

**2020 Annual Town Meeting Warrant  
Town of Shutesbury  
Commonwealth of Massachusetts  
June 27, 2020**

To one of the Constables of the Town of Shutesbury in the County of Franklin,  
Greetings:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the inhabitants of said town, qualified to vote in elections and town affairs, to meet at **9:00** a.m. on Saturday the **twenty-seventh** day of June, behind the Shutesbury Town Hall, 1 Cooleyville Rd. in said Shutesbury, in the year Two Thousand and Twenty, then and there to act on the following articles:

**Article 1.** To hear, and receive reports of town officers, committees, and boards, or take any other action relative thereto. **(Sponsor: Select Board)**

**Article 2.** To see if the Town will vote to amend Section VI of the Amherst Pelham Regional School District Agreement by adding subsection j) as follows: To see if the Town will vote to amend Section VI of the Amherst Pelham Regional School District Agreement by adding subsection (j) as follows: For Fiscal Year 2021 only, the alternative operating budget assessment shall be calculated as 45% of a five-year average of minimum contributions with the remainder of the assessment allocated to the member towns in accordance with the per-pupil method found in Section VI (e) of the Amherst Pelham Regional School District Agreement. The five-year average of minimum contributions will include the five most recent years, or take any other action relative thereto.

**(Sponsor: Selectboard) Finance Committee Recommends  
Requires majority vote**

**Article 3.** To see if the Town will vote to set the salary compensation for all elected officials of the town (Select Board, Town Clerk, Moderator and Constable) as provided by MGL Chapter 41, Section 108, to be made effective from July 1, 2020, as contained in the budget, or take any other action relative thereto.

**(Sponsor: Personnel Board and Select Board)  
Requires majority vote**

**Article 4.** To see if the Town will vote to approve the **Citizens Petition** as written:  
-Shutesbury has about 2.4 million dollars in combined Free Cash, Stabilization and Capital Stabilization funds.  
-On May 2, 2015 Shutesbury voters agreed to appropriate a sum of money not to exceed \$1,693,200.00 for the town's share of the costs of the construction, installation and start-up of a regional broadband network.

-On June 10, 2015 Shutesbury voters authorized a debt exclusion of \$1,693,200.00 for the broadband network.

-This debt exclusion will be an additional tax burden on top of the annual property tax burden levied on each property owner.

-It is estimated the cost of borrowing \$1,693,200.00 over twenty years will be \$500,000.00. Reducing the initial loan amount will save Shutesbury a significant amount of money.

-A smaller initial loan amount will mean a reduced tax bill for each taxpayer.

-A smaller initial loan amount will mean a potentially smaller monthly broadband bill.

-In light of the Town's cash on hand, the potential to save a significant amount in loan expenses, reduce individual tax bills and broadband costs, we the undersigned move that \$750,000.00 be transferred from any combination of Free Cash, Stabilization, and Capital Stabilization funds to pay down the \$1,693,200.00 debt exclusion for broadband,.

**(Sponsor: Citizens' Petition)**

**Requires a 2/3rds vote**

**Article 5.** To see if the Town will vote to transfer a sum of money, not to exceed \$12,000, from the Assessors Overlay Surplus account to the Assessors Revaluation account, or take any other action in relation thereto. **(Sponsor:**

**Assessors) Finance Committee Recommends**

**Requires majority vote**

**Article 6.** To see if the Town will vote to transfer \$15,000 from Free Cash to the Shutesbury Unemployment Compensation Fund, established in 2018 at the Annual Town Meeting, or take any other action relative thereto.

**(Sponsor: Selectboard) Finance Committee Recommends**

**Requires majority vote**

**Article 7.** To see if the Town will vote to return \$20,028.08 from the Wyola Dam Project account to Stabilization, or take any other action relative thereto. **(Sponsors:**

**Selectboard) Finance Committee Recommends**

**Requires majority vote**

**Article 8.** To see if the Town will vote to return \$12,400 from the Alternative Energy Account to Stabilization, or take any other action relative thereto. **(Sponsors:**

**Selectboard) Finance Committee Recommends**

**Requires majority vote**

**Article 9.** To see if the Town will vote to return \$24,016.16 from the Hazardous Waste Clean Up account to Free Cash, or take any other action relative thereto. **(Sponsors:**

**Selectboard) Finance Committee Recommends**

**Requires majority vote**

**Article 10.** To see if the Town will vote to return \$24,200 from the School Sidewalk Repair account to Free Cash, or take any other action relative thereto. **(Sponsors: Selectboard) Finance Committee Recommends**  
**Requires majority vote**

#### **Annual Budget Article**

**Article 11.** To see if the Town will vote to raise and appropriate, transfer from available funds, or otherwise provide a sum of money to meet town expenses including operations, capital, salaries and school expenses of **\$6,600,665** by raising the sum of **\$6,580,240** and transferring \$20,425 from the Septic Betterment Fund, for the fiscal year beginning July 1, 2020, or take any other action relative thereto. **(Sponsors: Selectboard) Finance Committee Recommends**  
**Requires majority vote**

#### **Annual Articles -Community Preservation**

##### **Article 12.**

To see if the Town of Shutesbury will vote to act on the recommendation of the Community Preservation Committee on the fiscal year 2021 budget to transfer the following sums of money from the Community Preservation Fund estimated annual revenues: **\$5,100** to Open Space; **\$5,100** to Historic Resources; **\$5,100** to Community Housing; and **\$32,000** to the FY21 Community Preservation Fund budgeted reserve, or take any action relative thereto. **(Sponsor: Community Preservation Committee) Finance Committee Recommends**  
**Requires majority vote**

**Article 13.** To see if the town will vote to appropriate **\$2,500** from fiscal year 2021 Community Preservation Fund estimated annual revenues for necessary and proper administrative and operation expenses of the Shutesbury Community Preservation Committee, or to take any action relative thereto. **(Sponsor: Community Preservation Committee) Finance Committee Recommends**  
**Requires majority vote**

##### **Article 14. CPC request from Amherst-Pelham Regional School District**

To see if the Town will vote to appropriate **\$13,800** from the Open Space/Recreation Fund balance for a schematic design and engineering study for the Amherst Regional School Track and Field restoration/reconstruction project, or take any other action relative thereto

**(Sponsor: Community Preservation Committee)**

**Requires majority vote**

#### **Planning Board Zoning Amendment Articles**

##### **Article 15. PROPOSED AMENDED SOLAR BYLAW**

To see if the Town will vote to strike section 8.10 of the Town of Shutesbury Zoning Bylaw and replace it with the following new section 8.10 or take any other action related thereto.

**SECTION 8.10 GROUND-MOUNTED SOLAR ELECTRIC INSTALLATIONS (ADDED) 2016,**  
Version 3/4/20

**8.10-1 Purpose**

The purpose of this bylaw is to facilitate and appropriately regulate the creation of Ground-Mounted Solar Electric Installations: (a) by providing standards for the approval, placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, protection and preservation of Town infrastructure (including roads), public nuisance, existing residential property and property value, impacts upon environmental, scenic, and historic resources; (b) by providing adequate financial assurance for the eventual decommissioning of such installations; and (c) by protecting large contiguous blocks of forest back-land based on the understanding that large unfragmented tracts provide many ecological benefits including improved water and air quality, sequestration of carbon, reduced movement of invasive species, provision of wildlife habitat and the support for greater biodiversity; as well as maintaining commercial forestry as a viable agricultural activity and providing many recreational opportunities for town residents.

