COMMONWEALTH OF MASSACHUSETTS
TOWN OF HUBBARDSTON

MINUTES - SPECIAL TOWN MEETING June 5, 2018 HUBBARDSTON CENTER SCHOOL

Pursuant to the foregoing warrant, the voters of the Town of Hubbardston assembled at the Center School gymnasium to act on the articles in said warrant. Present were Moderator Edward Leonard; Board of Selectmen members Daniel Galante (Chair), Michael Stauder, Jeffrey Williams, Patrick Girouard and Richard (Jamie) Haddad; Town Clerk Joyce Green; Finance Committee members Susan Rayne (Chair), Timothy Hart and Shannon Erb; Town Administrator Ryan McLane; and representative for Town Counsel, Carolyn Murray.

A total of 153 registered voters were checked in by Marcia Howlett and Shonna Larson. A quorum of 50 voters was present throughout the meeting.

Moderator Leonard called the meeting to order at 6:30pm. The Moderator announced that the meeting was being videotaped. The following actions were taken on the articles presented in the aforesaid warrant:

ARTICLE 1. **Motion, Daniel Galante,** that the Town vote to transfer from Free Cash the sum of $6,271.20 to pay Places Associates, Inc. for costs associated with consulting and peer engineering review of the D.J. Palm Inc. application for a gravel removal permit.
Second: Michael Stauder **Vote: Motion Carries; Majority Affirmative Vote**

ARTICLE 2. **Motion, Daniel Galante,** that the Town vote to transfer from Free Cash the sum of $2,760.00 to pay KP Law, P.C. for legal costs associated with the review of the decision on the D.J Palm Inc. application for a gravel removal permit.
Second: Jeffrey Williams **Vote: Motion Carries; Majority Affirmative Vote**

ARTICLE 3. **Motion, Daniel Galante,** that the Town vote to amend the Hubbardston General Bylaws as recommended after extensive review by the Bylaw Review Committee that was appointed per the Town Charter, with the full and complete text of changes available on the official Town website, http://www.hubbardstonma.us/pages/HubbardstonMA_clerk/vot, and at the Town Clerk's office, at Town Hall on Monday from 2 pm to 8 pm, and on Tuesday, Wednesday and Thursday from 8 am to 4 pm.
Second: Michael Stauder

The proposed changes are summarized as follows:
General changes to be made throughout the General Bylaws:

1. Table of Contents expanded to include section titles to make it easier to find what you're looking for and section titles were given to those that did not have one.
2. Formatting changes to make format more consistent throughout document.
3. Grammatical corrections; example: "which" was changed to "that" where appropriate
4. Posting requirements were updated to include the town website and, where appropriate, social media
5. Internal cross-references were corrected and/or updated

The following is a summary of the Chapters & Sections with proposed changes other than the above formatting or grammatical changes (using new chapter numbers). **Bold** indicates added or new language; ~~strikethrough~~ indicates deleted text.
[Note: The Moderator proposed to the meeting that he read the revision numbers only (1-62) allowing time for comments or questions on each. No objections were heard and the procedure was followed. Proofreading errors were corrected to #13 and #17.]

1. Chapter I, GENERAL PROVISIONS; **ADD** severability clause to cover all bylaws (individual clauses were deleted from Chap XXI, XXIII, XXVI, XXVII, XXVIII and XXX) "**Should any provision or**

section of this bylaw be held unconstitutional or invalid, such holding shall not be construed as affecting the validity of any of the remaining provisions or sections, it being the intent that this bylaw shall stand notwithstanding the invalidity of any provision or section thereof."

2. Chapter II, TOWN MEETINGS, Sec 3; FinCom review of Town Meeting warrant time frame INCREASED from 7 days to 30 days prior to meeting

3. Chapter II, TOWN MEETINGS, Sec 7, 9,13,15; Procedural changes to Town Meeting requested by Moderator including; Sec 7, changing from a standing count to having counters count votes with a show of hands; Sec 9 limiting a person to speak to a motion not more than twice or for more than 10 minutes; Sec 13 clarify majority vote to a be a majority of those present and voting; Sec 15 changing "~~Addressing the Chair~~" to "**Addressing the Moderator**" and ADD a sentence to Sec 15, "**The moderator may use an alternate sequence for recognizing speakers.**"

4. Chapter II, TOWN MEETINGS; DELETE Sec 8 Reconsidering the Vote, DELETE Sec 10 Limitations on a Motion to Reconsider, DELETE part of Sec 16 "~~or to give notice of a motion to reconsider~~.", DELETE Sec 20 Divided Motion, and RENUMBER remaining sections.

5. Chapter III, VACANCIES & APPOINTMENTS, Sec 1; Quabbin Regional School Committee: DELETE "~~*to consist of three (3) members, one to be elected each year for a term of three (3) years*~~" and ADD "**as provided by the Quabbin Regional School District Agreement**" to make consistent with Town Charter

6. Chapter III, VACANCIES & APPOINTMENTS, Sec 1; AMEND Board of Registrars of Voters: change to 3 members and the Town Clerk, not 4 members and the Town Clerk per MGL Chap 51, Sec 15.

7. Chapter III, VACANCIES & APPOINTMENTS, Sec 1; CORRECTIONS made to statutory cross-references for those positions appointed by the Board of Selectmen.

8. Chapter XII, COMMITTEES Sec 1.3; MOVED to Procurement Chapter XXIII SECTION 4; *"No Town officer, agent or member of any board of the Town shall sell materials, supplies or services to the Town without the permission or approval of the Board of Selectmen expressed by a vote which shall appear on the records of said Board."*

9. Chapter V (former Chapter XII), GENERAL COMMITTEE POLICIES; MOVED from Ch XII Committees and re-titled General Committee Policies; Sec 1.2, DELETE last sentence that read "~~*All members of a committee which fails or neglects to make a report at Annual Town Meeting shall by such failure be held to have resigned and without further action or vote, new members shall be appointed.*~~" All subsequent chapters to be renumbered.

10. Chapter V, GENERAL COMMITTEE POLICIES, Sec 4 (former Ch XII, Sec1.5); **ADD** word "**special**" before the word "committee" in the first line for clarification.

11. Chapter VI (former Chapter V) MODERATOR; **ADD** Section 1, **A Moderator shall be elected at Annual Town Election for a three-year term.**

12. Chapter VI (former Chapter V). MODERATOR; DELETE Section 2 to conform to current practice and RENUMBER remaining sections, "~~*The Moderator shall appoint all committees except as otherwise provided by law, by Town Charter or by vote of the meeting within thirty (30) days after the passage of the vote creating the committee, and in choosing a committee by nominations from the floor, no person shall nominate more than one member of such committee.*~~" Note: Appointments are outlined in the Town Charter and made by Selectmen or Town Administrator.

13. *Underlined section corrected by Moderator: ~~Chapter VI (former Chapter V) MODERATOR; Section 13~~ should read Chapter II Town Meetings, Section 11 (former Section 13)*; **ADD** "Unless otherwise provided by law or bylaws, all motions shall require a majority vote **of those present and voting in order to determine the outcome**."

