

**EARTH REMOVAL RULES & REGULATIONS
PLANNING BOARD
TOWN of HUBBARDSTON**

Effective June 9, 2010



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Hubbardston Earth Removal
Rules and Regulations

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RULES & REGULATIONS EARTH REMOVAL

1. Authority to Adopt Regulations

These regulations are adopted by the Planning Board of the Town under the power granted to it by the Earth Removal Bylaw (Article XIX) adopted by the Town Meeting in 1985 and amended in 2008 and 2010.

2. Purpose

These regulations are adopted for the purpose of:

- A. Establishing the form of the written application which must be submitted to the Planning Board by persons seeking earth removal permits, earth removal special permits or the extension of permits.
- B. Describing the conditions, limitations and safeguards relating to earth removal activities which have been established by the Planning Board as a matter of policy, together with such further conditions, limitations and safeguards which said Board may impose from time to time when granting earth removal permits.
- C. Establishing procedures which will be followed by the Planning Board in giving notice of proceedings relating to applications for earth removal permits, on holding hearings on such applications, in entering into a binding agreement with the applicant when permission for a specific earth removal activity is granted and for enforcing the terms of said agreement and of the Earth Removal Bylaw.

3. Definitions

Applicant:

The individual, corporation or other legal entity who makes the application for an Earth Removal Permit. Such individual, corporation or other legal entity may not be the Owner of the site, but may be operator of the Earth Removal Operation. The permit shall be issued to the Applicant. If the Applicant is not the Owner of the land, the applicant shall demonstrate that they have the legal permission of the Owner to make an application and alter the site for an Earth Removal Operation.

Board

The Planning Board of the Town of Hubbardston. who shall act as the Permit Granting Authority (PGA)

Earth

All forms of soil, including, without limitation, loam, sand, gravel, clay, peat, hard-pan, or rock.

Earth Removal Operation

The removal from a site, by hand or by machinery, of any earth material including but not limited to loam, sand, gravel, clay, peat, hard-pan, or rock from surface or subsurface without the aid of drilling and/or blasting, together with all activities associated with the removal, including, but not limited to, the stripping of vegetation, loam, topsoil, or sod, the digging, stockpiling, processing, moving, depositing, or transportation of earth products in any form, natural, altered or otherwise.

The Earth Removal Operation includes the moving of equipment required for the operation to, from, or within the site, and all land affected by the operation (e.g. fill, or storage piles, access ways, or structures). There are two classes of earth removal activities as described below:

- 1) **Small scale earth removal:**
A small scale earth removal operation is one that is for general site grading, alterations and modification where the removal is restricted to 1000 cubic yards or less, annually. Such removals are not considered the principal activity for the site.
- 2) **Large scale earth removal:**
A large scale earth removal operation is one where the principal activity is earth material removal of more than 1000 cubic yards of material is proposed to be removed from the site on an annual basis.

Erosion

The process by which the ground surface is worn by forces such as wind, running water, ice, abrasion, gravity, transportation, or by artificial means.

Fill

- 1) Soil, earth, sand, gravel or other earth material which is deposited, placed, pushed, pulled, or transported, and includes the conditions that result from that act.
- 2) Any act by which soil, earth, gravel or other similar material is deposited, placed, pushed, pulled, or transported.

Gravel

Loose fragments of rock or coarse aggregate resulting from natural disintegration and abrasion of rock or processing of weakly bound conglomerate.

Loam or Topsoil

A soil consisting of a friable mixture of varying proportions of clay, sand, silt, and organic matter. Surface soil as distinguished from subsoil.

Lot

A parcel of land under single, joint, or several ownership and separated from contiguous land by property lines and/or street lines, defined by metes and bounds, or boundary lines, and shown on a deed and/or plan recorded in the Worcester District Registry of Deeds or registered in the Land Court.

Owner

Owner of the land from which earth is sought to be removed or the person lawfully standing in the stead of such owner, as for example, a lessee or tenant. Ownership must be shown on the deed to the property. Any person, company or agent standing in the stead of such owner must have owner's notarized permission to do so.

Processing

The sorting or separation of earth materials into distinct categories based on particle size or type usually through the use of a screening process but exclusively so. . Processing does not include stone crushing.

