

# **Woodbury Zoning Commission**

## **Earth Excavation Regulation Revisions**



First land deed from the Indians  
April 12th 1659

Adopted	May 25, 1970
Amended	October 10, 1975
Revised	March 1, 2003

Effective Date: These Regulations shall take effect at 12:01 a.m. on **March 1, 2003**

# **Woodbury Zoning Commission**

Woodbury Zoning Regulations  
Earth Excavation

Revisions to

## **Section 2**

First land deed from the Indians

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## **Rules and Definitions**

## SECTION 2 – RULES AND DEFINITIONS

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### EARTH EXCAVATION

- A. **Earth Materials:** natural soil, loam, sand, gravel, clay, rock or any other excavated natural material.
- B. **Excavate:** to sever from the earth's surface or to remove earth materials from the ground.
- C. **Deposit:** to fill or alter by the addition of earth materials and/or fill existing swamps, wetlands, water courses, or other bodies of water, or to change, by filling or re-grading, existing contours and elevations.
- D. **Permit Area:** the limits of the area within the premises for which a permit or permits exist or are requested for excavation, storage area, and processing of earth materials.
- E. **Premises:** within an earth excavation district, the entire area of land owned by the applicant or permittee and identified as one piece of property by the Woodbury Tax Assessor's Office within which the permit area is proposed.
- F. **Storage Area:** an area within the permit area in which the applicant proposes to stockpile excavated materials and/or approved fill materials and/or to locate any equipment and structures.
- G. **Rock Quarry:** an earth excavation operation within an earth excavation (EE) District that involves removal of solid rock materials by any means.
- H. **Processing:** alteration of earth materials excavated on site, including mixing with earth materials or other approved materials imported to the site using authorized processing equipment, including but not limited to screening and crushing and production of concrete, asphalt and other earth materials products.
- I. **Imported Materials:** earth materials returned to a permit area as excess materials produced by permitted excavation activities, or as authorized by any permit issued in accordance with these Earth Materials Regulations.

# **Woodbury Zoning Commission**

Woodbury Zoning Regulations  
Earth Excavation

Revisions to

## **Section 5**

First land deed from the Indians

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## **Use Regulations**

## SECTION 5 – USE REGULATIONS

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- 5.1.2 Excavating and Landscaping: the following earth materials excavation, deposition, and processing activities, as those terms are defined in these Zoning Regulations, are permitted in any use district.
- A. Necessary excavating, grading, removal, or deposition of earth materials as described on permits issued by the Town of Woodbury or any State agency with permitting authority for the construction on a property (individual building lot, subdivision site, project site, or other defined project area) of foundations, buildings, roads, driveways, storm sewers, utility services, fences or walls, swimming pools, septic systems, and other bona fide construction projects provided that:
- i. The buildings, structures and site improvements shall be shown on the plot plan, approved subdivision site plans, or other approved construction plans provided with the Zoning Permit application; and
  - ii. All necessary land use and construction approvals required by any municipal, state, or federal agency shall be provided with the Zoning Permit application; and
  - iii. No topsoil shall be transported from the property, except that which is required to be excavated from the location of buildings, structures, streets, driveways, sidewalks, terraces and other paved areas on the property in connection with the construction of same, as shown on the plot plan, approved subdivision site plans, or other approved construction plans provided with the Zoning Permit application, which plan must include the amount of topsoil to be removed from the property; and
  - iv. No earth materials shall be transported from the property in excess of three (3) times the volume of the construction foundation area, as shown on the plot plan, approved subdivision site plans, or other approved construction plan provided with the Zoning Permit application, which plan must include the amount of earth materials to be removed from the property and the calculated volume of the construction foundation area.
- B. Necessary excavating, grading, removal, and deposition of earth materials in connection with improvements on the premises solely for farming or landscaping purposes, such as the construction or maintenance of ponds, draining of wet land, improvements of water courses, burying of stones, re-grading of difficult contours, and the excavation of gravel, dirt, loam or stone by a landowner on his own property for use on the same property, but not including normal agricultural activities involving soil preparation and grading, provided that:

- i. such construction or excavation shall not result in the removal from such premises of more than 100 cubic yards of earth material during any calendar year; and
- ii. proper soil erosion and sedimentation controls or appropriate agricultural soil conservation practices shall be implemented and any construction or excavation area stabilized upon completion.

5.2.8 Site Development Earth Excavation Activities: Any excavating, grading, removal, and deposition of earth materials not permitted under or subject to the provisions of Section 15 of these Regulations or not exempt in accordance with Section 5.1.2 of these Regulations must receive a Special Exception and site plan approval in accordance with Section 10 of the Woodbury Zoning Regulations. Such approval shall specifically include authorization for such excavation and/or deposition and approvals under Sections 5.9 and 5.13 of these regulations as applicable. Such activities outside an Earth Excavation District shall be limited to:

- A. Necessary excavation and/or deposition in direct connection with construction or alteration of buildings, other structures, off-street parking and loading areas; installation or repair of approved septic systems; excavation or maintenance of a pond; restoration of a previously excavated or disturbed property; site preparation to accommodate future uses permitted by right or by Special Permit or Special Exception within the applicable Use District; or other improvements for which a Special Exception, Special Permit, or Zoning Permit is required; or
- B. Necessary excavation or deposition in direct connection with the construction of streets, drainage and all other required improvements, and the altering of pre-existing contours, provided same is carried out as part of any approved subdivision or re-subdivision; or
- C. Excavation, deposition, and processing associated with commercial earth materials activities in operation prior to May 25, 1970, and subsequently in continuous operation as permitted by Woodbury Zoning Regulations, provided that renewal permit applications for such operations are submitted every two years commencing in 2003, or as otherwise required by the commission, and further provided that such operations comport with the standards of Section 5.2.8.1 of these regulations and any additional conditions the commission may require.

#### 5.2.8.1 Site Development Earth Material Excavation Standards

- A. No processing of any earth materials excavated in accordance with Section 5.2.8 of these regulations shall be permitted except for on-site use as specifically approved by a Special Exception issued pursuant to this Section or in connection with commercial earth materials activities in operation prior to May 25, 1970.

