

COMMONWEALTH OF MASSACHUSETTS  
SOUTH HADLEY, MASSACHUSETTS

WARRANT  
Hampshire, ss.

TO: Either of the Constables of the Town of South Hadley

GREETINGS:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the Inhabitants of the Town of South Hadley that the SPECIAL TOWN MEETING will be held in the TOWN HALL AUDITORIUM on Wednesday November 20, 2019 at 6:00 PM or as soon thereafter as the subject matter of this warrant can then and there be reached, and the Town Clerk is required to notify and warn the Town Meeting Members then and there to meet and act on the following articles:

ARTICLE 1. To see if the Town will vote to endorse the South Hadley Falls Urban Renewal and Redevelopment Plan as reviewed by the Massachusetts Department of Housing and Community Development as of July 18, 2019 and as further articulated in Appendix A, or take any other action relative thereto.

ARTICLE 2. To see if the Town will vote to accept Massachusetts General Law Chapter 40 subsection 8J, and establish a five member South Hadley Commission On Disabilities (COD) appointed by the Selectboard consistent with said Chapter 40 and further vote to amend Part I of the Town of South Hadley General Bylaws by adding a new section 7-22 creating a new Commission on Disabilities Bylaw as further articulated in Appendix B, or take any other action relative thereto.

ARTICLE 3. To see if the Town will vote to transfer from Unreserved Free Cash the sum of \$25,000 for the purpose researching and developing a process for determination, and preparation for acceptance of streets and ways in the Town of South Hadley, or take any action relative thereto.

ARTICLE 4. To see if the Town will vote to transfer from the Cable Studio Fund the sum of \$28,000 for the purpose of capital improvements at the studio, or take any action relative thereto.

ARTICLE 5. To see if the Town will vote to transfer from Unreserved Free Cash in the sum of \$18,000 to fund a traffic calming sign project through the Department of Public Works, or take any other action thereto.

ARTICLE 6. To see if the Town will vote to amend the Town of South Hadley General Bylaws by adding a new Chapter 245, Earth Removal Incidental to Construction Activities, which addresses earth removal and related actions as more fully set forth in Appendix C, or take any action relative thereto.

ARTICLE 7. To see if the Town will vote to transfer from the Senior Center Stabilization Fund \$900,000 to the Senior Center Building Account for the purpose of funding construction, design or other actions related to the building of a new Senior Center at 45-47 Dayton Street, or take any other action relative thereto.

ARTICLE 8. To see if the Town will to raise and appropriate or take from available funds the sum of \$66,438 to the School budget to adjust for shortfalls in the FY 2020 budget or take any other action relative thereto.

ARTICLE 9. To see if the Town will vote to amend Chapter 18 section 18-1 and 18-7 of the Town of South Hadley General Bylaws to allow a local election on March 3, 2019 and as further articulated in Appendix D, or take any other action relative thereto.

ARTICLE 10. To see if the Town will vote raise and appropriate or take from available funds the sum of \$16,438 to line item Council on Aging 15411-51044 Clerk/Typist, or take any other action relative thereto.

ARTICLE 11. To see if the Town will vote to transfer from Unreserved Free Cash the sum of \$9,000 to Liability Insurance 19457-57850 Deductibles, or take any other action relative thereto.

ARTICLE 12. To see if the Town will vote to transfer from Unreserved Free Cash the sum of \$15,000 to undertake a land of low value process and/or owner unknown in a joint project of the Assessor and Collector/ Treasurer departments , or take any other action relative thereto.

ARTICLE 13. To see if the Town will vote to transfer from Unreserved Free Cash the sum of \$4,000 to install a NSA 3600 Firewall for the Stony Brook server , or take any other action relative thereto.

ARTICLE 14. To see if the Town will vote to transfer from Retained Earnings the sum of \$88,000 as grant match for improvements to the Waste Water Plant SCADA system and installation of a ammonia monitoring system as required, or take any other action relative thereto.

ARTICLE 15. To see if the Town will vote to transfer from WWTP Retained Earnings the sum of \$35,000 to update a mandated inflow and infiltration study throughout the municipal sewer system, or take any other action relative thereto.

ARTICLE 16. To see if the Town will to raise and appropriate or take from available funds the sum of \$35,000 19131-51172 Unemployment Compensation to adjust for unexpected shortfalls in the FY 2020 budget or take any other action relative thereto.


ARTICLE 17. (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 and as articulated in Appendix E, or take any other action relative thereto.

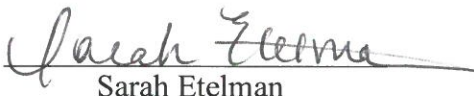
ARTICLE 18 (PB-2). To see if Town Meeting will amend Chapter 255 (the Zoning Bylaw) in Section 255-84A(2)(b) by specifying limitations under which a Development of site improvements for a subdivision is exempt from an Earth removal, excavation, and/or fill permit; in Section 255-84C (4) by adding additional supplemental application requirements; in Section 255-84D(1) by expanding the prohibited area for major earth removal, excavation, or fill activity to include the Water Supply Protection District; Section 255-84D(3) by changing “five” feet” to “ten feet” (or another dimension); and by replacing Section 255-84F Surety requirement a new Section 255-84F Performance guarantee requirement as and as articulated in Appendix F, or take any other action relative thereto.

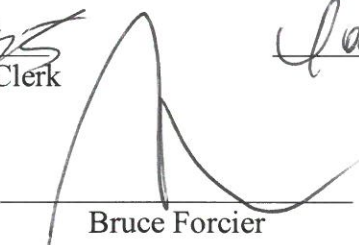
Given under our hands this 5th day of November 2019:

  
Andrea Miles, Chair

  
Jeff Cyr, Vice Chair

  
Christopher Geraghty, Clerk

  
Sarah Etelman

  
Bruce Forcier

**SELECTBOARD  
TOWN OF SOUTH HADLEY**

True copy, attest:

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Carlene Hamlin, Clerk  
Town of South Hadley



