

**ARTICLE V
SECTION 5-10**

Movement or Removal of Earth Materials (01-20-00)-Residential Dev.

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All other uses requiring earth removal must obtain a Special Permit from the Planning Board

A. Purpose

The movement and removal of earth materials can lead to environmental, topographical, and aesthetic degradation within the City of Westfield. The City intends to mitigate the impact of construction and of commercial operations on nearby properties and neighborhoods and on the City as a whole by regulating the movement or removal of earth materials.

B. Definition

“Earth materials” are the soils, subsoil and rock that make up the topography of the land as it exists prior to movement or removal. Earth materials include, but are not limited to, sod, loam, sand, clay, gravel, stone, quarry stone, peat, hardpan, or mineral products.

C. Residential Development

1. Exemptions

- a. Earth removal may take place on a permitted site under the regulations contained herein up to 150% of the volume needed to complete the project infrastructure. Said infrastructure shall include foundations, sanitary sewer systems, drainage systems, and structures, driveways, trails, paths and other appurtenant infrastructure. Removal of topsoil shall not be included in this calculation.
- b. The transfer of material from one part of a lot to another part of the same lot.

- c. Site work in conjunction with an order of conditions issued by the Westfield Conservation Commission or the Department of Environmental Protection.
- d. Site work in conjunction with a disposal works permit.
- e. All municipal governmental projects authorized by law and or permits.
- f. All municipal government public works maintenance and repair projects in conjunction with the continued safe use of public and private ways.
- g. Site work in conjunction with a permit issued by the Westfield Board of Health or the Department of Environmental Protection.

2. **Application** – The applicant shall file with the Planning Board a written application setting forth a description of the land for which the permit is sought. A map or plan drawn by a Registered Professional Engineer or a Registered Land Surveyor shall accompany this application, which shall show:

- Location of the proposed excavation
- Owner, and the legal name and address of the applicant
- A plan of the land to be excavated plus a 100 foot buffer surrounding said excavation, all existing and proposed features including: fencing, access gates, property lines, public and private ways, vegetative cover, water courses and water bodies, (including all Rivers Act bodies), flood plains, wetlands, drainage swales or other drainage structures, high groundwater elevations, direction of groundwater flow, rate of groundwater flow, private and public wells, soils and bedrock characteristics;
- existing topography and proposed finish grade contours after completion of the proposed excavation
- names and addresses of all abutting property owners;
- estimated quantity of material to be removed from the site;
- the estimated quantity of topsoil to be stripped, stockpiled, and replaced during restoration;
- a plan for erosion and sediment control during the excavation activities using best management practices,
- an approximate date of earth work commencement and anticipated duration of the earthwork;
- proposed daily operation times;
- Measures proposed for mitigating potential noise, dust, visual impact, and other hazardous waste or emissions from the site.

4. Conditions

The Planning Board may impose conditions on the proposed use as part of the Special Permit. Violation of any condition shall constitute a violation of the Special Permit. The Special Permit shall be valid for only two years.

5. Enforcement

The Zoning Enforcement Officer may issue a cease and desist order for a violation of the Special Permit. The Zoning Enforcement Officer is also responsible for monitoring any performance Bond that may be required by the permit granting authority. The Planning Board in consultation with the Zoning Enforcement Officer shall be responsible for reviewing the amount of the bond every two years and may require an increase in the bond if necessary to ensure satisfactory compliance with the conditions of this ordinance. The bond shall not be released or reduced until the applicant has certified in writing, and the Zoning Enforcement Officer has determined that all conditions of this ordinance have been met and that any restoration or reclamation that may have been mandated has been satisfactorily completed.

6. Performance Bond

The Permit Granting Authority may require a reasonable performance bond in an amount sufficient to guarantee the movement or removal of earth materials in a manner consistent with the provisions of this ordinance.

D. Other Permitted Uses

All other legal and permitted uses requiring earthremoval must obtain a Special Permit from the Planning Board. Said permit may be sought in conjunction with any other permit required.