



TOWN OF BOXBOROUGH, MASSACHUSETTS

PLANNING BOARD

EARTH REMOVAL RULES AND REGULATIONS

PURPOSE: Pursuant to the Earth Removal By-Law of the Town of Boxborough, the following rules and regulations have been adopted by the Boxborough Planning Board for the purpose of defining in detail the conditions which must be met and/or complied with by each permittee restoration site.

1.0 ADMINISTRATIVE REGULATIONS

- 1.1 Each permit shall become effective when all of the following conditions have been met:
  - 1.1.1 The applicant has provided surety as required in Section 1.10.
  - 1.1.2 The permit fee in accordance with 1.3 has been paid to the Town of Boxborough.
  - 1.1.3 The permit has been signed by the Planning Board.
- 1.2 All permits shall be issued annually. All permits will expire at 5:00 P. M. on December 31, of the calendar year, unless sooner revoked, cancelled or suspended.
- 1.3 An annual permit fee shall be paid. The fee is to be a minimum of \$2500 for the five or fewer acres to be under operation, with \$500 for each additional acre to be under operation up the maximum of ten acres. The fee is designed to contribute to the Town's costs arising out of an Earth Removal Land Surveyor or Registered Professional Engineer for consultation to the Planning Board.
- 1.4 The Planning Board may at any time revoke, cancel or suspend a permit for violation of any of these regulations or the Earth Removal By-Law of the Town of Boxborough, and such revocation, cancellation or suspension shall be effective upon mailing of written notice by the Planning Board to the address of the permittee as it appear on the permit.
- 1.5 The permittee shall notify the Planning Board of any change of address.
- 1.6 Each permit shall be issued only to the named permittee. Neither the permit nor the obligations of the permittee under the permit shall be transferred or assigned.

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- 1.7 Each permit shall be revoked and cancelled immediately upon transfer of ownership of the property to anyone other than the owner named in the permit. In addition, the permittee shall give written notice to all persons or corporations dealing or contracting with the permittee in connection with the removal of earth under this permit of all terms and conditions therein and shall be responsible for and liable to the Town of Boxborough, acting by its Planning Board, for all actions and defaults.
- 1.8 The permittee will hold the Town of Boxborough, its agents, officers and employees harmless and indemnified from any and all claims, demands, suits, damages, costs and expenses that any person may have or that may arise in any manner out of or collateral to its operation in connection with the permit.
- 1.9 The Planning Board or any member thereof, or the Board of Selectmen and employees of the Town of Boxborough, may enter upon the subject area from time to time for the purpose of viewing the work site and determining whether the permittee is complying with the terms and conditions of the permit. Such entry shall not be deemed a trespass or unlawful entry.
- 1.10 The permittee shall furnish to the Town of Boxborough as surety, for its performance of the requirements of this permit, a bond in the amount to be calculated in accordance with the Earth Removal By-Law at \$5,000 per acre; \$10,000 to be posted in cash, bank book, certified check, certificate of deposit or similar negotiable surety; and the balance in bond form suitable to the Planning Board. The Town of Boxborough shall be named as obligee and the bond shall be held by the Town of Boxborough and shall remain in force until such time as the Planning Board determines and certifies in writing that all the terms and conditions of the permit are or have been complied with. Any sooner expiration of the bond shall cause this permit to be revoked and cancelled immediately.

### 2.0 OPERATION PROVISIONS

- 2.1 The excavation and removal of earth from the land defined in the permit shall be restricted to the hours of 7:30 A.M. to 5:00 P.M. daily. No earth is to be excavated or removed on Saturdays, Sundays or Massachusetts legal holidays. These hours of operation may be altered only upon written authorization of the Planning Board.
- 2.2 The permittee will excavate and remove only such amount of earth as is necessary to reach grade levels as shown by the finished grade levels indicated on the plan submitted with the permittee's application and attached hereto. In no event shall the permittee excavate below the specified grade levels. The permittee will not remove loam or sod from the site but will stockpile the same in the course of excavation for use in the restoration process.
- 2.3 The Planning Board and permittee will agree upon the division of the earth removal area into segments, each approximately 5 acres in area, and will number each segment

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according to the proposed sequence of excavation, all of which is to be noted on the plan submitted with the application. Excavation will proceed according to his established sequence. The sequence may be altered only with prior written authorization of the Planning Board.