14. Chapter VII (former Chapter VI) TOWN CLERK; DELETE Section 7 *"~~All other provisions pertaining to the Town Clerk shall be found under Chapter 41 of the General Laws.~~"*

15. Chapter IX (former Chapter VIII) TOWN COUNSEL; Last sentence of Section 2 was MOVED to new Section 4; *"No officer, board or committee, shall, at the expense or in behalf of the Town, employ or be represented by any other than the Town counsel or appointed Special Counsel."*

16. Chapter XIII CAPITAL IMPROVEMENT PLANNING COMMITTEE; MOVE old Sec 2.1 of Chap XII to NEW Chapter XIII Capital Improvement Planning Committee

17. *Underlined number 2 corrected to 3 by Moderator; MOVED from Chap XII, Sec 2.2 and re-numbered as Chapter XIV COMMUNITY PRESERVATION COMMITTEE; CAPITALIZED names of boards & committees; DELETE the word "the" in ~~2~~ 3* places; **ADD** requirement for posting on official Town website; **ADD** words "**community preservation**" prior to the word "surcharge" for clarification

18. Chapter XV (former Chapter XIII) ANNUAL REPORTS; **ADD** language requiring posting the Annual Report on the official Town website

19. Chapter XV (former Chapter XIII) ANNUAL REPORTS, Sec 5; DELETE entire section: *"~~SECTION 5. Committee Reports, The Board of Selectmen shall be responsible during the month of March prior to each Annual Town Meeting for notification in writing to the chairperson of any committee that has made no report to the Town since the last Annual Meeting that some report will be expected at the coming Annual Town Meeting and the warrant for such Annual Town Meeting may contain an article to hear and act upon the report of each of such committees, specifically naming them.~~"*

20. Chapter XVI (former Chapter XIV) LICENSES & PERMITS; DELETE previously deleted Sec 3 and renumber remaining sections

21. Chapter XVI(former Chapter XIV) LICENSES & PERMITS, Sec 5 (former Section 6), Licenses and Permits of Delinquent Taxpayers, ; CHANGE delinquent taxpayer bylaw to require Town Taxes, etc. to be paid if due for not less than a 30-day period before permits may be issued. Time period previously was 12 months.

22. Chapter XVIII (former Chapter XVI) STREETS & SIDEWALKS, Section 1.6; DELETE in its entirety *"~~No person shall coast or skate on any street or public place except on such as are designated by the Board of Selectmen or on public playgrounds.~~"* Remaining subsections to be renumbered.

23. [DELETED from proposed amendments: Chapter XVIII (former Chapter XVI) STREETS & SIDEWALKS, Sec 2.1; DELETE last paragraph that reads *"~~Notwithstanding the above, the Town Meeting may accept as a public way a way that does not meet all of the conditions set forth above upon a recommendation, by majority vote, from the Planning Board to waive such condition(s).~~"*]

24. Chapter XIX (former Chapter XVII) OPERATION OF MOTOR VEHICLES, Sec 1; CHANGE the dates of the winter parking ban on any street TO November 15 to April 15 FROM current dates of December 31 to March 31.

25. Chapter XIX (former Chapter XVII) OPERATION OF MOTOR VEHICLES, Sec 2; AMEND to combine Groups A and B and label as Group A and relabel Group C as Group B; AMEND parking fines to INCREASE parking Fines to $20 for Group A and $25 for Group B

26. Chapter XIX (former Chapter XVII) OPERATION OF MOTOR VEHICLES, Sec 3; DELETE words "coastal or" from Subparagraph 3 Littering, Coastal or inland waters

27. Chapter XX (former Chapter XVIII) DRIVEWAYS, Sec 1; MOVE sentence from Sec 4 to Sec 1 *"The cost of construction will be the responsibility of the owner."*

28. Chapter XX (former Chapter XVIII) DRIVEWAYS; AMEND by reordering sections 2,3, and 4 for more logical sequence

29. Chapter XX (former Chapter XVIII) DRIVEWAYS, Sec 4 (former Section 3); AMEND by adding "**The existing town road surface must not be disturbed and the gutter line must be maintained. The width and flare of the driveway apron must conform to specifications on the driveway permit.**" and DELETE old wording: "~~*The Department of Public Works is concerned with width and flare of driveway where it meets the road, since road surface must not be disturbed and gutter line must be maintained.*"~~

30. Chapter XXI (former Chapter XIX) EARTH REMOVAL, Sec 3; AMEND definition of applicant for clarification by **ADDING** new wording **"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 may be the operator of the Earth Removal Operation. The permit shall be issued to the Applicant. If the Applicant is not the Owner of the land, the applicant shall provide the Owner's notarized permission to make an application and alter the site for an Earth Removal Operation."** and DELETING old wording ~~*"The individual, corporation or other legal entity who makes the application for an Earth Removal Permit. Such individual, corporation or other legal entity may not be the Owner of the site, but may be operator of the Earth Removal Operation. 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 an Earth Removal Operation."*~~

31. Chapter XXI (former Chapter XIX) EARTH REMOVAL, Sec 4.F.; AMEND wording for clarification as follows: "Each operation proposed by the same applicant for a site with multiple ~~owners~~ **lots** shall require a separate Earth Removal Permit for each lot ~~so affected~~."

32. Chapter XXI EARTH REMOVAL, Sec 8.B.; **ADD** language to require posting of a public hearing on the official Town website.

33. Chapter XXI (former Chapter XIX) EARTH REMOVAL, Sec 9.A.4.; CORRECT cross reference by DELETING ~~section 9.B.12~~ and replacing with **Section 9.B.1-11.**

34. Chapter XXI (former Chapter XIX) EARTH REMOVAL, Sec 9.B.11.;AMEND last sentence to CORRECT typographical error by DELETING "a maximum slope of 2:1" and replacing with "a maximum slope of **3:1"**

35. Chapter XXI (former Chapter XIX) EARTH REMOVAL, Sec 10; CORRECT typographical error in line 2, by CHANGING "if one if present" to "if one **is** present"

36. Chapter XXI (former Chapter XIX) EARTH REMOVAL, Sec 13.C.; Line 1 ADD words "**firm or corporation**" to read "In the event the permitting authority determines that any person**, firm or**

corporation, whether or not an Owner, as defined herein, is in violation of this bylaw, the person**, firm or corporation** may be assessed the cost of any and all action taken to remedy the violation…."

37. Chapter XXI (former Chapter XIX) EARTH REMOVAL, Sec 14; **DELETE** Severability Clause

38. Chapter XXIII (former Chapter XXI) PROCUREMENT, Sec 2; **CHANGE** by DELETING existing language and replacing with the following NEW language: "All contracts shall be reviewed by the Town Administrator and Town Counsel and signed by the Town Administrator **as per the Town Charter Section 3-4-10**."