Approved processing shall comply with the following unless otherwise specifically authorized by the Special Exception:

- i. No processing equipment shall be located within 150 feet of a streetline, a wetland or watercourse or within 100 feet of an abutting property line, unless such abutting property is owned by the owner of the property on which the processing will occur.
  - ii. No processing equipment shall be located within 300 feet of any place of assembly.
  - iii. No processing equipment shall be operated on Sunday or legal holidays.
  - iv. All conveyors and chutes associated with the processing equipment shall, at all times, utilize noise reduction materials such as rubber lining or other noise abatement mitigating materials or procedures approved by the Zoning Enforcement Officer.
  - v. All processing equipment shall utilize muffler systems. Evidence of the same shall be submitted to the commission at the time the application is filed.
- B. Any blasting associated with earth materials excavation under this Section 5.2.8.1 of these regulations must be specifically authorized by the Special Exception.
- C. No topsoil shall be transported from the lot, except that which is excavated from the location of buildings, structures, driveways, sidewalks, terraces and other paved areas on the property as necessary for construction of same and as shown on the site development plans.
- D. No excavation shall be made below grade of any abutting street within 150 feet, unless approved as part of a Site Development Plan, or below the grade of any adjoining property boundary within 50 feet unless expressly approved otherwise based on demonstrated need to meet site development objectives or legally existing operations as defined in Section 5.2.8.C, but in no event less than 25 feet, or below the grade of any existing residence within 150 feet without written permission of the adjoining property owner.
- E. No excavation or fill shall be made that would reduce the final elevation below flood plain, change the area of the flood plain, or expose groundwater unless, after proper analysis, it is determined that no pollution or silting of existing water courses, or increased flood or erosion hazards, or other effect on water supply or purity will result and any necessary permits have been issued by the Woodbury Inland Wetlands and Watercourses Agency.
- F. Final restored slopes shall be graded to at least three feet horizontal to one foot vertical unless steeper grades are expressly approved as part of a site

development plan. No slopes in excess of one foot vertical to two feet horizontal shall be created by excavation or deposition unless the site development plan shows sufficient soil stockpiles to create final slopes of one foot vertical to three feet horizontal. No excavation shall be made lower than three feet above ledge, or such greater distance above ledge as may be required to permit the re-graded site to meet the final restored grades. No excavation, deposition, or processing activities shall take place after 6:00 PM or before 7:00 AM.

- G. No excavation, deposition, or processing activities shall take place after 6:00 PM or before 7:00 AM.
- H. Site restoration, including required buffer strips or other landscaping, shall be shown on the site development plans and shall be compatible with the adjoining properties and surrounding neighborhood.
- I. The commission may impose a site restoration bond as a condition of approval, in form and amount acceptable to the Town Planning Office based on cost calculations provided by the applicant. Such bond shall be in addition to any bond required as a condition of approval of the proposed site development plan or other permit plans.
- J. The commission may require evidence of liability insurance naming the Town of Woodbury as an additional insured for any liability resulting from the permitted operations.
- K. A special exception issued pursuant to this Section shall be valid for a period of two years and may be renewed upon re-submittal of a site development plan application representing current conditions. The commission may require a public hearing on any renewal application if it determines that there has been a significant change in circumstances.
- L. Violation of these standards or of any conditions of approval of a Special Exception pursuant to these regulations will result in enforcement action in accordance with Connecticut General Statutes Section 8-12, as determined appropriate by the commission or the Zoning Enforcement Officer.

# **Woodbury Zoning Commission**

Woodbury Zoning Regulations  
Earth Excavation

Revisions to

## **Section 11**

**Administration**

**and**

**Enforcement**

## SECTION 11 – ADMINISTRATION AND ENFORCEMENT

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### Sub-Section 11.8 is revised to read as follows:

11.8 **Amendments.** These Regulations may be amended, changed or repealed and use districts may be established, changed or eliminated in the manner provided by the Connecticut General Statutes either on the initiative of the commission or after receipt of a petition.

#### 11.8.1 Petition requirements.

- A. All petitions shall be submitted in writing and signed by the property owner(s) requesting such change.
- B. Any petition for the establishment or change of a use district shall be accompanied by a legal description and an A-2 Survey Map showing in reasonable detail the topographic and land characteristics of the area referred to in such petition, including the names of all property owners within such area and within 500 feet thereof.
- C. Any petition for a change of these Regulations shall make specific reference to the portion of these Regulations to be changed and shall contain the text of the proposed amendment or change.
- D. The commission may require that petitions for the establishment or change of a use district include plans showing proposals for the development of the land involved in the change including the location of buildings, streets, and open spaces, and such other information as the commission considers necessary for its decision.
- E. All petitions shall be accompanied by a comprehensive analysis of the proposal that includes information concerning traffic flow and generation, environmental impact statement, and compliance with the Plan of Conservation and Development.

#### 11.8.2 Procedures for District Changes and Amendments to Regulations.

- A. Any proposed changes to zoning district boundaries or the Woodbury Zoning Regulations shall be considered by the commission following the procedures provided in Section 8-3 of the Connecticut General Statutes.
- B. The commission shall provide notice by certified mail, return receipt requested, of any proposed change in zoning district boundaries to all owners of land within 250 feet of or adjacent to the land which is subject to the hearing conducted pursuant to Section 8-3 of the Connecticut General Statutes.
- C. The commission shall not be required to hear any petition for amendment, change or repeal within one year from the date after a decision by the commission or a court on an earlier such petition.

11.11.d **Earth Excavation District Permit and Permit Renewals:** The following fees shall apply to any permit or permit renewal issued under these Earth Materials Regulations.

- |      |                       |          |
|------|-----------------------|----------|
| i.   | Basic Application Fee | \$300.00 |
| ii.  | State Surcharge       | 10.00    |
| iii. | Public Hearing Fee    | 250.00   |
| iv.  | Technical Review Fee: |          |

If determined necessary by the commission to obtain specialized technical review to fully and properly review and evaluate the application, the fees for such technical review shall be paid by the applicant within ten (10) days of the Town's written notice of the actual or estimated fee. If the applicant fails or refuses to deposit the actual or estimated fee, the application shall be considered incomplete as of the next regularly scheduled meeting of the commission which shall be grounds for denial of the application with or without prejudice as circumstances warrant, or any permit in effect shall be immediately revoked. Any fees paid in excess of actual technical review costs shall be refunded to the applicant.

- v. Monitoring and Inspection Fee:

Upon issuance of a permit under these Earth Materials Regulations the permittee shall pay a monitoring and inspection fee of \$10 per 1000 cubic yards of earth materials excavation approved by said permit or such lesser amount as determined by the commission. If determined necessary by the commission to obtain specialized technical review to fully and properly review and evaluate compliance with Woodbury Zoning Regulations and any conditions of permits issued, the fees for such technical review shall be paid by the permittee within ten (10) days of the Town's written notice of the actual or estimated fees. Failure to pay such assessment before commencement of any permitted excavation activities shall result in the immediate revocation of the permit.

