

To see if the Town will amend the Town of Hamilton Zoning Bylaw by modifying the language of Section 9.1 *Groundwater Protection Overlay District*, Sub-section 9.1.4 *Dimensional Requirements*, to require the minimum lot area of 80,000 square-feet be applicable for a dwelling unit and not a building lot. The amendment is set forth below with language to be deleted in strikethrough and language to be added in bold and underlined, or take any action relative thereto:

9.1 GROUNDWATER PROTECTION OVERLAY DISTRICT (GPOD).

9.1.1 Purpose. The purpose of the Groundwater Protection Overlay District (GPOD) is:

1. To promote the health, safety and general welfare of the Town by ensuring an adequate quality and quantity of drinking water for the residents, institutions, and businesses of Hamilton.
2. To preserve and protect existing and potential sources of drinking water supplies and recharge areas;
3. To conserve the natural resources of the Town; and
4. To prevent temporary and permanent contamination of the environment.

9.1.2 Overlay District. The GPOD is an overlay district and shall be superimposed on the other zoning districts established by this Bylaw. This overlay district 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 Well Head Protection District must additionally comply with the requirements of the GPOD. Uses that are prohibited in the underlying districts shall not be permitted in the GPOD.

9.1.3 Location. The GPOD shall consist of those areas shown on the Hamilton Groundwater Protection Overlay District Map, dated May 1985, amended May 2000 to include the aquifer protection districts of neighboring communities that lie within the Town of Hamilton, amended October 2004, and amended Fall 2015 to incorporate Weston & Sampson's Zone II delineations map dated January 2013. Said map is hereby incorporated into the Zoning Bylaw by reference, and shall be on file with the Town Clerk.

9.1.4 Dimensional Requirements. Regardless of the minimum Lot size of the underlying zone, there shall be a minimum lot area of eighty thousand (80,000) square feet ~~for a building Lot~~ **per dwelling unit** in the GPOD. See Section 4.0 for Computation of Lot Area.

9.1.5 Lot Partially in the GPOD. Any Lot, which has one-third (1/3) or more of its total area falling in the GPOD, must meet all the requirements of the GPOD.

9.1.6 Boundary in Doubt. If the location of the GPOD boundary in relation to a particular parcel is in doubt, resolution of boundary disputes shall be through a Special Permit application to the Zoning Board of Appeals. 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 show where the bounds should be located. At the request of the owner(s), the Town may engage a professional engineer, hydrologist, geologist, or soil scientist to determine more accurately the boundaries of the GPOD with respect to individual parcels of land, and may charge the owner(s) for the cost of the investigation.

9.1.7 Permitted Uses. Unless prohibited or restricted by the regulations of the GPOD or other state or local regulations, uses or activities permitted in the underlying district are controlled by the requirements of the underlying district.

9.1.8 Prohibited Uses. The following uses are prohibited within the GPOD:

1. Landfills and open dumps as defined in 310 CMR 18.006;
2. Automobile graveyards and junkyards, as defined in G.L. c. 140B;
3. Landfills receiving only wastewater and/or septage residuals including those approved by the Department of Environmental Protection (DEP) pursuant to G.L. c. 21, ss. 26 through 53; G.L. c. 83, ss. 6 and 7; and regulations promulgated thereunder;
4. Facilities that generate, treat, store or dispose of hazardous waste subject to G.L. c. 21C and 310 CMR 30.00, except the following:
 - a. Very small quantity generators as defined under 310 CMR 30.00;
 - b. Household hazardous waste collection centers or events operated pursuant to 310 CMR 30.390;
 - c. Waste oil retention facilities required by G.L. c. 21, s. 52A;
 - d. Water remediation treatment works approved by the Massachusetts Department of Environmental Protection (“DEP”) for the treatment of contaminated ground or surface waters;
5. Storage of liquid hazardous materials, as defined in G.L. c. 21E and liquid petroleum products, including petroleum, fuel oil, heating oil bulk stations and terminals pursuant to 310 CMR 22.21(2)(a)(5), unless such storage:
 - a. Is the storage of (i) heating oil for consumptive use on the premises where stored, or (ii) motor oil/fuel for noncommercial purposes that is stored in farm or residential tanks of 1100 gallons capacity or less; and
 - b. Is in a fuel oil tank installed either within the Building, which it will heat, or above ground outside the Building, with surfaces underlying such tank being impermeable to fuel oil and enclosed by a permanent berm or dike of impermeable construction capable of containing ten (10) percent of the total volume of the tank (in the case of more than one (1) tank, the containment must hold either ten (10) percent of the total possible storage capacity of all containers or one hundred ten (110) percent of the largest container’s storage capacity whichever is greater); and
 - c. To the extent that such storage involves any supply or return lines carrying fuel oil underground or under the basement floor surface, such lines shall be enclosed in conduit piping impervious to fuel oil to prevent leakage into the soil and in compliance with 527 CMR 4.0 et. seq. and any other applicable state regulations. All leaking tanks existing on the property must be repaired or emptied within twenty-four (24) hours of leak detection. All State regulations pertaining to fuel tanks are also applicable to tanks governed by this Section.

6. Storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31;
7. 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;
8. Storage of animal manure, unless covered or contained in accordance with the specifications of the United States Natural Resources Conservation Services;
9. Earth removal consisting of the removal of soil, loam, sand, gravel or any other earth material (including mining activities) to within four (4) feet of the historical high ground water table as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey, except for excavations for building foundations, roads, or utility works;
10. Non-sanitary treatment or disposal works subject to 314 CMR 5.00, except for the following:
 - 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 Department of Environmental Protection (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); or
 - c. Publicly owned treatment works;
11. Stockpiling and disposal of snow and ice containing deicing chemicals if brought in from outside the GPOD;
12. Storage of commercial fertilizers as defined in G.L. c. 128,s. 64, unless such storage is within a Structure designed to prevent the generation and escape of contaminated runoff or leachate.

9.1.9 Uses and Activities Requiring a Special Permit. The following uses and activities are permitted only upon the issuance of Special Permit by the Zoning Board of Appeals under such conditions as it may require:

1. Enlargement or alteration of existing uses that do not conform to the GPOD;
2. Activities that involve the handling of toxic or hazardous materials in quantities greater than those associated with normal household use, permitted in the underlying district, except as prohibited herein. Such activities shall require a Special Permit to prevent contamination of groundwater;
3. Any use that will render impervious more than fifteen (15) percent or twenty five hundred (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, recharge shall be by storm water infiltration basins or similar system covered with natural vegetation, and dry wells shall be used only where other methods are infeasible. For all non-residential uses, all such basins and wells shall be preceded by oil, grease, and sediment traps to facilitate removal of contamination. Any and all recharge areas shall be permanently maintained in full working order by the owner.

9.1.10 Special Permit Application. The applicant shall file eight (8) copies of a site plan and attachments. The site plan shall meet the requirements for site plan review and approval established by Section 10.6. Additional submittals shall include the following information where pertinent:

1. A complete list of chemicals, pesticides, herbicides, fertilizers, fuels and other potentially hazardous material to be used or store on the premises in quantities greater than those associated with normal household use;
2. For those activities using or storing such hazardous materials, a hazardous materials management plan shall be prepared and filed with the Hazardous Materials Coordinator, Fire Chief and Board of Health. The plan shall include:
 - a. Provisions to protect against the discharge of hazardous material or wastes to the environment due to spillage, accidental damage, corrosion, leakage or vandalism, including spill containment and clean-up procedures;
 - b. Provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces; and
 - c. Evidence of compliance with the Regulations of the Mass Hazardous Waste Management Act 310 CMR 30, including obtaining an EPA identification number from DEP.
3. Proposed down-gradient location(s) for groundwater monitoring well(s), should the Board deem the activity a potential groundwater threat.

9.1.11 Procedures for Issuance of Special Permits. The SPGA under this Bylaw shall be the Zoning Board of Appeals. A Special Permit may be granted if the Zoning Board of Appeals determines, in conjunction with the Board of Health, the Conservation Commission, the Planning Board and the DPW Superintendent that the intent of this Section, as well as its specific criteria are met. The Zoning Board of Appeals shall not grant a Special Permit under this Section unless the petitioner's application materials include, in the Zoning Board of Appeals' opinion, sufficiently detailed, definite and credible information to support positive findings in relation to the standards given in this Section. The Zoning Board of Appeals shall document the basis for any departures from the recommendations of the other Town boards or agencies in its decision. Upon receipt of the Special Permit application, the Zoning Board of Appeals shall transmit one (1) copy to the Board of Health, Conservation Commission, Planning Board and DPW Superintendent for their recommendations. Failure to respond in writing within thirty five (35) days shall indicate approval or no desire to comment by said Board or official. The necessary copies of the application shall be furnished by the applicant.

9.1.12 Special Permit Criteria. The Zoning Board of Appeals may grant the required Special Permit only upon finding that the proposed use meets the following standards, those specified in Section 10.5 of this Bylaw, and any regulations or guidelines adopted by the Zoning Board of Appeals. 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 GPOD; and
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.

9.1.13 Enforcement. Written notice of any violations of this Section shall be given by the Building Commissioner to the responsible person as soon as possible after detection of a violation or continuing violation. Notice to the assessed owner of the property shall be deemed notice to the responsible person. Such notice shall specify the nature of the violation and may also identify the

actions necessary to remove or remedy the violation, measures required for avoiding future violations and schedule of compliance. A copy of such notice shall be submitted to the Zoning Board of Appeals, Board of Health, Conservation Commission, Planning Board and DPW Superintendent and Water Department. The cost of containment, clean-up or other action for compliance shall be borne by the owner and operator of the premises.