

## **Fall Town Meeting Zoning Bylaw Proposals – Public Hearing drafts**

Article PB-1. To see if Town Meeting will amend Chapter 255 (the Zoning Bylaw) in Section 255-35A by clarifying the purposes of the District; in Section 255-35B by clarifying status of uses prohibited in an underlying zoning district; in Section 255-35E by clarifying/modifying the prohibited uses; in Section 255-35F by deleting item (1) in its entirety and inserting a new item (1) regarding restrictions on “exempt” activities under Section 255-84 and clarifying/modifying the restrictions on uses; in Section 255-35H by clarifying that all uses requiring a Special Permit in the underlying zoning district also require a Special Permit in the Water Supply Protection District; in Section 255-35H(2)(a) by revising application requirements consistent with the Special Permit Granting Authority’s Rules and Regulations; in Section 255-35H (3)(a) by clarifying/revising the Special Permit Review Process to be followed for the Water Supply Protection District relative to the basis and time frame for specified Boards/Commissions to vote on applications; and in Section 255-35H (3) by adding a subparagraph (d) regarding exceptions to requirements for votes as detailed in the Planning Board’s Report to Town Meeting, or take any other action relative thereto.

Article PB-2. To see if Town Meeting will amend Chapter 255 (the Zoning Bylaw) in Section 255-84A(2)(b) by specifying limitations under which a Development of site improvements for a subdivision is exempt from an Earth removal, excavation, and/or fill permit; in Section 255-84C (4) by adding additional supplemental application requirements; and in Section 255-84D(1) by deleting the existing delineation of “prohibited area” for major earth removal, excavation, or fill activity and inserting therein that such activity is not permitted “within the Water Supply Protection District as defined and delineated in Section 255-15 and Section 255-35 of the Zoning Bylaw” as detailed in the Planning Board’s Report to Town Meeting, or take any other action relative thereto.

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§ 255-35 **Water Supply Protection District.**

- A. Purposes. The purpose of the Water Supply Protection District is to promote the health, safety and welfare of the community by protecting and preserving the surface and groundwater resources of the Town and the region from any use and development of land or buildings which may reduce the quality and quantity of its water resources; to protect, preserve and maintain the existing and potential groundwater supply, groundwater recharge area, and the groundwater tables; to protect, preserve and maintain potential sources of surface water supply and watershed areas for the public health and safety; and to prevent blight and the pollution of the environment.
- B. Scope of authority. The Water Supply Protection District is an overlay district and shall be superimposed on the other districts established by this bylaw. All regulations of the Town of South Hadley Zoning Bylaw applicable to such underlying districts shall remain in effect, except that where the Water Supply Protection District imposes additional regulations, such regulations shall prevail. Uses that are prohibited in an underlying zoning district shall also be deemed prohibited in the Water Supply Protection District even if not stated as such in Section 255-35E herein.
- C. District delineation.
- (1) The Water Supply Protection District is herein established to include all lands within the Town of South Hadley lying within the primary and secondary recharge areas of groundwater aquifers and watershed areas of reservoirs which now or may in the future provide public water supply. The map entitled "South Hadley Water Protection Area" on file with the Town Clerk, delineates the boundaries of the district.
  - (2) Where the bounds delineated are in doubt or in dispute, the burden of proof shall be upon the owner(s) of the land in question to show where they should properly be located.
- D. Permitted uses. The following uses are permitted within the Water Supply Protection District, provided that they comply with all applicable restrictions in this bylaw, including but not limited to Subsections **E** through **H**:
- (1) Single-family residences, provided that where not serviced by public sewer, lot size shall be 10,000 square feet of lot area per bedroom or 40,000 square feet, whichever is greater. For cluster development, minimum lot size may be calculated on a net density for an entire development, which includes individual lots and common open space of varying size. Where serviced by public sewerage, minimum residential lot size shall comply with the residential requirement of the underlying district.
  - (2) Residential accessory uses, including garages, driveways, private roads, utility rights-of-way, and on-site wastewater disposal systems.
  - (3) Agricultural uses such as farming, grazing and horticulture.
  - (4) Forestry and nursery uses.
  - (5) Outdoor recreational uses, including fishing, boating and play areas.
  - (6) Conservation of water, plants and wildlife.
  - (7) Wildlife management areas.
  - (8) Excavation for earth removal, provided that the requirements of Subsection F of

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~~this section and § 255-84 are met, and an earth removal permit is granted by the Building Commissioner.~~ **Earth Removal, Excavation, and/or Fill Activities as defined in § 255-84 for which a Permit from the Building Commissioner is not required due to the activity being part of an exempt development under Section 255-84A(2); provided the associated excavation/earth removal shall not be nearer than 10 feet of the seasonal high groundwater.**

