

**2005 Annual Town Meeting, Sudbury, Massachusetts**

**ARTICLE 40. AMEND ZONING BYLAW, ART. IX. 4200 -**  
**WATER RESOURCE PROTECTION OVERLAY DISTRICTS**

To see if the Town will vote to amend the Zoning Bylaw, Article IX, Section 4200, by deleting the existing bylaw in its entirety, and substituting therefor the following:

**"4200. WATER RESOURCE PROTECTION OVERLAY DISTRICTS.**

**4210. Purpose.** The purposes of the Water Resource Protection Overlay District (WRPOD) are (a) to promote the health, safety, and general welfare of the community; (b) to protect, preserve and maintain the existing and potential water supply and ground water recharge areas within the Town; (c) to preserve and protect present and potential sources of water supply for the public health and safety; (d) to conserve the natural resources of the Town; (e) to prevent the pollution of the environment; and (f) to provide for monitoring of ground and surface water quality in areas of present and potential water supply sources to accomplish detection of potential contamination at an early stage, thereby minimizing damage to such sources. Review of proposed development by the Town will be performed with the goal of satisfying these purposes and preserving or improving groundwater quality wherever possible. Water Resource Protection Overlay Districts are delineated on the basis of the location of aquifers, aquifer contribution zones and aquifer recharge zones, as defined herein, within the Town. It is intended that this bylaw will serve as a framework whereby additional such areas may be identified for mapping and inclusion within the protection of this bylaw.

**4220. Overlay District.** The Water Resource Protection Overlay District shall be considered as overlaying other zoning districts. These overlay districts shall apply to all new construction, reconstruction, or expansion of existing buildings and new or expanded uses. Applicable activities or uses which fall within the Water Resource Protection Overlay District must comply with the requirements of these districts as well as those of the underlying zoning district. Uses not permitted in the portions of the districts so overlaid shall not be permitted in the Water Resource Protection Overlay District.

4221. Definitions

Aquifer

Geologic formation, composed of rock, sand or gravel that contains significant amounts of potentially recoverable water.

Best Management Practices (BMPs)

Any structural or non-structural mechanism designed to minimize the impact of nonpoint source pollution on receiving waters or resources, including, but not limited to: detention ponds, construction or installation of vegetative swales and buffers, street cleaning, reduced road salting, and public education programs.

Design Flow

The quantity of sanitary sewage, expressed in gallons per day (gpd), for which a system must be designed in accordance with 310 CMR 15.203 (Title 5).

Hazardous or Toxic Materials

Any chemical, combustible liquid, compressed gas, explosive, flammable aerosol, gas, liquid or solid, health hazard, mixture, organic peroxide, oxidizer, physical hazard, pyrophoric, unstable (reactive) or water reactive, as defined under Title 29 of the Code of Federal Regulations, Section

1910.1200(c) and any other chemical, material or substance identified as hazardous based on available scientific evidence. Hazardous or toxic materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, and all substances defined as toxic or hazardous under Massachusetts General Laws (MGL) Chapter 21E, and 310 CMR 30.00, and also include such products as solvents and thinners in quantities greater than normal household use. Hazardous materials shall include any of the above-mentioned substances that may be leached from outdoor stockpiles of manufactured materials including, but not limited to, auto parts or treated wood. Hazardous materials do not include hazardous wastes, tobacco products, wood products, foods, drugs, alcoholic beverages, cosmetics, and any hazardous material used in household quantities as defined below.

#### Hazardous Waste

Any waste material as defined in the Massachusetts Hazardous Waste Regulations, 310 CMR Section 30.010 and/or MGL Chapter 21C. This includes, but is not limited to, waste oil, waste solvents, waste oil-based paint, and waste pesticides.

#### Hazardous Material or Waste, Household Quantity of

Any or all of the following:

- a. 275 gallons or less of oil on site at any time to be used for heating of a structure or to supply an emergency generator, and/or
- b. 25 gallons (or the dry weight equivalent) or less of other hazardous materials on site at any time, including oil not used for heating or to supply an emergency generator, and/or
- c. a quantity of hazardous waste at the Very Small Quantity Generator level as defined and regulated in the Massachusetts Hazardous Waste Regulations, specifically section 310 CMR 30.353.

#### Impervious Surface

Material or structure on, above, or below ground that does not allow precipitation or surface water to penetrate directly into the soil. This shall include non-paved surfaces that are compacted through regular use of automobiles such as gravel driveways or dirt roads.

#### Landfill

A facility or part of a facility established in accordance with a valid site assignment for the disposal of solid waste into or on land.

