

TOWN OF SUDBURY

Massachusetts

RULES AND REGULATIONS

FOR

SPECIAL PERMITS

IN THE

WATER RESOURCE PROTECTION DISTRICTS

SECTION I
GENERAL PROVISIONS

1.1 Authority

These Rules are adopted by the Sudbury Planning Board as authorized by M.G.L. Chapter 40A, Section 9, and by the Sudbury Zoning Bylaw, Section III.G.6.b.

1.2 Purpose

The purpose of these Rules is to establish uniform regulations and procedures for conducting the business of the Planning Board acting as the Special Permit Granting Authority for the Water Resource Protection Districts established under Section III.G. of the Bylaw..

1.3 Applicability

Any person applying for a Special Permit under Section III.G. of the Bylaw shall comply with the provisions of these Rules.

1.4 Definitions

1.4.1 *APPLICANT*: A property owner, or a prospective buyer or other person authorized by the property owner, who files an application for a permit under Section III.G.d. of the bylaw.

1.4.2 *APPLICATION*: All Plans, Forms, Reports, Studies or other documents which are submitted to the Board pursuant to Section III.GH. and these Rules by an applicant.

1.4.3 *BOARD*: The Planning Board of Sudbury, Massachusetts

1.4.4 *BYLAW*: The Zoning Bylaw of the Town of Sudbury as amended.

1.4.5 *DECISION*: Action by the Board on a permit application.

1.4.6 *MAXIMUM GROUNDWATER ELEVATION*: The height of the groundwater table when it is at its maximum seasonal level of elevation, as determined by the Board of Health.

1.4.7 *PARTIES IN INTEREST*: The applicant, abutters, owners of land directly opposite on any private or public street or way; and abutters to the abutters within 300 feet of the property line of the applicant as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in

another city or town and the planning board of every city and town abutting Sudbury (as defined in M.G.L. Chapter 40A, Section 11).

- 1.4.8 *PERMIT*: A Water Resource Protection District Special Permit issued under Section III.G. of the Bylaw.
- 1.4.9 *PERSON*: Any individual, partnership, public or private corporation, agency or political subdivision of the Commonwealth or other entity.
- 1.4.10 *RULES*: Rules and Regulations as presented herein.
- 1.4.11 *SURFACE WATER*: All water other than groundwater, including without limitation, rivers, streams, lakes, ponds, springs and wetland as defined in the Wetlands Protection Act (M.G.L. 131, Section 40).
- 1.4.12 *TOWN*: The Town of Sudbury, Massachusetts.
- 1.4.13 *UNDISTURBED OPEN SPACE*: An area which lies outside of any disturbances due to clearing, grading, paving, building, landscaping or other site development activities. It may be subject to limited and selected cutting of trees, removal of dead wood, or yearly mowing of grass and brush.
- 1.4.14 *WATER RESOURCE PROTECTION DISTRICT (WRPD)*: That area of the Town delineated for the purposes of water resource protection under Section III.G. of the Bylaw.
- 1.4.15 *Other Definitions*: Refer to the Bylaw Section III.G.2. for additional defined terms.

1.5 WAIVER OF RULES AND REGULATIONS

Strict compliance with any provision of these Rules may be waived only if the Board finds that the application contains all necessary information required by these Rules, meets all applicable requirements of the Bylaw and in the Board's opinion the granting of such waiver is in the public interest. Any request from an applicant for a waiver from these Rules must be submitted in writing to the Board and must clearly identify the provision or provisions of the Rules for which a waiver is being sought, and if applicable, must describe the alternative location of information or method of compliance. In addition, such request shall be accompanied by a statement setting forth the reason or reasons why, in the Applicant's opinion, the granting of such a waiver or waivers would be in the public interest and consistent with the intent and purpose of the Bylaw.

1.6 PROVISION OF SECURITY

The Board may require as a condition of the grant of a permit that security be posted with the Town in such form and amount as is required by the Board to secure the satisfactory completion of all or part of the work authorized under the Permit.

