



**FALL ANNUAL TOWN MEETING MINUTES  
TUESDAY, OCTOBER 25, 2016 – 7:00 PM  
UXBRIDGE HIGH SCHOOL AUDITORIUM  
300 QUAKER HIGHWAY, UXBRIDGE, MASSACHUSETTS**

Pursuant to the foregoing Warrant, the inhabitants of the Town of Uxbridge, qualified to vote in the Town elections and in Town affairs, met at the High School Auditorium, in Precinct 3, in said Uxbridge, and transacted the following business on October 25, 2016:

Moderator Charles E. Maharay called the Fall Annual Town Meeting to order at 7:00pm, declaring the presence of a quorum (50 required, 233 voters present). Rules for conducting business and taking votes of the meeting were announced.

\* \* \*

A Motion was made to take Article 17 out of Order:  
Motion Seconded  
Moderator declares motion passes

**ARTICLE 17: CITIZEN'S PETITION – AMEND THE UXBRIDGE TOWN CHARTER AND  
REQUEST A VOTE OF THE STATE LEGISLATURE PER MGL CHAPTER 43B TO AFFIRM  
THE AMENDMENT**

To See if the Town will vote to amend the Town Charter and request a vote of the state legislature per MGL Chapter 43B to affirm the amendment. See attached sheets for the requested amendment.

Amend the Town Charter by the following (added or deleted text in this format):

**ARTICLE 7  
GENERAL PROVISIONS**

**SECTION 8: REMOVALS AND SUSPENSIONS**

Any appointed town officer, member of a multiple member body or employee of the town, not subject to the provisions of the state civil service law, or covered by the terms of a collective bargaining agreement which provides a different method, and whether appointed for a fixed or an indefinite term, may be suspended or removed from office, without compensation, by the appointing authority for just cause. The

term cause shall include, but not be limited to the following: incapacity other than temporary illness, inefficiency, insubordination and conduct unbecoming the office.

Any appointed officer, member of a multiple member body or employee of the town may be suspended from office by the appointing authority if such action is deemed by said appointing authority to be necessary to protect the interests of the town. However, no suspension shall be for more than fifteen days. Suspension may be coterminous with removal and shall not interfere with the rights of the officer or employee under the removal procedure given below.

The appointing authority when removing any such officer, member of a multiple member body or employee of the town shall act in accordance with the following procedure:

- (a) A written notice of the intent to remove and a statement of the cause or causes therefor shall be delivered in hand, or by certified mail, return receipt requested, to the last known address of the person sought to be removed.
- (b) Within five days following delivery of such notice the officer, member of a multiple member body or employee of the town may request a public hearing at which such person may be represented by counsel, shall be entitled to present evidence, call witnesses and to question any witness appearing at the hearing.
- (c) Between one and ten days after the public hearing is adjourned, or if the officer, member of a multiple member body or employee of the town fails to request a public hearing between six and fifteen days after delivery of the notice of intent to remove, the appointing authority shall take final action, either removing the officer, member of a multiple member body or employee of the town or notifying such person that the notice is rescinded. Failure of the appointing authority to take any action within the time periods as stated in this section shall be deemed to be a rescission of the original notice and the officer, member of a multiple member body or employee shall, forthwith, be reinstated.

Nothing in this section shall be construed as granting a right to such a hearing when a person who has been appointed for a fixed term is not reappointed when the term for which such person was appointed has expired.

**(Any elected officer, town manager, appointed officer, member of a multiple member body or employee of the town, not subject to the provisions of the state civil service law, or covered by the terms of a collective bargaining agreement which provides a different method, and whether elected or appointed for a fixed or an indefinite term, may be removed from their position, without compensation, by the voters of the Town.**

**The voters of the Town may elect to remove said person or persons through the same process for Warrant Articles defined in ARTICLE 2 of this Town Charter, except that the process may only be initiated through the request of registered voters, the required number of which being spelled out in ARTICLE 2, SECTION 7. )**

**(A request for removal shall specify the person or persons and their position or positions within the Town Government for which the request seeks to remove. No reason of the request shall be required by the Board of Selectmen for the request to be included on the Warrant, although it shall be considered customary and necessary for the reasons to be discussed at the Town Meeting.**

**With two-thirds affirmative vote at Town Meeting, said person or persons shall vacate their position or positions at the adjournment of that Town Meeting.)**

*Remove also: (in red type)*

## ARTICLE 4

### TOWN MANAGER

#### SECTION 6: REMOVAL AND SUSPENSION

The action of the board of selectmen in suspending or removing the town manager shall be final, (it being the intention of this provision to vest all authority and fix all responsibility for such suspension or removal solely in the board of selectmen.)

**SPONSOR:** Citizen's Petition

**MOTION:** *Move to accept the article as written.*

**RECOMMENDATION OF THE FINANCE COMMITTEE:** Unfavorable Action (7-0-0)

This article, as written, dramatically changes the intentions of the original Town Charter. Additionally, this article could result in the dismissal of key public safety and financial personnel via Town Meeting vote which we believe is problematic.

**RECOMMENDATION OF THE BOARD OF SELECTMEN:** Unfavorable Action (4-0-0)

**VOTE NEEDED:** Requires a 2/3rds vote

**The motion is seconded**

**During open debate a motion was made to Amend the main motion as follows:**

## ARTICLE 7

### GENERAL PROVISIONS

#### SECTION 8: REMOVALS AND SUSPENSIONS

Any appointed town officer, member of a multiple member body or employee of the town, not subject to the provisions of the state civil service law, or covered by the terms of a collective bargaining agreement which provides a different method, and whether appointed for a fixed or an indefinite term, may be suspended or removed from office, without compensation, by the appointing authority for just cause. The term cause shall include, but not be limited to the following: incapacity other than temporary illness, inefficiency, insubordination and conduct unbecoming the office.

Any appointed officer, member of a multiple member body or employee of the town may be suspended from office by the appointing authority if such action is deemed by said appointing authority to be necessary to protect the interests of the town. However, no suspension shall be for more than fifteen days. Suspension may be coterminous with removal and shall not interfere with the rights of the officer or employee under the removal procedure given below.

The appointing authority when removing any such officer, member of a multiple member body or employee of the town shall act in accordance with the following procedure:

- (a) A written notice of the intent to remove and a statement of the cause or causes therefor shall be delivered in hand, or by certified mail, return receipt requested, to the last known address of the person sought to be removed.
- (b) Within five days following delivery of such notice the officer, member of a multiple member body or employee of the town may request a public hearing at which such person may be represented by counsel, shall be entitled to present evidence, call witnesses and to question any witness appearing at the hearing.
- (c) Between one and ten days after the public hearing is adjourned, or if the officer, member of a multiple member body or employee of the town fails to request a public hearing between six and fifteen days after delivery of the notice of intent to remove, the appointing authority shall take final action, either removing the officer, member of a multiple member body or employee of the town or notifying such person that the notice is rescinded. Failure of the appointing authority to take any action within the time periods as stated in this section shall be deemed to be a rescission of the original notice and the officer, member of a multiple member body or employee shall, forthwith, be reinstated

Nothing in this section shall be construed as granting a right to such a hearing when a person who has been appointed for a fixed term is not reappointed when the term for which such person was appointed has expired.

**Any elected officer holding any office described by Article 3, Section 1 of this Town Charter may be removed from their office, without compensation, by the voters of the Town.**

**The registered voters of the Town may vote to remove said officers as herein provided:**

**Any two hundred registered voters or twenty percent of the registered voters of the Town, whichever number is the lesser; may petition for a request for removal by filing with the Town Manager, who shall receive at any time, a request containing the name of the officers and the offices for which the request seeks to remove. The request for removal shall be submitted on the Citizen's Petition form as one submits a petition for a warrant article and it shall state the suggested grounds for removal.**

**The Town Manager, having administrative authority over the Town Clerk, shall within no more than seven days of the receipt of the request for removal order the Town Clerk to certify the petition to be sufficient as provided by General Law. If the petition shall be found and certified by the Town Clerk to be sufficient, the Town Clerk shall submit a certificate to the Selectmen within no more than seven days of having received said order; and the Selectmen shall, within no more than seven days of the receipt of the certificate, furnish a copy of the certificate to the officers for whom the petitioners seek removal; and the Board of Selectmen shall call a Special Town Meeting and issue a warrant as provided by this Town Charter and by General Law. The request for removal shall be inserted on the warrant as an article.**

**If the certificate is provided by the Town Clerk to the Board of Selectmen no more than twenty-one days in advance of the submission deadline for a Citizen's Petition of the next Annual Town Meeting; the Board of Selectmen may alternatively choose to include said article within the warrant of said Annual Town Meeting.**

No officer shall be subject to the removal process if the term of their office expires within one hundred and twenty days of the issuance of the certificate of the Town Clerk. No petition shall be accepted for any officer within ninety days of their oath of office.

The officers whom the petitioners seek to remove shall continue to perform the duties of their office until the outcome of the Town Meeting or Special Town Meeting, excepting where said officers tender a resignation.

At the Town Meeting, the proposed grounds of removal shall be discussed for each officer and the office from which the request seeks removal. With two-thirds affirmative vote at Town Meeting, said officers shall vacate said offices at the adjournment of that Town Meeting. Vacancies resulting from the removal process shall be filled as otherwise provided by this Town Charter or by General Law.

**Motion to Amend the article seconded**

**A motion was made for a secret ballot**

**Moderator declares motion for secret ballot passes**

**Moderator declares the amended motion passes by secret ballot, 152 For, 63 Against**

**A Motion was made to take Article 10 out of Order:**

**Motion Seconded**

**Moderator declares motion passes**

**ARTICLE 10 : AMEND CHAPTER 181, ARTICLE 1 OF THE UXBRIDGE GENERAL BYLAWS**

To see if the Town will vote to amend Chapter 181, Article 1 of the Uxbridge General Bylaws as shown below (proposed changes shown in markup format)

**Chapter 181**

**EXCAVATIONS/FILL**

**ARTICLE I**

**ARTICLE II**

**Earth Removal/Importation**

**Barriers**

**§ 181-1. Purpose.**

**§ 181-10. Safety measures required.**

**§ 181-2. Permit required; Exceptions**

**§ 181-11. Barriers - violations and penalties**

**§ 181-3. Application for permit.**

**§ 181-4. Procedure for issuing permit.**

**§ 181-5. Conditions of permit.**

**ARTICLE III**

**§ 181-6. Duration of permit.**

**Procedure**

**§ 181-7. Annual reports and inspections.**

**§ 181-8. Permit fees.**

**§ 181-12. Compliance**

**§ 181-9. Violations and penalties.**

**§ 181-13. Written Permit**

## GENERAL REFERENCES

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### ARTICLE I Earth Removal/Importation

#### **181-1. Purpose.**

The primary intent of this regulation is to establish guidelines and regulate the importation or excavation of soil, fill, loam, sand, or gravel, (for the purpose of this bylaw to be deemed “material) in the Town of Uxbridge.

#### **181-2. Permit required; Exceptions**

The importation or removal of soil, fill, loam, sand, or gravel to or from any parcel of land in the Town of Uxbridge is prohibited unless a written permit therefor is obtained from the Planning Board as herein provided; except however, that no permit shall be necessary when soil, loam, sand, fill, or gravel must be imported or removed for the following purposes:

- A. To construct a single or multi-family building being built in accordance with a permit issued by the proper Town Authority. The importation or removal of up to 1,500 yards of material shall be exempt from permitting. A permit from the Planning Board is required for importation or removal beyond 1,500 yards.
- B. To construct a commercial building or facility that has met Planning Board and town approvals for a permit. Importation or removal of material is permitted up to the amounts necessary to complete project according to approved plans. Additional importation or removal beyond the scope of construction of over 3,000 yards shall require a permit from Planning Board
- C. To construct a public or private way within the town that has met all town approvals, and after the developer has put a covenant in place and recorded said covenant along with the conditions of approval by the Planning Board. Additional importation or removal of the material beyond the scope of construction of over 3,000 yards shall require a permit from the Planning Board.
- D. Operate a licensed landscape/materials facility to sell/remove materials produced offsite and hauled into said facility.
- E. General property improvement or maintenance, such as the installation of swimming pools, landscaping, construction of septic systems, and/or other property improvement or maintenance. The importation or removal of up to 1,500 yards of material shall be exempt from permitting. A permit from the Planning Board is required for importation or removal beyond 1,500 yards.
- F. Importation or removal of soils/materials is not considered part of a normal operation of a farm or garden and is not exempt from this Bylaw.

#### **§ 181-3. Application for permit.**

- A. Any person wishing to obtain a permit to import or remove soil, fill, loam, sand, or gravel to or from any parcel of land within the Town shall file a written application with the Planning Board, which shall include the following information and documentation:

- 1) The legal name and address of the applicant. The name, address and telephone number of the individual overseeing the proposed excavation and/or fill project.
  - 2) The location of the proposed excavation and/or fill project.
  - 3) The legal name and address of the owner of the property to be filled or excavated.
  - 4) A list of abutters, and abutters to abutters, within 300 feet of the location of the proposed excavation and/or fill project, as appearing in the records maintained by the Assessor's Office of the Town.
  - 5) A site plan of the land prepared by a registered land surveyor or registered professional engineer showing the existing contours and topography of the entire site of the proposed excavation and all abutting land within 100 feet of the proposed excavation and/or fill project. The site plan shall locate monuments sufficient to delineate the perimeter of the site at intervals of not less than 500 feet.
  - 6) A plan of the land showing the proposed contours and topography of the site when the proposed excavation and/or fill project is completed, showing a typical cross-section of the proposed final cover as well as any drainage or other structures that may be necessary.
  - 7) A proposal concerning the provisions of security for the final completion of the excavation and/or fill project in accordance with plans submitted and any additional conditions that may be attached to the permit.
  - 8) The Planning Board shall submit application materials to the Building Inspector/Zoning Enforcement Officer for review, approval and comments if a residential use shall occur.
- B. The Planning Board may, by regulation, prescribe forms for initial applications, extensions, and renewals, and such forms may require additional information as the Board shall determine to be necessary.

#### **§ 181-4. Procedure for issuing permit.**

- A. Prior to issuing any permit hereunder, the Planning Board shall hold a public hearing, notice of which shall be given by publication in a newspaper having general circulation within the Town and copies of which are mailed to each of the abutters shown on the list submitted with the application, at least seven days prior to the hearing.
- B. Prior to such hearing the Planning Board shall also send notice of the application to the Board of Health, Conservation Commission, and Planning Board and request such comment or advice as said Boards or Commission may deem appropriate.
- C. If, after hearing, the Planning Board determines that the permit application conforms to the requirements of § 181-2 hereof, and that the permitted operation would conform with the requirements of public health and welfare and be consistent with the sound development of the Town, the Planning Board may issue such permit upon the terms specified in this bylaw and subject to such additional conditions the Planning Board may determine to be necessary.