**8.10-2 Applicability**

- A. This Section 8.10 applies to Large- Scale and Small-Scale Ground-Mounted Solar Electric Installations, as noted. Small-Scale Ground-Mounted Solar Electric Installations which are accessory to an existing residential or non-residential use which generate electricity principally used by such residential or non-residential use are permitted as of right, do not need to comply with this Section, but require a Site Plan Review from the Zoning Board of Appeals, as well as a building permit, and must comply with all other applicable provisions of the Town of Shutesbury Zoning Bylaw.
- B. This Section 8.10 also pertains to physical modifications that materially alter the type, configuration, or size of Ground-Mounted Solar Electric Installations or related equipment.
- C. Upon written request by the applicant, the Planning Board may waive or reduce any special permit requirement of this Section 8.10 by the same majority vote required for the permit itself upon written findings included in the permit of:
  - 1. special circumstances of the site, its surroundings, or the proposal that negate the need for imposition of the requirement, or the objectives of this section may be met in alternative manner; and
  - 2. that such a waiver or reduction will not derogate from the public purposes and intent of this zoning bylaw.

In the case of a special permit, such requests must be made by the applicant no later than the close of the public hearing. An affirmative or negative vote under this paragraph shall not be construed as an approval or disapproval of the permit sought.

**8.10-3 General Requirements**



A. Compliance with Laws, Bylaws, and Regulations

The construction and operation of all Ground-Mounted Solar Electric Installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part thereof shall be constructed in accordance with the Massachusetts State Building Code.

B. Mitigation for Loss of Carbon Sequestration and Forest Habitat

If forestland is proposed to be converted to a Ground-Mounted Solar Installation the plans shall designate thereon an area of unprotected (meaning, not subject to MGL. Ch. 184, §§ 31-33 at time of application) land on the same lot and of a size equal to four times (4X) the total area of such installation. Such designated land shall remain in substantially its natural condition without alteration, including prohibition of commercial forestry / tree cutting not related to the maintenance of the installation, until such time as the installation is decommissioned; except in response to a natural occurrence, invasive species or disease that impacts the trees and requires cutting to preserve the health of the forest. The Special Permit may be conditioned to effectuate and make enforceable this requirement.

C. Mitigation for Loss of Forest Habitat within the Installation

If forestland is proposed to be converted to a Ground-Mounted Solar Electric Installation the plans shall show mitigation measures that create a wildflower meadow habitat within and immediately around the Solar Electric System and a successional forest habitat in the surrounding areas managed to prevent shading until such time as the installation is decommissioned. The wildflower meadow shall contain a wide variety of plants that bloom from early spring into late fall, that are planted in clumps rather than single plants to help pollinators find them, that are native plants adapted to local climate, soil and native pollinators. At least 50% of the array footprint and perimeter shall be planned to have these flowering plants. Mowing shall be limited to no more than once annually. Plans for pollinator-friendly vegetation establishment and maintenance at the solar PV facility shall be compiled and written by a professional biologist or ecologist with relevant experience and expertise in pollinator habitat creation, grassland habitat restoration, and/or knowledge of native New England plant communities. The Special Permit may be conditioned to effectuate and make enforceable this requirement.

D. Mitigation for Installation of Perimeter Fencing

Any perimeter fencing within winter sight of a public roadway, driveway, or dwelling existing at the time of the special permit application shall be entirely black in color. The Special Permit may be conditioned to effectuate and make enforceable this requirement.

E. Mitigation for Disruption of Trail Networks

If existing trail networks, old Town roads, or woods or cart roads are disrupted by the location of the Ground-Mounted Solar Electric Installation, the plans shall show alternative trail alignments to be constructed by the applicant. The Special Permit may be conditioned to effectuate and make enforceable this requirement, although no rights of public access may be established hereunder.

F. Mitigation for Disruption of Historic Resources and Properties

Historic resources and properties, such as cellar holes, farmsteads, stone corrals, marked graves, water wells, or pre-Columbian features, including those listed on the Massachusetts Register of Historic Places or as defined by the National Historic Preservation Act, shall be excluded from the areas proposed to be developed, including clearing for shade management. A written assessment of the project's effects on each identified historic resource or property and ways to avoid, minimize or mitigate any adverse effects shall be submitted as part of the Special Permit. A suitable buffer area shall be established on all sides of each historic resource. The Special Permit may be conditioned to effectuate and make enforceable this requirement.

- G. All plans and maps shall be prepared, stamped and signed by a Professional Civil Engineer licensed to practice in the Commonwealth of Massachusetts.
- H. Construction access shall be from paved (bituminous or chip-sealed) Town roads. In the alternative, an applicant may propose, at their expense and to Town specifications and based on the Town's cost estimate, to fund the paving and improvement of drainage facilities to those portions of the Town road required to meet the intent of this section as determined by the Planning Board. The applicant may also propose posting a bond sufficient to fund the maintenance, repair, and restoration to the satisfaction of the Highway Department and the Select Board, of an unpaved Town road and associated drainage facilities used for construction access. The Planning Board, after consultation with the Shutesbury Highway Department and only following written Select Board approval of an alternative proposal, may accept or deny such alternative proposals.
- I. Lots for Ground-Mounted Solar Electric Installations shall have the required frontage on a public way stated in Section 4.2-1 and defined in this zoning bylaw.
- J. In order to preserve the ecological integrity of Shutesbury's large blocks of undeveloped forestland as stated in Section 5.1-1 herein, no more than one Large Ground-Mounted Solar Electric Installation shall be permitted within the bounds of any set of public ways and/or Town borders as depicted on the map entitled Large Ground Mounted Solar Electric Installation Districts, and incorporated into this zoning bylaw.

#### **8.10-4 Required Documents**

The project applicant shall provide the following documents in addition to or in coordination with those required under Article IX below.

- A. Site Plan. A Site Plan additionally showing:
  - 1. Locations of wetlands and Priority Habitat Areas as defined by the Natural Heritage & Endangered Species Program (NHESP).
  - 2. Locations of local or National Historic Districts.
  - 3. Locations of all known, mapped or suspected Native American archaeological sites or sites of Native American ceremonial activity. Identification of such sites shall be based on responses, if any, to written inquiries with a requirement to respond within 35 days, to the following parties: all federally or state recognized Tribal Historic Preservation Officers with any cultural or land affiliation to the Shutesbury area; the Massachusetts State Historical Preservation Officer; tribes or associations of tribes not recognized by the federal or state government with any cultural or land affiliation to the Shutesbury area; and the Shutesbury Historical Commission. Such

inquiries shall serve as a notice to the aforesaid parties and shall contain a plan of the project, specific identification of the location of the project, and a statement that permitting for the project is forthcoming. Accompanying the site plan shall be a report documenting such inquiries, the responses from the parties, a description of the location and characteristics, including photographs, of any Native American sites and the outcomes of any additional inquiries made based on information obtained from or recommendations made by the aforesaid parties. A failure of parties to respond within 35 days shall allow the applicant to submit the site plans.

4. The project proponent must submit a full report of all materials to be used, including but not limited to the use of cleaning products, paints or coatings, hydro-seeding, fertilizers, and soil additives. When available, Material Safety Data Sheets will be provided.

B. Blueprints. Blueprints or drawings of the installation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts, showing:

1. The proposed layout of the system and any potential shading from nearby structures.
2. One- or three-line electrical diagram detailing the Ground-Mounted Solar Electric Installation, associated components, and electrical interconnection methods, with all Massachusetts and National Electrical Code compliant disconnects and overcurrent devices.

C. General Documentation. The following information shall also be provided:

1. A list of any listed hazardous or known carcinogenic materials proposed to be located on the site in excess of household quantities and a plan to prevent their release to the environment as appropriate.
2. Name, address, and contact information for proposed system installer.
3. The name, contact information and signature of any agents representing the project applicant.

D. Site Control

The project applicant shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed Ground-Mounted Solar Electric Installation.

