

# NOTICE TO APPLICANTS FOR LICENSES

## Earth Removal Permits:

Applicant shall be given a copy of the Earth Removal By-Law and shall apply accordingly to this office with all the necessary information provided.

Selectmen will vote at their next available meeting to hold a hearing on the application and will set a date and time for holding said hearing.

If they vote to hold a hearing, this office will advertise in The News and **the applicant shall be responsible for the cost of advertising.** The applicant should call *Mary Devlin*, @ this office @ 248-2206 the morning after the meeting at which the application was discussed to ask the date and time of the hearing.

The applicant will promptly notify all his/her abutters, via a certified list obtained by the Assessors' Office, **by certified mail** of the date and time of the hearing and bring the green cards signed by the abutters to the hearing.

Applicant should appear at hearing to answer any questions as may be necessary.

**TOWN OF CHARLTON**  
**APPLICATION FOR REMOVAL OF EARTH MATERIALS**

**ALL PARTS OF THIS FORM SHALL BE COMPLETED UNDER THE PAINS AND PENALTIES OF PERJURY.**

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

1. Application is hereby made in accordance with Article XXXXI of the Town of Charlton By-laws to remove earth materials from the following land:

Address: \_\_\_\_\_

Recorded at the Registry of Deeds \_\_\_\_\_, Deed Book \_\_\_\_\_, & Page \_\_\_\_\_

Certificate (if registered) \_\_\_\_\_

2. a. The name(s), address and telephone number of owner(s) of the subject land are:

NAME	ADDRESS	TELEPHONE NO.
_____	_____	_____
_____	_____	_____

2. b. Provide Proof of Ownership or Owner's Authority to Remove: \_\_\_\_\_

3. Type of earth material(s) \_\_\_\_\_

4. Amount to be removed \_\_\_\_\_ cubic yards

5. Future land use \_\_\_\_\_  
\_\_\_\_\_

6. Enclosed is application fee of \$25.00, payable to the TOWN OF CHARLTON.

7. The name, address and telephone number of the owner's representatives (if any) is as follows:

NAME	ADDRESS	TELEPHONE NO.
Atty.: _____	_____	_____
Eng.: _____	_____	_____
Agent: _____	_____	_____
Other: _____	_____	_____

8. The purpose of the project is: (Use additional Sheets)

9. Is the proposed site within 100' of a wetland and or 200' of a river (MGL 131, Section 40)? \_\_\_\_\_

10. Provide a bond in accordance with Section 6-3 of Article XXXI of Town of Charlton's By-Laws

11. Owner's (or agent's) signature: \_\_\_\_\_  
**RETURN BY SENDING CERTIFIED OR REGISTERED MAIL**

## REQUIRED DATA FOR REMOVAL OF MORE THAN 500 CUBIC YARDS

The following data is required to be submitted. All plans, calculation reports and any other data required or submitted shall be filed in duplicate.

- |           |  | <u>Circle One</u> |
|-----------|--|-------------------|
| <b>A.</b> | <b>Site Plans – Existing Site</b>  |                   |
|           | 1. Scale “ = 100’ and north arrow  | Yes No            |
|           | 2. All lot lines, distances, dimensions and ownerships   | Yes No            |
|           | 3. Existing topography at two (2) foot contour and all spot elevations used to establish contours                          | Yes No            |
|           | 4. Names of abutters as found on the latest Assessor’s map   | Yes No            |
|           | 5. Public streets, private ways, public and private structures   | Yes No            |
|           | 6. All brooks, streams, ponds, lakes, vegetated wetlands, and swales on site or within 200’ of the lot lines               | Yes No            |
|           | 7. All stone walls   | Yes No            |
|           | 8. All bounds (property)   | Yes No            |
|           | 9. All bench marks   | Yes No            |
|           | 10. Datum is described (U.S.G.S./N.G.V.D.)   | Yes No            |
|           | 11. All Tree lines   | Yes No            |
|           | 12. All abutters structures within 200’ of lot lines   | Yes No            |
|           | 13. Elevations of sills and basement floors of any house within 200’   | Yes No            |
|           | 14. All private or public wills within 200’ of lot lines   | Yes No            |
|           | 15. Invert elevations, slopes and sizes of all culverts on the site or within 200’   | Yes No            |
|           | 16. Location of all test pits, borings or seismic profiles   | Yes No            |
|           | 17. Areas to be cut and areas to be filled   | Yes No            |
|           | 18. A1-16 prepared by Massachusetts Registered Professional Engineer   | Yes No            |
|           | 19. A1-16 prepared by Massachusetts Registered Land Surveyor   | Yes No            |
| <b>B.</b> | <b>Site Plans – Locus Map</b>  |                   |
|           | 1. U. S. Geological Survey topographic quadrangle map  | Yes No            |
|           | 2. Site lot lines  | Yes No            |
| <b>C.</b> | <b>Site Plans – Proposed Site</b>  |                   |
|           | 1. Scale 1” = 100’ with north arrow  | Yes No            |
|           | 2. Proposed final topography at two (2) foot contours  | Yes No            |
|           | 3. All lot lines   | Yes No            |
|           | 4. All proposed structures (permanent/temporary)   | Yes No            |
|           | 5. All proposed permanent or temporary drainage to include but limited to swales, culverts, culvert invert elevation, etc. | Yes No            |
|           | 6. All existing wetland areas proposed to be filled or dredged   | Yes No            |
|           | 7. All proposed permanent or temporary fences  | Yes No            |
|           | 8. All proposed permanent or temporary private or public on site streets   | Yes No            |

