TOWN OF STOW

SPECIAL TOWN MEETING

MONDAY, NOVEMBER 16, 2015

7:00 P.M.

HALE MIDDLE SCHOOL AUDITORIUM

55 HARTLEY ROAD

PLEASE BRING TO TOWN MEETING
THIS IS YOUR ONLY COPY

2015 – 2016 Dates to Remember

NOV 16, 2015	**SPECIAL TOWN MEETING**
FEB 10, 2016	**VOTER REGISTRATION DEADLINE:** *PRESIDENTIAL PRIMARY*
MARCH 1, 2016	**PRESIDENTIAL PRIMARY**
APRIL 7, 2016	**RABIES CLINIC**
APRIL 12, 2016	**VOTER REGISTRATION DEADLINE:** *ANNUAL TOWN MTG & ANNUAL ELECTION*
APRIL 15, 2016	**DEADLINE TO LICENSE DOGS** WITHOUT A LATE FEE
APRIL 25, 2016*	* *TENTATIVE DATE* – **CANDIDATES NIGHT** FOR TOWN ELECTION
MAY 2, 2016	**ANNUAL TOWN MEETING**
MAY 10, 2016	**ANNUAL TOWN ELECTION**
MAY 2016	***TENTATIVE* – SPRINGFEST (NEED COMMITTEE MEMBERS)**
AUG 31, 2016	**VOTER REGISTRATION DEADLINE:** *STATE PRIMARY*
SEPT 20, 2016	**STATE PRIMARY**
OCT 19, 2016	**VOTER REGISTRATION DEADLINE:** *STATE ELECTION*
NOV 8, 2016	**STATE ELECTION**

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WARRANT FOR NOVEMBER 16, 2015 SPECIAL TOWN MEETING

To either of the Constables and Town Clerk of the Town of Stow, in the County of Middlesex, GREETINGS:

In the name of the Commonwealth of Massachusetts, you are directed to notify and warn the inhabitants of the Town of Stow, qualified to vote in Elections and Town Affairs, to assemble in

HUGH MILL AUDITORIUM AT THE HALE MIDDLE SCHOOL
In said Town on
MONDAY, THE SIXTEENTH DAY OF NOVEMBER 2015
AT 7:00 P.M.

Then and there to act on the following Articles, namely:

ARTICLE 1. Amendment to Minuteman Regional Agreement regarding the Withdrawal of The Town of Wayland from the Minuteman Regional School District

To see if the Town will accept and approve the "Amendment to Minuteman Regional Agreement regarding the Withdrawal of the Town of Wayland from the Minuteman Regional School District" which was approved by the Minuteman Regional School Committee on July 7, 2015 and which has been submitted to the Board of Selectmen consistent with the current Minuteman Regional Agreement.

(Minuteman School Committee)

Approved by Minuteman School Committee 7.7.15

Amendment to Minuteman Regional Agreement

Whereas the Wayland Town Meeting voted on April 15, 2015 to seek withdrawal from the Minuteman Regional School District, and whereas Section IX of the Minuteman Regional Agreement requires the Minuteman Regional School Committee under such a circumstance to draft an amendment to the Regional Agreement setting forth the terms by which a town seeking to withdraw may withdraw from the District, the Regional School Committee voted at a meeting on July 7, 2015 to submit the following amendment to the Regional Agreement to the member towns for their approval.

AMENDMENT No. 4 to the Minuteman Regional Vocational Technical School District Agreement

1. The references to the Town of Wayland will be stricken from the prefatory language of the Regional Agreement as well as from Section I and from wherever else a reference to Wayland appears in the Regional Agreement.

2. The Town of Wayland, even after the date that its withdrawal becomes effective, will remain responsible, consistent with the terms of Section IX of the Regional Agreement, for its share of the indebtedness of the District which is outstanding as of the effective date of Wayland's withdrawal.

3. Pursuant to the terms of 603 CMR 41.03, assuming that the approval of this amendment has been voted by the town meetings in all of the member towns, as well as having been approved by the Commissioner of Education, by December 31 of a given year, the effective date of this amendment and the effective date of Wayland's withdrawal will be the July 1 following that December 31 date.

The Finance Committee recommends approval of this Article. The Town of Wayland is seeking to withdraw from the Minuteman Regional School District. To accomplish this, all 16 members of the district must vote for approval. Removing Wayland from the District will have minimal impact on Stow's annual Minuteman Budget. There may be an impact upon the remaining members' share of any future capital projects.

ARTICLE 2. Amend General Bylaw: The Removal of Earth Material

To see if the Town will vote to amend the General Bylaw by deleting Section 22 The Removal of Earth Material of Article 6 POLICE REGULATIONS and inserting a new Article 17 to read in its entirety as stated below; and further that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the General Bylaw; or take any action relative thereto.

(Board of Selectmen)

The proposed Bylaw would read:

ARTICLE 17. THE REMOVAL OF EARTH MATERIAL

SECTION 1. PURPOSE

The provisions of this Bylaw are intended:

- to regulate the extraction and transportation of earth from a SITE in order to manage soil EROSION, SEDIMENTATION, drainage runoff, dust control and encroachment onto abutting properties;
- to maintain traffic safety and circulation;
- to protect human health, public safety, welfare and the Town's natural resources that could be adversely affected by such activities; and
- to prohibit the extraction, stripping or removal of EARTH for reasons that are not consistent with this Bylaw.

SECTION 2. DEFINITIONS

ABUTTER - The owner of a property within 300 feet of the perimeter of the PARCEL(s) identified in the application.

APPLICANT - The individual, corporation or other legal entity who makes the application for an Earth Removal Permit. Such individual, corporation, or other legal entity may be the OWNER of the SITE, or, with the written approval of the OWNER, the operator of the EARTH REMOVAL OPERATION.

