

Section 6.03 Excavations

- A. Intent:** The intent of these excavation regulations includes (a) providing for the protection and improvement of the environment including, but not limited to, air quality, wetlands, ground water quality, and areas adjacent to waterways; and (b) protecting the public health and safety including, but not limited to, minimizing unnecessary soil erosion and sedimentation, providing for slope stabilization and proper grades; and (c) preventing excessive noise and detrimental traffic patterns and congestion. These excavation regulations will require the orderly removal, movement and/or processing of earth materials, while providing for the re-establishment of finished grades and the placement of suitable cover to allow re-vegetation while regrading in such a manner to allow for reasonable future use of the land being disturbed.
- B. Special Permit Required.** The excavation and/or processing of on-site or off-site materials on any parcel shall not be allowed without a Special Permit issued in conformance with the provisions of Section 7.05 of these Regulations.
- C. Exemptions:** The provisions of this section and the requirements to obtain an Special Permit shall not apply to the cases set forth below. However, a Site Plan application may be required in accordance with Section 7.04 of these Regulations.
1. Necessary excavation, grading or removal in direct connection with the lawful construction on a lot, of buildings, foundations, roads, driveways, parking areas, storm drainage, utility services, fences, walls, swimming pools or other bona fide construction projects. A written statement specifying the hours and days of the week when the excavation, grading or removal is to be conducted and estimating the number and kind of trucks and other equipment to be used shall be submitted. Such excavation and removal shall be completed within six (6) months.
 2. Excavation, grading or removal of not more than five hundred (500) cubic yards of earth materials where the Commission determines, upon submission of an application for such determination, that such activity is reasonably necessary for agricultural purposes or for landscaping. A sediment and erosion control plan shall be required if the area of disturbance exceeds one-half acre.
 3. Excavation, processing, grading or removal of less than five hundred (500) cubic yards of earth materials during any twelve (12) month period.
- D. General Procedures and Documentation:** Any application for a Special Permit for excavation shall be made in accordance with Sections 7.04 and 7.05. It is the responsibility of the applicant to provide a complete application, and incompleteness of an application may be grounds for denial. The application may be submitted by the owner(s) of the subject property or by a prospective lessee, licensee, or purchaser of such property, provided consent of the current owner of record accompanies the application.
- E. Application requirements.** In addition to any requirements prescribed by Sections 7.04 and 7.05 of these Regulations, a complete application for a Special Permit for excavation shall include the following:
1. A list of all owners of property located within three hundred (300) feet of the parcel or parcels to be excavated, including names of all the property owners, street address per the Assessor's map and Assessor's map(s), and parcel number(s) for each property.
 2. Applications involving bedrock removal requiring blasting, crushing, hammering, and/or splitting

shall provide a professionally prepared written report outlining the need for and the impact of such activity on the existing surface water flows, existing water supply wells, seasonal ground water table levels, and neighboring properties along with the necessary precautions to be taken to avoid any adverse impacts. Any blasting activities shall also require a separate permit issued by the Fire Marshal.

3. Applications involving significant truck traffic (i.e. 25,000 cubic yards annual excavation or 15 or more trucks per day) shall provide a detailed traffic study, impact analysis, and mitigation plan to avoid any adverse impacts resulting from the activity proposed. The Commission shall determine the scope of said traffic/impact/mitigation plans or studies.
4. A dust containment and mitigation plan shall be submitted for approval, such plan to include the resolving of any processing impacts proposed.
5. The applicant shall comply with the requirements of the Department of Energy and Environmental Protection (DEEP) with regards to stormwater permitting. Evidence of compliance with those permits shall be provided prior to commencing excavation.
6. A soil erosion and sediment control plan in accordance with Section 7.06 of these Regulations.
7. Site Plans shall include the following.
 - a. The location of all residential, commercial, and industrial buildings within one thousand (1000) feet of the property line at 100 or 200 scale mapping
 - b. A design drawing(s) including cross sections, with before and after elevations shown, of all proposed excavation activities shall be submitted and reviewed. The proposed volume to be excavated shall be calculated, by phase if applicable, and be reported on the plan set.
 - c. All proposed restoration measures to be taken upon completion of the excavation operation, including the type, size and location of any proposed plantings and vegetative cover shall be shown.
 - d. All days and hours of operation proposed by any application shall be shown on the plan submitted.
 - e. The number of truck trips, and days and hours of hauling proposed shall be presented by the applicant, shown on the plan, and shall be limited to those approved by the Commission.
 - f. The plans shall contain a signature block for the Chairman or Secretary. This block shall also contain a space for an expiration date for the permit and a signature block to verify that the Town Engineer has reviewed the final plan and determined that it conforms to the approval conditions.
 - g. The applicant's engineer shall prepare construction cost estimates for (a) soil and erosion controls including final site stabilization and drainage improvements; and (b) any public improvements proposed.

F. Standards and Criteria for Decision and Operation. In addition to the standards and criteria for approval of a Special Permit and Site Plan under sections 7.04 and 7.05 of these Regulations, the proposed excavation must also comply with the following:

1. The excavation, grading or removal shall be carried out in accordance with the maps and plans within the exterior limits shown thereon.