- |  |     |    |
|--|-----|----|
| 9. Boulder and stump disposal areas                                    | Yes | No |
| 10. Site water supply  | Yes | No |
| 11. Sanitary sewage disposal area                                      | Yes | No |
| 12. C1-12 prepared by a Massachusetts Registered Professional Engineer | Yes | No |

**D. Site Plan – Erosion and Sediment Control Plans**

The goals of this plan are to prevent erosion and control sediment movement and deposition

1. Design specifications for erosion and sediment control structures such as diversions, waterways, slope stabilization structures, sediment basins, etc., in sufficient detail to implement their installation together with referenced standards for soil erosion and sediment control as appropriate. These must include design calculations as required for each structure. Yes No
2. Specifications for seeding and/or sodding requirements for all exposed areas including seedbed preparation, seed mixture, lime fertilizer and mulching requirements with referenced standards Yes No
3. Schedule, or sequence of operations, with starting dates for clearing and/or grading, timing of storm drain and culvert installations, duration of exposure of soils, and critical area stabilization, both temporary and permanent. Indicate dates when critical area stabilization, paving, seeding and mulching or sodding is to be completed Yes No
4. General notes for sediment control that spell out the procedures for implementing the plan. The time schedules indicated in 3 should be included. Yes No

To insure that the plan, once approved, is properly carried out, the following steps are necessary.

5. An inspector shall be appointed for the sole purpose of inspecting the implementation of the erosion and sediment control plan. The choice of the inspector will be approved by the Town of Charlton's Town/Highway Engineer and work at the expense of the applicants Yes No
6. The inspector will keep a daily log of the activities of the developments which affect erosion and sediment control. The Inspector will submit weekly reports to both parties and immediately report all violations and/or problems. The inspector will have the power to enforce the erosion and sediment control plan by immediately preventing any action which may violate the plan or cause erosion and sediment pollution Yes No
7. Labor and equipment must be immediately available to implement emergency Control of erosion and sediment at any time of the day or night should an emergency occur, such as a rare event storm, and the methods employed by the erosion and sediment control plan fail. Yes No

**E. Site Plans – Excavation Schedule**

1. Site plan at 1" = 100' scale showing which areas are to be excavated and when relative to each other Yes No
2. The area being excavating at any one time shall not exceed an area of three (3) contiguous acres Yes No

**F. Site Plans – Renovation**

1. A plan shall be submitted to the Town/Highway engineer which shows proposed future land use of the site which could reasonably occur within the immediate future (zero to five years), which reflects the physical characteristics of the site after excavation, and which meets present state and local law Yes No
2. All excavated areas shall be covered with a minimum of four (4) inches of topsoil and seeded with a Massachusetts Department of Public Works erosion control seed mixture or any other better erosion control method or seed mixture Yes No

**Town of Charlton**  
**Earth Removal Surety Bond**

Permit # \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS, that \_\_\_\_\_ of

\_\_\_\_\_, as Principal, and \_\_\_\_\_

\_\_\_\_\_, a corporation duly organized and existing under the laws of the Commonwealth of Massachusetts, having a usual place of business at \_\_\_\_\_, Massachusetts and duly approved or licensed to do business as surety on bonds in the Commonwealth of Massachusetts, as surety, hereby bind and obligate themselves and their respective heirs, executors, administrators, successors and assigns, jointly and severally, to the Town of Charlton, a Massachusetts municipal corporation, in the sum of \_\_\_\_\_ Dollars.