#### Leachable Waste

Waste materials including solid waste, sludge, and agricultural wastes that are capable of releasing water-borne contaminants to surrounding environment.

#### Mining of Land

The removal or relocation of geologic materials such as topsoil, sand, gravel, metallic ores, or bedrock.

#### Publicly Owned Treatment Works (POTW)

Municipal wastewater treatment facility, including any device or system used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature,

which is owned by a public entity. A POTW includes any sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

#### Recharge Areas

Areas that collect precipitation or surface water and carry it to aquifers. Recharge areas may include areas designated as Zone I, Zone II or Zone III.

#### Solid Waste

Useless, unwanted, or discarded solid material with insufficient liquid content to be free-flowing. This includes, but is not limited to, rubbish, garbage, scrap materials, junk, refuse, inert fill material, landscape refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility as defined by 310 CMR 19.00 and regulated by 310 CMR 30.00.

#### Stormwater Management

The process of ensuring that the volume and velocity of stormwater runoff does not increase the hazards associated with flooding and that water quality is not compromised by untreated stormwater flow.

#### Zone I

The 400-foot protective radius required by the DEP around a public water supply well or wellfield.

#### Zone II

That area of an aquifer that contributes water to a well under the most severe recharge and pumping conditions that can be realistically anticipated (180 days pumping at safe yield with no recharge from precipitation). It is bounded by the groundwater divides that result from pumping the well, and by the contact of the edge of the aquifer with less permeable materials such as till and bedrock. At some locations, surface water features may represent recharge boundaries.

#### Zone III

That land area beyond the area of Zone II from which surface water and groundwater drain into Zone II. The surface water drainage divides as determined by topography will be used to delineate Zone III. In some locations, where surface and groundwater are not coincident Zone III shall consist of both the surface drainage and the groundwater drainage areas.

**4230. Location.** The Water Resource Protection Overlay District consists of well head areas (Zone I), aquifer contribution zones (Zone II) and aquifer recharge zones (Zone III) as defined in Section 4221 of this bylaw. The Water Resource Protection Overlay Districts are delineated on a map at a scale of 1 inch to 1,000 feet entitled: "Map of Water Resource Protection Districts, Town of Sudbury, Massachusetts, February 15, 2001", as amended by Town Meeting. This map is hereby made a part of the Sudbury Zoning Bylaw and is on file in the office of the Town Clerk.

4231. If the location of any District boundary in relation to a particular parcel(s) is in doubt, resolution of boundary disputes shall be through a Special Permit application to the Special Permit Granting Authority. Any application for a Special Permit for this purpose shall be accompanied by adequate documentation.

The burden of proof shall be upon the owner(s) of the land to demonstrate that the location of the district boundary with respect to their parcel(s) of land is uncertain. The Town may hire a qualified professional to review any technical analyses or documentation provided by the applicant at the applicant's expense. The Planning Board shall provide the owner with a statement of work performed and the cost thereof when charging an owner hereunder.

For disputes which may arise related to a Zone II boundary, the determination of the location and extent of Zone II shall be in conformance with the criteria set forth in 310 CMR 22.00 and in the DEP's *Guidelines and Policies for Public Water Systems*. In the case of disputing a Zone II boundary, the Special Permit Granting Authority shall not issue approval until DEP issues an official approval of the revised delineation.

**4240. Use Regulations - Zone II.** Within the Water Resource Protection Overlay Districts - Zone II, these regulations shall apply, provided that all necessary permits, orders or approvals required by local, state or federal law are also obtained:

4241. The following uses are permitted within Water Resource Protection Overlay Districts, Zone II, subject to Section 4242:

- a. Conservation of soil, water, plants and wildlife;
- b. Outdoor recreation, nature study, boating, fishing, and hunting where otherwise legally permitted;
- c. Foot, bicycle and/or horse paths and bridges;
- d. Normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply and conservation devices;
- e. Maintenance, repair and enlargement of any existing structure or facility provided no more than fifteen percent (15%) of the lot in total is rendered impervious. Exceeding this threshold for impervious cover may be allowed by Special Permit pursuant to Section 4243 (b);
- f. Residential development, if permitted in the underlying district, provided that no more than fifteen percent (15%) of a building lot is rendered impervious. Exceeding this threshold for impervious cover may be allowed by Special Permit pursuant to Section 4243 (b);
- g. Farming, gardening, nursery, conservation, forestry, harvesting, or grazing provided that agricultural chemicals including, but not limited to, fertilizers, herbicides, pesticides, manure or other leachable materials are not stored or used in any manner which may adversely affect the Water Resource Protection Overlay District and provided that such applicable uses are carried out in accordance with a state approved farm or forestry plan;
- h. Construction, maintenance, repair, and enlargement of drinking water supply facilities, such as, but not limited to, wells, pipelines, aqueducts and tunnels, but excluding underground storage tanks related to such facilities which are categorically not permitted;
- i. Stockpiling of snow containing road salt or other deicing chemicals in accordance with current DEP Snow Removal Guidelines.

