

HAMILTON ZONING BYLAW REVISION 2016

INTRODUCTION

The charge of the Town at the Annual Town Meeting 2015 was to fund a first phase revision of the Hamilton Zoning Bylaw to bring the Town's Bylaw into compliance with the Massachusetts General Law 40A and to reformat the Bylaw to facilitate its use. The ATM approved \$50,000 to fund this revision. Attorney Mark Bobrowski was contracted to oversee the phase one rewrite.

Phase 2 of the Zoning Bylaw revision will include proposed changes to the Zoning Bylaw to be discussed and reviewed in public meetings. The Planning Board will initiate phase 2 after approval of the first phase revision at the fall ATM 2016. The Zoning Bylaw is the Town's most important land use management tool.

The following is a summary of the changes included in the first phase of the Zoning Bylaw rewrite:

GENERAL NOTE RE SITE PLAN REVIEW (SPR) – The proposed Zoning Bylaw includes the recently approved Hamilton Zoning Bylaw Amendment that designates Site Plan Review be under the purview of the Planning Board.

Section 1 PURPOSE AND AUTHORITY – The existing text has been essentially re-written without any new regulations *per se*; the new text is divided into subsections for ease of use. It references State zoning law as enabling the land use legislation.

Section 1 A Pg. I-1 – Deleted provision of existing ZBL that “lands deemed subject to seasonal or periodic flooding shall not be used for residence or any other purpose requiring a subsurface disposal system which would endanger the public health and safety or cause possible damage to adjoining property”.

Section I-1 B - Deleted language that “lands subject to seasonal or periodic flooding; ...or wetlands as defined in the [Wetlands Act] shall not be crossed by roads or driveways.

Section 2 ESTABLISHMENT OF DISTRICTS – The proposed text separates zoning districts from overlay districts to distinguish their meaning and purpose.

Section 3 USE REGULATIONS – The proposed order of the newly proposed Zoning Bylaw places USE REGULATIONS closer to the front of the document in Section 3 for ease of use.

The proposed Zoning Bylaw includes a TABLE OF USE REGULATIONS chart. The chart denotes the uses in specific zones (Residential -1a, R1-b, R-A or B). This approach enables the reader to determine whether a specific use can be permitted within a specific zone.

Table of Use Regulations A. Residential 5. The term Long Term Care Facility (rather than Nursing Home) as shown is a broadened land use based on a greater level of specificity within the health care field (acute care centers, Alzheimer's care facilities, etc.) than the existing ZBL but follows a greater level of specific uses within the overall category of uses.

Table of Use Regulations B. COMMUNITY FACILITIES #5. – The use of the term “nonprofit” follows changes in MGL, which accommodate nonprofit educational facilities.

Table of Use Regulations D. COMMERCIAL #3. – Add the Use of the term “financial institution” rather than simply a bank as this is a common land use within communities (investment, brokerage house, etc.).

Table of Use Regulations COMMERCIAL - Added “Restaurant, Fast Food” as a use allowed by special permit in the Business District. The existing ZBL is silent on fast food restaurant.

Table of Use Regulations E. ACCESSORY #9 – Add “Level Two Electric Charging Station” as a new use. This is necessary given changes in automobile technology.

Table of Use Regulations E. ACCESSORY #10 – Add Large Family Child Care Home as this is a contemporary and protected use enabled by State and Federal legislation.

Table of Use Regulations E. ACCESSORY #11 – Add Small Family Child Care Home as this is a contemporary and protected use enabled by State and Federal legislation.

Table of Use Regulations E. ACCESSORY #12 – Add Adult Social Day Care as this is a growing contemporary use responding to demographic growth with the Baby Boomer generation

SECTION 4.0 – DIMENSIONAL AND DENSITY REGULATIONS (Section VI in old Zoning Bylaw) – This Section includes a TABLE OF DIMENSIONAL REGULATIONS chart which exhibits dimensional requirements for development purposes, that includes lot size, lot frontage, minimum lot size, maximum building height, number of stories, maximum lot coverage as well as rear and side yard dimensions.

SECTION 4.2.11 – The existing zoning bylaw uses the term “Windmill”. The term is inaccurate and the more commonly and accurate term “Wind Turbine” is used within the newly proposed Zoning Bylaw.

SECTION 5 – NONCONFORMING USES AND STRUCTURES - The proposed Zoning Bylaw contains this renamed section for lots, buildings and uses which do not comply with existing zoning criteria. The existing Zoning Bylaw has within Section III (called Existing Uses and Structures) and Appendix B information relative to nonconforming lots buildings and uses. The proposed ZBL also sets out within Section 5.3.2 a listing of instances where variances are required and the subject of Zoning Board of Appeals determination(s).

