



Soil Conservation Board

Town of Berkley

1 North Main Street

Berkley, Ma 02779

Rules and Regulations

Approved November 2008

The purpose of an Earth Alteration Permit is to assure that the proposed operation shall be conducted in a manner that is consistent with land use objectives of the Town of Berkley and to protect the welfare, health, and safety of the Town and its inhabitants. The following Rules and Regulations, in conjunction with Town By-law Article 12, and M.G.L. Ch 40, Sect 21, Cl 17, set forth the process for submission and review of Earth Alteration Applications.

SECTION 1 - FILING

- A. All complete application filings, and plan if applicable, shall be submitted to Board with copy to Town Clerk forthwith.
- B. The Certified Abutters List shall show all property owner's names, addresses, Map #, and Lot #, for five hundred feet (300') from all points of the subject lot's boundary lines and reduced copy of Assessor's Map showing all listed lots.
- C. It is recommended that all applications shall include a brief narration setting forth, in detail, all facts pertinent to the application.

SECTION 2 - FEES

- A. Exception to Fees - A homeowner, after an occupancy permit is issued, who needs to alter soil up to 300 cubic yards of material shall be exempt from a permit. For alterations between 300 to 2,000 cubic yards of material the homeowner shall be exempt from other fees, but must pay \$500.00 minimum for all mailing, recording, advertising, and secretarial fees relative to a permit. No application shall be deemed complete until all required documents, containing the requested data, are appropriately filed (see attached Appendix).
- B. Filing Fee - shall be \$1,000.00 plus \$.10 (ten cents) per cubic yard proposed to be altered to be paid upon original application.
- C. Request for Determination of Applicability (RDA) Fee - shall be \$75.00 paid upon RDA Application submission. At the Boards discretion with regards to any person or entity before the Board for the purposes of determining whether an excavation permit is necessary, said person or entity shall be required to submit to the Board a fee in the amount of \$1000.00. Said fee will be used by the board solely to obtain consulting services including, but not limited to, engineering consultation with regards to any unique or complicated issues that may exist for the proposed excavation. The total fee or any portion thereof, remaining unused by the Board after a determination has been made with



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regards to whether an earth excavation permit is needed, shall be either returned to the person or entity submitting the same, or, alternatively, applied towards any or all filing fees and other fees associated with the required excavation permit.

D. Renewal Fee - shall be \$600.00 per year in addition to consulting and alteration fees.

E. Consulting Fee - Original applicants shall pay a consultant fee of \$2,000.00 plus \$.05 (five cents) per cubic yard proposed to be altered. Applicants for **annual renewal** shall pay a consultant fee of \$1000.00 only. Said fees shall be paid at the time of the submittal of the application. A minimum of \$2,000.00 shall be maintained throughout the lifetime of permit. Board will notify applicant if balance falls below \$2,000.00. Upon receipt of such notice, amount must be deposited in established account within fourteen (14) days. Said funds shall be deposited in an account established pursuant to G.L. Ch. 44. (An administrative appeal may be made to the Board of Selectmen, in writing, stating any objections to the choice of consultant by the Soil Conservation Board. The Board of Selectmen will act on the appeal within thirty (30) days. Grounds for such appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications. Minimum qualifications shall consist either of the educational degrees in or related to the field at issue or five or more years of practice in the field at issue.)

F. Alteration Fee - shall be \$.10 (ten cents) per cubic yard altered. This fee shall be paid in advance of any alteration based on an estimate provided by the applicant's engineer and verified by a consulting engineer. Also, the applicant must supply Board with an actual amount removed or altered along with an estimate for the ensuing year before any alteration permit is granted. This fee shall be imposed for any material removed from or brought to the site and not any material moved on the site.

SECTION 3 - PERFORMANCE GUARANTEES

A performance bond of \$10,000 per acre, or \$10,000 cash surety per acre, of operation shall be required. This Board also reserves the right to increase the amount of surety or to require a larger or less amount depending upon the site. Surety must be presented to the Board before any operation begins and shall remain in force until such time as a majority of the Board votes the operation is complete and has been restored to a usable condition and all operating fees have been paid to the Town.

SECTION 4 - ENGINEERING REQUIREMENTS



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The following presents a list of minimum engineering requirements. The Board may, at times, require additional means to form an adequate basis for decision.