#### **§ 181-5. Conditions of permit.**

Every permit issued shall be subject to the following conditions:

- A. The portions of the permitted premises which have been filled or excavated shall be graded and leveled to conform to the approved final contour plan at least annually.
- B. After final grading and leveling and not later than October 15 of each year, the filled or excavated portion shall be covered with not less than four inches of suitable topsoil, and shall be seeded and planted with suitable ground cover within 200 feet of current excavation operations. All final contour slopes will conform to a 2 to 1 maximum. That is for every two (2) feet of horizontal travel only a one (1) foot drop maximum is allowed.

- C. No fill or excavation shall be undertaken within 100 feet of a public or private way or within 150 feet of a building or structure, unless the Planning Board specifically finds that such fill or excavation will not undermine the way or structure or otherwise be seriously detrimental to the neighborhood and such finding is endorsed on the permit.
- D. No swamp, pond, watercourse, or other wetland will be altered or polluted in any way without all necessary permits and no watercourses, drains, swales, culverts or other water channeling contours or structures shall be constructed unless shown on the plan submitted and approved.
  - a. No fill or excavation will begin until security by surety bond, cash, or other approved method is provided to insure that the excavation will be carried out in accordance with the permit and that the final grades and cover are provided. Such security shall not be less than \$2,000 for each acre of the proposed site. The security shall be released when suitable vegetation has been reestablished on the portion of the site for which it was provided.

**§ 181-6. Duration of permit.**

Every permit granted under this bylaw shall be valid for a period not to exceed one year. Any permit issued may be renewed by the Planning Board, without hearing, if the proposed fill or excavation will be conducted in accordance with a plan previously approved and if the annual report required by § 181-6 has been filed. Any expansion or extension of a permitted excavation will also be subject to a public hearing.

**§ 181-7. Annual reports and inspection.**

- A. One month prior to permit expiration, the permitted operator of an excavation shall submit a report showing the following information for the preceding permitted period of operation:
  - 1) The amount of material filled removed.
  - 2) The type of material filled or removed.
  - 3) The area (square feet or acres) excavated and the area regraded, covered, and seeded.
- B. Every permitted fill or excavation project shall be open for inspection by the proper local officials and the Town's Engineer at all reasonable times. Every November the Town Engineer, at the applicant's expense, will do an annual site visit to verify that proper restoration has been completed according to the submitted plan and report findings to the Planning Board.

**§ 181-8. Permit fees.**

The Board of Selectmen thereto shall set all application and renewal fees. The applicant is responsible for peer review fees for new applications, annual renewal of applications, inspections, plan review and site visits for the Town's Engineer as deemed necessary.

**§ 181-9. Violations and penalties.**

Each day of fill or excavation without the permit required, or otherwise, in violation of this bylaw shall constitute a separate offense and shall be individually punishable by the fine provided in MGL c. 40 §21, Clause (17).

Or take any action relative thereto.

**SPONSOR:** Board of Selectmen

*Commentary:* Two articles which provide for the local regulation of imported soil were submitted for inclusion on the warrant, one by the Board of Selectmen and the other by a citizen's petition. The motion below implements changes to Chapter 181 of the Uxbridge bylaws; and represents a compromise between the Board of Selectmen and the petitioners. It is anticipated that Article 18, the citizen's petition will be passed over if this article is approved.

**MOTION:** Move that the amended motion as printed below be voted as written below:

## Chapter 181

### EXCAVATIONS/FILL

#### ARTICLE I

##### Earth Removal/Importation

- § 181-1. Purpose.
- § 181-2. Permit required/Exceptions
- § 181-3. Application for permit.
- § 181-4. Procedure for issuing permit.
- § 181-5. Conditions of permit.
- § 181-6. Duration of permit.
- § 181-7. Annual reports and inspections.
- § 181-8. Permit fees.
- § 181-9. Violations and penalties.

#### ARTICLE II

##### Barriers

- § 181-10. Safety measures required.
- § 181-11. Barriers - violations and penalties.

#### ARTICLE III

##### Procedure

- § 181-12. Compliance.
- § 181-13. Written Permit

### GENERAL REFERENCES

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#### ARTICLE I

##### Earth Removal/Importation

##### 181-1. Purpose.

The primary intent of this regulation is to establish guidelines and regulate the removal, importation, and filling of any material for the protection and human health, public safety, welfare, and the integrity of the natural resources including aquifers, bodies of water and the wetlands of the Town of Uxbridge.

## **181-2. Permit required/Exceptions.**

The removal, importation or filling of any material to or from any parcel of land in the Town of Uxbridge is prohibited unless a written permit therefor is obtained from the Planning Board. If said fill project is in excess of 100,000 cubic yards over the life of the project or projects, an Administrative Consent Order or equivalent is required as part of the permitting process as herein provided

The following definitions shall apply to this bylaw:

**Material:** Any geologic, manmade, recycled or processed material including in its entirety or as a proportion containing clay, rock, sand, gravel, topsoil, loam, humus, peat, sod, borrow rock, sediment, wood, plant or animal matter, glass, paper, plastic, metal, bituminous pavement, or concrete.

**Fill:** To deposit, use, redistribute or move any material on or within any land area or water body. Also, any material which is used for this purpose.

**Import:** To bring any material from outside of the Town to any land area or water body within the Town.

**Excavate:** To dig out and remove material.

No permit shall be necessary when material must be removed, imported or filled for the following:

- A. To construct a single or multi-family building being built in accordance with a permit issued by the Building Inspector. The importation or removal of up to 1,500 cubic yards of material shall be exempt from permitting. A permit from the Planning Board is required for importation or removal beyond 1, 500 cubic yards.
- B. To construct a commercial building or facility that has met Planning Board and town approvals for a permit. Importation or removal of material for the purpose of such construction is permitted up to the amounts necessary to complete project according to approved plans. Additional importation or removal beyond the scope of construction of over 3,000 cubic yards shall require a permit from the Planning Board.
- C. To construct a public or private way within the town that has met all requisite town approvals, and after the developer has put a covenant in place and recorded said covenant along with the conditions of approval by the Planning Board. Additional importation or removal of the material beyond the scope of construction of over 3,000 cubic yards shall require a permit from the Planning Board.
- D. Operate a licensed landscape/materials facility to sell/remove materials produced offsite and hauled into said facility.
- E. General property improvement or maintenance, such as the installation of swimming pools, landscaping, construction of septic systems, and/or other property improvement or maintenance. The importation or removal of up to 1,500 cubic yards of material for the purpose of such improvement or maintenance shall be exempt from permitting. A permit from the Planning Board is required for importation or removal beyond 1,500 cubic yards.

- F. Removal, importation, or filling of materials is not considered part of a normal operation of a farm or garden and is not exempt from this bylaw.
- G. Any project or series of projects, which involves over the lifetime of the project the importation or filling of greater than 100,000 cubic yards of material as referenced in the beginning of this section for the purpose or reclamation or any other purpose, may be regulated by Administrative Consent Order (ACO) and/or other state or federal regulations. (See Interim Policy of the Re-use of Soil for Large Reclamation Projects, Policy #COMM15-01). If the project is in compliance with an ACO and/or other state or federal regulations, the Planning Board may deem that the requirements of this bylaw are satisfied and shall issue a permit stating that the project is in compliance of this bylaw. Such a permit must be issued before a project can commence. If at any time during the project the Planning Board determines that there are violations of the terms of the ACO and/or any other applicable state or federal regulations, the Planning Board shall issue a cease and desist order and suspend or revoke the permit.

### **§ 181-3. Application for permit.**

- A. Any person wishing to obtain a permit to remove, import or fill material to or from any parcel of land within the Town shall file a written application with the Planning Board, which shall include the following information and documentation:
- 1) The legal name and address of the applicant. The name, address and telephone number of the individual overseeing the proposed excavation and/or fill project.
  - 2) The location of the proposed excavation and/or fill project.
  - 3) The legal name and address of the owner of the property to be filled or excavated.
  - 4) A list of abutters, and abutters to abutters, within 300 feet of the location of the proposed excavation and/or fill project, as appearing in the records maintained by the Assessor's Office of the Town.
  - 5) A Site Plan of the land prepared by a registered land surveyor or registered professional engineer showing the existing contours and topography of the entire site of the proposed excavation and all abutting land within 100 feet of the proposed excavation and/or fill project. The site plan shall locate monuments sufficient to delineate the perimeter of the site at intervals of not less than 500 feet.
    - a. Existing conditions, including grades, manmade features, elevations, property boundaries, dimensions, owners of the land who are entitled to notice under this bylaw, access points, water bodies and watercourses, wetlands, and environmental sample locations;
    - b. Process diagrams indicating removal and/or fill sequence, transport routes, and security measures;
    - c. Drainage, water flow and sedimentation control before and after the proposed removal and/or filling, and storm water and erosion control and groundwater recharge structures and features to be utilized during removal and/or fill operations;
    - d. Final grade plans depicting proposed finish elevations, slopes, permanent storm water and erosion control and groundwater recharge structures and features, the methods of final stabilization of all material and the proposed cover material and cover vegetation.
    - e. Unless otherwise determined by the permit granting authority, map scales shall be no more than 60 feet to the inch and elevation contour intervals shall not exceed two feet. Elevation contours are required only for areas of removal and or fill, 100 feet beyond the perimeter of the removal and/or fill areas and along abutting property lines.
  - 6) The applicant shall submit an appropriate number of copies to the Planning Board to allow members to review the application and to distribute a copy to all appropriate Town officials and boards for their review. To allow other Town boards and officials time to comment and make recommendations on

applications, the Planning Board shall wait 45 days after submission of a complete application before issuing a permit.

- 7) For filling projects a Soil Management Plan shall be submitted and signed by a Massachusetts Licensed Site Professional (LSP). The LSP shall be hired by the Town at the applicant's expense. All charges incurred by the LSP related to any aspect of the project shall be paid by the applicant. Failure of any applicant or permit holder to make timely payments for these services shall be grounds for denial of a permit and/or for issuance of a cease and desist order and/or for revocation of the permit. The following shall be included in the Soil Management Plan.
    - a. A statement by the LSP verifying that the Soil Management plan meets the requirements of the Excavation/Fill Bylaw of the Town of Uxbridge and other applicable federal and state law or regulation pertaining to the transport, use and/or disposal of any materials for fill;
    - b. That bills of lading will be required for each load of material transported in or within the Town. Each bill of lading shall state the point of origin of the material, the exact location where the material was placed, the amount of material by weight or volume, and the date of transport;
    - c. Complete descriptions of pre-fill environmental conditions and findings and sample locations;
    - d. Procedures for verification of material origin and acceptance;
    - e. Recordkeeping practices;
    - f. Site security, fill operation inspection and site control;
    - g. Transport routes, times and days of operation, locations of equipment parking and storage and duration of fill activities;
    - h. Qualifications of applicant personnel responsible for adhering to the soil management plan and this bylaw;
    - i. Erosion, dust, and storm water controls and inspection and maintenance thereof;
    - j. Effects of the filling on groundwater recharge;
    - k. Quality assurance/quality control procedures;
    - l. Emergency response and notification procedures, including telephone numbers and contact individuals/firms;
    - m. Total proposed volume of materials used for fill;
    - n. Daily personnel procedures and operation management procedures, including types, numbers, locations and hours of operation of any processing equipment on site;
    - o. Environmental monitoring plan to maintain protection of human health, public safety, welfare and the environment during the following fill operations;
    - p. Cover material, revegetation, erosion and pollution control, and monitoring and maintenance plan; and
    - q. Any other information required by the Planning Board.
  - 8) A plan of the land showing the proposed contours and topography of the site when the proposed excavation and/or fill project is completed, showing a typical cross-section of the proposed final cover as well as any drainage or other structures that may be necessary.
  - 9) A proposal concerning the provisions of security for the final completion of the excavation and/or fill project in accordance with plans submitted and any additional conditions that may be attached to the permit.
  - 10) The Planning Board shall submit application materials to the Building Inspector/Zoning Enforcement Officer for review, approval and comments if a residential use shall occur.
- B. The Planning Board may, by regulation, prescribe forms for initial applications, extensions, and renewals, and such forms may require additional information as the Board shall determine to be necessary.

#### **§ 181-4. Procedure for issuing permit.**

- A. Prior to issuing any permit hereunder, the Planning Board shall hold a public hearing, notice of which shall be given by publication in a newspaper having general circulation within the Town and copies of which are mailed to each of the abutters shown on the list submitted with the application, at least seven days prior to the hearing.
- B. Prior to such hearing the Planning Board shall also send notice of the application to the Board of Health, Conservation Commission, and Planning Board and request such comment or advice as said Boards or Commission may deem appropriate.
- C. If, after hearing, the Planning Board determines that the permit application conforms to the requirements of § 181-2 hereof, and that the permitted operation would conform with the requirements of public health and welfare and be consistent with the sound development of the Town, the Planning Board may issue such permit upon the terms specified in this bylaw and subject to such additional conditions the Planning Board may determine to be necessary.

#### **§ 181-5. Conditions of permit.**

Every permit issued shall be subject to the following conditions:

- A. The portions of the permitted premises which have been filled or excavated shall be graded and leveled to conform to the approved final contour plan at least annually.
- B. After final grading and leveling and not later than October 15 of each year, the filled or the excavated portion shall be covered with not less than four inches of suitable topsoil, and shall be seeded and planted with suitable ground cover within 200 feet of current excavation operations. All final contour slopes will conform to a 2 to 1 maximum. That is for every two (2) feet of horizontal travel only a one (1) foot drop maximum is allowed.
- C. No fill or excavation shall be undertaken within 100 feet of a public or private way or within 150 feet of a building or structure, unless the Planning Board specifically finds that such fill or excavation will not undermine the way or structure or otherwise be seriously detrimental to the neighborhood and such finding is endorsed on the permit.
- D. No swamp, pond, watercourse, or other wetland will be altered or polluted in any way without all necessary permits and no watercourses, drains, swales, culverts or other water channeling contours or structures shall be constructed unless shown on the plan submitted and approved.
- E. For all filling projects, materials shall include only sand gravel, clay stone, quarried rock or other subsurface products free from solid waste, with an aggregate size of six inches or less, and have no solid waste, refuse, junk, industrial waste, or volatile, explosive or flammable materials. This material shall have no concentration of oil or hazardous material, toxic substance or infectious biological material greater than federal, state or local reportable or action criteria OR greater than pre-fill concentration of oil or hazardous material, toxic substance or infectious biological material prevailing in the area to be filled. The fill material shall also be free from organic material, such as trees, stumps, waste, building materials, and construction and demolition debris and shall contain 10% or less of total organic carbon by lab analysis.

