enforcement action from any administrative officer or board under the provisions of Ch. 40A, Sections 8 and 15 of the General Laws.

#### Rules and Regulations

The ZBA shall adopt Rules and Regulations not inconsistent with the provisions of the By-laws for the administration of its powers including the conduct of its business and otherwise carrying out the purposes of the By-laws, said Ch.'s. 40A, 40B, 41A and other applicable provisions of the General Laws. A copy of such Rules and Regulations is filed in the office of the Town Clerk and posted on the Town Website.

#### Fees

The ZBA may impose reasonable administrative fees and technical review fees for review of any Land Use Permit application received by it.

### 1521.3 Select Board

The WSB shall be the Special Permit Granting Authority for the properties or Uses designated in:

1. The By-laws, including for properties or Uses in the Tremont Nail Factory Overlay District
2. The Town By-laws or
3. Ch. 40A, Section 9 of the General Laws

### 1522 Other Reviewing Entities

#### 1522.1 Design Review Board

A Design Review Board may be established by the Planning and Development Office or WPB to provide preliminary design review services to the Permit Granting Authority for projects subject to design review under the By-Laws.

### 1530 Determination of Required Land Use Permits

#### 1531 Applicability

The provisions of this Article of the By-laws shall not interfere with or annul any other provisions of the By-laws, applicable Rules or Regulations, or any permit, except that, where this Article imposes a greater restriction or limitation on the Use of Buildings, Structures, or premises than is imposed by existing provisions of the By-laws or General Laws, this Article of the By-laws shall control.

### 1532 Zoning Conformance Review

The Building Commissioner shall determine the applicable Land Use Permits required to obtain a Building Permit for any project subject to the By-laws. An Applicant seeking Land Use Permit(s) shall first

submit an application for a Building permit to the Building Commissioner who shall conduct a zoning conformance review to determine the applicable Land Use Permits with reference to Article 3 and other applicable provisions of the By-laws, the General Laws or other governmental laws, codes and regulations. The Applicant promptly shall submit such additional information as the Building Inspector shall reasonably require.

Upon completion of such review, the Building Commissioner shall issue a "Letter of Denial" listing the requirements for zoning compliance including, but not limited to required Land Use Permits. A copy of the "Letter of Denial" shall be included with the Land Use Permit application and provided to the appropriate Permit Granting Authority.

An Applicant for any Land Use Permit shall meet with the Planning and Community Development Office to complete a preliminary project review including preliminary design review if required under the By-Laws prior to submitting a Land Use Permit application to the permit Granting Authority.

#### 1533 Application for Land Use Permit

An Applicant for a Land Use Permit shall submit a complete application to the Permit Granting Authority using the form and including the required information and documents in support of the application as described in the Rules and Regulations of the Permit Granting Authority. An application will not be deemed complete unless and until all such information and documents are received by the Permit Granting Authority. The Permit Granting Authority may, in the course of review of an application for such permit request any additional information it may reasonable require.

#### 1534 Order of Applications for Land Use Permits

##### 1534.1 Relationship to Site Plan Review

Whenever a Use or Structure requires a Special Permit and Site Plan Review pursuant to the requirements of the By-laws, an application for Site Plan Review shall be made simultaneously to the Special Permit Granting Authority.

##### 1534.2 Relationship to Variance

Whenever a Use or Structure requires a Variance for Use or dimension pursuant to the requirements of the By-laws and the resulting Use or Structure also requires license approval from the WSB acting in their capacity as the Select Board and/or in other licensing capacities as the Local Licensing Authority, application shall be made first or simultaneously to the WSB for license approval.

##### 1534.3 Relationship to Special Permit

Whenever a Use or Structure requires a Special Permit pursuant to the requirements of the By-laws and the resulting Use also requires license approval from the WSB acting in their capacity as the Select Board and/or in other licensing capacities as the Local Licensing Authority, application shall be made first or simultaneously to the WSB for license approval.

#### 1540 TYPES OF PROJECTS

##### 1541 Approval Not Required (ANR) Plans

###### 1541.1 Purpose

Ch. 41, Sections 81L- 81P of the Subdivision Control Law contained in the General Laws provides for plans that do not require WPB approval, also known as Approval Not Required (ANR) plans.

###### 1541.2 Criteria

In order for a plan to be eligible for ANR treatment, it must meet Frontage requirements of the By-laws, and provide direct access to the Lot(s) by means of one of the following:

1. A public way or a way that is accepted, used and maintained as a public way
2. A way shown on an approved plan in accordance with the Subdivision Control Law
3. A way in existence when the Subdivision Control Law took effect in the Town and is suitable for the proposed Use of the Lot(s)

###### 1541.3 Procedure

An Applicant should refer to the Subdivision Rules and Regulations of the WPB, the By-laws and Ch. 41, Sections 81L-81P of the General Laws for further information as to the process, procedures and requirements relative to qualification as an ANR plan.

##### 1542 Subdivisions

###### 1542.1 Purpose

Ch. 41, Sections 81K-81GG of the General Laws known as the Subdivision Control Law was enacted to protect the safety, convenience and welfare of the inhabitants of cities and town by regulating the laying out and construction of ways which are not yet public roads in a proposed subdivision to ensure suitable access to the Lot(s) in the subdivision and adequate access to utilities including water and sewer and in

proper cases parks and open space. No person and/or Owner shall make a subdivision of land unless and until first submitting an application and plan to the WPB for its review and approval. Under the Subdivision Control Law, the WPB has authority over creation of Lots as well as the Design and construction of roads, utilities, and drainage servicing the Lots. The WPB has adopted Subdivision Rules and Regulations to fulfill the purpose of the Subdivision Control Law setting forth the process, procedure and requirements for subdivision approval and which have been duly certified by the Town Clerk, are on file with that office and posted on the Town Website.

#### 1542.2 Review procedure

The WPB shall:

1. Determine whether a plan requires approval under the Subdivision Control Law
2. Review and approve or disapprove all preliminary and definitive subdivision plans
3. Hold a properly noticed public hearing to review a definitive plan <sup>1</sup>SEP
4. Obtain performance guaranty
5. Release Lot(s) upon request
6. Advise the ZBA on comprehensive permits that are subdivisions
7. In their sole discretion, grant a waiver of one or more conditions in connection with such subdivision.

#### 1543 Pre-Existing Non-Conforming Uses and Structures

The ZBA shall hear and decide applications for all changes or Alterations to or extensions of pre-existing non-conforming Uses, Lots and Structures as the Special Permit Granting Authority. A determination shall be issued in accordance with the standards of Article 13 and other applicable provisions of the By-laws.

#### 1550 LAND USE PERMIT REVIEW

##### 1551 Design Review

###### 1551.1 Purpose

The purpose of design review is to preserve and enhance the cultural, economic and historical resources of the Town by providing a detailed design review to confirm the consistency of a submitted design with the Master Plan of the Town, applicable Design Guidelines, Rules and Regulations, the By-laws, and the exterior appearance of Building(s) and sites.

###### 1551.2 Uses and Activities Subject to Design Review

The following Uses and activities under the By-laws shall be subject to design review:

1. Requests for Site Plan Review or Special Permit within the WV-1R District are subject to the Design Guidelines and Performance Standards for that District filed with the Town Clerk and posted on the Town website
2. Requests for Special Permit/Site Plan Review of Large Ground-Mounted Photovoltaic Solar Installations are subject to those Design Guidelines and Performance Standards for that Use as provided in the Planning Board's Rules and Regulations.
3. Any construction, Alteration, demolition or removal of a Structure, other than any construction, Alteration, demolition or removal of a 1-Family residence which does not change the 1-Family Use of the Structure or site are subject to those Design Guidelines and Performance Standards for that Use as provided in the Planning Board's Rules and Regulations. This includes all actions except those that are considered to be routine maintenance.

###### 1551.3 Design Process

###### Preliminary Design Review

The Design Review Board established under this Article of the By-laws or, if not established, the Planning and Development Office or WPB acting as the Design Review Board, shall conduct preliminary design review of all projects subject to design review under the By-Laws. Preliminary design review shall be completed prior to submittal of the Land Use application to the Permit Granting Authority by the Applicant. A written report with the results of the preliminary design review including all recommendations shall accompany the application submitted to the Permit Granting Authority.

###### Drawings

An Applicant subject to design review under the By-laws shall provide a set of drawings of the project to the Permit Granting Authority which shall accompany the application for a Land Use Permit under this Article and shall demonstrate compliance with the applicable Design Guidelines and Performance Standards. At a minimum, the drawings shall include, but not be limited to, the following:

1. Proposed Building(s)
2. Neighboring Buildings



3. Property lines
4. Proposed topography modeled at intervals appropriate to describe the land;
5. Location and dimensions of drives, parking areas, walks and paths
6. Location and characteristics of any common open space, usable Open Space or natural Open Space
7. Proposed landscaping
8. Public Streets and roadways
9. Any other significant facilities or Structures deemed appropriate by the Permit Granting Authority
10. A legend that explains the design principles employed in designing the site

The drawings shall accurately reflect the Applicant's proposal and be of sufficient detail to clearly illustrate the nature of the site, the materials used and the Building. The drawings shall be rendered at a scale appropriate to clearly illustrate the proposed project.