EARTH - All forms of natural earthen material, including but not limited to, decomposed organic matter, LOAM, sand, gravel, clay, silt, peat, hard-pan, ledge, or rock or other geologic deposit whether surficial or found in the subsurface.

EARTH REMOVAL OPERATION – The removal of EARTH from a SITE, by hand or machinery. An EARTH REMOVAL OPERATION includes all activities associated with the removal, including, but not limited to, the stripping of LOAM, topsoil, sod, and the digging, stockpiling, PROCESSING, moving, depositing, or transportation of EARTH products in any form; and all aspects of the operation inclusive of the moving of equipment required for the operation to, from, or within the SITE, and all land affected by the operation (e.g. fill, or storage piles, access ways, or structures), grading of slopes, removal of trees and vegetation anticipatory to the removal of EARTH, replanting and all other activities required to mitigate the impacts of the EARTH REMOVAL OPERATION.

ENVIRONMENTALLY SENSITIVE AREAS

- Areas subject to the jurisdiction of either the Massachusetts Wetlands Protection Act (M.G.L. Ch. 131 §40), the Town of Stow Wetlands Protection Bylaw, or both;

- Floodplain as defined in Section 5.1 (Floodplain Overlay District) of the Town of Stow Zoning Bylaw;
- Areas of Zone I or Zone II Public Water Supplies and Interim Wellhead Protection Areas as designated by the Department of Environmental Protection;
- Areas located in the Town of Stow Water Resource Protection District; and
- Areas delineated as Priority or Estimated Habitats for Rare Species as defined by the Massachusetts Natural Heritage and Endangered Species Program (NHESP).

EROSION – The process by which the ground surface is worn by forces such as wind, running water, ice, abrasion, gravity, transportation or by artificial means.

LOAM **-** A soil consisting of a friable mixture of varying proportions of clay, sand, silt, and organic matter.

PARCEL – A plot of land under single, joint, or several ownership defined by metes and bounds, or boundary lines, and shown on a deed and/or plan recorded in the Middlesex District Registry of Deeds or registered in the Land Court.

PERMIT GRANTING AUTHORITY - The Board of Selectmen is herein designated as the Permit Granting Authority. In the event an EARTH REMOVAL OPERATION is also subject to an application for a subdivision, special permit or site plan approval and is necessary and incidental for the construction of ways and/or associated infrastructure, the PERMIT GRANTING AUTHORITY shall be the Planning Board.

PRINCIPAL USE - The predominant and permitted use of a PARCEL.

PROCESSING - The sorting or separating of EARTH materials into distinct categories based on particle size or type usually through the use of a screening process but not exclusively so. PROCESSING includes mechanical stone crushing operations which create smaller sized stones or stone products from larger sized stones, boulders, or particles typically using a rock crusher, or similar machinery.

QUARRYING – The process of removing or extracting EARTH, by digging, cutting, blasting, ripping or hammering, except for the collection of distinct particles (e.g. glacial erratics, boulders and other discrete stone objects).

SEDIMENTATION **-** EARTH materials transported or deposited into any body of water, creek, ravine, or other ENVIRONMENTALLY SENSITIVE AREA, or onto the property of an adjacent landowner or way, by the movement of wind, water, ice, gravity, or by artificial means.

SITE **-** A distinct portion of one PARCEL or contiguous PARCELs under the same ownership on which an EARTH REMOVAL OPERATION is conducted, or is proposed to be conducted, under an Earth Removal Permit. A SITE may not encompass land in another town or a street or way in which the public has access.

SECTION 3. APPLICABILITY

3.1 Unless specifically exempted, a Permit is required for the removal of EARTH in conjunction with a lawfully allowable use, provided that the PERMIT GRANTING AUTHORITY determines that such earth removal is necessitated by the use and consistent with the provisions of federal and state law, the Zoning Bylaw and this Bylaw.

3.2 Existing Operations

- Existing operations pursuant to a valid EARTH removal permit as of the adoption of this Bylaw shall have the right to continue under the terms of that permit until its expiration or request for modification. Permit renewal of existing permits and modification of permits lawfully in existence as of November 16, 2015, shall comply with the procedures and substantive requirements of this Bylaw and be subject to all terms and conditions contained herein.

- The owner of an operation in existence at the time of the adoption of this Bylaw without a permit shall, within ninety (90) days of adoption of this Bylaw, meet with the PERMIT GRANTING AUTHORITY to discuss a process for development of a transition plan to bring the SITE into compliance. The APPLICANT shall, in consultation with the PERMIT GRANTING AUTHORITY, and the Town's Consultant (if the PERMIT GRANTING AUTHORITY deems necessary), property OWNER (if not the APPLICANT) and operator, develop such transition plan to bring the operation into compliance with the Bylaw to the greatest extent possible. The EARTH REMOVAL OPERATION shall have the right to continue if a transition plan shall be developed and approved within twelve (12) months of the effective date of this Bylaw**.**

  The APPLICANT shall be responsible for any fee deposit for consultant review of a transition plan pursuant to M.G.L. Ch. 44 S. 53G.

3.3 Prohibited Operations

The following activities are prohibited:

- QUARRYING as a PRINCIPAL use;
- Removal of EARTH as a PRINCIPAL use; and
- Removal of earth for purposes unrelated to an allowed use as defined in the Stow Zoning Bylaw.

3.4 Exemptions

The following EARTH REMOVAL OPERATIONs do not require an Earth Removal Permit, provided that the EARTH REMOVAL OPERATION is not conducted, maintained and/or left in a condition so as to alter the natural drainage flow beyond the property; or to cause dust, silt soil or other materials to be deposited on adjacent

properties; or to otherwise cause nuisances, hazards, or other objectionable conditions detrimental to health, safety, or property values in adjacent areas.