Quarrying

The removal of stone (from the ground) by cutting, blasting, ripping or hammering or any other method other than collection of distinct particles (eg. glacial erratics, boulders and similar distinct, separate stone objects).

Sand

A loose granular material resulting from the disintegration of rock, consisting of smaller granules than gravel, and larger particles than silt particles.

Sediment

Organic material or minerals transported or deposited into any body of water by the movement of wind, water, ice, gravity, or by artificial means.

Sensitive Areas

- 1) Areas subject to the jurisdiction of either the State Wetlands Protection Act (M.G.L. Ch. 131 §40), the Hubbardston Wetlands Protection Bylaw, or both.
- 2) Areas delineated as Priority or Estimated Habitats for Rare Species as Defined by the Natural Heritage and Endangered Species Program (NHESP), a Division of the Department of Fisheries and Wildlife.
- 3) Areas designated as Watershed Protection:
 - a. Department of Environmental Protection Estimated or Defined Zones 1 and 2 to Public Water Supply Sources.
 - b. Areas delineated on the Town of Hubbardston's . Aquifer Protection Favorability overlay district.
 - c. Areas subject to the Department of Conservation and Recreation (DCR), Watershed Protection per the Watershed Protection Act (350 CMR 11.00)

Sensitive Receptors:

Existing structures and uses that are not compatible with Earth Removal Operations. These include: schools, libraries, senior housing facilities, hospitals, densely developed residential areas, multifamily or cluster developments and other uses by their nature, as determined by the Planning Board, that are sensitive to noise, air and traffic caused by earth removal operations.

Silt

Loose sedimentary material with rock particles usually less than 1/16 mm or less in diameter.

Site

A distinct portion of one lot, or one or more contiguous lots, under the same or different ownerships, on which an earth removal operation is conducted, or is proposed to be conducted, under an Earth Removal Permit.

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 one (1) foot over three (3) horizontal feet is a slope of 33%, 1:3 or a ratio of one (1) to three (3).

Stone Crushing

The mechanical operation which creates smaller sized stones or stone products from larger sized stones, boulders or particles typically using a crushing plant or similar machinery.

4. Exemptions

This chapter shall not apply to the following:

- A. Removal of earth incidental to and reasonably required in connection with the construction of any building, appurtenant walk or driveway, septic system, swimming pool or other accessory uses and expansions thereto, for which all permits required by the Town of Hubbardston have been granted, provided the quantity of materials removed shall not exceed that displaced by the portion of the building or accessory use below grade;
- B. Removal of earth in the course of customary agricultural use of land;
- C. Removal of earth in compliance with the specific requirements of an approved subdivision plan; not including individual house lot development.
- D. Removal of earth in the normal use of a cemetery;
- E. Removal of earth from land in public use; the Town will, however, develop a transition plan for the earth removal operations conducted by the Town for the extraction and processing of road maintenance materials at the so-called "town pit" on Pitcherville Road.
- F. Removal of earth for the construction, maintenance and repair of existing roadways or fire ponds, including the installation of utilities and appurtenances.
- G. Removal of earth on a single lot, involving an excavation of no more than five hundred (500) cubic yards or less in one year, except in compliance with the provisions of this Section 4, item A..

The above exemptions do **not** apply to any activity which involves soil stripping or loam stripping or involves topographical changes which the Board deems to be significant.

5. Permit Application

A. Application Contents

- 1. All applications for earth removal operations shall be in writing on a form approved by the Planning Board attached to these regulations and shall be accompanied by the following:
- 2. A Filing fee in the amount as described in the Fee Schedule, which is attached to these regulations..
- 3. No application for an Earth Removal Permit shall be considered complete and shall not be acted upon, unless the Tax Collector of the Town of Hubbardston has certified, pursuant to MG.L. Ch 40, Section 57, that no debt is owed to the Town by the applicant and owner.
- 4. A list of all abutters and abutters to the abutters within three hundred (300) feet of the property line as shown on the most recent tax list certified by the Board of Assessors.
- 5. Four (4) copies of a plan depicting the site, area of proposed alterations, abutters, wetlands and other resource areas and volumetric estimates.