39. Chapter XXIII (former Chapter XXI) PROCUREMENT, Sec 3.7; **DELETE** Severability Clause

40. Chapter XXIII (former Chapter XXI) PROCUREMENT, **MOVED** from Committees Chapter V SECTION 1.3 and inserted as Section 5: *"No Town officer, agent or member of any board of the Town shall sell materials, supplies or services to the Town without the permission or approval of the Board of Selectmen expressed by a vote which shall appear on the records of said Board."*

41. Chapter XXIV (former Chapter XXII) REGULATION OF DOGS, Sec 1; definitions were put in alphabetical order; **CHANGE** definition of "Dog" as follows: "Dog" shall mean all ~~animals~~ **domestic dogs** of the canine species, regardless of sex.

42. Chapter XXIV (former Chapter XXII) REGULATION OF DOGS, Sec 1; **ADD** definition of a Personal Kennel, subsection **"f)"Personal Kennel" – a pack or collection of 4 dogs or fewer, 3 months old or older, owned or kept under single ownership, for private personal use; provided, however, that breeding of personally owned dogs may take place for the purpose of improving, exhibiting or showing the breed or for use in legal sporting activity or for other personal reasons; provided further, that selling, trading, bartering or distributing such breeding from a personal kennel shall be to other breeders or individuals by private sale only and not to wholesalers, brokers or pet shops; provided further, that a personal kennel shall not sell, trade, barter or distribute a dog not bred from its personally-owned dog; and provided further, that dogs temporarily housed at a personal kennel, in conjunction with an animal shelter or rescue registered with the department, may be sold, traded, bartered or distributed if the transfer is not for profit."**

43. Chapter XXIV (former Chapter XXII) REGULATION OF DOGS, Sec 3; **ADD** acronym "**ACO**" in parentheses after "Animal Control Officer"

44. Chapter XXIV (former Chapter XXII) REGULATION OF DOGS, Sec 5; **CHANGE** "~~Town~~" Pound to "**Regional**" Pound

45. Chapter XXIV (former Chapter XXII) REGULATION OF DOGS; AMEND BY REPLACING THE WORD "less" with the word "fewer" in 4 places

46. Chapter XXIV (former Chapter XXII) REGULATION OF DOGS, Sec 7; AMEND Disposition of Unclaimed Dogs By DELETING Old language: ~~*Any dog which has been impounded and is not redeemed*~~

    ~~*by the owner within the ten day period of confinement, shall be disposed of as provided by MGL, Chapter 140/151A when each of the following criteria have been met:*~~

    ~~*(a) The dog was detained for a period of Ten (10) days.*~~

~~*(b)The description of the dog to be published in a local newspaper and description of dog to be advertised on the local public access Television Channel at least Three (3) days before the scheduled date of destruction.*~~

~~*(c)The dog was made available for adoption in accordance with the previous section.*~~

AND INSERTING New Language:

Any dog that has been impounded and is not reclaimed by the owner within the ten day period of confinement, shall be made available for adoption provided the following criteria have been met:
(a) The dog was detained for a period of Ten (10) days.
(b)The description of the dog is advertised in a local newspaper, on the ACO's website and through other relevant social media outlets.
(c)The dog is found free of disease and is not extremely aggressive as determined by the ACO.

47. Chapter XXIV (former Chapter XXII) REGULATION OF DOGS, Sec 8.(b); INSERT **Two Hundred ($200.00) Dollars** in place of ~~$200.00 (Two Hundred dollars)~~

48. Chapter XXVI (former Chapter XXIV) PUBLIC SAFETY, Sec 3; replace word "~~which~~" with "**that**" in several places; Sec 3, IV.E.1., replace the word "~~in~~" with "**into**"

49. Chapter XXVI (former Chapter XXIV) PUBLIC SAFETY, Sec 3, IV, B.; **DELETE** second sentence ~~"If said user, on the basis of absence from town or filing the report, the Police Chief or Fire Chief may extend the fifteen day period for a reasonable period.~~" and ADD "**The Police Chief or Fire Chief may extend the fifteen (15) day period at their discretion.**"

50. Chapter XXVI (former Chapter XXIV) PUBLIC SAFETY, Sec 3,IV.E.1.c)(1); CLARIFY fee structure by DELETING "four(4) to ten (10) alarms" and REPLACING with "four (4) to nine (9) alarms"

51. Chapter XXVI (former Chapter XXIV) PUBLIC SAFETY, Sec 3,V.A.3; CORRECT cross reference by DELETING ~~§51-31D or 51-6~~ AND REPLACING WITH **Section 3**

52. Chapter XXVI (former Chapter XXIV) PUBLIC SAFETY, Sec 4.3; Delete period at the end of the first sentence and combine with the beginning of the next sentence as follows: "...or otherwise managed, but excluding those petroleum products..."

53. Chapter XXVI (former Chapter XXIV) PUBLIC SAFETY, Sec 4.9.3; AMEND to make grammatical CORRECTION by replacing word "~~disposal~~" with "**dispose**"

54. Chapter XXVI (former Chapter XXIV) PUBLIC SAFETY, Sec 4.10; DELETE reference to ~~Section 2.5~~ and REPLACE with **Section 4.5.1** and DELETE reference to ~~Section 2.9~~ AND REPLACE with **Chapter 1, Section 4**.

55. Chapter XXVI (former Chapter XXIV) PUBLIC SAFETY, Sec 4.11; **DELETE** Severability Clause

56. Chapter XXVII (former Chapter XXV) CONDUCT IN OR ON LICENSED PREMISES, Sec 7; **DELETE** Severability Clause

57. Chapter XXIX (former Chapter XXVIII) PERSONNEL, Sec 1; **ADD sexual orientation and religion** to list of non-discrimination factors; **AMEND** word "~~sex~~" to "**gender**"

58. Chapter XXIX (former Chapter XXVIII) PERSONNEL, Sec 6; **DELETE** Severability Clause

59. Chapter XXX (former Chapter XXIX) GENERAL WETLANDS BYLAW, Sec 1; CORRECT typographical error in Paragraph 2, change “normal maintenance or improvement or land in agricultural use” to “normal maintenance or improvement **of** land in agricultural use”

60. Chapter XXX (former Chapter XXIX) GENERAL WETLANDS BYLAW, Sec 10; **ADD** to the end of the second paragraph the following new sentence: "The Commission shall notify the applicant prior to engaging a consultant at the applicant's expense."

61. Chapter XXXI AGRICULTURE; capitalization corrections and other formatting changes

62. Chapter XXXI AGRICULTURE; **DELETE** Severability Clause

Two corrections made by Moderator prior to the vote on Article 3:
#13: should read Chapter II Town Meetings, Section 11 (former Section 13) **ADD** :Unless otherwise provided by law or bylaws, all motions shall require a majority vote **of those present and voting in order to determine the outcome.**”
#17: should read Delete the word “the” in **3** places [instead of 2 places].

