

**RESULTS**  
**ANNUAL TOWN MEETING**  
**May 13, 2023**

The Annual Town Meeting was called to order by the Moderator, Daniel Robb, at 9:09 a.m. at the grounds of the Pelham Elementary School.

**Article 1.**

**VOTED unanimously** to accept the reports of the Town Officers and Committees.

**Article 2.**

**VOTED unanimously** to authorize the Town Treasurer, with the approval of the Select Board, to borrow money from time to time in anticipation of the revenue of the FY2024 beginning July 1, 2023, in accordance with the provisions of Massachusetts General Laws, Chapter 44, Section 4, and to issue a note or notes as may be given for a period of less than one year in accordance with Massachusetts General Laws, Chapter 44, Section 17.

**Article 3.**

**VOTED unanimously** to raise and appropriate, and/or transfer from available funds a sum of money necessary to defray the expenses of the Town for the ensuing fiscal year.

		<b>FY2022</b>	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2024</b>
	<b>Article 3</b>	<b>Appropriated</b>	<b>Appropriated</b>	<b>Requested</b>	<b>Recommended</b>
	<b>GENERAL GOVERNMENT</b>				
2	Selectperson Salary	\$3,600	\$3,600	\$3,600	\$3,600
	Expenses				
3	Town Clerk Salary	\$19,581	\$20,071	\$30,913	\$30,913
	Records/Information Clerk	\$13,114	\$13,442	\$0	\$0
	Expenses	\$8,000	\$8,000	\$8,000	\$8,000
4	Finance Committee	\$990	\$990	\$990	\$990
5	Assessor's Salary	\$2,000	\$2,000	\$2,000	\$2,000
	Assistant Assessors Salary	\$12,300	\$12,300	\$12,300	\$12,300
	Clerical/Consulting	\$700	\$2,000	\$500	\$500
	Contract Service	\$8,300	\$8,900	\$11,400	\$11,400
	Expenses	\$5,750	\$3,850	\$2,850	\$2,850
6	Collector Salary	\$17,814	\$18,816	\$19,081	\$19,081
	Expenses	\$10,264	\$10,521	\$10,785	\$10,785
7	Treasurer Salary	\$28,967	\$30,271	\$31,028	\$31,028
	Expenses	\$9,104	\$9,332	\$9,565	\$9,565
	Clerical/Consulting	\$6,353	\$6,512	\$6,775	\$6,775
8	Legal Services	\$15,000	\$15,000	\$15,000	\$15,000
9	Town Meetings, Elections etc.	\$13,000	\$13,000	\$13,000	\$13,000
10	Town Reports	\$875	\$875	\$875	\$875
11	Town Office Wages	\$28,677	\$29,394	\$30,129	\$30,129
	Select Board/Town Office Expenses	\$21,500	\$21,500	\$21,500	\$21,500
12	Buildings and Grounds				
	Salaries	\$17,115	\$17,543	\$17,982	\$17,982

	Expenses	\$62,720	\$65,720	\$95,720	\$65,720
	Maintenance	\$22,000	\$22,000	\$22,000	\$22,000
13	Blanket Insurance	\$51,000	\$45,000	\$48,000	\$48,000
14	Town Accountant	\$10,000	\$10,000	\$10,000	\$10,000
	Town Accountant Expense	\$200	\$200	\$200	\$200
15	Reserve Fund	\$87,000	\$87,000	\$87,000	\$87,000
16	Surety Bonds	\$1,000	\$1,000	\$1,000	\$1,000
17	Emergency Management	\$7,000	\$7,000	\$7,000	\$7,000
18	Archivist	\$0	\$0	\$0	\$0
19	Hampshire County COG	\$0	\$0	\$0	\$0
<b>TOTAL GENERAL GOVERNMENT</b>		<b>\$483,924</b>	<b>\$485,637</b>	<b>\$519,193</b>	<b>\$489,193</b>
<b>BOARDS AND COMMISSIONS</b>					
20	Board of Appeals	\$200	\$200	\$200	\$200
21	Conservation Commission	\$850	\$850	\$850	\$850
	Part Time Conservation Agent	\$5,000	\$12,500	\$12,500	\$0
22	Council on Aging	\$5,000	\$5,000	\$5,000	\$5,000
23	Historical Commission	\$200	\$200	\$200	\$200
24	Library Trustees				
	Director Salary	\$30,423	\$30,945	\$31,719	\$31,719
	Staff Salaries	\$16,273	\$17,723	\$18,175	\$18,175
	Expenses	\$9,400	\$8,800	\$9,020	\$9,020
25	Planning Board	\$1,500	\$1,500	\$1,500	\$1,500
	Clerical/consulting		\$7,500	\$8,000	\$0
26	Recreation Commission	\$0	\$0	\$0	\$0
28	Cemetery Commission	\$7,000	\$7,000	\$8,000	\$8,000
	Energy Committee	\$500	\$500	\$500	\$500
<b>TOTAL BOARDS AND COMMISSIONS</b>		<b>\$76,346</b>	<b>\$72,718</b>	<b>\$95,664</b>	<b>\$75,164</b>
<b>SCHOOLS</b>					
30	Pelham Elementary	\$1,874,990	\$1,917,800	\$1,963,522	\$1,961,482
31	Amherst Pelham Regional	\$929,525	\$966,706	\$1,005,374	\$1,005,374
<b>TOTAL SCHOOLS</b>		<b>\$2,804,515</b>	<b>\$2,882,556</b>	<b>\$2,968,896</b>	<b>\$2,966,856</b>
<b>PUBLIC WORKS</b>					
40	Highway Fund				
	Superintendent Salary	\$69,824	\$73,650	\$80,075	\$80,075
	Staff Salaries	\$129,789	\$158,656	\$171,850	\$171,850
	Expenses	\$121,362	\$106,362	\$121,362	\$111,362
41	School Signal Lights	\$900	\$900	\$1,100	\$1,100
42	Snow Removal				
	Salaries	\$14,801	\$15,171	\$21,171	\$17,171

	Materials	\$68,432	\$68,432	\$84,432	\$74,432
<b>TOTAL PUBLIC WORKS</b>		<b>\$405,108</b>	<b>\$423,171</b>	<b>\$479,990</b>	<b>\$455,990</b>
<b>PROTECTION OF PERSONS AND PROPERTY</b>					
50	Police Department				
	Chief Salary	\$70,140	\$73,623	\$31,623	\$31,623
	Full Time Officer Salary	\$43,056	\$45,015	\$132,240	\$132,240
	Part Time Officer's Salaries	\$44,337	\$50,445	\$18,445	\$18,445
	Training and Education	\$10,000	\$11,255	\$11,255	\$11,255
	Expenses	\$25,701	\$25,701	\$25,701	\$25,701
	Expenses Fuel	\$10,475	\$10,475	\$10,475	\$10,475
	Reserve Officers	\$0	\$0	\$0	\$0
	Regional Lockup	\$1,255	\$0	\$0	\$0
50A	Town Road Detail	\$3,729	\$3,729	\$3,729	\$3,729
50C	Constable: Elections	\$2,275	\$2,275	\$2,275	\$2,275
51	Fire Department				
	Chief Salary	\$28,293	\$29,000	\$32,780	\$32,780
	Firefighter's Salaries	\$46,952	\$48,125	\$49,328	\$45,548
	Expenses	\$23,980	\$23,980	\$26,378	\$26,378
53	Fire Hydrants	\$280	\$280	\$280	\$280
54	Tree Warden Salary	\$1,500	\$1,500	\$1,500	\$1,500
	Expenses	\$11,500	\$11,500	\$11,500	\$11,500
57	Ambulance	\$33,300	\$34,133	\$34,986	\$34,986
58	Animal Control	\$2,500	\$3,000	\$3,000	\$3,000
<b>TOTAL PUBLIC SAFETY</b>		<b>\$359,273</b>	<b>\$369,036</b>	<b>\$400,495</b>	<b>\$391,715</b>
<b>HEALTH AND SANITATION</b>					
60	Board of Health Salaries	\$500	\$500	\$0	\$0
	Expenses	\$400	\$400	\$400	\$400
	Pioneer Valley Mosquito Control	\$5,000	\$5,500	\$0	\$0
61	Solid Waste				
	Hazardous Household Waste	\$1,200	\$1,400	\$1,600	\$1,600
	Recycling	\$0	\$0	\$0	\$0
63	Inspector of Animals	\$75	\$75	\$75	\$75
65	Quabbin Health District	\$18,861	\$19,361	\$19,861	\$19,861
<b>TOTAL HEALTH AND SANITATION</b>		<b>\$26,036</b>	<b>\$21,736</b>	<b>\$21,936</b>	<b>\$21,936</b>
<b>BENEFITS AND INSURANCE</b>					
70	County Retirement	\$259,719	\$295,519	\$314,277	\$314,277
71	Veteran's Agent Salary	\$6,559	\$6,339	\$6,219	\$6,219
	Expenses				
	Benefits	\$49,248	\$49,248	\$49,248	\$49,248
72	Workers' Compensation	\$26,400	\$26,800	\$30,000	\$30,000