The condition of this obligation is that if the Principal shall fully and satisfactorily observe and perform in the manner and in the time therein specified, all of the covenants, conditions, agreements, terms and provisions contained in the application signed by the Principal and dated \_\_\_\_\_ under which an earth removal permit for the following property:

\_\_\_\_\_

[Insert Street Address and Assessors' Map References]

has been or is hereafter to be granted by the Charlton Board of Selectmen, as well as all conditions, terms and provisions in said permit by the Board of Selectmen, then this obligation shall be void; otherwise, it shall remain in full force and effect.

The Surety hereby assents to any and all changes and modifications that may be made of the aforesaid covenants, conditions, agreements, terms and provisions to be observed and performed by the Principal, and waives notice thereof.

However, this contract, and surety bond, shall remain in full force and effect until the said Principal has fully complied with all conditions of the permit issued to the satisfaction of the Board of Selectmen, and this contract, and surety bond, shall not be rendered null and void until the Principal has obtained from the Board of Selectmen, a discharge, in writing releasing both the Principal and the Surety from those obligations created hereunder, and at such time, the Principal shall provide the Board of Selectmen with sufficient evidence that he/it has forwarded a copy of said discharge to the Surety, either by delivering said discharge in hand, or by mailing, certified mail, return receipt requested.

THIS BOND SHALL BE EFFECTIVE on that date which appears below and shall have the effect of a sealed instrument.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on this \_\_\_\_\_ day of \_\_\_\_\_ 20 .

\_\_\_\_\_  
\_\_\_\_\_

(Principal)

(seal)

\_\_\_\_\_  
\_\_\_\_\_

(Name of Surety)

(seal)

THIS BOND MUST BE ACCOMPANIED BY A POWER OF ATTORNEY AND A CERTIFICATE OF AUTHORITY OF ATTORNEY(S)-IN-FACT.

APPROVED AS TO FORM:

\_\_\_\_\_  
Charlton Town Counsel

\_\_\_\_\_ a permit to remove the following earth materials:  
(name of principal)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The foregoing materials are to be removed from the property, hereinafter described, in the Town of Charlton: \_\_\_\_\_

and to reference is hereby made by the plan submitted: Assessors Map \_\_\_ Lot \_\_\_ Block \_\_\_

dated: \_\_\_\_\_ engineer: \_\_\_\_\_.

THE PERMIT GRANTED TO \_\_\_\_\_ by the Town of Charlton,  
(name of principal)  
dated \_\_\_\_\_, 20\_\_\_, is subject to all restrictions stated in the permit, as issued, and is subject to all rules and regulations adopted by the Town of Charlton, and in effect, to all those restrictions which may be hereinafter imposed, does the said \_\_\_\_\_,  
(name of principal)  
herein firmly bind himself (itself).

NOW THEREFORE, if the said \_\_\_\_\_ shall in the removal  
(name of principal)

of those earth materials hereinbefore described, from said property described, leave the premises in that condition required by said permit, and subject to all applicable rules, regulations and restrictions, then this contract shall be null and void. However, this contract, and surety bond, shall remain in full force and effect until the said \_\_\_\_\_ has fully complied with all  
(name of principal)  
conditions of the permit issued, to the satisfaction of the Town of Charlton Board of Selectmen, and this contract, and surety bond, shall not be rendered null and void until the Principal has obtained, from the Town of Charlton Board of Selectmen, a discharge, in writing, releasing both the Principal and the Surety from those obligations created hereunder, and at such time, the Principal shall provide the Town of Charlton Board of Selectmen with sufficient evidence that he/it has forwarded a copy of said discharge to the Surety, either by delivering said discharge in hand, or by mailing, certified mail, return receipt requested.

THIS BOND SHALL BE EFFECTIVE on that date which appears below and shall have the effect of a sealed instrument.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on this \_\_\_\_\_

day of \_\_\_\_\_, 20 .