- Removal of EARTH from a PARCEL that involves fewer than 100 cubic yards in any 12 month period**.**
- Emergency projects, provided that the relevant local public safety department or Building Commissioner provides written notice that such project is necessary for the protection of the health or safety of the citizens of the Commonwealth and there is no time to get a permit. In general the time limitation for performance of emergency work shall not exceed 30 days. An Earth Removal Permit is required for any work performed beyond 30 days.
- Removal of EARTH associated with the installation or repair of septic systems, which shall be governed by the Commonwealth of Massachusetts Environmental Code (Title 5, 310 CMR 15.00) and Stow Board of Health Regulations, provided the quantity of the materials removed shall not exceed that displaced by installation of the septic system;
- Removal of EARTH associated with the installation of foundations for approved structures and/or building additions, or swimming pools, which shall be governed by Massachusetts General Law, Chapter 143 and the Commonwealth of Massachusetts Building Code (780 CMR) and for which a building permit has been issued, provided the quantity of materials removed shall not exceed that displaced by the portion of the building or structure below grade;
- Removal of EARTH in the course of customary operations on existing agricultural land, provided that written notification of the operation is provided to the PERMIT GRANTING AUTHORITY or its designee prior to commencement of work and it can be demonstrated that the agricultural establishment currently operates a farm business and that the earth removal is necessary and incidental to the agricultural use of the property, as defined M.G.L C. 128 et seq.
- Removal of EARTH brought onto a PARCEL from another location solely for PROCESSING, as may be permitted under the Zoning Bylaw.

SECTION 4. RULES AND REGULATIONS

The PERMIT GRANTING AUTHORITY shall promulgate, adopt, and from time to time, amend rules and regulations, not inconsistent with the provisions of this Bylaw or other applicable provisions of the General Laws or local laws and regulations. Prior to any changes in the Rules and Regulations, the PERMIT GRANTING AUTHORITY shall hold a public hearing thereon, advertised in a public newspaper of general circulation in the Town no less than 7 days prior to the day of the Public Hearing.

Such rules and regulations shall include as a minimum:

- the size, form, contents, style and number of copies of plans and specifications, which shall be stamped by a registered engineer;

- performance standards for proposed EARTH REMOVAL OPERATIONs;
- requirements for the restoration of the SITE once excavation and EARTH removal activities have ceased;
- the town boards or agencies from which the PERMIT GRANTING AUTHORITY may require reports;
- application forms and fees;
- fee deposit for reviews by consultants pursuant to M.G.L. Ch. 44 S. 53G;
- provision for performance guarantee in order to secure performance of the APPLICANT'S obligations pursuant to the EARTH Removal Permit and this Bylaw; and
- transition plan for existing operations as described in Section 3.2 of this Bylaw.

SECTION 5. APPLICATION AND PUBLIC HEARING PROCESS

5.1 **Pre-Submission Review** - It is recommended that the APPLICANT contact the office of the PERMIT GRANTING AUTHORITY to establish a time for pre-submission review with staff of Town departments, committees and agencies to discuss submission requirements, applicability and review processes, including but not limited to:

- Sequencing of other applicable permits, including Abbreviated Notice of Resource Area Delineation and/or a Notice of Intent from the Conservation Commission; Special Permit and/or Site Plan Approval from the Planning Board or Zoning Board of Appeals; or other permits as may be required by federal, state, or local agencies.
- Changes to the proposed SITE work that may avoid the need for the filing of an application for EARTH REMOVAL OPERATION, or whether changes or alterations to the proposed plans may minimize or mitigate the community and environmental impact of the proposed work.

5.2 **Application Filing** - Any person seeking to obtain an Earth Removal Permit (hereinafter referred to as the APPLICANT) shall file a petition with the PERMIT GRANTING AUTHORITY. Each petition shall be completed on the proper forms and accompanied by the information required by the PERMIT GRANTING AUTHORITY as set forth in its rules and regulations.

No application for an EARTH Removal Permit shall be considered complete and shall not be acted upon unless the Tax Collector of the Town of Stow has certified, pursuant to MGL Ch. 40 Section 57, that no debt is owed to the Town by the APPLICANT or owner.

In addition to the application fee, the APPLICANT shall be responsible for any fee deposit for consultant reviews pursuant to M.G.L. Ch. 44 S. 53G.

All costs relating to legal notice publication and mailings shall be borne by the APPLICANT.

5.3 Reports from Town Boards or Agencies - The PERMIT GRANTING AUTHORITY shall transmit one copy each to the Planning Board, Zoning Board of Appeals, Building Inspector, Board of Health, Conservation Commission, Board of Selectmen, Highway Department, Fire Department, Police Department, Historical Commission and other such board or agency deemed necessary by the PERMIT GRANTING AUTHORITY for their written reports. Comments from any such board or agency may be received up to the close of the public hearing.

5.4 Applications for Related Permits and Joint Meetings - If the proposed EARTH Removal Permit requires any other permit from the Town of Stow, the PERMIT GRANTING AUTHORITY and other permit granting authority shall conduct reviews simultaneously, to the extent feasible. Nothing in this section obviates the application process or public hearing requirements as described in this Bylaw. The PERMIT GRANTING AUTHORITY may reduce the application fee in the instance of simultaneous filings.