E. Operation and Maintenance Plan

The project applicant shall submit a plan for the operation and maintenance of the Ground-Mounted Solar Electric Installation, which shall include measures for maintaining safe access to the installation, stormwater management (consistent with DEP's and, where appropriate, Shutesbury's stormwater regulations and vegetation controls), as well as general procedures for operational maintenance of the installation.

F. Financial Surety

Applicants for Ground-Mounted Solar Electric Installations shall provide a form of surety, either through an escrow account, bond or otherwise, accessible to the Town of Shutesbury, to cover the cost of removal in the event the Town must remove the installation and remediate the site to its natural preexisting condition, in an amount and form determined to be reasonable by the SPGA, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set

forth herein. The project applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

**G. Utility Notification**

No Ground-Mounted Solar Electric Installation shall be constructed, nor building permit issued until evidence has been provided to the Planning Board that the utility company that operates the electrical grid where the installation is to be located has approved the solar electric installation owner or operator's intent to install an interconnected customer-owned generator and that the utility has approved connection of the proposed generator into their power grid. Off-grid systems shall be exempt from this requirement.

**H. Proof of Liability Insurance**

**8.10-5 Dimensional Requirements**

**A. Minimum setbacks for all Large-Scale Ground-Mounted Solar Electric Installations shall be:**

- Front street setback: 500 feet (as required for Forest Conservation District)
- Property line setback: 100 feet

**B. Minimum setbacks for all Small-Scale Ground-Mounted Solar Electric Installations shall be:**

- Front street setback: 100 feet
- Property line setback: 50 feet

**C. Required setback areas shall not be counted toward a facility's total acreage.**

**8.10-6 Design and Performance Standards**

**A. Lighting**

Large- and Small-Scale Solar Electric Installations shall have no permanently-affixed exterior lighting.

**B. Signage**

1. Sufficient signage shall be provided to identify the owner of the facility and provide a 24-hour emergency contact phone number.
2. Signage at the perimeter warning pedestrians is allowable.
3. Ground-Mounted Solar Electric Installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of such installation.

**C. Control of Vegetation**

Herbicides or pesticides may not be used to control vegetation or animals at a Ground-Mounted Solar Electric Installation.

**D. Visual Impacts**

1. Ground-Mounted Solar Electric Installation shall be designed to minimize visual impacts including preserving natural vegetation to the maximum extent possible, blending in equipment with the surroundings, and adding vegetative buffers to provide an effective visual barrier from adjacent roads and driveways, and to screen abutting residential dwellings.

2. When possible, a diversity of plant species shall be used, with a preference for species native to New England.
  3. Use of exotic plants, as identified by the most recent copy of the "Massachusetts Prohibited Plant List" maintained by the Massachusetts Department of Agricultural Resources, is prohibited.
  4. If deemed necessary by the Planning Board, the depth of the vegetative screen shall be 30 feet and will be composed of native trees and shrubs staggered for height and density that shall be properly maintained.
  5. The owner/operator shall not remove any naturally occurring vegetation such as trees and shrubs unless it adversely affects the performance and operation of the solar installation.
  6. Landscaping shall be maintained and replaced as necessary by the owner/operator of the Ground-Mounted Solar Electric Installation.
- E. Utility Connections.  
Electrical transformers, wires, or other utility interconnections shall be constructed as required by the utility provider and may be above ground if necessary; provided, however, that every reasonable effort shall be made to place all utility connections underground, depending on appropriate soil conditions and topography of the site and any requirements of the utility provider.
- F. All electric power generated at a Ground-Mounted Solar Electric Installation shall be from Solar Energy.
- G. Access Driveways shall be constructed to minimize finished width, grading, removal of stone walls or roadside trees, incompatible appearance from the roadway, and impacts to environmental or historic resources.

#### **8.10-7 Safety and Environmental Standards**

##### **A. Emergency Services**

1. Ground-Mounted Solar Electric Installations owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Shutesbury Fire Chief.
2. The owner or operator shall cooperate with local emergency services to develop a written emergency response plan that is provided to Shutesbury police and fire departments
3. All means of shutting down the solar electric installation shall be clearly marked.
4. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation. Contact information shall be provided annually to the Town Administrator include name, email and phone number for the designated person.

##### **B. Land Clearing, Soil Erosion and Land Impacts**

1. The facility shall be designed to minimize impacts to open agricultural land and fields, even if not in production. Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the Ground-Mounted Solar Electric Installation. Grading that substantially disturbs the existing soil profile and structure is prohibited; sites shall be selected where construction



may be accomplished without such earth work.

2. Prior to any site disturbance and construction, the limits of the work shown on the approved site plan shall be surveyed and clearly marked by a Professional Land Surveyor. Upon completion of the survey, the Professional Land Surveyor shall verify to the Planning Board, in writing, that the limit of work, as shown on the approved site plans, has been established on site.
3. The design shall minimize the use of concrete and other impervious materials to the maximum extent possible. Ground-Mounted Solar Electric Installation shall be installed on water permeable surfaces.
4. Locating Ground-Mounted Solar Electric Installations, including access driveways and any associated drainage infrastructure on original, pre development grades in excess of 15% is prohibited.

C. Habitat Impacts

Large-Scale Ground-Mounted Solar Electric Installations shall not be located on permanently protected land subject to MGL. Ch. 184, §§ 31-33 Priority Habitat and Bio Map 2 Critical Natural Landscape Core Habitat mapped by the Natural Heritage and Endangered Species Program (NHESP) and "Important Wildlife Habitat" mapped by the DEP.

D. Wetlands

1. The applicant will prepare MA DEP WPA Form 4a. Abbreviated Notice of Resource Area Delineation (ANRAD) that includes a wetland evaluation and map of the site. The ANRAD shall also be submitted to the Conservation Commission.
2. In order to provide an adequate intervening land area for the infiltration of stormwater runoff from a Solar Electric Installation, ground alterations, such as stump removal, excavation, filling, and grading, or the installation of drainage facilities or solar panels, are prohibited within 100 feet of any wetlands or hydrologic features subject to the jurisdiction of the Shutesbury Conservation Commission.
3. The Planning Board may impose conditions to contain and control stormwater runoff that might negatively impact identified wetlands or other hydrologic features even if the proposed work area is outside the jurisdiction of the Conservation Commission.

### **8.10-8 Monitoring, Maintenance and Reporting**

A. Solar Electric Installation Conditions

1. The Ground-Mounted Solar Electric Installation owner or operator shall maintain the facility in good condition.
2. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures.
3. Site access shall be maintained to a level acceptable to the Shutesbury Fire Chief and Emergency Management Director.
4. The owner or operator shall be responsible for the cost of maintaining the Solar Electric Installation and any access driveways.

B. Annual Reporting



1. The owner or operator of a Ground-Mounted Solar Electric Installation shall submit an annual report demonstrating and certifying compliance with the Operation and Maintenance Plan, the requirements of this Section 8.9 and the approved special permit, including but not limited to continued management and maintenance of vegetation, compliance with the approved plans and any special permit conditions, continuation of liability insurance, and adequacy of road access.
2. The annual report shall also provide information on the maintenance completed during the course of the year and the amount of electricity generated by the facility.
3. The report shall be submitted to the Select Board, Planning Board, Fire Chief, Emergency Management Director, Building Commissioner, Board of Health and Conservation Commission (if a wetlands permit was issued) no later than 45 days after the end of the calendar year.

### **Abandonment or Decommissioning**

#### **A. Removal Requirements**

1. Any Ground-Mounted Solar Electric Installation which has reached the end of its useful life, has been abandoned, or taken off line shall be removed.
2. The owner or operator shall physically remove the installation no later than 150 days after the date of discontinued operations.
3. The owner or operator shall notify the Special Permit Granting Authority by certified mail, of the proposed date of discontinued operations and plans for removal.