Motion, Vincent Ritchie, to delete #23 from the list of amendments under Article 3.
Second: Thomas Bratko.
Town Counsel explained the statutory process that applies in order to have a road made a public way. A layout of the road must first be voted by the Board of Selectmen and ultimately would come before Town Meeting for a vote of acceptance. **Vote on Motion to Amend: Motion Carries; Majority Affirmative Vote**

Vote on Article 3 as Corrected and Amended on the floor: Motion carries, Majority Affirmative Vote

ARTICLE 4. Motion, Daniel Galante, that the Town vote to add a section to the Hubbardston General Bylaws with respect to Scenic Roads as follows;
Second: Jeffrey Williams

32.1 Authority and Purpose
Authority. This bylaw is adopted under authority of MGL c. 40, § 15C, and MGL c. 40, § 21.
Purpose. The purpose of a Scenic Road Bylaw is to help the Town maintain and enhance its rural, small town character by ensuring that work done to trees and stone walls on the public right-of-way of scenic roads is done in a way that helps preserve the scenic, historic and aesthetic characteristics of the public right-of-way. Whereas the Town of Hubbardston has designated scenic roads (see addendum) pursuant to MGL Chapter 40, Section 15C, the additional purpose of this bylaw is to define, clarify and regulate Hubbardston Scenic Roads.

32.2 Applicability
This bylaw applies to all roads in Hubbardston previously identified by Town Meeting as “Scenic” and all future roads to be so identified.

32.3 Definitions
32.3.1Abutter: Shall mean all property owners, including those across the street, abutting the property where work requiring a scenic road hearing is required.

32.3.2 Cutting or Removal of Trees: Shall mean the removal of one or more trees, trimming of major branches, (as defined herein), cutting of roots, or any other work that would otherwise compromise a tree’s health, such as soil and/or root compaction, water deprivation, or other conditions resulting from proposed work along a scenic road sufficient in the opinion of the Planning Board or the Tree Warden to cause eventual destruction of a tree. This definition does not apply to routine or emergency tree maintenance that removes only permanently diseased or damaged limbs, trunks, roots and dead whole trees. Nor does this definition apply to trimming work, including cutting of major branches, by the Town’s Department of Public Works Department, provided that the Planning Board has reviewed the proposed work and determined it to be in

accordance with good practices. However, the removal of whole, live trees by the DPW is included in this definition.

32.3.3 Major Branch: Shall mean a living branch that is fully attached to a tree (as defined herein) and that has a diameter of three inches or more, 12 inches from the point at which said branch connects to the tree.

32.3.4 Posting: Shall mean the marking of a tree or stone wall along a road for the purpose of a scenic road hearing. For trees, such marking as described in MGL c. 87, § 3 (Shade Tree Act). For stone walls, a ribbon or other appropriate flagging material shall be temporarily affixed at the limit of work on both ends of the stone wall.

32.3.5 Repair, Maintenance, Reconstruction or Paving Work: Shall mean any work done within the right-of-way by any person or agency, public or private. Within this definition is any work on any portion of the right-of-way which was not physically commenced at the time the road was designated as a scenic road. Construction of new driveways, bicycle paths, sidewalks or roadside paths, or alteration of existing ones is included, insofar as it takes place within the right-of-way. Roadside clearing of trees to provide for vehicular clearance or for improvements to the line-of-sight shall also be included in this definition. Construction or alteration of water, sewer, drainage, electric, telephone, cable TV, or other utilities within the right-of-way is also included to the degree that they impact trees and stone walls, except as exempted in Subsection 22.1.2 above.

32.3.6 Right of Way: The area on and within the boundaries of the public way. If the boundaries are unknown, any affected trees or stone walls shall be presumed to be within the public right-of-way until shown to be otherwise.

32.3.7 Roads: Shall mean a right-of-way of any way used and maintained as a public way, including the vehicular traveled way plus necessary appurtenances within the right-of-way, such as bridge structures, drainage systems, retaining walls, traffic control devices, and sidewalks, but not intersecting streets or driveways. When the boundary of the right-of-way is an issue so that a dispute arises as to whether or not certain trees or stone walls or portions thereof are within or without the way, the trees and stone walls shall be presumed to be within the way until the contrary is shown. Trees and stone walls existing on or partially within the boundary of the right-of-way shall be considered to be within the right-of-way.

32.3.8 Tearing Down or Destruction of Stone Walls: Shall mean the destruction removal, covering or painting of more than 10 total linear feet of stone wall involving more than one cubic foot of wall material per linear foot above existing grade. Temporary removal and replacement at the same location with the same materials is permitted without Planning Board approval if the Town Highway Department is notified before the work begins so that it can confirm that the wall is properly replaced. Repair of a stone wall that does not involving tearing down or destroying the wall is not covered by this bylaw.

32.3.9 Shade Trees: Under MGL c. 87, Public Shade Trees are defined as all trees within a public way or on the boundaries thereof including trees planted in accordance with the provisions of section 7; and when it appears in any proceeding in which the ownership of or rights in a tree are material to the issue, that, from length of time or otherwise, the boundaries of the highway cannot be made certain by records or monuments, and that for that reason it is doubtful whether the tree is within the highway, it shall be taken to be within the highway and to be public property until the contrary is shown.

32.3.10 Trees: Shall include any living tree whose trunk has a diameter of four inches or more as measured four feet above the ground. Nothing in this definition shall be construed to permit a person, other than the Tree Warden or his deputy, to trim, cut down, or remove a public shade tree more than 1 1/2 inches in diameter one foot from the ground.

32.3.11 Warden: Shall mean the Town of Hubbardston Tree Warden or designated deputy.

32.4 Criteria for designation as scenic road

In determining which roads or portions of roads should be recommended to Town Meeting for designation as scenic roads, the following criteria should be considered:

(1) Overall scenic beauty;

(2) Contribution of trees to scenic beauty;
(3) Contribution of stone walls to scenic beauty;
(4) Age and historic significance of roads, trees, and stone walls;
(5) Built features such as historic buildings, historic monuments, historic burial grounds, historic structures, farm buildings and fencing; and
(6) Road features such as historic layout, surface, carriage width, use restrictions, and non-historic bridges.

32.5 Procedure for designating scenic roads
The Planning Board, the Board of Selectmen, the Conservation Commission, the Historical Commission, or a petition of 10 citizens of the Town may propose "scenic road" designation of any Hubbardston road other than a state highway. The Planning Board shall then hold a Public Hearing notifying the Board of Selectmen, the Tree Warden, the Department of Public Works, the Conservation Commission, and the Historical Commission, all property owners with land bordering the right-of-way and the public by advertising on the Town website and twice in a newspaper of general circulation in the area, the last publication to occur at least seven days prior to the date of the hearing. The Planning Board shall make a recommendation to Town Meeting on the merits of designation of the proposed road as a scenic way. No road shall be designated a scenic road by Town Meeting unless such designation is favorably recommended by the Planning Board, the Conservation Commission or the Historical Commission. A majority vote of Town Meeting is required for designation.

Following designation by Town Meeting, the Planning Board shall:
A) Notify all municipal departments that may take action with respect to such roads;
B) Notify the Massachusetts Highway Department;
C) Indicate such designation on all maps currently in use by municipal departments;
D) Notify all utility companies or other such parties, which may be working on the border of such road.
E) The roads already designated as scenic roads under the Scenic Roads Act of 1973 (MGL c. 40, § 15C) shall retain their status as scenic for the purpose of this Scenic Road bylaw. These roads are listed on addendum.