# **Woodbury Zoning Commission**

Woodbury Zoning Regulations  
Earth Excavation

Revisions to

## **Section 15**

First land deed from the Indians

## **Earth Materials Regulations**

*Earth Excavation Regulations of Woodbury, dated May 25, 1970, and any other previous ordinances are hereby superseded. Any premises on which excavation or fill has occurred without proper permit or which, having received a proper permit, has not been restored in accordance with requirements of the Earth Excavation Regulations of Woodbury, dated May 25, 1970, or preceding regulations, shall be restored within 120 days of the effective date of these regulations.*

## Section 15 - EARTH MATERIALS REGULATIONS

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- 15.1 **General:** These Regulations shall be construed and applied to promote their purposes and policies, which are as follows:
- i. To regulate and control the excavation, deposition, and removal of soil, loam, sand, gravel, clay, rock or any other natural earth material (hereinafter, collectively or individually, earth materials) from land or premises within designated Earth Excavation Districts in the Town of Woodbury;
  - ii. To control and regulate excavation, removal and deposition of earth materials so as to prevent, outside of Earth Excavation districts, damage to property; the creation of any safety or health hazard including without limitation, noise, odor, soil erosion, stagnant water, water and air pollution; and excessive drainage runoff to the public or to owners of adjoining property and to preserve land values of premises and historic value of structures, archeological features, landscape features, and scenic landmarks situated within the Town of Woodbury and to provide for the quiet use and enjoyment thereof;
  - iii. To preserve the vegetation and other natural growth on premises situated within the Town of Woodbury for the purpose of preventing erosion by wind or water;
  - iv. To ensure that the existing topography of areas of the Town of Woodbury is not altered in a permanent manner inconsistent with the goals and recommendations of the Town of Woodbury Plan of Conservation and Development, September 1999 as may from time to time be amended; and
  - vi. To accomplish such other purposes as permitted by the Connecticut General Statutes.
- 15.2 **Applicability:** These Earth Materials Regulations shall be applicable to all excavation and deposition of earth materials and to the processing of earth materials for commercial purposes within duly designated Earth Excavation Districts within the Town of Woodbury.
- 15.3 **Permit Required:** Before any excavation or deposition or processing of earth materials subject to these Earth Materials Regulations is commenced or continued, the owner and/or any other person, firm or corporation (hereinafter referred to as "applicant" or "permittee") claiming a right to excavate, deposit or process earth materials from or on premises shall obtain a written earth materials permit from the Zoning commission of the Town of Woodbury.

15.3.1 Duration: Each permit issued hereunder shall be valid for a period of two years or for such shorter period of time as may be requested by the applicant or determined appropriate by the commission based on a Long Term Mining and Reclamation Plan submitted in accordance with Section 15.7 of these regulations or unless suspended or revoked due to certified violations.

15.3.2 Denial of Permit Application: The commission may deny any permit application, if:

- a. The applicant has previously failed to complete any required restoration of premises under any permit issued prior to the effective date of these Regulations in accordance with the provisions of prior applicable regulations governing said permits, as set forth in Section 15.9.1 of these Earth Materials Regulations, or has failed to restore the premises in accordance with these Earth Materials Regulations; or
- b. The applicant has previously violated, and failed to correct such violation to the satisfaction of the commission, these or any prior earth materials regulations, ordinances of the Town of Woodbury pertaining to earth materials, or any conditions of a previously issued Earth Materials Permit; or
- c. The issuance of the permit would result in the violation of any other section of these Earth Materials Regulations, any provision of the Woodbury Zoning Regulations, or any other regulation, code or ordinance of the Town of Woodbury, or any statute or regulation of the State of Connecticut or of the United States, including, but not limited to, those relating to the conservation of natural resources.

15.4 Application Procedure: Each applicant for a permit shall submit to the commission four complete sets of the following data, maps and plans, and other information necessary to define and explain the proposed activities. On written request of the applicant, the commission may waive any of the required submittals for permit renewal applications if the commission is satisfied that documentation provided with a previous permit application for the same premises reflects conditions existing at the time of the application for permit renewal as confirmed in writing by the applicant. Each applicant shall file a summary of the application with the Woodbury Board of Selectmen, Conservation Commission, Planning Commission, and Inland Wetlands Agency at the time of submittal. The commission may direct that application materials be provided by the applicant to other Woodbury agencies or placed on file in the Woodbury Public Library.

15.4.1 Application: An application, in such form as the commission may prescribe, shall contain the following information.

- A. A deed description and property line survey of the premises on which the proposed excavation or deposition is to occur, which description shall include the volume and page reference of the recorded deed on the land records of the Town of Woodbury.
- B. If the person, firm or corporation claiming a right to excavate from or deposit or process earth materials on the premises is other than the owner of record, a brief description of the nature of the interest granted to the applicant under which the right to work is claimed, which description shall identify the nature of the interest (e.g., leasehold, easement, license), the scope of the interest, and its term. A notice of any such interest, if not the lease, easement or other agreement itself, must be filed on the land records of the Town of Woodbury prior to the date of issuance of the Earth Materials Permit.
- C. A detailed statement describing the existing premises, the proposed excavation and deposition activities and all associated processing and materials management, and the purpose and duration of the proposed work, consisting of the following information:
  - i. A statement of the acreage of the entire premises, of the acreage of the permit area for which a permit is requested, and of the acreage of all land restored under prior permits and to be restored in accordance with these regulations, as shown on the map required by Section 15.4.4;
  - ii. A statement of the types of earth materials to be excavated, deposited and processed, and in the case of deposition a statement of the volume (cubic yards), source and types of materials that have been deposited on the permit area or the premises during any previous permit terms, the location within the permit area and the condition of the area to be filled;
  - iii. A calculation of the number of cubic yards of material to be excavated and/or deposited within the area for which a permit is requested and a statement as to how the calculation was made;
  - iv. Where on-premise processing of earth materials excavated from the premises is permitted by these Regulations, a description of any equipment and/or structures to be erected on the premises, including muffler and other noise abatement systems, to perform such processing in order to provide a clear indication of the nature and extent of such permitted processing;
  - v. An inventory list of all equipment, including processing equipment, to be used to carry out the proposed work, including an estimate of the number of vehicles to be used solely to transport material to or from the premises;
  - vi. A description of any alterations to blasting procedures instituted as a result of any Seismic Monitoring Program required by Section 15.6.20 of these Regulations or other evaluation required by condition of previous earth excavation permits for the premises;
  - vii. A statement of the provisions to be made to prevent and to control any potential nuisance conditions which might result from the proposed

