

## Summarized Bylaw Amendments for Public Hearing

### First Article:

To see if the Town will vote to amend the Zoning Bylaws by replacing:

- a. the words "Board of Selectmen," wherever they appear, with the word "Select Board;"
- b. the words "Selectman" or "Selectmen," wherever either appears, with the words "Select Board Member"
- or "Select Board Members," respectively; and
- c. the word "Chairman," wherever it appears, with the word "Chair;" and
- d. the words "Building Inspector", wherever they appear, with the words "Building Commissioner".

### Second Article:

To see if the Town will vote to amend the Zoning Bylaws for clarity and consistency with Massachusetts General Laws by adding language (Underlined) and deleting language (~~Crossed Through~~) as follows:

#### 1.1 Title.

These zoning bylaws shall be known as the Hubbardston Zoning Bylaws (revised ~~1989~~2023).

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#### 3.2 Zoning Map.<sup>1</sup>

~~The official Zoning Map of the Town of Hubbardston is hereby made a part of these zoning bylaws and shall be on file with the Town Clerk. The official zoning map entitled "Zoning Districts" which was prepared by IEP, Inc. (1988) is hereby made a part of these zoning bylaws and shall be on file with the Town Clerk. All land currently designated within the Light Industrial District located on the east side of Gardner Road between High Street and Morgan Road and on the west side of Gardner Road between Ragged Hill Road and Pitcherville Road to be amended to be in the Residential-Agricultural District.~~

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#### 4.1 Uses Permitted By Right in Residential Districts.

Residential Districts are intended to be used primarily for personal residence, agriculture, conservation, recreation and open space maintenance. The following uses are permitted within these districts:

- a. Single-family residence, other than mobile homes.
- b. Two-family residence, other than mobile homes, provided that the minimum lot area requirement is increased over that required for a single-family dwelling by an additional 30,000 square feet for the additional unit and the lot frontage requirement is increased over that which is required for a single family dwelling by an additional fifty (50') feet for the additional unit.
- c. Religious, sectarian or denominational uses.
- d. Conservation or open space area, recreation common or park land.
- e. Agriculture, horticulture, floriculture and viticulture.
- f. Nursery, orchard.
- g. Sale of farm, nursery, or orchard products which have been produced on the premises.
- h. Accessory uses on the same lot such as garages, stables, barns, tool sheds, farm buildings and enclosures, tennis courts, swimming pools.
- i. Cemetery.

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<sup>1</sup> Amended: December 1992

- j. Public and Private non-profit educational museums.
- k. Municipal Uses.
- l. Home occupation, as defined in Article 2.
- m. Guest Houses, Bed and Breakfast Establishments.
- n. Educational Uses.
- o. Accessory Dwelling Unit unless on a lot that does not conform to the dimensional regulations contained in Article 5, Section 5.1, whether as part of new construction or as an addition, or to build or add an Accessory Dwelling Unit above a garage that is detached from the single-family house, in which a special permit is required.<sup>2</sup>
- p. Solar Photovoltaic Installations,<sup>3</sup> including Grid-scale Battery Energy Storage Systems,<sup>4</sup> subject to Articles 20 and 23.
- ~~p-q.~~ Child care center, school-aged child care program, family child care home, or large family child care home, as defined in Massachusetts General Law Chapter 15D Section 1A.

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<sup>2</sup> Added: 09/13/2022

<sup>3</sup> Added: 6/1/2010

<sup>4</sup> Added: xx/xx/2023

#### 4.2 Uses Permitted By Special Permit in Residential Districts.

The following uses are permitted within Residential Districts subject to conditions and limitations contained in an Approved Site Plan (Article 9), Environmental & Community Impact Analysis (Article 8) and Special Permit (Article 7) issued by the Planning Board.<sup>5</sup>

