

## SECTION IV - SPECIAL USE REGULATION

### B. USES ALLOWED ONLY BY SPECIAL PERMIT AUTHORIZED BY THE ZONING BOARD OF APPEALS

#### 2. EARTH REMOVAL (Formerly EXCAVATION) – **DRAFT 8.8.2023**

##### A. PURPOSE:

Earth removal operations, including quarries, have been an important industry and have helped maintain a strong rural economy in the Town for many years. This by-law is set forth in order to ensure the continuation of earth removal operations by right, while at the same time promoting the health, safety, and quality of life for the citizens of Goshen. This by-law supersedes all previous references to excavation.

Denial of permit: The Special Permit Granting Authority (SPGA) shall not issue a special permit where a purported earth removal operation would:

- 1) Cause hazard to the public safety or welfare, or constitute a nuisance;
- 2) Produce noise or observable dust at the lot line in an amount detrimental to the normal use of an adjoining lot.
- 3) Result in traffic hazard, particularly in residential areas, or congestion on or damage to public streets;
- 4) Result in a change of topography or ground cover disadvantageous to the most appropriate use of the land;
- 5) Cause surface or subsurface drainage to adversely affect an adjoining lot.

##### B. DEFINITIONS:

- 1) Earth - Earth includes soil, topsoil, loam, sod, rock, sand, gravel, clay, stone, peat, muck, bedrock, or any other earth material or mineral.
- 2) Earth Removal: Earth Removal Operations include activities which strip, sever, mine, excavate, quarry, blast, drill, hammer, take away, or any other form of removal or extraction of earth. Earth Removal Operations also include stockpiling, storage, treating, crushing, washing, weighing, screening or other processing when conducted on the same property. Access driveways or roadways to earth removal operations, whether across land in the same ownership or in separate ownership, shall be considered part of the operation.
- 3) Reclamation: The process of grading, restoring and vegetating an excavated or disturbed area.
- 4) Slope: An area that is more or less steep, as measured by vertical rise over a horizontal distance, expressed as a percentage or ratio. For example, a rise of ten feet over twenty horizontal feet is a slope of 50% or a ratio of one to two. (1:2).

### C. GENERAL REGULATIONS AND STANDARDS OF OPERATION:

- 1) Earth removal activities in excess of 100 cubic yards shall not occur until a completed "Notice of Earth Removal Form" has been filed with the Zoning Enforcement Officer.
- 2) Earth removal loading or processing activities shall be allowed from 7:00 a.m. to 6:00 p.m. Monday through Friday and 7:00a.m. to 12:00 p.m. on Saturday. This shall not be interpreted to limit delivery of processed or finished materials in case of public emergencies.
- 3) Earth removal operations shall maintain the following setbacks.
  - a) Fifty (50) feet from any property line.
  - b) A 50-foot temporary buffer adjacent to a public way will be maintained. This buffer may be removed and reclaimed in maximum 250-foot sections and in a maximum of 120-day activity periods. Final reclamation setbacks shall be based on approval from the Highway Superintendent.
  - c) 300 feet from a private water supply unless written agreement is obtained from the owner. Public water supplies will follow State and Federal regulations and SWAP (Source Water Assessment Program) reports.
  - d) Unless a written agreement is received a 250-foot radius buffer will be maintained from any dwelling until the rest of the parcel's operations have been completed. If this buffer is removed as the final phase, it will be completed and reclaimed within a one hundred twenty (120) day working period.
  - e) No crushing, screening or other processing operations will take place within 300 feet of a dwelling unless written permission is obtained from the owner.
- 4) The area under removal at any one time may not exceed a total of 5 acres not including roadways. An additional 3 acres may be used if processing and storage are being done on the same site. If a quarry and a gravel excavation are both on the same parcel, they will each be allowed 8 acres.
- 5) Existing vegetation shall be left undisturbed in all non-removal areas for screening, erosion control, and noise reduction purposes.
- 6) Buildings, equipment, interior roadways, and areas of operation shall be placed and screened to minimize noise and visual impact by use of vegetation, topography, stockpiling, etc.
- 7) Sufficient on-site parking shall be provided for all vehicles associated with the earth removal operations
- 8) Erosion control and drainage shall be provided during and after removal operations. Earth removal operations shall minimize dust emanating from the site and minimize the deposit of earth materials on roadways. Any proposed treatment shall not pose a pollution hazard. The operator shall be responsible for removing any spillage on roadways.