#### 1551.4 Open Space Design

The design of new or altered Buildings shall insure that valuable Open Space within the Town, when feasible is provided, and that existing Open Space is preserved, protected, left undeveloped and otherwise enhanced. Projects shall be consistent with the Town's Master Plan, Open Space and Recreation Plan, the By-laws and otherwise expressed Open Space goals, policies, objectives and plans.

Statement of principles

1. Provide public access to water ways and coastal areas
2. Provide enjoyable and usable private and public Open Space that will add to the amenities of the Town
3. Development or redevelopment shall when feasible provide public and/or private Open Space and enhance adjacent open spaces
4. The scale, proportions, setbacks, height, and roof slopes of proposed Buildings shall be compatible with existing or newly created Open Space
5. Existing landscaping and landforms shall be incorporated into project design and used to the greatest advantage of the design
6. When possible small parks shall be provided with benches and other amenities that are accessible to the general public
7. Off-street parking shall be designed to minimize paved surface areas, wherever possible

#### 1551.5 Preservation and Enhancement of Landscape

The design of new or altered Buildings shall insure the integration of existing vegetation, land forms and water resources into development plans, keeping in mind the relationship of the natural environment to surrounding properties.

Statement of principles

1. Promote the skillful use of existing topography, landforms and landscaping, including the preservation of natural landscaping by minimizing tree and soil removal and the restoration of landscaping and wildlife habitat to its natural state
2. Provide landscaping and grading changes that either strengthen or buffer the visual relationship with surrounding areas
3. Provide trees, shrubs and groundcovers noted for longevity, low maintenance requirements, attractive appearance, ability to survive and screening ability
4. Plant evergreens to provide an effective year-round buffer between business and residential areas
5. Provide plantings, planters and flower boxes to visually break up paved areas and/or enhance an ordinary façade
6. Plant additional trees and landscaping in public areas when projects impact the public streetscape

#### 1551.6 Signs and Awnings

The combined impact of Signs and awnings can be part of the attraction of a District. To maximize their effectiveness, every Sign and awning shall be an integral part of its Building and shall be complementary to adjacent Signs and awnings to become part of an overall image with each Sign and awning supporting the other and helping to draw customers. All Signs and awnings shall conform to the maximum area height, number, setback and illumination requirements set forth in the By-laws including but not limited to Article 11 of the By-laws.

Statement of Principles

1. Signs and awnings should be compatible throughout the various Districts
2. Signs and awnings on the same Building or on a series of attached Buildings should have consistency of size, location, design, color, texture, lighting, materials and expression

3. Placement of Sign and awnings should be consistent with architectural details and not in conflict with Building details such as cornices, arches, lintels, pediments, windows, pilasters, etc.

4. Signs and awnings should be mounted to align with other Signs on the Building, or installed within the natural sign band formed by the Building's details and cornices

5. Care should be taken that Signs do not overpower the rest of the storefront, and are attractive as designs in themselves

6. The design of lettering, materials and colors shall result in good visibility and be compatible and complementary with other Signs and awnings on the Building

7. Lettering shall be legible and oriented to the pedestrian on the sidewalk and to slow moving traffic.

#### 1551.7 Heritage Structures

The Permit Granting Authority shall insure that a proposed new Building respects adjacent Heritage Structures. When appropriate, the Permit Granting Authority will consult with and request opinions and information from the Historical Commission regarding Heritage Structures.

#### 1551.8 Ancient Ways

The Permit Granting Authority shall consider how the proposed project impacts Ancient Ways. When appropriate, the Permit Granting Authority will consult with and request opinions and information from the appropriate State resource to determine the impact.

#### 1551.9 Endangered Species

The Permit Granting Authority shall consider how the proposed project impacts any endangered species. When appropriate, the Permit Granting Authority will consult with and request opinions and information from the appropriate State resource to determine the impact.

#### 1551.10 Environment Justice Community

The Permit Granting Authority shall consider how the proposed project impacts any Environmental Justice consideration. When appropriate, the Permit Granting Authority will consult with and request opinions and information from the appropriate State resource to determine the impact.

### 1552 Site Plan Review

#### 1552.1 Purpose

Each Use for which a site plan review submission is required is considered a potentially significant addition to a developing or developed area of the Town, and to a residential neighborhood, commercial or industrial District. The purpose of Site Plan Review is to ensure the design and layout of certain developments permitted as a matter of right or by Special Permit will not result in a detriment to the neighborhood, the District or the environment.

#### 1552.2 Site Plan Review Authority Planning Board

The Site Plan Review Authority shall be the WPB except as provided in this Article and elsewhere in the By-laws.

#### 1552.3 Applicability: Uses Requiring Site Plan Review

Specific types of Uses, as described in Article 3 of the By-laws and as specified in other sections of the By-laws, in the General Laws or other governmental laws, codes and regulations shall be permitted only after notice and a public hearing and the completion of Site Plan Review.

In addition to any other permits or approvals required under Article 3 or any other provisions of the By-Laws, the following Uses shall be permitted only upon the completion of Site Plan Review by the Site Plan Review Authority:

1. Number of Parking Spaces: Any new development expansion or change of Use, other than a 1-Family or 2 Family Development, which would require ten (10) or more parking spaces under the parking schedule in Article 9 of the By-laws, regardless of the number of parking spaces existing on the premises

2. Parcel Size: Any development of any type on a site of thirty (30) acres or more

3. Solar Use: A Large Ground-Mounted Solar Photovoltaic Installation

4. District: Any proposed project in the WV-1R Reinvestment Sub District

#### 1552.4 Application and procedures

Applicants should refer to the applicable Rules and Regulations of the Site Plan Review Authority for requirements as to the contents of the site plan and other required information to be submitted with an application for Site Plan Review.

An Applicant for Site Plan Review shall file an application containing all information and documentation required by the Rules and Regulations of the Site Plan Review Authority and otherwise in accordance with this Article.

#### 1552.5 Conditions

The Site Plan Review Authority in considering a site plan under this section shall ensure, to the degree consistent with the reasonable use of the site for the purposes permitted or permissible by the By-laws and the applicable Rules and Regulations that due consideration has been given to:

1. Protection of adjacent areas against detrimental or offensive uses on the site by provisions of adequate surface water drainage, buffers against lighting, sight, sound, dust, vibration, and the allowance of sun, light, and air
2. Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent Streets, properties or improvements
3. Adequacy of the disposal of sewage, refuse, and other wastes including other production by-products resulting from the Uses permitted or permissible on the site
4. Adequacy of space for off-street loading and unloading of vehicles, goods, products, materials and equipment incidental to the normal operation of the establishment on the site
5. Protection of environmental features on the site and in adjacent areas
6. Promotion of appropriate arrangement of Structures within the site and in relation to existing Structures within the District and neighborhood
7. Coordination with and improvement of systems of vehicular and pedestrian access, drainage, water supply, lighting, landscaping, wetlands, water courses, Buildings and other features that support the neighborhood
8. Compliance with all applicable sections of the By-laws

#### 1552.6 Review Criteria

In evaluating and rendering a decision on an application for Site Plan Review, the Site Plan Review Authority shall consider if the development will achieve the objectives listed below and may require conditions and safeguards deemed necessary to realize those objectives.

##### 1. Natural features

Finished site contours shall reflect the character of the natural site. The Applicant of the proposed development shall make every effort to achieve the following objectives:

- a. Manage or reduce the volume of cut and fill
- b. Manage or reduce the number of removed trees
- c. Manage or reduce the pollutants reaching the water table and protection of the sole source aquifer
- d. Manage or reduce the area of wetland vegetation displaced
- e. Manage or reduce soil erosion
- f. Manage or reduce the area of impervious surface
- g. Manage or reduce the amount of stormwater runoff from the site

##### 2. Relation of Buildings to environment

The proposed development shall visually relate to its environment. Through appropriate scale, massing, and height to ensure that the architecture will be in harmony with the surrounding natural environment and neighborhood.