- F. For all filling projects, the Planning Board may require such borings and test pits, inspections, monitoring, certifications, reports and tests by licensed site professionals, engineers, laboratories and/or other qualified persons needed to evaluate the application and/or to monitor performance under a permit and/or establish compliance with the conditions of a permit and this bylaw. It shall be a condition of all permits that the applicant pay for all such borings and test pits, inspections, monitoring, certifications, reports and tests and that they be conducted by persons selected by and responsible to the Planning Board. Failure of any applicant or permit holder to make timely payment for any borings and test pits, inspection, certification, monitoring, report or test or to carry out any step or to submit any information required by the Planning Board shall be grounds for denial of a permit and/or for issuance of a cease and desist order and/or for revocation of the permit.
- G. No fill or excavation will begin until security by surety bond, cash, or other approved method is provided to insure that the excavation will be carried out in accordance with the permit and that the final grades and cover are provided. Such security shall not be less than \$2,000 for each acre of the proposed site. The security shall be released when suitable vegetation has been reestablished on the portion of the site for which it was provided.

#### **§ 181-6. Duration of permit.**

Every permit granted under this bylaw shall be valid for a period not to exceed one year. Any permit issued may be renewed by the Planning Board, without hearing, if the proposed fill or excavation will be conducted in accordance with a plan previously approved and if the annual report required by § 181-7 has been filed. Any expansion or extension of a permitted excavation will also be subject to a public hearing.

#### **§ 181-7. Documentation and Inspection.**

- A. For projects only involving excavation and removal, one month prior to permit expiration, the permitted operator of an excavation shall submit a report showing the following information for the preceding permitted period of operation:
  - 1) The amount of material excavated.
  - 2) The type of material excavated.
  - 3) The area (square feet or acres) excavated and the area regraded, covered, and seeded.
- B. For projects involving any filling, the permit holder shall at the end of each calendar month during which any filling activity occurred, provide a dated letter from the LSP stating the following:
  - 1) That the material used for fill is not otherwise prohibited from use as fill material in accordance with this bylaw or other applicable federal or state laws, regulations, standards or guidelines;
  - 2) That the LSP has compared analytical results of testing of the materials to the existing, pre-fill conditions at the fill location and determined that the concentrations of oil or hazardous material, toxic substance or infectious biological material in the materials intended for use as fill are not greater than existing, pre-fill concentrations for that location.
  - 3) That such analytical results are based on sampling techniques which adequately assess the material.
  - 4) That bills of lading for each load of a material have been reviewed by the LSP and that each bill of lading is on file and available for review by the Town.
- C. Every permitted excavation or fill project shall be open for inspection by the proper local officials and the Town's Engineer at all reasonable times. Every November the Town Engineer, at the applicant's expense, will do an annual site visit to verify that proper restoration has been completed according to the submitted plan and report findings to the Planning Board.

**§ 181-8. Permit fees.**

The Board of Selectmen thereto shall set all application and renewal fees.

The applicant is responsible for peer review fees for new applications, annual renewal of applications, inspections, plan review and site visits for the Town's Engineer as deemed necessary.

**§ 181-9. Violations and penalties.**

Each day of fill or excavation without the permit required, or otherwise, in violation of this bylaw shall constitute a separate offense and shall be individually punishable by the fine provided in MGL c. 40 §21, Clause (17) or MGL Chapter 40 Section 21D, whichever is applicable.

ARTICLE II

Barriers

**§ 181-10. Safety measures required.**

Every person excavating land, in charge of such excavation, or owning land which has been excavated shall erect barriers or take other suitable measures to protect the public within two days after having been notified in writing by the Planning Board or the Building Inspector that in their opinion such excavation constitutes a hazard to public safety. Policing Authority shall reside with the Planning Board following consultation with the Building Inspector/Zoning Enforcement Officer.

**§ 181-11. Barriers - Violations and penalties.**

The penalty for failure to comply with such written notice by the Planning Board or the Building Inspector/Zoning Enforcement Officer shall be \$200 per day for every day such person is in violation of such notice commencing with the fourth day thereof.

ARTICLE III

Procedure

**§ 181-12. Compliance.**

Compliance of the requirements and conditions of this bylaw may be waived by the permitting authority subject to Mass General Law, as amended, and any other applicable laws.

**§ 181-13. Written Permit.**

The written permit issued shall include any special conditions in addition to the general conditions of this bylaw.

**§ 181-14. Validity and Severability.**

The invalidity of one or more sections, subsections, clauses or provisions of this bylaw shall not invalidate or impair the bylaw as a whole or any part thereof.

## § 181-15. Transition Rules.

All excavation, importation or filling of material that takes place after the effective date of this bylaw shall be subject to the requirements of this bylaw. All persons engaged in non-exempt excavation, importation or filling or material when this bylaw becomes effective shall file an application for a permit under this bylaw within 30 days thereafter. If the Planning Board determines in its reasonable discretion that such a person has not filed a required application on time, the Planning Board may issue a temporary order to suspend or limit such operations. Any such temporary order shall remain in effect until terminated or modified or a permit is granted by the Planning Board. Any excavation, importation, or fill material placed in the Town pending the granting of a permit under this bylaw shall be subject to the documentation requirements detailed in 181-7 of this bylaw.

### **RECOMMENDATION OF THE FINANCE COMMITTEE: Favorable Action (6-1-0)**

Article 10 addresses the soil implementation issues that have been discussed over the past several months. This article is a combination of the original BOS article and a citizen's petition (Article 18). It modifies the existing bylaw to protect aquifers as well as provide better local control.

### **RECOMMENDATION OF THE BOARD OF SELECTMEN: Favorable Action (3-1-0)**

**RECOMMENDATION OF THE PLANNING BOARD: Recommendation to be provided at Town Meeting.**

**VOTE NEEDED:** Requires 2/3rds majority vote per Uxbridge General Bylaws Chapter 1, § 1-6

**A motion was made for a secret ballot**

**Moderator declares motion for secret ballot passes**

**Moderator declares the amended motion passes, 200 For, 32 Against**

## **ARTICLE 1: TRANSFER TO STABILIZATION**

To see if the Town will vote to transfer and appropriate a sum or sums, including Free Cash to the Stabilization Fund Account;

Or take any action relating thereto.

**SPONSOR:** Town Manager

**Commentary:** This article serves to transfer FY 2016 Free Cash to the Stabilization Fund. Stabilization Fund monies may be appropriated for any lawful purpose via 2/3<sup>rd</sup>'s vote at any town meeting. The balance in stabilization before this transfer and any other appropriation articles on this warrant is \$2,837,403.39.

**MOTION: No Motion**

### **RECOMMENDATION OF THE FINANCE COMMITTEE: Favorable Action (7-0-0)**

*This is a standard annual transfer done in accordance with Town's Financial Policy.*

### **RECOMMENDATION OF THE BOARD OF SELECTMEN: Favorable Action (3-0-1)**

**VOTE NEEDED:** Requires a 2/3rds vote to transfer to/from Stabilization MGL Ch.40 § 5B

**No Motion**

**No Action**

**ARTICLE 2: FY17 INTER/INTRA DEPARTMENTAL TRANSFERS**

To see if the Town will vote to transfer and appropriate from available funds, including funds previously appropriated to other uses or Free Cash, Stabilization Fund and enterprise fund retained earnings, or to raise a sum or sums of money to appropriate to accounts and for purposes to be specified at the Fall Annual Town Meeting;

Or take any action relating thereto.

**SPONSOR:** Town Manager

*Commentary: The purpose of this article is to transfer funds within department budgets or from one department to another. Per MGL, transfers between individual municipal budgets require Town Meeting action.*

**General Fund & Enterprise Fund transfers (Simple majority vote)**

<b>A1</b>	<b>FROM:</b>	<b>Amount</b>	<b>TO:</b>	<b>Amount</b>
	COA Salaries	\$7,008	COA Expenses	\$7,008

*Commentary: Calculation error on original budget*

<b>A2</b>	<b>FROM:</b>	<b>Amount</b>	<b>TO:</b>	<b>Amount</b>
	Water Retained Earnings Salaries	\$30,000	Water Salaries	\$30,000

*Commentary: Since the bacteria event in June 2016, MassDEP has required the Water Division to continue with system wide chlorination efforts. In addition, MassDEP has required staff to perform chlorine residual testing twice a day. This amounts to an additional overtime call back every day of the week. Trending these costs out over the remainder of the fiscal year indicates a deficit in the Salary line. In addition, the anticipated salary for the civil engineer was included in the FY2017 approved budget. However, the projected salary for the candidate is more than budgeted. The total request covers both the additional overtime and salary for the engineer position.*

<b>A3</b>	<b>FROM:</b>	<b>Amount</b>	<b>TO:</b>	<b>Amount</b>
	Wastewater Retained Earnings	\$170,000	Wastewater Capital Construction	\$170,000

*Commentary: The Town was awarded a \$250,000 grant from the MassWorks Infrastructure Program for the collection system improvements within Douglas Street. \$22,000 was allocated for design services, leaving a construction budget of \$228,000. These monies included design, permitting and construction funds. Bids were received and opened on August 25, 2016. There were a total of six (6) sealed bids received and read aloud. The apparent low bidder is Baltazar Contractors, Inc. with a bid totaling \$310,550.00. The following is a projected summary of the construction costs:*

<i>Baltazar Contractors, Inc.</i>	<i>\$310,550.00</i>
<i>Contingency (15% rounded)</i>	<i>\$46,600.00</i>
<i>Allowance-Police Details</i>	<i>\$3,000.00</i>
<i>Allowance-Construction phase services</i>	<i>\$36,000.00</i>
<i>Total Estimated Construction Cost</i>	<i>\$396,150.00</i>
<i>Approved Construction Grant</i>	<i>\$228,000.00</i>

**Construction Funding Deficit** **\$168,150.00**

*Assumes available Phase 1 funds are transferred to Phase 2 Construction funding*

The MassWorks program will evaluate the bid tabulation execute a contract with the Town for Phase 2 Construction and provided authorization to award the construction contract to the apparent low bidder. The projected construction cost exceeds the grant award by approximately \$168,150.00. The request is rounded up as a contingency.

**MOTION: Move that the article be accepted as written.**

**The motion for Table A is seconded**

**Moderator declares a unanimous vote, motion carries**

**Stabilization Fund transfer (2/3<sup>rd</sup>'s majority vote)**

<b>B1</b>	<b>FROM:</b>	<b>Amount</b>	<b>TO:</b>	<b>Amount</b>
	Stabilization Fund	\$25,000.	Unemployment Fund	\$25,000

*Commentary: The unemployment trust fund has incurred \$22,000 in expenses for July and August since the layoff of School Department was instituted as part of the FY 2017 budget process. This transfer will help bolster the fund.*

**RECOMMENDATION OF THE FINANCE COMMITTEE: Favorable Action (7-0-0)**

Commentary on individual transfer requests:

A1 This transfer corrects a calculation error in the original budget.

A2 This transfer addresses the need for continued water testing and an adjustment to the salary for the new Civil Engineer position.

A3 This transfer supplements the MassWorks program grant for the wastewater collection system improvements on Douglas Street.

B1 This transfer replenishes the Town's unemployment fund which incurred \$22,000 in expenses due to layoffs in the School Department.

**RECOMMENDATION OF THE BOARD OF SELECTMEN: Favorable Action (4-0-0)**

**VOTE NEEDED:** Requires a simple majority vote, unless funds a being transferred to or from Stabilization. A transfer to/from the Stabilization Fund requires a 2/3<sup>rd</sup>'s vote per MGL Ch. 40, §5B

**The motion for Table B is seconded**

**Moderator declares a 2/3<sup>rd</sup>'s majority vote, motion carries**

**ARTICLE 3: FY17 BUDGET AMENDMENTS**

To see if the Town will vote to transfer from available funds, including Free Cash, stabilization and enterprise retained earnings, and to appropriate, or to raise and appropriate, or to approve budget reductions, in order to balance the FY 2017 Town Budget approved under Article 4 of the May 10, 2016 Spring Annual Town Meeting;

Or take any other action relating thereto.

**SPONSOR:** Town Manager

*Commentary: We have determined that the following accounts are in need of additional funding, based on specific issues that have occurred since the FY2017 budget was voted in May. Additional requested appropriations are as follows:*

	<b>Budget</b>	<b>Amount</b>	<b>Reason</b>
1.	Land Use Salaries	\$18,965	Reflects addition of a part time position to perform administrative work for the ZBA, Planning and Conservation. There has been an influx of work before Planning and the ZBA that is currently more than one administrative staff member can effectively handle. In addition, the current Conservation Administrator has been promoted to the role of Conservation Agent, a non-union position; creating a need for a position to perform those duties, per the SEIU contract.
2.	Board of Health Salaries	\$21,309	The Health Agent and Food Inspector were requested to be budgeted for ten hours per week in FY 2017. They were only budgeted for five hours each. The Board of Health, at its last meeting, voted to request funding for 15 hours for the Health Agent and 10 hours for the Food Inspector for the remainder of the fiscal year.
3.	Worcester Retirement	\$30,000	Reflects a cost of living increase voted for retirees that took place after the budget was set, as well as the loss of the early payment discount for FY 2017.
4.	Fire Salaries	\$2,600	Additional overtime for coverage due to an extended medical absence.
5.	Town Hall Expenses	\$12,500	The breaker box in the basement of Town Hall was overloaded and there was concern with moving the electrical feed for the upstairs consolidated Town/School Server room reusing the existing breakers. The electrical load was balanced between the two breaker boxes in the basement. There was also new electrical run for the Cable Access Equipment, School IT Equipment, and Town IT Equipment directly from the feed from the meter so that it could be tied into the Fire Department generator, and would not be interfered with by other electrical loads in the building. Finally, there was a whole breaker box surge suppression system installed to soften the electrical spikes that frequently run through the building. It was approximately \$3.5k in equipment, and about a week of time for the electrician and his assistant to trace everything out, run the new electrical lines, and make the adjustments to the breaker boxes. We are seeking this transfer to ensure that the Town Hall budget will have sufficient funds to last the year.
6.	Fire Expenses	\$4,400	Additional replacement set of Personal Protective Equipment (PPE) gear needed.
	Total	\$89,774	

**MOTION:** *Move that the article be accepted as written.*

**RECOMMENDATION OF THE FINANCE COMMITTEE:** Favorable Action (7-0-0)

on Article 3, items 1, and items 3-6

1. This amendment will fund a part time administrative position to support the Planning Board, ZBA and Conservation Commission.
2. Additional information requested by the Finance Committee. Recommendation to be made on October 25, 2016.
3. This amendment primarily funds the loss of the early payment discount that was accounted for in the original budget
4. This amendment will fund Fire Department overtime incurred during an extended medical leave
5. This amendment will fund the electrical upgrades required for the build out of the Town Hall IT/server room.
6. This amendment will fund the purchase of personal protection equipment.