- (9) Wireless communications facilities when approved pursuant to §§ 255-20 and 255-40, subject to the conditions of the Planning Board as set forth in the special permit decision.
- E. Prohibited uses. The following uses are prohibited within the Water Supply Protection District:
- (1) Business and industrial uses, not agricultural, including but not limited to metal plating, chemical manufacturing, wood preserving, furniture stripping, dry cleaning and auto body repair, which generate, use, treat, process, store or dispose of hazardous wastes, except for the following:
    - (a) Very small quantity generators of hazardous waste, as defined by 310 CMR 30.00, ~~which generate less than 20 kilograms or six gallons of hazardous waste per month may be allowed by special permit in accordance with Article IX of this bylaw;~~
    - (b) Household hazardous waste collection centers or events operated pursuant to 310 CMR 30.390;
    - (c) Waste oil retention facilities required by MGL c. 21, § 52A; and
    - (d) Treatment works approved by the Massachusetts Department of Environmental Protection and designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground and surface waters.
  - (2) Business or industrial uses, not agricultural, which dispose of process wastewaters on-site.
  - (3) Trucking terminals, bus terminals, car washes, motor vehicle gasoline sales, ~~automotive~~ **motor vehicle** service and repair shops, commercial fuel oil storage and sales.
  - (4) Solid waste landfills, dumps, auto recycling, auto graveyards, junk and salvage yards, landfilling or storage of sludge and septage, ~~with the exception of the disposal of brush or stumps.~~
  - (5) Storage of liquid petroleum products of any kind, except for the following:
    - (a) Storage which is incidental to: 1] normal household use and outdoor maintenance or the heating of a structure; 2] waste oil retention facilities required by MGL c. 21, § 52A; 3] emergency generators required by statute, rule or regulation; or 4] treatment works approved by the Massachusetts Department of Environmental Protection designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters; provided that such storage shall be in a freestanding aboveground container within a structure or within the basement of a structure, within a diked, impermeable area sufficient to contain the volume of the tank plus 10% to prevent spills or leaks from reaching groundwater, and provided that the storage tank and piping must comply with all applicable provisions of 527 CMR 1.00, the Massachusetts Board of Fire Prevention regulations.

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- (b) Replacement of storage tanks or systems for the keeping, dispensing or storing of gasoline, which existed at the time of adoption of this bylaw, provided that:
  - [1] All such replacement storage tanks or systems shall be located underground as required by Massachusetts Board of Fire Prevention regulations 527 CMR 14;
  - [2] All such storage systems be protected by one of the secondary containment systems specified in Massachusetts Board of Fire Prevention regulations 527 CMR 9.08(3);
  - [3] The head of the respective Fire Department may deny an application for tank replacement, or approve it subject to conditions, if he or she determines that it constitutes a danger to public or private water supplies in accordance with 527 CMR 9.26(4)(d). Replacement of all other storage tanks for liquid petroleum products other than gasoline must be above ground in accordance with Subsection E(5)(a).
- (6) Outdoor storage of salt, deicing materials, pesticides or herbicides, **and fertilizers.**
- (7) Dumping or disposal on the ground, in water bodies, or in residential septic systems of any toxic chemical, including but not limited to septic system cleaners which contain toxic chemicals such as methylene chloride and 1-1-1 trichlorethane, or other household hazardous wastes. (See the list of prohibited chemicals at the Board of Health or Town Clerk's office.)
- (8) Stockpiling and disposal of snow or ice removed from highways and streets located outside of the Water Supply Protection District that contains sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for snow and ice removal.
- (9) Wastewater treatment works subject to 314 CMR 5.00 (those treatment works which discharge over 15,000 gallons per day to the ground), except the following:
  - (a) The replacement or repair of an existing system(s) that will not result in a design capacity greater than the design capacity of the existing system(s);
  - (b) The replacement of an existing subsurface sewage disposal system(s) with wastewater treatment works that will not result in a design capacity greater than the design capacity of the existing system(s);
  - (c) Treatment works designed for the treatment of contaminated ground or surface waters subject to 314 CMR 5.00.