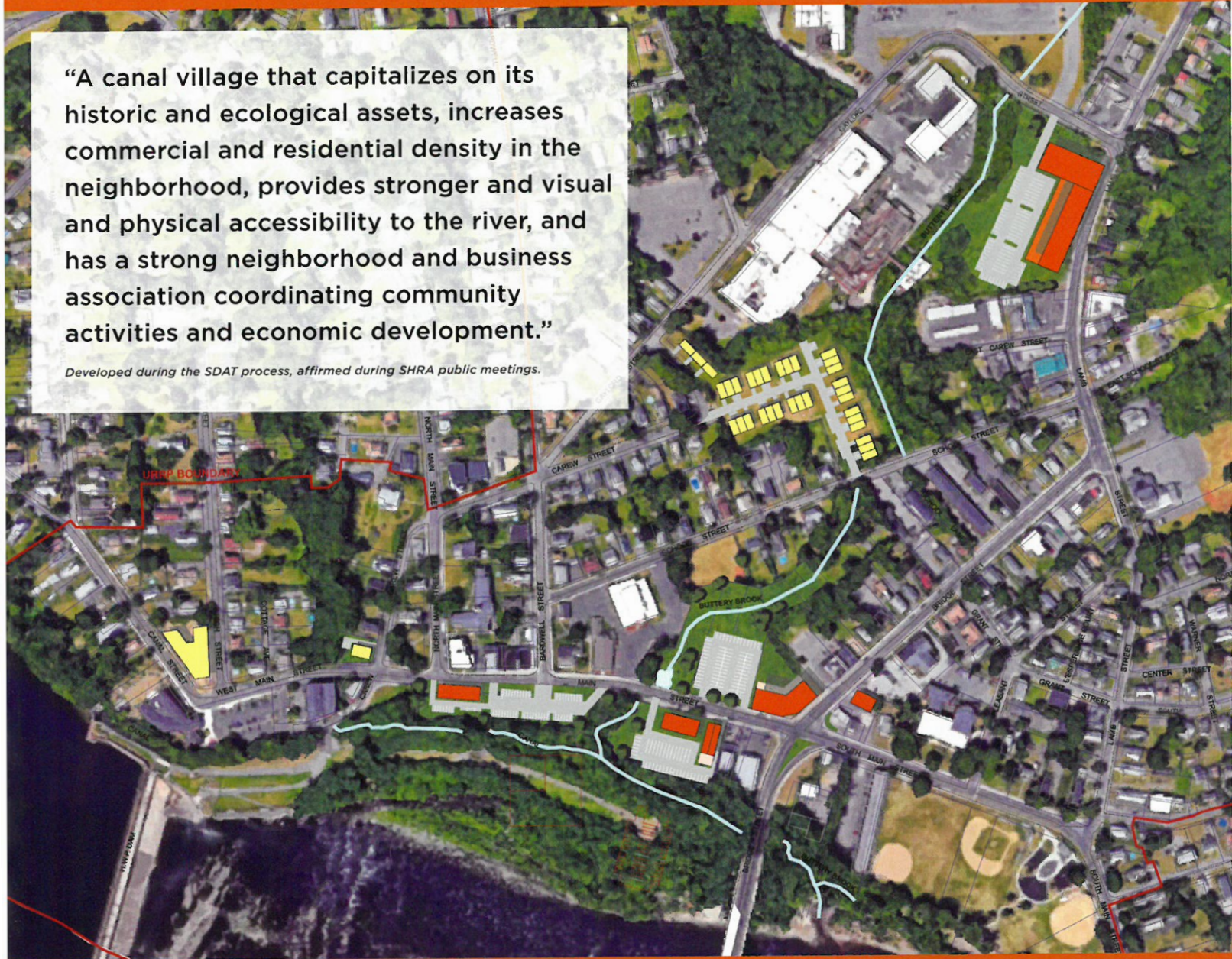
## South Hadley Falls



### Urban Redevelopment & Renewal Plan

“A canal village that capitalizes on its historic and ecological assets, increases commercial and residential density in the neighborhood, provides stronger and visual and physical accessibility to the river, and has a strong neighborhood and business association coordinating community activities and economic development.”

*Developed during the SDAT process, affirmed during SHRA public meetings.*



## South Hadley Redevelopment Authority

Town of South Hadley, MA

[www.southhadley.org/462/Redevelopment-Authority](http://www.southhadley.org/462/Redevelopment-Authority)

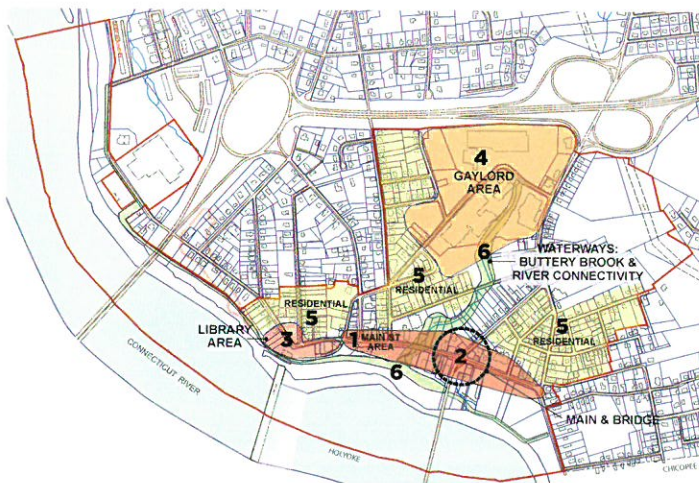
# THE SOUTH HADLEY FALLS URBAN REDEVELOPMENT & RENEWAL PLAN

Bettering South Hadley Falls is a long-standing local goal. Revitalizing the Falls is the first of five core initiatives established in the Town's Master Plan adopted in 2010. The past decade has seen little private redevelopment and several businesses close in the Falls. The prosperity and bustle of Main Street once a feature of the Falls is now a memory.

The South Hadley Falls Urban Redevelopment & Renewal Plan (URRP) provides a 20-year strategy and action plan to realize these aspirations for a vital Falls. The plan is a road map to strengthen the Falls and foster private investment. Adoption of the URRP will enable the Redevelopment Authority and Town to work more effectively with the private sector, access public resources, and judiciously use economic development tools to advance the URRP and improve South Hadley Falls.

## Geographic Focus Areas

Within the South Hadley Falls URRP area, there are six focus areas needing action to address existing challenges to a healthy and economically vital community. Focus area strategies include the major redevelopment site work as well as other programmatic initiatives and public improvements.



## A 20-Year Action Plan to Revitalize South Hadley Falls

### Goals

In the spirit of the industry and ingenuity that created the town, the South Hadley Redevelopment Authority in partnership with the Town, residents, businesses and institutions, envisions an economically revitalized and renewed Falls community to:

- I. Encourage new and support existing businesses – retail, service, commercial, technical and manufacturing – to provide jobs and economic opportunity for South Hadley Falls residents.
- II. Attract new residents while it provides ever-improving housing, services and public amenities to current Falls residents.
- III. Support vibrant community institutions – churches, clubs, civic organizations, our new Library, social service and educational providers.
- IV. Commit to South Hadley Falls historic preservation as a guiding principle.
- V. Appreciate that the Connecticut River, Buttery Brook and the historic canal are under-utilized and overlooked assets of South Hadley Falls.
- VI. Expand and preserve the economic and social diversity of South Hadley Falls with a range of job opportunities and a variety of attractive housing options.
- VII. Stimulate private sector investment and utilize public funds judiciously and strategically as a catalyst for private investment.
- VIII. Foster a healthy, safe and resilient environment in South Hadley Falls for residents, businesses, workers and visitors.
- IX. Serve as a source of pride and inspiration to the larger South Hadley community and surrounding communities.



1 Main Street

Commercial revitalization and streetscape improvements.



2 Bridge and Main Streets

New mixed-use development and intersection improvements.



3 The Library Area

Residential and commercial development on surrounding parcels.

# Principles for Urban Redevelopment & Renewal

The renewal and redevelopment of South Hadley Falls will be predicated on the following five principles:

- Respect Historic Character
- Plan for Resilience
- Build Market
- Build on Local Assets
- Build on Natural Assets



## Design Principles

The South Hadley Falls Urban Redevelopment & Renewal Plan calls for high-quality design and development for all new projects and major renovations to further advance revitalization and the goals of this plan. The design principles guiding the urban renewal and redevelopment plan are:

- Promote walkways and pedestrian activity;
- Scale and massing compatible with adjacent buildings;
- Apply sign and façade guidelines;
- Building design and materials which respect architectural heritage and traditions; and
- Mixed Uses – Residential and/or Office above first floor on major streets (primarily Main and Bridge Streets).