4242. The following uses are specifically prohibited within Water Resource Districts - Zone II:

- a. Solid waste disposal facilities including, without limitation, authorized or unauthorized landfills as defined in Section 4221 of this bylaw, or those that require a site assignment from the Board of Health under G.L. c. 111, 150A, (the landfill assignment law);

- b. Storage of hazardous or toxic materials, as defined in Section 4221 of this bylaw, in quantities greater than household use except pursuant to Section 4243(k);
- c. Stockpiling of snow containing road salt or other deicing chemicals that are brought into any particular Zone II from outside that particular aquifer district;
- d. Storage of deicing chemicals unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate and a Special Permit has been granted pursuant to section 4243(i);
- e. Petroleum, fuel oil, and heating oil bulk stations and terminals including, but not limited to, those listed under Standard Industrial Classification (SIC) Codes 5983 and 5171, not including liquified petroleum gas;
- f. Underground storage tanks;
- g. Facilities that generate, treat, store, or dispose of hazardous waste, except where a Special Permit is granted pursuant to section 4243(l);
- h. Automobile graveyards and junkyards, as defined in G.L. c. 140B, s.1;
- i. Individual on-site sewage disposal systems (in compliance with Title V of the State Environmental Code) shall be prohibited in accordance with the following provisions:

Area	Prohibition
Zone II of Well #5 (Route 117 Well)	Single or Multi-Family Residences discharging greater than 550 gpd per 40,000 square feet of lot area <sup>1,2,3</sup>
All Zone II Areas	Business, Industrial, Research or Institutional Uses discharging more than 1,000 gpd per 40,000 square feet of lot area <sup>3</sup>

<sup>1</sup> On residentially zoned lots legally in existence as of the original effective date of this bylaw, which contain less than 40,000 square feet of area, the discharge rate of any individual sewage disposal system shall be permitted up to a maximum limit of 550 gallons per day.

<sup>2</sup> In cluster subdivisions, the total sewage flow allowed shall be calculated based on the number of percable lots in the entire parcel.

<sup>3</sup> Requests to increase the capacity of individual sewage disposal systems and those proposed for undeveloped lots above this limit may be permitted upon a written certification of the Sudbury Board of Health that a valid nitrogen loading analysis approved by the DEP has been completed, which demonstrates that the DEP drinking water performance goal for nitrates of 5 mg/L will not be exceeded in any present or proposed public water supply well, in the relevant Water Resource Protection Overlay District, if the capacity of all sewage disposal systems at full build-out in the relevant district were to increase their capacities to the proposed volume.

j. Permanent removal, or regrading of the existing soil cover, except for excavations for: 1) building foundations; 2) roads or utility works; or 3) the installation of Stormwater BMPs subject to approval by any Town board or committee having jurisdiction, which result in a finished grade at a level less than five (5) feet above the historical high groundwater.

The high groundwater elevation may be determined by: 1) direct observation of subsurface conditions in test pits witnessed by a certified soils evaluator using the current Title V criteria; or 2) calculating the average for the preceding five (5) years, as determined from monitoring wells of, and the historical water table fluctuation data compiled by the United States Geological Survey (USGS) and the Board of Health data and monitoring wells, whichever is higher. Said average shall be adjusted in accordance with accepted monitoring and measurement principles to reflect drought. Groundwater elevations depicted on plans shall be stamped by a Massachusetts registered Professional Engineer.

Earth removal or earth moving shall be subject to the provisions set forth in Section 4260 of this bylaw;

k. Boat or motor vehicle service or repair shops, animal feed lots, car washes, heliports, commercial or bacteriological laboratories, establishments conducting dry cleaning on the premises;

l. Commercial establishments for manufacturing electronics or those for plating, finishing, etching or polishing electronics or metals;

m. Storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31 and has received a Special Permit under Section 4243(m);

n. Industrial and commercial uses which discharge process wastewater on-site;

o. The use of septic system cleaners which contain toxic or hazardous materials;

p. Any floor drainage system in existing facilities, in industrial or commercial process areas or hazardous material and/or hazardous waste storage areas, which discharge to the ground without a DEP permit or authorization. Any existing facility with such a drainage system shall be required to either seal the floor drain (in accordance with the state plumbing code, 248 CMR 2.00), or connect the drain to a holding tank meeting the requirements of all appropriate DEP regulations and policies;

q. Any use that will render impervious more than 15% of any lot, or 2,500 square feet, whichever is greater, unless a Special Permit pursuant to Section 4243(b) has been granted.