Items 6 to 9, below, are required for Large Scale Earth Removal Operations only:

- 6. An estimate of the total material to be removed from the area, along with a proposed phasing schedule and the amount of material estimated to be removed in each phase.
- 7. A traffic study that includes information on placement of access roads, sight distance at the point of entrance onto public ways, proposed truck routes to and from the site and estimated numbers of trucks per day entering and exiting the site.
- 8. Drainage calculations demonstrating that natural storm drainage shall leave the property at the original natural drainage points and so that the total discharge at peak flow, and the area of drainage at any one point, is not increased, and so that the

hydrograph of any post-development stream is the same as that of the pre-development stream. A waiver of these regulations must be submitted with the calculations if any permanent alteration of existing drainage patterns is proposed.

9. Electronic copy of all accompanying documents and plans in PDF format and drawings in in either AutoCAD DWG, or ASCII Drawing Exchange File DXF format.

B. Plan Requirements

Individual plan requirements may be waived by the Planning Board for Small Scale Earth Removal Operations. Pre-submission consultation with the Planning Board is recommended.

All plans of the site shall be drawn, stamped and signed by a registered surveyor or engineer, as applicable.

1. **Site Plan** shall contain the following information:

- (a) The name of the owner of record.
- (b) A locus map at a scale of one (1) inch equals two thousand (2,000) feet showing the property boundaries and all adjacent streets, public and private.
- (c) North arrow.
- (d) All property lines of lands shown on the plan (and marked in the field).
- (e) Names of owners of properties within three hundred (300) feet of the site property lines as shown on the most recent tax list.
- (f) Location of buildings, wells, and septic systems on surrounding properties and location of wells, if any, on the proposed site. Septic System and well locations shall be depicted from on-the-ground survey sources, if possible, or record data on file with the Hubbardston Board of Health, if on the ground survey is not possible.
- (g) Identification of the zoning district in which the proposed site lies, including any zoning district boundaries within the proposed site.
- (h) The location of the proposed excavation shown in color, divided into sections no larger than three acres.
- (i) Existing contours at two (2) foot intervals. The file must use the Massachusetts State Plane (Mainland) coordinate system, North American Datum 1983, with units of U.S Survey Feet. The vertical datum must be North American 1988 (Navd88).]
- (j) Location of at least three (3) permanent benchmarks with elevations noted on the plans, which must be set so that if one is disturbed, those not disturbed can be recognized.
- (k) Natural features such as wetlands, ground cover and surface and groundwater.
- (l) Location of any proposed temporary structures for use by personnel or for storage.
- (k) If multiple sheets are used to show the site, they must be accompanied by an index sheet showing the entire site.
- (m) Location of any land within an Aquifer Favorability District as defined in the Town of Hubbardston Zoning Bylaws and other water features such as vernal pools, ponds, wetlands, and rivers on or within 200 feet of the proposed site, and the 100-year floodplain and floodways.
- (n) Existing animal habitat and location of any rare and endangered species as mapped by the Massachusetts Natural Heritage and DFW Programs.
- (o) Locations of durable markers delineating the boundaries of the site from which earth products are to be removed during the period of the permit. Such markers should be adequate in number and extent to allow the Planning Board to determine that earth products are being removed from within the area of the current phase, and within the boundaries of the site as specified in the permit.
- (p) Location of any zoning district boundaries within the proposed site, including any overlay districts.

2. Operation Plan with supporting documents indicating:

- (a) Topography by two (2) foot intervals of the area to be excavated and up to at least one hundred (100) feet beyond the perimeter of the area involved and along all property lines.
- (b) Drainage facilities, existing and final grades and an erosion-sediment control plan compatible with the Massachusetts DEP Erosion and Sediment Control Guidelines.
- (c) The excavations, fills, or side cuts to be made any closer than one hundred (100) feet from the abutter's property lines or public right-of-way.
- (d) All storage areas and trucking routes to be used within the town.
- (e) The means of control of entrances and exits to public ways.
- (f) The means of disposing of on-site rocks, tree stumps, and other natural objects and materials encountered on the site. No products brought onto the site may be disposed of on the site.
- (g) Provision for a safe and adequate water supply.
- (h) The maximum estimated seasonal groundwater elevation as defined in Title 5 of the State Environmental Code shall be determined by test pits and soil borings. A log of all borings shall be included, taken to the depth of the proposed excavation. The plan shall show the location of the test pits. Two groundwater monitoring wells shall be installed in the area of each phase of the operation.
- (i) Location of any permanent or temporary structures, including sanitary facilities, fuel depots, offices, storage sheds, etc.
- (j) A stormwater management plan that complies with the Mass. DEP Stormwater Management Policy, together with supporting documentation prepared by a Registered Professional Engineer.
- (k) Location and phasing of existing and proposed operation. Limit of work shall be clearly delineated on the plans as well as on site.
- (l) Description of plans for mitigation of any adverse environmental impacts due to the proposed earth removal operation and shall include a dust control plan.

