

Chapter 29

EARTH REMOVAL

§ 29-1. Permit required.

§ 29-2. Plan information.

§ 29-3. Public bearing.

§ 29-4. Conditions; bond.

§ 29-5. Recommendations of other agencies; revocation of permit.

§ 29-6. Considerations.

§ 29-7. Violations and penalties.

§ 29-8. Severability.

[HISTORY: Adopted by the Annual Town Meeting by the Town of Pelham 3-3-1973, Art. 31. Amendments noted where applicable.]

GENERAL REFERENCES

Water Supply Protection District earth removal operations — See Ch. 125, § 125-8E.

§ 29-1. Permit required. [Amended 6-27-2020 ATM by Art. 17]

No persons shall remove, nor cause to be removed, nor permit the removal of any soil, loam, sand or gravel from any land within the Town of Pelham unless such person is the holder of a written permit duly issued by the Select Board (hereinafter called the "Board") after a public hearing in accordance with the provisions of this chapter. Removal shall be constructed to include severance and stripping of any kind.

§ 29-2. Plan information.

A. Before the public hearing the applicant shall file with the Board an original and two copies of a plan made by a registered engineer or registered land surveyor, which shall show in detail the following information:

- (1) All the property where the earth is to be removed with the boundaries shown in detail.
- (2) All buildings on said property and all buildings within 100 feet of said property lines.
- (3) All adjacent roads, waterways, brooks, swamps, wetlands and their elevations.
- (4) Any and all easements, existing and proposed, public or private.

B. The plan shall be drawn to a scale of one inch equals 40 feet, and all profiles shall be drawn to a scale of one inch equals four feet. The plan shall also show the finished contours and profiles with a detailed description of the finished surface. The plan shall be a public record.

§ 29-3. Public hearing. [Amended 6-27-2020 ATM by Art. 17]

Notice of the public hearing shall be given by the Board to each abutter and secondary abutter as they appear on the most recent tax list. The Board shall give notice of the public hearing and one copy each of the plan to the Planning Board and the Conservation Commission, and notices to such other persons or Town boards as the Select Board members shall prescribe. Said notice shall be advertised by the Board in the newspaper of general circulation in Pelham at least 14 days prior to the hearing date. The applicant shall pay such filing fee and expenses for consultants or other services as the Board may require, including costs of Town employees or officers or Board if the Select Board members so require.

§ 29-4. Conditions; bond.

In issuing a permit the Board may impose such reasonable conditions as it may deem necessary for the adequate protection of the neighborhood and Town. Any conditions imposed by the Board shall be attached to and made a part of the permit. The Board may, at its discretion, require a bond, certified check or other security satisfactory to it for compliance with said conditions or as evidence of good faith as to the completion of any proposed work.

§ 29-5. Recommendations of other agencies; revocation of permit. [Amended 6-27-2020 ATM by Art. 17]

The Planning Board and Conservation Commission may make recommendations to the Select Board members regarding a plan, and such recommendations shall be public record. Copies of the permit shall be sent to the Planning Board and Conservation Commission, and the permit shall be public record. The Board may, after a public hearing and notice to the person holding the permit, revoke any permit issued under this chapter upon proof of violation of conditions by the Board.

§ 29-6. Considerations.

In addition to such recommendations as may be made by the Planning Board and Conservation Commission, the Board shall consider, among other things, the following: method of removal, days and time of removal, effect of the operation on traffic, Town roads, noise, dust, routes of travel and final conditions of the site.

§ 29-7. Violations and penalties.

The penalty for the violation of this chapter, or removal of any soil, loam, sand or gravel within the Town of Pelham without a permit hereunder, shall be as provided under MGL c. 40, § 21(17), and each unit of removal, such as a truck load of any size, shall constitute a separate offense under this chapter.

§ 29-8. Severability.

The invalidity of any section or part of this chapter shall not affect the validity of any other section or part hereof otherwise valid.