##### 3. Vehicular circulation

Wherever feasible, vehicular access and circulation shall adhere to the following standards:

- a. Vehicular and pedestrian circulation layouts shall be designed to reduce traffic hazards to pedestrians and vehicles both on and off the site
- b. Street layouts shall be designed to minimize through traffic movement, excessive vehicular travel and excessive speed
- c. Local Streets shall be designed such that their appearance is appropriate to their use
- d. Road way access (ingress and egress points) shall be kept to a minimum commensurate with safety along major abutting Streets
- e. A minimum amount of space shall be devoted to Streets which shall be constructed to adhere to topography
- f. Sufficient off-street parking shall be provided to minimize curbside parking
- g. All Streets shall be designed to the specifications of the applicable Rules and Regulations including Subdivision Rules and Regulations and the General Laws

##### 4. Pedestrian circulation

- a. Sidewalks shall whenever possible be provided along Streets used for pedestrian access to schools, parks and shopping
- b. Sidewalks shall whenever possible be separated from the roadway edge by a landscape border area of at least five (5) feet to increase pedestrian safety

c. Sidewalk ramps for handicapped accessibility shall be provided where appropriate

#### 5. Parking

- a. Parking areas shall be designed so that vehicles may exit without backing onto a public Street
- b. Parking areas shall be designed so that sanitation, emergency, and other public service vehicles can serve the development without backing unreasonable distances or making hazardous turning movements
- c. Parking areas shall be designed so that vehicles cannot extend beyond the perimeter of such areas onto adjacent properties or public rights-of-way
- d. Circulation within parking areas shall be designed so that vehicles can proceed safely without danger to pedestrian or other vehicles
- e. Parking areas shall be designed to reduce their visual impact from adjacent land uses and from public ways by the use of vegetative buffers, berms, structural screening, such as a fence, or a combination of the above
- f. Parking areas shall be designed to provide visual relief from large areas of unbroken pavement by including landscaped islands within the parking area
- g. Parking shall otherwise comply with applicable provisions of the By-laws

#### 6. Landscaping

- a. All site plans shall be subject to the Landscaping requirements of the By-laws

7. The Site Plan Review Authority may, in its sole discretion grant a waiver of one or more conditions/criteria in connection with such Site Plan Review.

#### 1552.7 Effect of Other Laws

Site Plan Review is supplementary to other sections of the By-laws. It imposes requirements affecting the access, circulation, design, and landscaping of parking areas, and general landscaping and design criteria. The application of this Article shall not interfere with or annul any provisions of the By-laws, applicable Rules or Regulations, or a validly issued permit except where this Article imposes a greater restriction upon the Use of Buildings, Structures or land than is imposed by existing provisions of the General Laws or the By-laws, this Article will control.

#### 1552.8 Relation to Town Conservation Commission Approval

The Applicant shall submit to the Site Plan Review Authority in addition to other requirements for Site Plan Review, either:

- 1. A Determination of Non-Applicability of the Massachusetts Wetlands Protection Act under Ch. 131, Section 40 of the General Laws and the Town Wetland Protection By-laws issued by the Town Conservation Commission; or
- 2. An Order of Conditions or Order of Resource Area Delineation covering the proposed work or approving the Wetland Resource Area delineations issued by the Town Conservation Commission for the purpose of protecting those interests described in the Massachusetts Wetlands Protection Act and the Town Wetland Protection By-laws.

The Site Plan Review Authority may issue approval of a Site Plan Review only after receipt of the original or certified copy of either item 1 or item 2, above.

#### 1552.9 Relation to Subdivision Plan

The approval of a Site Plan by the Site Plan Review Authority shall neither oblige the Permit Granting Authority to approve any related preliminary or definitive plan for subdivision, nor substitute for such approval. However, the Site Plan Review Authority may allow an Applicant to combine a submission for a Special Permit and/or a Site Plan Review with a submission for preliminary or definitive Subdivision approval if such submission conforms to all requirements for both a Special Permit and/or a Site Plan Review and Subdivision approval. In such case, the Permit Granting Authority may conduct a combined public hearing for both a Special Permit and/or Site Plan Review and Subdivision approval.

#### 1552.10 Effective Date

No site plan review approval, extension, modification, or renewal thereof, shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty (20) days have elapsed since the decision was filed in the office of the Town Clerk and no appeal has been filed or that if an appeal has been filed, that it has been dismissed or denied.

#### 1552.11 Recording of The Approved Site Plan

The Applicant shall promptly record each approved Site Plan Review including any extension, modification, or renewal thereof with the Plymouth County Registry of Deeds and shall promptly submit proof of recording to the Site Plan Review Authority.

#### 1552.12 Site Plan Review Lapse of Rights

Unless otherwise provided by the By-laws, approval of a site plan shall lapse two (2) years from the date it is granted if a substantial use thereof has not sooner commenced except for good cause shown, or in the case of a permit for construction, if the construction has not begun by that date, except for good cause shown. The determination of good cause shall be made by the Site Plan Review Authority only after notice and a public hearing. The Site Plan Review Authority, upon written request and notice by the Applicant, may extend the time for those rights for a period of time the Site Plan Review Authority may reasonably determine. The application for an extension beyond the original two (2) year period shall be filed prior to the expiration of such two (2) year time period. The Site Plan Review Authority has sixty (60) days in which to act on the request, and if it fails to do so, the rights may be reestablished only after notice and a new public hearing pursuant to the provisions of the By-laws.

#### 1552.13 Modifications to Approved Site Plan

A request for any modifications to an approved Site Plan Review must be submitted in writing to either the Zoning Enforcement Officer or Director of Planning and Community Development for review and a determination if the modifications are either minor or major.

##### 1. Minor modifications

If such modifications to an approved Site Plan Review are determined to be minor and not substantive, such determination shall be reviewed by the Site Plan Review Authority and, if agreed by a majority vote that the modifications are minor, such modifications may be approved without a public hearing.

##### 2. Major modifications

If such modifications to an approved Site Plan Review are determined to be significant in terms of one of the following such modifications shall be considered major:

- a. Size or location of the Building
- b. Relocation of access and exit curbs
- c. Overall parking layout
- d. Landscaping and buffers
- e. Overall appearance of the Building
- f. Intensity of Use

g. Relate to conditions specifically addressed in the decision by the Site Plan Review Authority.

A public hearing before the Site Plan Review Authority for these modifications shall be required in accordance with the By-laws. The Site Plan Review Authority shall review the proposed modifications and either approve, approve with conditions or deny the proposed modifications.

#### 1552.14 Administrative Approval for Minor Modifications to Building Exterior or Site

The Director of Planning and Community Development may authorize work to proceed under duly authorized permit(s) without site plan review for minor modifications provided the following criteria are satisfied:

1. The proposed modifications shall not violate any provision of the By-laws
2. The proposed modifications do not result in an expansion of the Building footprint other than expansions required by the Massachusetts Building Code related to means of egress or accessibility
3. The proposed modifications do not change the height or roof lines of any Building
4. The proposed modifications do not result in any substantial change in Lot coverage. The Director of Planning and Community Development shall notify the Site Plan Review Authority of the nature of the request and the decision.

#### 1553 Special Permit

##### 1553.1 Purpose

A Special Permit must be obtained from the Special Permit Granting Authority for certain types of proposed Uses in the Town.

##### 1553.2 Applicability; Uses Requiring A Special Permit

Specific types of Uses, as described in Article 3, this Article and elsewhere in the By-laws, in the General Laws, or in other governmental laws, codes and regulations shall be permitted only upon the issuance of a Special Permit. The particular types of and requirements for Special Permits that the Special Permit Granting Authority may issue under Ch. 40A, Sections 9A-9C of the General Laws include without limitation:

1. Increases in the density or intensity of a Use in a proposed development
2. Multi-family housing in a nonresidential district
3. Transfer Development Rights of land within or between districts
4. Cluster developments

5. Planned unit developments
6. Shared elderly housing
7. Activities that are necessary or critical for scientific research or scientific development
8. Adult bookstores, adult motion picture theatres, adult paraphernalia, adult video stores or establishments which display live nudity
9. Protection of access to direct sunlight for solar energy systems
10. Exclusion of accessory or incidental childcare facilities from maximum permissible floor area calculations

1553.3 Application and Procedure Applicants should refer to the applicable Rules and Regulations of the Special Permit Granting Authority for requirements as to the required documents and information to be submitted with an application for Special Permit.

An Applicant for a Special Permit shall file an application with the Special Permit Granting Authority containing all information and documentation required by the Rules and Regulations of the Special Permit Granting Authority and otherwise in accordance with this Article.

#### 1553.4 Uses requiring a Special Permit and Site Plan Review

Some Uses listed in Article 3, this Article and other provisions of the By-laws, in the General Laws, or in other governmental laws, codes and regulations, require a Site Plan Review as well as a Special Permit. For those requirements, see Site Plan Review section of this Article and applicable Rules and Regulations.

#### 1553.5 Criteria

Special Permits shall be granted by the Special Permit Granting Authority, only after notice and a public hearing and upon its written determination that the adverse effects of the proposed Use will not outweigh its beneficial impacts to the Town or neighborhood, in view of the particular characteristics of the site and of the proposal in relation to that site.

