

ARTICLE V
Section 5-20

Section 5-20 Commercial Earth Removal (10-07-99)

A. Purpose

The 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 commercial operations on nearby properties and neighborhoods and on the City as a whole by regulating commercial earth removal.

B. Definitions

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

“Commercial Earth Removal” is the removal of earth materials for purposes other than, or exceeding that, which is necessary for, construction.

C. Special Permit

1. **Requirements-** Commercial earth removal may take place with a Special Permit from the Planning Board on lots within the following zoning districts: Industrial A and Airport. It is prohibited in all other districts.

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. If the applicant for the Special Permit is someone other than the owner, the owner shall also sign the application. The application shall be accompanied by a map or plan drawn by a Registered Professional Engineer or a Registered Land Surveyor which shall show:

- Location of the proposed excavation, the legal name of the property;
- Owner, and the legal name and address of the applicant;
- A plan of the land involved, plus a 300 foot buffer surrounding said property showing all existing and proposed features including: signs, parking, lighting, fencing, access gates, property lines, public and private ways, vegetative

cover, water courses and water bodies, flood plains, wetlands, drainage swales or other drainage structures, maximum 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 at two (2) foot intervals;
- Names and addresses of all abutting property owners;
- Estimated quantity of material to be removed or added to the site;
- The estimated quantity of topsoil to be stripped, stockpiled, and replaced during restoration. Said material may be utilized as onsite berms;
- 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;
- A list of the equipment to be used on site and the number and type of vehicles trips per day during hauling, including the routes the vehicles will utilize;
- Measures proposed for mitigating potential noise, dust, visual impact and other hazards waste or emissions from the site;
- Haul routes to be utilized within the municipal boundaries;
- Set back requirements for fixed on site equipment;
- Construction of access ways to screen the operation from public view;
- Treatment and construction of access ways to minimize dust and mud;
- Measures to protect groundwater including the installation of monitoring wells;
- Erection of fences or barriers to prevent unauthorized access;
- Stockpiling of topsoil and subsoil stripped from the site for restoration of the site;
- Erosion control measures;
- Quality and quantity of materials from offsite for restoration of the site;
- Restoration standards including elevations, grades, distribution and treatment of topsoil, planting and type of vegetation, drainage, and time for completion; and
- Location of structures proposed in the operation, both permanent and temporary.
- Description of any processing of materials to be carried out on site

The Planning Board reserves the right to retain the services, at the applicant's expense, of a qualified consultant to assist them in their review of the plan.

3. Time Period for Special Permit

The time period to commence commercial earth removal after the grant of a Special Permit shall be one year from the date of certification by the City Clerk that twenty (20) days elapsed since approval and no appeal has been filed or that

if such appeal has been filed, it has been dismissed or denied. The Special Permit shall be reviewed every three years thereafter or upon change of ownership, and if required by the Planning Board, a new public hearing conducted, and new Special Permit may be issued.

4. General Conditions

In addition to the following list of general conditions, the Planning Board may impose any other conditions intended to protect plant and animal habitat, aesthetics, property values, the neighborhood and the City from permanent or temporary hazards including those which may result from conditions after excavation operations have ceased, methods of handling materials on site, or from the transport of extracted materials throughout the City.

- A. An opaque fence or solid barrier at least six (6) feet in height shall be erected to limit access where excavation is occurring.
- B. No material shall be removed and no excavation shall be permitted within three hundred (300) feet of any lot line or street.
- C. All buffer areas, whatever their extent, shall be vegetated with native trees and shrubs, maintaining naturally existing vegetation, to screen neighboring uses from visual, noise, dust, and other impacts of the operation. Whenever no natural vegetation exists, the applicant shall be responsible for planting and maintaining appropriate vegetation.
- D. Total area within lot under excavation at any one time shall not exceed five acres.
- E. No material shall be removed below an elevation, which is five feet above the historical high groundwater table (as determined from on-site monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey, whichever is higher). The property owner to verify groundwater elevations shall install a monitoring well.
- F. The Planning Board shall require a performance bond in amount sufficient to ensure satisfactory compliance with this section and with the terms of the Special Permit.

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 the performance bond required by the Planning Board.

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 this section and with the terms of the Special Permit, including any amendments. The bond shall not be reduced or released until the applicant has certified in writing and the Zoning Enforcement Officer has determined that all conditions of this Section and the Special Permit have been met.

D. Required Reuse Plan

A land reuse plan on a scale of one hundred (100) feet to the inch or greater must be submitted to and approved by the Planning Board, as a part of the Special Permit process. In addition, prior to the release of the performance bond or any part thereof, the following condition shall apply.

1. The Planning Board may require up to three (3) approved alternative future land reuse plans be submitted for such land as is used for the extraction of sand, gravel, rock, loan, sod, and associated earth materials. A land reuse plan is also required where an existing extraction operation is extended below the grade of adjacent ground.
2. Said land reuse plan and its implementation applies to the conversion of the abandoned site and its planned reuse, including landscaping and suitable erosion control. It is therefore, required that any land reuse plan correspond to a situation which could reasonable occur in the immediate future (zero) (0) to five (5) years, and be revised as necessary as the existing physical character of the removal area changes.
3. The land reuse plan or any part thereof which reasonability applies to an area which has been abandoned from removal use shall be put into effect within one (1) year of the abandonment of said operation. Abandonment for the purposes of this subsection shall be defined as the visible or otherwise apparent intention of the owner or user of the land to discontinue the use of the land for a continuous period one (1) year. Temporary operating of less than thirty (30) days shall not be construed to interrupt any continuous period of abandonment.