32.5.1 Procedures for altering, repairing, modifying a scenic road

32.5.1.1 Filing. Any person, organization or agency seeking the consent of the Planning Board under MGL c. 40, § 15C, regarding road repair, maintenance, reconstruction, or paving work that may involve the cutting or removal or trees or the tearing down of stone walls, or portions thereof, shall file an application with the Planning Board and submit the following information:
a) A completed scenic road application, including two copies of a plan showing proposed work and the extent of alterations or removal of trees or stone walls, so that readers may locate it with reasonable specificity on the ground without the need for additional plats or references, and describing in reasonable detail the proposed changes to trees and stone walls, and a statement of purpose, or purposes, for the proposed action. The plan shall show the name of the street or streets, the extent of the Scenic Road right-of-way, names of abutters within 100 feet of the proposed work, a title block and suitable space to record the action of the Planning Board. A plan drawn to scale is preferred, but not required.
(b) One copy of the completed application and one copy of the plan shall also be submitted to the Town Clerk.
c) Any further explanatory material useful to adequately inform the Planning Board, including clearly identifiable digital or printed photographs of the proposed work area and its existing conditions.
d) A certified list of abutters within 100 feet of the subject property.

32.5.1.2 Notice. The Planning Board shall, as required by statute, give notice of the public hearing to discuss the alterations that the applicant wants to have done. Notice will be posted on the official Town website and twice in a newspaper of general circulation in the area, with the last publication occurring at least seven days prior to the hearing.

a) The Applicant shall be responsible for the cost of advertising and noticing the abutters of the public hearing.
b) The notice will contain the time, date, place and purpose of the hearing.

c) Copies of the notice shall be sent to the Board of Selectmen, the Tree Warden, the Department of Public Works, the Conservation Commission and the Historical Commission before the public hearing commences.
d) Timing of the hearing. The Planning Board shall hold a public hearing within 30 days of receipt of a properly filed request and shall take action on the request within 45 days of the hearing being held.
e) Decision. The Planning Board shall provide its written decision to the applicant, with copy filed with the Town Clerk, within seven days of taking action on the application. If a consolidated meeting has been held involving the Tree Warden, then the Tree Warden shall issue a separate written decision related to the public shade trees. The Planning Board and, or the Tree Warden shall also provide copy of the decision to the applicant, the Conservation Commission, the Historical Commission, the Tree Warden, and Department of Public Works.
f) Tree replacement. If the cutting or removal of whole trees is approved by the Planning Board or Tree Warden, the Planning Board, at its discretion, may require the applicant to replace the trees cut with nursery quality trees, which are of Zone 6 hardiness at a minimum, that are native to the region, and that are acceptable to the Planning Board, in consultation with the Tree Warden. For trees that are 18 inches or more in caliper, measured four feet from the ground, the Planning Board may require the removed tree to be replaced with two trees of at least a two-and-one-half-inch caliper, measured four feet from the ground. The location of the replacement trees shall be at the direction of the Tree Warden, in consultation with the Planning Board.
g) Public shade trees. When required by MGL c. 87 (Shade Trees), notice shall be given and the Planning Board hearing required by MGL c. 40, § 15C (Scenic Roads) shall be held in conjunction with those held by the Tree Warden, with the Tree Warden responsible for the consolidated notice acting under MGL c. 87 (Shade Trees). Consent to an action by the Planning Board shall not be construed as consent by the Tree Warden or vice versa. A Planning Board decision shall contain a condition that no work shall take place until any applicable provisions of MGL c. 87 (Shade Trees) have been complied with.
h) Statute of limitations. The approval of the Planning Board or Tree Warden under these regulations for any proposed work shall be valid for two years from the date the decision is filed with the Town Clerk. After two years from this date, the decision is void unless an extension is granted before the expiration.
i) Emergency repair. The requirements of this bylaw shall not apply when the Tree Warden acts in an emergency in accordance with law. In cases where a tree or branch poses a threat to public safety and there is not sufficient time to obtain prior approval from the Planning Board, the Planning Board shall be notified by the Tree Warden within the calendar week after any action which would have been a violation of this bylaw if the threat had not existed. Under no circumstances are stone walls to be torn down or destroyed on a scenic road under the auspices of emergency repair.

32.5.3 Considerations
In acting on applications concerning scenic roads, the Planning Board shall take into consideration the following:
A. Contribution of trees and/or stonewalls to scenic beauty;
B. Age and historic significance of roads, trees and stone walls;
C. Features of the road, such as surface, pavement width and bridges;
D. Public safety;
E. Local residential traffic patterns and overall traffic volume and congestion;
F. Compensatory actions proposed, such as tree and stone wall replacement;
G. Functional importance and urgency of repair, maintenance, reconstruction or paving;
H. Additional evidence contributed by abutters, Town agencies and other interested parties;
I. Recreational uses of the road;
J. Preservation of natural resources and historic resources;
K. Scenic and aesthetic characteristics;
L. Environmental values;
M. Other planning information;
N. Existence or absence of reasonable alternatives.
O. Applicants reasons and considerations

32.6 Enforcement; violations and penalties

32.6.1 This bylaw shall be administered by the Planning Board and enforced by the Planning Board, Building Inspector, Tree Warden, Department of Public Works Director or others designated by the Town Administrator. Enforcing officials may issue a citation for the violation of this bylaw and shall take appropriate action in the name of the Town of Hubbardston to prevent, correct, restrain or abate such violations.

32.6.2 Failure to file with the Planning Board for permission to cut or remove trees or for destruction of any portion of a stone wall within the layout of any scenic road will require an immediate cessation of work and an immediate filing as detailed above and the applicant shall be required to restore the features if required by the Planning Board. Unless waived, the required restoration shall consist of restoring the stone wall to its previously existing condition and/or replacing the trees cut with nursery quality trees that are acceptable to the Planning Board. For every three inches of tree cut, measured across the stump, a nursery quality replacement tree with a two-and-one-half-inch caliper, measured four feet from the ground, shall be planted by the applicant. Failure to comply with a duly issued decision of the Planning Board shall subject the applicant to restoration as detailed above and other remedial measures that the Planning Board deems necessary.

32.6.3 Any violation of this bylaw, MGL c. 40, § 15C, or a Planning Board decision issued under this bylaw or MGL c. 40, § 15C, shall be punishable by a fine not to exceed $300 per violation, any such violation may also be enforced through the non-criminal disposition in accordance with this bylaw. Each day, or portion thereof, that a violation of this bylaw continues without a Planning Board approved decision to take restorative action shall be deemed a separate offense.

32.6.4 In addition to the foregoing remedies, the Town of Hubbardston, acting by and through its Planning Board, and with the approval of the Board of Selectmen, shall have all other legal and equitable remedies which may exist, including without limitation the right to seek injunctive relief. In addition, the Town of Hubbardston may in its discretion enforce the provisions of this bylaw in the manner provided in MGL c. 40, § 21D.

32.6.5 In all other aspects, all provisions of this bylaw shall remain in full force.

A list of current Scenic Roads in Hubbardston was read by Vincent Ritchie for informational purposes.