In addition to any specific requirements or factors contained elsewhere in the By-laws and Ch. 40A of the General Laws the determination by the Special Permit Granting Authority shall indicate that the proposed Use will be in harmony with the general purpose and intent of the By-laws, and shall include consideration of each of the following:

1. The Use, Structure or condition as developed will not adversely affect the neighborhood
2. The specific site is an appropriate location and is suitable for such Use, Structure or condition
3. The adequacy of the site size for the proposed Use
4. There will be no nuisance or serious hazard to vehicles or pedestrians as a result of the proposed project
5. Adequate and appropriate facilities will be provided for the proper operation of the proposed Use, Structure or condition. This includes the provision of appropriate sewage treatment facilities which provide for denitrification, when the Special Permit Granting Authority deems such facilities necessary for protection of drinking water supply wells, sole source aquifer, ponds, or saltwater embankments
6. The Use, Structure or condition as proposed does not pose a substantial detriment to the Town or neighborhood in which it is proposed
7. The impact on traffic flow and safety
8. The impact on neighborhood visual character, including views and vistas
9. The adequacy of sewage disposal, water supply and site drainage
10. The adequacy of utilities and other public services
11. The effect of the project on the adequate supply of affordable housing in the Town
12. The decision of the Site Plan Review Authority under this Article
13. The compliance of the project with all applicable sections of the By-laws including, but not limited to, all performance requirements under Articles 7: Design Standards and Guidelines, Article 9: Parking, Article 10: Landscaping and Article 12: Performance Standards and that no other conflicts between the proposed project and the By-laws exists.

#### 1553.7 Conditions

A Special Permit may be granted subject to general or specific provisions set forth therein, and such reasonable conditions, safeguards and limitations on time or use including a performance guaranty, as the Special Permit Granting Authority may deem necessary to serve the purposes of the By-laws. The Special Permit Granting Authority may in its sole discretion also waive one or more conditions as it deems appropriate.

#### 1553.8 Relation to Town Conservation Commission approval

The Applicant shall submit to the Special Permit Granting Authority in addition to other requirements for Special Permit, either:

1. A Determination of Non-Applicability of the Massachusetts Wetlands Protection Act under Ch. 131, Section 40 of the General Laws and the Town Wetlands Protection By-laws issued by the Town Conservation Commission or
2. An Order of Conditions or Order of Resource Area Delineation covering the proposed work or approving the Wetland Resource Area delineations issued by the Town Conservation Commission for the purpose of protecting those interests described in the Wetlands Protection Act and the Town Wetlands Protection By-laws

The Special Permit Granting Authority may issue approval of a Special Permit only after receipt of the original or certified copy of either item 1 or 2, above.

#### 1553.9 Effective date

No special permit, or any extension, modification, or renewal thereof, shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty (20) days have elapsed since the decision was filed in the office of the Town Clerk and no appeal has been filed or that if an appeal has been filed, that it has been dismissed or denied.

#### 1553.10 Special Permit lapse of rights

Unless otherwise provided by the By-laws a Special Permit shall lapse two (2) years from the date it is granted if a substantial use thereof has not sooner commenced except for good cause shown or in the case of a permit for construction, if the construction has not begun by that date, except for good cause shown. The determination of good cause shall be made by the Special Permit Granting Authority after notice and a public hearing. The Special Permit Granting Authority, upon written request and notice by the Applicant, may extend the time for those rights for a period of time the Special Permit Granting Authority may reasonably determine. The application for an extension beyond the original two (2) year period shall be filed prior to the expiration of such two (2) year time period. The Special Permit Granting Authority has sixty (60) days in which to act on the request, and if it fails to do so, the rights may be reestablished only after notice and a new public hearing pursuant to the provisions of the By-laws.

#### 1554 Variances

##### 1554.1 Powers

The ZBA shall hear and decide all applications for Variances providing relief from the provisions of the By-laws, including granting a Variance authorizing a Use or activity not otherwise permitted in the District in which the land or Structure is located but only for those Uses included in Article 3 of the By-laws.

##### 1554.2 Criteria

A Variance may be granted by the ZBA only if after notice and a public hearing, it is determined that soil conditions, Lot shape, or topography create an impracticality or limit the location or positioning of a new Structure or addition on a site or location that previously conformed to zoning requirements. An Applicant must demonstrate that a literal enforcement of the By-laws would involve substantial hardship, financial or otherwise, to the Applicant, and that relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the By-laws.

##### 1554.3 Specific Findings

The ZBA shall specifically make findings related to both of the following criteria:

1. Owing to circumstances relating to the soil conditions, shape, or topography of land or Structures and especially affecting such land or Structure but not generally affecting the District in which the land or Structure is located, a literal enforcement of the provisions of the By-laws and Ch. 40A, Section 10 of the General Laws, would involve substantial hardship, financial or otherwise, to the Applicant
2. Relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the By-laws or Ch. 40A, section 10 of the General Laws

##### 1554.4 Conditions, Safeguards, and Limitations

The ZBA may impose such conditions, safeguards and limitations, both of time and use, including the continued existence of any particular Structures, but excluding any condition, safeguard or limitation based upon the continued ownership by the Applicant or any Owner of the land or Structures to which the Variance pertains.

##### 1554.5 Lapse of Rights

Any rights authorized by a Variance shall be exercised within one (1) year of the date of the grant of the Variance or the rights shall lapse. However, the ZBA , upon written request and notice by the Applicant, may extend the time for those rights for a period not to exceed six (6) months. The application for an extension beyond the original one (1) year period shall be filed prior to the expiration of the one (1) year time period. The ZBA has thirty (30) days in which to act on the request, and if it fails to do so, the rights may be reestablished only after notice and a new public hearing pursuant to the provisions of the By-laws.

**Approved unanimously**

**ARTICLE 23 - ZONING BYLAWS ARTICLES 3 & 5 WIRELESS COMMUNICATIONS**

I move that the Town amend Zoning Bylaws Articles 3 & 5 Wireless Communications as printed in the Warrant

**Article 23. As printed in the warrant**

To see if Town Meeting will vote to amend the zoning bylaws to allow co-location on wireless communications towers, by amending Article 3: Use Regulations, and Article 5: Supplemental Regulations, as described in the following list of amendments:

Amend section 320 TABLE OF PRINCIPAL USE REGULATIONS, by adding the following lines

PRINCIPAL USE	R130	R60	R43	R30	MR30	WV1	WV2	OV1	OV2	CS	CG	CP	CNF	MAR	INS	IND
Wireless Co-Location communication facility, not exceeding 90 feet in height	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Wireless Co-Location communication facility, exceeding 90 feet in height	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ

Amend section 330 TABLE OF ACCESSORY USE REGULATIONS, by adding the following line item:

ACCESSORY USE	R130	R60	R43	R30	MR30	WV1	WV2	OV1	OV2	CS	CG	CP	CNF	MAR	INS	IND
Wireless Co-Location communications facility attached to existing structure not exceeding 60 feet in height	N	N	N	N	N	Y	Y	Y	Y	Y	SPZ	SPZ	Y	Y	Y	Y



Amend section 340 USE DEFINITIONS, by adding the following definitions:

**UTILITY**

**Antenna**

The surface from which wireless radio signals are sent and/or received by a wireless service facility.

**Carrier**

A company that provides wireless service.

**Co-location**

The use of a single mount on the ground by more than one carrier (vertical co-location) and/or several mounts on an existing building or structure by more than one carrier.

**Tower**

A structure that is intended to support equipment used to receive and/or transmit electromagnetic waves. Design examples include: lattice tower (self-supporting with multiple legs and cross-bracing structural steel) and monopole (self-supporting with a single shaft).

**Wireless Communications Facility**

A facility, fixture, structure or equipment for the provision of wireless communications services, as defined by the Federal Telecommunications Act, including antennas and enclosing structures, but not including direct broadcast antennas.

Amend section 540 WIRELESS COMMUNICATIONS FACILITIES by adding the following:

**PURPOSE**

The purpose of this section is to regulate the design and location of wireless telecommunications service facilities in a manner that minimizes the visual and environmental impacts of such facilities by establishing requirements, guidelines, standards for review, and procedures to permit their installation in the Town of Wareham.

The standards set forth herein are intended to preserve the safety, character, appearance, property values, natural resources and historic structures of the Town; mitigate adverse visual effects through proper design, location and screening; encourage co-location of antennas on a structure where feasible in order to minimize the number of sites and structures required; encourage location of antennas on existing towers; and protect the Town from the effects of uncontrolled development and location of wireless telecommunications towers, wireless service facilities and accessory structures, while recognizing federally granted rights of carriers to provide necessary and marketable telecommunications services and the desire of the public and the Town departments to access and utilize available technologies.

In addition to any applicable sections of the Zoning Bylaw, Section 540 shall apply to all wireless telecommunications service antennas and tower related equipment, fixtures and enclosures, including any modifications to any of these, but shall not apply to Police, Fire, EMS, or any other communications systems used by the Town's public entities.

Amend 543.2 to read:

All towers shall be set back a distance at least equal to the height of the tower from all property lines. Antennas or structures to be used exclusively by a federally licensed amateur radio operator may be closer than the above-described 300 feet, but must be located so as to minimize harm to any nearby structures.

Amend section 544 DESIGN GUIDELINES to add:

**Co-Location.** To the extent feasible, licensed carriers and Town communication systems shall co-locate on a single wireless telecommunications service monopole or tower. The Town shall reserve the right to

place its communications antenna(s) within the top ten (10) percent of the vertical height above ground level of any monopole or tower in order to accommodate its communications needs. It shall remain the licensed carrier's responsibility to ensure that the installation or location of other antenna(s) on the monopole or tower does not cause interference with the Town's communications system. Such facility shall be designed insofar as is reasonable to structurally accommodate foreseeable future users. A new tower or monopole facility shall be considered only after a finding that existing or approved structures or facilities cannot accommodate the equipment planned for the proposed facility.