4243. The following uses and activities may be allowed by Special Permit within the Water Resource Protection Overlay Districts - Zone II, subject to the approval of the Special Permit Granting Authority under such conditions as they may require and also subject to Section 4242:

a. Enlargement or alteration of pre-existing uses prohibited by Section 4242 of this Bylaw;

b. Uses that will render impervious more than 15% of any lot, or 2,500 square feet, whichever is greater, provided it is demonstrated that a net improvement to existing conditions is made with respect to water quality and groundwater recharge. All such uses shall be subject to the Stormwater Management standards in Section 4280 and the Rules and Regulations for Special Permits in the Water Resource Protection Overlay Districts;

c. The application of pesticides, including herbicides, insecticides, fungicides, and rodenticides, for non-domestic or non-agricultural uses in accordance with state and federal

standards, provided the applicant demonstrates to the satisfaction of the Special Permit Granting Authority that other non-chemical means have been proven ineffective. If applicable, the applicant shall provide documentation of compliance with a Yearly Operating Plan (YOP) for vegetation management operations under 333 CMR 11.00 or a Department of Food and Agriculture approved Pesticide Management Plan or Integrated Pest Management (IPM) program under 333 CMR 12.00;

d. The application of fertilizers for non-domestic or non-agricultural uses. Such applications shall be made in a manner so as to minimize adverse impacts on groundwater due to nutrient transport, deposition, and sedimentation;

e. Construction of dams or other water control devices including the temporary alteration of the water level for emergency or maintenance purposes and periodic cleaning upon demonstration that said dams or other water control devices will not adversely affect the quantity or quality of water available in the Water Resource Protection Overlay District;

f. Ponds, pools or other changes in water bodies or courses, created for swimming, fishing or other recreational uses, agricultural uses, or drainage improvements upon demonstration that said changes, uses or improvements will not adversely affect the quantity or quality of water available in the Water Resource Protection Overlay District;

g. Storage of animal manure, only when such storage is covered and contained within a structure demonstrated to prevent the generation and escape of contaminated runoff and leachate and is carried out in accordance with an approved Natural Resource Conservation Service plan;

h. Storage of commercial fertilizers, as defined in G.L. c. 128, s.64, within a structure demonstrated to prevent the generation and escape of contaminated runoff and leachate;

i. Storage of road salt or de-icing chemicals in quantities greater than for normal individual household use, provided such storage, including loading areas, is within a structure demonstrated to prevent the generation and escape of contaminated runoff and leachate;

j. Printing or photo processing operations which demonstrate that no hazardous materials or wastes shall in any way be stored or disposed of in a manner that may be dangerous to groundwater resources;

k. Storage of hazardous or toxic materials, as defined in Section 4221 of this bylaw, in quantities greater than normal household use, where storage is for or incidental to:

- (1) waste oil retention facilities required by statute, rule or regulation;
- (2) emergency generators required by statute, rule or regulation;
- (3) treatment works approved under 314 CMR 5.00 for treatment of ground or surface waters; or
- (4) replacement or upgrading of existing storage vessels without increasing the total capacity of the vessels to be replaced or upgraded providing there is compliance with all local, state and federal laws;

And provided that storage is:

- (1) above ground level;

- (2) on an impervious surface; and
- (3) either in container(s) or above ground tank(s) within a building or outdoors in covered container(s) or above ground tank(s) in an area that has a containment system designed and operated to contain a spill of 110% of the total volume of the single largest container;

l. Facilities that generate and store hazardous waste for off-site disposal, by the following:

- (1) very small quantity generators as defined under 310 CMR 30.00;
- (2) household hazardous waste collection centers and events under 310 CMR 30.390;
- (3) waste oil retention facilities required by G.L. c. 21, s.52A;
- (4) water remediation treatment works approved under 314 CMR 5.00;

m. Storage of sludge and septage, which is in compliance with 310 CMR 32.30 and 310 CMR 32.31;

n. The following treatment works that are subject to 314 CMR 5.00:

- (1) the replacement or repair of an existing treatment works that will not result in a design capacity greater than the design capacity of the existing treatment works;
- (2) the replacement of existing subsurface sewage disposal system(s) with wastewater works that will not result in a design capacity greater than the design capacity of the existing system(s);
- (3) treatment works approved by the Massachusetts Department of Environmental Protection designed for the treatment of contaminated ground water;
- (4) Publicly Owned Treatment Works that meet the wastewater management criteria for siting, design and water quality set forth in the latest version of the Massachusetts Department of Environmental Protection's *Interim Guidelines on Reclaimed Water (Revised)*.