- work, including but not necessarily limited to blasting, dust, noise, truck traffic, material processing, and concrete and asphalt production;
- viii. A statement and supporting documentation regarding potential impact, if any, of any change in surface or groundwater levels or water quality that may be caused by the proposed activities including impacts on private wells and wetlands habitats;
  - ix. Calculations of changes to velocities and volumes of water in watercourses within 2000 feet of any discharge from an Earth Excavation District property resulting from any permitted activities;
  - x. Certified water quality tests for all watercourses abutting or crossing the premises, taken at the upstream and downstream borders of the property;
  - xi. Documentation of compliance with the noise limits required by Section 15.6.20, consisting of tests of noise levels at property boundaries conducted in May and October during normal business hours;
  - xii. A description of any potential threats to populations or habitats of any species identified as endangered, threatened, or of special concern by the Connecticut Department of Environmental Protection and provisions to prevent or mitigate any such losses;
  - xiii. An archeological survey prepared by a professional archeologist or a report from the State of Connecticut archeologist, including identification of known sites of historic or archeological significance.
  - xiv. A description and photographs of any ridgeline or other defining landscape feature proposed to be removed in a permit application; and
  - xv. Any additional information that the commission may deem necessary to evaluate the application and to carry out the purposes set forth in Section 15.1 of these Regulations.
- D. A description of any revisions to the latest Long Term Mining and Reclamation Plan, submitted in accordance with Section 15.7 of these regulations, for the subject premises made necessary by permitted activities subsequent to the latest Plan filing or by proposed activities.
- E. A site reclamation and restoration plan for the Permit Area showing proposed final contours, landscaping, reclamation materials stockpiles, and proposed reclamation and restoration work during the term of the permit if applicable.
- F. If blasting is proposed as part of a permit application, a plan for monitoring weather conditions for production blasts, including plans to schedule blasting well enough in advance to take advantage of the days when air shock is likely to be at a minimum and to avoid blasting on days during times of unstable air masses and temperature inversions when air shock is more likely to occur.
- G. A list of all current and required permits issued by any responsible authority other than the Town of Woodbury for any activity on the subject premises and the status thereof and a list of any outstanding notices of violation, citations, or other

enforcement action by any such responsible authority including a status report on any such conditions.

- H. A report on the results of any Seismic Monitoring Program instituted in accordance with Section 15.6.20.

15.4.2 Agreement Statement: An agreement, the text of which shall be contained in the application, by the owner and/or the applicant stating that they will comply with and fulfill all of the requirements and provisions of these Regulations, all conditions made part of the Earth Materials Permit, and all provisions contained in their application and in other submissions made to the commission under this section.

15.4.3 Signatures: The names and signatures of the owner and the applicant.

15.4.4 Maps and Plans: Survey maps and plans and/or such other graphic documentation in such form as the commission may require to carry out the purposes of these Regulations prepared by a Connecticut registered licensed surveyor (and by a Connecticut licensed professional engineer if engineering expertise and analysis is required and by a Connecticut licensed landscape architect or other qualified professional for visual impact assessments and restoration plans) all of which documentation shall be identified as part of the application. The survey maps and plans shall be drawn to a scale appropriate to the size of the premises and/or permit area and the nature of the proposal and may be consolidated as appropriate. The commission may require additional maps and plans at other scales. Maps and plans shall show the following.

- A. The entire premises owned by the owner, the location of permanent boundary markers as required by Section 15.6.2, and within said premises, the proposed permit area, the exterior limits of which having been determined by measurements from fixed reference points along the boundary lines of the premises. In addition, the area of the designated permit area shall be expressed in terms of acreage or square footage.
- B. The names of all property owners adjoining the Earth Excavation District, including those separated from the Earth Excavation District by a road or watercourse.
- C. The location, elevation and extent of all existing and proposed roads, highways, storm drainage, drainage ponds, water courses and bodies, swamps, wetlands, wells and septic systems on and within 200 feet of the permit area and existing and proposed improvements to ensure proper drainage and to avoid pollution of wetlands and groundwater.
- D. A Restoration Plan, if applicable, for the proposed permit period comporting with Section 15.6.17 of these regulations.

- E. The location on the premises and description of wooded areas and natural vegetative communities, areas identified on the most recent Connecticut Department of Environmental Protection Natural Diversity Database Map of State and Federal Listed Species and Significant Natural Communities, unique geological features, rock outcrops, existing buildings and structures, and existing and proposed ground cover and vegetation.
- F. For rock quarries, such evidence, in the form of boring logs, data from monitoring wells or deep test pits, hydrogeological analyses, or otherwise, sufficient to demonstrate the feasibility of the proposed excavation and deposition to the proposed contour elevations within the permit area, the availability of sufficient water for any proposed water bodies, and the potential effect of excavation on ground water levels, wetlands and watercourses, and private wells within one-half mile of the permit area.
- G. Existing contours and elevations, identifying where final grades have been established, and proposed final future contours and elevations in and within 200 feet of the permit area at two-foot intervals or at such intervals as deemed appropriate by the commission in order to adequately evaluate the application; existing contours may be interpolated from ten-foot contours of U.S. Geologic Survey maps, if same are applicable to the premises; contours of the bottom of water bodies or courses to be altered or created shall also be shown.
- H. A permanent benchmark or point existing in the permit area in a location safe from disturbance for the duration of the permit, with a designation of its elevation.
- I. Delineation of all completed restoration areas, including calculation of land area restored in accordance with these regulations.
- J. Existing and proposed vehicular access to the permit area and any proposed work roadways within the premises.
- K. The location and square footage of all storage area(s) within which the applicant proposes to stockpile reserve topsoil and fill and excavated or processed materials, and/or to locate any equipment and structures.
- L. A soil erosion and sediment control plan prepared in accordance with the provisions of Section 16 of the Woodbury Zoning Regulations.
- M. Delineation of fences as required by Section 15.6.13 of these Earth Materials Regulations.
- N. Such other data as the commission may conclude is necessary in order to carry out the purposes of these regulations.

15.4.5 Release of Encumbrance: Proof that written notice of the excavation has been given to the holders of any mortgages or other encumbrances on the property as recorded with the Town of Woodbury and a written statement from the Tax Collector of the Town of Woodbury certifying that all taxes levied against the premises have been paid in full and that there are no unreleased tax liens encumbering the same.

