

BOARD OF SELECTMEN

EARTH REMOVAL PERMIT APPLICATION

Date: _____

Name of Applicant: _____

Location of Subject Property: _____

Applicant is: Owner _____ Tenant _____ Licensee _____ Prospective Purchaser _____

Other (explain) _____

Property Owner's Agreement (if applicant is not the owner of the property): As owner of the property, I am aware of and have agreed to the above request for an Earth Removal Permit.

Signed: _____ **Date:** _____

Request for Hearing: I hereby request a hearing before the Board of Selectmen for an Earth Removal Permit and agree to pay all costs of mailing and advertising the notice of the Public Hearing and decision. I have read the Selectmen's Earth Removal Permit Regulations.

Signature and Title: _____ **Date:** _____

Signature and Title: _____ **Date:** _____

Received from the above applicant the sum of: _____

RECEIVED BY THE TOWN CLERK:

Date: _____

Time: _____

Signature: _____

APPENDIX A

EARTH REMOVAL PERMIT PLAN REQUIREMENTS AND CROSS REFERENCE NOTATION

Permit application must meet all requirements of Chapter 88 of the Code of the Town of Pepperell, with specific reference to the following:

PLAN REQUIREMENTS

ON PLAN

- | | |
|--|-------|
| 1. Plan showing existing conditions and proposed post-construction conditions. | _____ |
| 2. Drainage calculations indicating no increase or decrease in post-construction run-off. | _____ |
| 3. Quantity of material estimated to be removed including a breakdown of material removed by blasting. | _____ |
| 4. If blasting is anticipated, a special blasting plan with details of any on-site processing of material. | _____ |
| 5. Traffic plan and timing of all expected operations. | _____ |
| 6. Details of dust control, erosion control, clearing and grubbing, and final surface restoration. | _____ |

BOARD OF SELECTMEN
EARTH REMOVAL PERMIT

Certified List of Parties in Interest Form

Date: _____

Board of Assessors
Town Hall
Pepperell, MA 01463

Re: Tax Map # _____ Parcel # _____

The undersigned, being an applicant for approval of an Earth Removal permit for the land referenced above, requests certification of the names and addresses of the parties in interest to this property as defined in Chapter 40A, §11: “the Petitioner, abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within three hundred feet of the property line of the Petitioners as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town, the planning board of every abutting city or town.”

Signature of Petitioner

Address

TO: Pepperell Board of Selectmen

FROM: Pepperell Board of Assessors

This is to certify that at the time of the last assessment for taxation made by the Town of Pepperell, the names and addresses of the parties in interest to the parcel of land referenced above are as listed on the attached sheet(s).

Signature and Title

**BOARD OF SELECTMEN
EARTH REMOVAL PERMIT
REQUEST FOR WAIVERS**

Date: _____

Board of Selectmen
Town Hall
Pepperell, MA 01463

Dear Members:

I request the waivers to the plan requirements in Appendix A as listed below along with the reasons for such request.

Signature of Petitioner/Agent

Waiver of requirement # _____ because _____

Waiver of requirement # _____ because _____

Waiver of requirement # _____ because _____

**BOARD OF SELECTMEN EARTH REMOVAL PERMIT
CODE OF THE TOWN OF PEPPERELL CHAPTER 88**

RULES AND REGULATIONS - BOARD OF SELECTMEN – EARTH REMOVAL PERMIT

Adopted January 10, 2000

Revised April 14, 2003

A. EARTH REMOVAL PERMIT GRANTING AUTHORITY

The Board of Selectmen shall be the Earth Removal permit granting authority as authorized by Chapter 88 of the Code of the Town of Pepperell, Massachusetts and shall hear and decide applications upon which it is empowered to act. Nothing in this chapter, however, shall be deemed to amend, repeal or supersede the Town of Pepperell Zoning Bylaw, as now in force or as later amended. Nothing herein shall derogate from the intent and purpose of said Town of Pepperell Zoning Bylaw.