Vote on Article 4: Motion Carries; Majority Affirmative Vote

ARTICLE 5. Motion, Daniel Galante, that the Town vote to amend various sections of Article 20 Use of Large-Scale Solar Photovoltaic Installations of the Hubbardston Zoning Bylaws as follows;
Second: Michael Stauder

20.2 Definitions

To 20.2.4: Delete "sited as-of right" and replace with "by Special Permit"

To Read: 20.2.4 Designated Location: Large scale solar photovoltaic installations may be sited by Special Permit in all zoning districts in the Town of Hubbardston.

To: 20.2.5 Large Scale Ground-Mounted Solar Photovoltaic Installation
Delete "Ground –Mounted"
Delete "and is not roof-mounted" and replace with "or a roof".
Delete "-mounted"
Delete "and has a minimum nameplate capacity of 250kW DC" and replace with " with solar panels covering 20,000 square feet or more on one lot or minimum nameplate capacity of 250kW DC"
To read: 20.2.5 Large-Scale Solar Photovoltaic Installation: A solar photovoltaic system that is structurally mounted on the ground or a roof, with solar panels covering 20,000 square feet or more on one lot or minimum nameplate capacity of 250kW DC"

20.3 General Requirements

To: 20.3.4 Site Plan Review

Delete "Ground mounted"

Delete "with 250 kW or larger of rated nameplate capacity"

Delete "3", after the word Article.

To read: 20.3.4 Site Plan Review

Large scale solar photovoltaic installations shall undergo site plan review by the Site Plan Review Authority, as set forth in this Section and Article 9 of the Zoning Bylaws prior to construction, installation or modification as provided in this section.

20.3.5 Site Control

The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar photovoltaic installation.

ADD: Any special permit submit issued under this section shall include a condition stating the above requirement and further stating that, in accepting the special permit the Applicant and Owner grant the Town permission to enter the property for the purpose of assessing and removing an abandoned or discontinued facility. This letter shall be signed and notarized by the applicant and owner.

20.3.8 Dimension and Density Requirements

To: 20.3.8.2 Appurtenant Structures

Delete existing section and replace with a following new section

To Read: 20.3.8.2 Solar Panels and Appurtenant Structures

All appurtenant structures to large-scale ground-mounted solar photovoltaic installations shall be subject to reasonable regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. All structures will be hidden from view whenever reasonable by vegetation and/or joined or clustered to avoid adverse visual impacts.

All Solar Panels shall be screened from view by vegetation and in place prior to issuing the Certificate to Generate for the system. Such screening shall be provided in the required setback areas where existing vegetation setbacks is insufficient for year-round screening. Screens shall consist of evergreen vegetation 1.5 times the height of the highest solar panels. Berms or other methods to adequately screen the facility, depending on site specific conditions may be considered. Screen shall be maintained and replaced as necessary by the owner/operator of the solar energy system.

20.3.10.2 Land Clearing, Soil Erosion and Habitat Impacts

Add: to section title – Screening Requirements

To Read: 20.3.10.2 Land Clearing, Soil Erosion, Habitat Impact, Screening Requirements

20.3.11 Delete existing wording of section.

~~Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the large-scale ground-mounted solar photovoltaic installation or otherwise prescribed by applicable laws, regulations, and the Town's Zoning Bylaws.~~

Replace with:

a) Land Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the solar energy systems or otherwise prescribed by applicable laws, regulations, and bylaws. Existing vegetation shall remain in required setback areas except where such vegetation would shade the solar energy system. However, in no event shall clearing of existing vegetation in setbacks exceed half the required setback width. Adequate erosion control measures shall be provided for all proposed land clearing.

b). Protection of Natural Resources and Habitat - Large-scale ground-mounted solar energy systems shall be designed to minimize impacts to agricultural and environmentally sensitive land and to be compatible with continued agricultural use of the land whenever possible. Access driveways shall be constructed to minimize grading, removal of stone walls or roadside trees, and to minimize impacts to environmental or historic resources.

c). Screening/Buffering: Large-scale ground-mounted solar energy systems shall be screened year round from all adjoining properties in all zoning districts and from public and private ways. Screening will be in place prior to issuing the Certificate to Generate in all zoning districts. Such screening shall be provided in the required setback areas and where existing vegetation in setbacks is insufficient for year-round screening purposes. The screen shall consist of dense evergreen vegetative screening 1.5 times the height of the highest solar panels. Berms or other methods to adequately screen the facility, depending on site specific conditions may be considered. Screen shall be maintained and replaced as necessary by the owner/operator of the solar energy system.

To: 20.4 Certificate to Generate

Add: The Planning Board may revoke the "Certificate to Generate" for cause after a public hearing.

To Read:

20.4 Certificate to Generate

No solar facility may sell or distribute generated power until all conditions of the issued permit and requirements of this by-law are approved and certified at a meeting of the Planning Board, and the "Certificate to Generate" is issued and recorded in the Worcester County Registry of Deeds.

The Planning Board may revoke the "Certificate to Generate" for cause after a public hearing.

Add: **20.5 Reporting Requirements**

The owner of the solar installation shall provide a report to the Planning Board in January of each calendar year with the following information: total amount of electricity generated, major maintenance performed; planned or actual major system modifications; change of ownership; changes to bond amounts.

Planning Board Chairman Vincent Ritchie read a written report on the Zoning Bylaw changes being proposed recommending that Town Meeting adopt the proposed changes to the Use of Large-Scale Solar Photovoltaic Installations bylaw, changes to Wireless Communication Facility bylaw proposed under Article 6, and the bylaw proposed under Article10 on Commercial Marijuana Establishments.
2/3 Vote Required **Vote on Article 5: Motion Carries; Yes- 146, No-4**

ARTICLE 6. **Motion, Daniel Galante,** that the Town vote to amend Article 18 Wireless Communication Facility of the Hubbardston Zoning Bylaws as follows;
*Deletions shown by ~~strikethrough~~ and insertions shown by **bold** as follows:*
Section 18.6.2 Filing Requirements
c. Construction
6. Change "~~A bond~~" to "**A cash surety**"
2/3 Vote Required
Second: Michael Stauder **Vote: Motion Carries; Yes-147, No-3**

ARTICLE 7. Motion, Jeffrey Williams, that the Town vote to amend the Hubbardston General Bylaws by adding the following new section to establish and authorize revolving funds for use by certain town departments, boards, committees, or officers under Massachusetts General Laws Chapter 44, Section 53E1/2.
Second: Michael Stauder

[Recommended placement: Chapter IV Financial Year & Finances, Section 6. Departmental Revolving Funds]

SECTION 6. Departmental Revolving Funds

A. Purpose

This bylaw establishes and authorizes revolving funds for use by town departments, boards, committees and officers in connection with the operation of programs or activities that generate fees, charges or other receipts to support all or some of the expenses of those programs or activities. These revolving funds are established under and governed by General Laws Chapter 44, §53E1/2.