5.5 Restoration - All EARTH removal applications shall include a plan, including a financial plan, for the restoration of the SITE once excavation and EARTH removal activities have ceased. Depending on the scale of the operation, the PERMIT GRANTING AUTHORITY shall require that restoration be implemented in its entirety at the termination of the removal operation or in phases as operations cease on portions of a SITE. The PERMIT GRANTING AUTHORITY shall review the restoration plan in consultation with its Consulting Engineer and with the Conservation Commission. APPLICANTs are also encouraged to consult with the Middlesex Conservation District and/or Natural Resources Conservation Service as they develop proposed restoration plans. Restoration shall include the following:

- All surfaces shall be graded and/or stabilized by planting or other means to prevent short and long term EROSION, control runoff, and reduce hazards at the SITE.
- Measures shall be taken to ensure that there is no standing water on the SITE and that there is no off-SITE EROSION or SEDIMENTATION. The volume and rate of runoff shall not increase from the pre-removal SITE conditions. An exception may be made where a water feature is part of an approved restoration plan.
- All debris, stumps, slash, boulders and similar material shall be removed from the SITE or disposed of in an approved location on SITE. Any on-SITE disposal areas shall be covered with no less than two feet of soil (unless otherwise specified by the PERMIT GRANTING AUTHORITY) prior to restoration and the locations of these areas shall be shown on the as-built plan.
- Plantings shall be selected from native grassland, shrubland and tree species as needed to both stabilize the SITE and screen it from view from public ways and waterways and by abutting properties. The use of wildlife-friendly species is encouraged.
- The PERMIT GRANTING AUTHORITY may require the submittal of an as-built plan, prepared by a registered engineer or land surveyor and demonstrating compliance with the permit conditions and restoration plan.

5.6 **Public Hearing** - The PERMIT GRANTING AUTHORITY shall hold a public hearing, after proper notification in accordance with the provisions of this Section, no later than sixty-five (65) days after the filing of an application. The Public Hearing shall be advertised by the PERMIT GRANTING AUTHORITY in a public newspaper of general circulation in the Town, no less than 14 days prior to the day of the Public Hearing. In addition, copies of the notice shall be sent by certified mail by the APPLICANT to all Parties in Interest at least fourteen (14) days prior to the date of the public hearing. Proof of notification to parties in interest (certificate of mailing or certified mail receipts) shall be submitted to the PERMIT GRANTING AUTHORITY no later than the commencement of the public hearing.

SECTION 6. DECISION

6.1 The permit shall be issued to the APPLICANT. If the APPLICANT is not the OWNER of the land, the APPLICANT shall demonstrate that they have the legal permission of the OWNER to make an application and alter the SITE for EARTH REMOVAL OPERATION.

The decision of the PERMIT GRANTING AUTHORITY shall be made within ninety (90) days following the date of the close of the public hearing and shall be deemed approved by a majority vote of its members. The PERMIT GRANTING AUTHORITY shall have the power to continue a public hearing if it finds that such continuance is necessary to obtain additional information in order to make an informed decision.

- The required times for a public hearing and decision may be extended by written agreement between the APPLICANT and the PERMIT GRANTING AUTHORITY.
- The PERMIT GRANTING AUTHORITY may act to issue an EARTH Removal Permit with conditions, or may deny the application. If an application is denied, the findings for denial shall be included in the decision.
- A copy of the issued EARTH Removal Permit or denial thereof shall be mailed or hand-delivered to the APPLICANT within ten (10) business days of the Board's final action.
- A copy of the EARTH Removal Permit shall be recorded by the Applicant in the Registry of Deeds prior to commencement of work.

6.2 **Mandatory Findings by PERMIT GRANTING AUTHORITY -** The PERMIT GRANTING AUTHORITY shall not issue an Earth Removal Permit unless it finds that such earth removal is necessitated by the proposed use and development:

- is in conformance with the procedures, standards and conditions contained herein;
- is able to be conditioned in a manner consistent with the purpose and intent of this Bylaw;
- will not be detrimental or injurious to abutting properties, neighborhoods, Town amenities or ways utilized in the transport of EARTH from the SITE;
- provides sufficient mitigating measures to address any adverse impacts to ENVIRONMENTALLY SENSITIVE AREAS;
- will result in no redirection or increase in rate and volume of existing surface water runoff onto abutting or downstream properties and ways;

- provides for safe vehicular and pedestrian passage and circulation on public and private ways;
- will result in no SEDIMENTATION beyond the boundary line of the SITE;
- will comply with all requirements of EARTH Removal Rules and Regulations, unless specifically waived by the PERMIT GRANTING AUTHORITY for good cause, and all other applicable requirements of this Bylaw; and
- all other applicable permits for the proposed use have been applied for.

6.3 **Conditions** - Notwithstanding the Performance Standards outlined in the Rules and Regulations for EARTH REMOVAL OPERATIONs, the PERMIT GRANTING AUTHORITY shall impose such conditions, safeguards and limitations as it deems appropriate to protect abutting properties or ways, the neighborhood, community amenities, ENVIRONMENTALLY SENSITIVE AREAS and the Town of Stow, including, but not limited to:

- limitations on the hours of operation and duration of EARTH REMOVAL OPERATION activities;
- limitations on the location of the EARTH REMOVAL OPERATION ACTIVITIES on the SITE;
- requirement of mitigating equipment on trucks, including but not limited to suitable coverage of payload, to prevent dust and contents from affecting abutting properties and ways;
- limitations on truck routes and/or transportation of EARTH over public or private ways which may cause undue injury to road surfaces;
- plans for roadway impact mitigation, including but not limited to improved aprons and/or spill mitigation plans;
- setbacks from abutting dwellings, properties and/or ENVIRONMENTALLY SENSITIVE AREAS;
- screening of parking areas or other parts of the premises from adjoining premises or from the STREET by specified walls, FENCEs, plantings or other devices, including a program of maintenance for said screening which will continue for the life of the permitted use;
- continuing provision for adequate and legal disposal of all solid waste, sewage, REFUSE and any other potential pollutant generated by EARTH REMOVAL OPERATION;
- inclusion of measures to ensure GROUND WATER protection, and to ensure the proposed development will not result in no redirection or increase in rate and volume of existing surface water runoff onto abutting or downstream properties and ways;
- provision of any necessary easements, restrictions or other rights necessary accommodate existing uses and to carry out the project and/or the required conditions;
- the location of construction staging or stockpiling;
- regulation of number, design and location of access drives;
- provision for security and construction fencing;
- provision for phasing the EARTH REMOVAL OPERATION;
- provision for restoration of the SITE, including financial guarantees;

- provision for EROSION control measures to be in place and maintained;
- provision for the safety and convenience of vehicular and pedestrian traffic;
- provision for performance guarantee in order to secure performance of the APPLICANT'S obligations pursuant to the EARTH Removal Permit and this Bylaw;
- installation and certification of mechanical or other devices to limit present or potential hazard to human health, safety, welfare or the environment resulting from smoke, odor, particulate matter, toxic matter, fire or explosive hazard, glare, noise, vibration or any other objectionable impact generated by any given use of land; and
- proof that all other applicable permits have been obtained.