2. The final site plan/reclamation plan shall not result in sharp declivity, pits or depressions, or soil erosion, drainage, or water supply, or sewage problems or conditions which would conflict with the reasonable reuse and development of the parcel for which the permit is requested.
3. At all stages of the work, proper drainage shall be provided to avoid stagnant water, soil erosion problems, excessive run off, silting of streams and damage to public and/or private property, streets or drainage facilities.
4. Existing streets servicing the proposed site shall be of sufficient width and design to accommodate the excavation activity and shall contain adequate sightline and drainage measures as to not adversely impact public safety, existing town drainage, and/or abutting property(s). If the Commission finds that existing street and drainage infrastructure cannot accommodate the proposed activity without adversely impacting public health or safety, the applicant may propose improving the condition of the street(s) or drainage infrastructure. Any such improvements would need to be constructed in accordance with the Town's Public Improvement Specifications and the cost of the improvements would be solely the responsibility of the applicant, not the Town.
5. Truck access to the lot and the work area shall be so arranged as to minimize traffic hazards on streets and to avoid nuisances to residents of the neighborhood.
6. Any necessary grading for driveway sightline distances shall be completed before any permit activities take place on site. The construction of a new driveway will also require compliance with the Driveway Ordinance and shall require a separate permit under the terms and conditions of that Ordinance.
7. No excavation operation shall encompass more than five acres of active operations at any one time. Operations of more than five acres must be phased, with a comprehensive plan for phasing and restoration submitted and approved as part of the application.
8. Phased Operations. Work on a subsequent phase shall not commence prior to reclamation of the previous phase according to the approved plan and approval of such reclamation by the Commission or its Agent. Prior to commencement of activity on any subsequent phase, the bond shall be adjusted to ensure performance on that phase. The bond shall not be fully released for any phase until it has been determined that such area is permanently stabilized.
9. No excavation shall occur within one hundred (100) feet of an abutting street or property line, except for driveway access.
10. There shall be no processing of materials such as screening, sifting, washing or crushing, within two hundred (200) feet of any property line or one thousand (1,000) feet from a residential structure, whichever is greater, except where such processing already exists or in connection with, continuation of, or renewal of a previously approved excavation, as approved under the zoning code or prior excavation ordinance operation that has not lapsed within the last ten (10) years. In such instances, the Commission may grant setback reductions as follows for properties with frontage on Connecticut State Route 14:
 - a. Setback from a property line may be reduced to one hundred (100) feet provided the subject adjacent property is undevelopable within one hundred (100) feet of the common boundary.
 - b. Setback from a residential structure may be reduced to five hundred (500) feet provided the processing operation is sufficiently screened with vegetation, has an elevation difference of at least fifty (50) feet or a combination of these criteria deemed sufficient by the Board.

- c. All processing machinery permitted in association with the existing permit shall be removed from the parcel upon termination of the permit or the end of the operation.
11. No excavation activities shall be allowed within two hundred (200) feet of any residential dwelling or commercial building, whether such structure is on the same lot or on an adjacent lot without approval of the Commission.
12. Where fueling of vehicles will be performed on site, a fuel pad and accessories shall be designed and installed in order to capture and prevent any fuel spillage from contaminating any ground water or surface waters.
13. The work shall be limited to the Monday -Friday 7:00 am to 5:00pm and Saturday 8:00 am to 12:00 pm in order to avoid nuisances to residents of the neighborhood. No excavation operations shall be permitted on Sundays or federally recognized holidays
14. Proper measures shall be taken to minimize nuisances from noise, dust, vibration, and flying debris. Suitable fences or other barricades shall be provided around the excavation **and exposed ledge outcrops** to protect pedestrians and vehicles.
15. Upon completion of the work authorized, the ground area excavated, or otherwise disturbed areas shall be prepared or restored as follows:
 - a. Such area shall be evenly graded to slopes not exceeding one foot rise for three feet of horizontal distance or to such lesser slope necessary for soil stability, safety, and reasonable reuse and development of the parcel. Where ledge, rocks or similar geological conditions are encountered, the Commission may approve a steeper grade, and may require fencing or other protective measures to control hazardous conditions.
 - b. Adequate drain ways of gradual slope shall be provided to assure drainage. In addition, the area shall be evenly graded with sufficient slopes to assure adequate drainage of the area, so that stagnant pools of water and soil and erosion nuisances will be avoided.
 - c. There shall be no excavation, grading or removal below an elevation of four (4) feet above seasonal ground water level, unless the applicant can demonstrate to that the excavation does not adversely affect groundwater and/or the reuse of the parcel.
 - d. Stumps and other landscape clearing debris shall not be buried on the site unless approved by the State of Connecticut Department of Energy and Environmental Protection (DEEP). Proof of a permit issued by the DEEP to bury stumps shall be provided. Areas proposed for such stump disposal shall be clearly shown on the plans.
 - e. The top layer of any arable soil (classified as top soil and/or loam), to a depth of not less than four inches with a suitable underlying subsoil layer of eight inches, shall be retained on the parcel and spread over the entire disturbed area with any large stones removed, and the area shall then be fertilized, limed, seeded with a perennial grass, mulched and maintained until the ground has been completely stabilized with a dense cover of grass and there exists no danger of erosion unless as provided for in a final site plan approved of by the Commission for a permitted site use. This provision shall not apply to the areas of ponds or to exposed areas of ledge existing prior to the work or created as a result of the excavation activity previously approved.
16. Offsite Materials: There shall be no importing, processing, or re-internment of offsite materials such as gravel, stone, rock, loam, or silt and no importing of offsite land clearing wastes, building or site demolition material, unless specifically authorized by the Commission and only

thereafter as part of a permit request granted. The general burial of onsite and/or offsite land clearing wastes, building or site demolition material is prohibited.