#### **B. Decommissioning shall consist of:**

1. Physical removal of all components of the Ground-Mounted Solar Electric Installation, including but not limited to structures, foundations, equipment, security barriers, and on-site above-ground transmission lines. Associated off-site utility interconnections shall also be removed if no longer needed.
2. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
3. Restoration of the site to its natural preexisting condition, including stabilization or re-vegetation of the site as necessary to minimize erosion. The Special Permit Granting Authority may allow the owner or operator to leave landscaping or designated below-grade foundations and electric lines in order to minimize erosion and disruption to vegetation.

#### **C. Decommissioning by the Town**

If the owner or operator of a Ground-Mounted Solar Electric Installation fails to remove such installation in accordance with the requirements of this Section 8.9 within 150 days of discontinued operations or abandonment, the Town may enter the property and physically remove the installation at the owner's expense, drawing from the escrow account or upon the bond or other financial surety provided by the applicant.

### **8.10-10 Lapse of Approval**

Any special permit shall automatically lapse if the Large-or Small-Scale Ground-Mounted Solar Electric Installation is not installed and functioning within two (2) years of the grant of the special permit or if the installation shall be considered abandoned.

### 8.11-1 Enforcement

A violation of this Bylaw shall be subject to the enforcement provisions of the Town of Shutesbury Zoning Bylaws, Section 10. 2

**(Sponsors: Planning Board)**

**Requires 2/3 vote.**

### Article 16.

To see if the Town will vote pursuant to General Laws Chapter 268A, Section 21A., to authorize the Municipal Light Plant Board to appoint member Gayle Huntress to the position of Municipal Light Plant Manager, or take any other action related thereto.

**(Sponsors: MLP Board) Finance Committee Recommends**

**Requires majority vote**

**Article 17.** To see if the Town will vote to appropriate the sum of **\$462,792.00** for the MLP Enterprise Fund beginning July 1, 2020 in accordance with the provisions of M.G.L. c.44, sec 53 F ½, amount to be funded from the following sources; or take any action relative thereto. **(Sponsors: MLP Board)**

**Finance Committee Recommends**

**Requires 2/3rds vote**

<u>MLP ENTERPRISE FUND OPERATING BUDGET FY2021</u>		
<b>Expenses</b>		
		<b>NOTES</b>
Routine network maintenance	\$ 108,500	<i>Annual Maintenance</i>
Truck retainer fee	\$ 12,000	
Insurance	\$ 8,566	<i>Insurance via MIIA with 10K deductible</i>
Backhaul	\$ 30,840	<i>250MB MBI/Backup connection \$850/mo 10GB CrownCastle \$1,750 per month TOTAL = \$30,840</i>
MLP Manager Stipend	\$ 12,000	<i>\$1,000/month</i>
Employment Overhead	\$ 4,000	<i>22% of Mgr.Stipend</i>
Lifeline CAFII Administration	\$ 7,000	<i>\$2K per year flat admin cost plus \$80 for each new recipient application, then \$50 annual renewal for each recipient (estimating not more than 100 applications annually)</i>
Bond fee for poles	\$ 7,000	<i>3K for Ngrid and Verizon; 1K for Eversource</i>
Pole rental	\$ 20,670	<i>\$13.78 x 1500 poles</i>
Essentials Support	\$ 5,995	<i>Annual Maintenance contract with Calix. Provides direct support and emergency electronic equipment replacement.</i>

Electronics Hut Operations	\$ 1,300	<i>HVAC maintenance \$500, Security Monitoring \$300, Building Maintenance \$500.</i>
Electronic Depreciation (Broadband Capital Stabilization)	\$ 37,895	<i>To replace electronics in 7-10 years (router and ONTs included)</i>
Debt Service	\$ 146,495	<i>\$105,675 Payment (interest and principal) due 4/3/2021 on \$883,333 borrowed at 1.25% thru 2025 and 2% thru 2030. \$15,820 interest payment due 8/21/2020 on \$793,000 BAN. \$25,000 additional principal payment.</i>
Electronics Hut Utilities	\$ 5,200	<i>Electricity to power hut (\$3,600), shared propane (\$600, full tank fill), shared generator maintenance (\$1,000). Indirect Costs reimbursed to town.</i>
Accounting	\$ 1,500	<i>Indirect Costs reimbursed to town.</i>
Auditor	\$ 6,200	<i>Indirect Costs reimbursed to town.</i>
Legal	\$ 5,000	<i>Indirect Costs reimbursed to town.</i>
<b>OPERATIONS SUBTOTAL</b>	<b>\$ 420,161</b>	
Extraordinary & Unforeseen	\$ 42,631	<i>Emergency Reserve Fund</i>
<b>OPERATIONS TOTAL</b>	<b>\$ 462,792</b>	
<b>Income</b>		
MLP Fees	\$ 462,792	<i>MLP Fee: Basic= \$52.00/month, Vacation=\$45.00/month. Currently 733 regular subscribers, 10 vacation subscribers, 21 holding subscribers</i>

**Article 18.** To see if the Town will vote to accept and expend funds available from the State for Highway reimbursement programs, such as the Chapter 90 program, without further appropriation, or take any other action thereto.

**(Sponsors: Selectboard) Finance Committee Recommends**  
**Requires majority vote**

**Article 19.** To see if the Town will vote to authorize the Treasurer to enter into compensating balance agreements during Fiscal 2021 as permitted by M.G.L. c. 44, section 53F, or take any other action relative thereto.

**(Sponsors: Selectboard) Finance Committee Recommends**  
**Requires majority vote**

**Article 20.** To see if the Town will vote to allow the Select Board to apply for, accept and expend state, federal and other grants, which do not require a town appropriation, or take any other action relative thereto.

**(Sponsors: Selectboard) Finance Committee Recommends**  
**Requires majority vote**

**Article 21.** To see if the Town will approve the appointment pursuant to MGL Chapter 268A, Section 21A of Catherine Hilton as a Board of Health Administrative Consultant while also serving as an elected official on the Board of Health, or take any other action relative thereto. **(Sponsor: Personnel Board) Finance Committee Recommends Requires majority vote**

**Article 22.** To see if the Town will vote to become a member in the Pioneer Valley Mosquito Control District, pursuant to Massachusetts General Laws Chapter 252, §5A for the purpose of monitoring and surveillance of mosquitos and other applicable sections of said law; and fund the membership fee of \$5,000 from Free Cash, or take any other action relative thereto.

**(Sponsors: Selectboard) Finance Committee Recommends Requires majority vote**

**Article 23.** To See if the Town will vote to amend the Revolving Fund bylaw to cancel the SRECS Solar Renewable Energy Certificates revolving fund and return any excess funds to Free Cash.

**(Sponsors: Selectboard) Finance Committee Recommends Requires majority vote**

**Article 24.** To See if the Town will vote to approve annual spending limits for FY2021 for revolving funds established in the Town Bylaws, pursuant to MGL c. 44, sec. 53E1/2, as most recently amended, to (1) authorize revolving funds for certain Town Departments as per the chart below, or take any other action relative thereto.

**(Sponsors: Selectboard) Finance Committee Recommends Requires majority vote**

Revolving fund	FY2021 spending limit
Dog license and control	\$1,000
Recycling	\$25,000
Fire Inspections	\$3,000
Electrical Inspections	\$4,000
Plumbing Inspection	\$5,000
Swimming Exercise	\$3,000
Library	\$10,000

Conservation	\$3,000
<b>SRECS Solar Renewable Energy Certificates</b>	<b>\$30,000</b>
COA Seniors	\$ 5,000

### **CAPITAL items**

**Article 25.** To see if the Town will vote to approve to transfer from **Free Cash** in the sum of \$7200, for two replacement sliding glass doors in the conference room at the elementary school, or take any other action relative thereto.