6.4 Time Limitation on EARTH Removal Permit – EARTH Removal Permits shall lapse within a period of time to be specified by the PERMIT GRANTING AUTHORITY, depending on the scope of the project, not to exceed two years from the date of grant thereof.

The EARTH Removal Permit shall lapse if the EARTH REMOVAL OPERATION has not commenced, except for good cause within one (1) year from the date of grant thereof.

No EARTH REMOVAL OPERATION activity shall occur after the lapse of an EARTH Removal Permit.

SECTION 7. EXTENSION OR MODIFICATION OF EARTH REMOVAL PERMIT

7.1 Extension - A reasonable extension of said time, depending on the scope and phasing of the EARTH REMOVAL OPERATION, but not more than two additional years, may be granted by the PERMIT GRANTING AUTHORITY after a public hearing has been held where good cause is shown. Any request to the PERMIT GRANTING AUTHORITY for such extension of time shall be submitted to the PERMIT GRANTING AUTHORITY at least sixty (60) days prior to the date when the EARTH Removal Permit is due to lapse. Failure to submit such a request as prescribed herein shall be sufficient cause for the PERMIT GRANTING AUTHORITY to deny the requested time extension.

Notification of any deficiencies found through said review shall be forwarded to the property owner and EARTH Removal permit holder. Failure to rectify said deficiencies may result in rescission of the EARTH Removal permit or other enforcement proceedings.

7.2 Modification - Upon request by the APPLICANT, the PERMIT GRANTING AUTHORITY may, where good cause is shown, modify the EARTH Removal Permit and impose additional conditions, as appropriate.

Criteria for approval of extension or modification applications may include, but not be limited to, impacts to abutting properties, ENVIRONMENTALLY SENSITIVE AREAS, adherence to permit conditions, number of permit violations, and actions taken to remedy said violations, and proposed changes to operation of activity and any substantive changes in operations proposed for the coming year of activity; and any additional information deemed necessary by the PERMIT GRANTING AUTHORITY to make an informed decision.

Extension and Modification Applications are subject to notifications in accordance with Sections 5.6 (Reports from Town Boards and Agencies) and 5.3 (Public Hearings) of this Bylaw.

SECTION 8. PERFORMANCE GUARANTEE

The PERMIT GRANTING AUTHORITY shall require a performance bond or other security in a form satisfactory to the PERMIT GRANTING AUTHORITY which is sufficient to ensure satisfactory performance of the requirements of the permit, including all phases of the EARTH REMOVAL OPERATION and restoration of the SITE, restoration of any damage to public ways, and any conditions imposed in the permit. Exceptions to this may be made only upon a written finding by the PERMIT GRANTING AUTHORITY that a performance guarantee is not warranted.

After completion of the operation, and upon receipt of a written request, the PERMIT GRANTING AUTHORITY*)* may grant a partial release of any security posted by the APPLICANT, owner or operator. The remainder of the security shall be released one year after the operation has been completed or expired, upon a final inspection and a finding that:

- removal and restoration has been completed in compliance with the permit and the standards and requirements of this Bylaw;
- if required, the APPLICANT has submitted an "as-built" plan, prepared by a registered professional engineer licensed in the Commonwealth and approved by PERMIT GRANTING AUTHORITY; and
- no deterioration of the SITE has occurred for a period of one year. During the year following the partial release of the security, the APPLICANT shall be responsible for repairing any damage to the SITE.

SECTION 9. INSPECTIONS

The PERMIT GRANTING AUTHORITY and/or its agent shall have the right to inspect any permitted EARTH REMOVAL OPERATION for compliance with these conditions. The PERMIT GRANTING AUTHORITY may require a deposit for periodic inspections of permitted EARTH REMOVAL OPERATONs. Failure of an APPLICANT to pay an inspection fee pursuant to M.G.L. Ch. 44 S. 53G shall be grounds for revocation of the permit.
The PERMIT GRANTING AUTHORITY, its agent or designee shall under the provisions of this Bylaw, act to issue notices of violations(s), cease and desist orders or revoke or suspend any permit for cause.

SECTION 10. ENFORCEMENT

The provisions of this Bylaw shall be enforced by the Building Commissioner and/or Police Department in consultation with the PERMIT GRANTING AUTHORITY.

If the Building Commissioner and/or Police Department or PERMIT GRANTING AUTHORITY has reason to believe that there has been a violation of this Bylaw or the terms of a permit issued by the PERMIT GRANTING AUTHORITY, the Town shall give notice of the violation to the property owner/operator by hand delivery or by certified mail, return receipt requested, to the record address of the owner/operator as applicable. The notice shall require that

operations immediately cease and desist, and specify a time for compliance which may include the application for a permit, measures to correct an imminent safety or health hazard and/or other measures. The notice may also assess a fine to the owner pursuant to this bylaw.

Fines - The penalty for violation of this bylaw or an Earth Removal Permit shall be assessed to the property owner at $200.00 for each offense.

