

Chapter 13A

Earth Removal

State law reference - Authority of town to prohibit and regulate the removal of soil, loam, sand and gravel, G.L. c. 40, sec. 21, par. 17.7

Cross references - Streets and sidewalks, excavations, Sec. 13-1. Zoning by-laws, Alteration of land, Sec. 6.8.10.

Section

Sec. 13A-1.	Removal for purposes other than sale.	1
Sec. 13A-2.	Removal for purposes of sale.	1
Sec. 13A-3.	Enforcement by Building Inspector.	2
Sec. 13A-4.	Exceptions.	2

Sec. 13A-1. Removal for purposes other than sale.

The removal of greater than fifty (50) cubic yards of soil, loam, sand, gravel, or other mineral material during any twelve (12) month period for purposes other than the sale of said material, shall be subject to the following restrictions and conditions:

(a) Removal shall not take place within six (6) feet of a public way where the elevation of the subject land is more than one (1) foot above or below the public way without written approval from the Superintendent of Public Works or his designee.

(b) If public safety requires; the building inspector may order that the owner erect a fence or barrier around the area of removal.

(c) Upon completion, all land upon which construction does not occur shall be property graded and except for areas of exposed ledge, covered with appropriate vegetation or ground cover to provide for proper drainage without erosion. (10-24-88, Art. 15)

Sec. 13A-2. Removal for purposes of sale.

(a) Permit. The removal of soil, loam, sand, gravel, or other material shall be prohibited, except under permit from the Select Board.

(b) Written Application. Written application for a permit shall be made to the Select Board. The application shall describe the proposed operation and shall be accompanied by plans showing the current and proposed condition of all land within one hundred (100 feet from where

the material is to be removed, regardless of ownership. The plans shall include existing property lines, location of building and structures, and topography at two (2) foot contour intervals.

(c) **Criteria.** Prior to the granting of a permit, the Select Board shall give due consideration to the location of the proposed enterprise, the general character of the neighborhood, the effect of the proposed enterprise on the neighborhood, the safety of the general public, and any and all other relevant factors and circumstances.

(d) **Restrictions and Conditions.** The restrictions and conditions set out in Section 13A-1 (a) (b) and (c) above are incorporated into and made part of this Section. The Select Board may impose such other restrictions and conditions to the issuance of a permit as it deems to be in the public interest, including, but not limited to methods of removal and transportation of materials, days and hours of operation and conditions of finished grade, cover or vegetation.

(e) **Performance Bond.** A performance bond in an amount determined by the Select Board with a surety company registered to do business in the Commonwealth of Massachusetts may be required as a condition to the issuance of a permit.

(f) **Time Limit.** No permit shall be granted for a period of greater than two years. (10-24-88, Art. 15)

Sec. 13A-3. Enforcement by Building Inspector.

The provisions of this Chapter shall be enforced by the Building Inspector. (10-24-88, Art. 15)

Sec. 13A-4. Exceptions.

The provisions of this Chapter shall not be applicable to the removal of soil, loam, sand, gravel or other mineral material from land in public use and shall not prohibit removal of said material when authorized pursuant to a permit or license issued by a town board, or when removal is in compliance with the requirements of an approved subdivision plan.(10-24-88, Art. 15)