G. Decision Procedures. Before approving a Special Permit for excavation, the Commission must determine that:

1. The Special Permit application is complete and is in conformance with the applicable provisions of these Regulations; and
2. The applicant has demonstrated that the application as proposed satisfies the applicable criteria in Sections 6.03.F and 7.05 of these Regulations.

H. Conditions of Approval. In approving a Special Permit for excavation, the Commission may require such conditions or modifications as it believes are reasonable and necessary to satisfy the criteria for approval and to protect or promote the public health, safety, welfare, property values, and the environment.

I. Time Limit: Each permit granted under these Regulations shall be valid for a period of five years or for such shorter periods as may be requested by the applicant or fixed by the Commission. At the written request of the applicant, the Commission may by majority vote renew the Special Permit without requiring a new application for a total period not to exceed ten years when the applicant presents to them a copy of the approved maps and plans, prepared by and bearing the signature and the seal of a Connecticut-licensed surveyor, showing that the excavation, processing, grading and/or removal is progressing as approved.

J. Review of Special Permit: Notwithstanding the provisions of Section 6.03.I, above, a Special Permit for excavation shall be subject to an annual compliance review and renewal process. An application for the annual renewal shall be submitted to the Zoning Enforcement Officer by November 1 each year for the following year. Annual reviews shall occur between January-March following the first full year of the permit. Information required for review shall include but not be limited to updated survey depicting contours and or existing spot elevations as accepted by the town engineer, proposed contours, photographs of the site, water quality or noise data (if requested by the Commission). Operators that have hauled less than ~~100~~ **5,000 cubic** yards over the course of the year **or less than twenty (20) percent of the total volume approved for a phase** may submit a letter from their engineer or surveyor indicating this fact in lieu of a new survey. The Commission may impose additional conditions, or modifications on the original permit which appear necessary or desirable based on the history of the operation.

K. Surety: Before an Excavation Permit approval is finally endorsed and granted, the applicant shall file surety in the amount and types approved by the Commission. The term of all commercial surety shall be for the full term of the permit. All surety shall be in a form satisfactory to the Town's Legal Counsel and Treasurer and be in an amount and form sufficient to guarantee completion of those sediment and erosion control items specified and in conformity with the provisions of these Regulations or any amendments thereto in force at the time of filing. The actual final surety approved by the Commission shall be held by the Town Clerk and/or Town Treasurer who shall not be authorized to release such surety until written certification has been received that all of the requirements of these Regulations have been fully satisfied. The surety amount shall include amounts adequate to cover the cost of installing and maintaining necessary soil and erosion controls during the excavation operations and shall include costs for the final site restoration including import of additional topsoil and subsoil to sites deficient in the stockpiling and reserving of such materials for the purposes of the final site grading, restoration,

and long term site stability to prevent long term erosion and sedimentation nuisances. A portion of the surety for sediment and erosion control to be posted with the Town shall be in the form of cash to be deposited in an account set up solely and maintained by the Town Treasurer. The amount of this cash surety shall be approved in consultation with the Town Engineer. In addition, the applicant shall provide surety for any public improvements required by the Special Permit that have not been completed prior to the signing and filing of the permit.

- L. Return of Surety:** Upon completion of the excavation, processing, final grading and removal including completion of any required public improvements in accordance with the terms of a permit and after all of the disturbed portions of the site required to be re-vegetated have grown adequately in a second growing season to a dense cover of grass or other vegetation as may be required under these Regulations, the applicant may apply for return of the residual final surety held by the Town as provided for in these Regulations, and if the Commission is satisfied that the work has been completed as required, the residual final surety shall be returned to the applicant less any costs incurred by the Town which remain unreimbursed, but otherwise the surety shall remain in full force and effect. The applicant may petition to extend the surety period for 1 year after completion of the excavation (including loaming/topsoil and seeding) to ensure that the site has been permanently re-vegetated.
1. **Municipal Operations:** The Commission may waive the application requirements of Section R. Site Plan Requirements., the procedure set forth in Section G. General Procedures and Documentation, the bond requirements of Section O. Surety and the application and inspection fees required in Section P. Fees in connection with excavation activities conducted on any lot solely by or on behalf of and for the municipal purposes of the Town of Sterling. A municipal excavation, however, shall meet all of the standards and conditions of Section S. Soil Erosion and Sediment Control Plan through V. Site Plan Evaluation and Standards for Review.