73	Unemployment Insurance	\$6,000	\$6,000	\$6,000	\$6,000
74	Group Health /Medicare	\$175,000	\$185,500	\$220,000	\$200,000
	Health Insurance Opt Out	\$9,000	\$9,000	\$9,000	\$9,000
75	OPEB Deposit	\$160,000	\$180,000	\$200,000	\$200,000
TOTAL BENEFITS AND INSURANCE		<b>\$691,926</b>	<b>\$758,406</b>	<b>\$834,744</b>	<b>\$814,744</b>
GRAND TOTAL		<b>\$4,847,128</b>	<b>\$5,013,260</b>	<b>\$5,320,918</b>	<b>\$5,215,598</b>

*Recommended by the Finance Committee and Select Board.*

*(A motion was made by the Finance Committee chair, John Trickey, to correct the following clerical errors: Line 54 Tree Warden Salary change the requested and recommend to \$1,500: Next line Expenses change the requested and recommended to \$11,500: Line 57 Ambulance change the requested and recommended to \$34,986; Line 58 Animal Control change the requested and recommend to \$3,000. Motion was seconded and Article 3 voted as recommended by the Finance Committee and Select Board.)*

**Article 4.**

**VOTED unanimously** to name the salaries and wages for all elected officers for the ensuing year, which payments shall not be made in advance of performance, and to determine when and how they shall be paid.

	FY2022 Appropriated	FY2023 Appropriated	FY2024 Recommended
Assessors (Chair)	\$1,000	\$1,000	\$1,000
Assessors (others)	\$500	\$500	\$500
Auditor	\$0	\$0	\$0
Board of Health (Chair)	\$200	\$200	\$0
Board of Health (others)	\$150	\$150	\$0
Cemetery Commissioner (each 3) \$9.00hr	\$0	\$0	\$0
Library Trustees	\$0	\$0	\$0
Moderator	\$0	\$0	\$0
Planning Board	\$0	\$0	\$0
School Committee	\$0	\$0	\$0
Select Board (each 3)	\$1,200	\$1,200	\$1,200
Tree Warden	\$1,500	\$1,500	\$1,500

*Recommended by the Finance Committee and Select Board.*

**Article 5.**

**VOTED unanimously** to appropriate from Free Cash the sum of \$237,637 for expenditure as follows:

- A. \$5,000 for testing of fire equipment
- B. \$30,000 for Building and Grounds expense to cover increase energy costs until the new HVAC system at the Community Center building is functioning optimally
- C. \$2,500 for Pelham Elementary School energy management system
- D. \$5,000 for Pelham Elementary School interior renovations
- E. \$6,888 to the School Department for FY2023, this money representing an amount equal to that received by the Town as medical reimbursement for services provided by the School Department.
- F. \$25,000 for reimbursement of unanticipated special education charges, which reimbursement would require the approval of the School Committee, Select Board and Finance Committee.
- G. \$22,000 to be deposited in the Regional School Capital Reserve Account
- H. \$28,000 to pay Pelham’s share of the 2024 Regional School Capital Debt
- I. \$11,399 to pay for FY2023 wages adjustments based on the wage study
- J. \$1,000 for maintenance of the Historical Complex
- K. \$8,000 for clerical/consulting help for the Planning Board

- L. \$500 for consulting help for the Zoning Board of Appeals
- M. \$500 for Record preservation
- N. \$28,000 for Health Insurance Town Clerk/DPW
- O. \$10,500 for Fire personnel turnout gear to be reimbursed by a grant
- P. \$1,100 for a member of the Finance Committee to attend the MMA annual meeting and seminars
- Q. \$1,000 for maintenance of the Town's cemeteries
- R. \$12,500 for a Conservation Agent for the Conservation Commission
- S. \$3,250 to pay for joining the Group Buying program of the Franklin Regional Council of Governments
- T. \$7,500 for repairs to the sprinkler system in the Community Center
- U. \$10,000 to maintain the old heating system in the Community Center
- V. \$5,500 to upgrade the Fire Alarm System in the Historical Complex
- W. \$10,000 for Highway Expense
- X. \$2,500 for a new Town Office sign at the Rhodes Building.

*Recommended by the Finance Committee and Select Board.*

**Article 6.**

**VOTED unanimously** to appropriate from Free Cash the sum of \$3,300 to replace the sign at the Old Town Hall Complex.

*Recommended by the Select Board.*

**Article 7.**

**VOTED** to appropriate from Free Cash the sum of \$2,000 for the purpose of resolving a disputed claim with the owners of 25 Amherst Road regarding drainage of water at the property

*Recommended by the Select Board.*

**Article 8.**

**VOTED unanimously** to appropriate the sum of \$415,000 from the Capital Plan Stabilization Fund to purchase and equip a new or used multi-use mini pumper.

(A motion was made by the Fire Chief to insert the words or used before multi-use mini pumper.)

**Article 9.**

**VOTED unanimously** to adopt the recommendation of the Community Preservation Committee to appropriate and transfer the following sum of money from the Community Preservation Fund estimated annual revenues for Community Preservation Committee administrative expenses in FY2024 in the amount of \$3,500.

*Recommended by the Select Board.*

**Article 10.**

**VOTED unanimously** to adopt the recommendation of the Community Preservation Committee to appropriate and transfer the following sums of money from the Community Preservation Fund estimated annual revenues, and to reserve for later appropriation; \$16,000 for Open Space; \$16,000 for Community Housing; and \$16,000 for Historic Resources; and to reserve for later appropriation \$50,000 to the FY2024 Community Preservation Fund Budgeted Reserve.

*Recommended by the Select Board.*

**Article 11.**

**VOTED unanimously** to adopt the recommendation of the Community Preservation Committee to appropriate and transfer the sum of \$17,250 from the Open Space and Recreation Fund for the Pelham Elementary School Playground Committee's application to hire Berkshire Design Group to conduct a feasibility study for improvements to the Pelham Elementary School playground to bring it into compliance with the Americans with Disabilities Act (ADA).

*Recommended by the Select Board.*

**Article 12.**

**VOTED unanimously** to adopt the recommendation of the Community Preservation Committee to appropriate and transfer the sum of \$70,000, of which \$40,200 shall be from Pelham's FY23 Community

Preservation Fund Budgeted Reserve, \$14,700 shall be from the Community Housing Fund, and \$15,100 shall be from the Undesignated Fund, for the Cadwell Street Homeownership application submitted by Pioneer Valley Habitat for Humanity.

*Recommended by the Select Board.*

**Article 13.**

**VOTED unanimously** to amend Section VI of the Amherst Pelham Regional School District Agreement by replacing subsection j) as follows: “For Fiscal Year 2024 only, the alternative operating budget assessment shall be calculated as 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. Additionally, if any member town's assessment based on this method increases or decreases more than 4% from their Fiscal Year 2023 assessment, the Fiscal Year 2024 assessment shall be limited to a 4% change provided that the requirements of Minimum Local Contribution are still met. The five-year average of minimum contributions will include the five most recent years.

*Recommended by the Finance Committee and Select Board.*

**Article 14.**

**VOTED unanimously** to raise and appropriate the sum of \$54,167.22 and transfer \$12,657.78 from Massachusetts School Building Authority (MSBA) Funds for the payment of the Town’s (General Fund) indebtedness.

