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February 10, 2022

Kelly J. Cote, Town Clerk
Town of Uxbridge
21 South Main Street
Uxbridge, MA 01569

Re: Uxbridge Fall Annual Town Meeting of October 26, 2021 -- Case # 10397
Warrant Article # 13/Motion 1 (Zoning)
Warrant Article # 4 (General)

Dear Ms. Cote:

Articles 4 and 13 (Motion 1) - We approve Articles 4 and 13/Motion 1 from the October 26, 2021 Uxbridge Fall Annual Town Meeting.¹

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) **general** by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) **zoning** by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

¹ Under Article 13 the Town voted two separate motions. Article 13/Motion 1 was a vote to amend Table A, Table of Use, regarding: (1) marijuana establishments (retail); (2) marijuana establishments (cultivation, production); and medical marijuana treatment centers. Article 13/Motion 1 was approved by Town Meeting by a vote of 164 in favor and 23 opposed. Article 13/Motion 2 was a vote to amend the zoning by-laws, Section 400-23, related to the number of marijuana retailers and other marijuana establishments allowed in Town. Article 13/Motion 2 failed at Town Meeting by a vote of 62 in favor and 123 opposed. Because Article 13/Motion 2 failed at Town Meeting, that portion of the vote is not before the Attorney General for review and approval pursuant to G.L. c. 40, § 32.

ARTICLE 4: ADOPTION OF SEALER FEES

To see if the Town will vote, according to M.G.L, c. 98, § 56 to adopt a bylaw to set sealer fees within the Town, said bylaw to read as follows:

PART II GENERAL LEGISLATION

Chapter 144 – Fees of the Sealer of Weights and Measures

§1.1. The Town may charge and demand the following fees for sealing and inspecting the following weighing or measuring devices:

Type	Fee Per Inspection
A. Scales	
0 lbs. - 10 lbs.	\$ 22.00
10 lbs. – 100 lbs.	\$ 24.00
100 lbs. – 1,000 lbs.	\$43.00
1,000 lbs.- 5,000 lbs.	\$61.00
5,000 lbs. – 10,000 lbs.	\$82.00
Over 10,000 lbs.	\$127.00
Weights All Types (pharmacy weights or medallions for stone/slate	\$4.00
B. Measuring Devices	
Gasoline Meters	\$ 25.00
Vehicle Tank	\$ 52.00
Bulk Storage	\$ 78.00
Taxi Meters	\$ 28.00
Fabric Measure	\$ 12.00
Yard Sticks	\$ 8.00
C. Miscellaneous	
Reverse Vending (bottle return)	\$ 23.00
D. Automated Retail Checkout System (every 24 months)	
Scanner 1-3	\$ 75.00
Scanner 4-11	\$ 150.00
Scanner 12+	\$ 250.00

, or take any other action relating thereto.

SPONSOR: Town Manager

COMMENTARY: The Town contracts with the Commonwealth of Massachusetts-Division of Standards to complete testing and sealing of commercial weighing and measuring devices in the
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Town. Uxbridge has not previously established or adopted any weight or measure fees. The Town has been absorbing fees of each business until now and up until a scale of fees is approved by the Town. This bylaw will allow the Town to bill these businesses going forward. The current amount paid annually by the Town is \$2500; the fees proposed and subsequently collected from the affected businesses, in relation to the type of scales etc. that are to be tested and sealed by the state will reimburse the Town for what it will pay.

MOTION: Move that the Town hereby accept the article as written.

Vote required for passage: 2/3rds majority vote

FINANCE COMMITTEE RECOMMENDATION: Favorable Action (6-0-0)

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

The motion was seconded

Moderator declares a 2/3rds majority vote, motion carries, Yes-194, No-16

ARTICLE 13: AMEND & ADOPTION OF THE ZONING BYLAWS AND TABLE OF USES TABLE A

To see if the Town will vote to amend § 400-23 and Table of use (Table A) of the Town of Uxbridge Zoning Bylaw by deleting the text shown with a ~~strike through~~ and inserting the underline text shown on the proposed bylaw and the proposed Table A, both on file with the Town Clerk, or take any other action relating thereto.

