

SOIL REMOVAL REGULATIONS

Note: These regulations supplement the Town By-law as amended in 2000 and approved by the Attorney General in 2001. These regulations are intended to be a guideline for the issuance of soil removal permits and the standards to be followed by permit holders.

1. The application fee for a Soil Removal Permit shall be \$100.00.
2. The Board of Selectmen shall refer all engineered plans and calculations for soil removal permits for removing in excess of 5,000 cubic yards per year to an independent consultant for review. In addition to checking the calculations for the volume of soil to be removed, the consultant shall also check the adequacy of the protocols, demarcation and delineation for:
 - Groundwater testing;
 - Total land area to be disturbed;
 - Contours showing existing and proposed elevations and/or contours at two foot intervals;
 - Symbols for sediment and erosion control practices including detail and elevation;
 - Existing and proposed roadways;
 - Wetland areas;
 - 100-year flood plain;
 - Street profiles showing proposed grades and elevations;
 - Proposed storm drainage systems;
 - Bodies of water; including streams, rivers, lakes and ponds, within 100 feet of the proposed activity;
 - A description of construction activities, in sequence, which specifies the expected date of soil stabilization and completion;
 - Temporary and permanent soil erosion and sediment control measures; Temporary and permanent seeding and other vegetative controls; Vegetation clearing and specimen trees to be saved.
3. The Selectmen may appoint a Site Agent to be responsible for each Soil Removal permit. All communications regarding these Regulations and any special terms and conditions of a Soil Removal permit shall be directed to the Site Agent. The Agent shall have authority to issue a limited or total Cease and Desist Order and directives to take any necessary immediate remedial action for work on or off the site until a hearing before the Board of Selectmen can be arranged.

4. The permit holder may request a hearing before the Board of Selectmen to dispute any and all orders issued by the Site Agent. Until any such hearing, all orders issued by the Site Agent shall remain in full force and effect.
5. The Site Agent, with the approval of the Board of Selectmen, may secure necessary professional assistance or services. The cost of the Site Agent, consultants, road repair and reconstruction, and/or any professional services required will be funded from soil removal fees.
6. If soil is to be removed, transported, and deposited entirely within the Town, the quantity and point of delivery shall be reported in writing in advance to the Site Agent, with a copy to the Selectmen's Office for inclusion in the current permit file.
7. All permits expire annually on the 31st of December.
8. The permit holder must abide by all Orders of Conditions, permits and requirements issued or imposed with respect to the subject property by the Town's Boards, Commissions, or Departments. It is the responsibility of the applicant for a soil removal permit to obtain all required renewals of such Orders, permits and approvals that relate to the proposed soil removal operations.
9. The permit holder shall take all required precautions to ensure that soil removal activities occurring outside areas subject to Orders of Conditions of the Conservation Commission shall not affect those areas subject to the Orders of Conditions.
10. For all renewal permits in excess of 5,000 cubic yards, periodic engineered plans shall be required by the Board of Selectmen showing;
 - What has occurred on site during the past year and
 - What may take place in the coming years.

For all renewal of permits for less than 5,000 cubic yards, the time interval for engineered plans shall be three years.

11. Unless otherwise specified, no more than one third of a site or 5 acres, whichever is less, may be disturbed at any one time. The Selectmen may further require that the work be performed in phases, in order to correspond to applicable development phasing established by the Planning Board. Once a phased area is excavated, its restoration shall be commenced simultaneously with the beginning of the excavation of the next phased area. A Restoration Plan shall be submitted and approved prior to excavation. Restoration shall include grading, topsoiling (minimum 6 inches), and seeding with an erosion-control seed mixture, providing a permanent stabilization

surface on any disturbed area. Sufficient topsoil, if originally present on site, shall be retained on site for this purpose. If additional material is needed, the permit holder shall provide it.