**Approved unanimously**

## **ARTICLE – 24 ZONING BYLAWS ARTICLE 5 LARGE SOLAR BATTERY STORAGE**

I move that the Town approve amending Zoning Bylaws Article 5 Large Battery Storage as printed in the Warrant.

### **Article 24. As printed in the warrant**

To see if the Town will vote to amend Article 5 of the Zoning By-Law, SUPPLEMENTAL REGULATIONS, to add Section 597, to regulate battery storage systems installed in connection with Large -Scale Ground Mounted Solar Photovoltaic Installations:

#### **597. BATTERY ENERGY STORAGE SYSTEMS**

597.10. Purpose. The purpose of this Section is to advance and protect the public health, safety, welfare, and quality of life by creating regulations for the installation and use of battery energy storage systems that facilitate the collection of solar energy in connection with Large-Scale Ground-Mounted Solar Photovoltaic Installations. All references to battery energy storage systems in this section relate to such systems designed and to be installed in connection with Large-Scale Ground-Mounted Solar Photovoltaic Installation. This section is intended:

1. To provide for the location, construction and operation of battery energy storage systems consistent with best practices and safety protocols;
2. To ensure compatible land uses in the vicinity of the areas affected by battery energy storage systems and to mitigate any potential impacts on abutting and nearby properties; and
3. To mitigate the impacts of battery energy storage systems on environmental resources such as agricultural lands, forests, wildlife, water supply, water quality, aquifers, wetlands and other natural resources.

This Section shall be construed to be consistent with state law, including but not limited to the provisions of General Laws chapter 40A, section 3, and state regulations, including but not limited to the provisions of the State Building Code, State Fire Code, and State Electrical Code. In the event of any conflict between the provisions of this section and the provisions of state law or regulations, the state law and regulations shall prevail.

#### **597.20. Applicability**

1. The requirements of this bylaw shall apply to battery energy storage systems at Large-Scale Ground-Mounted Solar Photovoltaic Installation permitted, installed, decommissioned or modified after the effective date of this bylaw,

#### **597.30. General Requirements**

1. All permits required by state codes, including but not limited to building permit, an electrical permit, and a fire department permit shall be required for installation of all battery energy storage systems.
2. All battery energy storage systems, all Dedicated Use Buildings, and all other buildings or structures that (a) contain or are otherwise associated with a battery energy storage system and (b) subject to the requirements of the State Building Code, shall be designed, erected, and installed in accordance with all applicable provisions of the State Building Code 780 CMR, State Fire Code 527 CMR 1.00, and State Electrical Code 527 CMR 12.00. All battery energy storage systems shall comply with NFPA 855, Standard for the Installation of Stationary Energy Storage Systems.
3. Energy storage system capacities, including array capacity and separation, are limited to the thresholds contained in NFPA 855.
4. All access roads should be at least 20' wide, constructed of an all-weather surface, and be cleared of obstructions on both sides by at least 2'. A 16' vertical clearance should be maintained for large vehicle access. Access gates erected onsite should be at least 20' wide, accessible via Onset or Wareham Fire

Department lock, as applicable. Access to all four sides of each enclosure should be provided where practical.

5. Sufficient water shall be available to the Wareham and/or Onset Fire Department at the site to enable firefighters to address fire events.

#### 597.40. Permitting Requirements for Battery Energy Storage Systems

Battery energy storage systems are subject to this bylaw and require the issuance of a special permit and are subject to Site Plan Review pursuant to Section Article 15. BESS shall comply with the applicable requirements set forth in this bylaw, as well as this Zoning Bylaw, and the Wareham Town Bylaws. The following requirements apply to all subject to this bylaw:

**Utility Connections.** All utility connections including associated equipment and utility equipment shall be placed underground or pad mounted, unless soil conditions, shape, or topography of the site as verified by the Town's Consulting Engineer dictate above ground installation. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

**Signage.** Signage shall comply with the requirements of Article 11 of this Zoning Bylaw and the following additional requirements; in the event of a conflict between the provisions of Article 11 and this section, the requirements of this section shall prevail.

The signage shall be in compliance with ANSI Z535 and shall include the type of technology associated with the battery energy storage systems, any special hazards associated, the type of suppression system installed in the area of battery energy storage systems, and 24-hour emergency contact information, including reach-back phone number.

As required by the state electrical code, disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

Signage compliant with ANSI Z535 shall be provided on doors to rooms, entrances to BESS facilities, and on BESS outdoor containers.

**Lighting.** Lighting of the battery energy storage systems shall be limited to that minimally required for safety, security and operational purposes and shall be consistent with local, state and federal law.

Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, shall be shielded to eliminate glare from abutting properties, shall be directed downward, and shall incorporate cut-off fixtures to reduce light pollution.

**Vegetation and tree-cutting.** Areas within thirty feet on each side of battery energy storage systems shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery, or cultivated ground cover such as green grass, ivy, succulents, or similar plants used as ground covers shall be permitted provided that they do not form a means of readily transmitting fire.

Removal of trees should be minimized to the extent possible.

**Setbacks.** Battery energy storage systems shall be set back a minimum of 200 feet from side, rear, and front lot lines that abut or are across a street from residential zoning districts or existing single, two-family, or multi-family structures. The minimum setback areas shall include a vegetated Buffer/Screening Area at least twenty feet wide along all property lines. Access drives and parking are allowed in the setback areas, but shall not intrude into the required Buffer Areas except where necessary to provide access or egress to the property. In addition, a minimum of 10 feet must be maintained, if within a building, between BESS components and all stored combustible materials, hazardous materials, high-piled storage, infrastructure.

**Other Setbacks:** Battery Energy Storage Systems shall be sited at least one hundred fifty feet (150') from abutting properties' wells and septic systems.

**Dimensional.** Battery energy storage systems shall comply with the dimensional limitations for principal structures of the underlying zoning district as provided in the Zoning Bylaw, unless otherwise provided in this bylaw.

**Fencing Requirements.** Battery energy storage systems, including all mechanical equipment, shall be enclosed by a minimum eight foot high fence with a self-locking gate to prevent unauthorized access unless housed in a dedicated-use building. Security barriers, fences, landscaping, and other enclosures must not inhibit required air flow to or exhaust from the BESS and components. Electrical equipment greater than 1,000V require a separate and additional means to restrict access. NFPA 855 requires specialty safety systems to be provided based on the BESS chemistry and installed location.

**Screening and Visibility.** Battery energy storage systems shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or

other screening methods that will harmonize with the character of the property and surrounding area. Such features may not inhibit required air flow to or exhaust from the BESS and components and must comply with the setbacks established in paragraph 6 above.

Noise: An Acoustic Study shall be provided in order to ensure that any increase in sound complies with Mass DEP requirement limiting any increase in ambient noise to be less than 10 decibels at the property line.

Batteries. Failed battery cells and modules shall not be stored on the site and shall be removed no later than 30 days after deemed failed by the BESS operator or cell/module manufacturer. The operator shall notify the Onset or Wareham Fire Department, as applicable, in advance if the type of battery or batteries used onsite is to be changed.

Decommissioning Plan. The applicant shall submit with its application a decommissioning plan for BESS to be implemented upon abandonment and/or in conjunction with removal of the facility. The owner or operator of the BESS shall notify the Department of Inspectional Services in writing at least twenty days prior to when a BESS will be decommissioned. Decommissioning of an abandoned or discontinued BESS shall be completed within six months after the facility ceases operation. The decommissioning plan shall include:

a. A narrative description of the activities to be accomplished, including who will perform that activity and at what point in time, for complete physical removal of all battery energy storage system components, structures, equipment, security barriers, and transmission lines from the site;

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

c. The anticipated life of the battery energy storage system;

d. The estimated decommissioning costs and how said estimate was determined;

The method of ensuring that funds will be available for decommissioning and restoration;

The method by which the decommissioning cost will be kept current;

The manner in which the site will be restored, including a description of how any changes to the surrounding areas and other systems adjacent to the battery energy storage system, such as, but not limited to, structural elements, building penetrations, means of egress, and required fire detection suppression systems, will be protected during decommissioning and confirmed as being acceptable after the system is removed; and

A listing of any contingencies for removing an intact operational energy storage system from service, and for removing an energy storage system from service that has been damaged by a fire or other event.

Decommissioning Fund. The owner and/or operator of the energy storage system, shall continuously maintain a fund or other surety acceptable to the Town, in a form approved by the Planning Board and Town Counsel, for the removal of the battery energy storage system, in an amount to be determined by the Town, for the period of the life of the facility. All costs of the financial security shall be borne by the applicant.

Proof of Liability Insurance. The applicant or property owner shall provide evidence of liability insurance in an amount and type generally acceptable in the industry and approved by the PEDB prior to the issuance of a building permit, and shall continue such insurance in effect until such facility has been decommissioned, removed, and the site restored in accordance with this bylaw.