§400-23 Marijuana establishments, and medical marijuana treatment centers Establishments, and Medical Marijuana Treatment Centers

A. Definitions

Under Chapter 400, ZONING BYLAWS, the following definitions shall be provided:

1. Consumer - a person who is at least 21 years of age.
2. Host Community – The Town of Uxbridge.
3. Host Community Agreement (HCA) – an agreement setting forth the conditions to have a marijuana establishment or medical marijuana treatment center located within the host community which shall include, but not be limited to, all stipulations of responsibilities between the host community and the marijuana establishment or a medical marijuana treatment center.
4. Marijuana - all parts of any plant of the genus Cannabis, not excepted below and whether growing or not; the seeds thereof; and resin

extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydro cannabinol as defined in Section 1 of Chapter 94C of the Massachusetts General Laws; provided that Marijuana shall not include:

- a. The mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil, or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination;
 - b. Hemp; or
 - c. The weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.
5. Marijuana cultivator - an entity licensed to cultivate, process and package marijuana, to deliver marijuana to marijuana establishments and to transfer marijuana to other marijuana establishments, but not to consumers.
 6. Marijuana establishment - a marijuana cultivator, marijuana testing facility, marijuana research facility, marijuana product manufacturer, marijuana retailer, or any other type of licensed marijuana-related business.
 7. Medical marijuana treatment center - shall mean an entity, as defined by Massachusetts law only, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers.
 8. Marijuana testing facility - an entity licensed to test marijuana and marijuana products, including certification for potency and the presence of contaminants.
 9. Marijuana research facility - an entity licensed to cultivate, purchase or acquire marijuana to conduct research regarding marijuana and marijuana products.
 10. Marijuana products - products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

11. Marijuana product manufacturer - an entity licensed to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments and to transfer marijuana and marijuana products to other marijuana establishments, but not to consumers.
12. Marijuana retailer - an entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.

B. Number of Marijuana Establishments and Medical Marijuana Treatment Centers

~~The maximum number of marijuana retailers shall be no more than twenty percent (20%) the total number of licenses which have been issued within Uxbridge for the retail of alcoholic beverages not to be drunk on the premises for the preceding fiscal year, or three in total, whichever the greater.~~

1. The maximum number of marijuana retailers shall be no more than eight (8).
2. There shall be no maximum on the number of marijuana cultivators, marijuana testing facilities, research facilities, marijuana product manufacturer or any other type of licensed marijuana-related business (exclusive of marijuana retailers or marijuana treatment centers)
3. The maximum number of medical marijuana treatment centers shall be no more than three (3).
4. Marijuana establishments or medical marijuana treatment centers are prohibited in all zoning districts, except as otherwise permitted by these Bylaws and listed within the Table of Uses (Table A), following the standards herein.
~~Marijuana establishments or medical marijuana treatment centers are prohibited in all zoning districts, except as otherwise permitted by these Bylaws, following the standards herein:~~

C. Standards

Number of Marijuana Establishments and Medical Marijuana Treatment Centers

1. The Board of Selectman shall negotiate and execute a Host Community Agreement (HCA) with the proposed marijuana establishment or medical marijuana treatment center.
2. Said uses shall additionally not be located within seven hundred fifty (750) feet from the nearest school providing education for grades K-12.

The distances specified above shall measure by straight line from the nearest corner of the building on which the proposed said use is to

be located, to the nearest boundary line to the nearest property line of the school.

