



Town of Uxbridge
Planning Board
21 South Main Street
Uxbridge, MA 01569
(508) 278-8600, ext 2013

Received by
Uxbridge
Town Clerk

Memorandum

To: Board of Selectmen
From: Joe Leonardo, Planning Board Chair
Date: March 12, 2015
Re: Spring Annual Town Meeting Warrant Article

At a regularly scheduled Planning Board meeting on March 11, 2015, the Board discussed and reviewed in detail the following warrant article. The Planning Board voted to place the following warrant article on the Spring Annual Town Meeting Warrant of 5/12/2015.

ARTICLE: AMENDMENT TO THE GENERAL BYLAWS – CHAPTER 181 EXCAVATIONS

To see if the Town will vote to amend the General Bylaws, Chapter 181 Excavations by deleting the existing section in its entirety and replacing it with the following:

Chapter 181

EXCAVATIONS

ARTICLE I

Earth Removal

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

ARTICLE II

Barriers

- § 181-9. Safety measures required.
- § 181-10. Violations and penalties

GENERAL REFERENCES

ARTICLE I

Earth Removal

181-1. Permit required.

The removal of soil, loam, sand, or gravel from any parcel of land in the Town of Uxbridge is prohibited unless a written permit therefor is obtained from the **Board of Selectmen (BOS)** as herein provided; except however, that no permit shall be necessary when soil, loam, sand, fill, or gravel must be removed to:

- A) Construct a single or multi-family building being built in accordance with a permit issued by the proper Town Authority. This will be exempt from a permit for up to 1,500 yards of material removed.
- B) Construct a commercial building or facility that has met Planning and Town approvals for a permit. Removal and/or hauling of material is permitted up to the amounts necessary to complete project according to approved plans. Additional removal beyond the scope of construction of over 3,000 yards shall require a Gravel Removal Permit.
- C) 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 removal of the material beyond the scope of construction of over 3,000 yards shall need a Gravel Removal Permit.
- D) Operate a licensed landscape/materials facility to sell/remove materials produced offsite and hauled into said facility.

N.B.: Removal of soils/materials is not considered part of a normal operation of a farm or garden and is not exempt from this Bylaw.

§ 181-2. Application for permit.

- A. Any person wishing to obtain a permit to remove soil, loam, sand, or gravel from any parcel of land within the Town shall file a written application with the **BOS**, which shall include the following information and documentation:
- (1) The legal name and address of the applicant. **The name, address and phone number of the individual overseeing the gravel operation.**
 - (2) The location of the proposed excavation.
 - (3) The legal name and address of the owner of the property to be excavated.
 - (4) A list of abutters, and abutters to abutters, within 300 feet of the location of the proposed excavation, 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. 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 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 project in accordance with plans submitted and any additional conditions that may be attached to the permit.

(8) BOS will send these forms and plans to the Planning Board for their review, comments and approval.

B. The **BOS** may, by regulation, prescribe forms for initial applications, extensions, and renewals, and such forms may require additional information as the **BOS** shall determine to be necessary.

§ 181-3. Procedure for issuing license.

A. Prior to issuing any permit hereunder, the **BOS** 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 **BOS** 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 **BOS** determines that the license application conforms to the requirements of § 181-2 hereof, and that the licensed operation would conform with the requirements of public health and welfare and be consistent with the sound development of the Town, the **BOS** may issue such license upon the terms specified in this bylaw and subject to such additional conditions as the **Planning Board** may determine to be necessary.

§ 181-4. Conditions of license.

Every license issued shall be subject to the following conditions:

A. The portions of the licensed premises which have been 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 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 excavation shall be undertaken within **100** feet of a public or private way or within **150** feet of a building or structure, unless the **BOS** specifically finds that such excavation will not undermine the way or structure or otherwise be seriously detrimental to the neighborhood and such finding is endorsed on the license.

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. No 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 license 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.

§ 181-5. Duration of license.

Every license granted under this bylaw shall be valid for a period not to exceed one year. Any license issued may be renewed by the **BOS**, without hearing, if the proposed 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 licensed excavation will also be subject to a public hearing.

§ 181-6. Annual reports and inspection.

A. One month prior to license expiration, the licensed operator of an excavation shall submit a report showing the following information for the preceding licensed period of operation:

- (1) The amount of material removed.
- (2) The type of material removed.
- (3) The area (square feet or acres) excavated and the area regraded, covered, and seeded.

B. Every licensed excavation shall be open for inspection by the proper local officials at all reasonable times. **Every November the Building Inspector will do an annual site visit to verify that proper restoration has been completed according to the submitted plan and report findings to the BOS.**

§ 181-7. License fees.

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

§ 181-8. Violations and penalties.

Each day of 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).

ARTICLE II Barriers

§ 181-9. 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 **BOS** or the Building Inspector that in their opinion such excavation constitutes a hazard to public safety. **Policing Authority shall reside with the Building Inspector.**

§ 181-10. Violations and penalties.

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

cc:

Town Manager Office
Finance Committee
Town Clerk