**RECOMMENDATION OF THE BOARD OF SELECTMEN:** Recommendation to be provided at Town Meeting.

**VOTE NEEDED:** Requires a simple majority vote, unless funds a being transferred to or from Stabilization. A transfer to/from the Stabilization Fund requires a 2/3<sup>rd</sup>s vote per MGL Ch. 40, §5B

**The motion is seconded**

**Moderator declares a unanimous vote, motion carries**

#### **ARTICLE 4: REVOLVING FUND ACCOUNT FOR DOG UXBRIDGE PARK ACTIVITIES**

To see if the Town will vote to establish and authorize pursuant to GL c.44, §53E ½ a revolving fund for construction-related and operational costs associated with the Uxbridge Dog Park; under the Dog Park Committee, not to exceed \$12,000, derived from user fees, donations, sponsorships, and/or purchases of memorial bricks;

Or take any action relating thereto.

**SPONSOR:** Town Manager

*Commentary: The Dog Park Committee was established by a bylaw that was adopted at the Spring Annual Town Meeting. Establishment of a revolving account, via this article, will allow the Committee to fundraise for construction and operational costs associated with the dog park.*

**MOTION:** *Move that the article be accepted as written.*

**RECOMMENDATION OF THE FINANCE COMMITTEE:** Favorable Action (7-0-0)

This article allows for the Uxbridge Dog Park Committee to accept funds for construction and operation of the dog park.

**RECOMMENDATION OF THE BOARD OF SELECTMEN:** Favorable Action (4-0-0)

**VOTE NEEDED:** Requires a simple majority

**The motion is seconded**

**Moderator declares a simple majority vote, motion carries**

#### **ARTICLE 5: STABILIZATION FUND TRANSFER – NEW AMBULANCE AND RELATED EQUIPMENT**

To see if the Town will vote to appropriate and transfer the sum of \$250,000 from the Town Stabilization Fund and to authorize the expenditure of up to that amount for the purpose of purchasing a new ambulance for the Fire Department, purchase of ambulance-related equipment; and to further authorize the Fire Department to apply for and accept any federal or state funds or grants and/or gifts of any kind for the purpose of this acquisition;

Or take any other action related thereto.

**SPONSOR:** Fire Chief

*Commentary:* This ambulance would replace the 2010 Ford E-450 ambulance which has 88,000 miles on it, but more importantly 7400 engine hours due to the normal idling. At an assumed average speed of 30 mph, this translates into 220,000 miles of engine use. We have had engine trouble with this ambulance, and it has become sluggish. When we moved to the larger box ambulance, we extended the planned time for replacement from 4 years to 6 years, this vehicle is now 6 years old. Ford and GM no longer make diesel powered chassis to accommodate a remount, and with the new station opening next year, we took the opportunity to explore options without worrying about height and length restrictions. It is our plan to move up to a Ford F-550 chassis that will be heavier duty than the E-series vehicles we have been using. In addition, new stretcher mounting requirements for safety have been instituted, increasing costs.

**MOTION:** Move that article be accepted as written.

**RECOMMENDATION OF THE FINANCE COMMITTEE:** Favorable Action (7-0-0)

This article funds a new ambulance to replace the 2010 Ambulance which is no longer reliable. In past years, this type of purchase would have been funded by the Ambulance Enterprise Fund but that fund was dissolved at the 2016 Spring Town Meeting. Monies from the old enterprise fund were transferred to the stabilization fund in Article 1.

**RECOMMENDATION OF THE BOARD OF SELECTMEN:** Favorable Action (4-0-0)

**VOTE NEEDED:** A transfer from Stabilization requires a 2/3rds majority vote per M.G.L. c.40 § 5B

**The motion is seconded**

**Moderator declares a 2/3<sup>rd</sup>'s majority vote, motion carries**

**ARTICLE 6: STABILIZATION FUND TRANSFER – NEW LEVEL III HELMETS, LEVEL IV PLATES, FIREARMS**

To see if the Town will vote to appropriate and transfer the sum of \$20,000 from the Town Stabilization Fund and to authorize the expenditure of up to that amount for the purpose of purchasing a new Level III Helmets, Level IV Plates and Firearms for the Police Department and to further authorize the Police Department to apply for and accept any federal or state funds or grants and/or gifts of any kind for the purpose of this acquisition;

Or take any other action related thereto.

**SPONSOR:** Police Chief

*Commentary:* Due to recent local and national violence towards the police and in many instances the public, the Chief of Police is requesting all cruisers be outfitted with AR15 Rifles, Level IV Ballistic Plate Carriers and Level IIIA Helmets for officer safety. The Chief further requests the Fire Department receive Level IV plate carriers for both ambulances and Fire Chief's vehicle. There have been instances across the country where Fire Departments have been the target of violence.

**MOTION:** Move that article be accepted as written.

**RECOMMENDATION OF THE FINANCE COMMITTEE:** Favorable Action (7-0-0)

This article funds equipment requested by the Police Chief. The rifles will allow for a quicker response by officers because each vehicle will be equipped with a rifle. The helmets and plates will provide increased protection for officers during dangerous incidents in town or when they are supporting other communities. Plates purchased for the Fire Department will provide protection for medics should they be called upon to administer care during a dangerous incident.

**RECOMMENDATION OF THE BOARD OF SELECTMEN:** Favorable Action (4-0-0)

**VOTE NEEDED:** A transfer from Stabilization requires a 2/3rds majority vote per M.G.L. c.40 § 5B

**The motion is seconded**

**Moderator declares a 2/3<sup>rd</sup>'s majority vote, motion carries**

**ARTICLE 7: STABILIZATION FUND TRANSFER – NPDES MS4 STORMWATER PERMIT COMPLIANCE**

To see if the Town will vote to appropriate and transfer the sum of \$50,000 from the Town Stabilization Fund and to authorize the expenditure of up to that amount for the purpose of NPDES MS4 Stormwater Permit Compliance and associated costs and to further authorize the Department of Public Works to apply for and accept any federal or state funds or grants and/or gifts of any kind for the purpose of this permit; Or take any other action related thereto;

**SPONSOR:** Director of Public Works

*Commentary: The Town's engineering consultant, BETA, has submitted a proposal for stormwater GIS services in support of our NPDES MS4 permit compliance needs. This proposal includes a variety of field work needed to update the stormwater mapping for additional infrastructure that was added since the original collection in 20013/2004. In addition, the 2016 Massachusetts Small MS4 General Permit was signed April 4, 2016 and will become effective July 1, 2017. The final permit reflects modifications to the 2014 draft small MS4 general permit released for comment on September 30, 2014 and replaces the 2003 small MS4 general permit for MS4 operators within the Commonwealth of Massachusetts. Prior to the effective date of July 1, 2017, the Town will have to develop a new Stormwater Management Plan to reflect the work required under the 2003 permit, as well as, the new requirements under the 2016 permit.*

**MOTION: Move that article be accepted as written.**

**RECOMMENDATION OF THE FINANCE COMMITTEE Favorable Action (7-0-0)**

This article funds two components of the Town's new stormwater permit. The first component, estimated to cost \$25k, is to completely overhaul and update the stormwater management plan. The second component, also estimated to cost \$25k, includes updates to the drainage system network and GIS.

**RECOMMENDATION OF THE BOARD OF SELECTMEN: Favorable Action (4-0-0)**

**VOTE NEEDED:** A transfer from Stabilization requires a 2/3rds majority vote per M.G.L. c.40 § 5B

**The motion is seconded**

**Moderator declares a 2/3<sup>rd</sup>'s majority vote, motion carries**

**ARTICLE 8: APPROPRIATION OF BOND PREMIUM**

To see if the Town will vote to appropriate the premium paid to the Town upon the sale of bonds issued for high school construction, which are the subject of a Proposition 2 ½ debt exclusion, to pay costs of the project being financed by such bonds and to reduce the amount authorized to be borrowed for such project, but not yet issued by the Town, by the same amount;

Or to take any other action relative thereto.

**SPONSOR:** Town Manager

*Commentary: Bond premium is an amount of money given by the high bidder as part of their bid in a note sale, included in order to pay for the issuance cost of the notes. Historically, the excess premium would be applied to the debt over the life of the loan, reducing the annual cost of the debt. Under the Municipal Modernization Act, that premium can now be applied at once to reduce the over borrowing, offering significant savings upfront. This article, if passed will appropriate \$433,000, of premium from the school bond issuance of 2012, and will save \$132,000 over the life of the debt.*

**MOTION:** *That the Town appropriate \$433,000 from the premium paid to the Town upon the sale of bonds issued for high school construction, which are the subject of a Proposition 2 ½ debt exclusion, to pay costs of the project being financed by such bonds and to reduce the amount authorized to be borrowed for such project, but not yet issued by the Town, by the same amount.*

**RECOMMENDATION OF THE FINANCE COMMITTEE:** Favorable Action (7-0-0) The Municipal Modernization Act allows a municipality to take left over bond premium and apply it to the debt service upfront and therefore borrow less. Total savings is anticipated to be \$132,000.

**RECOMMENDATION OF THE BOARD OF SELECTMEN:** Favorable Action (4-0-0)

**VOTE NEEDED:** Requires a simple majority.

**The motion is seconded**

**Moderator declares a unanimous vote, motion carries**

### **ARTICLE 9: APPROPRIATION OF BOND PREMIUM**

To see if the Town will vote to appropriate the premium paid to the Town upon the sale of bonds issued for fire station, which are the subject of a Proposition 2 ½ debt exclusion, to pay costs of the project being financed by such bonds and to reduce the amount authorized to be borrowed for such project, but not yet issued by the Town, by the same amount;

Or to take any other action relative thereto.

**SPONSOR:** Town Manager

**Commentary:** *Similar to Article 9, application of the \$192,000 for the FY 2016 Fire Station bond, will save an additional \$56,000 over the life of the twenty-year bond.*

**MOTION:** *That the Town appropriate \$192,000 from the premium paid to the Town upon the sale of bonds issued for fire station, which are the subject of a Proposition 2 ½ debt exclusion, to pay costs of the project being financed by such bonds and to reduce the amount authorized to be borrowed for such project, but not yet issued by the Town, by the same amount.*

**RECOMMENDATION OF THE FINANCE COMMITTEE:** Favorable Action (7-0-0)

The Municipal Modernization Act allows a municipality to take left over bond premium and apply it to the debt service upfront and therefore borrow less. Total savings is anticipated to be \$56,000.

**RECOMMENDATION OF THE BOARD OF SELECTMEN:** Favorable Action (4-0-0)

**VOTE NEEDED:** Requires a simple majority.

**The motion is seconded**

**Moderator declares a unanimous vote, motion carries**

### **ARTICLE 11 : AMEND THE ZONING BYLAWS, ARTICLE X, DEFINITIONS AND APPENDIX A, TABLE OF USE REGULATIONS**

To see if the Town will vote to:

Item 1

Amend the Zoning Bylaws, Article X, Definitions, by inserting the following:

Commercial Soil Importation: Refers to the trucking of soils, pursuant to Mass DEP 310 CMR40.0032(3) and Mass DEP Comm 15-01 from unregulated sites and tested soils from regulated sites. Tested soils that exceed state and federal guidelines for toxins are not included within this definition, nor allowed within the Town of Uxbridge.

Item 2

Amend the Zoning Bylaws, Appendix A, Table of Use Regulations, Section E, Industrial Uses, by inserting:

	R-A	R-B	R-C	A	B	I
Commercial Fill/Soil Importation	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA

**SPONSOR:** Board of Selectmen

**Commentary:** *This is a companion piece to Article 10. Places commercial soil importation on the Table of Uses under the purview of the ZBA.*

**MOTION:** *Move that the article be accepted as written.*

**RECOMMENDATION OF THE FINANCE COMMITTEE:** Favorable Action (6-1-0)

This article works in conjunction with article 10 to alter the table of use and add a definition in the Zoning Bylaws.

**RECOMMENDATION OF THE BOARD OF SELECTMEN:** Favorable Action (3-1-0)

**RECOMMENDATION OF THE PLANNING BOARD:** Recommendation to be provided at Town Meeting.

**VOTE NEEDED:** Requires a 2/3rds majority vote per MGL Ch40A §5.

**The motion is seconded**

**Moderator declares the motion fails**

**ARTICLE 12: ACCEPTANCE OF CONSERVATION COMMISSION BYLAW**

To see if the Town will vote to accept the proposed Conservation Commission Bylaw to further conserve, protect, and preserve the common good of all wetlands, water resources, flood prone areas, and adjoining upland areas in the Town of Uxbridge as follows:

{Cover Sheet}

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**Section I. Purpose**

The purpose of this Conservation Bylaw (herein after “the Bylaw”) is to conserve, protect, and preserve for the common good all wetlands, water resources, flood prone areas and adjoining upland areas in the Town of Uxbridge by controlling activities deemed by the Conservation Commission likely to have a significant or cumulative effect on resource area values. Such values include, but are not limited to, the following: public or private water supply, groundwater supply, flood control, erosion and sedimentation control, storm damage prevention, water quality, prevention and control of pollution, fisheries, wildlife habitat, rare species habitat including rare plant and animal species, agriculture, aquaculture, and recreation values deemed important to the community (collectively, “the resource area values protected by this Bylaw”).

This Bylaw is intended to be administered as a mandate unto itself and an adjunct to MGL c. 131, Section 40, Chapter 258 of the Acts of 1996 their Regulations and 310 CMR 10.00 (the Rivers Protection Act Regulations), and as they may be amended from time to time. Where the Bylaw differs from or exceeds State law, it is by inference to aid in the consistent and effective implementation, regulation, and enforcement of it by way of further definition, explanation, specification, illustration, and example.

This Bylaw is intended to utilize the Home Rule authority of this municipality so as to:

1. protect the resource areas under the Wetlands Protection Act (G.L. Ch.131 Section 40; the Act) to a greater degree,
2. to protect additional resource areas beyond the Act recognized by the Town as significant,
3. to protect all resource areas for their additional values beyond those recognized in the Act, and
4. to encode in local regulations and permits additional standards and procedures stricter than those of the Act and regulations thereunder (310 CMR 10.00).

These standards and procedures are subject, however, to the rights and benefits accorded to agricultural uses and structures of all kinds under the laws of the Commonwealth and other relevant bylaws of the Town of Uxbridge.

## **Section II. Jurisdiction**

Except as permitted by the Conservation Commission, no person shall commence to remove, fill dredge, build upon, degrade, discharge into, or otherwise alter the following resource areas:

1. any freshwater wetlands, marshes, wet meadows, bogs, swamps, vernal pools, springs, banks, reservoirs, lakes, ponds of any size (excluding private man-made ponds), and lands under water bodies, intermittent streams, brooks and creeks, and lands adjoining these resource areas out to a distance of 100 feet, known as the buffer zone,
2. any perennial rivers, perennial streams, brooks and creeks; lands adjoining these resource areas out to a distance of 200 feet, known as the riverfront area, and
3. any lands subject to flooding or inundation by groundwater or surface water.

