

# Memo

To: Town Manager  
Board of Selectmen  
Advisory and Finance Committee

From: Lee Hartmann, Dir. of Planning & Development

Date: January 10, 2017

Re: Article 27 – 2017 ATM - Chapter 154 – Soil Removal of the General Bylaws

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Chapter 154 of the Town's General Bylaw appears to give the Board of Selectmen some level of authority to grant and/or issue cease and desist orders for the removal of soil, loam, sand or gravel. The language is vague and confusing. The bylaw has been on the books for over 40 years and to the best of staff's knowledge, has never been use. Since 1972, the Town has relied on its Zoning Bylaw to regulate the removal of earth in the Town.

In conjunction with the adoption of expanded earth removal regulations proposed in Article 28, the Planning Board voted (5-0) to recommend that the Town strike Chapter 154 from its General Bylaws.

## **Chapter 154- SOIL REMOVAL**

**§ 154-1. Notice to cease activity; application for permit; public hearing.**

**§ 154-2. Hours of operation of soil pits.**

**§ 154-3. Enforcement; violations and penalties.**

**[HISTORY: Adopted by the Annual Town Meeting of the Town of Plymouth 4-16-1974 by Art. 58 as Art. 5, Sec. 5.14 of the 1974 Bylaws. Amendments noted where applicable.]**

**§ 154-1. Notice to cease activity; application for permit; public hearing.**

No person shall, except in conjunction with the construction of a building on the same parcel of land or for continued operation of an existing sand or gravel pit on the same parcel of land, remove any soil, loam, sand or gravel from any land in the town after notice to cease and desist or to refrain from removal thereof has been served upon such

person by delivery in hand or by leaving at the last and usual place of abode of such person or at the usual place of business of such person of written notice, signed by a majority of the Board of Selectmen, forbidding such removal, or any person wishing in advance of such notice to determine rights to remove soil, loam, sand or gravel may at any time apply to said Board for permission to remove such soil, loam, sand or gravel, said Board thereafter to hold a public hearing on the application, notice of filing such application and the date and time of the public hearing to be advertised in a paper published in the town seven days at least prior to the date fixed for such public hearing. The Board of Selectmen shall, within 10 days of completion of such public hearing, grant or deny permission to remove such soil, loam, sand or gravel.

**§ 154-2. Hours of operation of soil pits. [Added 5-13-1981 ATM by Art. 44]**

The hours of operation of licensed soil pits shall be 6:00 a.m. to 7:00 p.m., Monday through Friday, and 6:00 a.m. to 12:00 noon on Saturday.

**§ 154-3. Enforcement; violations and penalties. [Added 11-16-1987 STM by Art. 5]**

The Police Department shall enforce this chapter pursuant to Chapter 1, General Provisions, § 1-3 of this Code, related to noncriminal disposition of bylaw violations under MGL c. 40, § 21D. The fine for any violation of this chapter shall be \$100 for each offense.