B. Expenditure Limitations

A department head, board, committee or officer may incur liabilities against and spend monies from a revolving fund established and authorized by this bylaw without appropriation subject to the following limitations:

1. No liability shall be incurred in excess of the available balance of the fund.
2. The total amount spent during a fiscal year shall not exceed the amount authorized by Annual Town Meeting on or before July 1 of that fiscal year, or any authorization that is later approved during that fiscal year by the Board of Selectmen and Finance Committee.
3. Fringe benefits of full-time employees whose salaries or wages are paid from the fund shall also be paid from the fund.

C. Interest

Interest earned on monies credited to a revolving fund established by this bylaw shall be credited to the general fund.

D. Procedures and Reports

Except as provided in General Laws Chapter 44, §53E1/2 and this bylaw, all applicable state and local laws and regulations that govern the receipt, custody, expenditure and payment of town funds shall apply to the use of revolving funds established and authorized by this bylaw.

E. Authorized Revolving Funds

Fund	**Authorization By**	**Revenue Source**	**Use of Fund**
Con Com Fund	Conservation Commission	Receipts from fees for site inspections and plan review	Payment to member performing site inspection and expenses relating to such inspections or plan review
DPW Temporary Driveway Fund	DPW Director	Charges and fees collected by the DPW upon payment of permit fees for temporary driveway applications	Expenses associated with road repairs made necessary by the temporary driveway installation.
Gas Fund	Gas Inspector	Gas Permit Fees and Applications	Pay inspector for inspection services
Grave Fund	Cemetery Commissioners	Payments for grave openings	Payment to party hired to open grave
Haz Mat Fund	Fire Chief	Service charges for clean-up and disposal of hazardous materials	Expenditures related to clean-up and disposal of hazardous materials

Hazardous Building Demolition Fund	Board of Health and the Building Department	Reimbursement from property owners for demolition of hazardous buildings	Payment of expenses associated with the demolition of hazardous buildings and related clean-up of underlying property
Hubbardston Special Events Fund	Town Administrator	Donations, sale of promotional items and other sources	Payment of the costs associated with organizing and hosting various special community celebratory events throughout the year
Late fee Dog License Fund	Town Clerk	Fees for late licensing of dogs and kennels	Payment of costs associated with the regulation of dogs, including ACO capital expense.
MART Transportation Management Fund	Executive Admin Assist	MART Reimbursement	Payment of costs associated with the supervision and operation of the MART Transportation
Open Burn Fund	Fire Chief	Receipts for fees for open burning	Payment of expenses related to fighting brush fires in town, including payment of part-time wages, forest firefighting equipment and other costs of fighting such fires
PEG Access	Cable Advisory Committee	License Fees from Cable TV providers	Expenses associated with providing recording and broadcasting of town meetings, events, and other costs associated with cable access.
Planning Board Fund	Planning Board	Site Plan Review**,** Site Inspection Fees, Special Permit & Subdivision and Application fees.	Expenses related to Site Plan Review, Special permit, Subdivision Applications and Zoning Bylaw & Subdivision Regulations revisions, Training, Consultants, and Administrative support.
Plumbing Fund	Plumbing Inspector	Plumbing Permit Fees and Applications	Pay inspector for inspection services
Public Records	Town Clerk	Charges and fees collected upon payment of public records fees.	Expenses associated with providing public records, and other costs associated with public records requests.
Recycling Fund	Board of Health	Fees collected for use of center and drop-off of recyclables	Costs associated with programs and facilities needed to recycle materials, including employee wages
Septic Fund	Board of Health	Fees for septic system plan review, agent inspections, and perc tests	Payments to septic system plan review engineers and to agents witnessing perc tests or

			performing inspections
Tax Title Collection Fund	Treasurer/Collector	Charges and fees collected upon redemption of tax titles or sales of property	Expenses associated with making a tax taking and to pay out of pocket expenses incurred in connection with a redemption or tax title foreclosure proceeding.
Vaccine Administration Account	Board of Health	Fees, health insurance reimbursements and receipts for vaccine related services	Payments for vaccine, supplies, and services deemed necessary by the Board of Health
Wiring Fund	Wiring Inspector	Electrical Permit Fees and Applications	Pay inspector for inspection services and clerical wages

Vote on Article 7: Motion Carries; Majority Affirmative Vote

ARTICLE 8. Motion, Daniel Galante, that the Town vote to amend the Hubbardston General Bylaws by adopting under Chapter I, General Provisions, a new Section 7, as follows:

Section 7. Authorization for Numbering
With the approval of the Town Administrator, the Town Clerk is authorized to correct internal cross-references and assign appropriate alphanumeric references to chapters, articles, sections, subsections, paragraphs and subparagraphs of the Hubbardston General and Zoning Bylaws where none are approved by Town Meeting and if such are approved by Town Meeting, to make non-substantive editorial revisions to ensure consistent and appropriate sequencing and numbering.
Second: Jeffrey Williams **Vote: Motion Carries; Unanimous Affirmative Vote**

ARTICLE 9. Motion, Daniel Galante, that the Town vote to amend the Hubbardston General Bylaws by adopting a new Section 4 under Chapter XVI Streets and Sidewalks as follows:

Section 4: Removal of Snow and Ice from Sidewalks

Section 4.1 Time Period
The owner of any real property that abuts any sidewalk shall remove any and all accumulation, whether natural or otherwise, of snow and/or ice within 24 hours of the end of the precipitation that caused the accumulation. If the snow and/or ice has accumulated other than by precipitation, it shall be removed within 24 hours of its accumulation on such sidewalk. In order to comply with this bylaw, all sidewalks shall be cleared to the surface of the sidewalk, or, where it is impracticable to do so, the sidewalk shall be treated with sand or otherwise. It is the express intent of this bylaw to assure safe and convenient access on sidewalks to all travelers, including those with disabilities and/or mobility impairments, including people who use wheelchairs.

Section 4.2 Penalty
Any owner of real property who violates Section 4.1 of this bylaw shall pay a fine of ten dollars ($10). Each 24-hour period in which snow and/or ice is not removed or treated as provided herein shall constitute a separate offense. No prosecution or other proceeding hereunder shall be commenced more than 60 days from the violation. The provisions of this bylaw may be enforced by the Hubbardston Police Department through the non-criminal disposition method as provided in M.G.L. Ch. 40, Sec. 21D.

Section 4.3 Additional Penalty

In addition to the remedies provided in section 4.2 of this bylaw, the Board of Selectmen in its discretion, may, after due notice to the owner of the real property and an opportunity to be heard, perform otherwise cause the clearing or treating of snow and/or ice to be performed, and recover from said owner the expense therefore that shall not exceed five hundred dollars ($500). Such expenses shall constitute a municipal lien against the real property as provided in M.G.L. Ch. 40, Sec. 58.
Second: Patrick Girouard

Moderator Leonard called on DPW Director, Travis Brown, to speak to Article 9 and answer questions.

Motion to Amend: Alicia Muck, amend Article 9 to apply to sidewalks that are a minimum of one foot from the roadway.
Second on Motion to Amend: Catherine Hansgate

Vote on Motion to Amend: FAILS; Majority Negative Vote

Vote on Article 9: MOTION FAILS; Majority Negative Vote

At this point it was 7:40pm and the Moderator asked the meeting if they wished to continue with the last 2 articles in the Special Town Meeting or start the Annual Town Meeting and go back to the Special at the conclusion of the Annual. It was clear that voters wanted to continue with and finish the Special Town Meeting prior to starting the Annual Town Meeting and therefore, the Moderator proceeded.