- 2.4 Only the area equivalent to two contiguous segments may be under operation at one time. This shall be defined as the operational area and is limited to ten (10) acres. Within the operational area the permittee may clear, grub and strip the entire area. However, the earth removal process shall be limited to an area equivalent to one segment (approximately 5 acres). The active earth removal process shall at no time allow earth removal to occur below the finished grades established for the operational area on the attached plan, nor outside the area approved by the Planning Board.
- 2.5 Before the permittee can proceed to the next contiguous segment approved by the Planning Board as an operational area, the permittee must comply with Paragraph 3.2, hereof.
- 2.6 All loads of earth hauled from the subject area shall be covered and shall be transported so as to avoid spillage and creation of dust and dirt conditions on the public ways.
- 2.7 The prior written permission of the Planning Board shall be required in addition to other required permits before the permittee may place or allow to be placed or erected on the subject area any structure or building, for the purpose of processing sand or gravel or for any other purpose.
- 2.8 A buffer zone shall be maintained in an undisturbed condition with a minimum depth of 50 feet from and along the entire perimeter of the property covered by this permit. However, in a wetlands zone the buffer zone will be 100 feet wide, beginning at the edge of the wetlands.
- 2.9 The permittee shall keep the area of excavation at all times in a stable condition and free from conditions that could cause an embankment cave-in. (Compliance with this provision shall be determined by the condition of the area at the cessation of excavation each day.) Any violation of these provisions shall be cause for immediate revocation of the permit.

### 3.0 COMPLIANCE PROVISIONS

- 3.1 The permittee will provide observation wells, each having a 1 ½" minimum diameter plastic pipe to act as a piezometer, installed for the purpose of monitoring ground water levels. The number and location will be specified by the Planning Board. Readings of the water level at each well shall be taken and recorded by the permittee or its agent at thirty (30) day intervals for the duration of the permit, and shall be submitted to the Planning Board during the first week of each month. Readings at surface water observation points certified by a registered engineer or land surveyor

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- shall be taken at thirty (30) day intervals and shall be submitted with the well readings to the Planning Board. All wells and surface water observation points shall be located in accordance with the plan attached to the permit application and shall be certified as to true locations.
- 3.2 Upon completion of excavation and grading of each segment of the subject area, the permittee will furnish to the Planning Board a certificate of performance which shall be determined according to the plan attached to the permit application and said certificate shall be prepared and executed by a registered civil engineer or land surveyor, reciting that the grade levels, well sites and buried material on the plan are as specified, such certificate will be required to be delivered to the Planning Board before the permittee may proceed to the next operational area.
- 3.3 The certificate of performance above noted shall be in addition to and not in lieu of any requirement for final “as built” plan as required under the Earth Removal By-Law of the Town of Boxborough.

### 4.0 RESTORATION PROVISIONS

- 4.1 All stumps, boulders and other natural debris encountered in the excavation shall be covered over with a minimum of two (2) feet of soil prior to the “finishing” of the area according to the following provisions. The location of any such buried material shall be noted on the plan attached to the permit application and verified in the certificate of performance as specified in Paragraph 3.2.
- 4.2 On September 1 of the current year, all areas that have been brought to grade, and all other areas where no further earth removal is to occur, shall begin to be restored in accordance with these provisions. Such restoration is to be completed not later than October 15 of the current calendar year. Deviation from this period is not allowed except by written permission of the Planning Board.
- 4.3 Failure to achieve restoration results acceptable to the Planning Board will require the permittee to resow any vegetation during the period of April 15 to May 31 of the calendar year commencing on the day following the expiration of the permit, such restoration to be undertaken and completed whether or not the permittee holds an active permit for that calendar year.
- 4.4 The Planning Board will accept the restoration on behalf of the Town of Boxborough when a satisfactory stand of grass has been established to provide coverage evenly over the equal to at least 85 percent of the area in any 10-foot square test area that the Board may use for coverage measurement; minimum plant count shall be 100 plants per square foot, of which at least 60 shall be of persisting species. Sample areas shall be chosen to be representative of the grass stand as a whole.
- 4.5 The scope of the work preparatory to the acceptance in 4.4 will include without limitation: subgrade preparation for topsoil; rehandling and spreading stripped

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topsoil, including finish grading and compaction; provision for importing loam if required to achieve a depth of topsoil of 4 inches uniformly; application of lime; application of fertilizer, seed and wood fiber or hay mulch employing the hydroseeding spray method; and maintenance of seeded areas until acceptance.