597.60. Site plan application. For a Battery Energy Storage System the site plan application shall include the following information, in addition to that required by Article 15 of this Zoning Bylaw:

1. A one- or three-line electrical diagram detailing the battery energy storage system layout, associated components, and electrical interconnection methods, with all State Electrical Code compliant disconnects and over current devices.

A preliminary equipment specification sheet that documents the proposed battery energy storage system components, inverters and associated electrical equipment that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.

Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the battery energy storage system. Such information of the final system installer shall be submitted prior to the issuance of building permit.

Large-scale fire test data, evaluation information, and calculations, and modeling data. For any of the following, UL 9540A fire test data must be made available to the Planning Board and Fire Department for review: - BESS systems with a capacity of greater than 50kWh - BESS systems with spacing between arrays of less than 3 feet

Safety data sheet (SDS) that address response safety concerns and extinguishment.

A study of potential hydrogeological impacts of firewater runoff in the event of a fire, including effect on nearby groundwater, aquifer, nearby wells, septic systems, wetlands, and other water and natural resources, including Proposed mitigation plans;

A study of potential air quality impacts of a fire event, including effect on residents, environmental impacts, and impacts on plant and animal life.

Commissioning Plan. The system installer or commissioning agent shall prepare a commissioning plan prior to the start of commissioning. Such plan shall be compliant with NFPA 855 and document and verify that the system and its associated controls and safety systems are in proper working condition per requirements set forth in applicable state codes. Where commissioning is required by the Building Code, battery energy storage system commissioning shall be conducted by a Massachusetts Licensed Professional Engineer after the installation is complete but prior to final inspection and approval. A corrective action plan shall be developed for any open or continuing issues that are allowed to be continued after commissioning. A report describing the results of the system commissioning and including the results of the initial acceptance testing required by applicable state codes shall be provided to Zoning Enforcement Officer and the Onset or Wareham Fire Department, as applicable, prior to final inspection and approval and maintained at an approved on-site location.

Advance Monitoring System. The system design shall include an advance monitoring system which is capable of detecting cell venting, electrolyte leaks from cells, battery coolant leaks, and other early indications of battery failure.

Fire Safety Compliance Plan. Such plan shall document and verify that the system and its associated controls and safety systems are in compliance with state codes, including documentation that BESS components comply with the safety standards set forth in subsection 597

Operation and Maintenance Manual. Such plan shall describe continuing battery energy storage system maintenance and property upkeep, as well as design, construction, installation, testing and commissioning information and shall meet all requirements set forth state codes and NFPA 855.

Maintenance provisions will be driven by manufacturer requirements for the specific listed system.

Depending on the location of the BESS in relation to and its interaction with the electrical grid, interconnection will be completed per 527 CMR 12.00. System interconnections into utility grids shall be in accordance with NFPA 855. An accessible disconnect is required per 527 CMR 12.00.

Prior to the issuance of the building permit, engineering documents must be signed and sealed by a Massachusetts Licensed Professional Engineer.

Emergency Operations Plan. An Emergency Operations Plan compliant with NFPA 855 is required. A copy of the Emergency Operations Plan approved by the Onset or Wareham Fire Department, as applicable, shall be given to the system owner, the local fire department, and local fire code official. For so long as the BESS is operational, the operator shall provide the Fire Department, Police Department, Department of Inspectional Services, and Town Administrator's office with contact information for personnel that can be reached 24 hours per day every day, and this contact information shall be updated by the operator whenever there is a change in the information. The operator shall also be required to have an official representative be present onsite not later than two hours after notification by the Fire Chief, Police Chief, or their designee. A permanent copy shall also be placed in an approved location to be accessible to facility personnel, fire code officials, and emergency responders. The emergency operations plan shall include the following information:

Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions.

Procedures for inspection and testing of associated alarms, interlocks, and controls, including time intervals for inspection and testing.

Procedures to be followed in response to notifications from the Battery Energy Storage Advance Monitoring System or Management System, when provided, that could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to fire department personnel for potentially hazardous conditions in the event of a system failure.

Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures can include sounding the

alarm, notifying the fire department, evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire.

Response considerations similar to a safety data sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required.

Procedures for safe disposal of battery energy storage system equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged battery energy storage system equipment and any affected soils from the facility.

Other procedures as determined necessary by the Town to provide for the safety of occupants, neighboring properties, and emergency responders, including containment of firewater runoff.

Procedures and schedules for conducting drills of these procedures and for training local first responders on the contents of the plan and appropriate response procedures.

597.70. Ownership Changes. If the owner of the battery energy storage system changes or the owner of the property changes, the special permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special permit, site plan approval, and decommissioning plan. A new owner or operator of the battery energy storage system shall notify the Department of Inspectional Services of such change in ownership or operator within 14 days of the ownership change. A new owner or operator must provide such notification to the Building Commissioner in writing and meet with any permitting authority from which the original applicant received a permit.

#### 597.80. Safety

1. System Certification. Battery energy storage systems and equipment shall be listed by a Nationally Recognized Testing Laboratory to UL 9540 (Standard for battery energy storage systems and Equipment) or approved equivalent, with subcomponents meeting each of the following standards as applicable: UL 1973 (Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power and Light Electric Rail Applications),

UL 1642 (Standard for Lithium Batteries),

UL 1741 or UL 62109 (Inverters and Power Converters),

Certified under the applicable electrical, building, and fire prevention codes as required.

Alternatively, field evaluation by an approved testing laboratory for compliance with UL 9540 (or approved equivalent) and applicable codes, regulations and safety standards may be used to meet system certification requirements.

Site Access. Battery energy storage systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department.

Battery energy storage systems, components, and associated ancillary equipment shall have required working space clearances, and electrical circuitry shall be within weatherproof enclosures marked with the environmental rating suitable for the type of exposure in compliance with NFP 70.

#### 597.90. Abandonment

The battery energy storage system shall be considered abandoned when it ceases to operate consistently for more than 90 days. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town may, after compliance with any applicable state and federal constitutional requirements, enter the property and utilize the available bond and/or security for the removal of a battery energy storage system and restoration of the site in accordance with the decommissioning plan.

#### 597.95 Definitions

As used in this bylaw, the following terms shall have the meanings indicated. Terms that are not defined herein or elsewhere in this Zoning Bylaw shall be as defined in NFPA 855 if applicable.

ANSI: American National Standards Institute

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

Battery Energy Storage Management System (BESS): An electronic system that protects energy storage systems from operating outside their safe operating parameters and disconnects electrical power to the energy storage system or places it in a safe condition if potentially hazardous temperatures or other conditions are detected.

Cell: The basic electrochemical unit, characterized by an anode and a cathode, used to receive, store, and deliver electrical energy.



PRINCIPAL USE	OV1	OV2	CS	CG	CP	CN	MAR	INS	IND
Large-scale ground-mounted Solar Photovoltaic Installations	N	N	SPR, SPP	SPR, SPP	SPR, SPP	SPR, SPP	N	N	N
Battery energy storage in connection with solar energy facilities zoning	N	N	SPR, SPP	SPR, SPP	SPR, SPP	SPR, SPP	N	N	N

**Vote Declared 2/3rds Majority**

**ARTICLE 25 – AMEND ZONING BYLAW SECTION 590, SOLAR ENERGY**

I move that the Town further study Article 25 on Solar Energy;

**Approved in Consent Agenda**

**ARTICLE 26 – CONSTRUCTION COST FOR WPCF PROJECTS – CLARIFIER AND HEADWORKS UPGRADES**

I move that the Town appropriate \$36,000,000 for the purpose of financing the construction of the WPCF Clarifier Upgrade and Headworks Projects, including without limitation all costs thereof as defined in Section 1 of Chapter 29C of the General Laws; that to meet this appropriation the Treasurer with the approval of the Select Board is authorized to borrow \$36,000,000 and issue bonds or notes therefore under Chapter 44 of the General Laws and/or Chapter 29C of the General Laws; that such bonds or notes shall be general obligations of the Town unless the Treasurer with the approval of the Select Board determines that they should be issued as limited obligations and may be secured by local system revenues as defined in Section 1 of Chapter 29C; that the Treasurer with the approval of the Select Board is authorized to borrow all or a portion of such amount from the Massachusetts Clean Water Trust established pursuant to Chapter 29C; and in connection therewith to enter into a financing agreement and/or security agreement with the Trust and otherwise to contract with the Trust and the Department of Environmental Protection with respect to such loan and for any federal or state aid available for the project or for the financing thereof; that the Select Board, or their designee, is authorized to enter into a project regulatory agreement with the Department of Environmental Protection, to expend all funds available for the project and to take any other action necessary or convenient to carry out the project.

**Motion made by Jared Chadwick to move to vote**

**Seconded**

**Passed by majority to vote**

**Motion approved declared 2/3 majority**

**Motion on the floor made by to continue pass 10:00 PM**

**Motion made by Ervin Russell**

**Seconded**

**Approved by Majority**

**ARTICLE 27 – BYLAW CORRECTION / STORMWATER PERMIT**

I move that the Town approve as printed in the warrant.