3. Except during transportation, marijuana or marijuana products held at any marijuana establishment or medical marijuana facility shall be located within a secure indoor facility.
4. No use covered herein shall be allowed to disseminate or offer to disseminate marijuana products or product advertising to minors or to allow minors to view displays or linger on the premises, except for medical marijuana treatment centers.
5. No use covered herein shall be allowed to have a freestanding accessory sign in the Town of Uxbridge.

D. Enforcement and Violations

The Board of Selectmen, or its designee, shall enforce these regulations and may pursue all available remedies for violations, or take any other action relative thereto.

Violations of any provision of this Bylaw may be addressed administratively; by non-criminal disposition as provided in MGL Chapter 40 Section 21D with fine of three hundred dollars (\$300) per violation; or prosecuted through criminal complaint procedure.

Each day a violation occurs shall be considered a separate violation hereunder.

E. Municipal Charges Lien

If any fine remains unpaid after six (6) months from its due date, it shall become a Municipal Charge Lien pursuant to the provisions of M.G.L. Chapter 40, Section 58. If the bill(s) remains unpaid when the Assessors are preparing a real estate tax list and warrant to be committee under MGL Chapter 59, Section 53, the Board or officer in charge of the collection of the municipal fee or charge shall certify such charge or fee to the Assessors, who shall add such to the tax bill on the property to which it relates and commit it with their warrant to the Tax Collector as part of such tax bill.

F. 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.

**TABLE A
TABLE OF USE**

USE	ZONING DISTRICTS							
	R-A	R-B	R-C	A	B	IA	IB	MTMC
Marijuana establishment (retail)	N	N	N	N	N	Y <u>N</u>	N <u>Y</u>	Y
Marijuana establishment (cultivation, production)	N	N	N	N	N	Y	Y	Y
Medical marijuana treatment center	N	N	N	N	N	N	Y	N <u>Y</u>

SPONSOR: Board of Selectmen

COMMENTARY: This article has appeared before Town Meeting many times and has had both additions to the article made as well as changes made to the Zoning Use tables as the adult retail use of cannabis and the consumption market has changed. The number of changes has resulted in confusing and sometimes conflicting language in the bylaw and in the last iteration, resulted in the Zoning Table of Use to be changed so that the approved areas for adult retail cannabis businesses were reversed. The proposed change looks to clearly show by striking through incorrect language and inserting correct underlined areas what has changed in the article. The proposed change also asks to set the number of retail cannabis establishments at the same number (8) as the number of alcohol licensed business where alcohol can be bought but not consumed on the premises and to allow licensed delivery of cannabis products within the Town of Uxbridge.

MOTION: Move that the Town hereby accept the article as written in the warrant report dated 10/25/2021 to change the Table of Use table.

Vote required for passage: 2/3rds majority per M.G.L. c. 40A, § 5

FINANCE COMMITTEE RECOMMENDATION:

A. Table of Uses: Favorable Action (6-0-0), Finance Committee recommends favorable action because the changes to the Table of Uses Table A is for correction of scrivener's errors

B. Amend & Adoption of the Zoning Bylaws: Unfavorable Action (4-2-0), Finance Committee recommends unfavorable action because the Article is poorly written and ambiguous, and changes were made to the Article after the Warrant closed. The proposed increase to retail licenses has no clear benefit to the Town. Votes against Unfavorable Action was because we believe the Article will benefit the Town by increasing tax revenue and provide the opportunity for marijuana delivery licenses

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

PLANNING BOARD RECOMMENDATION: Favorable Action (4-0-1)

This Article will be divided into two votes; The first vote being the "Table of Use" correction as shown in the warrant. The second vote will be the remainder of the article.

The motion for the "Table of Use" vote was seconded

Moderator declares a 2/3rds majority vote, motion carries, Yes-164, No-23

Motion to allow a Non-voting speaker – Attorney Nicholas Obolensky

The motion to allow Attorney Nicholas Obolensky to speak passes by majority vote, Yes-124, No-68

The motion for the "# of retail establishments" was seconded

Moderator declares the motion fails, Yes-62, No-123