Collectively, these areas shall be known as the "resource areas protected by this Bylaw"). Said resource areas shall be protected whether or not they border surface waters.

The jurisdiction of this Bylaw shall not extend to uses and structures of agriculture that enjoy the rights and privileges of laws and regulations of the Commonwealth governing agriculture, including work performed for normal maintenance or improvement of land in agricultural or aquacultural uses as defined by the Wetlands Protection Act regulations, found at 310 CMR 10.04.

## **Section III. Exemptions and Exceptions**

The applications and permits required by this Bylaw shall not be required for work performed for normal maintenance or improvement of land in agricultural and aquacultural use as defined by the Wetlands Protection Act regulations at 310 CMR 10.04

The applications and permits required by this Bylaw shall not be required for maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph, or other telecommunication services, provided that written notice has been given to the Conservation Commission prior to commencement of work, and provided that the work conforms to any performance standards and design specifications in regulations adopted by the Commission.

The applications and permits required by this Bylaw shall not be required for emergency projects necessary for the protection of the health and safety of the public, provided that

1. the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof,
2. advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement,
3. the Commission or its agent certifies the work as an emergency project,

4. the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency, and
5. within 21 days of commencement of an emergency project, a permit application shall be filed with the Commission for review as provided by this Bylaw.

Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

Other than stated in this Bylaw, the exceptions provided in the Wetlands Protection Act (G.L. Ch. 131 Section 40) and regulations (310 CMR 10.00) shall not apply under this Bylaw.

#### **Section IV. Enforcement**

The Commission shall have authority to enforce this Bylaw, its regulations, and permits issued thereunder by letters, phone calls, electronic communication and other informal methods, violation notices, noncriminal citations under G.L. Ch. 40 Section 21D, and civil and criminal court actions. Any person who violates provisions of this Bylaw may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined, or both.

Upon request of the Commission, the selectboard and town counsel shall take legal action for enforcement under civil law. Upon request of the Commission, the Chief of Police shall take legal action for enforcement under criminal law.

Municipal boards and officers, including any police officer or other officer having police powers under the direction of the Chief of Police, shall have the authority to assist the Commission in enforcement.

Any person who violates any provision of this Bylaw, or regulations, or permits, or administrative orders issued thereunder, shall be notified by certified mail, or in hand, of the alleged violation, the landowner, or his or her representative, shall appear at the next scheduled meeting of the Conservation Commission. If any landowner fails to correct the violation within time approved by the Commission, they shall be punished by a fine of \$50. Each day, or portion thereof, during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the Bylaw, regulations, permits, or administrative orders violated shall constitute a separate offense. In order to suspend the accumulation of fines, the property owner must demonstrate substantial compliance with this Bylaw and approved plan to mitigate the violation to the Commission.

#### **Section V. Limitations of Construction and Disturbance**

- A. The construction of any Building, as defined herein, on any lot having an area of 40,000 square feet or more shall be prohibited within 50 feet of any resource area excluding buffer zones, riverfront areas, and lands subject to flooding or inundation by groundwater or surface water. The Commission may, at its discretion, allow a shed, playhouse, or other ancillary structure within a buffer zone.
- B. The construction of any parking lot/area including 10 or more parking spaces shall be prohibited within 50 feet of any resource area excluding buffer zones, riverfront areas, and lands subject to

flooding or inundation by groundwater or surface water. Any drives, fire lanes or appurtenances shall be clearly marked "No Parking".

C. The construction of any impervious surface shall be prohibited within 50 feet of any resource area excluding buffer zones, riverfront areas, and lands subject to flooding or inundation by groundwater or surface water.

D. The Commission may prohibit the disturbance of any land within 50 feet of any resource area, excluding buffer zones, riverfront areas, and lands subject to flooding or inundation by groundwater or surface water if it is determined by a competent source that the proposed disturbance may pose a threat to the resource areas protected by this Bylaw. A 'competent source' may include, but is not limited to, any member of the Conservation Commission or an individual holding at least a bachelor's degree in environmental science, wildlife biology, ecology, or a similar field that the Commission determines to be relevant. The project proponent may, at their discretion, provide input from a qualified professional to aid in deliberating the potential for impacts to the resource area from disturbances within 50 linear feet of the wetland.

A 'qualified professional' would be an individual with at least the same credentials as a 'competent source' plus work experience of a minimum of three years or more in a relevant field.

E. The construction of any septic system (tank/leach field) shall be prohibited

a. within 100 feet of any wetlands bordering Surface Water Supply or Tributaries thereto,

b. within 50 feet of any Bordering Vegetated Wetlands (BVW)

c. within 100 feet of any Certified Vernal Pools

excluding buffer zones, riverfront areas, and land subject to flooding or inundation by groundwater or surface water. Where more than one setback requirement applies, all setback requirements shall be satisfied. This requirement is in agreement with Title 5, 310 CMR 15.211. If the project proponent for a single family dwelling demonstrates to the Commission that such a requirement would pose an undue hardship to the applicant, then the Commission may reduce the setback to a minimum of 50 linear feet.

F. The reconstruction, alteration, extension, or structural change of a building existing on or before October 15, 1990 shall be exempt from the provisions of Section V of this Bylaw; however, said work shall require approval from the Commission if it is within its jurisdiction.

G. The Commission may waive any provisions of Section V of this Bylaw, Limitations on Construction and Disturbance, where the Commission specifically finds that literal enforcement of the provision would involve demonstrated substantial hardship to an applicant and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of Section V of this Bylaw.

## **Section VI. Pre-acquisition Violations**

Any person who purchases, inherits, or otherwise acquires real estate upon which work has been done in violation of the provisions of this Bylaw, or in violation of any permit issued pursuant to this Bylaw, shall forthwith comply with any such order or restore such land to its condition prior to any such violation.

## **Section VII. Applications and Fees**

Written application shall be filed with the Conservation Commission to perform activities affecting resource areas protected by this Bylaw. The permit application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the resource areas protected by this Bylaw. No activities shall commence without receiving and complying with a permit issued pursuant to this Bylaw.

The Commission in an appropriate case may accept as the application and plans under this bylaw any application and plans filed under the Wetlands Protection Act (G.L. Ch. 131 Section 40) and regulations (310 CMR 10.00), but the Commission is not obliged to do so.

Any person desiring to know whether or not a proposed activity or an area is subject to this Bylaw may, in writing, request a determination from the Commission. Such a Request for Determination of Applicability (RDA) or Abbreviated Notice of Resource Area Delineation (ANRAD) filed under the Act shall include information and plans as are deemed necessary by the Commission.

Pursuant to G.L. Ch. 44 Section 53G and regulations promulgated by the Commission, the Commission may require reasonable fees upon applicants for the purpose of securing outside consultants including engineers, wetlands scientists, wildlife biologists or other experts in order to aid in the review of proposed projects. Such funds shall be deposited with the town treasurer, who shall create an account specifically for this purpose. Additional consultant fees may be requested where the requisite review is more expensive than originally calculated or where new information requires additional consultant services.

Only costs relating to consultant work done in connection with a project for which a consultant fee has been collected shall be paid from this account, and expenditures may be made at the sole discretion of the Commission. Any consultant hired under this provision shall be selected by, and report exclusively to, the Commission. The Commission shall provide applicants with written notice of the selection of a consultant, identifying the consultant, the amount of the fee to be charged to the applicant, and a request for payment of that fee. Notice shall be deemed to have been given on the date it is mailed or delivered. The applicant may withdraw the application or request within five (5) business days of the date notice is given without incurring any costs or expenses.

The entire fee must be received before the initiation of consulting services. Failure by the applicant to pay the requested consultant fee within ten (10) business days of the request for payment shall be cause for the Commission to declare the application administratively incomplete and deny the permit without prejudice, except in the case of an appeal. The Commission shall inform the applicant and Department of Environmental Protection (DEP) of such a decision in writing.

The applicant may appeal the selection of an outside consultant to the selectboard, who may disqualify the consultant only on the grounds that the consultant has a conflict of interest or is not properly qualified. The minimum qualifications shall consist of an educational degree and three or more years of practice in the

field at issue, or a related field. The applicant shall make such an appeal in writing, and must be received within ten (10) business days of the date that request for consultant fees was made by the Commission. Such appeal shall extend the applicable time limits for action upon the application.

### **VIII. Notice and Hearings**

Any person filing a permit or other request or application with the Conservation Commission, with the exclusion of a Request for Certificate of Compliance, shall at the same time give written notice thereof, by certified mail (return receipt requested) or certificates of mailing, to all abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters within 100 feet of the property line of the applicant including any in another municipality or across a body of water. Working within the Riverfront Area will require abutter notifications 200 feet with the same stipulations. The notice shall state a brief description of the project or other proposal and the date of any Commission hearing or meeting date if known. The notice to abutters also shall include a copy of the application or request, and shall state where copies of plans may be examined and obtained by abutters. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. When a person requesting a determination is other than the owner, the request, the notice of the hearing and the determination itself shall be sent by the Commission to the owner as well as to the person making the request.

The Commission shall conduct a public hearing on any permit application, RDA, or ANRAD with written notice given at the expense of the applicant, at least five business days prior to the hearing, in a newspaper of general circulation in the municipality. The Commission shall commence the public hearing within 21 days from receipt of a completed permit application, RDA, or ANRAD unless an extension is authorized in writing by the applicant. The Commission shall have authority to continue the hearing to a specific date announced at the hearing, for reasons stated at the hearing, which may include the need for additional information from the applicant or others as deemed necessary by the Commission in its discretion, based on comments and recommendations of the boards and officials listed in Section IX of this Bylaw. The Commission shall reserve the right to require the permits/findings of other Boards and permitting authorities before issuing any Order of Conditions.

The Commission shall issue its permit, other order or determination in writing within 21 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant. The Commission in an appropriate case may combine its hearing under this Bylaw with the hearing conducted under the Wetlands Protection Act (G.L. Ch.131 Section 40) and regulations (310 CMR 10.00).

### **IX. Coordination with Other Boards**

The Conservation Commission reserves the right to share information with other Boards pertaining to submitted application materials, so long as it complies with open meeting laws.

### **X. Permits and Conditions**

If the Conservation Commission, after a public hearing, determines that the activities which are subject to the permit application, or the land and water uses which will result therefrom, are likely to have a significant individual or cumulative effect on the resource area values protected by this Bylaw, the Commission, within 21 days of the close of the hearing, shall issue or deny a permit for the activities requested. The Commission shall take into account the extent to which the applicant has avoided, minimized and mitigated any such effect. The Commission also shall take into account any loss,

degradation, isolation, and replacement or replication of such protected resource areas elsewhere in the community and the watershed, resulting from past activities, whether permitted, unpermitted or exempt, and foreseeable future activities.

If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or desirable to protect said resource area values, and all activities shall be conducted in accordance with those conditions. Where no conditions are adequate to protect said resource area values, the Commission is empowered to deny a permit for failure to meet the requirements of this Bylaw. It may also deny a permit: for failure to submit necessary information and plans requested by the Commission; for failure to comply with the procedures, design specifications, performance standards, and other requirements in regulations of the Commission; or for failure to avoid, minimize or mitigate unacceptable significant or cumulative effects upon the resource area values protected by this Bylaw. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing. The Commission may waive specifically identified and requested procedures, design specifications, performance standards, or other requirements set forth in its regulations, provided that: the Commission finds in writing after said public hearing that there are no reasonable conditions or alternatives that would allow the proposed activity to proceed in compliance with said regulations; that avoidance, minimization and mitigation have been employed to the maximum extent feasible; and that the waiver is necessary to accommodate an overriding public interest.

In reviewing activities within the buffer zone, the Commission shall presume the buffer zone is important to the protection of its subject resource area because activities undertaken in close proximity have shown a high likelihood of adverse impact, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use can include, without limitation, erosion, siltation, loss of groundwater recharge, poor water quality, and loss of wildlife habitat. The Commission may establish, in its regulations, design specifications, performance standards, and other measures and safeguards, including setbacks, no-disturb areas, no-build areas, and other work limits for protection of such lands, including without limitation strips of continuous, undisturbed vegetative cover, unless the applicant demonstrates to the Commission that the area or part of it may be disturbed without harm to the values protected by the Bylaw.

In reviewing activities within the riverfront area, the Commission shall presume the riverfront area is important to all the resource area values unless demonstrated otherwise, and no permit issued hereunder shall permit any activities unless the applicant, in addition to meeting the otherwise applicable requirements of this Bylaw, has proved by a preponderance of the evidence that

1. there is no practicable alternative to the proposed project with less adverse effects, and that
2. such activities, including proposed mitigation measures, will have no significant adverse impact on the areas or values protected by this Bylaw.

The Commission shall regard as practicable an alternative which is reasonably available and capable of being done after taking into consideration the proposed property use, overall project purpose (e.g., residential, institutional, commercial, or industrial), logistics, existing technology, costs of the alternatives, and overall project costs.

To prevent resource area loss, the Commission shall require applicants to avoid alteration wherever feasible; to minimize alteration; and, where alteration is unavoidable and has been minimized, to provide full mitigation. The Commission may authorize or require replication of wetlands as a form of mitigation, but only with specific plans, professional design, proper safeguards, adequate security, and professional monitoring and reporting to assure success, because of the high likelihood of failure of replication.

The Commission may require a wildlife habitat study of the project area, to be paid for by the applicant, whenever it deems appropriate, regardless of the type of resource area or the amount or type of alteration proposed. The decision shall be based upon the Commission's estimation of the importance of the habitat area considering (but not limited to) such factors as proximity to other areas suitable for wildlife, importance of wildlife "corridors" in the area, or actual or possible presence of rare plant or animal species in the area. The work shall be performed by an individual who at least meets the qualifications set out in the wildlife habitat section of the Wetlands Protection Act regulations (310 CMR 10.60).

The Commission shall presume that all areas meeting the definition of "vernal pools" under Section XII of this Bylaw, including the adjacent area, perform essential habitat functions. This presumption may be overcome only by the presentation of credible evidence which, in the judgment of the Commission, demonstrates that the basin or depression does not provide essential habitat functions. Any formal evaluation should be performed by an individual who at least meets the qualifications under the wildlife habitat section of the Wetlands Protection Act regulations (310 CMR 10.60).

A permit, Determination of Applicability (DOA), or Order of Resource Area Delineation (ORAD) shall expire three years from the date of issuance. Notwithstanding the above, the Commission in its discretion may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. Any permit may be renewed once for an additional one-year period, provided that a request for a renewal is received in writing by the Commission prior to expiration. Notwithstanding the above, a permit may identify requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all present and future owners of the land.

