

## SECTION XX: EARTH REMOVAL

1. Purpose. The purpose of this bylaw is to regulate the removal of earth materials in a manner that maintains the rural-agricultural character of the Town while permitting landowners to make reasonable and responsible use of their property without having a significantly adverse impact on neighbors, the environment, and the roads and infrastructure of the Town. Upon completion of the removal of earth materials, all disturbed areas shall be graded and re-vegetated and the land shall be in reasonable condition for the uses allowed in the zoning district in which the land is located.
2. Earth Materials. As used in this bylaw, earth materials include but are not limited to loam, topsoil, sand, gravel, clay, glacial till, silt, rocks, boulders, and ledge.
3. Applicability. This bylaw applies to the removal of earth materials from land in any zoning district with the following exceptions:
  - A. Incidental removal of no more than 400 cubic yards in connection with:
    - (i) Excavation for buildings and structures for which a building permit has been issued;
    - (ii) Excavation and site work for driveways and parking areas;
    - (iii) Excavation for installation or replacement of septic systems; and
    - (iv) Excavation in connection with landscaping
  - B. Road construction by the Town or the Commonwealth.
  - C. Road construction or site preparation pursuant to an approved plan for a subdivision.
4. Requirements.
  - A. Site Plans. An application for a special permit for removal of earth materials shall include before and after site plans prepared by a registered land surveyor with two foot contour intervals for the entire area from which the applicant seeks to remove earth materials. The site plans shall address the following:
    - (i) No earth materials shall be removed to a grade below street level within 50 feet of the edge of the property line next to the street unless the Planning Board specifically finds that such lower grade is consistent with the purpose of this bylaw.
    - (ii) No final slope shall be created steeper than 1:3 unless the Planning Board specifically finds that such steeper slope is consistent with the purpose of this bylaw.
    - (iii) No earth materials shall be removed within 50 feet of adjacent property unless the Planning Board specifically finds that such removal is consistent with the purpose of this bylaw.
    - (iv) Except when earth materials are removed in connection with the creation of a pond in accordance with permits from the Conservation Commission and the Commonwealth, there shall be a minimum of six feet between the bottom of the proposed excavation and the spring high water table.
    - (v) The site plans shall show the location of any temporary structures, and the location of access for vehicles and equipment used during earth removal operations.

- B. Operational Plans. An application for a special permit for removal of earth materials shall include an operational plan that addresses the following:
- (i) Operating only during week days between the hours of 8:00 a.m. and 4:00 p.m., unless the Planning Board specifically finds that different days and hours of operation are consistent with the purpose of this bylaw.
  - (ii) Visually screening operations from adjacent residences.
  - (iii) Phasing of earth removal, grading and re-vegetation so that no more than three acres shall be exposed and worked at one time.
  - (iv) Stockpiling of top soil and loam.
  - (v) Grading and re-vegetation upon the completion of each phase.
  - (vi) Drainage, erosion and siltation control.
  - (vii) Dust control on the site, and on the first 500 feet on the route taken by trucks when leaving the site.
  - (viii) Type and size of equipment to be used on site and to haul earth materials from the site
  - (ix) Measures to shake loose earth materials from trucks before leaving the site.
  - (x) Proposed routes that trucks will follow when hauling earth materials from the site.
  - (xi) Daily number of trips by trucks hauling earth materials.
- C. Applicants are encouraged to meet informally with the Planning Board prior to applying for a special permit for removal of earth materials. The purposes of a pre-application review are to minimize the applicant's costs for engineering and other technical experts and to solicit guidance from the Planning Board at an early stage in the planning and permitting process. For smaller projects, the Planning Board in its discretion may make reasonable modifications in the information required for site plans and operational plans provided that such modifications are consistent with the purpose of this bylaw.
- D. Except in a business-industrial district, no screening or crushing of earth materials shall be allowed on site.
- E. Explosives shall not be used in earth removal operations unless the Planning Board specifically finds that such use of explosives is necessary and is consistent with the purpose of this bylaw.
- F. No top soil or loam shall be removed from the site unless the remaining stockpiled top soil and loam is sufficient to provide a minimum of 6" of top soil and loam to spread over the disturbed areas for re-vegetation.
- G. The applicant shall post a bond of \$10,000, or such other amount as the Planning Board may determine is reasonably necessary, as surety for the implementation of the plans and the grading and re-vegetation of the site following the conclusion of removal of earth materials. Upon a determination by the Building Inspector that removal has ceased and that the site has been graded and re-vegetated in accordance with the plans, the bond shall be released.
- H. In addition to the Town special permit filing fees, the applicant may be required to pay the reasonable fees for professional review of the applicant's proposal by a registered engineer, registered landscape

architect, or other qualified professional retained by the Planning Board to review the applicant's plans.

5. Procedures.

- A. Prior to the commencement of earth removal operations, the applicant shall obtain a special permit from the Planning Board acting as the special permit granting authority pursuant to M.G.L. Ch. 40A sec. 9. The Planning Board shall review the application and the plans, and shall request advice and comments from the Highway Superintendent as to the likely impact of the plan on the roads and infrastructure of the town. The Planning Board may request advice and comments from other Town boards.
- B. The Planning Board may impose reasonable conditions to insure that the proposed removal of earth materials is consistent with the purpose of this bylaw.
- C. A special permit to remove earth materials shall be valid for one year and may be extended without a public hearing for successive one year periods upon a determination by the Planning Board that the removal operations have been conducted in accordance with the approved plan. A special permit shall not be extended if there has been no removal of earth materials for two years.
- D. After plans for removal of earth materials have been approved, there shall be no material deviations from the approved plans without written approval from the Planning Board which may require a public hearing.
- E. The Building Inspector shall enforce this bylaw and any special permit issued or extended pursuant to this bylaw.

*(Adopted at the Annual Town Meeting May 12, 2015)*

Amendments and Adoptions approved as indicated.

A true copy, ATTEST:

Lynne F. Grettum,  
Town Clerk

May 2015