Each truckload of EARTH removed from the SITE shall constitute a separate offense under this Bylaw.

In addition to the penalties provided for above, the violation of any provision of this Bylaw or any condition of a permit issued hereunder, may, at the discretion of the PERMIT GRANTING AUTHORITY, be punishable by the immediate modification or revocation of the permit. No permit shall be modified or revoked until the holder thereof has been given notice and an opportunity to be heard by the PERMIT GRANTING AUTHORITY. A decision to modify or revoke a permit shall be made in writing and within 30 days of the close of the hearing. Modification or revocation of a permit shall not relieve the permit holder of the requirement to restore the SITE.

The Finance Committee recommends approval of this article.

ARTICLE 3. Amend Zoning Bylaw: Earth Removal

To see if the Town will vote to amend the Zoning Bylaw by amending Section 6.5 Earth Removal to read in its entirety as stated below; and further that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Zoning Bylaw; or to take any other action relative thereto.

(Planning Board)

6.5 Earth Removal
Unless specifically exempted under Article 17 of the Stow General Bylaws, a permit is required for the removal of earth in conjunction with a lawfully permitted use, provided that the Permit Granting Authority determines that such earth removal is necessary and consistent with the provisions of federal and state law, the General Bylaw and the Zoning Bylaw.

PLANNING BOARD SUMMARY
This article is intended to provide consistency between the Zoning Bylaw and Article 17 of the General Bylaw.

Annotated Version
Additions are ***underlined***
Deletions are ~~***strike through***~~

6.5 Earth Removal

Unless specifically exempted under Article 17 of the Stow General Bylaws, a permit is required for the removal of earth in conjunction with a lawfully permitted use, provided that the Permit Granting Authority determines that such earth removal is necessary and consistent with the provisions of federal and state law, the General Bylaw and the Zoning Bylaw.

~~***Except for earth removal operations in existence at the time notice was given of the public hearing on the amendment of the Zoning Bylaw by adoption of this section, no soil, loam, sand or gravel may be removed from any land in Stow, except for earth removal operations in existence under a permit duly issued under the Earth Removal Bylaw (Police Regulations, Article 6, Section 22) and except as provided under Section j. of said bylaw.***~~

The Finance Committee recommends approval of this article.

ARTICLE 4. Amend Zoning Bylaw: Water Resource Protection District

To see if the Town will vote to amend the Zoning Bylaw by amending Sections 5.2.1.1(7) and 5.2.5.3 to read in its entirety as stated below in subsections (A) and (B); and further that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Zoning Bylaw; or to take any other action relative thereto.

(Planning Board)

(A) Amend Section 5.2.1.1(7) to read in its entirety as stated below:

5.2.1.1 Water Resource Protection District:
Involve excavation of earth, sand, gravel and other soils, except as allowed in Section 5.2.5.3.

(B) Amend Section 5.2.5.3 to read in its entirety as stated below:

5.2.5.3 Water Resource Protection District:
Excavation of earth, sand, gravel and other soils shall not extend closer than five feet above the maximum GROUND WATER elevation, except to provide for structural foundations, holding ponds for drainage purposes and utility conduits. Exposed land shall be returned to its natural vegetative state when excavation is complete.

PLANNING BOARD SUMMARY

This article is intended to provide consistency between the Zoning Bylaw and Article 16 of the General Bylaw.

Annotated Version
Additions are ***underlined***
Deletions are ~~***strike through***~~

The Water Resource Protection District is intended to protect, preserve and maintain the existing and potential GROUND WATER supply and GROUND WATER RECHARGE AREAS within the town; to preserve and protect present and potential sources of

GROUND WATER supply for the public health and safety; and to conserve the natural resources of the town. The Water Resource Protection District shall be considered as overlying other zoning districts and the provisions of the Water Resource Protection District shall be controlling, and any uses permitted in the portions of the underlying districts shall be permitted subject to all the provisions of this Section. Prohibitions of land use in the underlying districts shall not be modified by the conditions of the Water Resource Protection District.

5.2.1 Uses permitted provided that all necessary permits, orders or approvals required by local, state or federal law shall have been obtained:

5.2.1.1 All uses of the underlying district provided that no such use on any LOT or parcel shall as to that portion of said LOT or parcel within the Water Resource Protection District:

1. Result in the disposal of any waste material, solid or liquid, other than SANITARY WASTES, brush or stumps.

2. Generate on-site sewage disposal exceeding 110 gallons per day per 10,000 square feet of LOT area, except as provided in Section 5.2.2.3. For the purposes of this Bylaw, such volumes are to be estimated as provided in Title 5, Sanitary Sewage, of the State Environmental Code.

3. Conduct any activity which involves as a principal or ACCESSORY USE the manufacture, process, storage, application, transportation and/or disposal of toxic or HAZARDOUS MATERIALs where such activity would involve outside storage, on-site waste disposal except as provided in Section 5.2.2, or uncontrolled drainage facilities which would allow discharge to surface or GROUND WATER.

4. Dispose of snow brought in from outside the District.

5. Involve the storage for sale of fuel, oil or gasoline or, except as allowed by special permit, involve outdoor storage of road salt, or other deicing chemicals, fertilizers, herbicides or pesticides.

6. Store underground and/or transmit oil, gasoline or other liquid petroleum products, excluding liquified petroleum gases.

7. Involve ~~***MINING of the land***~~ ***excavation of earth, sand, gravel and other soils***, except as allowed in Section 5.2.5.3.

8. Render impervious, by any means, more than ten percent (10%) of the LOT area proposed for development within the Water Resource Protection District or 5,000 square feet of said district, whichever is greater.