For good cause, the Commission may revoke any permit, DOA, or ORAD or any other order, determination or other decision issued under this Bylaw after notice to the holder, the public, abutters, and town boards, pursuant to Section VIII and Section IX of this Bylaw, and after a public hearing. Amendments to permits, DOAs, or ORADs shall be handled in the manner set out in the Wetlands Protection Act regulations and policies thereunder.

The Commission in an appropriate case may combine the decision issued under this Bylaw with the permit, DOA, ORAD, or Certificate of Compliance (COC) issued under the Wetlands Protection Act and regulations.

No work proposed in any application shall be undertaken until the permit, DOA, or ORAD issued by the Commission with respect to such work has been recorded in the registry of deeds or, if the land affected is registered land, in the registry section of the land court for the district wherein the land lies, and until the holder of the permit certifies in writing to the Commission that the document has been recorded. If the applicant fails to perform such recording, the Commission may record the documents itself and require the Applicant to furnish the recording fee therefore, either at the time of recording or as a condition precedent to the issuance of a COC.

## **XI. Regulations**

After public notice and public hearing, the Conservation Commission shall promulgate rules and regulations to effectuate the purposes of this Bylaw, effective when voted and filed with the town clerk. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this Bylaw. At a minimum, these regulations shall reiterate the terms defined in this Bylaw, define additional terms not inconsistent with the Bylaw, and impose filing and consultant fees.

## **XII. Definitions**

The following definitions shall apply in the interpretation and implementation of this Bylaw:

The term "agriculture" shall refer to the definition as provided by G.L. Ch. 128 Section 1A.

The term "alter" shall include, without limitation, the following activities when undertaken to, upon, within, or affecting resource areas protected by this Bylaw:

- A. Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind
- B. Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics
- C. Drainage, or other disturbance of water level or water table
- D. Dumping, discharging, or filling with any material which may degrade water quality
- E. Placing of fill, or removal of material, which would alter elevation
- F. Driving of piles, erection, expansion or repair of buildings, or structures of any kind
- G. Placing of obstructions or objects in water
- H. Destruction of plant life including cutting or trimming of trees and shrubs
- I. Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters
- J. Any activities, changes, or work which may cause or tend to contribute to pollution of any body of water or groundwater
- K. Incremental activities which have, or may have, a cumulative adverse impact on the resource areas protected by this bylaw.

The term "bank" shall include the land area which normally abuts and confines a water body. The lower boundary shall be the annual low flow level, and the upper boundary shall be the first observable break in the slope or the mean annual flood level, whichever is higher.

The term "person" shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to Town Bylaws, administrative agency, public or quasi-public corporation or body, this municipality, and any other legal entity, its legal representatives, agents, or assigns.

The term "pond" shall follow the definition of 310 CMR 10.04 except that the size threshold of 10,000 square feet shall not apply. Private man-made ponds are excluded from this definition. "Private man-made ponds" are defined as waterbodies that, without the use of a liner, would not maintain enough water to qualify as a pond under 310 CMR 10.04.

The term "rare species" shall include, without limitation, all vertebrate and invertebrate animals and all plant species listed as endangered, threatened, or of special concern by the Massachusetts Division of Fisheries and Wildlife, regardless whether the site in which they occur has been previously identified by the Division.

The term "vernal pool" shall include, in addition to scientific definitions found in the regulations under the Wetlands Protection Act, any confined basin or depression not occurring in existing lawns, gardens, landscaped areas or driveways which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, contains at least 200 cubic feet of water at some time during most years, is free of adult predatory fish populations, and provides essential breeding and rearing habitat functions for amphibian, reptile or other vernal pool community species, regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife. The boundary of the resource area for vernal pools shall be the mean annual high-water line defining the depression.

Except as otherwise provided in this Bylaw or in associated regulations of the Conservation Commission, the definitions of terms and the procedures in this Bylaw shall be as set forth in the Wetlands Protection Act (G.L. Ch. 131 Section 40) and regulations (310 CMR 10.00).

### **XIII. Financial Assurance**

As part of a permit issued under this Bylaw, in addition to any security required by any other municipal or state board, agency, or official, the Conservation Commission may require that the performance and observance of the conditions imposed thereunder (including conditions requiring mitigation work) be secured wholly or in part by one or both of the methods described below:

A. By a proper bond, deposit of money or negotiable securities under a written third-party escrow arrangement, or other undertaking of financial responsibility sufficient in the opinion of the Conservation Commission, to be released in whole or in part upon issuance of a COC for work performed pursuant to the permit.

B. By accepting a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed. This method shall be used only with the consent of the applicant.

### **XIV. Burden of Proof**

The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the permit application will not have unacceptable significant or cumulative effect upon the resource area values protected by this Bylaw. Failure to provide adequate evidence to the Conservation Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

### **XV. Appeals**

A decision of the Conservation Commission may be appealed and shall be reviewable in the superior court in accordance with G.L. Ch. 249 Section 4.

## **XVI. Relation to the Wetlands Protection Act**

This Bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act (G.L. Ch. 131 Section 40) and regulations (310 CMR 10.00) thereunder. It is the intention of this Bylaw that the purposes, jurisdiction, authority, exemptions, regulations, specifications, standards, and other requirements shall be interpreted and administered as stricter than those under the Wetlands Protection Act and regulations.

## **XVII. Severability**

The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any permit, approval or determination which previously has been issued.

Or take any action related thereto.

**SPONSOR:** Conservation Commission

**MOTION:** *Move that the article be accepted as written and be codified as Chapter 291 within the Uxbridge General Bylaws, with changes to format as appropriate.*

**RECOMMENDATION OF THE FINANCE COMMITTEE:** Favorable Action (7-0-0)

This article provides a comprehensive bylaw intended to protect the environment.

**RECOMMENDATION OF THE BOARD OF SELECTMEN:** Favorable Action (3-1-1)

**VOTE NEEDED:** Require a 2/3rds majority vote per Uxbridge General Bylaws, Chapter 1, §1-6

**The motion is seconded**

**Moderator declares the motion fails**

## **ARTICLE 13: ACCEPTANCE OF M.G.L. CHAPTER 40, SECTION 58**

To see if the Town will vote to accept the provisions of M.G.L. Chapter 40, Section 58, to establish a municipal charges lien for the purpose of Conservation Commission fines and fees;

Or take any action relative thereto.

**SPONSOR:** Conservation Commission

**MOTION:** *To be provided by petitioner, if any.*

**RECOMMENDATION OF THE FINANCE COMMITTEE:** Favorable Action (7-0-0)

This article allows for the establishment of municipal liens for any fines and fees the Conservation Commission may apply as enforcement of Article 13.

**RECOMMENDATION OF THE BOARD OF SELECTMEN:** Favorable Action (4-0-0)

**VOTE NEEDED:** Requires simple majority vote.

**No Motion**

**No Action**

## **ARTICLE 14: AMENDMENT TO THE ZONING BYLAWS TABLE OF DIMENSIONAL REQUIREMENTS**

To See if the Town will vote to strike footnote #4, "Said 300 feet of frontage is required on both streets of a corner lot in the Agricultural zoning district", from the Uxbridge Zoning Bylaws, Table of Dimensional Requirements;

Or take any action related thereto.

**SPONSOR:** Planning Board

**MOTION:** *Move that the article be accepted as written.*

**RECOMMENDATION OF THE FINANCE COMMITTEE:** Favorable Action (7-0-0)

The existing bylaw requires a corner lot in the agricultural zone to have a minimum of 300 ft. frontage on both streets. This article removes the requirement that the minimum frontage be on both streets and brings it in line with the requirements for corner lots in all other zones.

**RECOMMENDATION OF THE BOARD OF SELECTMEN:** Favorable Action (4-0-0)

**RECOMMENDATION OF THE PLANNING BOARD:** Recommendation to be provided at Town Meeting.

**VOTE NEEDED:** Require a 2/3rds majority vote per MGL Ch40A §5

**The motion is seconded**

**Moderator declares a 2/3<sup>rd</sup>'s majority vote, motion carries**

**ARTICLE 15: CITIZEN'S PETITION – AMEND THE UXBRIDGE TOWN CHARTER BY REVISING ARTICLE 3, ELECTED OFFICERS, SECTION 1, IN GENERAL, (c) ELIGIBILITY**

To See if the Town will vote to amend the Uxbridge Charter by revising Article 3, Elected Officers, Section 1, In General, (c) Eligibility

“Eligibility – Any voter shall be eligible to hold any elective town office, provided however, any person holding elective office as defined in section (a) shall not simultaneously hold more than one elected/appointed town office.

Or take any action relating thereto.”

**SPONSOR:** Citizen's Petition

**MOTION:** *Move that the article be accepted as written.*

**RECOMMENDATION OF THE FINANCE COMMITTEE:** Favorable Action (4-2-0)

This article amends the Town Charter to stipulate that the Town Moderator and members of the Board of Selectmen, School Committee and Board of Health shall not simultaneously hold another elected or appointed town office.

**RECOMMENDATION OF THE BOARD OF SELECTMEN:** Unfavorable Action (4-0-0)

**VOTE NEEDED:** Requires a 2/3rds majority

**The motion is seconded**

**Moderator declares motion fails**

**A standing vote was called for**

**Motion fails by standing count, 81 for, 47 Against**

**ARTICLE 16: CITIZEN'S PETITION – AMEND THE GENERAL BYLAWS, BYADDING A NEW BYLAW UNDER CHAPTER 72, OFFICERS AND EMPLOYEES, ARTICLE 1, POWERS AND DUTIES OF OFFICERS**

To See if the Town will vote to amend the General Bylaws of the Town, by inserting a new Bylaw under Chapter 72, Officers and Employees, Article 1, Powers and Duties of Officers.

“Boards and Committees: Any voters shall be eligible to hold any elective town office provided however, any person holding elective with the board of selectman, school committee, board of health or town moderator shall not simultaneously hold more than one elected or appointed town office.”

“Or take any action related thereto.”

**SPONSOR:** Citizen’s Petition

**MOTION:** *To be provided by petitioner, if any.*

**RECOMMENDATION OF THE FINANCE COMMITTEE:** Favorable Action (4-2-0)

This article amends the General Bylaws to stipulate that the Town Moderator and members of the Board of Selectmen, School Committee and Board of Health shall not simultaneously hold another elected or appointed town office.

**RECOMMENDATION OF THE BOARD OF SELECTMEN:** Unfavorable Action (4-0-0)

**VOTE NEEDED:** Requires a 2/3rds majority vote per Uxbridge General Bylaws, Chapter 1, §1-6

**No Motion**

**No Action**

### **ARTICLE 18: CITIZEN’S PETITION – AMEND THE GENERAL BYLAWS – EARTH FILLING**

To see if the Town will vote to amend the General Bylaws. The Town by inserting a new general bylaw to be titled “Earth Filling” and to read as follows:

#### **1. Purpose**

The purpose of this bylaw is to regulate earth filling operations for the protection of human health, public safety, welfare, and the integrity of the natural resources including aquifers, bodies of water, and wetlands of the Town of Uxbridge.

#### **2. Applicability**

The filling of any lot or lots as part of a single project or series of related projects with greater than 500 cubic yards in the aggregate of material defined as Earth Material below within any twenty-four-month period shall be done only in accordance with this bylaw. Filling includes transporting earth material from one location (inside or outside of the Town) and depositing the earth material in another location in the Town. Filling does not include redistributing earth material within a single site.

#### **3. Definitions Specific to this Bylaw**

Earth Material: Any geologic, manmade, recycled or processed material including in its entirety or as a proportion containing clay, rock, sand, gravel, topsoil, loam, humus, peat, sod, borrow rock, sediment, wood, plant or animal matter, glass, paper, plastic, metal, bituminous pavement, or concrete.

Fill Material: Any material which is imported, used, redistributed, or moved on or within any land area or water body.

Significantly Greater Concentration: The concentration of a substance in earth or fill materials as measured by Federal or State-approved analytical methods, which is one order of magnitude or greater in concentration than the same substance measured in existing, pre-fill earth materials.

#### 4. Prohibited Activities and Uses:

- a. Use of any imported fill materials whose quality would meet a Federal or State criteria for definition as being toxic, reactive, radioactive, corrosive, explosive, hazardous, infectious, oil impacted, or as a hazardous or solid waste.
- b. Use of fill materials containing toxic, reactive, corrosive, hazardous, infectious, or solid waste at individual concentrations, or presence by weight or volume, which would render such material a regulated substance or material subject to Massachusetts General Laws, Chapter 21E or as a Solid Waste pursuant to 310 Code of Massachusetts Regulations (CMR) 19.00, unless such activity and use was specifically permitted or licensed as a duly authorized action related to either of these regulations, and such license remains in full force and effect at the time of such activity or use.
- c. Use of fill materials at any location not otherwise regulated or permitted for acceptance of earth materials containing toxic, reactive, radioactive, corrosive, hazardous, infectious material, oil, solid waste, or metals when such fill materials contain concentrations of these substances less than regulatory criteria established for reporting or special handling purposes but with one or more significantly greater concentrations by weight or volume than existing, pre-fill concentrations.
- d. Transport of fill materials in a manner which is prone to release earth materials during transport.
- e. Use of fill materials in a manner which renders the fill area structurally unstable, produces uncontrolled leachate or off-gases, creates nuisance conditions, creates uncontrolled storm water runoff, siltation, or visually apparent erosion of fill materials, or where finished fill grading slopes are greater than 15 percent, or greater than 5 feet in elevation above surrounding and undisturbed maximum grade elevations as shown on the Soil Management Plan (see 7.a).
- f. No filling operations or transport subject to this regulation is allowed without the prior written consent of the Planning Board, and Police Department for acceptable hours of operation, truck transport, routes of travel, road safety and site security procedures.
- g. Construction of permanent structures over or adjacent to areas of fill unless the fill material is structurally stable and free of emissions or other hazardous criteria relative to permanent building construction and use.
- h. Use of fill material which may cause chemical or physical impact to off-site ground water, surface water, or wetland resource areas without specific Soil Management Plan (see 7.a) and field procedures designed to prevent degradation of these natural resources. This prohibited use specifically includes, but is not limited to, fill materials containing nutrient or salt concentrations at significantly greater concentrations than existing pre-fill concentrations, or containing greater than ten (10) percent total organic carbon.
- i. Any project or series of projects which involves over the lifetime of the project the filling of greater than 100,000 cubic yards of earth material for the purpose of reclamation or any other purpose is prohibited without an Administrative Consent Order issued by the Massachusetts Department of Environmental Protection. (see Interim Policy of the Re-Use of Soil for Large Reclamation Projects, Policy #COMM-15-01.) Such a project or series of projects is prohibited until it is in compliance with all other applicable Department of Environmental Protection regulations. Work on such a project or series of projects may not commence without an Administrative Consent Order in place and without adhering to any other regulations applied to the project by the Department of Environmental Protection. (see 5.c)

