

## EARTH REMOVAL ORDINANCE

### Earth Removal

#### **Sec. 101. Authority and purpose.**

Acting pursuant to the authority granted to the Town of Hopkinton by the Town Charter, this ordinance is adopted for the purpose of promoting the health, safety and general welfare of the people of the Town of Hopkinton by minimizing the impacts of heavy truck traffic on Hopkinton neighborhoods; preventing damage to roads and bridges within the Town; protecting the quality of surface water, groundwater and other natural resources; controlling fugitive dust, air pollution and noise emissions; and effecting registration requirements within the Town for removal of earth as defined in this article to implement the goals and objectives of the Town's comprehensive plan.

#### **Sec. 102. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- A. *Applicant* means the property owner of record and/or lessee who has applied for or to whom the Town has issued a registration for earth removal in accordance with this article and other applicable state and federal laws.
- B. *Parcel* means that lot or those lots as determined by the tax assessor's plat designation for which the registration is made under this ordinance.
- C. *Removal of earth (earth removal)* means the extraction, quarrying or removal from a parcel of land of any soil, loam, sand, gravel, stone, clay, shale, or other earth materials from deposits on any tract of land on which these materials are found.
- D. *Registration* shall mean the application registered with the Town Clerk to include applicant's information as outlined in Section 103 of this Ordinance.

#### **Sec. 103. Submission requirements.**

- A. Before a landowner or operator may undertake earth removal for commercial purposes, or continue, expand or modify an existing earth removal operation, the land owner or operator must submit a registration application for the review and approval by the Hopkinton Town Council. This application must be submitted within ninety (90) days after the passage of this ordinance and renewed annually thereafter.

- B. The applicant shall submit a current existing site plan of their property and earth removal facility which shall include a Class IV survey prepared by a design professional currently licensed and authorized in the State of Rhode Island to prepare such a plan under Rhode Island General Laws, and which shall include the following:
- (1) The applicant's plot plan showing the existing area and area for potential future expansion of earth removal activity..
  - (2) The applicant will attach a Zoning Certificate obtained from the Building/Zoning official of the Town of Hopkinton, confirming that earth removal is an existing non-conforming legal use or an existing legal conforming use on the lot.
  - (3) Each gravel operator will attach either an individual RIPDES (Rhode Island Pollutant Discharge Elimination System) permit for the site operations or an approved Notice of Intent for coverage under an RIPDES programmatic general permit for storm water discharges granted by the State of Rhode Island, Department of Environmental Management, if required.
  - (4) The plan shall also show the location of all structures and physical features on the property.
  - (5) Each plan will show location and description of any flood plain, surface water bodies, groundwater aquifers, wetlands, threatened or endangered species habitat, historic sites and other environmentally sensitive resources.
- (6) Each annual renewal application which follows an initial application shall include updated plans which identify any changes which have occurred since the prior filing.
- C. The informational report to be submitted as part of the registration application shall provide a description of the following aspects of the facility operations:
- (1) Proposed daily operational times.
  - (2) Measures to be utilized for mitigating adverse effects of potential noise, dust, soil erosion, air pollution and water pollution emanating from the site.
  - (3) Measures to be utilized for spill control, mitigation and/or containment for any petroleum, oil products or other hazardous materials at the site.
  - (4) A representation on the application that the property owner and applicant shall comply with all existing applicable town ordinances and state laws.

- (5) A general restoration plan outlining measures to be used to restore the parcel once extraction operations cease or the site is abandoned as said terms are defined in Section 8(E) of the Hopkinton Zoning Regulations.
  - (6) Copies of any and all applications submitted and/or permits secured from any other required local, state or federal regulatory authorities.
  - (7) Contact information which identifies the parties responsible for the operation, including phone numbers, mailing addresses, and email addresses if applicable as well as a 24 hour emergency contact person.
- D. Registration shall be filed annually and a filing fee of One Hundred and No/100ths (\$100.00) Dollars shall be paid on each parcel of land for which a registration permit is requested.
- E. Upon receipt of the registration, the Town Clerk shall refer the registration to: the Hopkinton Department of Public Works, the Hopkinton Chief of Police, the Hopkinton Building/Zoning Official and Zoning Board and the Hopkinton Town Planner and Planning Board, for review and comments to be submitted to the Town Council prior to approval of the registration. In addition, the Hopkinton Building/Zoning Official shall submit a report confirming that he has performed a site inspection for each site for which an application or permit renewal is filed and that the application accurately represents the current status of the property.
- F. The registration shall be renewed annually by the applicant and effective for one (1) year.
- G. All operators shall apply for said registration to the Hopkinton Town Clerk, which will thereafter be submitted to the Hopkinton Town Council for review and renewal.

#### **Sec. 104. Operating Conditions.**

Earth removal operations on any tract of land in the Town of Hopkinton shall be further subject to the following provisions:

- A. The rear yard, front yard and side yard setback areas, or to the extent practicable for existing legal non-conforming uses, shall be maintained as an undisturbed buffer of natural vegetation when the parcel for which a permit is sought abuts land in residential use, land that is located in a residential use zoning classification, or an existing road. The setback areas are defined by the Hopkinton Zoning Code for the zoning district in which the parcel is located and shall be designated on the plot plan submitted with the application. The

adequacy of the proposed buffer will be determined by the Town with the assistance of the Town's designated consultant if required, or if the applicant cannot meet the minimum zoning setback requirement. Walls, berms, fencing, plantings, and/or other means of providing separation between gravel operations and residences or roads may be substituted for a portion of the required undisturbed natural vegetation when such measures are deemed appropriate by the Town Council and the Town's designated consultant.

- B. Hours of earth removal operation shall be no greater than as follows:  
Mondays through Fridays - 7:00 a.m. to 6:00 p.m.  
Saturdays - 7:00 a.m. to 4:00 p.m.

Earth removal operation may not be conducted on Sundays or any legal holiday or any other time without prior written authorization of the Town's Building/Zoning Official which shall be granted only for good cause shown involving a temporary hardship.

#### **Sec. 105. Appeals.**

- A. Appeals from the decision of the Town Council shall be in accordance with the Rhode Island General Laws.
- B. Appeals from the decision of the Town Building/Zoning Official under Sec. 104.B shall be to the Zoning Board.

#### **Sec. 106. Penalties.**

- A. Any applicant or other person violating any of the provisions of this article as determined by the Building/Zoning Official of the Town of Hopkinton, shall be subject to a fine as a penalty not exceeding Five Hundred (\$500.00) Dollars per offense per day. Each violation and each day that any provision shall have been violated, shall be construed as a separate and distinct offense. All such fines shall be to the benefit of the Town and shall constitute a lien upon the property.
- B. Suit may be brought in Hopkinton Municipal Court or in any other court of competent jurisdiction in the name of the Town to collect applicable fines, to restrain any violation of the provisions of this ordinance or to compel compliance with the provisions of this ordinance.

#### **Sec. 107. Additional Provisions.**

The Town Council may hire consulting professionals, at the expense of the applicant, to review an applicant's submission and/or compliance with any of the provisions of this ordinance and to make recommendations to the Town Council at any time.