

Town of Uxbridge Received by
Board of Health Uxbridge
 21 South Main Street, Room 204 Town Clerk
 Uxbridge, MA 01569
 Phone # (508) 278-8600 X 8 Fax # (508) 278-8604

SOIL IMPORTATION REGULATIONS

29.1 AUTHORITY

By virtue of the authority granted to the Town of Uxbridge Board of Health under the provisions of M.G.L. c.111, s.31, the following regulations regarding soil importation in the Town of Uxbridge are hereby promulgated.

29.2 PURPOSE

The following regulation is intended to protect the public health, safety, welfare and the environment and to ensure that soil importation activities in the Town of Uxbridge follow appropriate notification and approval procedures through the Board of Health. Furthermore, this regulation is intended to ensure that these importation activities are carried out in a safe and consistent manner and that such activities do not pose a significant risk of harm to health, safety, public welfare or the environment during any foreseeable period of time. These regulations are not intended to duplicate any review or regulation by the Department of Environmental Protection but, rather are implemented pursuant to the Town's home rule authority to ensure enhanced local oversight over activities that may pose an adverse impact to the public's health.

29.3 ADMINISTRATION

The Board of Health shall administer, implement and enforce this regulation. Excepting the duty and authority to issue approvals hereunder, any powers granted to or duties imposed upon the Board of Health by this regulation may be delegated in writing by said Board to its employees or agents. The Board of Health may also designate any other Board or Department as it may deem necessary or appropriate to administer, implement and enforce specific components of the regulation.

The Board of Health shall be responsible for deciding the meaning or intent of any provision of this regulation that may be unclear or in dispute.

29.4 DEFINITIONS

BOARD refers to the Board of Health of the Town of Uxbridge.

FILL means soil, sediments, rocks/stones, or other organic or inorganic material obtained off-site that is used to fill holes, pits or depressions; create mounds; or otherwise artificially change the grade or elevation of real property.

SOIL means any unconsolidated mineral and/or organic matter overlying bedrock that has been subjected to and influenced by geologic and other environmental factors; and shall also mean any composted or processed materials, whether natural or man-made that is otherwise subject to regulation under Section 277 of Chapter 165 of the Acts of the 2014 Acts of the Commonwealth of Massachusetts.

SOIL IMPORTATION refers to the bringing of fill or soil into the Town of Uxbridge.

CONTAMINATED SOIL means soil or fill that contains oil and/or hazardous materials at concentrations equal to or greater than a release notification threshold established by 310 CMR 40.0300 and section 310 CMR 40.1600.

LICENSED SITE PROFESSIONAL or **LSP** each means a hazardous waste site cleanup professional, as defined in M.G.L. c. 21A, § 19, holding a valid license issued by the Board of Registration of Hazardous Waste Site Cleanup Professionals pursuant to M.G.L. c. 21A, §§ 19 through 19J.

29.5 PERMIT REQUIRED

Existing or prospective soil importation to the Town of Uxbridge is prohibited unless a written permit therefor is obtained from the Board of Health as herein provided; except however that no permit shall be necessary when soil must be imported to:

- A. Construct a single family dwelling in accordance with a permit issued by the proper Town Authority, provided however, that additional soil importation beyond 1,500 cubic yards shall require a Soil Importation Permit from the Board of Health.
- B. Construct a multi-family building, commercial building or commercial facility being built in accordance with a permit issued by the proper Town Authority, provided however, that soil importation in excess of 1,500 cubic yards beyond the volume of importation approved under the underlying permit shall require a Soil Importation Permit from the Board of Health.
- C. Construct a public or private way within the town that has met all town approvals, provided however, that soil importation in excess of 1,500 cubic yards beyond the volume of importation approved under the underlying Town approval shall require a Soil Importation Permit from the Board of Health.
- D. Construction or repair of a septic system in accordance with a permit issued by the proper Town Authority.
- E. Construction or repair of accessory structures (e.g. sheds, pools) that have met any and all Town approvals, provided however, that soil importation in excess of 1,500 cubic yards beyond the volume of importation approved under the underlying Town approval shall require a Soil Importation Permit from the Board of Health.
- F. Landscaping activities that have met any and all town approvals, provided however, that soil importation in excess of 1,500 cubic yards beyond the volume of importation approved under the underlying approval shall require a Soil Importation Permit from the Board of Health.
- G. Operate a licensed landscape/materials facility to sell/remove materials produced offsite and hauled into said facility.

Importation of soils for agricultural purposes is not exempt from this regulation.

29.6 APPLICATION FOR PERMIT

- A. Any land owner who wishes to obtain a permit to import soil in the Town of Uxbridge shall file a written application with the Board of Health which shall include the following information:
 - 1) The legal name and address of the applicant. The name, address and phone number of the individual overseeing the soil importation activities.
 - 2) The location of the proposed soil importation and the volume of projected soil importation.
 - 3) The legal name and address of the owner of the property proposed for soil importation.
 - 4) A written narrative explaining the source and composition of any soil or fill that is subject to regulation hereunder, together with any supporting materials to describe such materials.
 - 5) Topographical plans depicting existing and proposed grades.
 - 6) Any and all materials submitted to the Massachusetts Department of Environmental Protection with respect to the proposed soil importation.
- B. The Board of Health may, prescribe forms for initial applications, extensions, and renewals, and the Board may require additional information as the Board shall deem necessary.
- C. All soil importation activities that exist as of the effective date of this regulation must apply for a permit within sixty (60) days of such effective date.