*Recommended by the Finance Committee and Select Board.*

**Article 15.**

**VOTED unanimously** to appropriate the sum of \$14,160 from the PEG Access and Cable Related Fund (established by vote of the Fall 2015 Town Meeting) to be used by the Select Board for the purpose of Technology services and purchases for the Town.

*Recommended by the Finance Committee and Select Board.*

**Article 16.**

**VOTED unanimously** to approve annual spending limits for FY2024 for revolving funds established in the Town Bylaws, in accordance with G.L c.44, Section 53E1/2, with such expenditure limits to be applicable for each fiscal year until such time as Town Meeting votes, prior to July 1 in any year, to increase the same for the ensuing fiscal year; provided, however, that at the request of the entity authorized to expend such funds, the Select Board, with the approval of the Finance Committee, may increase such limit, for that fiscal year only, all as set forth below:

<b>Revolving fund</b>	<b>FY spending limit</b>
Archivist	\$2,500
Building Inspector	\$30,000
Community Garden Committee	\$5,000
Community Hall	\$7,000
Fire Department	\$7,500
Gas Inspector	\$1,500
Department of Public Works	\$7,500
Planning Board	\$15,000
Plumbing Inspector	\$1,500
Police Department	\$7,500
Wiring Inspector	\$3,000
Zoning Board of Appeals	\$1,000

*Recommended by the Finance Committee and Select Board.*

**Article 17.**

**VOTED unanimously** to establish an Opioid Settlement Stabilization Fund, in accordance with G.L. c.40, Section 5B, and to authorize deposits thereto from future Opioid Settlement payments.

*Recommended by the Finance Committee and Select Board.*

**Article 18.**

**VOTED unanimously** to appropriate from Free Cash the sum of \$10,412.18 and to transfer said sum to the Opioid Settlement Stabilization Fund.

*Recommended by the Finance Committee and Select Board.*

**Article 19.**

**VOTED unanimously** to authorize the Library Trustees to expend such monies as they may receive from the sale of discarded books, gifts, and bequests, and from the State and Federal Governments.

*Recommended by the Select Board.*

**Article 20.**

**VOTED unanimously** to authorize the Pelham Cultural Council to expend such monies as it may receive from the State and Federal Governments, and from gifts and bequests.

*Recommended by the Select Board.*

**Article 21.**

**VOTED unanimously** to accept the provisions of G.L. c.59, Section 5, Clause 54 to establish a minimum fair cash value of \$5,000 required for personal property accounts to be taxed, to take effect starting in Fiscal Year 2024.

*Recommended by the Select Board.*

**Article 22.**

**VOTED unanimously** to accept as a public way a portion of the roadway known as Amherst Road as heretofore laid out by the Select board and shown on a plan of land entitled "The Commonwealth of Massachusetts Amended Plan of Amherst Road in the Town of Pelham prepared by Christopher C. Danforth, PLS and dated November 7, 2022, and on file with the Town Clerk, and authorize the Select Board to acquire, by gift, purchase, and/or eminent domain, the fee to and/or easements in such portion of Amherst Road for all purposes for which public ways are used in the Town of Pelham and any drainage, access, utility and/or other easements related thereto.

*Recommended by the Select Board.*

**Article 23.**

**VOTED unanimously** to authorize the Select Board to enter into contracts with the Massachusetts Highway Department for construction and/or maintenance of public highways for Fiscal Year 2024, and further to authorize the Select Board on behalf of the Town to accept and expend any money from the Commonwealth of Massachusetts for highway construction and/or maintenance, provided that no funds shall be expended to widen, or enter into a contract to widen, any Town road unless the Select Board has held a public hearing advertised at least fourteen (14) days in advance, with any proposed contract and/or plans for such road improvements being posted for public viewing prior to the public hearing, and further provided that such policy is consistent with State requirements.

*Recommended by the Select Board.*

**Article 24.**

**VOTED unanimously** to authorize the Select Board to accept and/or apply for any State or Federal funds or grants that may become available during Fiscal Year 2024 and to expend such funds in accordance with the terms and conditions thereof, provided that no funds shall be expended to widen, or to enter into a contract to widen, any Town road unless the Select Board has held a public hearing advertised at least fourteen (14) days in advance, with any proposed contract and/or plans for such road improvements being posted for public viewing prior to the public hearing, and further provided that such policy is consistent with State requirements.

*Recommended by the Select Board.*

**Article 25.**

**VOTED unanimously** to amend General Bylaws of the Town of Pelham, Chapter 23 Driveways,

by adding a requirement for an engineered site plan for certain driveways, removing resurfacing as a non-significant modification to an existing driveway, as set forth below.

Amend § 23-2(C) by adding the words in bold:

- C. An accurate sketch plan and diagrams showing boundaries and dimensions of lot, driveway location, design, dimensions, grades, materials of driveway, drainage provisions, including culverts, and intended purpose. An engineered site plan may be required for any driveway with a gradient in excess of 5% and/or serves more than two lots.

(A motion was made to replace the word “shall” with the word “may” in the last sentence.)

Amend § 23-4(B) by removing the words in strike-through:

- B. No significant modification to an existing driveway, e.g. changes to layout, grading, drainage or surface treatment, including resurfacing (~~except resurfacing~~), shall be made without first obtaining a permit from the Department of Public Works Superintendent or his/her designee, in order to insure that no increased danger to the public or increased likelihood of damage to a public way occurs. Any request for a modification shall follow the same format, including filing fee, as an original submission in § 23-2.

*Recommended by the Select Board.*

## **Article 26.**

**VOTED by a declared two-thirds vote** to amend Zoning Bylaw of the Town of Pelham, Section 125-13 Common Access Driveways, by amending §125-13(A), definition to align with standards of common access driveways, clarifying standards in §125-13(C) to align with use of the word “lot”, clarifying in §125-13©(2)(a)[2] maximum grades at certain points of the common driveway, and replacing wording related to street acceptance, as shown below with deletions in strike-through and additions underlined.

Amend § 125-13(A) as follows ~~by amending~~:

- A. Definition. As used in this chapter, the following terms shall have the meanings indicated:

COMMON ACCESS DRIVEWAY or COMMON ACCESS DRIVE -- A driveway/curb cut shared by not more than ~~five~~ three lots, such that each lot has approved frontage on an existing public way, and has access obtained through the common use of a private driveway designed according to the standards for construction of shared driveways in Pelham. [Amended 5-11-1996 ATM, Art. 23]

Amend § 125-13(C) by amending:

- B. Standards. Proposed common access driveways to be shared by not more than ~~five dwelling units~~ three lots shall require a special permit from the Planning Board. For each such proposal the Superintendent of Public Works, Fire Chief, Board of Health, Conservation Commission and Building Inspector may provide to the Planning Board written opinion or oral testimony at a public hearing regarding matters pertaining to their particular jurisdiction, together with any questions or considerations bearing on the adequacy of the plan. This opinion or testimony may include, but is not limited to, suggestions for road specifications, wetland and open space protection and other criteria designed to promote the health, safety and welfare of the inhabitants of the Town of Pelham. In reaching its decision, the Planning Board shall consider the following factors: whether the proposed drive creates less adverse impact to wetlands located on the lots or otherwise diminishes environmental degradation; allows safer access to lots; results in the preservation of the rural quality of the area through the reduction in the number of access ways and maintenance of existing vegetative and topographical conditions; otherwise promotes the health, safety and welfare of the inhabitants of the Town of Pelham. This provision shall be applied in conjunction with the Subdivision Control Law



(MGL c. 41., §§ 81K through 81GG) and the Rules and Regulations Governing the Subdivision of Land in Pelham.

Amend § 125-13(C)(2)(a)[2] by ~~amending~~ as follows:

- [2] A maximum grade of 8%; said driveway shall not exceed a grade of 2% within 30 feet of its intersection with the public way, or a grade of 5% within 30-50 feet of the driveway after the intersection.