- A. Plans shall be prepared by a Registered Professional Civil Engineer or Land Surveyor. At least three (3) complete sets of plans, dark line on white background, to be filed with application. One of which the applicant shall deliver directly to the Board's consulting engineer.
- B. All plans shall be drawn subject to the following minimum requirements:
 - 1. Each plan shall have three quarter inch (3/4") borders.
 - 2. The minimum lettering size on drawings shall be one eighth of an inch.
 - 3. Each drawing shall include a graphic scale.
 - 4. Each drawing shall have an area reserved to receive planning board recitation.
- C. Plans shall contain topography showing the present or actual contour and the proposed final contour. Contour lines to be shown at two (2.0') foot intervals and elevations must be established relative to mean high water (sea level) as defined by the U.S. Dept. of Interior Geological Survey and shown on the most recent Geological Survey Map (Assonet Quadrangle).
- D. The plan shall show the name of all abutters within three hundred feet (300') of all boundary points as they appear in the most recent tax list with Assessor's Page and Plot numbers for each lot.
- E. All boundary lines shall be clearly shown on the plans and permanent boundary markers placed on all boundaries where any proposed excavation would be within two hundred and fifty (250') feet of the boundary. Acceptable permanent markers such as metal rod, drill hole in bounds or rock, and stonewall. **Nails in utility poles or trees not acceptable.**
- F. Boundary lines of permit area shall be marked before excavation starts and are to be maintained throughout the life of the permit.
- G. At least two permanent benchmarks shall be maintained throughout the life of the permit. There shall be at least 100 feet between the benchmarks, and not more than one is to be a permanent boundary marker.
- H. Elevation of water table shall be established and no excavation shall be below twelve (12') feet above established water table, unless Board determines that such removal is necessary to achieve the



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proposed final outcome; in such case, the Board may require written evidence of the proposed final outcome.

- I. Board may require erosion control plan if deemed necessary.
- J. Plan shall show all relationships to any existing wetlands and/or flood plains. A negative determination and/or Order of Conditions from the Conservation Commission for the entire project must accompany the application and at least one (I) plan with a majority of signatures from the Conservation Commission indicating that this is the plan that they have reviewed.
- K. Applicant shall supply Board with any drainage calculations to substantiate that peak drainage flow is not increased from pre to post development and in compliance with the DEP Storm Water Management Policy.
- L. A final topographical survey shall be submitted and reviewed before performance guarantee is released on a closed operation.
- M. A current copy of the deed must be submitted with all applications and any change of description or ownership.
- N. Final grades shall not exceed (1: 4) one foot rise to four feet or a twenty-five (25%) percent grade.
- O. No material shall be brought into the site, while the permit is in force, without prior approval of this Board. All loam and topsoil must be scraped and stockpiled on the site for use in later landscaping. Upon completion of all earth alteration, the loam or topsoil must be spread back over the entire area and the regraded area must then be seeded with an acceptable material and maintained until the grass heights have reached the two (2) inch minimum.
- P. North arrow shall be shown on Plan.
- Q. All plans shall show the names of all public and private streets bounding and approaching, identifying rights of way, property lines, entrances, driveways, locations of proposed and existing structures, public and private wells, and public and private subsurface disposal systems within five hundred feet (500) of all boundary points.
- R. All requests for waivers from the Soil Conservation By-law (Article 12) and/or the Board's Rules and Regulations shall be in written form. Each request shall reference the appropriate By-law/Rule and Regulation and detail the reason for such request, showing how such waiver, if granted, would be in the Town's best interest. Such requests shall be filed with the application.

SECTION 5 – INSPECTIONS



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- A. Annual inspection shall be done before renewal is granted.
- B. Periodic inspections shall be done by the Board. At least two (2) members are required to be present to make an inspection valid.
- C. The owner/operator shall be notified of all inspections at least twenty-four (24) hours in advance, except when there is reason to believe the By-laws or Rules and Regulations of the Soil Conservation Board have been violated and that a condition exists that could endanger life, property, or the environment.
- D. Prior to granting of any permit (new or renewal) a site inspection shall be required. The area must be adequately staked to indicate the limits of alteration.
- E. Prior to the issuing of a Certificate of Completion, a site inspection shall be required.



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SECTION 6 – MEETINGS

- A. The Soil Conservation Board shall hold a public hearing within sixty-five (65) days of receipt of any complete application.
- B. The Chairman of the Board is hereby authorized to set the hearing dates for all complete applications.
- C. A representative of the applicant's engineering firm must be present at the initial hearing, site review, and hearing continuation.

SECTION 7 – RENEWALS

Permits expire one year from date of issue. Complete Renewal Applications shall be filed at least 30 days prior to the expiration date.