3. Restoration Plan:

- (a) The restoration plan must show two (2) foot contours of the site as of the proposed completion of the operation.
- (b) The plan shall show the final surface treatment of the restored area and shall include details, as appropriate for seeding, fertilization and pH testing/adjustments, tree or shrub plantings.
- (c) Permanent erosion control measures for slopes 3:1 or steeper.

6. Application Processing

A Upon receipt of an application, the Planning Board shall determine that it is complete and that all of the information and requirements specified in Section 5 A. through B, 3. have been submitted. The Planning Board will not begin the process to review the application until it is deemed to be complete.

B. Upon receipt of a complete application, the Planning Board shall inform the applicant that the application has determined the application is complete and it will be reviewed by its consultants. The Planning Board shall obtain an estimate from its consultants for the cost of the review(s). The estimate will be intended to give the applicant a reasonable expectation of possible expenses, but the actual cost of consultant services may be higher than the estimate. The applicant shall be responsible for the full cost of consultant services. Failure of the applicant to pay any review cost shall be grounds for denial of the permit.

C. The Planning Board and/or its consultant may wish to view the site and will contact the applicant to arrange a time for that visit.

D. The Planning Board shall hold a public hearing upon the application within sixty (60) days of the submission of all required application materials. The Planning Board shall publish notice of the hearing, including the time and place thereof and a description of the proposal sufficient for identification, in a newspaper of general circulation in the town once in each of two successive weeks, the first publication of which shall be not less than fourteen (14) days before the hearing.

This notice shall be sent by registered or certified mail at least ten (10) days before the hearing to:

1. the applicant;
2. the owner of the parcel (if different from the applicant);
3. the owners of all land abutting the parcel for which a permit is sought, including land across any public or private street or way or any body of water or watercourse from such parcel, as they appear on the most recent tax list;
4. any other owners of property within three hundred (300) feet of the property lines of the parcel;
5. the Board of Selectmen (not certified mail); and
6. any other Town, Regional, State or Federal Agencies deemed by the Planning Board to be affected thereby, and,
7. any other persons or agencies deemed by the Planning Board to be affected thereby.

All costs relating to publication and mailing shall be borne by the applicant.

E. The Planning Board may continue the public hearing process for cause, for receipt of additional information or to take testimony or receive and review additional provided information. Any continuance in the public hearing process beyond ninety (90) days from date of receipt of the project shall require the applicant's written permission. Any continuance of process shall be extended to a time and date certain, which shall be announced at the public hearing.

D. The Planning Board shall issue a decision within thirty (30) days of the closing of the public hearing. An Earth Removal Permit shall be deemed approved upon a simple majority vote of the Planning Board.

E. The Planning Board may act to issue an Earth Removal Permit with standard conditions, with special conditions or may deny the application. If an application is denied, the reasons for denial shall be included in decision.

F. A copy of the issued Earth Removal Permit or denial thereof shall be filed at the Office of the Town Clerk within five (5) business days of the Board's final action.

7. Design Requirements/Standard Conditions

A. General

1. Hours of operation shall be between 6:30 a.m. and 4:00 p.m. Monday through Friday and 8 a.m. to 12 noon on Saturday, except hours of operation for a crusher shall be 8 a.m. to 4 p.m., Monday through Friday and 9 a.m. to noon on Saturday. No operations are allowed on Sunday and State holidays.

2. Noise from normal operations shall not exceed permissible levels as set forth in the Regulations of the Hubbardston Board of Health, Section 5: Noise Thresholds. Professional monitoring tests shall be performed by the permittee and submitted to the Planning Board and Board of Health for review.

3. The limit of work shall be as described in the permit application. Work outside the limit of work is expressly prohibited.