- 15.4.6 Fee: A permit fee as prescribed by Section 11.11.d of these regulations.
- 15.4.7 Liability Insurance: Evidence by way of an insurance binder that the applicant has sufficient liability insurance naming the Town of Woodbury as an additional insured for any liability resulting from the permitted operations. Such evidence shall be reviewed and approved by Town Counsel prior to the issuance of a permit.
- 15.4.8 Right of Entry for Correction of Violations: A written agreement by the owner of the premises and the applicant which permits the Town of Woodbury or its designee to enter upon the premises and to perform all work necessary to correct and abate any violations of these Regulations and of stipulations which the permittee has made and failed to correct within the required time, such right of entry to arise upon the certification of such violation(s) by the Zoning Commission, its qualified engineer designee, or the Zoning Enforcement Officer and shall continue for such time thereafter as is required for the Town or its designee to remedy such default.
- 15.4.9 Notice of Hearings: In all earth excavation permit applications requiring public hearings, notice shall be provided by the applicant as specified in Section 10.2.5 of the Woodbury Zoning Regulations. Additionally, the applicant shall provide notice to the Woodbury Board of Selectmen, the Woodbury Planning Commission, the Woodbury Inland Wetlands Agency, and the Woodbury Conservation Commission. The commission may require notice to other individuals or organizations, and will so notify the applicant, as it deems appropriate.
- 15.4.10 Renewal Procedure: Renewal applications containing all required documentation shall be submitted at least 60 days but not more than 90 days prior to the expiration of the existing permit. The commission may renew a permit for the premises upon payment of the required permit fee; the filing of a new bond and the other documentation required under Section 15.4.2, 15.4.3, 15.4.5, 15.4.7, and 15.4.8; the filing of a statement of the number of cubic yards of earth material which have been removed and/or deposited under the existing permit; and the filing of updated application, map, and plan information required by these Earth Materials Regulations or written request for waiver of such filing requirements, provided the commission finds that:
- A. The permitted work is being diligently performed by the permittee. A failure by the permittee to actively work the area covered by the permit for a period of six months (excluding November, December, January, February and March) shall be prima facie evidence that the work authorized has been completed or

abandoned, and the burden shall be on the applicant to show why the permit should be renewed;

- B. The permittee has taken steps to restore those portions of the permit area where work is completed and has made provisions to assure that restoration can be effected in accordance with the original plan and these Regulations;
- C. There are no violations of any Town of Woodbury, State of Connecticut, or United States regulations, ordinances or statutes for which corrective action has not been completed by the applicant or for which a plan for such actions has not been approved by the applicable regulatory authority;
- D. The renewal will not extend the permit period beyond the applicant's estimated completion date as specified in the Long Term Mining and Reclamation Plan submitted pursuant to Section 15.7; and
- E. All reclamation activities required by any previous permit have been completed to the commission's satisfaction.

15.5 **Suspension, Revocation, Transfer, or Extension of Permit:** A permit issued under these Regulations may be suspended, revoked, transferred or extended as set forth below.

15.5.1 **Failure to Work:** The failure of any permittee to actively work the permit area for a period of six months (excluding the months of November, December, January, February and March) without the prior written approval of the commission, shall be cause for revocation of a permit. Such revocation shall become effective 30 days after the mailing of notice to the permittee and owner, unless the permittee sooner proves to the commission that the area has been actively worked during such six-month period, or provides written assurances satisfactory to the commission that work will be resumed and continued. The failure of the permittee thereafter to actively work the area in accordance with such written assurance shall be grounds for revocation without further notice.

15.5.2 **Violations of Regulations:** Any permit issued under these Earth Material Regulations may be suspended or revoked by the Zoning Enforcement Officer or the commission when there has been a violation of any provision of these Regulations or any permit issued thereunder, provided that notice of said violation has been given to the permittee together with an order to comply therewith within 21 working days as set forth in said order, and the permittee has failed to comply with said order. Such permit shall be reinstated upon demonstration of compliance to the commission's satisfaction and after submittal of all materials required for an initial permit application under Section 15.4 of these regulations as determined necessary by the commission. Upon revocation of a permit, restoration of the entire premises in accordance with Section 15.6.17 of these Regulations shall begin within 90 days of such revocation and proceed on the schedule included in the original conditions of approval.

- 15.5.3 Transfer of Permit: Any permit issued under these regulations may be transferred only after approval by the commission, which may require submittal of any or all of the information required for permit applications, including a revised Long Term Mining and Reclamation Plan, before approval of any transfer.
- 15.5.4 Extension of Permit: If the commission is unable for good cause to act on a pending permit renewal application within the time limits prescribed by Connecticut General Statutes for Zoning Special Permit hearings, the commission may grant an extension of the Earth Materials Permit currently in effect for up to two additional 30 day periods, provided there are no pending enforcement actions or violations of any permits issued by the Town of Woodbury.
- 15.6 **Earth Excavation Standards:** Any earth materials activities subject to these Earth Materials Regulations shall be conducted in compliance with the following standards in addition to any conditions contained in any approved permit.
- 15.6.1 Location of Operation: No excavation, deposition, processing, or other disturbance of pre-existing ground cover, other than approved restoration and reclamation activities, shall occur on the premises outside the permit area. The permit area shall be worked in conformance with the approved plans and these Regulations.
- 15.6.2 Boundary Monuments: Any owner of property within an Earth Excavation district subject to a permit issued pursuant to these Earth Materials Regulations shall mark the Earth Excavation district boundaries at all angle points and/or at one-hundred foot intervals of that property with permanent monuments and/or iron pins, unless otherwise provided by the commission.
- 15.6.3 Depth Above Ledge: Except in rock quarries, no excavation shall be made lower than three feet above ledge, or such greater distance above ledge as may be required to permit the re-graded site to meet the proposed final contours at slopes not exceeding the maximum provided by these regulations.
- 15.6.4 Relationship of Permit Area to Existing Features: No excavation or fill shall be made that would reduce the final elevation below flood plain, change the area of the flood plain, or expose ground water without specific prior approval of the commission, which shall be given only when, by proper analysis, it is determined that no pollution or silting of existing water courses, or increased flood or erosion hazards, or other effect on water supply or purity will result and any necessary permits have been issued by the Woodbury Inland Wetlands and Watercourses Agency. Within any

rock quarry, to the greatest extent practical, any quarrying of rock which will affect existing ridge lines, or create temporary exposed cliffs, or create other permanent topographical features, shall be done in a manner or adequately mitigated to assure compatibility with the Plan of Conservation and Development for the Town of Woodbury, as determined by the commission. Any earth material excavation permitted by these regulations shall, to the greatest extent possible, be done in a manner or adequately mitigated to preserve historic and archeological sites used for prehistoric and historic occupation, subsistence, industry, trade, agriculture, burial and other cultural purposes, to assure compatibility with the Plan of Conservation and Development, as determined by the commission.