- A. An affidavit, signed by both the owner and operator, shall accompany the renewal application, stating the following information, and all other required documents (see attached Appendix):
 - 1. Number of cubic yards removed for the past year
 - 2. Total cubic yards removed to date
 - 3. Copies of receipts for removal fee to date
 - 4. Estimated number of cubic yards to be removed next year
 - 5. Bond status with verification from bonding company

SECTION 8 - HOURS OF OPERATION

- A. 7:00 A.M. to 5:00 P.M., Monday through Friday. No alteration may be conducted during the eleven (11) state recognized holidays.
- B. All machinery or equipment operated in association with or in conjunction to the permitted work shall be prohibited from operating outside of the permitted hours of operation with exception of the road cleaning equipment used immediately following the close of the permitted workday.

SECTION 9 - APPLICABILITY OF REGULATIONS

- A. Any removal of over three hundred (300) cubic yards of material from a site or construction site shall require a determination of applicability of the Soil Conservation By-Law and Regulations by the Soil Conservation Board or its Designee.



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B. All exceptions that are provided by By-Law or General Laws shall be honored.

APPENDIX

I REQUEST FOR DETERMINATION OF APPLICABILITY (RDA)

1. RDA Application
2. Earth Alteration Yardage Affidavit (including engineers stamp/seal)
3. Intent Affidavit
4. Tax Affidavit
5. Workmen ' s Compensation Insurance Affidavit

Each set of completed forms shall be accompanied by:

- A. A formal Plan drawn to applicable specifications or lot plan showing estimated pre/post elevations and detailed locus of proposed work
- B. Conservation Commission approval shown on Notice of Intent/Order of Conditions or Negative Determination of Applicability
- C. Filing Fee
- D. Copy of Deed
- E. Written narrative setting forth in detail all facts pertinent to the application including distance to nearest known wetland, waterway, or water body, setback distance of the proposed work to all bounding property lines and public or private ways, and any requested waivers of the Soil Conservation Board By-law (Article-12) and/or Rules and Regulations showing how, if granted, the Town's best interests will be served, is recommended



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II. ORIGINAL APPLICATION

1. Application with attached Bond or Cash Surety
2. Earth Alteration Yardage Affidavit (including engineers stamp/seal)
3. Intent Affidavit
4. Tax Affidavit
5. Workmen's Compensation Insurance Affidavit

Each set of completed forms shall be accompanied by the following:

- A. Minimum of 3 copies of complete sets of Plans drawn to specifications of SCB By-law (Article 12), Board's Rules and Regulations, At least one (1) set of plans shall show the stamp of the Conservation Commission and the majority of the Commissioner's signatures, if applicable
- B. Copy of Conservation Commission's Negative Determination or Approved Notice of Intent and Order of Conditions, if applicable
- C. Fees: Filing, Consultant, Earth Alteration
- D. Certified Assessor's Abutters List showing data for all lots within three hundred (300') of all points from the subject lot's boundary lines and reduced copy of Assessor's plot plan showing all listed lots
- E. Written request for waivers of By-laws and/or the Board's Rules and Regulations. Such request shall identify each appropriate reference and show how each waiver requested, if granted, will be in the Town's best interest.
- F. A brief written narrative setting forth, in detail, all facts pertinent to the application, is recommended
- G. Copy of Deed

* It shall be the applicant's obligation to: 1) forward one complete set of Plans and copy of application directly to the Board's consulting engineer for review, and 2) file one complete set of Plans and copy of Application with Town Clerk at same time as Board filing. Note: All subsequent data filed with the Board shall also be filed with the Town Clerk and consultant in the same manner as original filing.



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III. RENEWALS

1. Renewal Application with attached current or renewed status of Bond or Cash Surety
2. Earth Alteration Yardage Affidavit (including engineers stamp/seal)
3. Intent Affidavit
4. Tax Affidavit
5. Workmen's Compensation Insurance Affidavit

Each set of complete forms shall be accompanied by the following:

- A. Fees: Filing, Consultant, Earth Alteration
- B. Copy of Con Com's Notice of Intent Order of Conditions, if applicable
- C. Written request for waivers of By-laws and/or the Board's Rules and Regulations. Such request shall identify each appropriate reference and show how each waiver requested, if granted, will be in the Town's best interest.
- D. A brief written narrative setting forth, in detail, all facts pertinent to the application, is recommended
- E. Copy of Deed

It shall be the applicant's obligation to file one complete set of Plans and copy of Renewal Application with Town Clerk at same time as Board filing. Note: All subsequent data filed with the Board shall also be filed with the Town Clerk in the same manner as original filing.