**4250. Use Regulations - Zone III.** Within the Water Resource Protection Overlay Districts - Zone III, these regulations shall apply, provided that all necessary permits, orders or approvals required by local, state or federal law are also obtained:

4251. The following uses are permitted within Water Resource Protection Overlay Districts, Zone III, subject to section 4252:

- a. Conservation of soil, water, plants and wildlife;
- b. Outdoor recreation, nature study, boating, fishing and hunting where otherwise legally permitted;
- c. Foot, bicycle and/or horse paths and bridges;
- d. Normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply and conservation devices;



- e. Residential development, as permitted in the underlying district;
- f. Farming, gardening, nursery, conservation, forestry, harvesting, or grazing, provided that agricultural chemicals including, but not limited to, fertilizers, herbicides, pesticides, manure or other leachable materials are not stored or used in any manner which may adversely affect the Water Resource Protection Overlay District and provided that such applicable uses are carried out in accordance with a state approved farm or forestry plan;
- g. Construction, maintenance, repair, and enlargement of drinking water supply facilities, such as, but not limited to, wells, pipelines, aqueducts and tunnels provided that all activity is in compliance with state and federal regulations.

4252. The following uses are specifically prohibited within Water Resource Protection Overlay Districts - Zone III:

- a. Solid waste disposal facilities including, without limitation, authorized or unauthorized landfills as defined in 310 CMR 19.006, or those that require a site assignment from the Board of Health under G.L. c. 111, s.150A (The Landfill Assignment Law);
- b. Storage of hazardous or toxic materials, as defined in Section 4221 of this bylaw, in quantities greater than household use except pursuant to Section 4253(i);
- c. Storage of deicing chemicals unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate and a Special Permit has been granted pursuant to Section 4253(h);
- d. Petroleum, fuel oil, and heating oil bulk stations and terminals including, but not limited to, those listed under Standard Industrial Classification (SIC) Codes 5983 and 5171, not including liquefied petroleum gas;
- e. Manufacturing of hazardous or toxic materials;
- f. Facilities that generate, treat, store, or dispose of hazardous waste, except where a Special Permit is granted pursuant to Section 4253 (j);
- g. Industrial uses which discharge process liquids on-site;
- h. Automobile graveyards and junkyards, as defined in G.L. c. 140B, s.1;
- i. Disposal of liquid or leachable wastes, except by individual on-site domestic sewage disposal systems serving single or multi-family residences or serving business, industrial or institutional uses discharging not more than 1,000 gallons per day per 40,000 square feet of lot area in compliance with Title V of the State Environmental Code.

Requests to increase the capacity of individual sewage disposal systems and those proposed for undeveloped lots above this limit may be permitted upon a written certification of the Sudbury Board of Health that a valid nitrogen loading analysis approved by the DEP has been completed, which demonstrates that the DEP drinking water performance goal for nitrates of 5 mg/L will not be exceeded in any present or proposed public water supply well, in the relevant Water Resource Protection Overlay District, if the capacity of all sewage

disposal systems at full build-out in the relevant districts were to increase their capacities to the proposed volume;

j. Boat or motor vehicle service or repair shops, animal feed lots, car washes, heliports, commercial or bacteriological laboratories, and establishments conducting dry cleaning activities on the premises;

k. Commercial establishments for manufacturing electronics or those for plating, finishing, etching or polishing electronics or metals;

l. Storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31 and has received a Special Permit under section 4253(k);

m. The use of septic system cleaners which contain toxic or hazardous materials;

n. Any floor drainage system in existing facilities, in industrial or commercial process areas or hazardous material and/or hazardous waste storage areas, which discharge to the ground without a DEP permit or authorization. Any existing facility with such a drainage system shall be required to either seal the floor drain (in accordance with the state plumbing code, 248 CMR 2.00), or connect the drain to a holding tank meeting the requirements of all appropriate DEP regulations and policies;

o. Permanent removal, or regrading of the existing soil cover, except for excavations for: 1) building foundations; 2) roads or utility works; or 3) the installation of Stormwater BMPs subject to approval by any Town board or committee having jurisdiction, which result in a finished grade at a level less than five (5) feet above the historical high groundwater.