4. No excavation may extend below four (4) feet above the estimated seasonal high water table as determined by a Soil Evaluator and/or on site groundwater monitoring wells as adjusted for seasonal variations. A minimum of two monitoring wells shall be required for each phase of operations. No areas shall be excavated to cause accumulation of standing water.
5. No permit shall be issued for a term longer than two (2) years. Permit renewal applications shall be accompanied by an operations plan for the permit period being applied for and updated site plan.- Permit renewals may be granted only if the applicant has complied with all conditions of the original permit and has corrected any violations in a manner satisfactory to the Planning Board.
6. Permits are transferable with the approval of the Planning Board after submission of an operations plan that meets all requirements of the bylaw and have provisions to transfer the applicable performance bond/surety. Permits are revocable (see Section 10: Enforcement).
7. The permittee shall provide contact information to the Planning Board and Building Inspector's offices, and the Police Department. This contact information shall include the name/address/phone numbers of the permittee, the name phone numbers of the person responsible for the day to day operations and a 24 hour emergency contact name and number.
8. Any Order of Conditions established by the Town of Hubbardston Conservation Commission shall become part of the conditions for the earth removal operation.
9. The permit holder must comply with any and all other requirements of federal, state, or local law applicable to the operation.
10. The permittee shall submit an operations report to the Planning Board every six months containing details on the amount of material removed, percent of restoration completed and an estimated timeline to complete the removal operations as permitted.
11. The permit shall not become effective until the applicant has filed the proper security and paid all required fees and review costs.

B. Standards of Operations

1. Site Preparation

- a) All topsoil displaced shall be stockpiled on the site and adequately protected from erosion until termination of the operation or restoration. No topsoil shall be removed from the site until all areas have been restored and then may be removed only with express permission of the Planning Board.
- b) Prior to any excavation of earth material, adequate siltation basins shall be constructed to prevent the run-off of silted water from the site.
- c) All excavation shall be done so as to create contours to channel run-off waters into the siltation basins.
- d) Siltation basins must be cleaned when sediment deposits are within eighteen inches of the outfall culvert or the basin has reduced recharge capacity.

2. Site Maintenance

- a) No open excavation shall exceed twenty-five (25) feet in height unless it is tiered in sections no higher than twenty-five (25) feet each. Total open excavation height including all tiers shall not exceed one hundred (100) feet.
- b) No excavation shall be closer than one hundred (100) feet to a public way or to adjacent property lines unless approved by the Planning Board. Any excavation within the one hundred (100) foot buffer zone of any wetland or waterway shall not occur unless an Order of Conditions or other permit from the Hubbardston Conservation Commission has been obtained. Any specific permit conditions of that Commission shall be considered a permit condition of the Earth Removal Bylaws..
- c) No slope shall exceed a two foot horizontal to a one foot vertical (2:1) grade.

- d) No areas shall be excavated so as to cause accumulation of standing water.
- e) No earth shall be removed at less than four (4) feet above the estimated seasonal high water table as established from test pits and soil borings performed by a Massachusetts DEP Soil Evaluator. This elevation shall be related to a permanent monument on the property and shown on the topographic map.
- f) No earth removal operation shall create excessive amounts of dust or allow roads leading into or from a site to become excessively dust-producing. Dust control methods shall be approved by the Planning Board.
- g) All wood, stumps and brush must be piled for removal or chipping. Wood/stump chips may remain on the site.
- h) All earth that is stripped and piled and that will be left exposed for a period greater than twenty-one (21) days within one hundred (100) feet of the property line, or one hundred (100) feet of a wetland or other body of water or within two hundred (200) feet of a stream or river shall be stabilized. Such stabilization may consist of temporary seeding, anchored mulch, or other method approved by the Planning Board.

