

TOWN OF HOPKINTON
ZONING BYLAW

ARTICLE XII

Water Resources Protection Overlay District

**[Added 11-20-1989 STM, Art. 17; amended 5-7-1988 ATM, Art. 43;
5-2-1994 ATM, Art. 22; 5-3-1999 ATM, Art. 25, 5-3-2004 ATM, Art. 31
5-2-2005 ATM, Art. 28; 5-1-2006 ATM, Art. 16]**

§ 210-67. Purpose.

The purpose of the Water Resources Protection Overlay District (WRPOD) is to:

- A. Promote the health, safety and general welfare of the community by ensuring an adequate quality and quantity of drinking water for the residents, institutions and businesses of the Town of Hopkinton and surrounding communities.
- B. Preserve and protect existing and potential sources of drinking water supplies.
- C. Conserve the natural resources of the Town.
- D. Prevent temporary and permanent contamination of the environment.

§ 210-68. Applicability and Establishment of Districts.

- A. The WRPOD is an overlay district superimposed on the zoning districts established by the Hopkinton Zoning Bylaws. The WRPOD shall apply to all construction, reconstruction, or expansion of existing buildings and new or expanded uses the building permit for which is applied for after the date of publication of notice of the adoption of this Bylaw. Activities and uses located in an underlying zoning district and which is also located within the WRPOD must comply with the requirements of both the underlying district and the WRPOD. Uses prohibited in the underlying zoning district are not permitted in the WRPOD.
- B. For the purpose of this article, there is hereby established within the Town of Hopkinton an overlay district referred to as the WRPOD consisting of certain aquifer protection and recharge areas which are delineated on a map entitled "Water Resources Protection Overlay District, Town of Hopkinton," dated March 2011". This map is hereby made part of the Town of Hopkinton Zoning Bylaw and is on file with the office of the Town Clerk.
[Amended 5-7-2007 ATM, Art. 28, 5-2-2011 ATM, Art. 46]
- C. When a portion of a lot is in the WRPOD, only the portion of the lot in the WRPOD shall be governed by this article.

§ 210-69. Definitions.

As used in this article, the following terms shall have the meanings indicated:

AQUIFER -- A geologic formation composed of rock, sand or gravel that contains significant amounts of potentially recoverable water.

DEP – Massachusetts Department of Environmental Protection

TOWN OF HOPKINTON
ZONING BYLAW

DISPOSAL -- The deposit, injection, dumping, spilling, leaking, incineration or placing of any hazardous material into or on any land or water so that such hazardous material or any constituent thereof may enter the environment or be emitted into the air or discharged into any water, including groundwater.

GROUNDWATER -- All the water found beneath the surface of the ground. In this article, the term refers to the slowly moving subsurface water present in aquifers and recharge areas.

HAZARDOUS MATERIAL -- Any substance or mixture of physical, chemical, biological or infectious characteristics posing a significant, actual, or potential hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or water. Hazardous materials include, without limitation: synthetic organic chemicals; petroleum products; heavy metals; radioactive or infectious wastes; acids and alkalis; solvents and thinners in quantities greater than normal household use; and all substances defined as hazardous or toxic under M.G.L. c.21C and c. 21E and 310 CMR 30.00.

HAZARDOUS WASTE -- Any waste defined in the Massachusetts Hazardous Waste Regulations, 310 CMR 30.010. This includes, but is not limited to, waste oil, waste solvents, waste oil-based paint and waste pesticides.

IMPERVIOUS SURFACE -- Material or structure on, above or below the ground that does not allow precipitation or surface water to penetrate directly into the soil.

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

NONSANITARY WASTEWATER -- Any water-carried or liquid waste resulting from any process or industry, manufacture, trade, business or activity listed in 310 CMR 15.004 (6).

POTENTIAL DRINKING WATER SOURCES -- Areas which could provide significant potable water in the future.