4.6 The permittee must submit to the Planning Board at or before the time proposed for its inspection of the area: certified grass seed analysis from the seed supplier giving proportion of species, purity and germination; certification of the spray mix formula giving weights of seed, fertilizer and mulch per 100 gallons of mix; certified analysis of the proposed fertilizer.

4.7 Specification of components:

4.7.1 Seed. Except where special seed mixtures for erosion control are specified, grass seed shall be provided only from the previous year's crop; it shall comply with applicable Federal and State seed laws; seed shall be accompanied by a certificate indicating the mixture to be in the specified proportions, and of the purity, weed content and germination hereafter:

Species	Proportion	Germination (Min)	Purity (Min)
Kentucky 31 Tall Fescue	30%	85%	95%
Creeping Red Fescue	50%	85%	95%
Annual Rye Grass	15%	90%	98%
Red Top	5%	85%	92%
Weed Seed	Less than 1% by weight		

Application shall be at the rate of 200 lbs. per acre by hydroseeding or other means approved by the Planning Board in writing.

4.7.2 Lime. Lime shall be provided in the form of ground limestone, not less than 85% carbonated, ground to such a fineness that 50% will pass through a 100 mesh sieve and 90% will pass through a 20 mesh sieve. Coarser material shall be acceptable provided specified rates of application are increased proportionately on the basis of quantities passing the 100 mesh sieve test. The lime shall be spread and thoroughly incorporated into the two inches of the prepared soil at the application rate of two tons per acre, or to bring the average pH of the soil to a minimum of 6.5.

4.7.3 Fertilizer. Commercial 10-6-4 fertilizer conforming to the applicable state fertilizer laws shall be provided. It shall be uniform in composition, dry and free flowing and shall be delivered to the site in the original, unopened containers, each bearing the manufacturer's guaranteed analysis. Any fertilizer which becomes caked or otherwise damaged, making it unsuitable for use, will not be accepted. At least 40% by weight of the nitrogen contents of the fertilizer shall be derived from organic materials.

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Application shall be at the rate of 960 pounds per acre, prior to or as part of the hydroseeding process.

- 4.7.4 Wood fiber mulch or hay mulch. Where specified, provide commercial wood fiber mulch produced from clear, uncooked wood equal to what manufactured by Conwed or Wayerhauser Companies for use in landscape work or hay mulch, for seed protection and erosion control. Application by incorporation into the seed/water mixture for hydroseeding shall be at the rate of 1200 lbs. Per acre wood mulch, or 2400 lbs. per acre hay mulch.
- 4.7.5 Loam. Loam, whether stockpiled from the original stripping of the site or imported to the site, shall consist of natural loam topsoil, free from subsoil. It shall be of reasonable uniform quality, free from partially disintegrated stone, lime, cement, ashes, slag, concrete, tar residues, tarred paper, boards, chips, sticks, or any other undesirable material, It shall contain between 5.5 and 7.5 organic matter, and shall all (100%) be able to pass through a 2-inch screen.

### 5.0 EXEMPTIONS AND EXCEPTIONS

- 5.1 Operations under the Earth Removal By-Law, Paragraph III, Section A. The moving of earth under this section is exempt from the requirements of Sections 1, 2, 3 and 4 of these regulations.
- 5.2 Operations under the Earth Removal By-Law, Paragraph III, Section C.
- 5.2.1 The requirements of Sections 1, 2, 3 and 4 of these regulations shall not only apply to earth removal covered by this section of the by-law provided that the amount of earth to be removed from the site shall not exceed 1000 cubic yards in total. This exception shall be granted not more than once per calendar year per applicant.
- 5.2.2 In the event that the material to be removed exceeds 1000 cubic yards, then the Board may waive or modify those parts of these regulations as is appropriate to the scale of the operation.

The following schedule of fees shall apply:

Area of 0 to ¼ Acre to be excavated.....	\$125
Area of ¼ to ½ Acre to be excavated....	\$250
Area of ½ to ¾ Acre to be excavated....	\$375
Area of ¾ to 1 Acre.....	\$500

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APPROVED: March 5, 1981

BOXBOROUGH PLANNING BOARD:

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