12. Upon completing excavation, the site shall be finally graded, loomed, and seeded in accordance with the Restoration Plan noted in Item #11 above.
13. The Site Agent and other Departments are to be invited on site before work starts and any material is removed, in order to review the plan of work with the permit holder. The Site Agent shall verify that the area to be excavated is properly and securely staked. Likewise, the Public Works Director is to be notified, in order that he may ensure that there will be no erosion or run-off into the public ways. The Site Agent and Department representatives will visit the site periodically throughout the year to ensure that the permit holder is adhering to the plan.
14. The property owner, in the application for a Soil Removal Permit, shall provide the Town with the route to be followed by trucks hauling soil from the site. The route is subject to the approval of the Public Works Director.
15. Hours of operation shall be Monday through Friday between the hours of 7:00 a.m. and 5:00 p.m. This does NOT mean that "make ready" can begin earlier than 7:00 a.m. or that clean-up can run later than 5:00 p.m. All soil removal operations on the site, including the start-up of equipment, the entry of trucks, and end-of-day shutdown, are confined to the stated hours of operation.
 - If, when school is in session, soil removal hauling, is to occur on roads less than 24 feet in width, it shall not be conducted when school buses are in operation on the prescribed route.
 - There shall be no activity of any trucks or equipment to or from the site prior to or after the prescribed hours.
 - No soil removal operations shall be conducted on weekends
 - No soil removal operations shall be conducted on State holidays.
16. Removal operations are to be conducted and hauling is to be done solely by parties identified in the application, or thereafter in writing, as contractors, or sub-contractors of the permit holder. No soil removal operations shall commence until such a list is submitted to the Selectmen's Office.
17. The permit holder shall comply with any road restrictions that may be imposed by the Public Works Director. Dust levels and the requirement to water down the work area and the roadway adjacent to the work site shall be subject to the supervision of the Public Works Director.

18. Loads are to be covered in conformance with State requirements or trucks will be stopped.
19. Noise from soil removal operations shall be limited to a level that will not disturb a reasonable person at the property line or affect the normal use of adjacent property. The Board of Selectmen shall have the right to require the use of muffling devices on equipment used in removal operations and the right to require permit applicants to demonstrate, by technical evidence or testimony from an acoustic engineer or consultant, the level of noise likely to be provided by removal operations.
20. No screening operations shall be conducted on site without the express approval of the Board of Selectmen.
21. No soil removal operations shall be conducted within 100 feet of a property line as measured from the top of slope of excavation. Any displacement of an abutter's property, failure of a retaining wall, or other effect arising out of soil removal operations shall be remedied, repaired, or replaced promptly, if due to the activity of the permit holder or his contractor or sub-contractor.
22. The area on which removal operations are being conducted, except where the topography remains in its natural state, shall be graded and sloped one foot on the vertical and two feet on the horizontal daily, unless work is going to continue in that area or foundation forms will be installed promptly. This provision applies to houselots and to the shoulders where roads are to be constructed.
23. At no time will excavation be allowed to intercept the groundwater table. If water breakout or ponding occurs on site, or if there is excavation within one hundred (100) feet of wetlands which have been created by seepage, the Site Agent must be notified immediately.
24. In no event shall the excavation go below a point of eight (8) feet above the level of the established water table. The Selectmen may make exceptions to this requirement when the creation of a pond is contemplated in conjunction with the soil removal activity and when necessary permits have been secured. This shall be determined by an appropriate professional in March or April and certified to the Selectmen's Office for inclusion in the permit file. Any requirement to re-test from year to year shall be at the discretion of the Board of Selectmen.
25. Any soil removal proposed to take place in Zone II aquifer protection areas shall require the approval of the Shirley Water District.

26. The Town may require a Performance Bond, securing performance in accordance with the permit and completion of all work required by the Restoration Plan, to be posted with the Town Treasurer by the permit holder before the permit can become valid.
27. The entrance to the site to be excavated must be secured as determined by the Site Agent (i.e., chain, gate, etc.) during the hours of non-operation.
28. Stumps and slash may not be disposed of within the soil removal area except with the permission of the Board of Health.
29. The Board of Selectmen may amend or grant waivers from these Regulations. These Regulations shall not apply to soil removal operations of less than 5,000 cubic yards per year unless specifically stated in the soil removal permit, but the Selectmen may impose Terms and Conditions upon such operations consistent with these Regulations.
30. The penalty that may be imposed for a violation of the Soil Removal By-law, these regulations, and the terms and conditions of any soil removal permit that is issued may total \$300.00 for each day of a continuing occurrence, in accordance with the provisions of the Soil Removal By-law and these Regulations.