1.7 AMENDMENTS TO THESE RULES AND REGULATIONS

These Rules may be amended by a majority vote of the Board (3 of 5 members in favor) after a public hearing.

1.8 EFFECTIVE DATE OF RULES AND REGULATIONS

These Rules and any amendments thereto shall become effective on the date on which they are filed with the Sudbury Town Clerk.

1.9 SEVERABILITY

The invalidity of any portion or provision of these Rules and Regulations for Special Permits in the Water Resource Protection District, shall not invalidate any other portion or portions thereof, nor shall it invalidate any special permit previously issued thereunder.

1.10 COPIES AVAILABLE

Copies of the Rules shall be made available for cost at the office of the Town Clerk.

SECTION 2

FILING REQUIREMENTS

2.1 APPLICANT

An application for a permit may be filed by a property owner, a prospective buyer, or other applicant provided that the property owner of record has signed the application form (Form T), thereby stating his/her consent to the filing of the application.

2.2 APPLICATION FORM AND CONTENTS

A complete application shall consist of the official application form and of all other information requested in this section. Twelve (12) copies of each application are required. Plan sheets shall not be larger than 30" by 42". In addition, seven (7) reduced size copies (11" x 17") of the plan sheets only shall be submitted with the application. All plan sheets and engineering calculations must bear the seal of a Registered Professional Engineer, Registered Land Surveyor or Landscape Architect as appropriate to the data. The required components of an application are as follows:

- 2.2.1 Application Form - Completed application form entitled "Planning Board - Petition for a Special Permit (Form T)";, annexed hereto and hereby made part of the Rules. For T is available at the Office of the Board.
- 2.2.2 Locus Plan - (Scale no smaller than 1":1200') showing the area within a 1/2 mile radius of the site, including Water Resource Protection District Zones and boundary lines, surface water bodies, wetlands, existing and any proposed public wells, private wells, major roadways and any other significant landmarks.
- 2.2.3 Abutters List - A listing of names and addresses for all parties in interest as defined herein.
- 2.2.4 Site Composite Plan - One or more plan sheets with a detailed legend for all symbols use, and a detailed site data table for all relevant dimensional information, showing the following:
 - 2.2.4.1 Water Resource Protection District (WRPD) Zone(s) in which the site and lot are located. WRPD boundary lines if on or near the lot.
 - 2.2.4.2 Total lot area and areas of wetlands, Flood Plain District (Section I.H. of the Bylaw) and FEMA Flood Hazard areas on the lot (in percent and square feet).

- 2.2.4.3 Existing/Proposed areas (in percent and square feet) of impervious surface, open space, undisturbed open space with such areas clearly delineated on plan and limits of clearance and disturbance as it will be staked and marked in the field for construction purposes.
- 2.2.4.4 Natural Features, including, without limitation, surface water bodies, wetlands, flood plain districts, natural drainage courses, ledge outcroppings, vegetation, soils.
- 2.2.4.5 Existing and proposed structures and impervious surface.
- 2.2.4.6 Pre- and post-development topography in 1 foot contours, with reference to the NGVS of 1929.
- 2.2.4.7 Contours of maximum groundwater elevations* showing test pit locations and information demonstrating reasonable accuracy of the groundwater contour lines; and location of existing and proposed site areas with the least distance between the ground surface and the maximum groundwater elevation. The vertical distance* between the existing or pre-development ground surface and the maximum groundwater elevation shall not be reduced, except when necessary to properly grade and construct streets, driveways, parking facilities and building sites, in order to comply with applicable codes and regulations relating thereto. In no case, however, shall the minimum distance between the post-development ground surface and the maximum groundwater elevation in Zone II be less than five (5) feet. Demonstration of compliance with Section III.G of the Bylaw shall be provided.
- 2.2.4.8 Location of nearest public wells and known private wells with distance and direction to the wells.
- 2.2.4.9 Storm drainage and runoff water renovation plan, showing the location and elevations of the various features of the site storm drainage and renovation system.
- 2.2.4.10 Erosion, sedimentation and siltation control devices to be utilized during construction.
- 2.2.4.11 Existing and proposed water supply wells on the site, if any.
- 2.2.5 Wastewater Disposal Plan - Location of wastewater disposal system and its components and the level and type of wastewater treatment proposed; septage flow rates* (in v/d/1000 sf and total daily volume), and the land area needed to comply with the Bylaw, and an engineering plan detailing all elements of the