- a. Library, health care facility, government building or facility.
- b. Public utility facility but not including generating units, new utility rights-of-way, or oil, gas, or propane storage tanks in excess of 5000 gallons.
- c. Country club, tennis club, golf course.
- ~~d. Commercial greenhouse.~~
- ~~e-d.~~ Multi-Family Residence. Up to four family units may be constructed in areas not within the Aquifer Favorability Protection District (see Article 15) provided that the minimum lot area requirement is increased over that required for a single-family dwelling by an additional 30,000 square feet for each additional unit and the lot frontage requirement is increased over that which is required for a single family dwelling by an additional fifty (50') feet for each additional unit. The structure shall conform to the architectural style and scale of the residential area within which it is proposed.
- ~~f-e.~~ Radio, Television & Communication Transmission Towers ~~with a maximum height of 150'~~, subject to all requirements of Article 18.<sup>6</sup>
- ~~g-f.~~ Nursing, Convalescent and Rest Homes.
- ~~h.~~ ~~Day Care center.~~
- ~~i-g.~~ Additions and/or alterations to existing non-conforming structure or use.<sup>7,8</sup>
- ~~j-h.~~ Kennel for five (5) or more dogs, which are three months old or over; commercial riding stable.<sup>9</sup>
- ~~k-i.~~ Senior Residential Development.<sup>10</sup>
- ~~l-j.~~ Accessory Dwelling Unit on a lot that does not conform to the dimensional regulations contained in Article 5, Section 5.1, whether as part of new construction or as an addition, and to build or add an Accessory Dwelling Unit above a garage that is detached from the single-family house.<sup>11</sup>
- ~~m-k.~~ Open Space Residential Development.<sup>12</sup>
- ~~n-l.~~ Outdoor Marijuana cultivation establishments licensed for Tier 1 (up to 5,000 s.f.) (subject to Article 22).<sup>13</sup>
- ~~o-m.~~ Outdoor Marijuana cultivation establishments licensed for Tier 2 (between 5001 and 10,000 s.f.) (subject to Article 22).<sup>14</sup>

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#### 4.3 Use Permitted By Right in the Town Center District.

The Town Center District is intended to be used for traditional Town center residential activities. The following uses are permitted within these districts:

- a. Single-family residence, other than mobile homes.
- b. Two-family residence, other than mobile homes, provided that the minimum lot area requirement is increased over that required for a single-family dwelling by an additional 30,000 square feet for the additional unit and the lot frontage requirement is increased over that which is required for a single family dwelling by an additional fifty (50') feet for the additional unit.
- c. Religious, sectarian or denominational uses.
- d. Conservation or open space area, recreation common or park land.
- e. Agriculture, horticulture, floriculture and viticulture.
- f. Nursery, orchard.
- g. Sale of farm, nursery, or orchard products which have been produced on the premises.
- h. Accessory uses on the same lot such as garages, stables, barns, tool sheds, farm buildings and enclosures, tennis courts, swimming pools.
- i. Cemetery.
- j. Public and Private non-profit educational museums.
- k. Municipal Uses.

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<sup>5</sup> Amended: 2/1/2000

<sup>6</sup> Amended: Added: 02/12/2001, 6/2/2015

<sup>7</sup> Amended: 6/21/1993

<sup>8</sup> Amended: 6/3/2008 (Removed Earth Removal as a Commercial Operation)

<sup>9</sup> Amended: 2/1/2000

<sup>10</sup> Added: 10/28/2002

<sup>11</sup> Added: 09/13/2022 (replaced Accessory Apartment from 6/23/2003)

<sup>12</sup> Added: 6/16/2006

<sup>13</sup> Added: 6/5/2018

<sup>14</sup> Added: 6/5/2018

- l. Library, government building or facility.
- m. Guest Houses, Bed and Breakfast Establishments.
- n. Educational Uses.
- o. Home occupation, as defined in Article 2.
- p. Accessory Dwelling Unit unless on a lot that does not conform to the dimensional regulations contained in Article 5, Section 5.1, whether as part of new construction or as an addition, or to build or add an Accessory Dwelling Unit above a garage that is detached from the single-family house, in which a special permit is required.<sup>15</sup>
- g. Child care center, school-aged child care program, family child care home, or large family child care home, as defined in Massachusetts General Law Chapter 15D Section 1A.

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#### 4.3.1 Use Permitted by Special Permit in the Town Center District.<sup>16</sup>

The following uses are permitted within the Town Center District subject to conditions and limitations contained in an approved site plan (Article 9) and special permit (Article 7) issued by the Planning Board.