**(Sponsors: School Committee) Finance Committee Recommends  
Requires majority vote**

**Article 26.** To see if the Town will vote to approve to transfer from **Free Cash** the sum of \$25,000 for new flooring to include; carpeting in the library and IT Director's office; new carpeting in Tyner and Culbreth's rooms, VCT flooring in Richard's Room, and new VCT in three bathrooms- library, kindergarten and preschool, or take any other action relative thereto.

**(Sponsors: School Committee) Finance Committee Recommends  
Requires majority vote**

**Article 27.** To see if the Town will vote to approve transfer from **Free Cash** the sum of \$2,700, to install two overhead door operators at the fire station, or take any other action relative thereto.

**(Sponsors: Selectboard) Finance Committee Recommends  
Requires majority vote**

**Article 28.** To see if the Town will vote to approve a transfer from **Free Cash** of the sum of \$900 for a hand held radar gun and \$1,300 for the purchase portable breathalyzer unit for the Police Dept., for a total of \$2,200, or take any other action relative thereto.

**(Sponsors: Selectboard) Finance Committee Recommends  
Requires majority vote**

### **Article 29. PROPOSED AMENDED SIGN BYLAW**

To see if the Town will vote to strike section 8.4 of the Town of Shutesbury Zoning Bylaw and replace it with the following new section 8.4 or take any other action related thereto. **Sponsors: Planning Board**

**Requires 2/3 vote**

## PROPOSED AMENDED SIGN BYLAW

Version 3/11/20

### Section 8.4 Sign Regulations

#### 8.4-1 Purpose

The purpose of sign regulations is to provide for the reasonable control of signs and advertising devices to preserve and enhance the historic appearance, rural character, and scenic amenities of the Town without unduly restricting the conduct of lawful enterprises. These regulations are intended to protect public safety, facilitate effective communication, and promote civic and community vitality without distracting motorists or obstructing visibility and/or clearance.

#### 8.4-2 General Guidelines

##### A. General Standards

Signs shall fit within the character of the Town of Shutesbury and the abutting properties and uses. Signs shall be appropriate in scale and placement for both the specific site and immediate surrounding area.

##### B. Sign Dimensions

The area of a sign shall be determined to be the size of the smallest rectangle which will include the entire physical area of the sign. The dimensions of a sign shall be the length multiplied by the width of such a rectangle. The area of the supporting framework shall not be included in the area if such framework is incidental to the display.

The height of a sign shall be measured to the highest point of the sign including any structural or ornamental projections above the sign proper, from the average ground level above which the sign is located.

A two-sided sign that has messages on both sides will be deemed to be one sign. A sign with more than two sides shall be deemed to be multiple signs, one sign for each direction faced.

#### 8.4-3 Permitted Signs

##### A. Signs Permitted By Right:

The following types of signs are permitted by right:

1. Resident Identification. One sign for each family residing on the premises, indicating the name of the premises and the name of the owner or occupant provided such sign does not exceed two (2) square feet in area.
2. Accessory Use Identification: One sign, not exceeding eight (8) square feet in area, for a permitted accessory use or home occupation located on the premises.
3. Property or Home Construction, Lease or Sale Signs: Signs pertaining to the construction, lease or sale of the premises provided such signs do not exceed twelve (12) square feet in total area.
4. Personal Property Sale/For Free Signs: Signs indicating the sale or availability of personal property, including those items being offered by a business, charitable or



religious organization, provided that such signs do not exceed eight (8) square feet in total area.

5. Directional or identification signs: Directional or identification signs where such signs will serve the public and provided that such signs do not exceed eight (8) square feet in total area.
6. Community, charitable and religious signs: Signs or bulletin boards not exceeding twenty-four (24) square feet in area in connection with community, charitable or religious uses.
7. Opinion, advocacy, and political signs: Non-commercial signs promoting an idea, position, political candidate, or other form of non-commercial expression protected by the United States and Massachusetts Constitutions, provided that such signs do not exceed twenty-four (24) square feet in area.
8. Agricultural signs: Signs indicating the sale of agricultural or horticultural products, providing that the signs do not exceed twenty-four (24) square feet in area.
9. Commercial signs: Signs for freestanding commercial uses that are not located upon the same lot as a residential use provided that they do not exceed twenty-four (24) square feet in total area.
10. Municipal signs: Sign erected by the Town of Shutesbury provided that such signs do not exceed twenty-four (24) square feet in area.

Signs shall be erected on the same lot as the premises, person or activity they are intended to advertise, call attention to or identify; in order to be erected in a location other than the same lot as the premises, person or activity, such signs shall require permission of the other property owner. Signs may also be erected between the lot line of privately owned premises and five (5) feet of the travelled lanes of a public roadway (defined herein as the white line of a paved road, edge of pavement of a paved road without striping, or the outside of the obvious track of the outer tires on an unpaved road).

#### **B. Signs Requiring a Special Permit**

Any sign, allowed by right in 8.4-3, Section A that exceeds the specified allowable size or which seeks placement other than specified in this bylaw, shall require a Special Permit from the Zoning Board of Appeals.

#### **8.4-4 Nonconforming Signs**

An existing sign which has been erected as of April 25, 2020 but which does not conform to this bylaw may continue to be used. However, if it is replaced, enlarged, redesigned, or materially altered, it shall be brought into conformity with this bylaw.

#### **8.4-5 Sign Restrictions**

1. Illuminated signs: Signs or other advertising devices may be illuminated, but such illumination shall be external to the sign and shall be either indirect or shielded by translucent material so as to prevent direct glare onto any public street or onto any adjacent property. No exterior sign or interior sign visible from the exterior of the structure shall be illuminated during hours the business is not open, provided, however, that no sign on a residential premise shall be illuminated after 8:00 p.m.

**2. Signs on Town Property:**

Only municipal signs, except signs located between the lot line of privately owned premises and five (5) feet of the travelled lanes of a public roadway, may be placed upon town-owned property including the Town Common, frontage bordering town buildings, parks, recreation, conservation, or watershed area. Municipal signs shall require approval from the Select Board or its designee.

**8.4-6 Prohibited Signs or Installation**

- A. Moving, animated or digital signs: Moving signs, digital signs, swinging signs, changeable message signs, flashing signs, revolving signs, signs consisting of pennants, ribbons, streamers, spinners, strings of light bulbs, revolving beacons, search lights, or animated signs to create the illusion of motions.
- B. Inflatable signs: Free-standing inflatable signs whether animated or stationary.
- C. Billboards: Billboards and roof-mounted signs.
- D. Vehicle signs: Display of advertising painted on or attached to a vehicle, when the primary use of the vehicle is for display rather than transportation, and where the vehicle is usually parked within sight of a public way.
- E. Prohibited Installations
  - 1. Signs erected or displayed so as to endanger public safety. Signs erected that shall in any way create a traffic hazard or in any way obscure, confuse or impair pedestrian or automobile traffic flow or sight. Signs constituting a nuisance or hazard to pedestrian or vehicular traffic because of intensity or direction of illumination.
  - 2. Signs extending to within five (5) feet of the travelled lanes of a public roadway.
  - 3. Signs higher than ten (10) feet above the natural grade.
  - 4. Signs larger than twenty-four (24) square feet in total area.
  - 5. Signs posted or attached to utility poles.

**8.4-7 Enforcement**

Signs on Non-Town Property:

Any sign owner or owner of property on which a sign is located who violates, or permits a violation of this Bylaw, except in the situation when a sign is deemed unsafe, shall be subject to the enforcement provisions of the Town of Shutesbury Zoning Bylaws, Section 10.2

If a sign, including those signs located within five (5) feet of the travelled lanes of any public roadway is deemed to be unsafe by the Police Chief or the Highway Department Superintendent in a written statement to the Select Board, the Select Board or its designee may remove the sign upon 24-

hour written or verbal notice to the sign owner or owner of the property on which the sign is located. Subsequent actions shall be consistent with aforesaid Section 10.2 regarding enforcement.