The high groundwater elevation may be determined by: 1) direct observation of subsurface conditions in test pits witnessed by a certified soils evaluator using current Title V criteria; or

2) calculating the average for the preceding five (5) years, as determined from monitoring wells of, and the historical water table fluctuation data compiled by the United States Geological Survey (USGS) and the Board of Health data and monitoring wells, whichever is higher. Said average shall be adjusted in accordance with accepted monitoring and measurement principles to reflect drought. Groundwater elevations depicted on plans shall be stamped by a Massachusetts registered Professional Engineer.

Earth removal or earth moving shall be subject to the provisions set forth in Section 4260 of this Bylaw.

4253. The following uses are permitted by Special Permit within Water Resource Protection Overlay Districts - Zone III, subject to the approval of the Special Permit Granting Authority under such conditions as they may require and also subject to Section 4252:

a. Enlargement or alteration of pre-existing uses prohibited by Section 4252 of this bylaw;

b. The application of pesticides, including herbicides, insecticides, fungicides, and rodenticides, for non-domestic or non-agricultural uses in accordance with state and federal standards, provided the applicant demonstrates to the satisfaction of the Special Permit Granting Authority that other non-chemical means have been proven ineffective. If applicable, the applicant shall provide documentation of compliance with a Yearly Operating

Plan (YOP) for vegetation management operations under 333 CMR 11.00 or a Department of Food and Agriculture approved Pesticide Management Plan or Integrated Pest Management (IPM) program under 333 CMR 12.00;

- c. The application of fertilizers for non-domestic or non-agricultural uses. Such applications shall be made in a manner so as to minimize adverse impacts on groundwater due to nutrient transport, deposition, and sedimentation;
- d. Construction of dams or other water control devices including the temporary alteration of the water level for emergency or maintenance purposes and periodic cleaning upon demonstration that said dams or other water control devices will not adversely affect the quantity or quality of water available in the Water Resource Protection Overlay District;
- e. Ponds, pools or other changes in water bodies or courses, created for swimming, fishing or other recreational uses, agricultural uses, or drainage improvements upon demonstration that said changes, uses or improvements will not adversely affect the quantity or quality of water available in the Water Resource Protection Overlay District;
- f. Storage of animal manure, only when such storage is covered and contained within a structure demonstrated to prevent the generation and escape of contaminated runoff and leachate and is carried out in accordance with an approved Natural Resource Conservation Service plan;
- g. Storage of commercial fertilizers, as defined in G.L. c. 128, s.64, provided such storage is within a structure demonstrated to prevent the generation and escape of contaminated runoff and leachate;
- h. Storage of road salt or other de-icing chemicals in quantities greater than for normal individual household use, provided such storage, including loading areas, is within a structure demonstrated to prevent the generation and escape of contaminated runoff and leachate;
- i. Storage of hazardous or toxic materials, as defined in Section 4221 of this bylaw, where storage is for or incidental to:
  - (1) waste oil retention facilities required by statute, rule or regulation;
  - (2) emergency generators required by statute, rule or regulation;
  - (3) treatment works approved under 314 CMR 5.00 for treatment of ground or surface waters; or
  - (4) replacement or upgrading of existing storage vessels without increasing the total capacity of the vessels to be replaced or upgraded providing there is compliance with all local, state and federal laws;

And provided that storage is:

- (1) above ground level;
- (2) on an impervious surface; and
- (3) either in container(s) or above ground tank(s) within a building or outdoors in covered container(s) or above ground tank(s) in an area that has a containment system designed and operated to contain a spill of 110% of the total volume of the single largest container;

j. Facilities that generate and store hazardous waste for off-site disposal, by the following:

- (1) very small quantity generators as defined under 310 CMR 30.00;
- (2) household hazardous waste collection centers and events under 310 CMR 30.390;
- (3) waste oil retention facilities required by G.L. c. 21, s.52A;
- (4) water remediation treatment works approved under 314 CMR 5.00;

k. Storage of sludge and septage, which is in compliance with 310 CMR 32.30 and 310 CMR 32.31;

**4260. Earth Removal or Earth Moving in the Water Resource Protection Overlay District -**

**Procedures and Conditions.** No Special Permit involving excavation shall be issued or renewed under this Section 4200 until the applicant has submitted to the Special Permit Granting Authority a plan showing existing grades in the area from which material is to be removed, together with a plan showing the grades as they will be at the conclusion of the operation. The grading plans must indicate maximum groundwater elevation throughout the entire area proposed to be excavated. Maximum groundwater elevation shall be determined by means of monitoring wells, test pits and soil borings during the months of March, April or May. Such tests shall be conducted by a Massachusetts Registered Professional Engineer at the expense of the applicant and shall be observed by a representative of the Special Permit Granting Authority or its designee. Test results shall be submitted to the Special Permit Granting Authority. The plan showing the grades at the conclusion of the operation shall show no grades in excess of one foot of vertical rise in two feet of horizontal distance; 4:1 slopes are preferred.