RECHARGE AREAS -- Areas that collect precipitation or surface water and carry it to an aquifer. Recharge areas include DEP approved Zone I, Zone II, Zone III, Zone A, Zone B, or Zone C areas.

TREATMENT WORKS -- Any and all devices, processes and properties, real or personal, used in the collection, pumping, transmission, storage, treatment, disposal, recycling, reclamation, or reuse of waterborne pollutants, but not including any works receiving a hazardous waste from off the site of the works for the purpose of treatment, storage, or disposal.

WATER RESOURCES PROTECTION OVERLAY DISTRICT -- Those land areas designated on a map adopted pursuant to this bylaw that provide recharge to an existing, planned or potential public drinking water supply well or public surface water supply. **[Amended 5-2-2011 ATM, Art. 46]**

WRPOD-1 -- Land areas not within DEP approved Zones I, II, A, B or C but which are contained within the WRPOD. **[Added 5-7-2007 ATM, Art. 28]**

Zone A - Land areas within a DEP approved Zone A and which are contained within the WRPOD. **[Added 5-2-2011 ATM, Art. 46]**

TOWN OF HOPKINTON
ZONING BYLAW

§ 210-70. Use regulations.

A. The WRPOD is established as an overlay district to other districts. Where there is a conflict between provisions of this article and other provisions of these zoning bylaws, the more restrictive regulation shall take precedence. Uses otherwise not permitted in the underlying zoning district shall not be permitted in the WRPOD. It is not the purpose of this article to broaden the permitted uses in the underlying districts, but, rather, to limit or regulate certain activities which may occur in a district. If a use is not listed as permitted or allowed by special permit in the underlying district, it shall not be considered a permitted use by this article.

B. Permitted Uses.

The following uses are permitted in the WRPOD, provided that all necessary permits, orders or approvals required by local, state or federal law shall have been also obtained. All other uses are prohibited, unless expressly authorized by the special permit provisions of this article.

- (1) Any use or structure or any use or structure accessory thereto permitted by right or by special permit in the underlying district unless specifically subject to additional special permit regulation under Sec.210-70C or prohibited under Sec.210-70D.
- (2) Outdoor recreation, nature study, boating, fishing and hunting where otherwise legally permitted.
- (3) Farming, gardening, nursery, conservation, forestry, harvesting, and grazing, subject to the provisions of Subsections C and D of this section.
- (4) Conservation of soil, water, plants and wildlife.
- (5) Foot, bicycle and/or horse paths and bridges.
- (6) Normal operation and maintenance of existing water bodies and dams, splash ponds and other water control, supply and conservation devices.
- (7) Maintenance, repair and enlargement of any existing structure, subject to the provisions of Subsections C and D of this section.
- (8) Construction, maintenance, repair and enlargement of drinking water supply related facilities, such as but not limited to wells, pipelines, aqueducts and tunnels.

C. Special permit uses. The following uses may be authorized by special permit upon the approval of the special permit granting authority and subject to such conditions as it may require, except that no special permit shall be required for items (2) and (4) within the WRPOD-1 area. **[Amended 5-7-2007 ATM, Art. 28]**

(1) Reserved

(2) Any use that will render impervious more than 15% or 2,500 square feet of any lot, whichever is greater. A system for groundwater recharge must be provided which does not degrade groundwater quality. For nonresidential uses, groundwater recharge shall be by storm water infiltration basins, similar system or dry wells. For all nonresidential uses, all such basins and wells shall be preceded by oil, grease and sediment traps to facilitate removal of

TOWN OF HOPKINTON
ZONING BYLAW

contamination. Any and all groundwater recharge areas shall be permanently maintained in full working order by the owner.

(3) Enlargement or alteration of pre-existing uses that do not conform to these regulations.

(3) Activities involving the handling of hazardous materials in quantities greater than those associated with normal household use, so long as same are permitted in the underlying zoning district and not prohibited by Subsection D of this section. Such activities shall require a special permit to prevent contamination of groundwater.

