

## SECTION 12 - EXCAVATION AND FILLING OR REMOVAL OF EARTH PRODUCTS

The Planning and Zoning Commission may grant a Special Permit for the excavation and filling or removal of earth products in all zones, subject to the requirements of the specific zone or zones in which the excavation operation is located, the provisions of Section 16 of these Regulations, and any other review and approval which may be required by these Regulations, and in addition, the conditions, standards and requirements set forth in this Section. Notwithstanding the above, the quarrying of stone or rock is specifically prohibited in all zones.

### 12A. Purpose

The purpose of these Regulations is to:

1. regulate the conditions and operations of excavating, grading, filling and removal of earth, sand, gravel, soils, minerals, loam, fill, clay, peat moss and any other earth products;
2. prevent conditions detrimental to the public health, safety and general welfare, including but not limited to, erosion, nuisances, or permanent damage to the landscape;
3. conserve and preserve wetlands, watercourses and water storage areas, the value of adjoining and surrounding properties, and the land itself for future useful purposes;
4. assure continuity of operation at a given location until a deposit is fully utilized in conformance with these Regulations;
5. minimize or eliminate any deleterious effects on adjacent or nearby land uses and prevent the emergence of any blighting influences.

### 12B. Exemptions from Special Permit for Excavation Operations

The following operations are exempt from the requirements of this Section:

1. Excavation operations within the actual rights-of-way of public streets or highways of either the Town of Bolton or the State of Connecticut or within streets or roads as shown on a subdivision map or a plan of development map approved by the Planning and Zoning Commission.
2. Excavation operations within a premises as directed and approved by the Town Building Official as a result of bona-fide construction operations, such as building erection, for which operation a building permit has been issued by the Town Building Official.
3. Excavation operations completely within a premises as a result of bona-fide landscaping, agricultural, or construction operation, for which no building permit is required from the Town of Bolton, as directed and approved by the Town Building Official, provided that no such excavation operation shall result in removal or filling in or more than six hundred (600) cubic yards of earth products for each individual premises.

4. Excavation operations either conducted in accordance with and pursuant to a permit granted by the Planning and Zoning Commission prior to the effective date of these Regulations, or existing prior to the effective date of these regulations.

The owner of any premises or rights-of-way falling within the provisions of Section 12B., from or into which any earth products have been removed or filled, shall, within thirty (30) days after the completion of such operations or any substantial portion thereof, grade and cover any exposed areas where removal or filling takes place with not less than four (4) inches of topsoil or loam removed from such premises or rights-of-way and seed with a suitable cover crop or cultivation acceptable to the Zoning Enforcement Officer. Any such seeding shall be sowed at a rate not less than three (3) pounds of seed for every one thousand (1000) square feet of area covered. This requirement may be held in abeyance during the months of November, December, January and February or until such time as conditions permit proper germination.

Notwithstanding this Section 12B, a Site Plan Review in accordance with the provisions of these Regulations may be required for any excavation operations fifty (50) feet or less from any watercourses or wetlands. In addition, excavation operations as noted in this Section 12B. shall not include the disposing of said earth products within the Town of Bolton after removal, or the obtaining of said earth products prior to filling in. The Planning and Zoning Commission may require a Site Plan Review for said disposition and/or obtaining, in accordance with the provisions of these Regulations.

#### 12C. Permitted Stipulation with Special Permit for Excavation

The Planning and Zoning Commission may, after applying these Regulations in harmony with their purposes, stipulate such restrictions as appear to the Commission to be reasonable to protect the rights of individuals, property values in the area as a whole, and the public health, safety and welfare and which promote sound land use and resource excavation practices.

#### 12D. Criteria for Evaluating a Special Permit for Excavation

The Planning and Zoning Commission shall evaluate each and every application for a special permit for excavation operations and shall consider the provisions of this Section 12 in light of the following criteria (at a minimum).

1. Appropriateness of Location - The compatibility of the proposed excavation operations with the adopted Town Plan of Development, the specific zone and neighborhood, including but not limited to property values, noise levels, traffic, odor, dust, general appearance and surrounding development, both existing and proposed.
2. Conformance - Conformance with the Bolton Zoning Regulations, other applicable Town codes or ordinances and the purposes of these Regulations as set forth in Section 12A.
3. Safety - Accessibility for emergency vehicles and equipment; potential for increased fire or traffic hazards; potential for damage to Town roads, bridges or other public facilities.

4. Historic and Scenic - Potential for destroying or defacing historic areas or scenic landmarks or otherwise being detrimental to a neighborhood or altering a neighborhood's essential characteristics.
5. Traffic - Impact of anticipated additional vehicle traffic generated by the excavation operation on local access, town and state roads. This impact will be evaluated in conjunction with the impact of truck traffic generated by all other excavation operations at the time of application for the permit.

#### 12E. Required Standards for a Special Permit for Excavation Operations

Prior to approving any application for a special permit for excavation operations, the Planning and Zoning Commission shall consider each such operation in terms of the criteria set forth in the preceding Section 12D. and shall determine whether such operations conform to the following standards. Failure of the operations to properly satisfy the criteria set forth in Section 12D. or to conform to any of the following standards shall be sufficient reason for the commission to deny or withhold the special permit.