4261. Conditions. Special Permits granted under this Section 4200 involving excavation must be made subject to the following conditions, said conditions to be written in the permit and made a part thereof:

- a. That proper and reasonable surface drainage of the land shall be provided during and after construction and that all drainage provisions shall comply with the requirements of the Rules and Regulations for Special Permits in Water Resource Protection Overlay Districts;
- b. That areas that have been compacted by heavy machinery shall be scarified to a depth of at least twelve (12) inches before topsoil is replaced;
- c. That at the conclusion of the excavation operations, or of any substantial portion thereof, the whole area where excavation has taken place be covered with not less than six (6) inches of top soil and seeded with a suitable cover crop, except where ledge rock is exposed, and that all large stones and boulders which protrude above the finished grade are to be removed or buried, if required by the Special Permit Granting Authority;
- d. That activities ancillary to the excavation, including, but not limited to, equipment and vehicle maintenance and storage of lubricants, fuels, solvents and other chemicals associated with earth removal operations will be prohibited in Zone II;
- e. That the applicant post a bond with the Treasurer of the Town in an amount determined by the Special Permit Granting Authority as sufficient to guarantee conformity with the provisions or conditions of the permit, the amount of the bond to be not less than \$5,000 per acre of land from which earth is to be removed, if required by the Special Permit Granting Authority;

f. Any fill material used in the Water Resource Protection Overlay District shall contain no solid waste, toxic or hazardous materials, or hazardous waste. Adequate documentation shall be provided to the Special Permit Granting Authority to guarantee the chemical quality of the fill. The Special Permit Granting Authority may require testing by a certified laboratory at the applicant's expense.

**4270. Special Permit Procedures.** The Special Permit Granting Authority under this bylaw shall be the Planning Board. Such Special Permit shall only be granted if the Special Permit Granting Authority determines that the intent of this bylaw as well as each of its specific criteria are fully met. In making such determination, the Special Permit Granting Authority shall give consideration to the demonstrated reliability and feasibility of the use and pollution control measures proposed and the degree of threat to water quantity and quality which would result if the control measures perform at less than design efficiency. The Special Permit Granting Authority may impose such conditions, safeguards and limitations as it deems appropriate. The Special Permit Granting Authority shall document the basis for any departures from the recommendations of the other Town boards or agencies in its decision.

4271. Technical Assistance. To assist its review of applications for Special Permits, the Special Permit Granting Authority may engage a professional geologist, hydrologist, soil scientist, or Massachusetts engineer or other such consultant experienced in groundwater evaluation or hydrogeology or wastewater or toxic and hazardous waste to review the application for completeness and accuracy and shall charge the applicant for the cost of such review.

4272. [Reserved]

4273. Application Contents. All applications shall comply in full with the requirements of G.L. c. 40A, s. 9 and the Rules and Regulations for Special Permits in the Water Resource Protection Overlay District unless the said authority exercises its right to waive any of the requirements therein.

4274. Review by Other Town Boards or Agencies. Upon receipt of the Special Permit application, the Special Permit Granting Authority shall transmit forthwith a copy of the application and plan to the Sudbury Water District, Board of Health, Conservation Commission, Town Engineer, and such other boards, departments or committees as it may deem necessary or appropriate, for their written reports. Any such board or agency to which petitions are referred shall make recommendations or submit such reports as they deem appropriate and shall send a copy thereof to the Special Permit Granting Authority and to the applicant within thirty-five (35) days of receipt of the application by such board or agency. Failure of such board or agency to make a written recommendation or submit a written report with thirty-five (35) days of receipt of the application shall be deemed a lack of opposition.

4275. Special Permit Criteria. After notice and public hearing, and after due consideration of the reports and recommendations of the other Town boards or agencies, the Special Permit Granting authority may grant such a Special Permit provided that it finds that the proposed use:

- a. Will in no way during construction or any time thereafter, adversely affect the existing or potential quality or quantity of water that is available in the Water Resource Protection Overlay District;
- b. Will not cause the groundwater quality to fall below the standards established in 314 CMR 6.00 Massachusetts Groundwater Quality Standards or for parameters where no

standards exist, below standards established by the Board of Health and, where existing groundwater quality is already below those standards, upon determination that the proposed activity will result in no further degradation;

c. Is in harmony with the purpose and intent of the bylaw and will promote the purposes of the Water Resource Protection Overlay District;

d. Is appropriate to the natural topography, soils and other characteristics of the site to be developed, and is designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water related natural characteristics of the site to be developed;

e. Will not, during construction or thereafter, have an adverse environmental impact on any water body or course in the district; and

f. Will not adversely affect an existing or potential water supply.