9. Use septic system cleaners containing HAZARDOUS MATERIAL.

10. Damage to underlying GROUND WATER. For the purpose hereof the following uses shall be considered to damage the underlying GROUND WATER: automotive service and repair shops; junk and salvage yards; truck and bus terminals; car wash establishments; painting, wood preserving or furniture stripping establishments; dry cleaning establishments; metal plating, finishing, polishing or etching establishments; or any other similar use determined by the Board of Health or its sanitary agent to damage the underlying GROUND WATER.

5.2.5 The above uses shall be permitted only upon satisfaction of the following design requirements:

5.2.5.1 Where a portion of the LOT is located partially outside the Water Resource Protection District, site design shall to the extent feasible, locate potential pollution sources, such as on-site disposal systems, outside the district boundaries.

5.2.5.2 Roof, parking and drive runoff shall be recharged on the site, diverted toward areas covered with vegetation for surface infiltration to the maximum extent practicable. Runoff from parking areas of 5,000 square feet or more shall be discharged to oil-gas trap catch basins with appropriate sumps prior to recharge.

5.2.5.3 ~~***MINING OF LAND or*** **e**~~ **E**xcavation ~~***for***~~ **of** earth, sand, gravel and other soils shall not extend closer than five feet above the maximum GROUND WATER elevation, except to provide for structural foundations, holding ponds for drainage purposes and utility conduits. Exposed land shall be returned to its natural vegetative state when excavation is complete.

5.2.5.4 Any additional net runoff volume shall not be diverted beyond the boundaries of this District.

5.2.5.5 Risk of pollution through accidental spillage of HAZARDOUS MATERIALs shall be reduced through the use of secure storage areas, impermeable diked catchments, separated drainage systems from an area where toxic or HAZARDOUS MATERIALs are stored or handled, or similar measures, which shall at the minimum meet any requirements of any governmental agency and shall in general conform to any standards established for such purpose by any industry or other private organization.

5.2.5.6 PROCESS WASTES from other operations other than personal hygiene and food for residents, patrons and employees shall be treated so that contaminant levels in GROUND WATER resulting from such disposal will not exceed those levels specified in 310 CMR 22.00, or existing levels where such existing levels are higher.

5.2.5.7 All runoff from IMPERVIOUS SURFACEs shall be recharged on the site by being diverted toward areas covered with vegetation for surface infiltration to the extent possible. Dry wells shall be used only where other methods are not feasible and shall be preceded by oil, grease and sediment traps to facilitate removal of contaminated

solids. No discharge directly into surface waters without intervening mitigative measures will be allowed.

The Finance Committee recommends approval of this article.

ARTICLE 5. Amend Zoning Bylaw: Section 1.3 – Definitions

To see if the Town will vote to amend the Zoning Bylaw by amending Section 1.3 (Definitions) by deleting the definition of "MINING OF LAND;" and further that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Zoning Bylaw; or to take any other action relative thereto.

(Planning Board)

PLANNING BOARD SUMMARY

This article is intended to provide consistency between the Zoning Bylaw and Article 16 of the General Bylaw.

Annotated Version
Additions are ***underlined***
Deletions are ~~***strike through***~~

~~***MINING OF LAND - The removal of geologic materials such as topsoil, sand and gravel, metallic ores and bedrock.***~~

The Finance Committee recommends approval of this article.

ARTICLE 6. Amend General Bylaw: Noise

To see if the Town will vote to amend the General Bylaw by inserting a new Article 18 to read in its entirety as stated below; and further that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the General Bylaw; or take any action relative thereto.

(Board of Selectmen)

SECTION 1. PURPOSE

The provisions of this bylaw are intended to protect the health, safety and welfare of Stow's citizens and prevent the degradation of the quality of life due to **EXCESSIVE NOISE AND/OR UNWARRANTED MANMADE NOISE.**

SECTION 2. DEFINITIONS

AMBIENT SOUND LEVEL - The all-encompassing noise level associated with a given environment, being a compost of sounds from all sources at the location, constituting the normal or existing level of environmental noise at a given location.

A-WEIGHTING (dBA) - The sound pressure level in DECIBELs as measured on a sound level meter using the A-weighted network. The level so read is designated dB(A) or dBA.

DECIBEL (dBA) - The unit of measurement for sound pressure at a specified location.

EXCESSIVE NOISE – A continuous or episodic emission of sound that is greater than 15 DECIBELs above the natural AMBIENT SOUND LEVEL, measured at the property boundary nearest the offending noise.

SECTION 3. APPLICABILITY

3.1 The provisions of this bylaw are intended to regulate noise from a variety of manmade uses and activities, including but not limited to prolonged sounding and unattended alarm systems, construction and demolition equipment and activities, and suppressible and preventable sources of noise related to residential, industrial and/or commercial use or activity.

3.2 **Prohibited Uses -** No person owning, leasing or controlling a source of sound shall willfully, negligently, or through failure to provide necessary equipment, service or maintenance, or to take necessary precautions cause, suffer, allow or permit unnecessary emissions from a source of sound that may cause EXCESSIVE NOISE.

3.3 **Exemptions –** The provisions of this bylaw shall not apply to sounds emitted during or customarily associated with the following uses:

1. Domestic maintenance equipment, including but not limited to lawn mowers, tractors, leaf blowers and/or power saws between the hours of 7:00 A.M. and 9:00 P.M.;

2. Highway or emergency police, fire, ambulance, civil or national defense vehicle activities;
3. Commercial construction and maintenance equipment engaged in construction and or maintenance activities as follows: Monday – Friday 7:00A.M-5:00P.M., Saturday 8:00 A.M. -12:00P.M., Sundays & Town Observed Holidays –No Work Allowed, or as otherwise defined in a permit issued by a town board, committee or department; provided that such activity has been issued a permit or approved by a town board, committee or department;

4. Parades, public gatherings, or sporting events which have been permitted by the Board of Selectmen or its designee, provided that said parades, public gatherings or sporting events in one town do not cause EXCESSIVE NOISE in another town;

5. Normal agricultural activities as defined in M.G.L Ch. 128 Section 1A;

6. Boating activities on Lake Boon as defined under the Town General Bylaws Section 21;

7. Aircraft activities as regulated by FAA and or MADOT; and

8. On highway vehicles & off highway vehicles/recreation vehicles/snowmobiles as regulated under M.G.L. Ch. 90 Sec. 16 & Ch. 90 Sec. 24.