The following standards are requirements for excavation operations based on the criteria set forth in Section 12D:

##### 1. Site Standards

- a. **LOT SIZE.** The minimum size of any lot proposed to contain an excavation operation shall be five acres. Prior to the issuance of any special permit for excavation operations, boundaries of the site shall be clearly surveyed and marked with permanent monuments by a Connecticut Registered Land Surveyor.
- b. **AREA OF EXCAVATION.** The Planning and Zoning Commission shall have the discretion to determine the limits of the area of excavation within the subject lot.
- c. **MINIMUM SETBACKS.** All excavation operations shall be located at least fifty (50) feet from any property line, public street, road or highway right-of-way, except as may otherwise be permitted by the Commission.
- d. **ACCESS ROADS.** All vehicular access to any excavation operations shall be arranged and aligned to minimize danger to traffic and nuisance to surrounding properties and the general neighborhood. All access roads shall be finished with a properly bound material so as to provide a durable anti-tracking surface to the property line from the work area. In addition, the section of the street right-of-way between the traveled portion of the street and the property line shall be paved to Town standards, at a width equal to that of the access road, plus turning radii.
- e. **FENCES.** All motor vehicle accesses to any excavation operations shall be barred by fence and/or gate deemed appropriate by the Planning and Zoning Commission.
- f. **BUILDINGS AND STRUCTURES.** No buildings or structures related to the excavation operations shall be permitted or erected on the premises during the excavation operation except as may be permitted by the Planning and Zoning Commission and subject to any conditions set forth by the Commission.

- g. **MACHINERY AND EQUIPMENT.** No fixed machinery or equipment shall be permitted, erected or maintained on the premises, and no screening, sifting, washing, crushing or other forms of processing shall be conducted on the premises, except as may be permitted by the Planning and Zoning Commission.

Such fixed equipment and machinery as permitted by the Planning and Zoning Commission shall be located a minimum distance of three hundred (300) feet from any residential zone or any existing residential dwelling in any zone, except as may otherwise be permitted by the Commission.

All equipment and machinery, whether fixed or not, shall be properly maintained and secured and shall be dismantled and removed from the premises by the owner not later than sixty (60) days after the termination of the excavation operations or expiration of the special permit, whichever occurs first.

## 2. Operating Standards

- a. Hours of Operation. Operating hours for excavation operations shall be restricted to weekdays (Monday through Friday), between the hours of 7 a.m. and 4 p.m., and Saturdays between the hours of 8 a.m. and 1 p.m., except as may otherwise be permitted by the Planning and Zoning Commission. Excavation operations shall not be allowed on legal State holidays. Equipment startup and/or engine idling on or adjacent to the site shall not be permitted prior to the approved hours of operations.
- b. Equipment and Machinery. All equipment and machinery shall be maintained in good repair and operated in such a manner as to minimize noise, vibration, smoke, dust, unsightly conditions and any other nuisance.
- c. Dust and Wind Erosion. all storage areas, yards, access roads, service roads or other untreated open areas within the premises shall be improved with proper landscaping, paving or other appropriate materials to minimize dust, other wind blown air pollutants and wind erosion.
- d. Spillage/Vehicle Identification. to prevent spillage from vehicles and wind blown air pollution, any truckload of earth material which is to travel on a public street shall be covered with tarpaulin or other suitable material. All commercial haulers shall utilize vehicles clearly marked with the hauler's name and an identification number. Vehicles with a hauling capacity of less than 8 cubic yards shall be exempt from the above marking/identification requirements, but not from the above mentioned spillage prevention requirements.
- e. Drainage and Water Erosion. The owner and operator of the premises shall provide proper drainage, as approved by the Planning and Zoning Commission, at all stages during and after completion of the excavation operations. This shall be done in order to prevent the collection and stagnation of water, any interference with, or disturbance of, the flow, banks or bed of any watercourses, the erosion of the premises or adjoining properties, and any other harmful effects to adjoining properties or the future use of the premises.
- f. Natural Water or Drainage Areas. No watercourse, wetland, drainage area or buffer area within 100 feet, on all sides, of such watercourse, wetland or drainage area shall be altered in any way until and except as approved by

the Zoning commission and the Inland Wetlands Commission, subject to any conditions set forth by both Commissions. No waste products or process residues from any excavation operations shall be disposed of in any watercourse, wetland or drainage area. Proper sedimentation and erosion control measures shall be taken in the case of watercourses, wetlands and drainage areas regarding filtration, sedimentation, stabilization and grading.