#### **4280. Stormwater Management.**

All runoff generated on the site shall be managed on-site in a manner demonstrated to assure full protection of the water quality in the Water Resource Protection Overlay District and the health, safety and welfare of residents of Sudbury. The Special Permit Granting Authority may permit off-site disposal of said runoff if it is determined that either on-site recharge is infeasible because of site conditions or is undesirable because of risks to water quality from such recharge. All runoff generated on-site shall be treated prior to recharge or discharge in accordance with the guidelines set forth in the Rules and Regulations for Special Permits in the Water Resource Protection Overlay Districts and in accordance with the NPDES Phase II General Permit if the runoff is piped into a municipal system. Applicants shall integrate stormwater management practices into landscaping plans to the greatest extent practicable to provide surface pre-treatment of stormwater through swales and bio-retention facilities.

#### **4290. Other Matters.**

4291. Violations and Enforcement. Written notice of any violation of this section shall be given by the Building Inspector to the responsible person as soon as possible after detection of a violation or a continuing violation. Notice to the assessed owner of the property shall be deemed notice to the responsible person. Such notice shall specify the requirement or restriction violated and the nature of the violation, and may also identify the actions necessary to remove or remedy the violation and preventive measures for avoiding future violations and a schedule of compliance. A copy of such notice shall be submitted to the Planning Board, Board of Health, Conservation Commission, Town Engineer and Sudbury Water District. The cost of containment, clean-up or other action of compliance shall be borne by the owner and operator of the premises. The owner and operator of any property for which a Special Permit has been issued hereunder shall notify the Building Inspector and the Board of Health of any known violation of the terms and conditions of such Special Permit. Such notification shall be given immediately (within 48 hours) after knowledge thereof, in person or by telephone, and shall be followed within two (2) weeks by written notice specifying the details of the violation. The owner and operator shall take all appropriate remedial action to cure such violation. Failure of the owner and operator to report a violation in a timely manner, or failure to take appropriate remedial action, or failure to otherwise comply with the terms and conditions of a Special Permit, or the requirements of the Board of Health or the Building Inspector, shall be sufficient grounds for revocation of the Special Permit.

4292. Rules and Regulations. The Special Permit Granting Authority may adopt, and from time to time amend, Rules and Regulations consistent with the provisions of this bylaw and G.L. c. 40A and other provisions of the General Laws, and shall file a copy of said Rules and Regulations with the Town Clerk.

4293. Severability. The invalidity of any portion or provision of this section regarding Water Resource Protection Overlay Districts, shall not invalidate any other portion or provision thereof, nor shall it invalidate any Special Permit previously issued thereunder.";

or act on anything relative thereto.

Submitted by the Planning Board, Conservation Commission and  
Sudbury Water District Commission.

(Two-thirds vote required)

PLANNING BOARD, CONSERVATION COMMISSION AND SUDBURY WATER DISTRICT  
COMMISSION REPORT: This article proposes a major overhaul of the Water Resource Protection Overlay District Bylaw. Through the collective efforts of the Planning Board, the Conservation Commission, the Board of Health and the Sudbury Water District, and the assistance of Horsley & Witten, an environmental engineering firm, the bylaw has been updated to comply with state regulations governing groundwater protection and innovative Best Management Practices.

One of the major changes to the bylaw involves revising the restriction on the amount of impervious surface permitted on a lot. New provisions in the Bylaw and the accompanying Rules and Regulations require the demonstration of a net improvement to the environmental quality of a site if impervious surfaces exceed 15% of the total lot. All lots will be required to capture and treatment of runoff generated by impervious surfaces. Most of Sudbury's businesses that are located in Zone 2 currently exceed the 15% threshold, and these revised provisions offer greater environmental protection than under the existing bylaw by creating an incentive to upgrade older properties. The revised bylaw also streamlines the permitting process for minor projects, removing the need for a special permit from the Planning Board if similar review is undertaken by another board such as the Conservation Commission or the Board of Selectmen. All major projects, or those that may involve the use of hazardous substances or any other use or development that may threaten groundwater supplies, will still require full special permit review.

BOARD OF SELECTMEN POSITION: The Board of Selectmen unanimously supports this article.

FINANCE COMMITTEE REPORT: The Finance Committee takes no position on this article.

TOWN COUNSEL OPINION: See opinion at the end of this warrant.