

Fall Town Meeting Zoning Bylaw Amendments – Public Hearing Drafts

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

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

Regarding Proposed Article PB-1, the changes to be made in Section 255-35 of 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 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.**

- 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.

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.

(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*
- [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:

(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.