**(10) Major and Other Earth Removal, Excavation and/or Fill activities (as defined in Section 255-84 including “mining” of gravel, soil, loam, sand and/or other minerals).**

**(11) Any use prohibited by 310 CMR 22.21(2)(a) which is not expressly prohibited in the above provisions 255-35E(1) through (10).**

F. Restricted uses. The following uses are restricted within the Water Supply Protection District:

- (1) ~~Excavation for removal of earth, loam, sand, gravel and other soils or mineral substances shall not extend closer than five feet above the historical high groundwater table (as determined from on-site monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey, whichever is higher). A monitoring well shall be installed by the property owner to verify groundwater elevations. This subsection shall not apply to excavations incidental to permitted uses, including but not limited to providing for the~~

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~~installation or maintenance of structural foundations, freshwater ponds, utility conduits or on-site sewage disposal.~~

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

~~(b) Upon completion of earth removal operations, all altered areas shall be restored with topsoil and vegetative plantings. All fine materials, such as clays and silts, removed as part of the earth removal operation and leftover as by-products shall be disposed of off-site to prevent damage to aquifer recharge characteristics.~~

**(1) Earth Removal, Extraction, and/or Fill activities exempt from permitting under Section 255-84A shall nonetheless be restricted to ensure that any such removal or extraction does not extend closer than ten (10) feet above the historical high groundwater table. This subsection does not apply to installation or maintenance of structural foundations and utility conduits; nor shall it apply to maintenance of fresh water ponds provided all necessary permits, orders, or approvals required by local, state, or federal law are also obtained. This subsection does not apply to on-site sewage disposal systems; however the design, siting and installation depth shall be in compliance with Title V of the State Environmental Code and shall be subject to the regulatory authority of the Board of Health.**

- (2) Sodium chloride for ice control shall be used at the minimum salt-to-sand ratio which is consistent with the public highway safety requirements, and its use shall be eliminated on roads which may be closed to the public in winter.
- (3) The storage of sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for the removal of ice and snow on roads shall be covered and located on a paved surface, with berms, within a structure designed to prevent the generation and escape of contaminated run-off leachate.
- (4) Fertilizers, pesticides, herbicides, lawn care chemicals or other leachable materials for agricultural and/or commercial applicator use shall be used in conformance with the Massachusetts Pesticide Control Act, MGL c. 132B, regulations promulgated by the Massachusetts Pesticide Bureau (333 CMR 1 through 14), and the manufacturer's label instructions. All other reasonable precautions to minimize adverse impacts on surface and groundwater should be used.
- (5) Fertilizers, pesticides, herbicides, lawn care chemicals and other leachable materials for non-agricultural and non-commercial applicator use shall be used in accordance with the Lawn Care Regulations of the Massachusetts Pesticide Board 333 CMR 10.03 as amended, according to the manufacturer's label instructions and all other necessary precautions to minimize adverse impacts on surface and groundwater.
- (6) On-site sewage disposal systems shall not be installed without additional measures imposed by the Board of Health. (See Board of Health regulations.)
- (7) The storage of commercial fertilizers and soil conditioners shall be within structures that prevent the generation and escape of contaminated run-off or leachate.
- (8) To the extent feasible, all new permanent animal manure storage areas shall be covered and/or contained to prevent the generation and escape of contaminated run-off or leachate.
- (9) All liquid hazardous materials, as defined in MGL c. 21E, must be stored either in a

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freestanding container within a building or in a freestanding **covered** container above ground with protection to contain a spill the size of the container's total storage capacity.

**(10) If it is determined that 310 CMR 22.21(2)(b) imposes performance standards more stringent on land uses or activities than expressly stated in the above 255-35F(1) through (9), said 310 CMR 22.21(2)(b) performance standard shall be deemed to also apply to land uses and activities in the Water Supply Protection District even though said performance standard or restriction is not specified herein.**

G. Drainage.

- (1) For commercial and industrial uses, to the extent feasible, run-off from the impervious surfaces shall be recharged on the site by being diverted toward areas covered with vegetation for surface infiltration. Such run-off shall not be discharged directly to rivers, streams or other surface water bodies. Dry wells shall be used only where other methods are infeasible, and shall be preceded by oil, grease and sediment traps to facilitate removal of contamination.
- (2) All recharge areas shall be permanently maintained in full working order by the owner(s).

H. Special permit uses. **The provisions this subsection 255-35H herein shall apply to all uses for which a Special Permit is required regardless of whether the provisions below require a Special Permit or the use is listed as requiring a Special Permit in the underlying zoning districts in the Schedule of Use Regulations (Attachment A).**

~~(1) Uses allowed by special permit. The following uses may be allowed by special permit obtained from the Planning Board:~~

**(1) Uses allowed by special permit. In addition to the uses listed as requiring a Special Permit in the underlying zoning districts in the Schedule of Use Regulations (Attachment A), within the Water Supply Protection District, the following uses may only be allowed in the Water Supply Protection District by special permit obtained from the Planning Board:**