* For this and other starred data quantities see Section 2.2.16.

- disposal system, and any measures proposed to minimize nitrate loading to the groundwater. The applicant shall provide baseline data on water quality using the monitoring wells described in Section 2.2.5. If site is located in Zone 1 or Zone 2, estimate of increase in nitrate concentration* at the nearest public and private well as a result of the development.
- 2.2.6 Construction Detail Sheet - All construction details for entire site drainage and surface runoff renovation system including: pipe sizes; catch basins; manholes; detention/retention ponds with lining, vegetation and overflow structure; leaching facilities; floor drains; diversion boxes; and slide gates; sedimentation-siltation, and erosion-control devices. Details of tanks, containment structures, and vapor recovery systems, as applicable, and of any other pollution control/prevention devices. The bottom elevation of a leaching pond, or the bottom elevation of the stone layer in a leaching galley or trench shall not be less than two (2) feet above the maximum groundwater elevation. This paragraph shall apply to structures associated with surface drainage only.
- 2.2.7 Drainage Calculations, Renovation and treatment of Runoff - Storm drainage runoff calculations* and description of proposed surface runoff renovation concept. The calculations must be based on a recognized standard method (rational formula or SCS method) and must contain a written summary explaining the rationale of the design approach. The amount of predevelopment annual precipitation being captured and recharged to the groundwater on site shall not be reduced by development related surface runoff from the site. All water runoff from impervious surfaces shall, at a minimum, be funneled into gas trap catch basins. The first (1st) inch of every storm event shall be directed into a retention pond(s), where it shall be retained for an average of at least three (3) days prior to recharge into the ground or discharge from the site. The retention pond(s) shall be exposed to sunlight, vegetated, and lined with soil featuring a permeability of 0.0001 cm/sec (0.1314 in/hr) or less. A diversion box shall direct all water, which falls onto the site in excess of one (1) inch during a single storm event, toward additional storage, direct infiltration, or discharge from that site. Full documentation is required including charts, tables, diagrams and computer software used.
- 2.2.8 Earth Removal/Fill Calculations: Calculations for determining the volume of earth* to be removed from or introduced to the site with full documentation of calculations including reference of method used.
- 2.2.9 Water Balance Calculation: A yearly Hydrologic Budget* or water balance calculation* for pre-and post development conditions on the site including annual precipitation, evapotranspiration, runoff, recharge, septic flow. Such calculations shall be performed by a Massachusetts Registered Professional Engineer

* For this and other starred data quantities see Section 2.2.26.

