

Variations of the Select Board Proposed Water Extraction Ordinance vs the Committees Proposed Ordinance

Chapter 3 Permit Required and Exemption Section 2.1 Exemptions

- Board redefined what agriculture would be exempt – they wanted to protect the small farms who supply agricultural goods / produce to the local communities. After research – “Urban Agriculture” was defined and determined to be exempt from the ordinance.
 - Urban Agriculture means the practice of farming within an urban environment. Urban Agriculture includes the cultivation, processing and distribution of agriculture products in urban and suburban areas. Urban Agriculture benefits surrounding communities and does not include agricultural farms that distribute or sell to commercial entities.

Chapter 4 Application

- Section 2.6 Abutter Notification – is the same just clarified by reformatting.
- Section 2.9 Decommissioning Plan – question was brought up by legal and seconded by technical agent if it was feasible to put a time limit on the plan completion – committee had 6 months – after consideration of factors that could impact a time limit, it was decided to remove the time limit and – add “expeditious” schedule and have the plan approved by the BOS and the Technical Agent.
- Section 4. Review Procedure
 - Legal added wording to the extension section #2 – extension may not materially prejudice the right of interests of any person and does not outweigh the public benefit.
 - Conditions – legal clarified conditions may include the construction of the project and the operation of the project

Chapter 5 Performance Standards

- Section 4 Data Collection – Technical Agent suggested removing the real time data references in this section because this section speaks of the collection of the data – real time is handled in Section 5. Technical Agent added reporting on a minimum of a monthly basis.
- Section 5. Real Time Data –
 - Committee’ Version Submitted to the Select Board 6/10/2024 Presented at 6/26/2024 Public Hearing
 - Data Reporting: Permittee may be responsible for reporting performance-based data to the Town of Demark on a real-time basis. Real-time reporting will require the use of electronic telemetric devices commonly used in the water monitoring industry. It is the Town of Demark’s discretion to request that a permittee begin reporting certain performance-based measurements in real-time that are already collected per (Insert Article # here). At the time the request is made, the Town of Demark will identify where the real-time data are to be transmitted and in what format. Reported data will become immediately available to the public. The decision to require reporting under this item

will be based on the sensitivity of the data and the Town's desire to inform the public on a real-time basis.

- Select Board version voted to accept on 11/26/2026
 - Section 5. Real-Time Data Reporting
 1. Permittee may be responsible for reporting performance-based data to the Town of Denmark on a real-time basis, if the Select Board, after consulting with the Town's Technical Agent, determines the data would be beneficial in adhering to the conditions of the permit. Real-time reporting will require the use of electronic telemetric devices commonly used in the Water monitoring industry. The required devices shall be at the Permittee's own expense. Reported data will become immediately available to the public. The Applicant will be responsible for any cost to the Town for implementing availability of Real Time Data. At the time the request is made, the Select Board, after consulting with the Town's Technical Agent, will identify where the real-time data are to be transmitted and in what format. Real-time reporting may include data from the required locations listed in the signed permit approval.
- Section 6. Survey of Monitoring Locations – Technical Agent added new language so the Town was not limited on the methods of acceptable data. New language was added to set the expectation for the flow netting exercise.
- Section 9 Impacts on General Vicinity – legal suggested removing this section or parts for several reasons – but mainly because it has the Town acting in a sole judiciary role. After several discussions on whether the Town wanted to eliminate the entire section regarding payout of the bond for private property/wells it was decided by the board to add if a payment was made pursuant to the bond it had to be a collaborated effort between the board, Technical Agent and the permittee. With the hope this wording/ collaboration would take the sole judiciary responsibility off the Town if this was ever challenged in court.

Chapter 8 Transfer of Ownership

- The committee proposed wording that would be hard to enforce in several areas – determination of what would trigger a permittee to have to report a transfer of ownership to the Town – and it suggested wording that would terminate a permit as a condition of not reporting. Legal said this would be a challenge to uphold and enforce if it was ever challenged. The board added language making the Permittee responsible for having knowledge of any Transfer of Ownership within their operation/ownership and whether it affects the local operation. Board outlines the process for reporting/ approval criteria – abbreviated process. The board defines Transfer of Ownership:
 - Transfer of Ownership means a change in the ownership of the legal entity or the highest-level company (or companies) of the legal entity's ownership hierarchy that owns a property, facility or structure that is the subject to this permit. For the purposes of this section, a change has occurred when the controlling interest (50 percent or greater ownership) in the legal entity or the highest-level company (or companies) of the legal entity's ownership hierarchy that owns a

property, facility or structure that is the subject to this permit has been transferred to another legal entity because of a business transaction (i.e. sale or merger).

Chapter 9 Administrative Fees. – the board added a requirement of a \$5,000 escrow fee to cover cost of permit review and approval.

Chapter 10 Enforcement – to keep consistent with the Zoning Ordinance the board has appeals going to the Board of Appeals – if the Town has no BOA then by law it will proceed to Superior Court.

Chapter 11 Definitions – Legal and Technical Agent agreed any words that are not used within the ordinance should be deleted.