- a. Individual retail store or service establishment, market, delicatessen.
- b. Individual business, professional office.
- c. Outdoor Marijuana cultivation establishments licensed for Tier 1 (up to 5,000 s.f.) by special permit (subject to Article 22).<sup>17</sup>
- d. Accessory Dwelling Unit on a lot that does not conform to the dimensional regulations contained in Article 5, Section 5.1 whether as part of new construction or as an addition, and to build or add an Accessory Dwelling Unit above a garage that is detached from the single-family house.<sup>18</sup>
- e. Radio, Television & Communication Transmission Towers, subject to all requirements of Article 18 Wireless Communication Facility.<sup>19</sup>

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#### 4.5 Uses Permitted by Special Permit in Commercial Districts.

The following uses are permitted within Commercial Districts subject to conditions and limitations contained in an approved site plan (Article 9), Environmental & Community Impact Analysis (Article 8), and a special permit (Article 7) issued by the Planning Board.<sup>20</sup>

- a. All uses allowed by Special Permit under Section 4.2.
- b. Shopping center or complex of offices, businesses, or retail establishments not to exceed 50,000 square feet of gross floor area per lot.
- c. Motor vehicle service, repair, washing or fuel business, provided that, except for vehicles under repair, there will not be any exterior storage or placement of vehicles, equipment, discarded parts or tires.
- d. Hotel, motel, inn, campground.
- e. Sales of New or Used Motor Vehicles (Class 1 & 2, as defined by Massachusetts General Laws Chapter 140, only)
- f. Senior Residential Development.<sup>21</sup>
- g. All Marijuana Establishments as defined by Massachusetts General Laws 94G are allowed by special permit (subject to Article 22).<sup>22</sup>
- g-h. Grid-scale Battery Energy Storage Systems, subject to Article 23.<sup>23</sup>

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<sup>15</sup> Added: 09/23/2022

<sup>16</sup> Added: 6/23/2003

<sup>17</sup> Added: 6/5/2018

<sup>18</sup> Added: 09/13/2022

<sup>19</sup> Added: 02/12/2001, Amended 6/2/2015

<sup>20</sup> Amended: 2/1/2000

<sup>21</sup> Added: 3/3/2003

<sup>22</sup> Added 6/5/2018

<sup>23</sup> Added xx/xx/2023

## 16.8 Design Criteria

- a. Where the proposed development abuts a body of water, a portion of the shoreline, as well as reasonable access to it, shall be part of the common Open Space.
- b. Residences shall be grouped so that the greatest number of units can be designed to take advantage of solar heating opportunities; so that scenic views and long views remain unobstructed, particularly those seen from roads.
- c. Lots shall be laid out, to the greatest extent possible to achieve the following objectives:
  1. On the most suitable soils for subsurface septic disposal;
  2. On the least fertile soils for agricultural use;
  3. Within the woodland on the parcel, or along the far edges of open fields;
  4. So as to minimize the length of any common boundary between the new lots created by OSRD and lands preserved for agriculture;
  5. So that dwelling units and non-agricultural structures shall be located at a minimum of one hundred (100) feet from agricultural land and shall be separated, to the greatest extent possible, from the agricultural uses by a seventy-five (75) foot wide buffer strip of trees and native plantings sufficient to minimize conflicts between farming operations and residents.
- d. In areas greater than twenty (20) percent slope or upon hilltops and ridgelines, lots shall be laid out, to the greatest extent possible, to achieve the following objectives:
  1. Building sites shall be located so that the silhouettes of structures will be below the ridgelines or hilltop or if the site is heavily wooded, the building silhouettes shall be at least ten (10) feet lower than the average canopy height of the trees on the ridge or hilltop.
  2. Where public views will be unavoidably affected by the proposed use, architectural and landscaping measures shall be employed so as to minimize significant degradation of the scenic or aesthetic qualities of the site.
  3. The removal of native vegetation shall be minimized.
  4. Any grading or earthmoving operation in conjunction with the proposed development shall be planned and executed in such a manner that the final contours are consistent with the existing terrain, both on and adjacent to the site.
  5. Safeguards shall be employed where needed to mitigate against environmental degradation from erosion, sedimentation, water pollution, or flooding.