Signs on Town Property:

Signs erected on Town property not in compliance with 8.4-5(C)2 may be removed without notice by the Select Board or its designee. If known, the owner of the sign shall be contacted within 48 hours. The sign shall be stored for a period of two weeks to allow the owner to retrieve the sign, at which time the Select Board or its designee may dispose of the sign.

**Article 30. AMENDED OPEN SPACE DESIGN BYLAW**

To see if the Town will vote to strike ARTICLE V, **OPEN SPACE DESIGN**, of the Town of Shutesbury Zoning Bylaw and replace it with the following new ARTICLE V, **OPEN SPACE DESIGN**, or take any other action related thereto.

**Sponsors: Planning Board**

**Requires 2/3 vote.**

**PROPOSED AMENDED OPEN SPACE DESIGN BYLAW**

Version 5/11/20

**ARTICLE V            OPEN SPACE DESIGN**

**SECTION 5.1   PURPOSE AND APPLICABILITY**

**5.1-1    Purpose**

The primary purpose of this Section is to preserve the open space resources of Shutesbury as identified in the Master Plan, especially large contiguous blocks of forested back-land. These large unfragmented tracts provide many ecological benefits. They improve water and air quality, sequester carbon, reduce movement of invasive species, provide wildlife habitat, and support greater biodiversity. Additionally, they help maintain commercial forestry as a viable agricultural activity and offer many recreational opportunities to town residents. This section is also intended to foster compact development patterns using flexible regulations for density and lot dimensions and to promote and encourage creativity in neighborhood design. The Town wishes to encourage the use of Open Space Design because Open Space Design results in the preservation of contiguous open space and important environmental resources, while allowing design flexibility. Open Space Design reduces development impacts on farmland, forests, wildlife habitats, large tracts of contiguous open space, environmentally sensitive areas, steep slopes, hilltops, and historically significant areas. To encourage this type of development, Open Space Design is allowed by right, subject only to the requirements of the Regulations Governing the Subdivision of Land. An Open Space Design that does not require approval as a subdivision is allowed by special permit subject to approval by the Planning Board. In order to encourage small subdivisions to follow Open Space Design principles, there is no minimum parcel size or number of lots required for an Open Space Design.

**5.1-2    Applicability**

- A. An Open Space Design may be proposed anywhere in Shutesbury, including the TC district. Within the FC, RR, and LW District, all subdivisions shall comply with the Open Space

Design provisions of this Article V, unless the Planning Board allows a development that deviates from the requirements of Article V by Special Permit. Such deviations may be approved if the applicant demonstrates that the proposed alternative development configuration provides adequate protection of the site's environmental

resources and fulfills the purposes of this Article as well as or better than an Open Space Design.

- B. Subsection A above applies only to subdivisions of land as defined in MGL Ch. 41, § 81L, and not to construction of homes or businesses on individual lots that existed prior to May 3, 2008 or to lots created through the "Approval Not Required" process with frontage on public ways existing as such as of May 3, 2008 described in the Regulations for the Subdivision of Land (the "Subdivision Regulations"). However, if subdivision approval is not required because a new roadway is not proposed, an applicant may nevertheless apply for an Open Space Design under this Article V. In such a case, the application shall be subject to special permit review as described in Article IX, under which the Planning Board may additionally consider the conservation benefits versus detriments of permitting a number of residential units in excess of the base number otherwise possible without the benefit of this Article V. If the proposed Open Space Design also involves one or more common driveways, density bonuses, transfer of development rights, and/or any other use that requires a Special Permit, the proceedings for all such Special Permits and the Site Plan review for the lot configuration shall occur in one consolidated Special Permit proceeding before the Planning Board.

## **SECTION 5.2 DEVELOPMENT IMPACT STATEMENT AND CONSERVATION ANALYSIS**

In order to enable the Planning Board to determine whether or not a proposed Open Space Design (or development by Special Permit that deviates from the requirements for Open Space Design) satisfies the purposes and standards of this Article, an applicant must present sufficient information on the environmental and open space resources for the Board to make such determination. The required information shall be provided in the form of a Development Impact Statement, including a "conservation analysis" as described in Subsection IX of Section VIII of the Subdivision Regulations. In the case of an Open Space Design that is not a subdivision, and that is presented as a special permit application, the applicant shall not be required to submit a full Development Impact Statement. However, the Planning Board may require the submission of all or part of a conservation analysis as described in the Subdivision Regulations.

### **5.2-1 Conservation Analysis and Findings**

- A. Prior to filing an application, an applicant is encouraged to meet with the Planning Board to discuss the conservation resources on the site. At such a meeting, the Planning Board shall indicate to the applicant which land is likely to have the most conservation value and be most important to preserve and where development may be most appropriately located.
- B. In the case of a proposed plan that deviates from the requirements of this Article, if the Planning Board determines that the land with the greatest conservation value cannot be protected except by the use of an Open Space Design plan, the Planning Board shall deny the Special Permit for the deviation and require that the applicant submit a plan that complies with the requirements for an Open Space Design.
- C. The Planning Board, in consultation with the Conservation Commission, and Open Space

Committee, if any, shall study the conservation analysis, may conduct field visits, and shall formally determine which land should be preserved and where development may be located. The Planning Board shall make written findings supporting this determination (the "conservation findings"). The Planning Board shall deny any application that does not include sufficient information to make conservation findings or that does not preserve land that the Planning Board determines should be preserved from development as a result of the conservation analysis and findings.

- D. The Planning Board's conservation findings shall be incorporated into its decision to approve, approve with conditions, or deny an application. The conservation findings shall show land to be permanently preserved by a conservation restriction, as well as recommended conservation uses, ownership, and management guidelines for such land. The conservation findings shall also indicate preferred locations for development if the Plan is denied based upon such findings.

### **5.2-2 Minimum Preserved Open Space**

The Plan shall show that at least the percentages of the total acreage listed below will be preserved by conservation restriction, based upon the conservation findings.

FC District:	minimum of 80%
RR, LW, TC Districts:	minimum of 65%

## **SECTION 5.3 ALLOWABLE RESIDENTIAL UNITS**

The maximum number of residential units in an Open Space Design is calculated by a formula based upon the net acreage of the property. This formula is intended to take into account site-specific development limitations that make some land less developable than other land. This calculation involves two steps, calculating the net acreage and dividing by the base allowed density.

### **5.3-1 Net Acreage Calculation**

The factors named below are included in this subsection for net acreage calculation purposes only and do not convey or imply any regulatory constraints on development siting that are not contained in other applicable provisions of law, including this zoning bylaw. To determine net acreage, subtract the following from the total (gross) acreage of the site:

- A. half of the acreage of land with slopes of 20% or greater (2000 square feet or more of contiguous sloped area at least 10 feet in width); and
- B. the total acreage of lakes, ponds, land subject to easements or restrictions prohibiting development, FEMA 100-year floodplains, and all freshwater wetlands as defined in Chapter 131, Section 40 of the General Laws, as delineated by an accredited wetlands specialist. The wetlands scientist will prepare MA DEP WPA Form 4A. Abbreviated Notice of Resource Area Delineation (ANRAD) that includes a wetland evaluation and map of the site. The ANRAD is submitted to the Conservation Commission, discussed at a public hearing and a decision is issued on the extent and boundaries of the wetland resource areas.

### **5.3-2 Unit Count Calculation**

To determine the base maximum number of allowable residential dwelling units on the site, divide the net acreage by three (3) in the RR, LW, or TC Districts, or by five (5) in the FC District. Fractional units shall be rounded down to the next whole number.