## 5. Exemptions

- a. Five hundred cubic yards or less: Filling of any lot or lots with 500 cubic yards or less of earth material within any twenty-four-month period is permitted without an earth fill permit (but is subject to other requirements of law and other Town bylaws and regulations).
- b. Five hundred cubic yards to 2,000 cubic yards: Filling of any lot or lots with more than 500 cubic yards and less than 2,000 cubic yards of earth material in total within any twenty-four-month period is permitted without an earth fill permit (but is subject to other requirements of law and other Town bylaws and regulations), if such filling is directly related and entirely incidental to:
  - (1) Work done in accordance with a valid order of conditions or other approval issued by the Town Conservation Commission or the Massachusetts Department of Environmental Protection (DEP).
  - (2) The construction of a building or structure for which a valid building permit has been issued and filling is directly related and entirely incidental to the construction, provided that site preparation filling prior to issuance of a building permit is not exempt.
  - (3) The construction of ways within subdivisions that have been approved by the Planning Board, provided that other site preparation filling within subdivisions is not exempt.
  - (4) The construction or reconstruction of a septic system the design of which has been approved by the Board of Health.
  - (5) Utility construction in public and private ways or incidental to municipal operations and activities.
  - (6) The routine landscaping (not including significant changes in topography) of a lot with a one- or two-family residence thereon by the resident owner thereof so long as the existing topography of the parcel in no location exceeds a fifteen-percent grade.
- c. Greater than 100,000 cubic yards: Any project or series of projects which involves over the lifetime of the project the filling of greater than 100,000 cubic yards of earth material for the purpose of reclamation or any other purpose is exempt if and only if an Administrative Consent Order from the Massachusetts Department of Environmental Protection has been issued. The Administrative Consent Order must contain a Soil Management Plan which is consistent with the purpose and the specific provisions of this bylaw. Once the Administrative Consent Order has been issued, the Departmental of Environmental Protection will be the permitting and enforcing authority. (see 4.i)

## 6. Permit Requirements

- a. Permits: The permit granting authority shall be the Planning Board. All non-exempt filling between 500 cubic yards and 2,000 cubic yards shall require a small project filling permit from the Planning Board. All non-exempt filling in excess of 2,000 cubic yards shall also require a large project filling permit from the Planning Board.
- b. Small project filling permit: Any person planning any filling activity requiring a small project filling permit from the Planning Board shall submit an application, on a form to be provided by the Planning Board. Where deemed necessary by the Planning Board when considering issuance of a small project filling permit, an applicant may be required to submit a site plan showing the area to be filled. If the

Planning Board requires submission of a site plan, the application shall not be deemed complete until the site plan is submitted to the Planning Board.

- c. Large project filling permit: Any person planning any filling activity requiring a large project filling permit from the Planning Board shall submit an application on a form approved by the Planning Board, a Soil Management Plan satisfying the requirements of this bylaw, and a Site Plan prepared and certified by a registered land surveyor or engineer.
  - d. Application submission: The applicant shall submit three copies of the application, any required Soil Management Plan and any required Site Plan to the permit granting authority and shall at the same time submit one copy to each of the Building Inspector, the DPW Director, the Conservation Commission, and the Board of Health for their records. Each of them may forward to the permit granting authority their comments, observations and recommendations. To allow other Town officials time to comment on applications, the permit granting authority shall wait at least 20 days after submission of a complete application before issuing a permit.
  - e. Site plan requirements: Where a Site Plan is required it shall meet the requirements of this bylaw (see 7.b).
  - f. Performance bonds: Where deemed necessary by the permit granting authority a performance bond in the amount determined and on the terms specified by the permit granting authority shall be posted in the name of the Town assuring satisfactory performance in the fulfillment of the requirements of this bylaw and such other conditions as the permit granting authority may impose as conditions to the issuance of the filling permit or any subsequent changes to such conditions. No such bond shall be released, nor shall the applicant be deemed to have complied with the conditions provided for herein, until the applicant has:
    - (1) Filed with the permit granting authority a written certification from the Massachusetts licensed site professional who approved the original soil management plan that said conditions and the Soil Management Plan have been complied with and a final Site Plan showing the finished site as required under this bylaw. (see 8.j)
    - (2) The permit granting authority issues a letter authorizing release of the bond.
- The permit granting authority shall act on a requested release of bond within 65 days after the applicant submits a written request for such release.
- g. Hearings: Before granting or materially modifying a large project filling permit, the Planning Board shall hold a public hearing within 30 days after receipt of a completed application and shall give due consideration to the location of the proposed earth filling, to the general character of the neighborhood surrounding such location, to the protection of water supplies and aquifers, to the safety of the public on the public ways in the vicinity, and to the recommendations of the Building Inspector, the DPW Director, the Conservation Commission, and the Board of Health. At least seven days prior to said hearing, the applicant shall publish notice of the hearing in a local daily newspaper and notify all owners of land immediately abutting, or abutting the immediate abutters, or within 300 feet of the property line of the land where the earth filling is proposed (including, but not limited to, owners of land directly opposite said land on any public or private street or way, and in another municipality or across a body of water) by certified mail as to the time, place and purpose of the hearing. The notification shall be at the applicant's expense. The applicant shall provide the Planning Board with proof of such publication and notification prior to the hearing.
  - h. Other approvals: If any proposed earth filling for which a permit is required under this bylaw also requires an order of conditions from the Conservation Commission and/or any approval by any other Town board or official, the permit granting authority may grant a permit that is conditional on receipt of the other required approval(s).

- i. General permit terms: If the applicant is not the owner of the property to be filled, the owner of the property shall also sign the application as an applicant and shall guarantee performance of the other applicant(s). Permits for earth filling under this bylaw shall be transferable only to a person who agrees in writing to assume all of the obligations of the permit holder and who is approved as an assignee by the permit granting authority. Permits shall be issued for a term not to exceed two years. A permit may be renewed upon reapplication.
- j. Approval deadlines: The Town Manager shall act on completed applications for small project filling permits or renewal of the permit within 45 days after the date of submission of a complete application, including any required Site Plan. The Planning Board shall act on completed applications for large project filling permits or renewal of the permit within 45 days after the closing of the public hearing on the application.

## 7. Large project filling permit application requirements

Each copy of an application for a large project filling permit to the Planning Board shall be accompanied by a written statement describing the proposed regulated activity, together with the following information:

### a. Soil Management Plan

- (1) The Soil Management Plan shall be signed by a Massachusetts licensed site professional (LSP). The LSP shall specifically state that "The subject plan meets the requirements of the Earth Filling Bylaw of the Town of Uxbridge and any other applicable federal or state law or regulation pertaining to the transport, use and/or disposal of earth and other materials for fill."
- (2) The soil Management Plan must contain sufficient detail to document that the requirements of this Earth Filling Bylaw will be met. The plan shall specifically require that bills of lading in the form specified by the Planning Board and procedures approved by the Planning Board will be exclusively used for the transport and acceptance of earth materials for fill.
- (3) The soil Management Plan shall include the following at a minimum and shall include any other information required by the Planning Board:
  - (a) Complete descriptions of pre-fill environmental conditions and findings and sample locations;
  - (b) Procedures for verification of fill material origin and acceptance;
  - (c) Recordkeeping practices;
  - (d) Site security, fill operation inspection and site control;
  - (e) Transport routes, times and days of operation, locations of equipment parking and storage and duration of fill activities;
  - (f) Qualifications of applicant personnel responsible for adhering to the soil management plan and this bylaw;
  - (g) Erosion, dust, and storm water controls and inspection and maintenance thereof;
  - (h) Effects of the filling on groundwater recharge;
  - (i) Quality assurance/quality control procedures;
  - (j) Emergency response and notification procedures, including telephone numbers and contact individuals/firms;
  - (k) Total proposed earth material fill volume;
  - (l) Daily personnel procedures and operation management procedures, including types, numbers, locations and hours of operation of any processing equipment on site;

- (m) Environmental monitoring plan to maintain protection of human health, public safety, welfare and the environment during and following fill operations; and
  - (n) Cover material, revegetation, erosion and pollution control, and monitoring and maintenance plan.
- b. Site Plan. If filling involves more than 2,000 cubic yards of fill, a registered land surveyor or engineer shall prepare the site plan. The site plan shall depict the following information:
- (1) Existing conditions, including grades, man-made features, elevations, property boundaries, dimensions, owners of land who are entitled to notice under this bylaw, access points, water bodies and watercourses, wetlands, and environmental sample locations;
  - (2) Process diagrams indicating fill sequence, transport routes, and security measures;
  - (3) Drainage, water flow and sedimentation control before and after the proposed filling and storm water and erosion control and groundwater recharge structures and features to be utilized during fill operations;
  - (4) Final grade plans depicting proposed finish fill elevations, slopes, permanent storm water and erosion control and groundwater recharge structures and features, the methods of final stabilization of fill material and the proposed cover material and cover vegetation;
  - (5) Unless otherwise determined by the permit granting authority, map scales shall be no more than 60 feet to the inch and elevation contour intervals shall not exceed two feet. Elevation contours are required only for areas of fill, 100 feet beyond the perimeter of the fill areas and along abutting property lines. Appropriate permanent benchmarks with elevations marked thereon and referenced to the National Geodetic Vertical Datum (NGVD) shall be placed in the field and shown on the plans.

## 8. Standards for filling

- a. Permitted fill materials: All fill materials shall include only clean sand, gravel, clay, stone, quarried rock or other subsurface products free from solid waste, with an aggregate size of six inches or less, and have no solid waste, refuse, junk, industrial waste, or volatile, explosive or flammable materials. The fill material shall have no concentration of oil or hazardous material, toxic substance or infectious biological material greater than federal, state or local reportable or action criteria or significantly greater than pre-fill conditions prevailing in the area to be filled. The fill material shall also be free from organic material such as trees, stumps, garbage, building materials, and construction and demolition debris and shall contain 10% or less of total organic carbon by lab analysis.
- b. Site preparation: The area to be filled shall be cleared of stockpiled or otherwise disposed of organic and inorganic materials, such as fallen trees and brush, tree stumps, rubbish, junk, building/construction/demolition materials, and any other accumulated debris. Topsoil shall also be removed from the area to be filled prior to filling. The area to be filled corresponds to the horizontal limits of the fill activity as represented on a plan view drawing.
- c. Fencing and gates: Temporary fencing, where deemed appropriate by the permit granting authority for the protection of the general public during fill operations, shall be at least six feet high with suitable gates to exclude unauthorized persons from the site.
- d. Groundwater recharge and drainage: Provision shall be made for promoting groundwater recharge, for preventing increased runoff from the site and for safe drainage of water, for preventing excessive

water accumulation, and for preventing wind or water erosion from carrying material onto adjoining properties.

- e. Cleaning of vehicles, roads and streets and covering of loads: Provisions shall be made for the cleaning of all vehicles before they leave the site and for daily cleaning of all public roadways in the vicinity of the site that have been affected by vehicles engaged in filling activity. Provisions also shall be made for covering loads in vehicles traveling on public roadways.
- f. Dust control: Dust shall be controlled through watering or other appropriate means.
- g. Buffer strips: The permit granting authority may require that a twenty-foot buffer strip shall be maintained at all boundaries and not disturbed.
- h. Screening of processing equipment: The visibility, sound, and airborne particulates from processing equipment shall be screened from adjacent premises through the design and location of such equipment and through use of natural vegetation, planting, overburden piles, and surge piles as screening.
- i. Final cover: All filling shall require coverage with a minimum of four inches of organic topsoil and shall be seeded and mulched to stabilize the fill material. Where filling is incidental to facilitate parking of vehicles, the fill material shall be covered by a suitable binding material to prevent airborne dust and erosion.
- j. Finish elevations and grading: The permit granting authority may specify finished grades, elevations and contour intervals which filling will conform to. Final fill material grades shall conform in contour, slope, and elevation to the natural topography of the surrounding area or preexisting contours as evidenced by historical maps or photographs. Final grading shall incorporate stabilization measures and slopes of no more than 15% to prevent erosion, structural failure of fill materials, ponding of water, or excessive stormwater drainage onto abutting properties.
- k. Additional conditions: The permit granting authority may set reasonable conditions in addition to the above, including but not limited to duration of the permit, hours of the day during which filling may take place, maximum load sizes, truck routes to be used to access the site, and grasses, shrubs and trees to be planted.
- l. Permit terms, inspection, suspension and revocation: No permit shall be issued under the provisions of this bylaw to extend for a term of more than two years. Prior to filling and at any time during a permitted filling activity, inspection of the premises may be made by the permit granting authority or its agents on reasonable advance notice to determine whether or not the provisions of the Town bylaws and any permit are being complied with. If the permit granting authority determines that the provisions of the bylaw or the provisions of any permit are being violated, the permit granting authority may issue a temporary cease and desist order, which shall remain in effect until terminated in writing by the permit granting authority. If, after notice to the permit holder(s) and a public hearing, the permit granting authority determines that the conditions of any large or small project filling permit are not being complied with, the permit granting authority may revoke the permit, after which the operation shall be discontinued and the area restored in accordance with the orders of the permit granting authority.
- m. Inspections, certifications, reports and tests: While considering an application and/or as a condition of issuing a permit, the permit granting authority may require such borings and test pits, inspections, monitoring, certifications, reports and tests by licensed site professionals, engineers, laboratories and/or other qualified persons as are deemed by the permit granting authority to be needed to evaluate the application and/or to monitor performance under a permit and/or to establish compliance with the conditions of a permit and this bylaw. It shall be a condition of all permits that the applicant pay for all such borings and test pits, inspections, monitoring, certifications, reports and tests and that they be conducted by persons selected by and responsible to the permit granting authority. Payments

received from applicants for such borings and test pits, inspections, monitoring, certifications, reports and tests shall be deposited into a revolving fund authorized annually by Town Meeting pursuant to MGL c. 44, § 53E 1/2. Failure of any applicant or permit holder to make timely payment of any application fee or of any fees for any borings and test pits, inspection, certification, monitoring, report or test or to carry out any step or to submit any information required by the permit granting authority shall be grounds for denial of a permit and/or for issuance of a cease and desist order and/or for revocation of the permit.

