ARTICLE 16

Section 255-84

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.
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,
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)

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-02 comprehensively 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.
APPENDIX F
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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
§ 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.
§ 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.

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(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
Attachment B

Section 255-84 Annotated – with proposed amendments
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.

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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.

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(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.

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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