

MARK CAVANAUGH, Chair
 MELISSA O'BRIEN, Vice-Chair
 DIANE SUPCZAK-MULVANEY, Clerk
 BRAD HUTCHISON, Member
 JOANNA BROWN, Member
 LARRY BUTLER, Associate Member

RICHARD HARRIS, Director of Planning & Conservation

**TOWN OF SOUTH HADLEY
 NOTICE OF PLANNING BOARD PUBLIC HEARING
 Relative to Proposed Zoning By-Law and Map Amendments**

Pursuant to the provisions of South Hadley Zoning By-Law, Article II and M.G.L. Chapter 40A, Section 5, the Planning Board of the Town of South Hadley will hold a public hearing to discuss proposed amendments to the South Hadley Zoning By-Law regarding Section 255-84 (Earth removal, extraction, and fill regulations) as noted herein. The public hearing will be held as follows:

Place: South Hadley Town Hall, Selectboard Meeting Room;
 116 Main Street, South Hadley, MA
 Date: Monday, October 28, 2019
 Time: 6:15 p.m.

The subject matter of the proposed amendments to the Zoning By-Law and Zoning Map are as follows:

Article PB-2. To see if Town Meeting will amend Chapter 255 (the Zoning Bylaw) in Section 255-84A(2)(b) by specifying limitations under which a Development of site improvements for a subdivision is exempt from an Earth removal, excavation, and/or fill permit; in Section 255-84C (4) by adding additional supplemental application requirements; 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 detailed in the Planning Board’s Report to Town Meeting, or take any other action relative thereto.

The complete text and maps (if any are applicable) relative to the proposed amendments are available for inspection during regular business hours (8:30 a.m. to 4:30 p.m.) at the following place:

South Hadley Planning & Conservation Department
 Town Hall – 116 Main Street - Room 204
 South Hadley, MA 01075

Additionally, a copy of said proposed amendments is posted on the Planning & Conservation Department page of the Town’s website under “Proposed Bylaw Amendments” – Fall 2019 Proposals. Any person interested in, or wishing to be heard on, the proposed by-law amendment should appear at the time and place designated for the public hearing.

Diane Supczak-Mulvaney, Clerk
 South Hadley Planning Board

Publication: Friday, October 11, 2019
 Friday, October 18, 2019

Fall Town Meeting Zoning Bylaw Amendments – Section 255-84 Public Hearing Draft

Article PB-2. To see if Town Meeting will amend Chapter 255 (the Zoning Bylaw) in Section 255-84A(2)(b) by specifying limitations under which a Development of site improvements for a subdivision is exempt from an Earth removal, excavation, and/or fill permit; in Section 255-84C (4) by adding additional supplemental application requirements; 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 detailed in the Planning Board’s Report to Town Meeting, or take any other action relative thereto.

Fall Town Meeting Zoning Bylaw Amendments – Section 255-84 Public Hearing Draft

Regarding Proposed Article PB-2, the changes to be made in Section 255-84 of 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.*

- 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.

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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 permit from the Planning Board. Applications for such a special permit must include all

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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 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

*PB – 2**Section 255-84 Annotated – with proposed amendments*

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.