3. Screening and Access

- a) A program of site screening shall start when site preparation begins.
- b) All entrances shall be screened with existing vegetation, evergreens, or other suitable natural methods so as to prevent a direct view into the earth removal area. If no natural features adequate to screen the area are present, a solid fence six (6) feet in height shall be erected along, and ten (10) feet back from, the public way from which access to the site is gained. Additional fencing may be required if public safety or aesthetics so require. All fencing shall be maintained in good condition until the operation ceases, and shall be removed within 90 days of the expiration of the permit.
- c) The access road shall be gated and left open only during active operations. This gateway shall be located back from the traveled way so that a vehicle can pull off the public way while the gate is locked/unlocked. The gate shall have reflectors mounted on it to clearly indicate its presence. The gate way shall be arranged such that a standard vehicle cannot access the site on either side of the gate, the use of boulders or other objects to prevent unauthorized entry is encouraged. A copy of the key shall be given to the Hubbardston Police Department for emergency purposes only.
- c) All areas within one hundred fifty (150) feet of a traveled way or abutting property shall be stabilized or restored immediately upon completion of the earth removal operation in that area. Said stabilization or restoration shall be done in accordance with the standard as stated in the Restoration requirements.
- d) All access roads leading to public ways shall be treated with suitable material to reduce dust and mud for a distance of two hundred (200) feet back from the way. All loaded vehicles shall be suitably covered to prevent dust and contents from spilling and blowing from the load. It will be the responsibility of the permittee immediately to clean up any material dropped on the public way from trucks entering or exiting the site.
- e) All access roads shall be level with existing streets for a distance of one hundred (100) feet from the intersection and shall have a 2% slope away from the public way to allow for drainage away from the public way.
- f) A STOP sign shall be installed at the exit from the property to warn any vehicle entering onto a town street.
- g) The site shall be posted at regular intervals around the perimeter as "No Trespassing." The minimum spacing between signs shall be 100 and they shall face outward from the property. Signs shall be located so as not be objectionable to abutters or adjacent site users. The entrance gate shall also have a sign clearly posted on it.

4. Temporary Structures

- a) All temporary structures shall be specified in the permit application and shall be shown on the plan.
- b) No structure shall be erected on the premises for use by personnel or storage of equipment until a building permit has been issued by the Building Commissioner, nor shall any such structure be located closer than seventy-five (75) feet from the street or thirty (30) feet from any lot line.
- c) Any temporary structure shall be removed from the property no later than ninety (90) days after the expiration of the permit or upon completion of operations, whichever occurs first.

5. Mechanical Crushing and Screening

- a) Crushing of stone is allowed during the hours of operation for the crushing machine stated in Section 7.A.1.
- b) Screening of earth will be permitted within the overall operational hours stated in Section 7.A.1.
- c) Any crushing or screening will involve material from the subject property. No earth or other materials may be imported for crushing or screening.
- d) Crushing and Screening of earth products shall be located away from sensitive areas and receptors to the greatest extent possible. Screening , sound barriers or other mitigation measures may be required for such facilities if the Board determines that they are likely to impact or cause a nuisance to such areas.

6. Site Restoration

- a) No more than three (3) acres shall be open for excavation at one time. At least two (2) of the three (3) acres shall be restored before work commences (including building haul roads) on the next three (3) acres.
- b) Except as otherwise noted, restoration work shall be completed within sixty (60) days after expiration of a permit for which no renewal is sought or upon cessation of operations, however restoration work shall be completed by the first of June if the permit expiration or cessation of operations occurs between the previous December first and April first.
- c). The land must be left in a condition no less valuable for development for uses allowed in the Residential –Agricultural zoning district than it was before the commencement of the operation.
- d). Upon completion of operations, conditions of the permit and restoration, the site shall meet the following minimum conditions:
 1. No slope shall be steeper than 2:1 (50%); 3:1 is preferred for erosion control and shall be required in sensitive areas.
 2. All debris, stumps, boulders, etc. shall be removed from the site and disposed of in an approved location or, in the case of inorganic material, buried and covered with at least two feet of soil. Alternatively, stumps from the site may be ground on site for future use in restoration.
 3. Prior to spreading topsoil, a three inch (3”) layer of glacial till or similar soil shall be tilled into the underlying gravel to enhance the moisture retention.
 4. Retained topsoil and, imported topsoil, if needed, and approved by the Planning Board, shall be spread over the disturbed area to a minimum depth of four inches and treated with three (3) tons of lime per acre and one thousand (1,000) pounds of 10-10-10 fertilizer per acre (unless otherwise determined by the permit conditions) and seeded with a grass or legume mixture that contains at least 60% perennials. The planted area shall be protected from erosion during the establishment period using

good conservation practices. Areas that wash out shall be repaired immediately. Trees or shrubs will be planted to provide screening and reduce erosion during the establishment period.

5. Artificial materials used for topsoil may be permitted by the Planning Board if they are demonstrated to be free of chemicals and factors in concentrations that could be hazardous for human activities or contain any compounds not allowed within a Zone 1 of a public water supply. All such materials for use in reclamation shall comply with applicable state and federal regulations.