### **5.3-3 Density Bonuses**

The unit count determined in Section 5.3-2 above may be increased through density bonuses designed to advance important goals of the Shutesbury Master Plan. Density bonuses are given by Special Permit at the discretion of the Planning Board based upon the expected public benefit. They are calculated by first determining the allowable unit count under Section 5.3-2 without rounding fractional units up or down, and then multiplying that number by 100% plus the percentages that follow. Resulting fractional units shall be rounded down as in §5.3-2.

- A. If the applicant allows deeded public access to the open space portion of the property and the Planning Board finds that such public access provides a significant recreational benefit to the Town (such as access to an important natural area or a trail system): a maximum of 10%.
- B. If the applicant permanently restricts ownership and occupancy of units allowed by §5.3-2 as affordable housing (as defined in this bylaw), and makes a binding commitment to construct such affordable residences: a maximum of 25%. For every unit included in the allowable unit count under Section 5.3-2 that is built and dedicated as an affordable unit, two bonus market rate units may be permitted, up to the maximum of 25% of the allowable unit count.
- C. If the applicant preserves as permanent open space more than the minimum required percentage: a maximum 10% density bonus per additional 5% of the whole project area preserved as open space.

### **5.3-4 Density Transfer (Transfer of Development Rights)**

The Town of Shutesbury encourages flexibility in the location and layout of development, within the overall density standards of this Zoning Bylaw. The Town therefore will permit residential density to be transferred from one parcel (the "sending parcel") to another (the "receiving parcel") in Open Space Designs under this Article V. Density transfers may only be permitted from sending parcels in the FC district to receiving parcels in either the FC, RR, or TC districts. If a sending parcel is located in both the FC and another district, only those portions of sending parcel that actually lie within the FC District may be considered in determining the number of units allowed to be transferred. The process of density transfer is as follows:

#### **A. Procedure**

- 1. All density transfers require a Special Permit from the Planning Board.
- 2. The Special Permit application for a density transfer shall be signed by the owners (or their authorized representatives) of both the sending and receiving parcels.
- 3. The Special Permit application shall show a proposed development plan for the receiving parcel (subdivision and/or Site Plan) as well as a base unit count calculation prepared according to the provisions of §5.3-2. For the sending parcel, the applicant may calculate the allowable number of units eligible to transfer by either:
  - a. Calculating the net acreage pursuant to §5.3-1 and dividing by 15; or
  - b. Dividing the total (gross) acreage by 25.

Fractional units shall be rounded down to the next whole number.



4. Sending parcels existing as such on May 3, 2008 may have development rights calculated by either method a or b at the applicant's election. Sending parcels which have been modified by lot line changes since May 3, 2008 must employ method a. The density calculation for the sending parcel shall not include any of the density bonuses available under §5.3-3.
5. In reviewing an application for density transfer, the Planning Board shall first determine the number of allowable residential units permitted on the receiving parcel using all of the relevant standards in § 5.3-2 and any density bonuses sought under §5.3-3. The Planning Board shall then determine the number of residential units available to transfer from the sending parcel(s) pursuant to §5.3-4A.3.a. or b.
6. The Planning Board may then grant a Special Permit allowing the transfer to the receiving parcel of some or all of the allowable residential units from the sending parcel(s).
7. As a condition of approval of the density transfer, a conservation restriction on the sending parcel(s) satisfying the requirements of §5.6 shall be executed and recorded in the Registry of Deeds. The conservation restriction shall require that the total area of land used in the calculation required under 5.3-4A.3.a. or b. above be permanently restricted. (For example, if five units are transferred and the calculation is according to §5.3-4A.3.b., at least 125 acres of the sending parcel would have to be permanently restricted.). Those portions of the sending parcel(s) not required to be subject to the conservation restriction may be used in accordance with this zoning bylaw.

#### **B. Findings Required**

The Planning Board shall not approve any residential density transfer unless it finds that:

1. All requirements for the granting of a Special Permit have been satisfied.
2. The addition of the transferred units to the receiving parcel will not increase the maximum allowable unit count under §5.3-2 by more than 25%, and will not adversely affect the area surrounding the receiving parcel.
3. The density transfer will benefit the Town by protecting a substantial area of developable land with conservation value on the sending parcel(s) in a manner that furthers the purposes of the FC District.
4. The density transfer will be consistent with the Master Plan.

#### **5.3-5 Maximum Density Bonus and/or Density Transfer**

The density bonuses and transfers of development rights allowed in §§5.3-3 and 5.3-4 above may be combined to result in a total unit count increase not exceeding 25% of that established in 5.3-2 above. Density bonuses and/or transfers may only be used if the resulting development complies with Title 5 of the State Environmental Code as determined by the Board of Health.

#### **5.3-6 Lots in More than One District**

For lots in more than one district, the allowable unit count (excluding bonuses or transfers) and required open space for each district shall be computed separately first. These totals shall be added together and the allowable maximum bonus and transfer of development rights for the entire development shall be calculated based upon this combined total number of units. The permitted location of the units and protected open space shall be wherever the Planning Board determines best fits the characteristics of the land, based upon the conservation analysis and

findings.

#### **SECTION 5.4 TYPES OF RESIDENTIAL DEVELOPMENT**

The allowable residential units may be developed as single-family, two-family, or multi-family dwellings, provided that applicable Special Permit or Site Plan review requirements for the land use district are satisfied and that the number of dwelling units does not exceed the allowable unit count in Section 5.3 above. The subdivision approval and Special Permit/Site Plan requirements shall be fulfilled concurrently in one proceeding to the extent practical. Any Open Space Design application involving two-family or multi-family dwellings shall include a Site Plan that shows the location, layout, height, and setbacks of such dwellings. Accessory apartments shall be permitted in Open Space Designs and shall not be counted toward the total allowable unit count. Such apartments shall comply with the requirements of Section 4.4-2, except that the requirements of Sections 4.4-2A and 4.4-2B (lot area and setback requirements) shall not apply.

#### **SECTION 5.5 DIMENSIONAL AND DESIGN REQUIREMENTS**

##### **5.5-1 Minimum Lot Sizes in Open Space Designs**

The limiting factor on lot size in Open Space Designs is the need for adequate water supply and sewage disposal. Therefore, there is no required minimum lot size for zoning purposes. This does not affect the powers of the Board of Health to require areas on a lot for the disposal of sewage and the protection of water supply.

##### **5.5-2 Setbacks, Road Frontage, and Road Requirements**

The minimum setback shall be 10 feet from any property line. There shall be no numerical requirements for road frontage in an Open Space Design, provided that each lot has legally and practically adequate vehicular access to a public way or a way approved under the Regulations Governing the Subdivision of Land across its own frontage or via a shared driveway approved under Section 8.6. All dwellings must comply with applicable Board of Health requirements. The Planning Board may modify the applicable road construction requirements for new roads within an Open Space Design as provided in the Regulations Governing the Subdivision of Land, if it finds that such modifications will be consistent with the purposes of this Article V and the Master Plan.

##### **5.5-3 Arrangement of Lots**

- A. Lots shall be located and arranged in a manner that protects: views from roads and other publicly accessible points; farmland; wildlife habitat; large intact forest areas; hilltops; ponds; steep slopes; and other sensitive environmental resources, while facilitating pedestrian circulation. Generally, residential lots shall be located the minimum feasible distance from existing public roadways. The Planning Board shall take into consideration the conservation analysis and findings in approving the arrangement of lots.
- B. Lot, roadway, and driveway layouts, land alterations, and placement of structures shall follow applicable portions of the Rural Siting Principles in Section 8.3 and any design guidelines for Open Space Design which may be adopted by the Planning Board.