In addition to these design principles, the redevelopment and renewal of South Hadley Falls in the 40R District will rely upon the adopted design guidelines in the South Hadley Falls Smart Growth Overlay District. (For guidelines visit <http://www.southhadley.org/318/South-Hadley-Falls-Smart-Growth-Zoning-D>).

## Development & Private Investment

The South Hadley Falls URRP is a 20-year plan which will be a catalyst for private investment in key redevelopment projects. To bring about the desired change and investment in the Falls, the South Hadley Redevelopment Authority will work closely with the Town Administrator, Planning Department and town boards. Development projects include:

- Mixed-use commercial development with retail, services and a restaurant/café at the northwest corner of Main and Bridge Streets.
- New market rate and affordable housing, per the 40R Smart Growth Overlay, at the former Carew School site at Gaylord and Carew.
- Commercial/ office uses, with possible civic uses, in the Mill 6 area.
- Redevelop municipal facilities, such as Town Hall and SHELD, into housing, mixed-use, arts, as these spaces become available when the Town identifies new locations.
- Home repair/ housing rehab projects through Falls’ residential areas.
- Realization of planned private projects at 1 Canal & 27 Bardwell Sts.

Working with the Town and partners, the SHRA will work to build the market through public realm improvements, district-wide action steps to generate needed private investment.



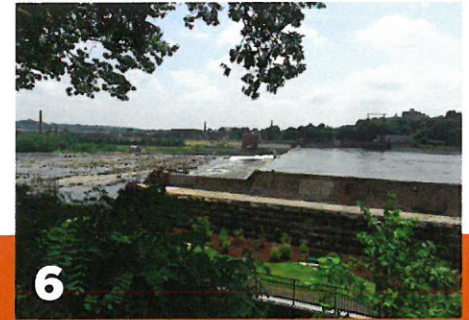
**4** The Gaylord Street Area

Brownfields clean-up and commercial redevelopment.



**5** The Falls Residential Neighborhoods

Housing rehabilitation and improved walkability.



**6** Water: Connecticut River & Buttery Brook

Improved viewsheds, access and multi-use recreation paths.

The Draft Urban Renewal and Redevelopment Plan is available on the Redevelopment Authority's webpage on the Town of South Hadley website at:

[www.southhadley.org/462/Redevelopment-Authority](http://www.southhadley.org/462/Redevelopment-Authority)

Submit Comments to the  
Planning and Conservation Department:

[acpra@southhadley.ma.gov](mailto:acpra@southhadley.ma.gov)  
(413) 538-5017 x208

## Business Development & Support Action Steps

- To foster and support entrepreneurship.
- To retain businesses in the Falls and to support existing and growing businesses.
- To support and encourage the development of educational and training opportunities in South Hadley Falls.
- To encourage area colleges and universities to offer classes and educational opportunities in South Hadley Falls.
- To support nomination and listing of South Hadley Falls' historic properties to the National Register of Historic Places enabling use of historic tax credits..
- To encourage the establishment of a Local Historic District in South Hadley Falls.
- Sign and façade program and connections to business technical assistance to help existing businesses grow.



View of potential Buttery Brook Multi-use Path.

## Public Realm Improvements

**The Gateway to the Falls: Bridge & Main Streets:** Bridge and Main St. is the gateway to South Hadley Falls and the intersection/ streetscape should be redesigned to reflect this status, to assure safe passage for pedestrians, bicyclists, and vehicles, and to encourage private investment in the Falls.

**Intersection Improvements:** To improve safety for all modes of travel – pedestrian, bicyclists, and motor vehicles, intersections at Bridge and Lamb St. and Main St. and Lamb St. are slated for improvements.

**Streetscape Improvements:** Streetscape improvements using a Complete Streets approach, including traffic calming, sidewalks, crosswalks, street trees, and decorative lighting and furnishings along Main, West Main, and Bridge Streets.

**Buttery Brook:** The buried Buttery Brook traverses the center of the Falls. A daylighting study and planning for a multi-use path connecting Falls neighborhoods with the Connecticut River path will be undertaken.

**Connecticut Riverfront Multi-Use Path:** Development of a Connecticut River multi-use path, with a priority of connecting Beachgrounds Park, Texon Park, and Canal Park is a key recreational amenity and attraction.

**Safety and Traffic Calming:** To provide for safer, more walkable area, traffic calming, such as bump-outs, crosswalks, raised crosswalks, and landscaping, will be undertaken on School Street and Main Street.

**Streets:** The SHRA will work with the Town to upgrade street conditions, on collector and arterial streets in the URRP area.

**Parking:** Parking lots on the south side of Main Street and at Beachgrounds Park are proposed for pavement, lighting and landscape upgrades.

**Transit:** Transit service for South Hadley Falls was reestablished in recent years by the Pioneer Valley Transit Authority. Sustaining and expanding transit is important to the revitalization of the Falls.

**Pedestrian Amenities, Sidewalks and Crosswalks:** A program to upgrade crosswalks/ sidewalks in the URRP area will be undertaken and will include signage for healthy walking routes.

**Accessibility:** SHRA will ensure redevelopment of the commercial district and recreational/ walkable areas are physically accessible to all, including persons with disabilities.

**Smith Park Landscape Enhancements:** The SHRA partnered with the Conway School of Design to develop a landscape design for Smith Park on Main and North Main Streets as an early action item.

**Utilities:** Existing water, sewer, and electric are sufficient for proposed development in the URRP. Storm water management/ drainage improvements are needed. Fiber optic upgrades are needed to attract businesses to the Falls. Creating public Wi-Fi hot spots is planned.

**Wayfinding and the Public Realm:** Art pieces, interpretative signs, and wayfinding signs reflecting South Hadley Falls' rich history, geography, natural resources and culture will be designed and installed.

**The Historic Canal:** The SHRA will commission a historic resources/ feasibility study for restoration of the canal, the first navigable canal in the US, to enhance the historic character and to provide a visitor amenity.

## APPENDIX B

### Part I Appointed by Selectboard

#### 7-22 COMMISSION ON DISABILITY

##### **A. TITLE AND PURPOSE:**

1. The name of this commission is the Commission on Disability (hereafter referred to as the Commission).
2. The purpose of the Commission is to coordinate or carry out programs in coordination with programs of the Massachusetts Office on Disability in order to bring about full and equal participation in all aspects of life in the Town of South Hadley - for people with disabilities.
3. The purpose of these by-laws is to establish principles, policies and procedures for the governance of this Commission.

##### **B. POWERS AND DUTIES:**

1. Research, understand, evaluate and advocate local issues, challenges and opportunities encountered by people with disabilities.
2. Coordinate the activities of other local groups organized to meet the needs of people with disabilities.
3. Review and make recommendations about policies, procedures, services and activities of departments and agencies of the Town of South Hadley - as they affect people with disabilities.
4. Work in cooperation with the departments and agencies of the Town of South Hadley- to bring about maximum participation of people with disabilities.
5. Initiate, monitor, and promote legislation at the city, state and federal level which advances the equal status of people with disabilities.
6. Encourage public awareness of disability issues.
7. Provide information and advice to individuals, businesses, organizations and public agencies in all matters pertaining to disability.
8. File an annual report, which shall be printed in the Town report.
9. Receive gifts of property, both real and personal in the name of the Town subject to the approval of the Selectboard or Town Meeting as appropriate.
10. Take such action as the Commission considers appropriate to ensure the equal access status of persons with disabilities.