- (a) Commercial, industrial, governmental or educational uses which are allowed in the underlying district, and which are not prohibited in Subsection E.
  - (b) Any enlargement, intensification, change of use or alteration of an existing commercial or industrial use.
  - (c) The rendering impervious of more than 15% or 2,500 square feet of any lot, provided that a system for artificial recharge of precipitation to groundwater is developed, which shall not result in degradation of groundwater. (See Subsection G above.)
- (2) Requirements for special permit in the Water Supply Protection District.
- (a) The applicant shall file ~~six copies of a plan prepared by a qualified professional with the~~ ***number and form of applications and plans as specified in the special permit granting authority's adopted Rules and Regulations. In addition to the requirements specified in the special permit granting authority's adopted Rules and Regulations, those rules and regulations contained in the special permit application (Form SP),*** the plan shall include:
    - [1] Drainage recharge features and provisions to prevent loss of recharge.
    - [2] Provisions to control soil erosion and sedimentation, soil compaction, and

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- to prevent seepage from sewer pipes.
- (b) In addition, the applicant shall provide, at a minimum, the following information where pertinent:
- [1] A complete list of chemicals, pesticides, fuels and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use.
  - [2] Those businesses using or storing such hazardous materials shall file a hazardous materials management plan with the Planning Board, Fire Chief and Board of Health, which shall include:
    - [a] Provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage.
    - [b] Accidental damage, corrosion, leakage or vandalism, including spill containment and clean-up procedures.
    - [c] Provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces.
    - [d] Evidence of compliance with the regulations of the Massachusetts Hazardous Waste Management Act, 310 CMR 30, including obtaining an EPA identification number from the Massachusetts Department of Environmental Protection.
- (3) Additional procedures for special permits in the Water Supply Protection District:
- (a) The special permit granting authority shall follow all special permit procedures contained in Article **IX** of this bylaw. In addition, the special permit granting authority shall distribute copies of all application materials to the Board of Health, the Conservation Commission and the Water Commissioners, each of which shall review the application and, following a vote, shall submit recommendations and comments to the special permit granting authority. Failure of boards to make recommendations within **35 50** days of distribution of the applications shall be deemed to be lack of opposition. ***In voting on the applications, the Board of Health, the Conservation Commission and the Water Commissioners are to take the following actions:***
- [1] Specify the jurisdiction they have regarding the proposed development/activity; and***
  - [2] State whether or not the proposed development/activity's plans conform to the standards of the respective Board's governing bylaws and regulations for approval or denial and how it does so; and,***
  - [3] Any deficiencies or omissions in the plans which preclude the respective Board from making a determination regarding 255-35H3(a)[2]; and,***
  - [4] Recommendations for conditions which would remedy any deficiencies in the proposed plans.***
- (b) The special permit granting authority may grant the required special permit only upon finding that the proposed use meets the following standards and those specified in Article **IX** of this bylaw. The proposed use must:
- [1] In no way, during construction or thereafter, adversely affect the existing or potential quality or quantity of water that is available in the Water Supply Protection District; and
  - [2] Be designed to avoid substantial disturbance of the soils, topography,

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drainage, vegetation and other water-related natural characteristics of the site to be developed.

- (c) The special permit granting authority shall not grant a special permit under this section unless the petitioner's application materials include, in the Board's opinion, sufficiently detailed, definite and credible information to support positive findings in relation to the standards given in this section.

***(d) Exceptions to requirements for Board of Health, the Conservation Commission and the Water Commissioners votes under 255-35H(3)(a). The requirements for a vote by the members of the Board of Health, the Conservation Commission and the Water Commissioners shall not apply to any residential development which will result in 3 or few new dwelling units on an existing tract of land. In such instances, the respective board's staff shall be requested to provide comments regarding the proposed development/activity.***

- I. Nonconforming use. Nonconforming uses which were lawfully existing, begun or in receipt of a building or special permit prior to the first publication of notice of public hearing for this bylaw may be continued. Such nonconforming uses may be extended or altered, as specified in MGL c. 40A, § 6, provided that there is a finding by the Planning Board that such change does not increase the danger of surface or groundwater pollution from such use.