- experienced in hydrogeology or groundwater evaluation or a professional geologist, hydrologist or soil scientist.
- 2.2.10 Hydrogeologic Assessment: A hydrogeologic assessment for pre- and post development condition including a seasonal profile of groundwater elevation*, the velocity* and the direction of ground and surface water flow. Such analysis shall be performed by a Massachusetts Registered Professional Engineer experienced in hydrogeology or groundwater evaluation or a professional geologist, hydrologist or soil scientist.
- 2.2.11 Use Description: Description of existing and proposed Use(s). Such description shall be detailed and specific, yet understandable by a lay person. Include information on maximum number of employees, daily activities, unusual activities, handling and storage of hazardous materials or waste. List any existing and proposed uses which fall under any of the provisions of Section III.G.5 of the Bylaw.
- 2.2.12 Hazardous Materials or Waste Management Plan: A list of hazardous or toxic materials or waste presently stored, processed or handled, or to be stored, processed or handled on the site, with maximum quantities* for each substance. Complete documentation of the sources of all hazardous or toxic materials or waste, of the process in which those materials are used, of the method of disposal of hazardous or toxic materials or waste and of the final destination of hazardous or toxic materials or waste. Identification of all areas in which hazardous or toxic materials or waste will be produced, loaded, unloaded, stored or processed on site.
- 2.2.13 Provisions for Safeguards: Safeguards used to prevent or contain leaks including tanks, containment areas, vapor controls, emergency gates of site drainage system, and any other measure to protect against accidental damage, spillage or vandalism. Monitoring and maintenance schedule for equipment facilities and structures that serve to prevent pollution of the groundwater.
- 2.2.14 Emergency Response Plan: A full profile of potential events which could adversely affect the normal range of the quantity and quality of water leaving the site as required in Section III.G.6.d.4 of the Bylaw, with an Emergency Response Plan proposed to respond to and mitigate such events. Location of emergency response equipment stored on site and list of equipment. Plan to educate employees on the general concept of groundwater protection, and to train employees for the specific events expected to be incurred during an emergency situation on the site.
- 2.2.15 Groundwater Quality Monitoring - The location of monitoring wells and the proposed monitoring schedule. A study report complying with the provisions of

* For this and other starred data quantities see Section 2.2.16.

M.G.L. Chapter 21E (The Massachusetts Oil and Hazardous Material Release Prevention Act) and the regulations promulgated thereunder, or an equivalent thereto and a groundwater analysis report for those materials classified by the United States Environmental Protection Agency as volatile organics. Test locations shall be shown on a plan and the applicant shall submit a written explanation of the basis for choosing test locations. When the site contains any Pollutants or uses which may produce Pollutants, test locations shall be chosen so as to analyze and predict the spread of Pollutants toward the groundwater table. Location of proposed monitoring wells to be installed must be shown, and proposed periodic monitoring schedule shall be specified.

- 2.2.16 The applicant shall provide for each numerical result indicated by an asterisk in the preceding subsections estimates of accuracy by means of the standard deviation or by means of the 95 percentile minimum and maximum range. The applicant shall identify the method of estimate, namely calculation or judgment. The applicant shall state any assumptions on which the calculations are based and shall identify the sources from which the material was gathered.
- 2.2.17 Additional Information - Any additional information if necessary for proper plan evaluation, as deemed appropriate by the applicant or as specifically requested by the Town.

2.3 APPLICATION FILING FEE

- 2.3.1 As part of any application for a Special Permit the following filing fees shall be required.
- 2.3.1.1 Filing Fee - a nonrefundable filing in the amount of five hundred dollars (\$500) shall be submitted. Such fee shall be submitted in check form only, such check to be made out to the Town of Sudbury (no cash will be accepted); and
- 2.3.1.2 Deposit - A deposit of two thousand (\$2,000) dollars, to cover costs incurred by the Town for review by the Town or its agents and consultants of the Special Permit pursuant to Section III.G.6.c shall be submitted. Such deposit shall be submitted in check form only, such check to be made out to the Town of Sudbury (no cash will be accepted). If prior to Planning Board action on the Special Permit the Board finds that the minimum deposit, as prescribed above, is not sufficient to cover actual costs incurred, the applicant shall be required to submit forthwith the additional amount deemed necessary to cover such costs. Failure to do so shall be deemed reason for disapproval of said Special Permit by the Board. The Board shall notify the applicant of such additional amount in writing by certified mail. Failure to submit such additional amount as required by the Board within seven days of receipt of

said notice shall be deemed reason by the Board to disapprove said Special Permit. If the actual costs incurred by the Town for review of said Special Permit are less than the amount on deposit as specified above, the Board shall refund such excess amount to the applicant.