In Witness Whereof:

\_\_\_\_\_

\_\_\_\_\_  
(Principal) (seal)

\_\_\_\_\_

\_\_\_\_\_  
(Name of Surety) (seal)

By: \_\_\_\_\_

**THIS BOND MUST BE ACCOMPANIED BY A POWER OF ATTORNEY AND A CERTIFICATE OF AUTHORITY OF ATTORNEY(S)-IN-FACT.**

APPROVED AS TO FORM:

\_\_\_\_\_  
Charlton Town Counsel

## **ARTICLE XXXX: HAZARDOUS WASTE DISPOSAL AND STORAGE BYLAW**

### **Section 1: Definitions**

The following words, as used in this bylaw, unless the text otherwise requires or a different meaning is specifically required, shall have the following meanings:

- A. "Person" shall include, where applicable, natural persons, corporations, trusts, partnerships, incorporated or unincorporated associations, municipal officers, and other municipal agencies.
- B. "Solid waste" shall mean garbage; refuse; sludge from a waste treatment plant, water supply treatment plant or air pollution control facility; or other discarded material, including solid, liquid, semi- solid, or gaseous material resulting from industrial, commercial, mining or agricultural operations, or from community activities.
- C. "Hazardous Waste" shall mean solid waste or a combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or pose a substantial present or potential hazard to human health or the environment when improperly stored, disposed of or otherwise managed.

### **Section 2: Prohibition**

No person shall dispose of or store hazardous waste on property owned, leased or otherwise controlled by the Town of Charlton.

### **Section 3: Penalty**

Any person who violates any provision of this bylaw shall be liable to a penalty not exceeding Two Hundred Dollars (\$200.00) for each violation. Each day that a violation continues shall constitute a separate offense.

## **ARTICLE XXXXI: EARTH REMOVAL BYLAW**

### **Section 1: Definitions**

The following words used in this By-law shall have the following meanings unless a contrary intention clearly appears:

- 1. "Board" shall mean the Selectmen of the Town of Charlton.
- 2. "Earth" shall mean soil, loam, sand or gravel or any combination thereof.
- 3. "Lot" shall mean a parcel of land held in identical ownership throughout including all contiguous land held in the same ownership within the Town of Charlton. Any other land held in the same ownership, but not within the Town of Charlton shall be considered a separate parcel.
- 4. "Person" shall include a corporation, society association and partnership.
- 5. "Town" shall mean the Town of Charlton.

## Section 2: Prohibition and Exemptions

1. No earth shall be removed from any lot in the Town unless an earth removal permit therefore shall first have been obtained from the Board.
2. The provisions of this Section shall not apply to:
  - (a) the removal of earth in connection with the construction of or other work on a building or other structure or facilities ancillary to a building or other structure under the authority of a permit issued by any department or agency of the Town;
  - (b) the removal of earth in compliance with the requirements of a subdivision plan approved by the Planning Board;
  - (c) the removal of earth from land in public use;
  - (d) the removal of earth for any municipal purpose by or on behalf of the Town or any department or agency thereof;
  - (e) the removal of not more than a total of 500 cubic yards of earth from a lot within any period of ten consecutive years;
  - (f) the removal of earth which is customarily incidental to agriculture, horticulture or floriculture; and
  - (g) the removal of earth in connection with the construction or improvement of a private way.

## Section 3:

1. Applications for earth removal permits shall be made to the Board.
2. Each application shall include and be accompanied by the following information and supporting documentation:
  - (a) The location of the lot from which it is proposed to remove earth;
  - (b) the complete name and address of the owner of the lot;
  - (c) the complete name and address of the applicant;
  - (d) adequate evidence of the applicant's ownership of the lot or authority from the owner of the lot to remove earth therefrom, as the case may be;
  - (e) the quantity of earth to be removed;
  - (f) the form of the bond proposed to be submitted in accordance with Section 6-3;
  - (g) such other relevant information as may be required by the Board.
3. Each application shall be accompanied by the sum of Five Hundred and 00/100 (\$500.00) Dollars for the permit fee which the Board shall pay over upon receipt to the Town Treasurer.

## Section 4: Hearings

1. Before acting on an application, the Board shall hold a public hearing thereon.
2. Before holding a public hearing, the Board shall at the expense of the applicant give notice of the time, place and subject matter of the hearing at least seven (7) days prior thereto by publication in a newspaper of general circulation in the Town.

## Section 5: Action on Applications

1. Applications for permits may be granted or denied, or granted in part and denied in part:
2. The Board shall not grant an application if it appears that the purpose earth removal may:
  - (a) endanger the public health or safety;
  - (b) be detrimental to the normal use of other land in the area by reason of noise, dust or vibrations; or
  - (c) undermine any building or other structure or any public or private way.