SECTION 4. GENERAL PROVISIONS
The AMBIENT SOUND LEVEL, measured at the property line, shall not be greater than 15 DECIBELs, weighted for the "A" scale [dB (A)] due to the sound emanating from the property. All sound measurements shall be performed by the Board of Selectmen or their designee.

SECTION 5. ENFORCEMENT
The provisions of this bylaw shall be enforced by the Board of Selectmen or its designee (Police Department and or Zoning Officer).

Circumstances may require an immediate resolution of a noise complaint by the Selectmen or its designee or necessitate a written noise complaint. The Selectmen or its designee shall respond accordingly to investigate the source of the noise and attempt to resolve the noise situation and may provide the potential violator 30 days to respond to the complaint. If at the conclusion of the 30 days the noise violation continues, the following penalties shall be enforced:

Penalty for Violation - The penalty for violation of this bylaw shall be a fine of one hundred dollars ($100.00) for the first offense, two hundred dollars ($200.00) for the second offense, three hundred dollars ($300.00 for the third offense and three hundred dollars ($300.00) for each succeeding offense. Each day that a violation continues shall constitute a separate offense.

The *Finance* Committee recommends approval of this article**.**

ARTICLE 7. Amend Zoning Bylaw: Noise

To see if the Town will vote to amend the Zoning Bylaw by amending Section 3.8.1.3 Noise to read in its entirety as stated below; and further that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Zoning Bylaw; or to take any other action relative thereto.

(Planning Board)

3.8.1.3 Noise - The noise generated on any Lot shall be regulated by Article 18 of the Stow General Bylaws.

PLANNING BOARD SUMMARY
This article is intended to remove the regulation of noise from the Zoning Bylaw and reflect action taken by Article 18 of this warrant intended to regulate noise under General Bylaw.

Annotated Version
Additions are ***underlined***
Deletions are ~~***strike through***~~

3.8.1.3 Noise - The noise generated on any **LOT** ***shall be regulated by Article 18 of the Stow*** *General Bylaws.* ~~*, measured at any point beyond the property lines of the LOT on which the noise source is located, shall not cause the total sound level to be more than three (3) decibels above the natural ambient sound level except as provided below:*~~

~~*1. For not more than five (5) minutes in any one (1) hour the noise generated shall not cause the total sound level to be more than ten (10) decibels above the natural ambient sound level.*~~

~~*2. For not more than sixty (60) minutes in any seven (7) day period the noise generated shall not cause the total sound level to be more than thirty (30) decibels above the natural ambient sound level.*~~

~~*3. Noise making devices which are maintained and are utilized strictly to serve as safety warning devices are excluded from these regulations.*~~

~~*Measurements shall be conducted by personnel approved by the BUILDING INSPECTOR using the "A" weighting on a standard commercial total sound level instrument approved by the BUILDING INSPECTOR. For the purpose of this Bylaw the natural sound level shall be assumed to be forty (40) decibels above 0.0002 microbar during hours of daylight, and thirty (30) decibels above 0.0002 microbar at all other times.*~~

The Finance Committee recommends approval of this article.

ARTICLE 8. Affordability Safeguard Program

To see if the Town will vote to appropriate and transfer from the Community Preservation Fund Reserve for Affordable Housing purposes the sum of Two Hundred and Twenty Thousand Dollars ($220,000.00), or any lesser sum, to be expended under the direction of the Stow Municipal Affordable Housing Trust with the approval of the Community Preservation Committee, for the purposes of repairing, buying, selling or renting housing units on the subsidized housing inventory facing foreclosure proceedings, including any and all fees and costs incidental thereto, to ensure continued affordability to eligible low and/or moderate income households as defined by the Massachusetts Department of Housing and Community Development and the Massachusetts Community Preservation Act, Massachusetts General Law Chapte*r 44B,* or take any other action relative thereto.

(Community Preservation Committee, Stow Municipal Affordable Housing Trust)

The Finance Committee will make a recommendation at Town Meeting.

ARTICLE 9. Veterans' Services

To see if the Town will to raise and appropriate the sum of Twelve Thousand Dollars ($12,000) or any other sum for the purpose of supplementing the Town's Veterans' Services account, or take any other action relative thereto.

(Town Administrator)

The Finance Committee recommends approval of Article 9. The need for Veterans services for Town of Stow has increased.

ARTICLE 10. Legal Services

To see if the Town will vote to raise and appropriate the sum of Eighteen Thousand Dollars ($18,000) or any other sum for the purpose of supplementing the Town's legal account, or take any other action relative thereto.

(Town Administrator)

The Finance Committee recommends approval of Article 10. As part of the annual budgeting process, Stow voters are asked to approve a legal fees budget. Article 10 is a request by the Town Administrator for an additional appropriation to cover legal work required for the Town's defense against several lawsuits.

And you are directed to serve this warrant by posting copies attested by you calling same at the Town Building and at each of at least seven (7) other public places at least fourteen (14) days before the time of holding said meeting.

Hereof, fail not and make due return of the warrant with your doings thereon to the Town Clerk or Selectmen on or before the time of said meeting.

Given under our hands this 13th day of October in the year 2015.

BOARD OF SELECTMEN

Donald P. Hawkes, Chairman
Brian P. Burke, Clerk
Charles Kern
Thomas E. Ryan, III
James H. Salvie