D. The following uses are specifically prohibited in the areas indicated on the map as WRPOD and WRPOD-1, except that items (6), (7) and (11) shall not be prohibited in the WRPOD-1 area. **[Amended 5-7-2007 ATM, Art. 28, 5-2-2011 ATM, Art. 46]**

(1) Placement of contaminated fill.

(2) Storage of hazardous materials and/or liquid petroleum products, with the exception of liquid propane, unless such storage is:

(a) Above ground level and on an impervious surface; and

(b) Either in above ground tanks or above ground container(s) within a building or outdoors in covered container(s) or aboveground tank(s) in an area that has a containment system designed and operated to hold either 10% of the total possible storage capacity of all containers or 110% of the largest container's storage capacity, whichever is greater.

(c) Below ground related to a subsurface parking facility. **[Added 5-5-2008 ATM, Art. 29]**

(3) Landfills and open dumps as defined in 310 CMR 19.006, salvage yards and other solid or hazardous waste disposal or incineration.

(4) Discharge to the ground of nonsanitary wastewater, including industrial and commercial process wastewater, except:

(a) 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.

(b) Treatment works approved by the DEP designed for the treatment of contaminated ground or surface water and operating in compliance with 314 CMR 5.05(3) or 5.05(13).

(c) Publicly owned treatment works.

(5) Earth removal consisting of the removal of soil, loam, sand, gravel or any other earth material, including mining activities, to within four feet of historical high groundwater as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey, except for excavations for building foundations, basements, roads or utility works.

TOWN OF HOPKINTON
ZONING BYLAW

- (6) Motor vehicle sales, lease, rental, service, washing and repair establishments and filling stations.
- (7) Truck terminal, which shall mean an area and building where trucks load and unload cargo and freight and where cargo and freight may be broken down or aggregated into smaller or larger loads for transfer to other modes of transportation, whether or not trucks and cargo are stored or parked overnight.
- (8) Metal plating or finishing.
- (9) Underground transmission lines for chemicals or liquid petroleum products. The provisions §210-70(D)(9) shall not apply to any existing facilities or any replacements of such existing facilities. [**Amended 5-5-2008 ATM, Art. 29**]
- (10) Automobile graveyards and junkyards as defined in MGL c. 140B, § 1.
- (11) Storage of more than one unregistered motor vehicle, with the exception of farm vehicles in accordance with MGL c. 90.
- (12) (Reserved)
- (13) Components of an individual sewage disposal system that are not located on the same property as the use that is served by the system.
- (14) Landfills receiving only wastewater and/or septage residuals, including those approved by the DEP pursuant to MGL c. 21, §§ 26 through 53, MGL c. 111, § 17, MGL c. 83, §§ 6 and 7, and regulations promulgated thereunder.
- (15) Facilities that generate, treat, store or dispose of hazardous waste that are subject to MGL c. 21C and 310 CMR 30.00, except for:
 - (a) Very small quantity generators as defined under 310 CMR 30.000.
 - (b) Household hazardous waste centers and events under 310 CMR 30.390.
 - (c) Waste oil retention facilities required by MGL c. 21, § 52A.
 - (d) Water remediation treatment works approved by DEP for the treatment of contaminated waters.
- (16) Petroleum, fuel oils 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.
- (17) Storage of sludge and septage.
- (18) Storage of deicing chemicals and salt unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.

TOWN OF HOPKINTON
ZONING BYLAW

- (19) Storage of animal manure unless covered or contained within a structure designed to prevent the generation and escape of contaminated runoff or leachate.
- (20) Storage of commercial fertilizers, as defined in MGL c. 128, § 64, unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.
- (21) The stockpiling and disposal of snow and ice containing deicing chemicals if brought in from outside the district.