SECTION 6 GENERAL REGULATIONS - A new section has been organized to address general topics like off-street parking and loading, driveways, signs and standards for nonresidential buildings construction, use and operation.

SECTION 7 – SPECIAL REGULATIONS – A new section has been created to contain “other” uses (all of which exist within the currently bylaw) such as Adult Entertainment Uses, Communication Towers and

Telecommunication Antenna Facilities and Wind Energy Facilities. There are no changes to the existing text.

SECTION 8 – SPECIAL RESIDENTIAL REGULATIONS -Sub Section – 8.1 OPEN SPACE AND FARMLAND PRESERVATION DEVELOPMENT (OSFPD) – Currently the subject topic is located within Section V of the existing Zoning Bylaw and is not called out within the table of contents making the subject difficult to find. The proposed Zoning Bylaw gives it its specific sub section but uses the same regulations in a condensed narrative.

Sub Section 8.2 – Senior Housing – The text in the newly proposed document is generally the same as the text in the existing Zoning Bylaw which is located in **SECTION V. USE REGULATIONS - Subsection E.** Based on the recent amendment to the existing Zoning Bylaw Subsection 6. in Annual Town Meeting in April 2016, the expiration of the Bylaw was removed to allow it to be perennial. The newly proposed Zoning Bylaw does not include a termination or expiration date whatsoever.

Sub Section 8.3 INCLUSIONARY HOUSING – Topic has been provided its own specific sub heading within the section making use of the existing language, which is modestly condensed. One change has been the removal of Severability from this section since the same statement is already within the document and does not need to be restated for each subsection.

SECTION 9.0 SPECIAL DISTRICT REGULATIONS

Sub Section 9.1 GROUNDWATER PROTECTION OVERLAY DISTRICT – No changes to the existing Zoning Bylaw text except to include that the GPOD map was changed in ATM 2015 to incorporate map changes by the Massachusetts Department of Environmental Protection (MDEP) voted in at Town Meeting April 2105. As mapping is undertaken a new document will be prepared and made available which reflects the changes and the TM vote.

9.2 FLOOD PLAIN OVERLAY DISTRICT (FPOD) – The existing Zoning Bylaw refers to the Flood Plain District. The newly proposed Bylaw text uses the term FLOOD PLAIN OVERLAY DISTRICT (FPOD) to be more consistent with Federal Emergency Management Agency terminology. Another change is that the definitions that are currently in the text of the Bylaw have been relocated to SECTION 11.0 DEFINITIONS and can be more easily found by the reader/user.

9.6.6 COMMERCIAL OVERLAY DISTRICT (COD) - Sub Section 9.6.6 - As part of the proposed language for the Commercial Overlay District and in response to the change to enabling the Planning Board as the Special Permit Granting Authority (including within the COD and elsewhere) and Site Plan Review permitting authority it was no longer necessary to include a statement that the Site Plan Review is Planning Board responsibility.

10.3.3 ZONING BOARD OF APPEALS - Subsection 10.3.3 – POWERS – Added language denoting that when applicable applications for site plan review pursuant to Section 10.6 arise, the ZBA is then the review authority as it pertains to these specific applications as designated within the zoning bylaw text and State law.

10.4.2.2 PLANNING BOARD - Subsection 10.4.2.2 Denotes that the Planning Board has the ability to hear and decide applications for site plan approval as provided in Section 10.6 of the text.

10.6.2 SITE PLAN REVIEW – Throughout this section and its various subsections it makes the necessary text changes to enable the Planning Board to be responsible for all facets of Site Plan Review.

10.7 SITE PLAN REVIEW FOR RELIGIOUS AND EDUCATIONAL USES AND CERTAIN CHILD CARE CENTERS
– This sub section includes adding a necessary set of appropriate text to reflect changes in Massachusetts General Law with respect to “exempt” uses (pursuant to G.L. c. 40A, s.3.) including religious, educational and applicable day-care uses . The Section enables the Planning Board to undertake a site plan review and approval of the so-called Dover Amendment applicable uses.

10.8 REQUEST FOR REASONABLE ACCOMMODATION - This new sub section has been added to the Hamilton Zoning Bylaw as part of the Federal Housing Act and as the same standard applies under the American With Disabilities Act (ADA) which also addresses nonresidential facilities providing services to persons with disabilities.

SECTION 11.0 DEFINITIONS – Within the existing Zoning Bylaw definitions are located in multiple sections, difficult to find, and in some cases inconsistent in their language. Section 11 locates all definitions within this section at the end of the document.

Long Term Care Facility – The proposed bylaw includes a description reflecting the changes over the last two decades in the health care facility industry as set forth in 105 CMR 150.001.