Amend § 125-13(E) by replacing current wording with:

- E. Street acceptance. A common driveway designed and constructed in accordance with these requirements is not a street which may be accepted as a town way. In granting a special permit for a common driveway, the Planning Board shall impose a condition prohibiting the property owners from petitioning for acceptance of the common drive as a public way, unless property owners petition to the Town demonstrating that the common driveway conforms to the Rules and Regulations for the Subdivision of Land in the Town of Pelham, for the construction and laying of ways, including requirements pertaining to cul-de-sac or dead-end streets, and demonstrating that the lots served by the common driveway, with structures as built, conform with dimensional regulations applicable to the zoning district with respect to lot area, frontage, coverage, setbacks and lot width. A lot divided by the common drive right-of-way shall be considered as two separate lots for purposes of this demonstration, with new lot lines as created by the proposed new public way. If application is ever made for a common driveway to become a Town way, such common driveway shall first, at the applicant's expense, be made to conform to the Rules and Regulations for the Subdivision of Land in the Town of Pelham in effect at the time that such application is made.

*Recommended by the Select Board.*

## **Article 27.**

**VOTED by a declared two-thirds** to amend Zoning Bylaws of the Town of Pelham, Section 125-21 Environmental performance standards, related to lighting, by removing §125-13(A) Lighting, and replacing with language ensuring lighting standards adopted in Village Center apply to all zoning districts, or take any other action relative thereto.

Amend § 125-21(A) by replacing current section with:

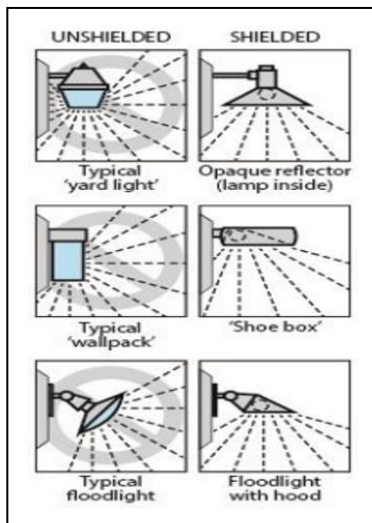
### Lighting

- 1) Applicability. The requirements of this section shall apply to all outdoor lighting on all lots and parcels in any district in the Town of Pelham. When existing outdoor lighting equipment is being modified, extended, expanded or replaced, it shall be subject to the requirements of this section. Exemptions from this section are identified on §125-8.2.(G)(1).
- 2) Lighting equipment shall be designed, constructed and installed to:
  - (a) control glare and prevent light trespass onto adjacent properties or public ways, curtail degradation of dark skies at night, and conserve energy resources while maintaining safety, visibility and security of individuals and property;
  - (b) direct light only where it is needed at the minimum intensity and duration necessary to serve the intended purposes and any sensor technologies, timers or other means to activate lighting shall be used only during times when it will be needed;

- (c) prevent measurable light at the property lines and minimize glare at any location on or off the property.
- 3) Flashing, blinking, running, scrolling, traveling, animated, or intermittent lighting shall not be visible from the exterior of any building unless associated with exempted lighting types in §125-8.2.(G)(1).
- 4) Illumination levels. Any use, except for single-family residential properties, shall comply with site lumen limit found in §125-8.2.(G)(6)(a)[3] under the VC-N and VC-RE districts as applicable.
  - (a) For all other uses, including single family uses, all outdoor lighting shall not exceed the following allowed luminaire lumens of 630 lumens.
- 5) Color.
  - (a) All luminaires in all districts must have light sources with a color temperature or correlated color temperature (CCT) of 2700 Kelvin or less.
  - (b) The color rendering index of all luminaires in all districts must be sixty-five (65) or higher.
- 6) Backlight, Uplight, Glare (BUG) Rating. All luminaires in all districts except for those in the Village Center districts, shall be rated and installed in accordance with the following standards.

<u>Maximum Backlight, Uplight, and Glare (BUG) Ratings</u>	
<b><u>Backlight Rating</u></b>	
<u>Greater than 2 mounting heights from property line</u>	<u>B1</u>
<u>One (1) to less than two (2) mounting heights from property line<sup>11</sup> and ideally oriented.</u>	<u>B1</u>
<u>0.5 to 1 mounting heights from property line<sup>11</sup> and ideally oriented.</u>	<u>B0</u>
<u>Less than 0.5 mounting height to property line and properly oriented</u>	<u>B0</u>
<b><u>Uplight Rating</u></b>	<u>U0</u>
<u>Allowed % light emission above 90 degrees from street or area lighting</u>	<u>0%</u>
<b><u>Glare Rating</u></b>	<u>G0</u>
<u>Any luminaire not ideally oriented with 1 to less than 2 mounting heights to any property line of concern</u>	<u>G0</u>

<a href="#">Any luminaire not ideally oriented with 0.5 to 1 mounting heights to any property line of concern</a>	<a href="#">G0</a>
<a href="#">Any luminaire not ideally oriented with less than 0.5 mounting heights to any property line of concern</a>	<a href="#">G0</a>



(7) [Luminaires that are accessory to a single or two-family use shall be fully shielded so that no light emitted by the luminaire is projected above a horizontal plane \(see definition of “fully shielded luminaire” in §125-34\).](#)

(a) [Illustrations showing unshielded and shielded luminaires:](#)

(8) [Any motion activated lighting using sensor technologies, timers or other means shall remain off unless motion is detected.](#)

*Recommended by the Select Board.*

**Article 28.**

**VOTED by a declared two-thirds vote** to amend the Town of Pelham Zoning Bylaw by striking ARTICLE V, Section §125-18.2, Solar Electric Installations, and replacing it with a new ARTICLE V, § 125-18.2, Solar Electric Installations, as shown below and in the text that will be available for review at the May 13, 2023 Annual Town Meeting.

**§ 125-18.2 SOLAR ELECTRIC INSTALLATIONS [ADDED 5/13/23 ATM ]**

**A. Background**

There is a pressing need to promote solar energy development in light of the global climate crisis. The Town of Pelham supports solar development in order to advance the Commonwealth’s policy goals to transition to non-carbon-based energy production. It is understood that the Massachusetts statutes have established solar energy generation as a protected use that cannot be prohibited or unreasonably regulated “except where necessary to protect the public health, safety or welfare” of Pelham residents. For these reasons, the Town of Pelham’s zoning is intended to support reasonable and appropriate solar installations. As noted, however, certain solar related development should not occur if it is to the detriment of the public health, safety or welfare of residents. It is the responsibility of the Town of Pelham, through reasonable regulation and within the context of the local community, that solar development occur in a manner that protects its residents’ health, safety and welfare. This bylaw seeks to establish the appropriate balance.

The June 2022 Massachusetts Clean Energy and Climate Plan for 2025 and 2030 (CECP) states that “Massachusetts’ natural and working lands (NWL) provide many benefits to the residents of the Commonwealth, including clean air and water, wildlife habitat, carbon sequestration, recreational opportunities, food and wood production, and many other functions on which society and life depend. These benefits, often called ecosystem services, continually serve our society as long as NWL can remain functioning as NWL. Massachusetts NWL ecosystems currently store at least 0.6 gigatons of carbon, equivalent to over 2 gigatons of carbon dioxide or the past 25 years of greenhouse gas emissions in the Commonwealth. As NWL are an important local resource to help remove carbon dioxide from the atmosphere, the Commonwealth will protect NWL from losses and degradation and will pursue new and ongoing actions to increase their capacity to sequester carbon.”

The CECP states that “ensuring that our forests continue to provide the full range of ecosystem services in the face of ongoing climate change requires careful stewardship that considers forest ecosystem dynamics, protections against forest loss, and sustainable harvest and use of forest products. While carbon sequestration is among the most important forest ecosystem services in the context of this 2025/2030 CECP and the Commonwealth’s ability to achieve net zero in 2050, forests must also continue to provide wildlife habitat, wood products, clean air and water, and recreation, necessitating tradeoffs in which ecosystem services are prioritized in forest management. These management decisions must be tailored to the particular ecological conditions, land owners’ objectives, and community values for specific forest areas.”