##### **C. MEMBERSHIP:**

1. The Commission shall consist of five (5) members appointed by the Selectboard. The majority of members shall consist of people with disabilities. One of the members may be a member of the immediate family of a person with a disability. One member shall be either an elected or appointed official of the Town. The members shall initially serve the following terms: **(a.)** Two members shall serve one-year terms; **(b.)** Two members shall serve two-year terms; and **(c.)** One member shall serve three-year terms.
2. After the initial term, all members shall serve three-year terms.
3. Resignation shall be made by notifying the chairperson in writing and filing with the Town Clerk.

4. The Selectboard shall fill any vacancy for the remainder of the unexpired term in the same manner as an original appointment.
5. No Member may act on his/her own without prior approval of the Commission.

**D. OFFICERS:**

1. The officers shall include a chairperson, vice chairperson and secretary.
2. Officers shall be elected annually by the majority vote of the Commission.
3. Duties: The chairperson shall: Develop the agenda in coordination with the other officers; preside over all meetings; appoint subcommittees as needed; and authorize expenditures as needed. (The vice chairperson shall perform all the functions of the chairperson in his/her absence.) The secretary shall: Keep records of all meetings attendance, minutes, and correspondence; post notice of all meetings forty-eight (48) hours before each meeting at the Town Clerk's Office.

**E. MEETINGS:**

1. Regular meetings shall be held at least six (6) times a year.
2. A quorum shall consist of three (3) members.
3. This Commission will operate in accordance with Robert's Rules of Order.

## **South Hadley General Bylaws: Part II General Legislation**

### **Chapter 245: Earth Removal Incidental to Construction Activities**

#### **§ 245- 1 Purpose and objectives.**

The purpose of this bylaw is to regulate earth removal incidental to construction activities in the Town of South Hadley.

A. In pursuit of this purpose, the objectives of this bylaw include the following:

- (1) To permit reasonable removal of earth for agriculture, residential, business, and industrial uses, while also protecting the value of the land within the Town and without imposing undue risk to the general public.
- (2) To limit earth removal from any agricultural, commercial, residential or commercial development to a reasonable and essential amount which is incidental to the primary principal end use.
- (3) To require that earth removal operations are conducted in a manner that will cause the least stress and harm to the Town's natural resources.
- (4) To prevent detriment to adjacent neighborhoods and abutting parcels from earth removal activities.
- (5) To prevent cumulative damage to landscape, aquifer, topography, and related valuable and nonrenewable natural resources, while not unreasonably interfering with necessary, desirable, or creative land uses.

#### **§ 245- 2 Authority.**

This bylaw is adopted pursuant to the authority granted under General Laws Chapter 40, § 21, clause 17, and shall be effective Town-wide.

#### **§ 245- 3 Definitions.**

##### **AGRICULTURAL EXCAVATION**

The process of removing earth or other materials that are necessary and incidental to prepare a site for specific agricultural use.

##### **BOARD**

The South Hadley Planning Board.

##### **EARTH**

All material normally and naturally composing part of the earth's surface and immediate subsurface, excluding water, including but not limited to, soil, clay, gravel, hard pan, loam, rock, peat and sand.

## **EARTH REMOVAL PERMIT**

**A written permit issued by the Board pursuant to this bylaw allowing earth removal subject to conditions.**

## **INCIDENTAL**

**Meeting all of the following criteria:**

- A. Is minor in significance to the primary use of a premises;**
- B. Is commonly established as customarily associated with the primary use of a premises;**
- C. Is necessary to carry out the primary use of the premises; and**
- D. Is minor in its net effect to that of the principal use, based on the amount of material to be removed and the time period over which it is to be removed.**

## **PREMISES**

**One lot or all abutting lots or parcels which are, or are proposed to be, in the same ownership or use, together with all buildings and structures thereon.**

## **REMOVE/REMOVAL**

**The severance of any Earth from its natural location, whether or not such Earth is moved from the lot to another location on the same lot or off the lot, by any means, including but not limited to, stripping, excavating, mining or blasting.**

## **RESTORATION**

**After an earth removal activity is completed, returning the land contours to a safe and usable condition, restoring drainage patters, and planting appropriate vegetation.**

## **§ 245- 4 Applicability.**

**This bylaw shall be in addition to any other permits or approvals required by the Town of South Hadley. Nothing in this bylaw shall prevent the application of the South Hadley Zoning Bylaws.**

## **§ 245- 5 Grandfathering.**

**This bylaw shall not apply to properly permitted sand and gravel operations lawfully in existence on the effective date of this bylaw. Entities operating pursuant to an earth removal special permit under the South Hadley Zoning Bylaw as of the effective date hereof and seeking renewal of an earth removal special permit then in existence shall not be subject to this bylaw.**

## **§ 245- 6 Earth Removal Prohibited.**

- A. No person, firm, corporation, or other entity shall excavate and/or remove any Earth from any lot in the Town of South Hadley, unless such activity is authorized by an Earth Removal Permit issued by the Board.**

- B. Earth removal is prohibited unless it is: 1) necessary and incidental to a lawful end use for which all local and state permits required by law have been issued, or 2) exempt pursuant to Article 5 of this bylaw.

**§ 245- 7 Conditional Exemptions.**

- A. No Earth Removal Permit shall be required for the following activities under this bylaw, provided the activities do not constitute a nuisance or danger to the public and conform to accepted engineering or agricultural practices:
  - (1) The Commissioner of Public Works and his/her agents and employees may perform Earth Removal activities in the performance of their public duties on any public way and on Town property.
  - (2) Earth Removal incidental to the permitted construction of foundations of buildings, walks, driveways, septic systems or swimming pools, and incidental to the installation of utilities, provided that the quantity of Earth subject to Removal does not exceed that displaced by the portions of construction and installation below finished grade.
  - (3) 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.
  - (4) Earth Removal incidental to an approved definitive subdivision plan, or an approved business or industrial development plan, in which the amount of Earth subject to Removal does not exceed 5000 cubic yards in one calendar year, if the Earth is transported off the lot. The 5000 cubic yards shall not include Earth Removal which is incidental to the construction of foundations, walks, driveways, septic systems or swimming pools.
  - (5) Earth Removal incidental to landscaping, and/or clearing, and in which the amount of Earth subject to Removal does not exceed 10 cubic yards per acre of land in one calendar year, if the Earth is transported off the lot, and does not exceed 10 cubic yards per acre of land in one calendar year, if the Earth is transported within the lot.
- B. The foregoing conditional exemptions shall be subject to inspection, determination, and enforcement by the Building Commissioner.
- C. The Building Commissioner shall issue a cease and desist order in any case in which the Building Commissioner determines that:
  - (1) the earth removal activity would not be necessary and incidental to an identified lawful principal use, a lawful structure, an approved subdivision road, or lawful utility installation; or
  - (2) The earth removal activity would be excessive in scope or nature to the foregoing end use or structure; or
  - (3) Would create unsafe conditions on or off the property; or
  - (4) Would be a detriment or nuisance to nearby landowners or to the Town in general by reason of noise, dust, vibration, or other objectionable conditions.