B. ORGANIZATION

1. Chairman. Powers and Duties. The Chairman shall vote and be recorded on all Earth Removal permits coming before the board. Subject to these rules, the Chairman shall decide all points of order, unless overruled by a majority of the board in session at the time, and shall appoint such committees as may be found necessary or desirable on Earth Removal permit related matters.
2. Clerk. The clerk of the Selectmen shall be a member of the board, designated by the board. Subject to the direction of the board, the clerk shall supervise all of the clerical work of the board regarding Earth Removal permits. In the absence of the Chairman, the Clerk shall act as Chairman.
3. Town Administrator. The Town Administrator, if one is appointed by the board, shall not be a member of the board and shall, subject to the direction of the board and the procedures stated herein, process all applications including keeping a record on Form ER, referring the applications, preparing and sending hearing notices, taking hearing and meeting minutes, drafting decisions and notifying petitioners and parties in interest of the decision.
4. Quorum. A majority of the members of the Board of Selectmen must be present for a quorum to hear and decide on an Earth Removal permit.
5. Public Hearing. A public hearing shall be held on each application no later than 65 days from the date of the filing of the application with the Town Clerk. Notice of the hearing shall be given to parties in interest by first class mail, be posted in Town Hall for not less than fourteen (14) days, and published once in each of two successive weeks in a local newspaper generally distributed in Pepperell, and the first publication shall be not less than fourteen (14) days prior to the date of the hearing.

C. APPLICATIONS TO THE BOARD

1. Application Form. Every application for action by the Board of Selectmen shall be made on the official forms attached to these regulations. These forms may be obtained in the Board of Selectmen's office or from the Town Clerk. Any communication purporting to be an application may not be treated as such until such time as it is filed as hereinafter provided.

2. Application Contents.

- (a) An applicant shall submit ten (10) copies of a plan showing natural or existing topography on the entire lot from which material is to be removed, together with ten (10) copies of a plan showing the grades as they will be at the conclusion of the operation or at the end of two (2) years, whichever period is the shorter. The plan showing the grades at the conclusion of the operation shall conform with the grading requirements of the Planning Board's subdivision control regulations, and shall be such that peak stream flows and runoff rates at the boundaries of the lot resulting from a twenty-five year storm event shall be at no greater or lesser rates of flow following the proposed earth removal, except for good cause. No earth removal shall result in grades below existing centerline road grade for a distance of two hundred (200) feet from the street line except for good cause. The Plans shall be stamped by a Massachusetts registered civil engineer and as may be necessary by a Massachusetts registered land surveyor.
- (b) The said plan shall show the driveway or route of owner's and owner's contractor's and customer's trucks or other vehicles shall use in entering and exiting the lot and shall submit competent evidence that vehicles entering and exiting the lot shall not pose a safety hazard.
- (c) The said plan shall show the location of all wetland resources as defined in G.L., c. 131, §40 and in town bylaws within two hundred (200) feet of the limits of the earth removal proposed. The said plan shall show the contour of the naturally occurring high groundwater on the lot.
- (d) The applicant shall furnish ten (10) copies of an estimate prepared by said engineer of the quantity of earth material proposed to be removed during the permit duration, the proposed hours of operations, and the estimated total number of vehicle trips required to achieve the removal and restoration during the permit term assuming typical vehicles to be utilized and the estimated vehicle trips during a typical day. If the applicant proposes to blast rock or other material, the quantity of material to be blasted shall be estimated, and safety measures shall be proposed. If the applicant proposes to crush or process material on the lot, the quantity and type of material and the type of equipment to be used shall be stated.
- (e) The applicant shall propose a plan for the control of dust and debris and to prevent siltation of adjoining land and ways, and for the cleaning and maintenance of town ways in the vicinity of the lot.
- (f) The applicant shall propose a plan for the disposal of stumps on the lot, and in the absence of an approved plan, there shall be no disposal or burial of stumps on the lot.
- (g) The applicant shall propose a plan for the restoration of the lot as each phase of the operation is completed or when operations are suspended for more than six months.
- (h) Where six or more acres are proposed for permit, the applicant shall propose a plan of phasing to result in not more than five acres being open for operations at any time and to close and restore previously open areas.
- (i) All of the foregoing plans shall be prepared by and stamped by a registered professional engineer, and the Selectmen may include such plans as may be conditioned or revised in permit requirements and conditions.

3. Brief to the Board. It is recommended that every application for an Earth Removal permit be supported by a brief statement, setting forth in detail all facts relied upon by the parties to support findings required for the particular Earth Removal permit.