For purposes of this bylaw, it is understood that protection of public health, safety or welfare for Pelham residents includes the following:

- Since Pelham does not have an extensive public water system, most uses in the community rely upon drinking water wells for a clean potable water supply. Residents and the community at large depend upon a functional, reliable, stable and resilient water supply. This requires that reasonable steps are taken 1) to protect the integrity of inter-connected water resources – above and below ground; and 2) to protect water from contamination and significant supply disruption. In acknowledgement of the key position Pelham holds in the region as a watershed not only for its own private water supply but also for portions of the water supplies of Shutesbury, Amherst, Belchertown, Springfield and the Quabbin Reservoir, Pelham enacted a Water Supply Protection Overlay District, Article IV Section 125-8.1 [Amended 10-27-1993 STM] “to promote the health, safety and welfare of the community by protecting, preserving and maintaining the surface and groundwater resources of the Town and the region from any use of land or buildings which may pollute or otherwise adversely affect the quality and quantity of its water resources.”
- Wetlands provide a unique element in local water systems as reflected in the Commonwealth’s Wetlands Protection Act and Pelham’s local Wetlands Bylaw and should therefore be protected from contamination and disruption. As noted by the U.S. EPA, wetlands naturally improve water quality, mitigate flooding and erosion, and support fish and wildlife.
- Roads are essential for the provision of emergency services, residents’ employment and education, and the reduction of isolation for climate vulnerable individuals. Pelham’s 6.5 miles of unpaved roads are susceptible to damage due to heavy or inappropriate use, more frequent weather variability and severe weather events from climate change resulting in drought or flooding, and construction and development that can degrade the roadway surface or its drainage system. The protection of infrastructure integrity is important to the health, welfare and safety of residents and the environment.
- A resilient natural ecosystem is essential for the health and wellbeing of the populace, the water supply, and the local flora and fauna. Pelham is primarily forest land and it is recognized that unfragmented tracts of forest provide many ecological benefits that contribute to a vibrant natural ecosystem, and water supply, and by extension make Pelham a more resilient community.
- A forest and its trees are the only known terrestrial mechanism for removing carbon on a large scale from the atmosphere through carbon sequestration and storage. As recognized at the international, national, and state level, removing carbon from the atmosphere is an essential component of mitigating climate change. In its CECP, the Commonwealth has committed to reduce Greenhouse Gases by 25% below 1990 level in 2030 on natural and working lands through enhanced carbon sequestration capacity and adoption of climate smart management practices. Pelham, through its forestland, contributes to the Commonwealth’s efforts to reduce greenhouse gases and removal of the forest land should be considered for any proposed use.
- As a community that is mostly forested land and with little infrastructure and minimal municipal water supply, the risk of forest fires should be minimized whenever possible. Increased instances of drought and the weakening health of local forests from invasive species and fragmentation make Pelham’s forests more susceptible.
- While Pelham has limited agricultural land, with climate change, the capacity to grow food locally is important,

making agricultural soils a premium resource to be protected.

- As a small rural town, Pelham has a volunteer fire department led by a part-time chief and a small police department comprised of a full-time chief and primarily part-time officers. The emergency management team is primarily volunteers and town staff (fire chief, police chief, town administrator). Given this staffing level, the town has a very limited ability to respond to large scale or complex industrial accidents. Similarly, because Pelham is surrounded by other low-capacity towns in rural Franklin and Hampshire Counties, mutual aid may provide more personnel but not greater technical ability to respond to large or complex emergencies. Hosting industrial developments with potential for electrical and fire incidents may therefore pose a heightened public safety hazard.
- Preserving historical and cultural resources provides a sense of belonging and identity that is beneficial for the well-being of individuals and communities. The Massachusetts Historical Commission highlights the importance of historic and cultural preservation, stating that “the continuing presence of historic properties in Massachusetts immeasurably enhances the quality of our lives; they help to establish our sense of place and to define the very character of our communities.” The Massachusetts State Historic Preservation Plan 2018–2022 establishes the priorities for the Commonwealth. Among other goals, it calls for (1) strengthening “the stewardship of historic and archaeological resources” - to “encourage and support state agencies, municipalities, and non-profit organizations to maintain their significant historic properties”; and (2) including diverse cultural and ethnic communities in historic preservation” - to “provide opportunities for historic preservation that can reflect a broader range of cultures, traditions, and ethnicity.” Pelham is home to many sites that are significant to Indigenous and Euro-American history and culture that, if preserved, will contribute to the promotion, protection and restoration of residents’ well-being.

Consistent with Massachusetts zoning law, as stated in section 2A of Chapter 808 of the Acts of 1975, this bylaw seeks to address the need to “conserve health”; “secure safety from fire, flood, panic and other dangers”; “facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space and other public requirements”; “to conserve the value of land and buildings including the conservation of natural resources and the prevention of blight and pollution of the environment.”

#### B. Purpose.

The purpose of this bylaw is to provide reasonable regulation that strikes a balance between allowing needed solar development and protecting the public health, safety and welfare of Pelham residents as detailed herein. Reasonable regulation shall be achieved in this bylaw by: (1) providing standards for the approval, placement, design, construction, operation, monitoring, modification and removal of solar electric installations in order to protect and preserve Town infrastructure (including roads), prevent public nuisance, promote public safety, maintain existing residential property values, minimize and mitigate possible impacts on environmental, scenic, and historic resources, and protect the town from financial harms; (2) providing adequate financial assurance for the eventual decommissioning of solar electric installations; and (3) 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 land base for greater biodiversity; as well as maintaining commercial forestry as a viable agricultural activity and providing many recreational opportunities for town residents.

#### C. Applicability

(1) This Section 125-18.2 applies to Large- Scale and Small-Scale Ground-Mounted Solar Electric Installations (hereinafter, Installations). Small-Scale Installations which are accessory to an existing residential or non-residential use, which generate electricity principally (no less than 50% of generated power) used by such residential or non-residential use, are permitted as of right, do not need to comply with this section, but will require site plan review from the Zoning Board of Appeals, a building permit, and

must comply with all other applicable provisions of the Town of Pelham Zoning Bylaw and non-zoning bylaws and regulations. Building-mounted solar electric installations are permitted by right following issuance of a building permit. Large-Scale Installations are permitted only within the Solar Electric Installation Districts by special permit from the Planning Board, as special permit granting authority (SPGA).

(2) This Section 125-18.2 also pertains to physical modifications that materially alter the type, configuration, or size of Installations or related equipment.

(3) This Section 125-18.2 shall not apply to an Installation for which a zoning permit was issued and was still in effect as of the first publication of notice of the April 12, 2023 Planning Board public hearing, but the record owner of the land shall have the right to waive this exemption, in which case Section 125-18.2 shall apply.

(4) Upon written request by the applicant, the Planning Board may waive or reduce any special permit requirement of this Section 125-18.2 by the same majority vote required for the special permit itself upon written findings included in the permit of:

- (a) 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
- (b) that such a waiver or reduction will not derogate from the public purposes and intent of the Zoning Bylaw.
- (c) In the case of a special permit, such waiver or reduction 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.

#### D. Requirements

##### (1) Compliance with Laws, Bylaws, and Regulations:

The construction and operation of all 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 a part thereof shall be constructed in accordance with the Massachusetts State Building Code. Siting of all Installations shall be consistent with all applicable local, state and federal requirements, including but not be limited to:

- A. Mass. Endangered Species Act (MESA)
- B. Mass. Wetlands Protection Act (WPA)
- C. Mass. Environmental Policy Act (MEPA)
- D. Mass. Forest Cutting Practices Regulations
- E. Pelham Local Wetlands Bylaw
- F. U.S. Endangered Species Act
- G. National Historic Preservation Protection Act (NHPA)

Installations shall not go into construction until all local, state and federal requirements have been met and all required approvals issued.

##### (2) Dimensional Requirements

- (a) Frontage: Lots for Installations shall have the required frontage on a public way stated in Section

125-6 and defined in this Zoning Bylaw.

(b) Access driveways for Installations shall be no longer than 1,000 feet to the beginning of the use.

(c) Lot Size:

(i) Large-Scale Installation shall mean an Installation which occupies more than one and one-half (1.5) acres of land and no greater than fifteen (15) acres of land.

(ii) Small-Scale Installation shall mean an Installation which occupies one and one-half (1.5) acres or less of land.

(d) Minimum setbacks for all Large-Scale Installations shall be:

- Front street setback: 500 feet
- Property line setback: 100 feet

(e) Minimum setbacks for all Small-Scale Installations shall be:

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

(f) Required setback areas shall not be counted toward an Installation's total acreage.