- 15.6.5 Depth of Excavation: No excavation conducted under an Earth Materials Permit issued pursuant to these Earth Materials Regulations shall be made below the grade of any abutting highway within 150 feet thereof, unless approved by the commission, or below the grade of any adjoining property at the property line within 50 feet thereof, or within 150 feet of any dwelling existing at the date the permit is issued without the written approval of the abutting owner of private property or of the owner of the dwelling to be affected and the approval of the commission.
- 15.6.6 Slopes During Excavation: Except in rock quarries, no slopes having a grade greater than one foot vertical to two feet horizontal shall be created during excavation within 150 feet of any property not owned by the applicant or any street line unless the operator shall demonstrate to the reasonable satisfaction of the Zoning Enforcement Officer that material to re-grade the slope in accordance with Section 15.6.17 is available on the premises and the slope is so re-graded within 60 days after excavation of the slope is commenced.
- 15.6.7 Reuse and Development: Excavation shall result in final grades and final rock quarry floor elevations that permit reasonable reuse and development as described in the Long Term Mining and Reclamation Plan filed in accordance with Section 15.7 of these Earth Materials Regulations.
- 15.6.8 Runoff and Erosion Controls: At all stages of work, proper stormwater drainage and erosion/sedimentation controls shall be provided to prevent excessive runoff and stagnant water, silting of streams or other water bodies, and damage to public or private property, streams, roads or drainage facilities.
- 15.6.9 Equipment: No equipment directly or indirectly engaged in the excavation, processing, or transporting of earth materials shall be operated on the premises other than that listed in the application for a permit and approved by the commission. No vehicles or equipment not used in connection with the work covered by the permit shall be operated, parked, repaired or

serviced within the permit area. No processing machinery not in place on April 1, 1969 shall be erected, maintained or operated within 300 feet of any property or street line or such other distance as the commission may establish as a condition of any Earth Materials Permit. Any processing machinery shall be used only to process earth material excavated from the permit area, earth materials and imported materials stockpiled on the respective earth excavation district prior to [March 1, 2003, and imported materials as necessary for contractual obligations with any public entity or as demonstrated necessary for production purposes and specifically authorized in a permit.

15.6.10 Time of Operation: The following hours of operation shall apply to permitted earth materials activities subject to these regulations:

- i. Drilling, blasting, rock crushing, screening, and washing – 8:00 A.M. to 5:00 P.M. Monday through Friday, except holidays.
- ii. Production of asphalt, concrete, and other materials as authorized by a permit issued in accordance with these Earth Materials Regulations and transportation of materials within the premises and off-site – 6:30 A.M. to 7:00 P.M. Monday through Friday and 7:00 A.M. to 5:00 P.M. Saturday, except legal holidays. Pre-heating of production equipment may begin 30 minutes before the applicable start time.

For the purposes of this Time of Operation standard, holidays are New Years Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving, and Christmas.

15.6.11 Tree Protection: All trees outside the permit area shall be protected from damage. Measures shall be taken by the permittee to insure that the boundaries of the permit area are clearly delineated for the duration of the permit.

15.6.12 Pollution Controls: Adequate provision shall be made for the muffling of sound and vibration; for soil erosion and sedimentation controls; and the prevention of dissemination of dust, including the treatment of all on-premise access routes with calcium chloride or similar material. Adequate provisions must be made to prevent the discharge of any pollution control chemicals, anti-sticking agents, sediment, oil, or other pollutants into any wetlands. The commission may require water quality tests during the permit year as a condition of approval.

15.6.13 Warning Signs and Fencing: Adequate provisions shall be made for warning signs and security fencing as may be necessary or required, all subject to the approval of the Zoning Enforcement Officer or commission.

- 15.6.14 Stockpile of Arable Soil: No arable topsoil existing within the permit area shall be removed from the premises until an amount adequate, in the opinion of the Zoning Enforcement Officer, to conform to these regulations has been stockpiled at the storage area on the premises. Arable topsoil shall be separately stockpiled from subsoil and other fill material. All arable topsoil stockpiled for a period of more than 30 days shall be seeded with annual ryegrass.
- 15.6.15 Depth to Water Table: No excavation shall be made below the normal groundwater table, or soil contours changed, which results in a permanent lake or pond or drainage ditch, unless expressly approved by the commission.
- 15.6.16 Securing Loads: It shall be the responsibility of the permittee to ensure that vehicles removing earth materials from the premises are so loaded and/or secured, including load covers, that there will be no spillage or release of such materials within the Town of Woodbury. The permittee shall be liable for the cost of cleaning any earth material spillage or repairing any damage to a road or roads of the Town of Woodbury caused by improper loading or securing of loads.
- 15.6.17 Restoration of Excavated Areas: All reclamation and restoration approved as a condition of any permit shall be completed within the permit period. The remainder of the premises, including the permit area, except for the storage area, processing area and circulation routes, shall remain either undisturbed land or shall be graded to the proposed final contours and elevations and be otherwise restored, seasonal planting factors considered, pursuant to the Long Term Mining and Reclamation Plan. Within 90 days (excluding from said period the months of November, December, January, February and March) of the completion of the work authorized or the expiration or revocation of the permit, whether initial or renewed, the area of excavation, deposition, or disturbed ground shall be restored in accordance with the Long Term Mining and Reclamation Plan and the following standards, which may be waived or modified for good cause by a two-thirds votes of the commission.
- A. Finished Slopes: Reclamation areas shall be refilled, if necessary, with earth materials. Re-grading shall be to the final contours and elevations shown in the approved plans with slopes (measured from final lower elevation to final upper excavated elevation), not to exceed an average of one foot vertical in three feet horizontal or to such a lesser slope necessary for soil stability, safety of reasonable reuse and development of the land but yet with sufficient grade to ensure adequate drainage, and sufficient diversity in land form to provide a more natural condition. Re-grading may include terracing or shelving and the development of vertical rock faces as determined appropriate by the commission. Rolling topography should be developed and sloped areas shall not exceed two-

hundred (200) feet of continuous length (measured perpendicular to the contours) without a reverse bench or terrace, a change in grade (per cent slope) or change in aspect (slope direction). Compaction of fill materials shall be based on calculations developed by a qualified engineer.