D. PROCEDURES

1. Filing. All applications for earth removal permits under Chapter 88 of the Code of the Town of Pepperell shall be subject to the same procedural requirements for notice, publication and public hearing as are required for the issuance of a special permit under the Pepperell Zoning By-Law. In those cases in which a special permit for soil removal incidental to construction is required by Section 6170 of the Pepperell Zoning By-Law, or a special permit for Earth Removal in an Industrial District as required under the Table of Uses Appendix A, Section F, of the Pepperell Zoning By-Law, the filing, notice, publication and hearing on both applications may be done simultaneously. In all other respects, the filing requirements, fees, documentary submissions, voting requirements and conduct of the hearing shall be as required for each separate permit. The application shall be filed by the petitioner with the Town Clerk and a copy of said application, including the date and time of filing certified by the Town Clerk, shall be filed forthwith by the petitioner with the Board of Selectmen, together with the list of parties in interest certified by the Board of Assessors, the plans and a non-returnable filing fee in the amount of \$250.00. In addition to the non-returnable filing fee, the applicant shall file an amount equal to twice the number of parties in interest times the then current U.S. Postal rate for first class mail payable to the Town of Pepperell plus the cost of advertising the public hearing; and, the Selectmen shall require a review deposit in the amount of \$3,000.00 for the employment of outside consultants to assist the Selectmen in reviewing complex proposals and making findings and establishing conditions thereon.
2. Referral. Upon receipt of an application, the Board of Selectmen shall, within 14 days thereof, refer the application to such other boards and officials as is required by Section 88-3E, and as it deems advisable.
3. Public Hearing.
 - a. A public hearing shall be held on each application as required by law with due allowance for referrals as may be required.
 - b. All hearings shall be open to the public. No person shall be excluded unless he/she may be excluded for good cause shown.
 - c. An applicant may appear in his own behalf, or be represented by an agent or attorney. In the absence of representations at the hearing by an applicant, the Board shall decide the matter relying on the information and evidence it has received.
 - d. The required time limits for a public hearing and said action may be extended by written agreement between the Board of Selectmen and the applicant to a date certain. A copy of such agreement shall be filed in the office of the Town Clerk.
 - e. The order of business for a public hearing shall be as follows:
 - (1) Chairman opens hearing.
 - (2) Selectmen's clerk reads public notice of hearing.
 - (3) Chairman reviews order and conduct of hearing and enters exhibits and written briefs.
 - (4) Applicant's presentation (if any).

- (5) Selectmen's clerk reads written comments received.
 - (6) Questions and comments from Board of Selectmen.
 - (7) Questions and comments from other Town officials.
 - (8) Comments from those in attendance.
 - (9) Applicant's rebuttal and further representations.
 - (10) Board determination on waivers as to these rules, if any.
 - (11) Additional comments or questions.
 - (12) Board discussion, continuance to date certain, motions, etc.
 - (13) Close hearing or adjournment to time certain.
- f. Persons speaking at a public hearing are requested to:
- (1) Identify self and address and party represented, if any.
 - (2) All comments and questions must be addressed to the Board of Selectmen.
 - (3) The Board of Selectmen Chairman may limit repetitive comments.
 - (4) Courtesy and decorum are expected.
- g. The record of the case shall include only matters submitted to the public hearing.
- h. The Board will not attempt to keep a verbatim record but will accommodate (but not pay for) any person's stenographer, preferably with advance notice.

E. DISPOSITION BY THE BOARD

1. Record Requirements. No request for an Earth Removal permit shall be granted unless and until the Board makes written findings with reference to bylaw requirements. A record of the proceedings shall be made indicating the vote of each member upon each question, and setting forth clearly the reason for its decision and of its official actions, copies of all of which shall be filed in the office of the Town Clerk as required by law.
2. Voting Requirements. A majority vote of the Board shall be sufficient to grant a permit.
3. Withdrawal. An application may be withdrawn without prejudice prior to the publication of the notice of the public hearing, but thereafter may be withdrawn without prejudice only with the approval of the Board of Selectmen.
4. Limitation on Grant. Earth Removal permits shall lapse within 2 years from the date of the board's decision, excluding any time required to pursue or await the determination of an appeal under M.G.L., Chapter 40A, §17, if a substantial use thereof has not sooner commenced except for good cause, or in the case of permit for construction, if construction has not begun by such date except for good cause.
5. Notice of Decision shall be given as required by M.G.L. Chapter 40A, §17. Copies of the Earth Removal Permit Decision shall be mailed, postage prepaid, to the applicant, owner if different from the applicant, the Town Clerk, Planning Board and the Building Inspector. Copies of the Notice of Decision shall be sent, postage prepaid, to the applicant, the Town Clerk, Planning Board and the Building Inspector, parties in interest and to every person present at the hearing who requested that notice be sent to him and stated the address to which such notice was to be sent.

6. Amendment of Conditions. The conditions of approval in an Earth Removal Permit which has been granted may be amended by filing an application for an Earth Removal permit which shall be acted upon by the Board of Selectmen as if an original application.
7. Amendment of Regulations. The Board of Selectmen may from time to time amend these rules and regulations by an affirmative vote of a majority of the board. A true copy of these rules and regulations together with their most recent amendments shall be filed in the office of the Town Clerk and available in the office of the Board of Selectmen. These rules and any amendments shall be effective when duly voted and filed with the Town Clerk.