(g) If an ESS is included in the Installation, it shall be located no more than 100 feet from the outer perimeter of the solar panels, and to mitigate possible damage resulting from a fire, the ESS shall maintain a buffer of at least 100 feet from forested land.

(3) Mitigation for Loss of Carbon Sequestration and Forest Habitat:

If forestland existing as such on the date of adoption of this bylaw is proposed to be converted to an Installation the plans shall designate thereon an area of unprotected (meaning, not subject to MGL c. 184, §§ 31-33 or other binding restrictions upon development 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 a 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.

Any project on land that is under an approved EOEEA forest management plan is exempt from the 4x provision of this section.

*(Motion was made to add the following language to the end of section D(3) Mitigation for Loss of Carbon Sequestration and Forest Habitat: Any project on land that is under an approved EOEEA forest management plan is exempt from the 4x provision of this section.)*

*(Motion was made to add the following language to the first line of section D(3) Mitigation for Loss of Carbon Sequestration and Forest Habitat following the words "If forestland: "existing as such on the date of adoption of this bylaw" in the first sentence. Both motions passed.)*

(4) Mitigation for Loss of Forest Habitat within the Installation:

If forestland existing as such on the date of adoption of this bylaw is proposed to be converted to an Installation, a plan shall be submitted to establish mitigation measures to preserve and support the health and ecological services of the forestland: minimize erosion, promote the growth of native plants and prevent invasive species. The site shall be regularly reseeded and annually monitored until 80% of the land is vegetated by native plants (excluding invasive species). A planting maintenance plan shall be submitted with the special permit application. An annual monitoring report shall be submitted for the first five years after construction and later if the 80% vegetation threshold is not met.

*(Motion was made to add the language "existing as such on the date of adoption of this bylaw" following "If forestland" in the first sentence. Motion passed.)*

(5) 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. Fences shall be raised to an appropriate distance above the ground to facilitate the passage of small animals.

(6) 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 Installation, the plans shall show alternative alignments to be marked and made passable by the applicant. No rights of public access may be established hereunder.

(7) 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 application. A suitable buffer area shall be established on all sides of each historic resource.

(8) All plans and maps shall be prepared, stamped and signed by a Professional Civil Engineer licensed to practice in the Commonwealth of Massachusetts.

(9) Mitigation for Road Integrity:

Construction access shall be from paved (bituminous or chip-sealed) Town roads. In the alternative, an applicant may propose, at their expense, 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 Pelham Highway Department and only following written Select Board approval of an alternative proposal, may accept or deny such alternative proposals.

(10) Mitigation for Forest Block Fragmentation:

In order to preserve the ecological integrity of Pelham's large blocks of undeveloped forestland as stated in § 125-18.2 B. herein, no more than the number indicated of Large-Scale Installations shall be permitted within the bounds of any set of public ways and/or Town borders as depicted on the 2020 Zoning Map of the Town of Pelham in the district entitled Large Scale Ground Mounted Solar Electric Installation Districts, and incorporated into the Zoning Bylaw.

E. Design and Performance Standards

(1) Except for emergency response or repairs, there shall be no permanently-affixed exterior lighting, including during construction and operation.

(2) Signage :

(a) Sufficient signage shall be provided to identify the owner of the Installation and provide a 24-hour emergency contact phone number.

(b) Signage at the perimeter warning pedestrians is allowable.

(c) Installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of such Installation.



(3) Control of Vegetation: Herbicides or pesticides may not be used to control vegetation or wildlife.

(4) Visual Impacts:

(a) Installations 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.

(b) When possible, a diversity of plant species shall be used, with a preference for species native to New England.

(c) 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.

(d) 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.

(e) 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 Installation.

(f) Landscaping shall be maintained and replaced as necessary by the owner/operator of the Installation.

(5) 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.

(6) All electric power generated at an Installation shall be from solar energy.

(7) 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.

## F. Safety and Environmental Standards

### (1) Emergency Services

(a) The Installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Pelham Fire Chief.

(b) The owner or operator shall cooperate with local emergency services to develop a written emergency response plan that is provided to Pelham police and fire departments.

(c) All means of shutting down the Installation shall be clearly marked.

(d) The owner or operator shall identify a responsible person for public and governmental inquiries throughout the life of the Installation. Updated contact information shall be provided to the Select Board, Fire Chief, Police Chief, and the Emergency Management Director annually, no later than 30 days after the beginning of the fiscal year or within 14 days of any contact personnel or information changes. Contact information shall include the contact's name, role in relation to the Installation, email address and work phone number. At least one 24 hour/7 day phone number shall be provided for emergencies.

## (2) Land Clearing, Soil Erosion and Land Impacts

- (a) The Installation 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 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.
- (b) 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.
- (c) The design shall minimize the use of concrete and other impervious materials to the maximum extent possible. Installations shall be installed on water permeable surfaces.
- (d) Installations, including access driveways and any associated drainage infrastructure on original, pre development grades in excess of 10%, is prohibited. This requirement does not apply to areas used exclusively for shade management provided all stumps from cut trees shall remain in place.
- (e) An environmental monitor may be designated by the Planning Board, at the applicant's or owner's expense, to inspect the site during construction and after significant weather events; the monitor shall provide timely reports to the operator and Planning Board regarding erosion and stormwater impacts.

## (3) Habitat Impacts:

Installations shall not be located on:

- (a) permanently protected land under MGL. c. 184, §§ 31-33.
- (b) Land designated as Core Habitat and Critical Natural Landscapes (CNLs) by the Massachusetts Natural Heritage and Endangered Species Program BioMap 2 and when available, as designated by its successor BioMap 3. Core Habitats identified in Pelham include three Forest Cores, three Aquatic Cores, and seven Species of Conservation Concern Cores, all of which “ensure the long-term persistence of species of conservation concern, exemplary natural communities, and intact ecosystems.” CNLs identified in Pelham include three Landscape Blocks, one Wetland Core, and three Aquatic Cores - “larger landscape areas that are better able to support ecological processes, disturbances, and wide-ranging species.” These designations establish that the need for protection is a stated interest of the Commonwealth and meets the need for public welfare as established in the 2010 BioMap 2 report, the Commonwealth's 2022 Clean Energy and Climate Plan for 2025 and 2030, and the 2020 SMART regulations, as amended or updated.
- (c) Habitat of Potential Regional and Statewide Importance located on Massachusetts Ecological Integrity Maps of the Dept. of Environmental Protection. The need for protection meets the needs of public welfare and the interest of the Commonwealth as noted by DEP, “Massachusetts Ecological Integrity Maps” representing human-induced stressors on the environment and resiliency.”
- (d) Priority Habitat as codified by Massachusetts Endangered Species Act, that includes all state listed species of both plants and animals. The need for protection meets the needs of public welfare and the interest of the Commonwealth.

## (4) Wetlands

- (a) 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.

(b) In order to provide an adequate intervening land area for the infiltration of stormwater runoff from an Installation, ground alterations such as stump removal, excavation, filling, 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 Pelham Conservation Commission.

(c) 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, including the local wetlands bylaw.

#### (5) Energy Storage Systems (ESS)

(a) If an energy storage system (ESS) is installed as part of the Installation, the ESS shall be designed and sized to store only the energy generated on site. The Installation shall not be designed nor operated to receive and subsequently transfer off-site-generated energy. An ESS must meet the standards put forth in the National Fire Protection Association's NFPA 855, Standard for the Installation of Stationary Energy Storage Systems, 2020 Edition, as amended and updated and comply with Massachusetts Fire Code 527 CMR 1.00 and the State Electrical Code 527 CMR 12.00.

(b) To ensure that local first responders are prepared for emergencies related to the ESS, the owner or operator shall arrange for and pay all the expenses for training, as needed, of Pelham fire, police, and emergency management personnel, as designated by the town to respond to an ESS-related emergency. Payment, in an amount approved by the Fire Chief, Police Chief, and Emergency Management Director, to cover all expenses of training above shall be due to the town by July 1; unspent funds will be credited to the following training session.

(c) In the case of an emergency related to the ESS, the operator shall provide the Town of Pelham with an emergency response team, at the operator's expense, that has the necessary capacity, equipment and training to undertake the requirements of the emergency response plan.