**§ 245- 8 Fill.**

**A statement may be required from a certified professional to verify the source and content of fill material if the Earth Removal Permit is issued for the placement of fill. The analysis of the content of the fill material may be required so as to detect the presence and quantity of hazardous or substandard materials. This analysis shall be conducted by a certified professional hired by the Board at the expense of the applicant.**

**§ 245- 9 Application.**

**An application for an Earth Removal Permit shall be in writing. The application shall contain an accurate description of the portion of land on which the excavation will take place, shall state fully the purpose of the excavation, shall include payment of fees established by the Board, and shall include plans drawn by a registered surveyor or engineer. The application shall contain the following information:**

- A. The precise location of the proposed excavation as part of the total land area of the subject property;**
- B. The legal name and address of each owner of the property for which the permit is requested;**
- C. The name and address of the applicant and the address which shall be sufficient for any notice required under the bylaw;**
- D. The property lines, names and addresses of all abutters, including those across any way, from the most recent tax list as certified by the Board of Assessors;**
- E. Existing contours at two-foot intervals in the area from which material is to be excavated and in surrounding areas, together with the contours at two-foot intervals below which no excavation shall take place;**
- F. Natural features such as wetlands, the 100-year floodplain, ground cover, surface water and groundwater. Water table elevation shall be determined by test pits and soil borings satisfactory to the Board. A log of soil borings shall be included, taken to the depth of the proposed excavation, congruent with the size and geological make-up of the site;**
- G. A topographical map showing drainage facilities, final grades, and proposed vegetation and trees;**
- H. Dust, erosion, and sediment-control plans for the site and trucks removing earth;**
- I. The amount and cost of proposed restoration materials, and the source from which the applicant intends to obtain them;**

- J. Estimated quantity of material to be removed and topsoil to be replaced and the method to be used, verified by a registered surveyor or professional engineer;
- K. The proposed form of bond and the name and address of the bond issuer;
- L. An estimate of the number of truck trips, location of truck routes, and hours of truck traffic;
- M. Designation on the required plan of any and all proposed phases and the number of cubic yards to be excavated in each, not to exceed 10 acres or 10 cubic yards, whichever is less;
- N. Restoration, reuse and/or revegetation plan; and
- O. Any other information which the Board may require.

**§ 245- 10 Hearing and Decision.**

An Earth Removal Permit shall be granted only by an affirmative vote of a majority of the Board. Following receipt of an application for a permit for removal of earth from any land and determination by the Board or its designated agent that the application is complete, the Board shall appoint a time and place for a public hearing, not later than 45 days after the receipt of the completed application, notice of which shall be given to the applicant. The Board's decision shall be issued within 45 days of the close of the hearing.

**§ 245- 11 Term.**

An Earth Removal Permit shall be issued for a period of 1 year. The Board may, in its discretion, grant an extension of an Earth Removal Permit for 6 months beyond the initial period, but no such extension shall be issued unless the applicant has conformed to all requirements of the original Earth Removal Permit.

**§ 245- 12 Surety.**

The Board shall require as a condition to the granting of the Earth Removal Permit that the applicant furnish a performance bond, or other security, satisfactory to the Board. The minimum amount of any financial security shall be sufficient to cover the estimated cost of reclamation, plus reasonable contingency. The security shall not be released until a Board-approved surveyor or engineer has filed with the Board an "as built" plan and has also certified that the restoration has been completed in compliance with the Earth Removal Permit and the plans.

**§ 245- 13 Enforcement and Penalties.**

- A. The Board or its designee shall enforce this bylaw and may pursue all available remedies for violations or take any other action relative thereto.**
- B. In accordance with General Laws Chapter 40, § 21, clause 17, penalties for violation of this bylaw shall be: \$50 for the first offense, \$100 for the second offense, and \$200 for each subsequent offense. Each day in which a violation occurs shall constitute a separate offense.**

**§ 245- 14 Revocation.**

**The Board may revoke any Earth Removal Permit which it has issued for good cause, provided that it shall in writing offer to the permit holder an opportunity for a hearing within seven days after the revocation.**

**§ 245- 15 Severability.**

**The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision or phrase thereof.**

## Appendix D

### Chapter 18 – Elections and Elected Officials.

To see if the Town will vote to amend Chapter 18 section 18-1 and 18-7 of the Town of South Hadley General Bylaws as follows (**underline and bold** new language, ~~cross-out~~ removed language):

#### **§18-1 Annual election.**

The annual election of Town officers shall be held on the second Tuesday of April of each year, **except in 2020 when the annual election shall be held on March 3.** The Selectboard may adjust this schedule to accommodate religious holidays **or a national election primary so long as the rescheduled date is within sixty (60) days of the second Tuesday in April.** The Selectboard must vote to make the change 90 days prior to the election and inform the Town Clerk in writing.

#### **§ 18-7 Terms of office; oath.**

The term of office of an elected Town officer shall commence following his or her election immediately upon administration by the Town Clerk of the oath of office **except where the election is held before the second Tuesday in April, in which case the Term shall commence on the day after the second Tuesday in April. Where the election is held after the second Tuesday in April, the Term shall commence the day after the election and any Term office in existence shall continue to the day following the election.** The oath of office will be administered by the Town Clerk for all elected and/or appointed officials prior to their participation on a board or committee; and, furthermore, the Clerk may make additional requests prescribed by Massachusetts General Laws or these General Bylaws before the appointee may participate as a member of a board or commission.

Or take any other action relative thereto.

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**November 20, 2019 Special Town Meeting**

**Article 15**

**Section 255-35**

**Article 15.** 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 further articulated in the Planning Board’s Report to Town Meeting (Appendix E), or take any other action relative thereto.

The changes to be made in the Zoning Bylaw are as follows:

- 1. Amend Section 255-35A - “Purposes” of the South Hadley Zoning Bylaw by inserting the phrase “and development” following the phrase “the regional form any use” and to insert the following phrase after the phrase “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.*

**Thus, the revised Section 255-35A will read as follows:**

*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*

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*surface water supply and watershed areas for the public health and safety; and to prevent blight and the pollution of the environment.*

**2. Amend Section 255-35B - “Scope of Authority” of the South Hadley Zoning Bylaw by adding the following sentence at the end of the section:**

*“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.”*

**Thus, the revised Section 255-35B will read as follows:**

*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.*

**3. Amend Section 255-35E - “Prohibited uses” of the South Hadley Zoning Bylaw in subparagraph (1)(a) by deleting the portion of subparagraph (1)(a) following the phrase “310 CMR 30.00” in its entirety:**

*“, 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;”*

**4. Amend Section 255-35E - “Prohibited uses” of the South Hadley Zoning Bylaw in subparagraph (3) by deleting the word “automotive” and inserting the phrase “motor vehicle” in its place.**

**5. Amend Section 255-35E - “Prohibited uses” of the South Hadley Zoning Bylaw in subparagraph (4) by deleting the portion of subparagraph (4) following the phrase “sludge and septage” in its entirety:**

*“, with the exception of the disposal of brush or stumps.”*

**6. Amend Section 255-35E - “Prohibited uses” of the South Hadley Zoning Bylaw in subparagraph (6) by adding the phrase “and fertilizers” at the end of the subparagraph.**

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**7. Amend Section 255-35E - “Prohibited uses” of the South Hadley Zoning Bylaw by adding the following new subparagraph (11) to read as follows:**

*(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).*

**8. Amend Section 255-35F - “Restricted uses” of the South Hadley Zoning Bylaw by deleting the existing paragraph (1) in its entirety:**

