

**TOWN OF DUXBURY**  
***Earth Removal Rules and Regulations***

**PURPOSE**

The Selectboard believes that the removal of soil, loam, sand, or gravel from any premises in the Town of Duxbury (collectively, “earth removal”) must be done in a safe, environmentally conscious, and neighborly fashion. To that end, the Selectboard establishes these rules and regulations to govern earth removal in the Town, pursuant to the authority granted to it under Section 8.1 of the General By-laws.

**APPLICABILITY**

These rules and regulations shall apply to all earth removal in Town, except earth removal normally required for the excavation of a permitted construction project, including driveways, walks, streets, and municipal operations, which are exempt pursuant to Section 8.1.2 of the General By-laws.

These rules and regulations are effective upon filing with the Building Department after Selectboard approval.

**REGULATIONS**

All earth removal operations shall comply with the following standards:

- A. No soil, loam, sand, gravel, or other earth materials shall be removed below the four (4') foot elevation above maximum groundwater elevation. These elevations shall be established from a test pit and the levels related to a fixed benchmark on the property.
- B. Removal and processing operations shall not be conducted closer than one hundred (100') feet to a street or closer than twenty-five (25') feet to neighboring lot lines, unless agreed to by both parties. Any access to the site would not be included in the above-described 100' feet or 25' foot buffer. Natural vegetation shall be left and maintained on the undisturbed land for screening and noise reduction purposes.
- C. All equipment for sorting, washing, crushing, grading, drying, processing, and treating or other operation machinery shall not be used closer than one hundred (100') feet to any street or to any adjoining lot line.
- D. No more than one entrance and one exit shall be permitted to any excavation area.
- E. Any access to excavated areas or areas in the process of excavation will be adequately posted with “Keep Out – Danger” signs.
- F. Adequate provisions shall be made for drainage during and after completion of operations. The land shall be left so that natural storm drainage leaves the property at the original points and so that the area of drainage to any one point shall not be increased.
- G. Any temporary shelters or buildings erected on the premises for use by personnel or storage of equipment shall be screened from public view. These structures shall be removed from the premises within thirty (30) days after they are no longer needed.
- H. No excavation shall be allowed closer than fifty (50') feet to a natural stream and must always comply with the Wetlands Protection Bylaw of the Duxbury Conservation Commission.

- I. Operation hours shall be only between the hours of 7:00 a.m. and 8:00 p.m. weekdays; Saturdays from 8:00 a.m. until 5:00 p.m.; no operating hours on Sundays and/or legal holidays, and loaded trucks may leave the earth removal site only within such hours.
- J. During operations, when an excavation is located closer than one hundred (100) feet to a residential area public way and where the excavation will leave a depth of more than fifteen (15) feet with a slope in excess of 1:1, a fence of at least six (6) feet high shall be erected to limit access to this area.
- K. Lateral support shall be maintained for all adjacent lots in order to prevent landslides and cave-ins.
- L. Boulders may be buried below grade. Stumps may not be buried below the normal grade.
- M. Any permit issued under these rules and regulations shall be valid for a maximum of one (1) year. Additional permits may be issued for previously permitted property by making a new application.
- N. If, during the period of excavation of any area used for the removal of sand, gravel, quarry, or other earth materials, any portion thereof amounting to more than thirty thousand (30,000) square feet becomes unsuited for further use or is abandoned for removal operations, whichever comes first, such area or portion thereof shall be graded and replanted with grass, trees or shrubs or any permanent cover crop.
- O. No topsoil (loam) or subsoil (hardening) shall be removed from any area of ground within the Town consisting of more than fifty thousand (50,000) square feet, other than that which is incidental to and in connection with the construction of a building on the same lot, unless the person removing such topsoil or subsoil shall replant the entire area with rye, vetch, wheat, legumes, or any permanent cover crop or reforest the area after earth removal operations have concluded.