(d) All means of shutting down the ESS shall be clearly marked.

(e) Spacing of energy storage units and other fire prevention installation measures for the ESS shall be designed and documented to follow current safety-related best practices to mitigate thermal runaway among energy storage units.

(f) Onsite water storage shall be available for firefighting adequate to the needs to mitigate thermal runaway at the ESS as indicated in the Hazard Mitigation Analysis specified in G., Required Application Materials.

(g) An ESS shall be designed so that in the instance of fire, noxious gases resulting from combustion will be contained or filtered, to the maximum extent practicable, mitigating the direct venting into the environment from containers or storage units associated with the ESS.

(h) Contaminated water runoff from firefighting and heat reduction efforts related to an ESS shall be contained onsite to prevent, to the maximum extent practicable, water infiltration into the soil to protect underlying or adjacent water systems.

(i) To mitigate the risk of water contamination in the case of emergency and in particular risks to public and private water supplies, the ESS shall comply with § 125-25 D. 5 of the Pelham Zoning Bylaw. Unless waived by the Planning Board, the ESS shall be sited no less than 400 feet from the nearest water well.

(j) Use of per-and polyfluoroalkyl substances (PFAS) for fire suppression associated with the ESS is

prohibited given the federally and state recognized high risk of contamination of groundwater.

#### G. Required Application Materials

The project applicant shall provide the following documents.

##### (1) Required Pre-Submission Documents

(a) Project Notifications for Historic and Cultural Mitigation. The purpose of the project notifications is to provide a reasonable opportunity for knowledgeable parties to: comment on the project, inform the Phase I Cultural Resource Survey Report, or participate in the development of the Cultural Resource Management Plan. Notifications shall at a minimum include: the project name, a narrative description of the project; contact information for the applicant; most recent U.S. Geological Survey (USGS) map section (7.5 minute quadrangle) showing actual project location, a site map showing the Area of Potential Effect as defined by the National Historic Preservation Act, and a narrative including relevant historical or cultural information about the site.

(b) Project notifications shall be sent to the following parties: Massachusetts State Historical Commission; Pelham Historical Commission; the Tribal Historic Preservation Officers (THPOs) for tribes in Massachusetts, Connecticut, Rhode Island, Vermont, New York, and New Hampshire listed by the U.S Department of the Interior and the National Conference of State Legislatures. If a tribal government or organization has no THPO, project notifications shall be sent to the appropriate tribal representative for that given tribal government. At a minimum, project notifications shall be sent to the following Tribal governments or their successors: Wampanoag Tribe of Gay Head-Aquinnah, Mashpee Wampanoag Tribe, Stockbridge-Munsee Band of Mohican Indians, Nipmuc Nation, Nipmuck Tribal Council of Chaubunagamaug, Chappaquiddick Wampanoag Tribe, Herring Pond Wampanoag Tribe, Mashantucket Western Pequot Tribal Nation, Mohegan Tribe of Indians of Connecticut, Narragansett Indian Tribe, Schaghticoke Tribal Nation, Elnu Abenaki Tribe of Vermont, Golden Hill Paugussett Indian Nation, Eastern Pequot Tribal Nation, Saint Regis Mohawk Tribe, and Seneca Nation of Indians. Applicants are encouraged to contact the Massachusetts Commission on Indian Affairs or the Massachusetts Historical Commission so that the applicant can notify additional tribes that have historical ties to the Algonquian-speaking Indigenous people of Western Massachusetts.

Project notifications shall be written with a requirement to respond within 45 days from date of receipt. A failure of parties to respond within 45 days from date of receipt shall allow the applicant to submit the special permit application under this § 125-18.2. Late responses shall be provided to the Planning Board.

(c) Phase I Cultural Resource Survey Report. The primary objective of a Phase 1 Cultural Resource Survey Report is to identify and record all cultural resources within a project area. This shall include locations of all known, mapped or suspected historic properties, Indigenous archaeological sites, or sites of Indigenous ceremonial activity, as well as documentation demonstrating the required Project Notifications in G.(1)(a-b) above and any received written responses to the notification. Identification of such sites shall be based upon all of the following: i) a determination of the Area of Potential Effects as defined by the National Historic Preservation Act - the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties; ii) cultural resource survey; iii) field work; iv) review of available records of historic or cultural properties; and v) review of information about suspected historic properties, including those of religious and cultural significance to an Indigenous community, and historic properties suggested by noticed parties.

The Planning Board strongly encourages the owner or applicant to allow appropriate site access to parties noticed in accordance with G.(1)(a-b) to determine the presence of historical resources and properties and to assess possible impacts. In the instance that the noticed parties are unable to gain

access to the site and are therefore unable to submit comments based upon direct knowledge to the Planning Board, the lack of this documentation shall not be deemed to establish that there are no historical resources or properties present or that possible disruptions might not occur.

To protect the cultural resources, any reports deemed, by either the Massachusetts Historical Commission or the Pelham Historical Commission, to contain sensitive information about sites and specimens, as defined in section 26B of MGL Chapter 9, shall not be a public record. Any such reports shall be available only to the permitting authorities, the Pelham Historical Commission, the Massachusetts Historical Commission, any consulting Tribes, and the project applicant.

(2) Required Documents for Special Permit Submission

(a) A Site Plan additionally showing:

(i) Locations of wetlands and surface water resources including hydrogeological modeling of groundwater systems.

(ii) Location of BioMap 2, and when available BioMap 3, Core Habitats and Critical Natural Landscapes as designated by the Massachusetts Natural Heritage and Endangered Species Program (NHESP).

(iii) Location of Habitat of Potential Regional and Statewide Importance located on Massachusetts Ecological Integrity Maps as maintained by the Dept. of Environmental Protection.

(iv) Location of Priority Habitat as codified by MA Endangered Species Act (MESA)

(v) Locations of local or National Historic Districts

(vi) Locations of vegetative plantings

(vii) Locations of stormwater management elements

(b) 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 shall be provided.

(c) Blueprints: Blueprints or drawings of the installation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts, showing: the proposed layout of the Installation and any potential shading from nearby structures and; one- or three-line electrical diagram detailing the Installation, associated components, and electrical interconnection methods, with all Massachusetts and National Electrical Code compliant disconnects and overcurrent devices.

(d) General Documentation: The following information shall also be provided:

(i) Name, address, and contact information for proposed installer of the Installation.

(ii) The name, contact information and signature of any agents representing the project applicant.

(iii) A list of any state or federally 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. In addition, if an ESS is included in the Installation, a list of materials that are flammable or toxic when burned shall be provided.

(e) 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 Installation.

(f) Operation and Maintenance Plan: The project applicant shall submit a plan for the operation and maintenance of the Installation (Operation and Maintenance Plan), which shall include measures for maintaining safe access to the Installation, stormwater management (consistent with DEP's and, where appropriate, Pelham's stormwater regulations and vegetation controls), as well as general procedures for operational maintenance of the installation. Plans for vegetative controls and stormwater management shall include regular annual inspection and maintenance. If an ESS is installed, operation and maintenance plans shall be provided for regular inspection, servicing, repair and renovation of the ESS.

(g) Financial Surety: Applicants for Installations shall provide a form of surety, either through an escrow account, bond or otherwise, accessible to the Town of Pelham 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.

(h) Utility Notification: Installations shall not be constructed, nor a 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 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. A signed copy of the interconnection service agreement with the utility company shall be submitted before the Installation may go into operation.

(i) Proof of Liability Insurance covering risks associated with the Installation. In addition, if the Installation includes an ESS, proof of additional liability insurance shall be provided, adequate to address costs associated with possible fires, explosions or water contamination, as identified in the Hazard Mitigation Analysis.

(j) Proof of Compliance. The applicant shall submit to the Planning Board evidence of compliance with local, state and federal permitting and procedures, as applicable. Proof of compliance shall be submitted regarding compliance with Section 106 of the National Historic Preservation Act, Mass. Wetlands Protection Act, Mass. Endangered Species Act, Mass. Environmental Protection Act, Mass. Forest Cutting Practices regulations, and the Pelham local Wetlands Bylaw. Submission of evidence for compliance or exemption, as relevant, will be required before construction of the Installation may begin.