6. Unless the permit conditions expressly require or allow alteration of drainage patterns, the land shall be left so that natural storm drainage shall leave the property at the original natural drainage points and so that the total discharge at peak flow, and the area of drainage at any one point, is not increased, and so that the hydrograph of any post-development stream is the same as that of the pre-development stream.

7. All equipment, buildings and structures erected on the premises for use by personnel or for storage of equipment shall be removed from the area within ninety days of the expiration of the permit or the cessation of operations.

8. Inspections

The Planning Board shall require a deposit for periodic inspections of permitted earth removal sites, by an agent of the town to determine compliance with permit conditions. Upon entering the site, the town's agent will identify him/herself to an employee, if one is present. During times of active operation, the Planning Board may have its agent prepare monthly compliance reports for the Planning Board.

Expenditures from this deposit shall be made only in connection with the review and inspection for the specific project or projects for which a review fee has been or will be collected from the applicant. Failure of an applicant to pay a review fee shall be grounds for revocation of the application permit.

9. Surety and Performance Bond

The Planning Board shall require a surety and performance bond, cash or other adequate security to insure compliance with the terms, conditions, limitations and safeguards of such permit including the completion of restoration and such regulations and to indemnify the Town for any harm to any public well, road, wetland or other resource caused by such removal, the removal operations, the equipment used on the premises or by ancillary activities.

This bond shall cover/include any damage to the existing public way within 200' of any vehicular access to the site. The existing conditions of the public way shall be documented with photos or a video, a copy of which shall be submitted to the Planning Board prior to the initiation of removal operations.

After completion of the operation, and at the permittee's written request, the Board may grant a partial release of any security posted by the applicant. The remainder of the security shall be released one year after the operation has been completed or the permit has expired, if the town's agent certifies that

- A. the restoration has been completed in compliance with the permit,
- B. the permittee has submitted an "as-built" plan approved by the agent,

C. no deterioration of the site has occurred for a period of one year. During the year following the partial release of the security, the applicant shall be responsible for repairing any damage to the site restoration.

10. Enforcement and Penalties

A. The provisions of this bylaw shall be enforced by the Planning Board's designated agent or the Hubbardston Building Inspector.

B. This agent/inspector shall have the authority to order the immediate suspension of operations only in instances related to an immediate safety or environmental danger until such time as the situation is remedied.

C. For other violations of any conditions of the permit, the designated agent, acting through the Planning Board shall send a notice of violation to the permittee and property owner (if not the same entity), by registered or certified mail, to the address given as the contact information for the permittee. The notice shall specify a time for compliance.

D. Penalties

If compliance is not achieved by the specified date, the following penalties shall apply:

1. Penalties - Criminal Disposition. Whoever is found to have violated any provision of this bylaw may be penalized by indictment or complaint brought to the Superior Court, Housing Court, or Gardner District Court, and a penalty of \$300.00 shall be imposed for each violation. Each day on which a violation exists shall be deemed to be a separate offense, with the first day of violation to be construed as the date on which the permittee was first notified of the violation.

2. Penalties - Non-criminal Disposition. In addition to the procedures described above, the provisions of this bylaw may be enforced by the Planning Board by way of the non-criminal disposition procedure provided in the Mass General Laws, Chapter 40, Section 21.D. Each day on which a violation exists constitutes a separate offense. The penalty for each offense shall be Three Hundred Dollars (\$300.00).

E. The Planning Board may revoke or suspend the permit of any person, firm or corporation holding a permit under this bylaw if such person, etc. violates, disobeys, or fails to comply with any of the provisions of this bylaw. A permit may be revoked only after a hearing, the notice of which shall be the same as described in Section 7.C. Such hearing shall be held within thirty (30) days after the deadline for correction of a violation of the bylaw. A decision on revocation must be made within thirty (30) days of the closing of the hearing.

F. In the event the permitting authority determines that any person, whether or not an Owner, as defined herein, is in violation of this bylaw, the person may be assessed the cost of any and all action taken to remedy the violation, including reasonable attorney's fees.

11. Severability

The invalidity of any section or provision of these Rules and Regulations shall not invalidate any other section or provision thereof, or take any other action relative thereto.