- B. Drainage Swales: Adequate drainage swales of gradual contour shall be provided as needed to create positive flow. Minor depressions or detention areas may be developed to create diversity in landscape form and for stormwater management purposes as deemed appropriate by the commission.
- C. Debris Removal: All loose boulders of less than 10 cubic yards and all debris shall be buried or removed from the site. Within any rock quarry, upon completion of the work in a specific area authorized by a permit, all natural debris and loose rock shall be buried or removed from the site.
- D. Vegetation Restoration: A layer of arable topsoil, which shall be substantially free of stones, shall be spread evenly over the entire area to a minimum depth of six inches over reclaimed substrate or to a depth determined by the commission to be necessary to support vegetation growth over natural substrate. Such cover soils shall be non-compressed and then fertilized, limed and seeded with a perennial grass/ground cover and maintained until the ground shall be stabilized with a dense cover in accordance with the provisions hereunder specified and there exists no danger of erosion as determined by the commission or Zoning Enforcement Officer. Restoration shall be done in accordance with the following:
- i. The amount of fertilizer and lime to be applied shall be determined by the soil test prepared and/or approved by the U.S.D.A. Natural Resource Conservation Service.
  - ii. Grass/ground cover seed used shall be fresh and be in conformance with soil testing determinations with respect to liming, fertilizing, and watering. Seed composition and the application rate shall be based on sieve analysis and soil testing as performed by the permittee at a certified testing lab. Seeding shall be done as recommended by the seed manufacturer.
  - iii. Areas specifically proposed to include trees as a part of the restoration plan shall provide a minimum of two and one-half (2 ½) feet of earth material from the proposed grade to the ledge. Tree restoration shall include a combination of deciduous and evergreen trees and shrub species and shall identify the number, species type, size (height and caliper) and general locations of the planting. The plan shall also include a management plan narrative for general maintenance purposes including fertilizer type and application rate, liming rate, mulching and a watering and pruning schedule.
  - iv. Trees to be used in restoration shall be young trees indigenous to the area. Size of the trees, planting density, and species type shall be approved by the commission.

- v. Soil erosion and sedimentation control provisions meeting the requirements of Section 16 of the Woodbury Zoning Regulations shall be incorporated in all restoration projects.
- vi. Repairs: If the seeding or planting fails in whole or in part, the area shall be re-seeded, replanted and re-mulched until all eroded or uncovered areas have been re-seeded and repaired to the satisfaction of the commission.

15.6.18 Restoration Adjacent to Water Bodies: Areas shown as existing or proposed water bodies on the approved plans shall be considered restored when and to the extent that they have been excavated to the approved depth and all shore lines, other than those remaining within the permit area, have been re-graded to a slope not exceeding one foot vertical and two feet horizontal, and have been stabilized to the satisfaction of the commission.

15.6.19 Failure to Work and Restore Site: The failure of a permittee, without the prior written approval of the commission, to actively work the area covered by the permit for a period of six months (excluding the months of November, December, January, February and March) shall be prima facie evidence that the work authorized by the permit has been completed, and the burden shall be upon the permittee to prove to the contrary. Any failure to initiate restoration within the 90 day period following completion, expiration or revocation of the permit, such as to reasonably assure complete restoration by the end of said 90 day period (seasonal planting excepted) shall be a separate violation of these Regulations.

15.6.20 Blasting: Any blasting permitted in conjunction with a permit or renewal permit for a rock quarry shall comport with the following performance standards and procedures in addition to any other blasting performance standards or procedures the commission may impose as conditions, based on specific permit application information, of any permit issued under these Earth Materials Regulations.

A. Performance Standards:

- i. permittee shall plan all blasting in accordance with a plan for monitoring weather conditions approved by the commission.
- ii. blasting vibration shall be governed by a maximum resultant peak particle velocity of 0.5 inches per second in the earth for frequencies under 30 hertz, 1.0 inch per second in the earth for frequencies of 30 to 40 hertz, and 2.0 inches per second for frequencies over 40 hertz, as measured at any occupied structure off the premises and not owned by the applicant;
- iii. the peak over-pressure (noise) from any blast shall be governed by a maximum of 0.0092 pounds per square inch (130 decibels) at any occupied structure off the premises and not owned by the applicant; and

- iv. compliance with the above standards shall be confirmed by a continuous Seismic Monitoring Program and such other studies and analyses that the commission determines necessary.

B. Blasting Notice, Monitoring, and Damage Complaint Procedures.

- i. Permittee shall provide the Town Planning Office with notification at least 24 hours prior to any anticipated production blast and shall notify other individuals requesting such notification of a production blast.
- ii. All production and test blasts shall be monitored with air pressure, seismic, and decibel meters at no fewer than five (5) sites for each blast.
- iii. Permittee shall notify, in writing, any property owner who has filed a complaint pursuant to Section 15.6.22 of these Earth Materials Regulations of the availability of a pre-blast survey and how to request same. Upon such request, permittee shall conduct or arrange for a pre-blast survey, which shall determine the condition of the dwelling or structure and document any existing damage and other physical factors that could reasonably be affected by the blasting. A written report of the survey shall be prepared and signed by the person who conducted the survey. A copy of the report shall be provided to the property owner requesting the survey. In the event that a permittee believes that a property owner is remote in location from any Earth Excavation District and is using this procedure in a manner inconsistent with the intent of these regulations, the commission may waive the requirement that the permittee provide a pre-blast survey to such property owner.
- iv. Permittee will assume all costs of repair/replacement due to damages to any structures and/or wells located within one-half (1/2) mile of an Earth Excavation district for which a permit has been issued or if such structure was surveyed pursuant to Section 15.6.20.B.iii, above, if it is determined by a registered professional engineer, selected by the homeowner from a list compiled by the commission and approved by the permittee, that in the engineer's professional opinion it is more probable than not that the damage to the structure or well in the engineer's professional opinion was caused by blasting conducted in accordance with such permit. Permittee will also pay for the cost of the engineering study.

15.6.21 Operations and Compliance Monitoring: If required as a condition of any permit issued under these Earth Materials Regulations, a permittee shall submit reports which shall include some or all of the following, as specified in any commission approval.

- A. On April 7 of each permit year and quarterly thereafter, a compliance report as detailed in conditions of approval consisting of:
  - i. a complaint log and response report in accordance with Section 15.6.22;
  - ii. a blasting log;

- iii. a tabulation of truck traffic;
  - iv. delineation of overburden stockpiles and soil and erosion controls therefor;
  - v. a description of all restoration work;
  - vi. a report identifying the amount, type, and source of any clean earth materials imported onto the premises for reclamation;
  - vii. a calculation of material excavated; and
  - viii. such other information as the commission may specify in any conditions of approval.
- B. An Earth Materials Permit Progress Report on October 1 of each year during which any excavation activity occurs, consisting of the following:
- i. a signed and sealed A2, as-built survey of the premises, showing topography, structures, roads, drainage systems, wetlands, Zoning District boundaries, permit area boundaries, and property ownership boundaries;
  - ii. a report, signed and sealed by an engineer or surveyor registered and licensed to practice in the State of Connecticut regarding the progress of the excavation, including the amount of material removed and existing contours in the area excavated in the previous one year period;
  - iii. a listing of all addresses for which pre-blast surveys were conducted and the dates thereof; and
  - iv. a report detailing restoration activities for the prior one-year period and describing all reclaimed areas including soil conditions and soil stability, survival rates of all plantings, and other information that may be requested by the commission.