(k) Noise Assessment. The applicant and owner shall submit a noise assessment by a qualified professional of the noise levels projected to be generated during construction and operation of the Installation, including for an ESS; a noise mitigation plan for construction and operation consistent with Massachusetts DEP Noise Control Regulation, 310 CMR 7.10; and a noise monitoring plan as it relates to residents and wildlife consistent with state or national best practices.

(l) A report by a qualified professional with demonstrated knowledge in hydrogeology that provides an estimate of how and the extent to which construction and operation of the Installation may affect water volume, water storage, and drinking water well recharge within 400 feet of property lines for the Installation.

(m) If appropriate for the site, a Cultural Resource Management Plan (CRMP) or a Historic Properties Management Plan (HPMP) written by a professional with generally recognized credentials.

The Planning Board encourages good faith engagement with interested parties to resolve adverse effects including development and evaluation of alternatives or modifications that could avoid, minimize, or mitigate adverse effects. The applicant shall submit the CRMP or HPMP to the Planning Board and all parties noticed in G.(1)(a-b).

(n) Energy Storage System Plans and Documentation: For installations that include an ESS, the following documents shall be submitted:

- (i) A site-specific Hazard Mitigation Analysis, conducted at the applicant's expense.
- (ii) A written emergency response plan to be provided to Planning Board that is consistent with the findings and recommendations of the Hazard Mitigation Analysis and is approved by the Fire Chief, Police Chief, and the Emergency Management Director. The emergency response plan shall include the sequence of operations relative to ESS shutdown and emergency response intervention.
- (iii) Material Safety Data Sheets for batteries and electrical components, and for fire suppression chemicals that would be used in the case of a fire at the ESS.
- (iv) A copy of the project summary, electrical schematic, and site plan for the ESS, which shall be provided to the Pelham Fire Chief, Police Chief, and the Emergency Management Director in addition to the Planning Board.
- (v) Fire and explosion prevention and mitigation information including venting system operation; location of detectors and types of detectors/sensors including manufacturer and model, accuracy, and sensitivity; suppression system design, including type of agent, system layout, application rate, and source.
- (vi) Design specifications for: energy storage units including cells, modules, and rack systems including manufacturer and model and unit levels of storage cells; pertinent UL test data; energy storage containers including but not limited to the general physical layout relative to doors, access panels, vents; interior layout of cabinets, racks, ductwork, compartmentation; ventilation system; construction materials; and exterior of containers including spacing between containers and the specifications of structural supports/foundations for the containers.

### (3) Monitoring, Maintenance and Reporting

(a) Required Conditions :

- (i) The Installation owner or operator shall maintain the facility in good condition.
- (ii) Maintenance shall include, but not be limited to, painting, structural repairs, and preserving integrity of security measures.
- (iii) Site access shall be maintained to a level acceptable to the Pelham Fire Chief and Emergency Management Director.
- (iv) The owner or operator shall be responsible for the cost of maintaining the Installation and any access driveways.

(b) Annual Reporting:

- (i) The owner or operator of an Installation shall submit an annual report demonstrating and certifying compliance with the Operation and Maintenance Plan, the requirements of this Section 125-18.2 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, adequacy of road access, and the amount of electricity generated by the Installation. The annual report shall also provide information on maintenance completed during the course of the calendar year including maintenance of the physical site, vegetative controls, stormwater controls, electronic systems, fire prevention mechanisms if appropriate, and ESS. If an ESS is part of the Installation, the annual report shall include information about the amount of electricity stored and transferred by the ESS during the period reported.

(ii) 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.

(c) Discontinued Operations

(i) Any Installation which has reached the end of its useful life, has been abandoned, or taken off line shall be physically removed no later than 150 days after the date of discontinued operations.

(ii) The owner or operator shall notify the Special Permit Granting Authority (SPGA) by certified mail, of the proposed date of discontinued operations and plans for removal.

(iii) Removal shall consist of physical removal of all components of the 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. Also required are: disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations; and restoration of the site to its natural preexisting condition, including stabilization or re-vegetation of the site as necessary to minimize erosion. The SPGA 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.

(iv) Removal by the Town: If the owner or operator of an Installation fails to remove it in accordance with the requirements of this Section 125-18.2 within 150 days of discontinued operations or abandonment, the Town, upon receiving a court order, 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.

H. Lapse of Approval: Any special permit shall automatically lapse if the 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.

I. Enforcement: A violation of this Bylaw shall be subject to the enforcement provisions of the Town of Pelham Zoning Bylaw, Article VII and any adopted non-criminal disposition provisions.

*Recommended by the Select Board.*

(Motion to lay this article on the table was defeated by a vote of YES 16: NO 26)

**Article 29.**

**VOTED unanimously** to amend the Town of Pelham Zoning Bylaw by adding the following definitions to ARTICLE VIII, Section § 125-34, Definitions, or take any other action relative thereto.

**Energy Storage System (ESS)** shall mean any mechanical, thermal, electrical, chemical, electrochemical or other device that is operated to store energy for use by the utility grid or a backup system.

*Recommended by the Select Board.*



**Article 30.**

**VOTED unanimously** to amend the Town of Pelham Zoning Bylaw by adding a row for “Energy Storage System” in ARTICLE III, Section § 125-5, Table 1, Schedule of Use Regulations, as shown below, or take any other action relative thereto.

Land Use Classification	Zoning District					Notes
	Residential	Limited Business	Village Center Mixed-Use	Village Center Neighborhood	Village Center Rural Edge	Standards and Conditions
General Uses						
Energy Storage System (as a principal use)	N	N	N	N	N	See § 125-18.2

**Article 31.**

**VOTED the following resolution:**

**Citizen’s Petition**

To see if the Town will vote to adopt the following resolution or take any other action relative thereto:

**Whereas** voters at the 2022 Annual Town meeting were not made aware that Pelham’s share (\$82,350) of the debt authorization submitted by the Regional School Committee to rehabilitate the Regional track and field excluded Option 2 (expanding and reorienting the track with a natural turf field), leaving only a choice between Option 1 (just resurfacing the track) OR Option 3 (expanding and reorienting the track with an artificial turf field),

**Whereas**, Option 2 is expected to cost less than Option 3 both initially and in life cycle costs,

**Whereas**, the monetary goal set for fundraising was not met by the deadline of January 16, 2023,

**Whereas**, members of the Regional School Committee were not presented with sufficient information on the health, safety, and environmental dangers of artificial turf, including those related to PFAS, micro-plastics, heat-related injuries, skin and orthopedic injuries, negative impact on the biome and climate. and other issues,

**Whereas** the Boards of Health of Amherst and Pelham have both voted not to support artificial turf fields because of health and safety hazards,

**Whereas** artificial turf must be replaced at least every 8-10 years and there are currently no means to recycle these materials in the United States,

**Whereas** the figures presented show that artificial turf is twice as expensive as natural turf and that the costs of replacement, disposal, and new equipment to maintain artificial turf have not been included in the 10-year budget plan,

**Whereas** legislation supported by State Senator Jo Comerford and State Representative Aaron Saunders has been introduced or supported in order to ban PFAS in all forms from use in the Commonwealth and bans against PFAS and artificial turf have been enacted in other states and municipalities,

**Whereas** the Superintendent of Schools has indicated that numerous issues of poor maintenance exist for all playing fields and has enumerated the severe lapses in maintenance over several years,

**Whereas** a sufficient budget for training and performance for proper maintenance as well as actual maintenance should be submitted for either existing fields or proposed fields,

**Whereas** the funding necessary for construction of the artificial turf option is millions of dollars more than what has been secured, causing a delay of uncertain duration in initiating that project with resultant further cost escalation,

**Whereas** the estimated cost for the natural turf option is close to being secured if currently secured funds were to be directed toward either Option 1 or Option 2,

**Now, therefore,** the Town of Pelham hereby requests that the Regional School Committee fund either Option 1 or Option 2 but *not* Option 3 for the rehabilitation of the track and field at the high school.

The business of the warrant having been completed, the meeting voted to dissolve at 2:37 p.m. on Saturday, May 13, 2022. 82 voters were checked in.

Attest:

Sandra J. Burgess

Town Clerk