*(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 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.*

**9. Amend Section 255-35F - “Restricted uses” of the South Hadley Zoning Bylaw by inserting the following new paragraph (1) in its entirety:**

*(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.*

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- 10. Amend Section 255-35F - “Restricted uses” of the South Hadley Zoning Bylaw in paragraph (9) by inserting the word “covered” between the words “freestanding” and “container”.**
- 11. Amend Section 255-35F - “Restricted uses” of the South Hadley Zoning Bylaw by inserting the following new paragraph (10) in its entirety:**

*(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.*

- 12. Amend Section 255-35H - “Special permit uses” of the South Hadley Zoning Bylaw by inserting the following introductory paragraph following the heading “Special permit uses” in its entirety:**

*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).*

- 13. Amend Section 255-35H - “Special permit uses” of the South Hadley Zoning Bylaw by deleting the existing paragraph (1) (but not subparagraphs (a), (b) or (c) which exist under said paragraph (1)):**

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

- 14. Amend Section 255-35H - “Special permit uses” of the South Hadley Zoning Bylaw by inserting a new paragraph (1) to precede the remaining subparagraphs (a), (b) or (c) such that the paragraph (1) with the subparagraphs will read as follows:**

*(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.*

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*(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.)*

**15. Amend Section 255-35H - “Special permit uses” of the South Hadley Zoning Bylaw in paragraph (2) by deleting subparagraph (a) not sentences/items “[1] and [2] which exist under said subparagraph (2)(a):**

*(a) The applicant shall file six copies of a plan prepared by a qualified professional with the special permit granting authority. In addition to those rules and regulations contained in the special permit application (Form SP), the plan shall include:*

**16. Amend Section 255-35H - “Special permit uses” of the South Hadley Zoning Bylaw in paragraph (2) by inserting a new subparagraph (a) to precede the remaining sentences/items [1] and [2] such that the subparagraph (2)(a) with the sentences/items [1] and [2] will read as follows:**

*(a) The applicant shall file 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, 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 to prevent seepage from sewer pipes.*

**17. Amend Section 255-35H - “Special permit uses” of the South Hadley Zoning Bylaw in paragraph (3) by changing “35” to “50”.**

**18. Amend Section 255-35H - “Special permit uses” of the South Hadley Zoning Bylaw in paragraph (3) by adding the following sentence and sentences/items to the end of subparagraph (a) in its entirety:**

*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*

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[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.*

*Said boards/commissions may also make any additional comments/recommendations which they deem appropriate relative to the purposes of the Water Supply Protection District.*

**Thus, the revised Section 255-35H, paragraph (3)(a) will read as follows:**

(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 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.*

*Said boards/commissions may also make any additional comments/recommendations which they deem appropriate relative to the purposes of the Water Supply Protection District.*

**19. Amend Section 255-35H - "Special permit uses" of the South Hadley Zoning Bylaw in paragraph (3) by adding the following new subparagraph (d) in its entirety:**

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*(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 fewer 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.*

**OBJECTIVES:** The proposed amendments seek to better protect the public water supply by clarifying the purposes and existing provisions, to make clear the limited scope of Earth Removal/Extraction/Fill activities which may be undertaken within the WSPD, to resolve any deficiencies in the WSPD in regards to the DEP Wellhead Protection requirements while not weakening locally desired protections, and to clarify the purposes of the various boards/commissions voting on requested Special Permits..

To summarize what the amendments seek to do and do not do:

- 1). Do NOT change the WSPD boundaries
- 2). Do NOT change existing dimensional requirements for building lots
- 3). Incorporate much of the amendments which had been developed in the Spring including addressing MassDEP concerns
- 4). Clarify the purpose of the votes by the Board of Health, the Conservation Commission and the Water Commissioners under Section 255-35H
- 5). Clarify what Special Permit applications require a vote by the Board of Health, the Conservation Commission and the Water Commissioners

**EXISTING PROVISIONS:** The existing Section 255-35 of the Zoning Bylaw is provided in Attachment A.

**SUMMARY:** This article makes a variety of changes in Section 255-35.

**BACKGROUND:** Since mid-2018 there has been considerable interest in strengthening protection of the District 2 Public Water Supply which is centered on Dry Brook Hill. During this time, many residents of the Town, the Board of Health, Conservation Commission, District 2 Water Commissioners, and representatives of Mount Holyoke College expressed deep and passionate concerns regarding the potential impact which earth removal and other activities may have on the public water supply serving a third of South Hadley's residents and several of our major developments and institutions. In Spring 2019, the Planning Board proposed revisions to Section 255-35 and had made proposals for such revisions for the May 2019 Annual Town Meeting. However, there was significant disagreement over some of the draft provisions. As a result, the Planning Board withdrew the article and committed to bringing back a revised article this Fall. This article fulfills that commitment and was developed based on consultation with the

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chairs of the District 2 Board of Water Commissioners, Board of Health, and Conservation Commission.

This current article #PB-01 comprehensively revises various sections of 255-35 to fulfil the objectives stated above.

**RELATIONSHIP TO MASTER PLAN:** There is not a direct, clear relationship to the Master Plan, adopted in 2010. However, one of the core principles around which the Master Plan was organized was “Sustainability”:

***Sustainability:***

*Promoting policies and actions that will meet the needs of the present without compromising the ability of future generations to meet their own needs. Sustainability should be understood broadly to include maintaining a long-range focus for Town actions and investments as well as the stewardship of the Town’s natural lands, parks, and public buildings. Sustainability also implies renewed attention to efficiency, or making the most of what we have, whether measured in infrastructure, energy, money, or time, or in natural resources like land and water.*

Preservation of public drinking water is an essential need to maintain the community’s ability to sustain life and maintain development. There can be no debate that without public drinking water, South Hadley would be in dire straits. District 2 represents approximately a third of the Town’s population and is dependent on the aquifer supplying the District’s public well for its sustainability – in all respects.

This proposed article, particularly when taken in conjunction with Articles 22, 23, and 25, clearly furthers the principle of Sustainability as embodied in the Master Plan excerpt provided above.

Additionally, the Master Plan has five “Core Initiatives” that serve as the base for the Master Plan’s implementation strategies. Two of these are of particular relevance to this article as it seeks to better protect vital resources and enhance the Town’s regulatory tools:

***Core Initiative 4: Secure open space in the range, river and rural areas***

Goal: Assure robust conservation and stewardship of targeted open spaces in the Mt. Holyoke Range, the rural areas north of the Town Common, and along the Connecticut River.

***Core Initiative 5: Updating the Regulatory Infrastructure to Support the Community's Desired Outcomes***

Goal: Develop and adopt a modern, efficient and effective regulatory infrastructure that creates a framework for enhancing South Hadley’s community, economy, and aesthetic quality.

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**PUBLIC HEARING:** The Planning Board conducted a public hearing on this article on Monday October 7, 2019. Generally, the comments received during the public hearing were supportive of the efforts to enhance protection of the Water Supply Protection District (WSPD). There was a suggestion that there is not a reason to change the “purpose” of the WSPD. Generally, comments were supportive of the proposed changes.

**RECOMMENDATION:** The Planning Board, at their October 28, 2019 meeting, by a 5 Yes and 0 No vote, voted to recommend adoption of this Article as presented. The Planning Board, at their October 28, 2019 meeting, by a 5 Yes and 0 No vote, voted to approve this report.

