



SECTION 65

Excavation and Grading

65.0 [RESERVED]

65.1 GENERAL

No earth, including loam, sand, gravel, clay, peat or quarry stone, will be excavated and removed from any *lot*, or graded or dumped on any *lot*, except as authorized under Paragraph 65.2 or as authorized under an application for a Temporary Special Exception *use* granted by the Commission under the provisions of this section.

65.2 EXEMPTIONS

The provisions of this section and the requirements to obtain a Temporary Special Exception will not apply to the following cases:

- 65.2.1 Necessary excavation, removal, grading or dumping of earth in connection with activities on any *lot* solely for farming or landscaping purposes, such as the construction of ponds, improvements of *watercourses*, burying of stones or refuse, regrading of difficult contours or the excavation of earth for *use* on the *lot* and not for sale. The Property owner will submit written notice to the Enforcement Officer and, if applicable, a certified *Soil Erosion & Sediment Control Plan* in advance of commencement of the operation. In the *Gateway Conservation Zone*, no more than three hundred cubic yards (300 yd³) of material may be removed from any *lot*;
- 65.2.2 Excavation, removal, grading or dumping of less than one hundred cubic yards (100 yd³) of earth on any *lot* in any calendar year and, if applicable, a certified Soil Erosion & Sediment Control Plan in advance of commencement of the operation. In the *Gateway Conservation Zone*, no material may be removed from a *lot*; and
- 65.2.3 Excavation and removal, or grading or dumping of less than one hundred cubic yards (100 yd³) of material on any *lot* in any calendar year and, if applicable, a certified *Soil Erosion & Sediment Control Plan* is in effect, except that no material may be removed from a *lot* in the *Gateway Conservation Zone*;
- 65.2.4 Provided that the excavation and removal, or grading or dumping, a) authorized under Paragraph 65.2.2 and 65.2.3 will not occur in *tidal wetlands* and b) authorized under Paragraph 65.2.1 and 65.2.2 will be deemed to permit the excavation and removal, or grading or dumping of only the quantity of material which is necessary to make the *lot* more suitable for the proposed *use*, and provided further that excavation, grading or removal authorized under further that excavation, grading or removal authorized under Paragraph 65.2.1 and 65.2.2 in connection with a project for which an application for a Certificate of Zoning Compliance has been approved will be contingent upon completion of the project within two (2) years after commencement, and in the event of failure to complete the project, as evidenced by failure to obtain a Certificate of Zoning Compliance for the project,

then the excavation and removal, or grading or dumping will be deemed a violation of these regulations unless a Temporary Special Exception *use* has been secured from the Commission in accordance with this section.

- 65.2.5 Excavation, filling, removal or grading of more than 100 cubic yards (100 yd³) when required for the installation of a Health Code compliant septic system. Fill *will* not exceed the absolute minimum required to meet the Health Code.

65.3 APPLICATION

Application for a Temporary Special Exception under this section will be submitted in writing to the Enforcement Officer, will be accompanied by an application for a Certificate of Zoning Compliance and will be accompanied by the following:

- 65.3.1 **Statement.** A written statement specifying the hours and days of the week when the operation is to be conducted and estimating the number and kind of trucks and other equipment to be used:
- 65.3.2 **Maps and Plans.** Four (4) copies of maps and plan prepared by a professional engineer or land surveyor licensed to practice in the State of Connecticut, showing all of the following information as applicable to the particular application:
- A. Property lines and *streets* adjoining the *lot* and the names of owners of property adjoining the *lot*;
 - B. The location and exterior limits of the area to be excavated, graded or filled;
 - C. Existing contour lines on the *lot*, drawn to a scale of not less than one hundred feet (100') to the inch and with a contour interval not exceeding five feet (5');
 - D. Proposed contour lines within the area to be excavated, graded or filled, drawn to a scale of not less than one hundred feet (100') to the inch and with a contour interval not exceeding five feet (5');
 - E. Existing and proposed drainage on the *lot* and existing rivers, streams, water courses, ponds, swamps and *tidal wetlands* on or within two hundred feet (200') of the *lot*;
 - F. Proposed vehicular access to the *lot* and any proposed work roadways;
 - G. The location on the *lot* of any wooded areas, rock outcrops and existing and proposed *buildings, structures* and processing equipment;
 - H. An estimate of the number of cubic yards of material to be excavated, graded or dumped; and
 - I. Provisions for *soil erosion* and *sediment* control, unless a separate Soil Erosion & Sediment Control Plan is submitted.
- 65.3.3 **Other.** The Commission may request the submission of the additional information that it deems necessary to decide on the application.
- 65.3.4 **Application Fee.**



65.4 PROCEDURE

Upon receipt, the Enforcement Officer will transmit the application and accompanying maps, plans and documents to the Commission, as well as a copy to the Planning Commission. Within sixty-five (65) days after receipt of a completed application for Temporary Special Exception, meeting the requirements of Paragraph 65.3, the Commission will hold a public hearing on the application. Notice of the public hearing will be published in a newspaper having a substantial circulation in the Town at least twice, at intervals of not less than two (2) days, the first not more than fifteen (15) nor less than ten (10) days, and the last not less than two (2) days before the public hearing. After the public hearing, the Commission will approve, modify and approve, or deny the application for Temporary Special Exception. The Applicant may consent in writing to any extension of the time of public hearing and action on the application. The grounds for disapproval of an application will be stated in the records of the Commission under Paragraph 65-3.3, within the period for action on the application, will be grounds for disapproval of the application.