**ROADS:** The principal roadway(s) serving the site shall be designed to conform to the standards of the Rules & Regulations of the Planning Board adopted February 1, 2000, as amended, and Chapter XVIII "Streets and Sidewalks" of the General Bylaws, Article 34, General By-law Roads, Streets and Ways

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## 18.5 General Requirements

18.5.1 Purpose. This section will cover all requirements not listed in the previous sections.

### 18.5.2 Requirements.

- a. Applicant must perform a balloon test after a desired site location has been determined, unless the Planning Board determines it inappropriate or unnecessary with respect to Section 18.4.2.b. The balloon test shall be conducted continuously for 24 hours. The date, time, and location of this test must be advertised in a newspaper of general local circulation, 14 days prior to the test. In addition a mailer will be sent to each residence at the expense of the applicant, 14 days prior to the test.
- b. Applicant must prepare and perform a construction control certification. All submittals, dates and times of inspections, reports and discrepancies must be reported to the Building Commissioner and the Planning Board. Failure to adhere to this requirement could significantly delay occupancy permits.
- c. Existing vegetation shall be preserved to the maximum extent possible.
- d. Any fencing used for a communications facility shall be a minimum of eight (8) feet in height and shall be of the wood stockade type.
- e. All access roads to a communications facility shall be twelve (12) feet to fifteen (15) feet in width, depending upon terrain, and shall be composed of twelve (12) inches of compacted gravel over which is laid down a three (3)-inch layer of crushed stone.
- ~~f. All drainage issues as a result of a communications facility must adhere to Section 7.10 of the Rules and Regulations Governing the Subdivision of Land in Hubbardston, Massachusetts, Dated 1988.~~

~~g. All utility installations as a result of a communications facility must adhere to Section 7.07 of the Rules and Regulations Governing the Subdivision of Land in Hubbardston, Massachusetts, Dated 1988.~~

~~h.f. All drainage issues as a result of a communications facility must adhere to Section 7.10 of the Rules and Regulations Governing the Subdivision of Land in Hubbardston, Massachusetts, Dated 1988, as amended.~~<sup>24</sup>

~~i.g. All utility installations as a result of a communications facility must adhere to Section 7.07 of the Rules & Regulations Governing the Subdivision of Land in Hubbardston, Massachusetts, Dated 1988.~~

~~j.h. An application shall be made by a licensed carrier or shall include documentation establishing that a licensed carrier has committed to locating antennae on the tower.~~<sup>25</sup>

~~k.i. A special permit as defined in zoning bylaw 7.1 -7.5 and an environmental impact study 8.1- 8.4.~~

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#### **22.4 General Zoning Districts for Marijuana Establishment and Restrictions Applicable to all Districts.**

Marijuana Establishments as described in Massachusetts General Laws Chapter 94G and 935 CMR 500.00 shall be allowed in the following districts after the applicant has been approved by the Cannabis Control Commission.

##### **22.4.1 Marijuana Establishment allowed by Special Permit in Residential District:**

Outdoor Marijuana cultivation establishments licensed for Tier 1 (up to 5,000 sf).

##### **22.4.2 Marijuana Establishment allowed by Special Permit in Residential District:**

Outdoor Marijuana cultivation establishments licensed for Tier 2 (between 5001 and 10,000 sf) by Special Permit.

##### **22.4.3 Marijuana Establishment allowed by Special Permit in the Town Center District**

Outdoor Marijuana cultivation establishments licensed for Tier 1 (up to 5,000 sf) by Special Permit.

##### **22.4.4 Marijuana Establishment allowed in the Commercial District by Special Permit.**

All Marijuana Establishments as defined by Massachusetts General Laws Chapter 94G are allowed by Special Permit.

##### **22.4.5 Setbacks and Lot Size Limit Applicable to all Marijuana Establishments in All Districts.**

Setbacks: All Marijuana Establishments shall be set back one hundred (100) feet from streets and abutting property lines including all fences and grow areas. The area within the setback shall be maintained as a buffer zone and, if forested, must remain so, and if not, shall be landscaped to create an effective buffer to screen all elements of the Marijuana Establishment (including grow areas) from public and private view. Any greater set back requirements in these bylaws shall remain applicable.

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<sup>24</sup> Amended:6/18/2002

<sup>25</sup> Amended:6/18/2002