29.7 THIRD PARTY REVIEW

For soil importation in excess of 30,000 cubic yards, the Board will consult, at the applicant's expense, pursuant to G.L. c. 44, §53G and the Uxbridge Bylaws, a Professional Engineer and/or Licensed Site Professional (LSP) registered in the Commonwealth of Massachusetts, approved of or chosen by the Board. For soil importation less than or equal to 30,000 cubic yards, the Board may consult, at the applicant's expense a Professional Engineer and/or LSP registered in the Commonwealth of Massachusetts, approved of or chosen by the Board. Said Engineer or LSP, if retained by the Board, shall assist the Board with analysis of the proposed soil importation activities so that the Board may determine whether such project may result in the importation of contaminated soil or whether such project may otherwise impact the public health safety or welfare or the environment.

29.8 PROCEDURE FOR ISSUING PERMIT

- A. Within 45 days of the receipt of an application hereunder, a public hearing shall be convened. Notice of such hearing shall be provided no less than seven (7) days prior to such meeting, by duly posting such notice by the Town Clerk in accordance with the Open Meeting Law and providing a written notice, by certified or registered mail to all "parties in interest", as such term is defined in G.L. c. 40A, §11 at the applicant's expense. Proof of such notice is required in order to obtain a permit hereunder.
- B. The Board's hearing may be continued as may be necessary to receive any and all applicable and relevant evidence.
- C. Upon the closure of the Board's hearing, the Board shall have thirty days to issue a written decision and file the same with the Town Clerk.
- D. In all cases, it shall be the Applicant's burden to demonstrate that the proposed soil importation will not adversely impact the public's health. The Board may deny a permit if the Applicant fails to supply adequate materials to evaluate the project or if the soil importation activities will adversely impact the public's health.

29.9 CONDITIONS OF PERMIT

Any permit issued hereunder may contain reasonable conditions imposed by the Board to ensure the public's health, including but not limited to:

- 1) The volume of permitted soil importation.
- 2) The location of the permitted soil importation on the subject property.
- 3) The frequency of importation of soil.
- 4) The nature or composition of the permitted soil or fill.
- 5) Requirements for the monitoring soil importation activities by the Board's Agent, Engineer or LSP.
- 6) Requirements for the testing of the imported soil or fill, including any testing by the Board's LSP or agent, at the Applicant's expense.
- 7) Requirements for the submission of status reports, testing logs or other materials deemed necessary to evaluate the soil importation activities.
- 8) Imposition of a bond or other security as may be deemed necessary to ensure compliance with the conditions of any approval, said security to be established by an agreement as may be approved by the Board's counsel. In the establishment of any such security, the Board will take into consideration any existing security already existing for such project.

29.10 DURATION OF PERMIT

Every permit granted under this bylaw shall be valid for a period not to exceed one year. Requests for renewal must be submitted no later than the end of the 11th month following issuance, with decisions on renewal to issue within thirty days of such request. Renewals shall be granted based upon compliance with the terms of the underlying permit. Any expansion or material modification of the underlying soil importation activities, as may be determined by the Board's Agent shall require a new hearing.

29.11 REVOCATION OF PERMIT

The Board may at any time revoke the approved permit after a public hearing in the event of any non-compliance with the terms thereof.

29.12 PERMIT FEES

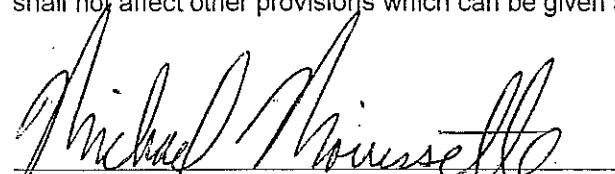
Permit fees may be established by the Board or its agents.

29.13 PENALTIES

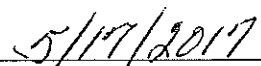
The Board of Health may enforce this regulation in equity and via fines. Fines for a first violation of this regulation or any permit issued hereunder shall be \$300.00. Each subsequent violation shall be \$1000.00. Each day of such non-compliance shall constitute a separate violation.

29.14 SEVERABILITY

It is hereby declared that the provisions of this Board of Health regulation are severable, and if any provision hereof or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions which can be given effect without the invalid provisions.

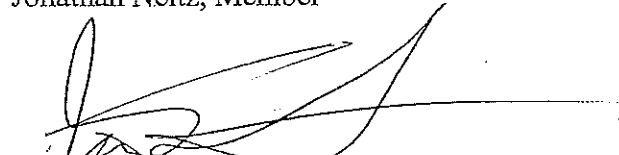


Michael Morrisette, Chairman



Date Adopted

Jonathan Neitz, Member



Jim Smith, Member