

TOWN OF LANCASTER MASSACHUSETTS



Excerpts of the
ZONING BYLAW
Pertaining to Earth Products Removal Special Permits

As Amended through the October 24, 2000 Special Town Meeting

ARTICLE 1: PURPOSE AND VALIDITY

1.10 Purpose

The purpose of this Bylaw is declared to be the promotion of the public health, safety, convenience and welfare, by;

- (a) encouraging the most appropriate use of land;
- (b) preventing overcrowding of land;
- (c) conserving the value of land and buildings;
- (d) minimizing traffic hazards and congestion;
- (e) preventing undue concentration of population;
- (f) providing for adequate light, air, and sanitation;
- (g) reducing hazards from fire, flood, and other dangers;
- (h) assisting in the economical provision, utilization and expansion of transportation, water, sewerage systems, schools, parks, and other public facilities;
- (i) enhancing the natural, man-made and historical amenities of the Town.

This Bylaw is based upon and is intended to implement the Comprehensive Plan of Lancaster as prepared and revised by the Lancaster Planning Board.

ARTICLE 10: ADMINISTRATION

10.20 Board of Appeals

10.22 Notices of Public Hearings. The Board of Appeals shall give public notice of any appeal, application or petition in the manner provided in Chapter 40A, Section 11 of the General Laws.[Amended 10/24/00]

10.23 Decisions. Decisions of the Board shall be made within a period consistent with Chapter 40A, M.G.L.[Amended 10/24/00]

10.24 Approval of Special Permits. The Board of Appeals shall not approve a special permit unless it finds that in its judgment all the following conditions are met:
[Amended 10/24/00]

- (a) All requirements applicable to the class of special permit sought are fulfilled;
- (b) The specific site is an appropriate location for the buildings and uses proposed;
- (c) There is safe access from roads adequate for the traffic expected, adequate parking is provided and internal circulation is adequate for emergency vehicles;
- (d) Board of Health requirements for water and sanitation arrangements are followed;
- (e) The use as developed and operated will not adversely affect the neighborhood;
- (f) The purposes of this Bylaw (Article 1.10) are substantially met.

In approving a special permit, the Board shall attach such conditions and safeguards as are deemed necessary to protect the neighborhood and the Town.

10.25 [Deleted 10/24/00]

ARTICLE 12: EARTH PRODUCTS REMOVAL

12.10 Authorization

12.11 Exceptions. the removal of earth products, which term shall include all types of soil -- humus, loam, sand and gravel, as well as bedrock, is prohibited unless authorized by the Board of Selectmen except under the following circumstances:

- (a) when such removal is incidental to and in connection with the erection of a building for which a building permit has been issued by the Building Inspector of the Town;
- (b) when such removal is required in order to construct a street that has been approved by the Planning Board;
- (c) when such removal is in accordance with special permission from the Board of Appeals issued under the provisions of existing Bylaws now in effect.

12.12 Authorization by Board of Selectmen. [Amended 5/3/88] In any other case earth products shall not be removed from any premises except as authorized on a special permit granted by the Board of Selectmen. Actions by the Selectmen on such special permit shall be based upon the same considerations and procedural requirements stated in the bylaw for the Board of Appeals, including Section 10.25, except as otherwise may be required by statute.

The Board of Selectmen shall impose any restrictions necessary to protect the interest of the Town while keeping in mind the general purpose of the bylaw to regulate the stripping of loam so as to prevent the injurious effects brought about by the creation of waste areas. A minimum depth of nine (9) inches of loam must be left and spread over the site unless a landowner can clearly demonstrate that a lesser depth of loam preexists on the site, in which case a depth equal to the preexisting depth shall be required to be left and spread over the site. The entire disturbed area shall be fertilized and seeded with a durable ground cover sufficient to stabilize and maintain finished grade. The Board of Selectmen may require a higher minimum depth of loam if in their opinion after examining the site, they determine that it is necessary to the best interest of the Town and/or abutting landowners.

The Board of Selectmen shall limit the size of the operation, the method of operation, the number of vehicles entering and leaving the site, the amount of earth products removed within a specified period of time and generally regulate the operation so as to allow the landowner use of his land but to prevent substantial injury to the public interest of the Town.

12.13 Record of Restrictions. Any restrictions or conditions imposed by the Board of Selectmen shall be attached to the letter of permit and copies of said permit and attached restrictions shall be sent to the Planning Board, Board of Appeals, Water and Road Boards, Board of Health, Building Inspector, and Town Clerk.

12.14 Time Limit. No earth products removal permit shall be issued for a period of less than six months or more than 24 months. A permit may be renewed without a public hearing by majority vote of the Board of Selectmen.

12.15 Limit of Removal. [Amended 5/3/88] The Board of Selectmen may in its discretion limit the amount of earth products removed from the Town:

- (a) upon a determination that there is or will in the future be a need for the products within the Town;
- (b) or the transportation of the earth products will create a hazardous condition because, but not limited to, the estimated number of vehicles per day, the size and weight of the vehicles, the expected spreading of dirt, dust on the roadways and in the air.

12.16 Unless incidental to construction on the premises under a current building permit, no earth materials shall be removed within ten feet of spring high water table within the Water Resource District, or within six feet of spring high water table elsewhere.

12.20 Enforcement

12.21 Security. The Board of Selectmen may at its discretion, require a Bond, certified check or other security for compliance with the conditions of this Bylaw.

12.22 Revocation. The Board of Selectmen may, after a public hearing on proof of violation of any condition of this Bylaw or restriction imposed by the Board of Selectmen, revoke any permit or permits issued by them.

12.23 Penalty. The penalty for violation of this Bylaw shall be as follows: for the first offense, not more than fifty dollars; for the second offense, not more than one hundred dollars; and for each subsequent offense, not more than two hundred dollars.

12.24 Extension of Prior Permits. Persons now operating with earth products removal permits granted either by the Board of Selectmen or the Board of Appeals shall be granted six months after passage of the above Bylaw at a Town Meeting to obtain a new permit or cease operation after the six month period has elapsed.