ARTICLE 10. Motion, Daniel Galante, that the Town vote to amend the Hubbardston Zoning Bylaws by adding Article 22 Commercial Marijuana Establishments as follows:
Second: Jeffrey Williams

Article 22
Commercial Marijuana Establishments

Sections

22.1 Purpose
22.2 Definitions
22.3 General Requirement
22.4 General Zoning Districts
22.5 Procedure for Obtaining a Marijuana Establishment

22.1 Purpose
The purpose of this bylaw is to ensure safe access to the growing, distribution, and sale of Marijuana in the Town of Hubbardston. No Marijuana establishment shall impinge on any property owner's right to freedom of noise, odor, light pollution, or to the natural, scenic, historic and aesthetic qualities of their property.

22.2 Definitions
All definitions in MGL Chapter 94G Sections 1 Definitions and 935CMR 500.000 Adult Use of Marijuana Section 500.002 Definitions are made part of this bylaw.

22.3 General Requirements
All Marijuana Establishments including cultivating, retail sales, product manufacturing, independent testing laboratory, or any other type of marijuana type establishment shall be in conformance with Massachusetts General Law 94G, 935 CMR 500.00 Adult use of Marijuana. The Planning Board shall be the permit granting authority. The enforcement authority of this bylaw shall be the Building Inspector and or Planning Board.

22.4 General Zoning Districts for Marijuana Establishment
Marijuana Establishments as described in MGL 94G and 935 CMR 500.00 shall be allowed in the following districts after the applicant has been approved by the Cannabis Control Commission.

***22.4.1 Marijuana Establishment allowed by Right in Residential District: [Amended on the floor by changing "Right" to "Special Permit"]**

Outdoor Marijuana cultivation establishments licensed for Tier 1 (up to 5,000 sf).

22.4.2 Marijuana Establishment allowed by Special Permit in Residential District:
Outdoor Marijuana cultivation establishments licensed for Tier 2 (between 5001 and 10,000 sf) by Special Permit.

22.4.3 Marijuana Establishment allowed by Special Permit in the Town Center District
Outdoor Marijuana cultivation establishments licensed for Tier 1 (up to 5,000 sf) by Special Permit.

22.4. Marijuana Establishment allowed in the Commercial District by Special Permit.
All Marijuana Establishments as defined by MGL 94G are allowed by Special Permit.

22.5 Procedure for obtaining any Marijuana Establishment Licenses

22.5.1 Conduct a Community Outreach Hearing

22.5.1.1 The Planning Board will hold a joint Community Outreach Hearing with Hubbardston Board of Selectmen. All costs associated with this hearing shall be paid for by the applicant.

22.5.1.2 The Outreach Hearing shall be advertised twice in (14) days period prior to the hearing in the Gardner News and posted on the town website.

22.5.1.3 A copy of the notice filed with the Town Clerk, Planning Board, Board of Selectmen, Board of Health, building inspector and Police Chief.

22.5.1.4 A copy of hearing notices must be sent to abutters within 300' of the proposed Marijuana Establishment by registered mail.

22.5.1.5 The content of the hearing shall include discussion of type of Marijuana establishment to be located, security information, steps taken by applicant to prevent diversion to minors, plan for positive community impact, information to demonstrate location will not be a nuisance.

22.5.1.6 The applicant is required to answer questions from the community members.

22.5.2 Enter into Host Community Agreement. (HCA)

After the hearing the applicant shall make application to the Board of Selectmen for a Host Community Agreement with the Town of Hubbardston. The HCA will follow MGL 94G and 935CMR 500.000 Adult Use of Marijuana.

22.5.3 Certify compliance with local zoning, including buffer zone requirement.

After the Host Agreement has been executed between the Board of Selectmen the applicant will meet with Planning Board to review a general site plan to show that the proposal conforms to the zoning and buffer zone requirements. If the zoning and buffer zone requirements are in compliance with Town of Hubbardston Zoning the Planning Board will vote to a send letter to Cannabis Control Commission that the proposed Marijuana establishment is in compliance with zoning and buffer zone requirement.

22.6 Final Approval

After Cannabis Control Commission has contacted the town that the application is complete the applicant, if required by zoning, must apply to the Planning Board for a Special Permit for Marijuana Establishment per Articles 7, 8, 9 and 21 of the Hubbardston Zoning Bylaw.

Discussion: Planning Board Chair Vincent Ritchie noted that our Temporary Moratorium on Marijuana will expire on June 30, 2018 and recommended passage of this bylaw as a means to regulate marijuana establishments that may want to locate in Hubbardston.

Motion to amend: Vincent Ritchie, to amend Section 22.4.1 by changing the word "Right" to "Special Permit."
Second: Thomas Bratko
Vote on Motion to Amend: Motion Carries; Majority Affirmative Vote

2/3 Vote Required **Vote on Article 10: Motion Passes; Yes-142, No-9**

ARTICLE 11. Motion, Daniel Galante, that the Town vote to amend the Hubbardston Zoning Bylaws with respect to Marijuana establishments by making deletions and insertions to Sections as follows:
Second: Jeffrey Williams

Changes to Article 2 Definitions

Add to index list:
2.39 Commission
2.40 Marijuana Establishment

Add 2.39 Commission
The Cannabis Control Commission established by Section 76 of Chapter 10 of the Massachusetts General Laws.

Add 2.40 Marijuana Establishment
Marijuana Establishment means a Marijuana Cultivator, Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Retailer, Independent Testing Laboratory, Marijuana Research Facility, Marijuana Transporter, or any other type of licensed marijuana-related business, except a medical marijuana treatment center.

Changes to Article 4 – Use Regulation

Add the following to Article 4.1 Use Permitted by ~~Right~~ **Special Permit** in Residential District [Amended to reflect amendment voted to Article 10]

q. Outdoor Marijuana cultivation establishments licensed for Tier 1 (up to 5,000 sf). (subject to Article 22)

Add the following to Article 4.2 Use Permitted by Special Permit in Residential Districts

n. Outdoor Marijuana cultivation establishments licensed for Tier 2 (between 5001 and 10,000 sf). (subject to Article 22)

Add the following to Article 4.3.1 Use Permitted by Special Permit in the Town Center District

c. Outdoor Marijuana cultivation establishments licensed for Tier 1 (up to 5,000 sf) by special permit. (subject to Article 22)

Add the following to Article 4.5 Use Permitted by Special Permit in Commercial Districts

g. All Marijuana Establishments as defined by MGL 94G are allowed by special permit. (subject to Article 22)

2/3 Vote Required **Vote on Article 11: Motion Carries; Yes-149, No-2**

Seeing no further business before the meeting, the Moderator adjourned the Special Town Meeting at 7:52pm with the intention to immediately convene the Annual Town Meeting.

Respectfully Submitted,

Joyce E. Green (Town Seal)
Town Clerk