## **SECTION 5.6 PERMANENT OPEN SPACE**

Open space set aside in an Open Space Design or as a condition of any Special Permit or Site Plan approval (see Article IX) shall be configured as a separate parcel(s) from any building lots and permanently preserved from development as required by this Section 5.6. The Planning Board may not require such open space land to be accessible to the public, unless a density bonus is allowed under Subsection 5.3-3A. Any development permitted in connection with the setting aside of open space land shall not compromise the conservation value of such open space land, based upon the conservation findings of the Planning Board.

### **5.6-1 Permanent Preservation of Open Space Land**

All land required to be set aside as open space in connection with any Open Space Design shall be so noted on any approved plans and shall be protected from development by a permanent conservation restriction, as defined in Article XIII, to be held by the Town of Shutesbury, the Commonwealth of Massachusetts, or a non-profit conservation organization qualified to hold conservation restrictions under G.L. Chapter 184, Section 31, and also qualified to hold tax-deductible conservation easements under Section 170(h) of the Internal Revenue Code, or by other means acceptable to the Planning Board that achieve the conservation goals of this section. Such means may include recorded easements under earlier sections of Chapter 184, recorded zoning or subdivision conditions, or ownership by a conservation organization as described above. The restriction shall specify the permitted uses of the restricted land which may otherwise constitute development. The restriction may permit, but the Planning Board may not require public access or access by residents of the development to the protected open space land.

#### **A. Ownership of Open Space Land**

1. Protected open space land may be held in private ownership, owned in common by a homeowner's association (HOA), dedicated to the Town or State governments with their consent, transferred to a non-profit organization acceptable to the Planning Board, or held in such other form of ownership as the Planning Board finds appropriate to manage the open space land and protect its conservation value.
2. If the land is owned in common by an HOA, such HOA shall be established in accordance with the following:
  - a. The HOA must be created before final approval of the development, and must comply with all applicable provisions of state law.
  - b. Membership must be mandatory for each lot owner, who must be required by recorded covenants and restrictions to pay fees to the HOA for taxes, insurance, and maintenance of common open space, private roads, and other common facilities.
  - c. The HOA must be responsible for liability insurance, property taxes, the maintenance of recreational and other facilities, private roads, and any shared driveways.
  - d. Property owners must pay their pro rata share of the costs in Subsection c above, and the assessment levied by the HOA must be able to become a lien on the property.
  - e. The HOA must be able to adjust the assessment to meet changed needs.
  - f. The applicant shall make a conditional offer of dedication to the Town, binding upon the HOA, for all open space to be conveyed to the HOA. Such offer may be accepted by the Town, at the discretion of the Board of Selectmen, upon the failure of the HOA to take title to the open space from the applicant or other current owner,

upon dissolution of the association at any future time, or upon failure of the HOA to fulfill its maintenance obligations hereunder or to pay its real property taxes.

g. Ownership shall be structured in such a manner that real property taxing authorities may satisfy property tax claims against the open space lands by proceeding against individual owners in the HOA and the dwelling units they each own.

h. Town Counsel shall find that the HOA documents presented satisfy the conditions in Subsections a through g above, and such other conditions as the Planning Board shall deem necessary.

#### B. Maintenance Standards

1. Ongoing maintenance standards shall be established as a condition of development approval to ensure that the open space land is not used for storage or dumping of refuse, junk, or other offensive or hazardous materials. Such standards shall be enforceable by the Town against any owner of open space land, including an HOA.

2. If the Board of Selectmen finds that the provisions of Subsection 1 above are being violated to the extent that the condition of the land constitutes a public nuisance, it may, upon 30 days written notice to the owner, enter the premises for necessary maintenance, and the cost of such maintenance by the Town shall be assessed ratably against the landowner or, in the case of an HOA, the owners of properties within the development, and shall, if unpaid, become a property tax lien on such property or properties.

**Article 31.** To see if the Town will vote to accept the provisions of M.G. L. Chapter 64G sec. 3A, which would allow the town to impose a local excise tax upon the transfer of occupancy of a room in a bed and breakfast establishment, lodging house or short-term rental by an operator at rate of not more than six (6) per cent of the total of rent for each such occupancy, with this section to take effect on the first day of the calendar quarter following 30 days after its acceptance, or take any other action in relation thereto. **(Sponsor: Selectboard) Finance Committee Recommends**  
**Requires majority vote**

**Article 32.** To see if the Town will vote pursuant to the provisions of M.G. L. Chapter 64G sec. 3A, to impose a six (6) per cent excise tax upon the total of rent for each transfer of occupancy of a room in a bed and breakfast establishment, lodging house or short-term rental by an operator, or take any other action in relation thereto. **(Sponsor: Selectboard) Finance Committee Recommends**  
**Requires majority vote**

#### **Article 32. CPA By Law Amendment**

To see if the Town will vote to strike the Town of Shutesbury Community Preservation Bylaw and replace it with the following new bylaw or take any other action relative thereto. **(Community Preservation Commission Sponsors)**  
**Requires majority vote**

## **Town of Shutesbury Community Preservation Bylaw (Update: 2020)**

### Chapter 1: Establishment and Role

The Town of Shutesbury hereby establishes a Community Preservation Committee. The Community Preservation Committee is responsible for evaluating the community preservation needs of the town and making recommendations to Town Meeting as part of the annual budget process. It is responsible for developing a Community Preservation Plan and presenting an annual community preservation budget to Town Meeting.

### Chapter 2: Membership

The Community Preservation Committee shall consist of seven (7) voting members pursuant to MGL Chapter 44B, Section 5. Members shall serve a one-year term which may be renewed with no limitation.

The Select Board shall appoint the members of the committee as follows:

- One member of the Conservation Commission as designated by the Commission
- One member of the Historical Commission as designated by the Commission
- One member of the Planning Board as designated by the Board
- One member to act in the capacity of, or perform like duties of, a member of a housing authority representing the interests of affordable housing in the Town of Shutesbury
- One member of the Select Board or its designee, to act in the capacity of, or perform the duties of the Board of Park Commissioners
- One member of the Open Space or Recreation Committees, as designated by either Committee
- One At-large member

Should any of the Commissions, Boards, Councils or Committees who have authority to designate under this Chapter not exist in the Town of Shutesbury or no longer be in existence for whatever reason, the designation authority for that Commission, Board, Council, or Committee shall become the responsibility of the Select Board.

Should any designating authority fail to make their designation by the beginning of the fiscal year, the Select Board may make the appointment.

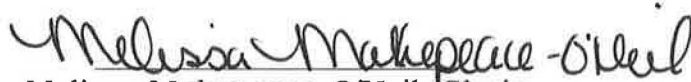
### Chapter 3: Requirement for a quorum and committee action

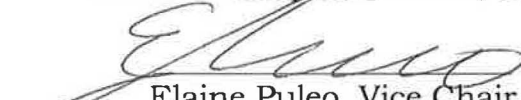
The Community Preservation Committee shall not conduct business without the presence of a quorum. A majority of the currently appointed members of the committee shall constitute a quorum.

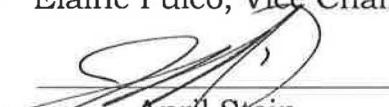
The Community Preservation Committee shall approve its actions by a majority of the members present.

Hereof fail not, and make due return of this warrant, with your doings thereon, at the time and place of the meeting. Given under our hands this 8th day of June two thousand and Twenty.

**Shutesbury Selectboard**

  
Melissa Makepeace-O'Neil, Chair

  
Elaine Puleo, Vice Chair

  
April Stein

I, the undersigned Constable for the Town of Shutesbury, certify that I posted attested copies of the Warrant for the abovementioned meeting at the Locks Pond Bulletin Board, the Shutesbury Post Office, and the Town Hall in said town seven (7) days at least before the time of holding said meeting.

(TOWN SEAL) Constable \_\_\_\_\_  
Date \_\_\_\_\_