**ANNOTATED PROVISIONS:** An annotated version of the existing Section 255-35 of the Zoning Bylaw is in Attachment B. Letters and words proposed to be deleted are identified with “strike through markings“ while letters and words proposed to be inserted are identified as “italicized, underlined”.

**MAPS:** The issue of the possible reduction in the Water Supply Protection District boundaries has been discussed at several meetings; however, this Article does not propose any change in the boundaries. Therefore, the following map is provided as an attachment to this report:

- *Attachment C:* Existing Water Supply Protection District Boundary

**Attachment A**  
**Existing Section 255-35**

**§ 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 of land or buildings which may reduce the quality and quantity of its water resources.
- 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.
- 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 this section and § **255-84** are met, and an earth removal permit is granted by the Building

**Attachment A**  
**Existing Section 255-35**

Commissioner.

- (9) Wireless communications facilities when approved pursuant to §§ **255-19** 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 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.

**Attachment A**  
**Existing Section 255-35**

- (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.
- (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.
- 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 installation or maintenance of structural foundations,

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

**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

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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.

- (1) Uses allowed by special permit. The following uses may be allowed 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 special permit granting authority. In addition to 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 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.

**Attachment A**  
**Existing Section 255-35**

- [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 days of distribution of the applications shall be deemed to be lack of opposition.
  - (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, 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.
- 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.

## Attachment B

## Section 255-35 Annotated – with proposed amendments

## Legend regarding changes

xxxxxxx – text to be deleted (light highlight, ~~strike through~~)

xxxxxxx – new text to be inserted (**yellow highlight, bold, underlined, italicized**)

xxxxxxx – text inserted in May 2019 amendment but not yet approved by the Attorney General's Office (**yellow highlight only** – not bold, underlined, or italicized)

## § 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

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## Section 255-35 Annotated – with proposed amendments

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 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. (NOTE: change approved in May 2019)
  - (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,

## Attachment B

**Section 255-35 Annotated – with proposed amendments**

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.

- (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). (NOTE: inserted in May 2019)**
- (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).**

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## Section 255-35 Annotated – with proposed amendments

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 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

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**Section 255-35 Annotated – with proposed amendments**  
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 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.)

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## Section 255-35 Annotated – with proposed amendments

- (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 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,***

## Attachment B

## Section 255-35 Annotated – with proposed amendments

**[4] Recommendations for conditions which would remedy any deficiencies in the proposed plans.**

**Said boards/commissions may also make any additional comments/recommendations which they deem appropriate relative to the purposes of the Water Supply Protection District.**

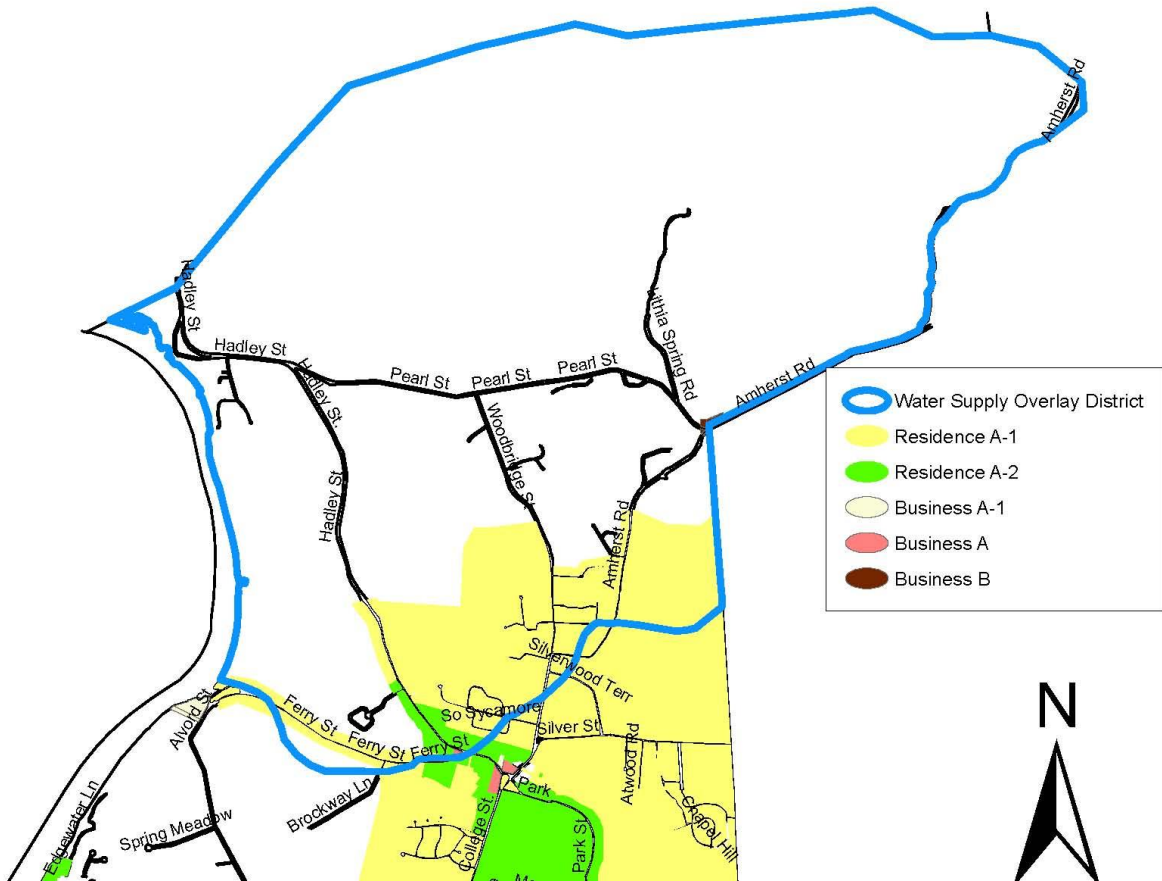
- (b) The special permit granting authority may grant the required special permit only upon finding that the proposed use meets the following standards and those specified in Article IX of this bylaw. The proposed use must:
  - [1] In no way, during construction or thereafter, adversely affect the existing 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, 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 fewer 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.

Attachment C

Water Supply Protection District Boundaries 2019



APPENDIX F  
REPORT OF PLANNING BOARD ON PROPOSED ARTICLE MAKING REVISION TO  
THE ZONING BYLAW IN REGARDS TO THE EARTH REMOVAL EXTRACTION  
AND/OR FILL ACTIVITIES SECTION 255-84

(Article 16)

**November 20, 2019 Special Town Meeting**

**Article 16**

**Section 255-84**

**Article 16.** 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; in Section 255-84D(1) by expanding the prohibited area for major earth removal, excavation, or fill activity to include the Water Supply Protection District; Section 255-84D(3) by changing “five” feet” to “ten feet” (or another dimension); and by replacing Section 255-84F Surety requirement a new Section 255-84F Performance guarantee requirement as further articulated in the Planning Board’s Report to Town Meeting (Appendix F), or take any other action relative thereto.