**Article 27: As printed in the warrant**

To see if Town Meeting will amend Division 5 Article 11 article 1 of the General Bylaws to change paragraph 3 Administration so that the permitting authority for Stormwater permits is changed from the Board of Health to the Planning Board.

**Approved in Consent Agenda**

**ARTICLE 28 – ACCEPT CANDLE PAPER LANE**

To see if the Town will vote to accept the layout of Candle Paper Lane, West Wareham.

**Approved by majority**

**Vote for resolution only**



#### **ARTICLE 29 – GIFT OF BENCH**

I move the Town to accept a Granite bench as a gift from Mr. Ciro Tenaglia in memory of his wife Antonietta (Zizza) Tenaglia to be located at Swift's Beach. The Tenaglia family will pay for the concrete foundation for both the gifted bench and for an existing bench that has fallen into disrepair, the gifted bench itself and the cost of installation on MBLU 50/B 2.

**Approved by majority**

**Vote for resolution only**

#### **ARTICLE 30 – AMEND THE CHARTER**

I move the Town vote to amend the Home Rule Charter by adding Section 7-10 to Article 7, General Provision of the Charter, as submitted and petition the State Legislature to do the same.

#### **Article 30: As printed in the warrant**

Petitioned Article: To see if the Town will vote to petition the State Legislature to Amend the Town's Home Rule Charter to add Section 7-10, Charter Compliance, to Article 7, General Provisions of the Charter as follows:

7-10 Charter Compliance

##### **(a) Charge**

The committee shall take action only after receiving a written complaint, filed by 1 or more voters of the town, alleging a violation of this charter by reason of an act or a failure to act by the town administrator, Town Clerk, moderator, the board of selectmen, the school committee, the finance committee, board of assessors, or a member of such board or committee, or any other board, committee or commission, or a member of such, or any Town employee who has knowingly taken any action or failed to take any action in their official capacity in violation of any of the terms or provisions of this Charter.

##### **(b) Complaint**

The complaint shall state the specific section of this charter that is the subject of the violation, the individual, board or committee responsible for the violation and the act or failure to act resulting in the violation. The complaint shall be filed with the Town Clerk who shall immediately send a copy to each member of the committee via certified mail, return receipt requested, or via email if proof of service is acknowledged by recipient. The Town Clerk shall also immediately send a copy of the complaint to the Chairman of the Charter Compliance Committee. In the event that the complaint is against the Town Clerk, the town administrator shall execute the responsibilities of the Town Clerk within this section.

##### **(c) Action by the Town**

Within 21 days after receipt of the complaint by the Town Clerk, the Charter Compliance Committee shall hold a meeting to vote whether to dismiss the complaint without further action. If the committee so votes, the chairman shall give written notification to the Town Clerk, citing the Committee's reason(s) for dismissal. The Town Clerk shall forward the complainant.

If the committee votes to not dismiss the complaint, the chairman shall set a time and date for a hearing and send notice of the hearing to the Town Clerk, the complainants and the individual, board or committee named in the complaint via certified mail, return receipt requested, or via email if proof of service is acknowledged by recipient.

The Town Clerk shall post the hearing notice without delay, on the Town's website and the Town's Bulletin Board. The Chairman of the Charter Compliance Committee shall cause the hearing notice to be published in a newspaper of general circulation for at least 7 days before the hearing date. The hearing shall occur within 45 days after the date on which the complaint was received by the Town Clerk.

At the public hearing, the Charter Compliance Committee shall receive testimony from the complainant and from the official, board, or commission, or members of the official body against whom or which the charges were made and from such witnesses as either party may bring forward.

Within 14 days after the hearing, the committee shall vote on whether there has been a violation of this charter as alleged in the complaint and shall mail a notice of its decision to the complainant, to the individual, board or committee named in the complaint and to the Town Clerk. The Town Clerk shall post a copy of the decision at the town hall and on the town's website. The decision shall be posted on the Town's Bulletin Board for no less than 30 days and shall be maintained on-line for at least 7 years.

If the committee determines that there has been a violation of this charter as alleged by the complaint, the committee shall determine what recompense, if any, is due from a letter of apology to requesting

resignation. And if, following its vote, there continues to be a violation, the committee may contact town counsel who may file a complaint on behalf of the town with the superior court. Nothing in this article shall limit the right to seek enforcement of this charter as otherwise provided by law.

(d) Membership

The Charter Compliance Committee consists of 5 members who shall be appointed through a blind selection process by the town moderator for 3-year overlapping terms, so arranged that a nearly equal number will expire each year. The blind selection process will consist of any registered voter to submit an application in a sealed envelope with the words "Charter Compliance Committee" written on it to the Town Clerk. Once the Town Clerk has 5 or more envelopes, he/she shall notify the moderator who shall randomly select 5 envelopes, which shall be opened at the Town Clerk's office. No appointee shall be a town employee, have a contract with the Town in any capacity, or be a member of an existing board, committee or commission, or have been any of these in the past 5 years, except having been on the Charter Compliance Committee.

The Members may serve up to two terms consecutive terms and then may resubmit an application in the manner prescribed above.

(e) Protection against reprisals

In the event that charges are filed pursuant to the terms of this Section by any employee of the Town, that employee shall be deemed to enjoy the protection afforded by MGL Chapter 149, section 185, Massachusetts whistleblower law.

**Passed over in Consent Agenda**

**ARTICLE 31 – AMEND BYLAWS: AFFORDABLE HOUSING**

I move the Town accept the amendments proposed herein to ARTICLE 8 of the Wareham Zoning Bylaws, and approve the application and application process herein and in the handout, or to take any relative action thereto.

**Article 31: As printed in the warrant**

Petitioned Article: To see if the Town will vote to amend the Wareham Zoning Bylaws Sections to ARTICLE 8 as follows:

**830. LOCAL INITIATIVE PROGRAM – LOCAL ACTION UNITS – AFFORDABLE HOUSING – NEW CONSTRUCTION**

831: PURPOSE: To create a Local Initiative Program to provide the residents of Wareham the ability to have some control over, and to benefit from, the State's Affordable Housing Requirements by allowing residents to use the State's minimum zoning allowances, as conditioned within this zoning bylaw, to create affordable housing **that meets the DHCD's LIP requirements and receives approval by DHCD so the units created under this Zoning bylaw** shall be included in the Town's Subsidized Housing Inventory (SHI).

832: GENERAL PROVISIONS: A single family or two-family residence may be constructed, subject to the following standards and provisions, if 100% of the unit(s) are deed restricted as Affordable. **The term "Affordable" is used to mean "Income Eligible Household" as defined in MGL c.40B ss.20, and 760 CMR ss. 56.02 as being rented in an amount not to exceed 70% of the Fair Market Rate (FMR) or bought in an amount not to exceed 80% of the Fair Market Rate (FMR)** by someone whose total annual household income does not exceed 80% earnings of the Area Median Income (AMI), as identified by HUD's median family incomes, derived from the American Community Survey and / or the Massachusetts Department of Housing and Community Development Income guidelines.

**833: DEVELOPMENT STANDARDS – GENERAL**

833.1: LOT SIZE: Any property to be developed under this bylaw shall consist of a lot that is shown on an Approved Plan, created and approved prior to January first, nineteen hundred and seventy-six, which contains at least five thousand (5,000) square feet of area and fifty (50) feet of frontage and shall be a lot that was joined in common ownership with others due to previous changes in the Town's zoning.

833.2: SETBACKS: Development of the property shall comply with the pre-existing, nonconforming setbacks that existing properties in the same zoning area are required to abide by.

833.3: SIZE: The construction of the proposed dwelling shall have a footprint of at least fifteen percent (15%) of the lot area, but shall not exceed twenty percent (25%) of coverage. Based on a 5,000 square foot lot, the dwelling shall have a 750 to 1,250 square feet footprint. The dwelling shall not exceed 35 feet

in height. **All bedrooms must meet state sanitary code requirements for the accommodation of two or more persons (100 square feet minimum). In addition, all units created under this bylaw shall meet the following minimum square footage requirements and bathroom requirements to satisfy DHCD's Design & Construction Standards:**

833.4: WATER and SEWER: The lot shall be served by a public water system adequate in terms of fire protection and domestic use. The lot shall also be within an area served by sewer, or shall be required to comply with Title V Sanitary Regulations without needing to obtain a Special Permit or Variance from the Board of Health.

833.5: PERMITTING: As this is a Local Initiative Program, **the town or sponsor** shall file a "Local Action Unit" Application with the Select Board, or their designee. As part of the application, the owner shall provide a copy of the original plan or Assessor's records that identify the lots that are currently joined under existing zoning, and a plan showing the proposed lot divided off the current property, and that the 5,000 square feet of area and 50 feet of frontage shall be satisfied for both the proposed lot and the contributing property.