E. The following uses are specifically prohibited in the areas indicated on the map as Zone A:
[Added 5-2-2011 ATM, Art. 46]

- (1) Solid waste combustion facilities or handling facilities.
- (2) Junk and salvage operations.
- (3) Stockpiling or disposal of snow removed from outside the district that contains deicing chemicals.
- (4) Treatment or disposal works subject to 314 CMR 3.00 or 5.00, except for:
 - a. The replacement or repair of an existing treatment or disposal works that will not result in a design capacity greater than the design capacity of the existing treatment or disposal works;
 - b. Treatment or disposal works for sanitary sewage if necessary to treat existing sanitary sewage discharges in non-compliance with Title 5, 310 CMR 15.00, provided the facility owner demonstrates to the DEP's satisfaction that there are no feasible siting locations outside the Zone A. Any new facility shall be permitted in accordance with 314 CMR 5.00 and shall be required to disinfect the effluent.
 - c. Treatment works approved by the DEP designed for the treatment of contaminated ground or surface waters and operated in compliance with 314 CMR 5.05(3) or 5.05(13); and
 - d. Discharge by public water system of waters incidental to water treatment process.
- (5) Facilities that, through their acts or processes, generate, treat, store or dispose of hazardous waste that are subject to MGL c.21C and 310 CMR 30.000, except for:
 - a. Very small quantity generators as defined by 310 CMR 30.000;
 - b. Treatment works approved by the DEP designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters.
- (6) Human or animal cemeteries or mausoleums.
- (7) Storage of road or parking lot deicing and sanding materials unless covered or contained.

Formatted: Bullets and Numbering

Formatted: Bullets and Numbering

TOWN OF HOPKINTON
ZONING BYLAW

- (8) Storage of fertilizers unless covered or contained.
- (9) Storage of animal manures, unless covered or contained.
- (10) Underground storage tanks.
- (11) Sand and gravel operations.
- (12) Motor vehicle repair operations.
- (13) Commercial car washes; the outdoor washing of commercial vehicles.

§ 210-71. Special permits.

- A. The special permit granting authority (SPGA) shall be the Board of Appeals. [**Amended 5-4-2009 ATM, Art. 25**]
- B. If the location of the boundary of the WPROD in relation to a particular parcel is in doubt, resolution of boundary disputes shall be through a special permit application to the SPGA. Any application for 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 boundary of the WRPOD with respect to a parcel(s) of land is uncertain. The SPGA may engage a professional engineer, hydrologist, geologist, soil scientist and/or other appropriate expert consultant to determine more accurately the boundaries of the WRPOD with respect to individual parcels of land, and may charge the owner(s) for the cost of the investigation.
- C. Application.
 - (1) Any person who desires to obtain a special permit pursuant to the provisions of this article shall submit a written application to the SPGA. Each application, together with a filing fee, shall contain a plan of the affected premises and a complete description of the proposed use, together with any supporting information and plans which the SPGA may require. The applicant shall file 10 copies of the application with the SPGA. The SPGA may refer the application and materials submitted to a consultant for review, at the expense of the applicant. The SPGA may adopt regulations to govern design features and more detailed submission requirements for projects. Such regulations shall be filed in the office of the Town Clerk.
 - (2) The submitted plan shall be drawn at a proper scale as determined by the SPGA and be stamped by a Massachusetts registered professional engineer. All additional submittals shall be prepared by qualified professionals. The site plan and its attachments shall at a minimum include the following information where pertinent:
 - (a) A complete list of chemicals, pesticides, herbicides, fertilizers, fuels and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use.