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§ 255-84 **Earth removal, extraction, and fill regulations.**

A. Permit required; exemptions.

- (1) In any zoning district, removal or addition of sod, loam, clay, gravel, quarried stone, or kindred materials shall not be undertaken if such removal or addition results in a change in the contours of the land, except by an earth removal, excavation, and/or fill permit from the Building Commissioner.
- (2) Exemptions. The aforementioned permit shall not be required when the removal, excavation and/or fill activity is incidental to and in connection with any of the following activities:
  - (a) Construction of a structure on the premises for which a building permit has been issued, or incidental to the grading and development of contiguous property, and provided that such removal, excavation or addition is limited to the area within a distance not more than 100 feet from the building or improvements authorized under said permit.
  - (b) Development of site improvements for a subdivision for which definitive plans have been approved, and endorsed by the Planning Board; **provided**

**[1] the quantity of earth removal, extraction, and fill to be removed from/added to the site has been demonstrated to be essential to meet the requirements for the subdivision and**

**[2] a hydrogeologic impact assessment has demonstrated to the Planning Board's satisfaction that the proposed development will not have an adverse impact on the public water supply.**

B. Classification of activities. Earth removal, excavation, and fill activities are classified as either:

- (1) Major earth removal, excavation, and/or fill activities. These activities involve the removal, excavation, and/or addition of 5,000 or more cubic yards of material for use on parcels of land other than the parcel(s) from which the materials were removed or extracted.
- (2) Other earth removal, excavation, and/or fill activities. These activities involve the removal, excavation and/or addition of materials not otherwise classified as major earth removal, excavation and/or fill activities.

C. Planning Board approval required; application requirements.

- (1) Major earth removal, excavation, and/or fill activities. Prior to applying for a permit from the Building Commissioner, the applicant must apply for and receive a special permit from the Planning Board. Applications for such a special permit must include all items required for a special permit application and items required under this section.
- (2) Other earth removal, excavation, and/or fill activities. Prior to applying for a permit from the Building Commissioner, the applicant must receive approval of the plans for removal, excavation, and fill from the Planning Board. Applications must include all

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items required under this section of the Zoning Bylaw.

- (3) Application requirements. Each application for Planning Board approval shall include the following items:
  - (a) A map prepared at the expense of the applicant showing the property boundaries, the existing contours of the land, and the contours as they are proposed after completion of the operations. Such map or plan shall be accurately drawn on reproducible paper or cloth, the contour interval being two feet, and shall contain complete information to make the physical characteristics clear.
  - (b) Application fee.
  - (c) Pictures of the existing conditions of the site.
  - (d) Description of proposed source of fill material to be added to the site and use of excavated materials.
  - (e) An estimate of the cost to restore the site to its proposed finished condition.
  - (f) Timetable for completion of the operations.
- (4) Supplemental application requirements. For major activities, the following items must also be included in the application:
  - (a) A detailed cost estimate certified by a qualified engineer to restore the site to its proposed finished condition.
  - (b) Description of the proposed financial security to cover the cost of restoring the site to its proposed finished condition.
  - (c) Documentation of the elevation of the seasonal high water table.
  - (d) Proposed reuse plan including, but not limited to, a revegetation plan**
  - (e) Additional information/materials as required under the Special Permit Rules & Regulations.**
- (5) No permit shall be issued until such plan has been filed with the Planning Board, the approval of said Planning Board recorded on the plan, and a copy of said approved plan submitted to the Building Commissioner.
- D. Limitations on operations. No applicant shall carry on operations above or below such a grade as may be fixed by the Planning Board without, on each occasion, obtaining the permission of said board in writing, but a tolerance of six inches shall be permitted during or at the termination of operations. Further, operations must be carried out in accordance with the conditions of the Planning Board approval.
- (1) Prohibited area. No major earth removal, excavation, or fill activity shall be permitted **in the area bounded as follows: on the south by Route 47, Pearl Street, and Route 116; on**

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the east by Route 116 and the Granby Town Line; on the north by the Amherst and Hadley Town Lines; and on the west by Route 47 and the Hadley Town Line. ***within the Water Supply Protection District as defined and delineated in Section 255-15 and Section 255-35 of the Zoning Bylaw.***

- (2) Finished grade. The finished grade for any major earth removal, excavation, and fill activity shall be no steeper than a 3:1 slope unless the Planning Board, based upon adequate engineering analysis and certification, determines that sufficient precautions for erosion and runoff are established to ensure the work is consistent with the purposes of the Zoning Bylaw.
  - (3) Depth to water table. No excavation activity shall be nearer than **five ten** feet to the seasonal high water table.
- E. Extension of time limit. A permit issued for the removal or addition of materials shall state the time within which work is to be carried on and finished and the land is brought to the predetermined grade, but the Building Commissioner, with the approval of the Planning Board, and without consent of any surety, may extend the permit from time to time.
- F. ~~Surety requirement~~ ***Performance guarantee requirement.*** The Planning Board may require a bond in a sufficient penal sum with sufficient surety or sureties ~~conditioned on the performance of the requirements herein set forth and of the conditions of the permit~~ ***performance guarantee in an amount and form as it determines to be sufficient to assure compliance with and implementation of the conditions of the permit.***