65.5 PLANNING COMMISSION

Within thirty (30) days after receipt of a copy of the application form, maps, plan and documents, the Planning Commission will report its recommendations to the Commission, stating the reasons therefore.

65.6 APPROVAL

After the public hearing, the Commission may grant a Temporary Special Exception to permit the excavation and removal, or grading or dumping if it will find that the following standards and conditions will be met:

- 65.6.1 The excavation, grading or removal will be carried out in accordance with the maps and plan as approved by the Commission and within the exterior limits shown;
- 65.6.2 The excavation, grading or removal will not result in sharp declivities, pits or depressions or *soil erosion*, drainage or sewerage problems or conditions which would impair the reasonable reuse and development of the *lot* for purposes permitted under these regulations in the District where the *lot* is located;
- 65.6.3 At all stages of the work, proper drainage will be provided to avoid stagnant water, *soil erosion* problems, excessive run-off, silting of streams and damage to public property, *streets* or drainage facilities;
- 65.6.4 Truck access to the *lot* and the work area will be so arranged as to minimize traffic hazards in *streets* and to avoid nuisance to residents of the neighborhood;
- 65.6.5 No excavation and removal or grading, which is below the elevation of any abutting street or property line will occur within one hundred feet (100') of the line, except that excavation and removal or grading within the distance and below the elevation of an abutting property line may be permitted if written approval from the adjoining owner is received by the Commission;
- 65.6.6 There will be no processing of material, such as screening, sifting, washing or crushing, except in the Industrial I-1 District;

- 65.6.7 No *building* or *structure* will be erected on the *lot*, except as may be otherwise permitted in the District or, as approved by the Commission, as a temporary shelter for equipment and field office;
- 65.6.8 The work will be limited to the hours from 7:00 A.M. to 6:00 P.M. and on regular working days, or to the lesser hours and days specified by the Commission;
- 65.6.9 Proper measures will be taken to minimize nuisance from noise, dust, vibration and flying debris, and suitable *fences* or other barricades will be provided around the excavation to protect pedestrian and vehicles to the satisfaction of the Commission.
- 65.6.10 Upon completion of the work authorized, the area of excavated or otherwise disturbed ground will be prepared or restored as follows:
- A. Such area will be evenly graded to slopes not exceeding one foot (1') of rise for each three feet (3') of horizontal distance or to the lesser slope necessary for *soil* stability, safety and reasonable reuse and development of the *lot*; in addition, the area will be evenly graded with sufficient slopes to assure adequate drainage of the area, so that stagnant pools of water will be avoided;
 - B. Adequate drain ways of gradual slope will be provided to assure drainage;
 - C. There will be no excavation, grading or removal below an elevation of six feet (6') above any ledge;
 - D. All debris and all loose boulders will be buried or removed from the *lot*; and
 - E. The top layer of any arable *soil*, to a depth of not less than six inches (6"), will be retained in the *lot* and spread over the entire *disturbed area* with any large stones removed, and the area will then be seeded with a perennial grass and maintained until the ground will be completely stabilized with a dense cover of grass and there exists no danger of *erosion*, but this provision will not apply to the area of ponds nor to exposed areas of ledge existing prior to the work.
- 65.6.11 The Applicant will file with the Commission a bond, in a form acceptable to the Commission, in the amount as the Commission deems sufficient to insure the faithful performance of the work in accordance with the provisions of this section; and...
- 65.6.12 The Commission and Enforcement Officer, or their authorized agents, will at all times, have reasonable access to the *lot* for the purpose of *inspection* and determination of compliance with this section; the Commission may require the Applicant to submit periodic reports, prepared and bearing the seal of a land surveyor or engineer, showing the status and progress of the work.
- 65.6.13 The *lot* for which a Temporary Special Exception is granted will not be located in the *Gateway Conservation Zone*.



65.7 TIME LIMIT

Each Temporary Special Exception granted under this section will be valid for a period of one year or for the shorter period as may be requested by the Applicant or fixed by the Commission; the Commission may by resolution renew the Temporary Special Exception annually when the Applicant presents copies of the approved maps and plans, prepared by and bearing the seal of a professional engineer or land surveyor, showing that the excavation and removal, or grading or dumping of earth is progressing as approved.

65.8 INSPECTION FEE

At the time of issuance of a Certificate of Zoning Compliance authorized by a Temporary Special Exception granted under this section, the Applicant will pay an *inspection fee*.

65.9 EXISTING OPERATIONS

Any lawful existing operation, involving the excavation and removal, or grading or dumping of earth, authorized under the Zoning Regulations in effect prior to the effective date of this may be continued under the terms and conditions of the authorization.

65.10 RETURN OF BOND

Upon completion of the operation in accordance with the terms of a Temporary Special Exception and after any area of the *lot* required to be seeded has grown in a second growing season a dense cover of grass as required under this section, the Applicant may request the Commission to return the bond filed as provided in this section, and if the Commission is satisfied that the work has been completed as required, the bond will be returned to the Applicant, otherwise the bond will remain in full force and effect.