## 9. Documentation requirements

- a. Permit required to commence filling operations: No fill operations are to commence until a letter indicating the granting of a permit and, if required, receipt and acceptance of the Soil Management Plan and the Site Plan has been issued to the applicant by the permit granting authority.
- b. Bills of lading and LSP letters: Each permit holder shall file a bill of lading with the Town Manager for each load of fill placed within the Town. Each bill of lading document shall be accompanied by a signed and dated letter from an LSP which specifies:
  - (1) The point of origin of the material and the receiving location for the material;
  - (2) That the material is not otherwise prohibited from use as fill material in accordance with this bylaw or other applicable federal or state laws, regulations, standards or guidelines;
  - (3) That the LSP has compared analytical results of testing of the fill materials to the existing, pre-fill conditions at the fill location and determined:
    - (a) That the concentration of the substances in the materials intended for use as fill are not significantly greater than existing, pre-fill conditions for that location; and
    - (b) That the fill material complies with the requirements of Permitted Fill Materials of this bylaw.
- c. Weekly documentation requirements: Copies of bill of lading documents and required LSP letters covering all fill placed during each week of filling operations are to be provided to the Town Manager by the end of business on the fifth business day following each week of active operation. Failure to provide these records on a weekly basis will result in suspension of fill activities.

## 10. Enforcement; violations and penalties; fees

- a. Enforcement action: The Town Manager of the Town is hereby designated as the officer charged with the enforcement of this bylaw. The Town Manager, upon a written complaint of any Town citizen or property owner or upon such officer's own initiative, in either case after consultation with the Planning Board, shall institute any appropriate action or proceedings in the name of the Town to prevent, correct, restrain or abate violation of this bylaw. In the case where the Town Manager is requested in writing to enforce this bylaw against any person allegedly in violation of the same and the Town Manager declines to act, the officer shall notify, in writing, the party requesting such enforcement of any action or refusal to act and the reasons
- b. Fines: Violation of this bylaw shall be punishable by a fine of \$100 for each offense. Each day that such violation continues shall constitute a separate offense. Fines shall be recovered by indictment or on complaint before the district court initiated by the Town Manager, or, as an alternative to initiating criminal proceedings, the Town Manager may give the offender a written notice to appear

before the clerk of the district court not later than 21 days after the date of such notice for a noncriminal disposition in accordance with MGL c. 40, § 21D.

- c. Other laws or regulations: This bylaw shall not be construed to authorize the use of any land or structure for any purpose that is prohibited by any other provision of the General Laws or by any other bylaw, rule or regulation of the Town, nor shall compliance with any such provision authorize the use of any land in any manner inconsistent with this bylaw, except as required by the General Laws.
- d. Validity and severability: The invalidity of one or more sections, subsections, clauses or provisions of this bylaw shall not invalidate or impair the bylaw as a whole or any other part thereof.
- e. Fees: The following fees shall apply to applications under this bylaw:
  - (1) For permits allowing filling of from 500 to 2,000 cubic yards in any twenty-four-month period, the application fee shall be established by the Planning Board.
  - (2) For permits allowing filling over 2,000 cubic yards, the application fee shall be established by the Planning Board.

## 11. Transitional rules

All earth filling that takes place after the effective date of this bylaw shall be subject to the requirements of this bylaw. All persons engaged in non-exempt earth filling of any lot in the Town when this bylaw becomes effective shall file an application for a permit under this bylaw within 30 days thereafter. If the Town Manager determines in his reasonable discretion that such a person has not filed a required application on time, the Town Manager may issue a temporary order to suspend or limit such operations. Any such temporary order shall remain in effect until terminated or modified by the Town Manager or a permit is granted by the Planning Board. Any fill placed in the Town pending the granting of a permit under this bylaw shall be subject to the documentation requirements of Bills of Lading and LSP Letters, Weekly Documentation Requirements and Fees stipulated in this bylaw.

**SPONSOR:** Citizen's Petition

*Commentary: The motion for Article 10 in this warrant is a collaboration between the petitioners and the Board of Selectmen and Management. The intent is for town meeting to pass over Article 18 at the recommendation of the petitioners and the Board of Selectmen/Management.*

**MOTION:** To be provided by petitioner, if any.

**RECOMMENDATION OF THE FINANCE COMMITTEE:** Favorable Action (5-2-0)

The Finance Committee assumes this article will be passed over if Article 10 is approved. This article modifies the general bylaws in an attempt to protect local aquifers and provide local control.

**RECOMMENDATION OF THE BOARD OF SELECTMEN:** The BOS, with the petitioner's consent passed over recommendation on this article.

**VOTE NEEDED:** Requires a 2/3rds vote per Uxbridge General Bylaws, Chapter 1 § 1-6

**No Motion**

**No Action**

## **ARTICLE 19: CITIZEN'S PETITION – PILOT AGREEMENT 680 HARTFORD AVENUE EAST**

To See if the Town will vote to authorize the Board of Selectmen to negotiate a PILOT agreement pursuant to G.L. c. 59, §38H, and regulations promulgated thereunder, with respect to annual payments in lieu of

real and personal property taxes over a 25 year period relative to a 25.04 acre +/- parcel of land located at 680 Hartford Avenue East, Uxbridge; said PILOT agreement to be based upon the proposed construction and operation of a solar photovoltaic power plant with an expected nameplate capacity of approximately 2.0 megawatts, the commencement of said PILOT agreement to be negotiated, Or take any action related thereto.

**SPONSOR:** Citizen's Petition

**MOTION:** *Move that article be accepted as written.*

**RECOMMENDATION OF THE FINANCE COMMITTEE:** Favorable Action (7-0-0)

This is the basic solar pilot agreement which we have completed multiple times in Uxbridge. This allows the Town Manager to negotiate a payment agreement on behalf the Town.

**RECOMMENDATION OF THE BOARD OF SELECTMEN:** Favorable Action (4-0-0)

**VOTE NEEDED:** Requires simple majority.

**The motion is seconded**

**Moderator declares a simple majority vote, motion carries**

**ARTICLE 20: CITIZEN'S PETITION – AMEND THE UXBRIDGE ZONING BYLAW, CHAPTER 400, ARTICLE VIII, §400-40 WAUCANTUCK MILL ADAPTIVE REUSE OVERLAY DISTRICT (WMAROD)**

To See if the Town will vote to amend the Uxbridge Zoning Bylaw, Chapter 400-40, Article VIII, Waucantuck Adaptive Reuse Overlay District (WMAROD), by adding parcels 2413, 2475, and the parcel labelled "Nicholas Way", all on Assessor's Map 20, to the Waucantuck Mill Adaptive Reuse Overlay District as follows:

by inserting the following between the numeral "2467" and the words "and the Stanley Woolen Mill and associated parcels, identified on the Assessor's Map 19 Parcel 3621, and a portion of Assessor's Map 19 Parcel 2739 being described as follows." appearing in the first paragraph of subsection B (Establishment and Delineation) of Chapter 400, Article VIII, §400-40 of the Uxbridge Zoning Bylaw: 2413, 2475, and the parcel labelled "Nicholas Way" on Assessor's Map 20

**SPONSOR:** Citizen's Petition

**MOTION:** I move that the Town of Uxbridge vote to amend the Uxbridge Zoning Bylaw, Chapter 400, Article VIII, §400-40 Waucantuck Mill Adaptive Reuse Overlay District (WMAROD), by adding parcels 2413, 2475, and the parcel labeled "Nicholas Way", all on Assessor's Map 20, to the Waucantuck Mill Adaptive Reuse Overlay District as follows:

By inserting the following between the numeral "2467" and the words "and the Stanley Woolen Mill and associated parcels, identified as Assessor's Map 19 Parcel 3621, and a portion of Assessor's Map 19 Parcel 2739 being described as follows:" appearing in the first paragraph of subsection B (Establishment and Delineation) of Chapter 400, Article VIII, §400-40 of the Uxbridge Zoning Bylaw:

2413, 2475, and the parcel labeled "Nicholas Way" on Assessor's Map 20, or take any other action relative thereto.

**RECOMMENDATION OF THE FINANCE COMMITTEE: Favorable Action (6-1-0)**

This article adds contiguous parcels to the Waucantuck Mill Adaptive Reuse District and allows for the mixed use development of the property.

**RECOMMENDATION OF THE BOARD OF SELECTMEN: Favorable Action (3-1-0)**

**RECOMMENDATION OF THE PLANNING BOARD: Recommendation to be provided at Town Meeting.**

**VOTE NEEDED:** Requires a 2/3rds majority vote per MGL Ch40A §5

**The main motion is seconded**

**During open debate a motion was made to amend the main motion as follows:**

I move to amend Article 20 by deleting the words:

To see if the Town of Uxbridge will vote to amend the Uxbridge Zoning Bylaw, Chapter 400, Article VIII, §400-40 Waucantuck Mill Adaptive Reuse Overlay District (WMAROD), by adding parcels 2413, 2475, and the parcel labeled "Nicholas Way", all on Assessor's Map 20, to the Waucantuck Mill Adaptive Reuse Overlay District as follows:

By inserting the following between the numeral "2467" and the words "and the Stanley Woolen Mill and associated parcels, identified as Assessor's Map 19 Parcel 3621, and a portion of Assessor's Map 19 Parcel 2739 being described as follows:" appearing in the first paragraph of subsection B (Establishment and Delineation) of Chapter 400, Article VIII, §400-40 of the Uxbridge Zoning Bylaw:

With the following:

To see if the Town of Uxbridge will vote to amend the Uxbridge Zoning Bylaw, Chapter 400, Article VIII, §400-40 Waucantuck Mill Adaptive Reuse Overlay District (WMAROD), by enlarging the Waucantuck Mill Adaptive Reuse Overlay District to include parcel 2413, a portion of parcel 2475, and a portion of parcel labeled "Nicholas Way", all on Assessor's Map 20, to the Waucantuck Mill Adaptive Reuse Overlay District, said parcel more particularly bounded and described as follows:

Beginning: at a point on the westerly sideline of Mendon Street at the southeasterly corner of parcel 2413 on Uxbridge Assessor's Map 19, said point being the southeasterly corner of "Lot 6" as shown on a plan entitled "Definitive Subdivision Plan of 'Sherlock Heights', Uxbridge, Massachusetts, Prepared for: Karen & Richard Sherlock", said plan recorded with Worcester Registry of Deeds in Plan Book 816, Plan 24;

Thence: southwesterly by the northerly sideline of Mendon Street by a curve to the right having an arc length of 140.32 feet and a radius of 1160.00 feet to a point on the northerly sideline of Mendon Street;

Thence: S 27°50' 47" E 13.38 feet by the northerly sideline of Mendon Street to a point;

Thence: S 64°16' 06" W 114.56 feet by the northerly sideline of Mendon Street to a point;

Thence: N 19°33' 23" W 297.76 feet to a point

Thence: N 30°25' 33" W 424.09 feet to a point at land now or formerly of the Town of Uxbridge;

Thence: N 68°54' 40" E 586.60 feet by said Town of Uxbridge to a point at land now or formerly of Ronald A. & Patricia A. Williams;

Thence: S 01°16' 39" W 241.22 feet by various owners to an iron pipe at land now or formerly of Timothy J. & Pamela A. Mason;  
Thence: continuing S 01°16' 39" W 99.13 feet by said Mason to a stone bound;  
Thence: continuing S 01°16' 39" W 382.71 feet partly by said Mason to the northerly sideline of Mendon Street and the Point of Beginning.

Having an area of 276,204 square feet, or 6.34 Acres of land, more or less.

**The motion to amend the article is seconded**

**Moderator declares a simple majority vote to amend the motion, Motion carries**

**Moderator declares the Amended Motion passes with a 2/3<sup>rd</sup>'s majority vote, motion carries**

**ARTICLE 21: CITIZEN'S PETITION – RE-ZONE PARCELS**

To See if the Town will vote to Re-zone parcels 265, 1141, 2726, 3658, 4433, 1073, 1814, 1056, 1054, 1074 as shown on Uxbridge Assessor's Maps 40 and 45 from the Industrial Zone to the Agricultural Zone; Or take any action related thereto.

**SPONSOR:** Citizen's Petition

**MOTION:** *Move that the article be accepted as written.*

**RECOMMENDATION OF THE FINANCE COMMITTEE:** Favorable Action (7-0-0)

The owners of these parcels have requested a change in zoning from Industrial to Agricultural.

**RECOMMENDATION OF THE BOARD OF SELECTMEN:** Favorable Action (4-0-0)

**RECOMMENDATION OF THE PLANNING BOARD:** Recommendation to be provided at Town Meeting.

**VOTE NEEDED:** Requires a 2/3rds majority vote per MGL Ch40A §5

**The main motion is seconded**

**During open debate a motion was made to amend the main motion as follows:**

Move that the Town vote to change the zone from Industrial to Agricultural on the following parcels; 1141, 2726, 3658, 4433, 1073, 1814, 1056, 1054, 1074 as shown on the Uxbridge Assessor's Maps 40 & 45 or take any other action thereto.

**Amended Motion is seconded**

**Moderator declares motion to amend carries**

**Moderator declares a unanimous vote on the Amended Motion, motion carries**

**ARTICLE 22: CITIZEN'S PETITION – STREET ACCEPTANCE WALNUT GROVE**

To See if the Town will vote to accept as a public way the street known as Walnut Grove as laid out by the Board of Selectmen, and further authorize the Board of Selectmen, in the name and behalf of the Town, to acquire by gift, easements and appurtenant rights in and for said way for the purposes for which public ways are used in the Town;

Or take any action relating thereto.

**SPONSOR:** Citizen's Petition

**MOTION:** *To be provided by petitioner, if any.*

**RECOMMENDATION OF THE FINANCE COMMITTEE: Unfavorable Action (7-0-0)**

The DPW Director has not approved the road for acceptance.

**RECOMMENDATION OF THE BOARD OF SELECTMEN: No recommendation.**

**VOTE NEEDED:** Requires a 2/3rds majority vote

**No Motion**

**No Action**

**ARTICLE 23: CITIZEN'S PETITION – STREET ACCEPTANCE STOREY LANE**

To See if the Town will vote to accept as a public way the street known as Storey Lane as laid out by the Board of Selectmen, and further authorize the Board of Selectmen, in the name and behalf of the Town, to acquire by gift, easements and appurtenant rights in and for said way for the purposes for which public ways are used in the Town;

Or take any action relating thereto.

**SPONSOR:** Citizen's Petition

**MOTION:** *Motion, if any, to be provided by petitioner.*

**RECOMMENDATION OF THE FINANCE COMMITTEE: Unfavorable Action (7-0-0)**

The DPW Director has not approved the road for acceptance. Additionally, the Planning Board approved the subdivision in 2005 under special conditions that Storey Lane remain a private way in perpetuity.

**RECOMMENDATION OF THE BOARD OF SELECTMEN: No recommendation.**

**VOTE NEEDED:** Requires a 2/3rds majority vote

**No Motion**

**No Action**

\* \* \* \* \*

A motion was made and seconded to dissolve the October 25, 2016 Fall Town meeting. The motion carried unanimously and town meeting was adjourned at 11:38pm.

A true copy attest,



Kelly J. Dumas  
Uxbridge Town Clerk