The changes to be made in the Zoning Bylaw are as follows:

- 1. Amend Section 255-84A - “Permit required; exemptions” of the South Hadley Zoning Bylaw by revising the existing subparagraph (b) under paragraph (2) - Exemptions and to insert two sentences under said revised subparagraph (b) such that the subparagraph and sentences are to read as follows:**

*(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.*

- 2. Amend Section 255-84C - “Planning Board approval required; application requirements” of the South Hadley Zoning Bylaw by inserting the following new sentences under paragraph (4) regarding “Supplemental application requirements”:**

*(d) Proposed reuse plan including, but not limited to, a revegetation plan*  
*(e) Additional information/materials as required under the Special Permit Granting Authority’s Rules & Regulations.*

APPENDIX F  
REPORT OF PLANNING BOARD ON PROPOSED ARTICLE MAKING REVISION TO  
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AND/OR FILL ACTIVITIES SECTION 255-84

(Article 16)

**3. Amend Section 255-84D - “Limitations on operations” of the South Hadley Zoning Bylaw by adding the following phrase to subparagraph (1) – “Prohibited Area”:**

*“and such additional areas which are within the Water Supply Protection District as defined and delineated in Section 255-15 and Section 255-35 of the Zoning Bylaw.”*

**Thus, the revised Section 255-84D, subparagraph (1) will read as follows:**

*(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 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 and such additional areas which are within the Water Supply Protection District as defined and delineated in Section 255-15 and Section 255-35 of the Zoning Bylaw.*

**4. Amend Section 255-84D - “Limitations on operations” of the South Hadley Zoning Bylaw in subparagraph (3) – “Depth to water table by changing “five feet” to “ten feet”.**

**5. Amend Section 255-84F - “Surety requirements” of the South Hadley Zoning Bylaw by deleting the existing Section 255-84F in its entirety:**

*F. Surety 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.*

**6. Amend Section 255-84 of the South Hadley Zoning Bylaw by inserting a new Section 255-35F to read as follows:**

*F. Performance guarantee requirement. The Planning Board may require a 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.*

**OBJECTIVES:** The proposed amendments seek to better protect the public water supply by:

- 1) Bringing Section 255-84 into conformity with the change made in regards to Earth Removal at the May 2019 Annual Town Meeting; and,
- 2) Clarifying and expanding the conditions under which activities may be exempt for a Definitive Subdivision; and,
- 3) Bringing Section 255-84 into conformity with the proposed changes in Section 255-35 in regards to depth to high ground water; and,

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REPORT OF PLANNING BOARD ON PROPOSED ARTICLE MAKING REVISION TO  
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(Article 16)

- 4) Providing the Planning Board with more control as to the setting the amount and form of the performance guarantee consistent with the Special Permit provisions of the Zoning Bylaw; and,
- 5) Clarifying/expanding the application submittal requirements.

**EXISTING PROVISIONS:** The existing Section 255-84 of the Zoning Bylaw is provided in Attachment A.

**SUMMARY:** This article makes a variety of changes in Section 255-84 to strengthen protection of the public water supply and enhancement to the broader community.

**BACKGROUND:** At the May 2019 Annual Town Meeting, the Zoning Bylaw was amended in Section 255-19 and Section 255-35 to prohibit Major Earth Removal in the Water Supply Protection District. But, the same prohibition was not extended to Section 255-84. Additionally, since the Annual Town Meeting, discussions have been held which have resulted in a determination that there should be additional protections afforded the public water supply for District 2 from uses which are otherwise permitted – such as subdivisions. These are the primary impetuses for this article. In the course of developing this article, other issues such as the depth to ground water, the performance guarantee and some inconsistent application requirements were identified which this article seeks to address.

This current article #PB-02comprehensively revises various sections of 255-84 to fulfil the objectives stated above.

**RELATIONSHIP TO MASTER PLAN:** There is not a direct, clear relationship to the Master Plan, adopted in 2010. However, one of the core principles around which the Master Plan was organized was “Sustainability”:

***Sustainability:***

*Promoting policies and actions that will meet the needs of the present without compromising the ability of future generations to meet their own needs. Sustainability should be understood broadly to include maintaining a long-range focus for Town actions and investments as well as the stewardship of the Town’s natural lands, parks, and public buildings. Sustainability also implies renewed attention to efficiency, or making the most of what we have, whether measured in infrastructure, energy, money, or time, or in natural resources like land and water.*

Preservation of public drinking water is an essential need to maintain the community’s ability to sustain life and maintain development. There can be no debate that without public drinking water, South Hadley would be in dire straits. District 2 represents approximately a third of the Town’s population and is dependent on the aquifer supplying the District’s public well for its sustainability – in all respects.

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REPORT OF PLANNING BOARD ON PROPOSED ARTICLE MAKING REVISION TO  
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(Article 16)

This proposed article, particularly when taken in conjunction with Articles PB-01, clearly furthers the principle of Sustainability as embodied in the Master Plan excerpt provided above.

Additionally, the Master Plan has five “Core Initiatives” that serve as the base for the Master Plan’s implementation strategies. Two of these are of particular relevance to this article as it seeks to better protect vital resources and enhance the Town’s regulatory tools:

***Core Initiative 4: Secure open space in the range, river and rural areas***

Goal: Assure robust conservation and stewardship of targeted open spaces in the Mt. Holyoke Range, the rural areas north of the Town Common, and along the Connecticut River.

***Core Initiative 5: Updating the Regulatory Infrastructure to Support the Community's Desired Outcomes***

Goal: Develop and adopt a modern, efficient and effective regulatory infrastructure that creates a framework for enhancing South Hadley’s community, economy, and aesthetic quality.

**PUBLIC HEARING:** The Planning Board conducted a public hearing on this article on Monday October 28, 2019. Comments received during the public hearing were supportive of the proposed amendments and the Planning Board’s efforts to strengthen protection of the Water Supply.

**RECOMMENDATION:** The Planning Board, at their October 28, 2019 meeting, by a 5 Yes and 0 No vote, voted to recommend adoption of this Article as presented. The Planning Board, at their October 28, 2019 meeting, by a 5 Yes and 0 No vote, voted to approve this report.

**ANNOTATED PROVISIONS:** An annotated version of the existing Section 255-84 of the Zoning Bylaw is in Attachment B. Letters and words proposed to be deleted are identified with “strike through markings“ while letters and words proposed to be inserted are identified as “italicized, underlined”.

**MAPS:** The issue of the possible reduction in the Water Supply Protection District boundaries has been discussed at several meetings; however, this Article does not propose any change in the boundaries. Therefore, the following map is provided as an attachment to this report:

- *Attachment C:* Existing Water Supply Protection District Boundary

## Attachment A

## Existing Section 255-84

§ 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.

## 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 items required under this section of the Zoning Bylaw.
- (3) Application requirements. Each application for Planning Board approval shall include the following items:

**Attachment A****Existing Section 255-84**

- (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.
- (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 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.
  - (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.

**Attachment A**

**Existing Section 255-84**

- (3) Depth to water table. No excavation activity shall be nearer than five 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. 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.

Attachment B

Section 255-84 Annotated – with proposed amendments

Legend regarding changes

xxxxxxx – text to be deleted (highlight, strike through)

xxxxxxx – new text to be inserted (yellow highlight, bold, underlined, italicized)

§ 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

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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 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

## Attachment B

**Section 255-84 Annotated – with proposed amendments**

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 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 **and such additional areas which are 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. 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.~~
- F. Performance guarantee requirement. The Planning Board may require a 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.**

Attachment C

Water Supply Protection District Boundaries 2019