Applications for earth removal shall also include a site plan and a surety bond or bonds in the amount of one hundred thousand dollars (\$100,000) as security for compliance with these rules and regulations. The surety on such bond or bonds shall be a surety company qualified to do business under the laws of the Commonwealth and satisfactory to the Town. The bond or bonds shall remain in force for one (1) year after expiration of any permit issued under these rules and regulations, unless the Town Manager, in writing and for good cause, earlier releases an applicant from this requirement.

## **PROCESS**

All applications for permits shall be submitted in accordance with these rules and regulations. Applications and permits shall be reviewed and approved by the Director of Municipal Services, who shall be charged with ensuring permits' compliance with these rules and regulations. The Town of Duxbury further reserves the right to seek internal peer review and/or to conduct additional third-party engineering review, the cost of which is to be borne by the applicant, as may be deemed necessary by the Director of Municipal Services.

The Director may revoke or suspend permits at any time for violation of these rules and regulations pursuant to Section 8.1.3 of the Town By-laws. Penalties may also be imposed in accordance with Section 1.1.4 of the Town By-laws. Additionally, violations of these rules and regulations may be enforced through the Town's non-criminal disposition process pursuant to Section 8.1.5 of the Town By-laws and fines may be levied as the Town By-laws authorize.

These rules and regulations may be amended or rescinded by the Selectboard by majority vote at any time.

**Adopted by Duxbury Selectboard  
November 14, 2022**

**Filed with Duxbury Building Department  
November 14, 2022**



**TOWN OF DUXBURY  
EARTH REMOVAL APPLICATION**

Date: \_\_\_\_\_

Name of Applicant: \_\_\_\_\_

Address and Assessor ID of Parcel(s) Involved: \_\_\_\_\_

\_\_\_\_\_

Have you attached an excavation management plan and associated site plan detailing compliance with the Selectboard's Earth Removal Rules and Regulations? ☐ Yes ☐ No

Have you attached evidence of sufficient bond? ☐ Yes ☐ No

Applicant's Name/Affiliation: \_\_\_\_\_

Applicant's Address: \_\_\_\_\_

Applicant's Phone: \_\_\_\_\_ Applicant's E-Mail: \_\_\_\_\_

*I agree to comply fully with the Selectboard's Earth Removal Rules and Regulations and understand that any violation thereof may subject me to permit suspension, revocation, and/or fines. I also agree to update my contact information with the Town as necessary.*

Print Name: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_

=====

**FOR DIRECTOR OF MUNICIPAL SERVICES USE ONLY:**

Has the applicant complied with the Selectboard's Earth Removal Rules and Regulations? ☐ Yes ☐ No

Date Approved by Director: \_\_\_\_\_ Signed by Director: \_\_\_\_\_

## **TOWN OF DUXBURY GENERAL BY-LAWS**

### ***CHAPTER 8 - EARTH REMOVAL***

#### **8.1. EARTH REMOVAL**

8.1.1 The removal of soil, loam, sand or gravel from any premises in the Town of Duxbury shall be regulated by the Board of Selectmen of the Town of Duxbury. All applications for permits shall be submitted in accordance with rules and regulations established by the Board of Selectmen and filed with the Building Department. Applications and permits shall be reviewed and approved by the Director of Municipal Services.

8.1.2 Removal of soil, loam, sand or gravel to the extent normally required for the excavation of a permitted construction project, including driveways, walks, streets and municipal operations shall be exempt from the provisions of this Chapter.

8.1.3 Penalties shall be imposed in accordance with Chapter 1, Section 1.1.4. of these By-Laws. Permits may be revoked or suspended at any time for violations of the rules and regulations.

8.1.4 The invalidity of any section or provision of Chapter 8 of this By-Law shall not invalidate any other section or provision thereof.

8.1.5 Non-criminal Disposition – In addition to the procedure of enforcement as described above, the provisions of this By-law may also be enforced by the Department of Public Works Director, by non-criminal complaint pursuant to the provisions of MGL Chapter 40, Section 21D. Each day on which a violation exists shall be deemed a separate offense. The penalty for violation of any provision of this By-law shall be \$25.00 for the first offense; \$50.00 for the second offense; \$100.00 for the third offense; and \$200.00 for the fourth and each subsequent offense.