- g. Lateral Support. Adequate provisions, as approved by the Planning and Zoning Commission, shall be provided for the lateral support and stabilization of all banks and slopes. No bank, both during the operation(except during the time of actual active excavation or filling in a particular location) and upon completion of the operation, shall exceed a slope of one foot of vertical rise in three feet of horizontal distance (i.e., 1:3), except that in any case the acceptable slope shall be determined by the Commission.
- In appropriate instances, as determined by the Commission, terracing of banks to achieve proper slope and insure adequate support and stabilization of such banks, may be permitted, subject to any conditions or limitations set forth by the Commission.
- h. Stockpiling and Overburden. All overburden shall be stockpiled in windrows or concentrated piles and stabilized (and appropriately covered if necessary) in a manner acceptable to the Planning and Zoning Commission so as to prevent its erosion by either wind or water and so that it does not become a source of dust or other wind blown air pollutants.
- There shall be no stockpiling of materials within one hundred feet of any property line, watercourse or wetland area.
- i. Topsoil Preservation. A minimum of the top four inches of soil shall be set aside on the premises for re-spreading over the excavated area in accordance with these Regulations. Such topsoil stockpiles shall be treated, as approved by the Planning and Zoning Commission, to prevent the effects of erosion by wind or water and shall not be sold or removed from the premises.
- j. Loaming and Seeding. No later than sixty days after expiration of the special permit, or completion of the excavation operations or completion of any substantial portion thereof as determined by the Commission or its agent, any exposed area where filling or removal has taken place shall be covered to a depth of not less than four (4) inches with topsoil or loam and seeded with a suitable cover crop acceptable to the Planning and Zoning Commission. This requirement may be held in abeyance during the time period of November through February.
- k. Screening and Landscaping. The Planning Zoning Commission may require excavation premises and/or operations to be properly screened from adjoining properties or public streets because of the location, size, extent or intensity of the operations, particularly in the case of any permitted structures, buildings or fixed equipment and machinery.
- l. Curbs and Sidewalks. it shall be the responsibility of the operator of the excavation operations to repair, immediately, any damage to any sidewalks, curbs, surface drains or other improvements or utilities that may be caused as a result of the excavation operations and/or any related activity.
- m. Safety. All operations shall be conducted in a safe manner to prevent hazards to persons, physical damage to adjacent land or improvements, and damage to any road, street, highway or property because of slides, sinking, collapse or blasting.

#### 12F. Time Period

The Planning and Zoning Commission may grant a special permit for excavation operations for a limited period of time, but in no case shall a special permit be issued for a period longer than 24 months.

In fixing the period of time for the special permit, the Commission shall consider the size and location of the area proposed for excavation operations, the overall magnitude of the operations, and the character and development of the surrounding neighborhood, both existing and proposed.

Any permittee seeking to renew a special permit for earth excavation or filling must submit an application for renewal no less than thirty (30) days prior to the expiration date. Each such special permit may be renewed by the Commission, without need for any public hearing, for up to an additional period of two years per extension provided the following conditions are met: (1) the permitted activity must be in compliance with all terms and conditions of the special permit, as initially issued or subsequently modified by the Commission, and of these Regulations; (2) the applicant shall certify that there have been no material changes in the facts or circumstances which served as the basis for the issuance of the current special permit; and (3) the Zoning Enforcement Officer or other authorized agent of the Commission must provide a report to the Commission that he or she has inspected the property no more than ninety (90) days prior to the expiration date of the special permit, as it may have been previously renewed, and has found no violations of any terms and conditions of the special permit or of these Regulations. The commission or its staff retains the right to require an updated engineering plan and an updated bond calculation, and may adjust the bond amount accordingly. (effective 02/01/14)

Upon notice to the applicant, the Commission and its staff shall have the right to enter the permit property at reasonable times in order to determine compliance with the approved application and these regulations. Denial of such permission by the permit holder is cause for revocation on any permit issued hereunder. (effective 02/01/14)

#### 12G. Monthly Reports

All excavators shall maintain monthly reports available for inspection by the Planning and Zoning Enforcement Officer which specify the number of vehicle trips completed during that month. Additionally, the Commission may require that an updated site plan map be completed during the term of an excavation if it is deemed necessary to determine the operation's compliance with these regulations.

#### 12H. Expiration of Permit

Any special permit for excavation operations shall expire and become null and void at the time the excavation operations are completed to the limits shown on the approved application and site plan map.

#### 12I. Change or extension of Permit

Nothing herein shall prevent the applicant from filing a revised site plan map, modifying, expanding or reducing the scope and area of the excavation operations originally approved by the Planning and Zoning Commission, except that any such

expansion of the operations beyond the limits approved by the Commission shall be considered a new application and shall require complete conformance with all the requirements of these Regulations.

12J. Compliance with Special Permit

All excavation operations, except those exempted under Section 12B of these Regulations, shall comply with all the standards and conditions set forth in its Special Permit as approved by the Planning and Zoning Commission. Failure to comply with all such standards and conditions shall be grounds for the Commission, following an additional Special Permit procedure, to revoke the original Special Permit. A new application shall then be required in conformance with the provisions of these Regulations for any continued operation of the excavation operations. If there is noncompliance with any standards or conditions, the excavator shall report to the next regularly scheduled Planning and Zoning Commission meeting to explain such noncompliance.

The Zoning Enforcement Officer may at his discretion and after inspection of the premises, permit minor deviations from the approved application and site plan map during the operation of the excavation operations which may be necessary to allow normal operations of field equipment and machinery. Such minor deviations shall not affect in any way the final results, grading, contours, and the like of the premises as shown on the approved application and site plan map.