TOWN OF HOPKINTON
ZONING BYLAW

- (b) For those activities using or storing such hazardous materials, a hazardous materials management plan prepared and filed with the Hazardous Materials Coordinator, Fire Chief and Board of Health. The plan shall include:
 - [1] Provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage or vandalism, including spill containment and cleanup procedures.
 - [2] Provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces and appropriate containment devices.
 - [3] Evidence of compliance with the regulations of the Massachusetts Hazardous Waste Management Regulations 310 CMR 30.00; and
 - [4] Proposed down-gradient location(s) for groundwater monitoring well(s), should the SPGA deem the activity a potential groundwater threat.
- (c) Analysis by a Massachusetts registered professional engineer experienced in groundwater evaluation or by a qualified professional hydrogeologist, with an evaluation of the proposed use, including its probable effects or impact on surface and groundwater quality and quantity and natural flow patterns of watercourses.
- (3) The SPGA shall provide copies of the application to the Board of Health, Planning Board, Conservation Commission, Hazardous Waste Coordinator, Director of Municipal Inspections, Director of Public Works, Fire Chief and Board of Selectmen, each of which shall review the application and submit recommendations to the SPGA within 35 days or 5 business days prior to the date of the public hearing, whichever shall later occur of the referral date. Failure to submit recommendations to the SPGA within such time shall be deemed lack of opposition or no desire to comment.
- (4) The SPGA shall hold a public hearing on the application in conformity with MGL c.40A sec. 9 within 65 days after the date of filing of the application. Notice of the public hearing shall be given in conformity with MGL c.40A sec. 11. The SPGA shall issue a decision no later than 90 days following the close of the hearing. The required time limits for a public hearing and said action may be extended by written agreement between the SPGA and the applicant. The agreement shall be filed in the office of the Town Clerk.
- D. Findings by SPGA. The SPGA shall not issue a special permit unless it shall find that the proposed use meets the following standards, the purposes and standards specified in this article and any regulations or guidelines adopted by the SPGA. The SPGA shall not grant a special permit under this section unless the petitioner's application materials include, in the SPGA's opinion, sufficiently detailed, definite, and credible information to support positive findings in relation to the standards contained in this section. The proposed use must:
 - (1) In no way, during construction or thereafter, adversely affect the existing or potential quality or quantity of water that is available in the WRPOD.
 - (2) Be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation and other water-related natural characteristics of the site to be developed.
 - (3) Not be in conflict with the purpose and intent of this article.

TOWN OF HOPKINTON
ZONING BYLAW

- (4) Be appropriate taking into consideration the natural topography, soils and other characteristics of the site, including existing contamination on or near the site, and such remedial action or contingencies which may be available for inclusion as conditions in a special permit granted under this article.
- E. Special permit conditions. The special permit shall include sufficient conditions to satisfy the purposes of this article. The conditions may include, but are not limited to, analysis or monitoring of ground- and surface waters, hydrogeologic evaluation, erosion or siltation control, compaction, sedimentation control, drainage and recharge provisions and any other limitations or standards deemed necessary or appropriate by the SPGA. In making a determination regarding the issuance of a special permit, the SPGA shall give consideration to the simplicity, reliability and feasibility of the control measures proposed and the degree of threat to water quality and quantity which would result if the control measures were to fail. The SPGA may require a bond, a fee pursuant to MGL c.44 s.53G, or other appropriate financial assurance mechanism(s), to ensure that the conditions included in the special permit are fulfilled.
- F. Special permit time limitations. A special permit shall lapse if a substantial use thereof has not commenced except for good cause within two years from the effective date of the special permit.
- G. Effective date of special permit. No special permit shall take effect until a copy of the decision has been recorded in the Middlesex South Registry of Deeds or, for registered land, in the Land Registration Section of said Registry. Such decision shall bear the certification of the Town Clerk that 20 days have elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed, or if such appeal was filed, it has been dismissed or denied. A copy of the special permit with the appropriate recording information shall be provided to the SPGA forthwith after the recording of same.

§ 210-71A. Use variances.

No variance shall be issued which would permit a use within the WRPOD which is expressly prohibited in subsection D of Section 210-70 of this article.

§ 210-71B. Enforcement.

- A. Written notice of any violations of this bylaw shall be given by the Zoning Enforcement Officer 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 violations and preventive measures required for avoiding future violations and a schedule of compliance.
- B. A copy of such notice shall be submitted to the Planning Board, Board of Health, Conservation Commission, and Department of Public Works. The cost of containment, clean-up, and any and all other actions necessary or appropriate to insure compliance shall be borne by the owner and operator of the premises.