2.4 SUBMISSION OF APPLICATION

- 2.4.1 In accordance with M.G.L. Chapter 40A, Section 9, the applicant shall submit one full application to the Office of the Sudbury Town Clerk for certification of the date and time of filing.
- 2.4.2 On the same day or next business day after filing with the Town Clerk, the applicant shall submit the certified application and ten copies of the complete application to the Board. The Board may deny a permit if an application is incomplete.

2.5 ADDITIONAL INFORMATION REQUESTED BY THE BOARD

The Board may request information in addition to that specifically required by the Bylaw or these Rules. The Board may require the applicant to supply additional information if it finds that such information is necessary to properly act upon the application in question.

SECTION 3

REVIEW OF APPLICATION

3.1 RECOMMENDATIONS FROM OTHER BOARDS, COMMITTEES, AND DEPARTMENTS

- 3.1. Upon receipt of an application hereunder, the Board shall, at a minimum, transmit forthwith a copy of such application and supporting materials to the:

Board of Selectmen
Board of Health
Engineering Department
Conservation Commission
Sudbury Water District
Building Inspector
Fire Department

The Board may transmit a copy of the application to other departments, boards, committees, agencies, or independent consultants pursuant to Section III.G.6 of the Bylaw in order to ensure full and professional review of the application.

- 3.1.2 Such transmittal shall inform each of the above agencies of the following:
- a) the date, time and place of the public hearing.
 - b) the date when its comments or recommendations, or both must be received by the Board in order to be entered as part of the record of such hearing.
- 3.1.3 The Board shall assure that each board, committee, or department is given at least thirty-five (35) days in which to transmit its comments or recommendations to the Board. Failure to submit comments on the Plan shall be deemed as approval.
- 3.1.4 The Board shall make available to the applicant upon request a copy of the comments and recommendations received.

SECTION 4

PUBLIC HEARING

4.1 PUBLIC HEARING DATE AND NOTICE

Upon receipt of an application, the Board shall set the day of the public hearing, which shall be held within 65 days of the application filing date with the Board and the Town Clerk, but not sooner than 35 days after said filing date. Notice of the hearing shall be advertised by the Board as required by M.G.L. Chapter 40A, Section 11. In addition, copies of the notice shall be sent by the Board by registered mail to all Parties in Interest at least fourteen (14) days prior to the date of the public hearing.

4.2 PUBLIC HEARING REPRESENTATION

An applicant may appear on his/her own behalf or may be represented by his/her agent(s).

4.3 PUBLIC HEARING PROCEDURE

- 4.3.1 Hearings will begin at the time stated in the notice.
- 4.3.2 Any Part, whether entitled to notice of the hearing or not, may appear in person or by agent. Hearings are open to the public at large.
- 4.3.3 The chairman of the Board will open each hearing by reading the notice as advertised.
- 4.3.4 The chairman will conduct the hearing in accordance with applicable laws and rules for the conduct of such hearings.
- 4.3.5 The applicant or his/her representative will then present the application, stating full the reason(s) why the permit should be granted. The presentation should not exceed 20 minutes.
- 4.3.6 When the applicant or his/her representative has concluded the presentation the chairman and Board members may ask questions.
- 4.3.7 Then, members of the attending public who wish to speak shall, upon recognition by the chairman, give their names and addresses, before proceeding to speak.
- 4.3.8 The Board may retain any record which has been introduced at the hearing for reference in its deliberations on the case.

- 4.3.9 When all the facts have been presented, the chairman will close the hearing and inform the applicant or his/her representative and others present that they will be notified of the Board's decision. Persons other than the applicant or his representative who wish to be notified of the Board's decision must leave their names and addresses with the Board at the close of the meeting.
- 4.3.10 In no case shall the Board allow evidence to be admitted after the close of the public hearing, except for specific evidence requested by the Board at the public hearing.