- 9) Excavation for removal of earth (as defined in Section IV DEFINITIONS) shall not extend closer than five (5) feet above the annual high groundwater table unless the approved creation of ponds or standing water is part of the plan. This section shall not apply to excavations incidental to permitted uses, but not limited to providing for the installation or maintenance of structural foundations, fresh water ponds, utility conduits or on-site sewage disposal.
- 10) The use of explosives shall be conducted in accordance with the regulations for storage or handling of explosives as published by the Commonwealth of Massachusetts, and only after the issuance of a permit by the Fire Chief. Notification must be made to the Town and Abutters when blasting, as outlined in the Commonwealth's regulations.
- 11) All earth moving operations must also comply with the Mine Safety and Health Administration <https://www.msha.gov/MSHA> and be in good standing as part of the two year permitting process.
- 12) All operations shall be conducted in such a manner as to comply with the laws of the Commonwealth of Massachusetts regulating water pollution, air pollution, and safety.
- 13) There shall be no more than fifty thousand (50,000) cubic yards of material removed from any parcel of land in any one calendar year. A "parcel of land" as used in this section shall be shown as a lot on the Town of Goshen Assessor's Map as of January 1, 2023.
- 14) Access driveways and private roadways to earth removal operations shall be considered a part of the operation. Access road(s) to extractive operation sites shall include a gate.
- 15) Top soil shall be stripped to a depth of 12 inches and stored separately on site for use in reclamation.
- 16) The area in which earth removal is taking place shall be clearly marked and posted with no trespassing signs. The SPGA may require fencing or other barrier where excavations exceed a depth of 4 feet.

#### D. RECLAMATION REQUIREMENTS

- 1) Reclamation of the site must commence within 120 days whenever:
  - a. Five (5) acres have been excavated in which reclamation must occur before any further excavation shall be permitted;
  - b. Twenty-four ( 24) months have passed since any excavation activities occurred; or
  - c. Whenever excavation activities of any size are completed.
- 2) Upon completion of reclamation no slope shall be greater than 1:2 (50%). Terracing and less steep slopes may be used to ensure stability.

- 3) Final grading shall blend with the surrounding land and shall generally maintain the original drainage patterns and drainage to surrounding properties.
- 4) Reclamation areas shall be covered with topsoil and subsoil to a minimum depth of four (4) inches and shall be:
  - a. planted with vegetation using non-invasive perennial species, or
  - b. used for suitable agricultural purposes.

In areas where no topsoil or subsoil previously existed, a stable medium shall be established for the growth of non-invasive perennial vegetation or for agricultural use.

- 5) All equipment shall be removed from the site and all structures shall be removed or continued in use for another purpose. Reasonable efforts shall be made to prevent excessive stockpiling of stumps. No single pile shall exceed ten (10) feet in height if visible from a public way or a dwelling.

#### E. EXISTING EARTH REMOVAL OPERATIONS -

A quarry that already has a permit in lawful operation on the date of adoption of this Bylaw may continue until such time that it is abandoned. However, unless specifically authorized by a special permit:

- 1) The depth of excavation shall not exceed the grade of the lowest point excavated on the date of adoption of this by law.
- 2) The total area of land disturbance within the quarry operation shall not be increased by more than 50% over the area disturbed on the date of adoption of this bylaw.
- 3) The average daily amount of materials extracted or removed shall not be increased by more than 50% over the daily average for the 12 consecutive months preceding the adoption of this by-law, or for the actual period of operation, if less than 12 months.
- 4) The use of explosives shall be conducted in accordance with the regulations for storage or handling of explosives as published by the Commonwealth of Massachusetts, and only after the issuance of a permit by the Fire Chief. Notification must be made to the Town and Abutters when blasting, as outlined in the Commonwealth's regulations
- 5) All operations shall be conducted in such a manner as to comply with the laws of the Commonwealth of Massachusetts regulating water pollution, air pollution, and safety.
- 6) All earth moving operations must also comply with the Mine Safety and Health Administration <https://www.msha.gov/MSHA> and be in good standing as part of the two year permitting process.

#### F. APPROVAL

In approving a special permit, the SPGA may impose reasonable conditions to regulate earth removal operations and hours of operation.

#### G. BONDING

The SPGA may require a bond or other security to be provided to the Town to insure compliance with the special permit. TIMEFRAME

Any special permit for earth removal shall automatically expire within the timeframe specified in the special permit or within 24 months, if no time limit is specified. To request an extension an earth removal operator must submit a written request 60 days prior to expiration of the special permit. The SPGA, at its discretion, may extend a permit or may require a public hearing on said extension.

#### H. SEVERABILITY

The invalidity of any provision of this bylaw shall not invalidate any other provision