**Upon approval by the Select Board, a completed LIP Application (for Local Action Units), signed by the town's chief executive officer, along with DHCD's LIP Regulatory Agreement and Declaration of Restrictive Covenants for LAUs (the "Regulatory Agreement"), which includes the terms of affordability and the rights and responsibilities of the parties and an Affirmative Fair Housing Marketing and Resident Selection Plan ("AFHMP") that a developer or owner must follow in marketing and selecting residents for the units. DHCD must approve the application and documents before any dwelling unit is included in the town's SHI.**

833.6: FEES and APPROVALS: The Application Fee shall be \$100. The Inspectional Service (Building, Electricity, Plumbing) Fees, sewer connection fees, shall be calculated at fifty-percent of existing fees. The Select Board shall utilize staff to determine the appropriateness of the proposed Local Action Unit(s). The Select Board, or their designee, shall provide approval within 45 days of the application. If the proposal is rejected by **the** designee, the applicant may appeal to the Select Board. If it is rejected by the Select Board, the applicant may file an appeal in accordance with M.G.L. c. 40A, § 17.

833.7: DEED RESTRICTION REQUIREMENT: Once approved by the Town, the owner may do one of three options;

833.71: The current owner may choose to sell the newly recognized lot for a price not to exceed ten percent (10%) of the sale price of an affordable three-bedroom home, as determined by the Massachusetts Department of Housing and Community Development for someone making 80% of the median income for the statistical market. **Any engineering costs and filing fees to subdivide the lots, may be recouped in the sale.** A deed restriction, in a manner and form approved by the Select Board, shall be placed on the property at the time of the sale. A copy of the deed restriction shall be filed with the Registry of Deeds and the following Town Departments: Select Board, Inspectional Services, Assessors, Wastewater, and any other department the Select Board deem necessary.

833.72: The current owner may choose to **subdivide the property as described section 833.71 but instead of selling the lot, they could maintain ownership while an affordable unit is constructed that they themselves sell through the lottery process.** The property shall **be sold at a price not to exceed what a credit worthy buyer making no more than 80% of the median income for the statistical market.** The owner shall be able to profit up to twenty percent (20%) of the construction costs, which includes the value of the newly accepted lot calculated as ten percent (10%) of the sale price of an affordable three-bedroom home, as determined by the Massachusetts Department of Housing and Community Development for someone making 80% of the median income for the statistical market. A deed restriction, in a manner and form approved by the Select Board, shall be placed on the property at the time of the sale. A copy of the deed restriction shall be filed with the Registry of Deeds and **with** the following Town Departments: Select Board, Inspectional Services, Assessors, Wastewater, and any other department the Select Board deem necessary.

833.73: The current owner may choose to develop the property, and keep it for rental income. The rental price shall be determined by DHCD rental limits **not to exceed 70% of the FMR (Fair Market Rent)** for someone making **no more than** 80% of the median income for the statistical market. A deed restriction, in a manner and form approved by the Select Board **that complies with DHCD Guidelines**, shall be placed on the property prior to the issuance of a building permit, and another with the Select Board's

approved form, at the time of an occupancy permit is issued. A copy of the deed restriction shall be filed with the Registry of Deeds and the following Town Departments: Select Board, Inspectional Services, Assessors, Wastewater, and any other department the Select Board deem necessary.

**833.8: A town's affordable housing percentage is determined by dividing the number of SHI-eligible units by the number of year-round housing units as reported by the latest decennial U.S. Census. The Town may suspend and reinstitute this bylaw, as needed, by a simple majority vote of Town Meeting.**

#### **840. LOCAL INITIATIVE PROGRAM – LOCAL ACTION UNITS – AFFORDABLE HOUSING – EXISTING PROPERTIES**

841: PURPOSE: To create a Local Initiative Program to provide the residents of Wareham the ability to have some control over, and to benefit from, the State's Affordable Housing Requirements by allowing residents to participate in and benefit from creating additions into deed restricted affordable apartments; to be allowed to deed restrict existing "in-law" apartments as affordable; and to provide "Amnesty" to residents with illegal apartments, **by** allowing them to bring the illegal apartment up to code **and in compliance with DHCD guidelines** without penalties and to deed restrict it affordable; as conditioned within this zoning bylaw, to create affordable units that shall be included in the Town's Subsidized Housing Inventory (SHI).

842: GENERAL PROVISIONS: A single family residence may construct an **accessory** apartment or add on a traditional apartment, subject to the following standards and provisions if the unit is deed restricted as Affordable. **The term "Affordable" is used to mean "Income Eligible Household" as defined in MGL c.40B ss.20, and 760 CMR ss. 56.02** is defined as being able to be **rented in an amount not to exceed 70% of the FMR (Fair Market Rate)** to someone whose total annual household income does not exceed 80% earnings of the Area Median Income (AMI) or less, as identified by HUD's median family incomes, derived from the American Community Survey and / or the Massachusetts Department of Housing and Community Development Income guidelines.

#### **843: DEVELOPMENT STANDARDS – GENERAL**

843.1: LOT SIZE: Any property that is to be developed under this bylaw shall consist of a lot with at least 50 feet of frontage and at least a 5,000 square foot lot. The proposed addition shall conform with and complement other homes in the neighborhood.

843.2: SETBACKS: The construction of an addition under this bylaw shall comply with the preexisting, non-conforming setbacks that existing properties in the same zoning area are required to abide by.

843.3: SIZE: The construction of the addition shall limit the total dwelling footprint to no more than **thirty percent (30%)** of lot coverage. Based on a 5,000 square foot lot, the entire dwelling shall have a **1,500 square foot maximum** footprint. The dwelling shall not exceed 35 feet in height, **and the size of affordable dwelling unit shall comply with DHCD guidelines.**

843.4: WATER and SEWER: The lot shall be served by a public water system adequate in terms of fire protection and domestic use. The lot shall also be within an area served by sewer, or shall be required to comply with Title V Sanitary Regulations without needing to obtain a Special Permit or Variance from the Board of Health.

843.5: ACCESS and EGRESS: All units that are to be developed under this bylaw shall have a legal access and egress, as determined by the State Building Code.

843.6: "IN-LAW" CONVERSIONS: An "in-law" apartment for this bylaw shall be defined as an apartment that consists of one bedroom or less, with a kitchen area, bathroom and sitting area. Any property that was granted a Board of Appeals Special Permit or Variance in the past to construct an in-law apartment with conditions that it could not be rented, may apply for the in-law apartment to be counted as a "Local Action Unit." The applicant shall provide a copy of the Zoning Board Decision to the Select Board with the application. Upon approval, the Select Board, or its designee, shall grant a deed restriction **that complies with DHCD requirements** that shall be filed with the Registry of Deeds allowing the "in-law" apartment to be rented, as long as the rent shall not **exceed 70% of the FMR (Fair Market Rent) to be rented by someone whose income does not exceed eighty percent (80%)** of Area Median Income (AMI) as determined by the U.S. Department of Housing and Urban Development. **Upon approval by the Select Board, a completed LIP Regulatory Application (for Affordable Accessory Apartments), signed by the town's chief executive officer, along with DHCD's LIP Regulatory Agreement for Accessory Apartments and the Town's Affirmative Fair Housing Marketing Plan that meets DHCD's required guidelines applicable to accessory apartments shall be submitted for approval.**

843.7: PERMITTING: As this is a Local Initiative Program, the current owner of an existing property shall file a "Local Action Unit" Application with the Select Board, or their designee. As part of the application, the owner shall provide a plot plan showing the proposed addition and the proposed floor plan. It shall not exceed the square footage of the original house. The Board shall also consider and approve plans of an existing home being modified or remodeled by the interior only, which takes a portion of the floor space and / or a level and makes it an apartment. The rents **shall be an amount not to exceed 70% of the FMR (Fair Market Rent)** that can be afforded by people who **do not exceed eighty percent (80%)** of Area Median Income (AMI) as determined by the U.S. Department of Housing and Urban Development. The Deed Restriction shall be filed by the owner before an occupancy permit shall be issued.

843.8: FEES and APPROVALS: The Application Fee shall be \$100. The Inspectional Service (Building, Electricity, Plumbing) Fees, sewer connection fees, shall be calculated at fifty-percent (50%) of existing fees. The Select Board shall utilize staff or its designee to determine the appropriateness of the proposed Local Action Unit(s). The Select Board, or their designee, shall provide approval within 45 days of the application. If the proposal is rejected by a staff designee, the applicant may appeal to the Select Board. If it is rejected by the Select Board, the applicant may file an appeal in accordance with M.G.L. c. 40A, § 17.

843.9: DEED RESTRICTION REQUIREMENT: A copy of the deed restriction shall be filed with the Registry of Deeds and **with** the following Town Departments: Select Board, Inspectional Services, Assessors, Wastewater, and any other department the Select Board deem necessary.

844.0: **A town's affordable housing percentage is determined by dividing the number of SHI-eligible units by the number of year-round housing units as reported by the latest decennial U.S. Census. The Town may suspend and reinstitute this bylaw, as needed, by a simple majority vote of Town Meeting.**

**Passed over in Consent Agenda**

**Motion made and seconded to dissolve Fall Town Meeting approved unanimously at 9:52 pm**

Respectfully Submitted by:

*Debra A. Gremo*

Debra A. Gremo, Town Clerk