SECTION 5

PLANNING BOARD ACTIONS

5.1 FINDINGS

The Board shall not issue a permit unless it finds that the proposed use or uses meet the requirements set forth in Section III.G of the Bylaw.

5.2 VOTING REQUIREMENTS

- 5.2.1 The concurring vote of four (4) of the five (5) members of the Board shall be necessary to grant the applicant a permit.
- 5.2.2 Only those members of the Board who were in attendance at the public hearing may vote on the application in question.
- 5.2.3 The Board shall cause a detailed record to be made of its proceedings, showing the vote of each member or, if absent or failing to vote, indicating such fact, and setting forth clearly the reason or reasons for its decision and for its other official actions, copies of which shall be filed in the Office of the Town Clerk.

5.3 DECISION OF THE PLANNING BOARD

- 5.3.1 The Board shall act on each application for a permit within ninety (90) after the close of the Public Hearing, unless such application has been withdrawn by the applicant..
- 5.3.2 The period within which final action shall be taken may be extended for a defined period by mutual written consent of the Board and the applicant to be filed with the Town Clerk. In the event that the Board determines that the plans and evidence included with the application or presented to it at the public hearing are inadequate to permit the Board to make a finding and determination, instead of denying the application, it may (at its discretion) adjourn the hearing to a later date to permit the applicant to submit additional information and further evidence to the Board.
- 5.3.3 The Board shall file a copy of its decision with the Town Clerk and send by certified mail a copy of its decision to the applicant. The Board shall send a notice of its decision to the property owner if other than the applicant, to other Town boards and departments, to parties in interest and to those who have requested such notice at the public hearing.

5.3.4 The applicant shall be responsible for recording the decision with the Deed to the property, and shall submit to the Board evidence of recording prior to issuance of a Building Permit or the start of any work. The permit is not effective unless recorded with the Middlesex South District Registry of Deeds, Cambridge, Massachusetts.

5.4 WITHDRAWAL OF PETITION

Any application for a permit submitted hereunder may be withdrawn without prejudice by notice in writing to the Board prior to the first publication ;of notice of a public hearing. Withdrawal of any application thereafter requires Board approval.

5.5 LIMITATION ON APPROVAL OR EXTENSION

5.5.1 In the case where an application for a permit is granted by the Board, all other permits for the execution of the work shall be obtained and substantial use thereof shall be commenced, except for good cause, or construction begun, except for good cause, within one year from the date of the filing of the Board's decision in the office of the Town Clerk.

5.5.2 The granting of a permit constitutes approval only under the pertinent sections of the Bylaw. Other permits or approvals required by the Bylaw and other governmental boards, agencies, or bodies having jurisdiction, such as the Board of Health, Sudbury Water District and Conservation Commission, shall not be assumed or implied. The Board may condition, as appropriate, any permit hereunder on compliance with the requirements of these other governmental bodies prior to the start of any work on the site, the issuance of a Building Permit or any other appropriate step in the development process.

5.6 REPETITIVE PETITION

Pursuant to M.G.L. Chapter 40, Section 16, no application which has been unfavorably and finally acted upon by the Board shall be acted favorably upon within two years after the date of final unfavorable action unless: The Board finds by a two-thirds vote specific and material changes in the conditions upon which the previous unfavorable action was based and describes such changes in the records of its proceedings, and all but one member of the Board consents to the consideration of the matter. Notice to Parties in Interest shall be given of the time and place of the proceedings at which the questions on consent will be considered.

APPROVED BY THE SUDBURY PLANNING BOARD

Witness our hands this th day of

SUDBURY PLANNING BOARD

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss

then personally appeared _____, one of the members of the Planning Board of the Town of Sudbury, Massachusetts, and acknowledged the foregoing instrument to be the free act and deed of said Planning Board before me

Date _____

Notary Public

My commission

expires _____