15.6.22 Complaints. All activities subject to these Earth Materials Regulations shall comport with the following complaint procedures.

- A. all permittees shall maintain a local or toll-free telephone number for complaint referrals.
- B. a log of all complaints received shall be maintained and filed with the Town Planning Office, consisting of the date and time of the event, the nature of the complaint, a description of any physical damage identified, and an explanation of any actions taken in response by the permittee.

15.7 **Long Term Mining and Reclamation Plans for Earth Excavation District Premises:** No application for an Earth Materials Permit shall be accepted by the commission unless a Long Term Mining and Reclamation Plan has been submitted as provided in this Section. Commencing September 15, 2003 and subsequently every six (6) years on September 15, any holder of a permit for earth excavation on premises within an Earth Excavation district shall submit a

Long Term Mining and Reclamation Plan for such premises containing the following information:

- A. Estimates of remaining amounts of earth materials subject to removal, including results of boring tests conducted in a grid pattern determined by the commission over all Earth Excavation district property subject to future excavation;
- B. Estimated completion date for removal of earth materials identified in Section 15.7.A, above, including identification of economic and other assumptions used to develop such projections;
- C. Long term restoration and reclamation goals for the next six-year period, developed in consultation with the USDA Natural Resources Conservation Service. Such goals shall comport with the standards in Section 15.6.17 of these regulations, unless alternative design standards are approved by a three-fourths majority of the commission.
- D. Estimate of the final date (subject to any modification approved by the commission and made public in writing) by which complete restoration of the premises shall be accomplished;
- E. Status and condition of previously reclaimed areas;
- F. Anticipated need for importation of fill materials for reclamation over the next six-year period;
- G. Conceptual designs for post-completion restoration of the premises for potential reuse; and
- H. Any other information requested by the commission in previous permits or monitoring reports.

## 15.8 **Bonding**

15.8.1 **Performance Bond Required:** Prior to commencement of any excavation activities authorized under these Earth Materials Regulations, the permittee shall post a performance bond with the Town in an amount and form satisfactory to the commission, to secure to the Town the permittee's compliance with Town of Woodbury Zoning Regulations and any conditions of approval of an Earth Materials Permit.

- A. The permittee shall submit cost calculations for all drainage systems, sedimentation and erosion controls, and any other actions identified in conditions of approval as requiring bonding.

- B. The performance bond shall be calculated to include the cost calculations in Section 15.8.1.A, above, plus \$10,000 per acre of permit area for reclamation and restoration.

15.8.2 Form of Performance Bond: Performance bonds shall be in one or more of the following forms:

- A. A certified check payable only to the Town of Woodbury, a money market account, or a passbook savings account, which account shall be Federally insured;
- B. An unconditional and irrevocable letter of credit that may be presented at a banking institution office in the State of Connecticut.

15.8.3 Insufficient Bond: If for any reason the performance bond is insufficient to pay all costs of actions covered by the bond, and the permittee does not complete such actions to the satisfaction of the commission, the permittee shall remain liable for the costs in excess of the performance bond and such excess costs shall become a lien against the premises.

15.8.4 Bond Forfeiture: If the commission, after providing written notice to the permittee, and an opportunity to be heard, finds that the permittee has violated these Zoning Regulations and/or permit conditions, and has failed to cure such violations within the time established by the commission, then the commission may determine that the permittee's bond shall be forfeited; whereupon the Town of Woodbury shall be authorized to enter on the property to take all action necessary to cure any such violation and to expend bond funds for such action. Any excess of the amounts paid over, after deduction of all disbursements required to abate the violation, shall be returned to the permittee.

15.8.5 Bond Release: Upon completion of the work authorized by a permit and the restoration of the premises pursuant to these Earth Materials Regulations, the permittee may file with the commission an application for a return of the permittee's bond, together with a written statement from the Tax Collector of the Town of Woodbury certifying that all taxes levied against the premises and the machinery, equipment, and vehicles used or located thereon, and subject to assessment in the Town of Woodbury, have been paid in full. If the commission is satisfied that the work and restoration have been completed as required by the permit and these Regulations, the bond shall be returned to the permittee, but otherwise the bond shall remain in full force and effect.

## 15.9 Miscellaneous

15.9.1 Existing Operations: Each permit issued under the Earth Excavation Regulations of Woodbury dated May 25, 1970, shall continue in effect,

and shall be governed by those regulations until the expiration of such permit, unless sooner revoked for violation of other provisions of the applicable regulations. All legally permitted facilities, site development, and completed restoration activities involving properties subject to these Earth Materials Regulations shall continue as originally permitted whether such permit conditions conform or do not conform to these Earth Materials Regulations, subject to the operational standards of these Earth Materials Regulations.

- 15.9.2 Modification of Plans After Approval: If, during the conduct of work or restoration of the premises, special circumstances unforeseen at the time of the application are encountered, the commission may grant modifications to the approved plan which, in the opinion of the commission, are reasonably necessary to complete the work within the intent of these Regulations. No request for modification shall be considered if the applicant is in violation of the provisions of these Regulations.
- 15.9.3 Separability: Each word, phrase, clause, subsection or section capable of being separated from other words, phrases, clauses, subsections or sections without loss of essential meaning is hereby declared to be separable. If any such word, phrase, clause, subsection or section of these Regulations or the application thereof to any person or property is held invalid, such invalidity shall not affect the validity of the remainder of these Regulations or their application to other persons, property or situations.
- 15.9.4 Inspection: Members of the commission or its agents shall at all times have reasonable access to premises on which permitted activity is being performed for the purpose of inspection and determination of compliance with these Regulations. The Town Planning Office shall annually provide each permittee with a list of Zoning Commissioners and authorized agents. Each permittee and owner, by his agreement in the application to these regulations, shall be deemed to have granted such reasonable rights of access to the commission or its agents for this inspection purpose.
- 15.9.5 Fines: In addition to all other legal and equitable remedies to enforce these Regulations, any person, firm or corporation violating or assisting in the violations of any of the provisions hereof or any permit granted hereunder shall be subject to the procedures and penalties provided in Connecticut General Statutes Section 8-12. Each day of violation shall be deemed a separate offense.