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As Amended Thru Annual Town Meeting May 2005

#### Section 6:

1. No permit shall be issued for a period in excess of five (5) years, and the beginning and terminating dates shall be set forth thereon.
2. Each permit shall be subject to the following conditions which shall be set forth thereon:
  - (a) No earth shall be removed from the lot in such manner or in such quantity as to alter the course or increase the volume of surface or subsurface water draining from the lot;
  - (b) No slope created by the removal of earth shall be finished at a grade in excess of two (2)(horizontal) to (1) (vertical) expressly otherwise set forth in the permit;
  - (c) Upon completion of the removal of earth from the lot, all stones and boulders protruding above the finished grade in those areas from which earth was removed a distance of four(4) inches or more shall be buried beneath the finished grade or removed from the lot;
  - (d) Upon completion of the removal of earth from the lot, all areas from which earth was removed except where ledge rock is exposed shall be brought to the proposed finished grades shown on the plan referred to in Section 3-2 (f), covered with not less than 4 inches of the original topsoil or topsoil of equivalent or greater quality than the original topsoil, and seeded with a suitable cover crop.
  - (e) Such other conditions consistent with the provisions of this Bylaw and any regulations adopted hereunder as may be imposed by the Board.
3. The applicant shall post with the Treasurer of the Town, a bond in a form approved by the Town Counsel in such amount and with such sureties as determined by the Board to be sufficient to guaranty compliance with the terms and conditions of the permit.
4. The permit-issuing Board may hire at the applicant's expense engineering consulting services to provide the Board with a plan review and recommendations as deemed necessary.

#### Section 7: Regulations

1. The Board may adopt regulations to carry out the provisions of this Bylaw.
2. Such regulations shall take effect upon their being published in a newspaper of general circulation in the Town and filed with the Town Clerk.

#### Section 8: Dual Application

No provision of this bylaw shall be deemed to amend, repeal or otherwise change any zoning bylaw of the Town nor or hereafter in effect or to derogate from the intent or purposes of any such zoning bylaw.

#### Section 9: Effective Date

This Bylaw shall take effect upon its approval by the Attorney General and its publication and posting as required by Massachusetts General Laws, Chapter 40, Section 32; provided, however, that any earth removal operations being actively conducted on the effective date of this bylaw may continue unaffected by this bylaw.

**Section 10: Penalty**

Any person who continues to violate any provision of this bylaw or any permit issued hereunder after the expiration of ten days after written notice of such violation by the Board to such person shall be liable to a penalty of \$50.00 for the first offense, \$100.00 for the second offense and \$200.00 for each subsequent offense. Each day that any such violation continues shall constitute a separate offense.

**ARTICLE XXXII: TAX INCREMENT FINANCING**

The Board of Selectmen is authorized to negotiate and execute tax increment financing ("TIF") agreements and subsequent modifications thereto on behalf of the Town, pursuant to Massachusetts General Laws Chapter 23A, section 3A through 3H, Chapter 40, section 59 and Chapter 59, Section 5, their successors, and the regulations promulgated thereunder.

**ARTICLE XXXIII: Left Blank For Future Use**

**ARTICLE XXXIV: NONCRIMINAL DISPOSITION ENFORCEMENT PROCEDURE**

**Section 1. Noncriminal Disposition Procedure.**

Any person designated below as the enforcing person for a particular bylaw, rule or regulation, or portion thereof, taking cognizance of a violation of same which s/he is empowered to enforce, hereinafter referred to as the enforcing person, as an alternative to initiating criminal proceedings may give to the offender a written notice to appear before the clerk of the Dudley District Court or such other Court, if any, having jurisdiction thereof at any time during office hours, not later than twenty-one days after the date of such notice. Such notice shall be in triplicate and shall contain the name and address, if known, of the offender, the specific offense charged, and the time and place for his, her or its required appearance. Such notice shall be signed by the enforcing person, and shall be signed by the offender whenever practicable in acknowledgment that such notice has been received. The enforcing person shall, if possible, deliver to the offender a copy of said notice at the time and place of the violation. If it is not possible to deliver a copy of said notice to the offender at the time and place of the violation, said copy shall be mailed or delivered by the enforcing person, or by his commanding officer or the head of his department or by any person authorized by such commanding officer, department or head, to the offender's last known address, within fifteen days after said violation. Such notice as so mailed shall be deemed a sufficient notice, and a certificate of the person so mailing such notice that it has been mailed in accordance with this section shall be prima facie evidence thereof.

At or before the completion of each tour of duty, or at the beginning of the first subsequent tour of duty, the enforcing person shall give to his commanding officer or department head those copies of each notice of such a violation s/he has taken cognizance of during such tour which have not already been delivered or mailed by him or her as aforesaid. Said commanding officer or department head shall retain and safely preserve one copy and shall, at a time not later than the next