

**EARTH REMOVAL AND PLACEMENT OF FILL  
RULES AND REGULATIONS  
Westminster Planning Board**

Adopted: December 10, 2013, Revised: July 21, 2020

**Section 1: General Provisions**

1) Purpose

The purpose of these rules and regulations is to regulate earth removal operations and land filling operations for the protection of human health, public safety, welfare, and the Town's natural resources in the Town of Westminster. Further, these rules and regulations are intended to protect abutting property owners from drainage problems that could potentially be created by poorly managed earth removal and/or filling operations.

2) Authority

Under the authority vested in the Planning Board by the Town of Westminster by Chapter 97, Article III of the Westminster General Bylaws, said Board hereby adopts these rules and regulations governing the removal of earth and the placement of fill.

3) Applicability

Those earth removal and fill operations that meet the thresholds set forth in Chapter 97, Section III of the Westminster General Bylaws shall be required to obtain an Earth Removal/Placement of Fill Permit (herein referred to as the "Permit") from the Planning Board, which serves as the Permit Granting Authority (PGA) for such operations. Earth removal and fill operations must comply with the rules and regulations contained herein unless expressly waived by the PGA.

4) Earth Removal/Placement of Fill Permit Required Submission Items

In addition to filling out an application for an Earth Removal/Placement of Fill Permit and the associated permit fee of two hundred and fifty dollars (\$250), the following materials shall be required of all applicants:

4.1 A site plan prepared by a registered land surveyor or professional engineer. The applicant will submit seven (7) copies of the site plan upon filing an application for a Permit (one full-size and six 11 x17 copies), along with a digital (PDF) copy of the site plan and application. The PGA will distribute the plans to the following municipal departments for review and comment: Board of Health, Building Department, Conservation Commission, Board of Selectmen, Fire Department, Police Department and Public Works Department. Site plans shall contain the following information:

4.1.1 The property boundaries of the lot where the earth will be removed and/or the fill will be placed, along with the names and addresses of all abutters within 300 feet of the subject property, including those across any street or way (including street names and right-of-way widths).

4.1.2 The location and boundaries of all earth removal/placement of fill operations within the lot(s).

4.1.3 A locus map showing the subject parcel and all parcels within 300 feet of the property, buildings, roads, topographic contour lines and wetlands.

4.1.4 Title block in the lower right-hand corner, stating the name of the plan, the scale, name of the applicant, the property street address, property tax map and parcel number, and the name of the surveyor or engineer who prepared the plan.

4.1.5 All easements, points of ingress/egress, wells, septic systems, fences, walls, waterways or other natural drainage courses, wetlands and floodplains on the property.

4.1.6 Topographic contours at two-foot intervals base on mean sea level using data from the US Geological Survey.

4.1.7 Groundwater elevations based on field measurements from observation wells installed on the subject property.

4.1.8 Soil testing at four locations within the area designated for earth removal and/or the placement of fill (two along the perimeter of the area and two inside the perimeter) to document the absence of hydric (wetland) soils. Soil testing shall be performed by a licensed Professional Engineer or a Wetland Scientist.

4.1.9 All wetlands/resource areas shall be shown on the site plan.

4.2 Where applicable, the applicant or his/her agent shall submit a signed letter that documents:

4.2.1 The origin of the fill.

4.2.2 The testing the fill has undergone.

4.2.3 Verification from a certified soil scientist that the fill material does not meet the Federal and/or State criteria for being toxic, reactive, radioactive, corrosive, explosive, hazardous, infectious, oil-impacted, or a hazardous or solid waste.

4.2.4 The volume and amount of earth to be removed and/or fill to be placed on the property.

4.2.5 Proposed Transport routes, times, and duration of the proposed activity.

4.2.6 The on-site erosion control practices that will be utilized during the operation including a maintenance plan for any erosion control devices used, including a phasing plan if applicable.

4.2.7 A plan for the re-vegetation of the disturbed area.

4.2.8 A restoration plan that depicts the final grade, proposed finish elevations, slopes, stormwater and erosion control structures and features.

4.2.9 All projects required to obtain an Earth Removal/Placement of Fill permit that disturb 10,000 square feet or more shall also obtain a Low Impact Development (LID) permit from the Planning Board. In order to obtain a LID permit, the project must demonstrate full compliance with the Town's LID Bylaw (Chapter 136 of the General Bylaws) and the Planning Board's associated LID Regulations. If there is a conflict between the stormwater management provisions found in these regulations and those found in the LID Regulations, the stormwater management provisions of the LID Regulations shall take precedent.

4.2.10 If the proposed earth removal/placement of fill, including clearing, grading, and excavation, results in a land disturbance equal to or greater than one (1) acre of land or will disturb less than one acre of land but is part of a larger common plan of development or sale that will ultimately disturb an area equal to or greater than one (1) acre of land within the Town of Westminster, the applicant shall also obtain a Stormwater Management Permit from the Planning Board. In order to obtain the Stormwater Management Permit, the application and project must demonstrate full compliance with the Town's Stormwater Management Bylaw and the Planning Board's Stormwater Management Rules and Regulations. If there is a conflict between the stormwater management provisions found in these regulations and those found in the Stormwater Management Rules and Regulations, the stormwater management provisions of the Stormwater Management Rules and Regulations shall take precedent.

5) Operation Standards

5.1 No excavation or placement of fill shall take place closer than 100 feet to an existing public way unless specifically permitted by the PGA Planning Board and no excavation or placement of fill shall be permitted to occur within 50 feet of any lot line. In those cases where the PGA allows for such operations within 50 to 100 feet of an existing public way or lot line and where the excavation and/or fill activities will have a depth of more than 15 feet with a slope in excess of 1:1, a fence at least three feet high shall be erected to limit access to this area.

5.2 Wherever existing natural vegetation occurs, it shall be maintained on the undisturbed land for screening and noise reduction purposes.

5.3 Operations shall be conducted during the hours 7:00 a.m. to 5:00 p.m., Monday through Friday, or as permitted by the PGA. No earth is to be removed or fill placed on Saturdays, Sundays, or Massachusetts legal holidays. Loaded trucks shall enter and leave the premises only during permitted hours. All loaded vehicles shall be suitably covered to prevent dust and contents from spilling and blowing from the load. Trucks shall not be left idling prior to 7:00 a.m. or after 5:00 p.m.

5.4 The Permit grantee may conduct earth removal and/or fill operations to the extent necessary to reach the finished grade levels as shown on the site plan as approved by the PGA.

5.5 The active gravel removal area and/or fill area shall not exceed a total area of five (5) acres at any one time.

5.6 All trucking routes and methods shall be subject to approval by the Chief of Police and the Director of Public Works and shall minimize distance traveled on local roadways.

5.7 All access roads leading to public ways shall be treated with stone or other suitable material approved by the PGA for a distance of at least 200 feet back from the public way, and shall be maintained so as to confine dust and mud to the premises.

5.8 Access roads shall be constructed with the approval of the PGA and shall provide for maximum public safety and screening of the operation from public view.

5.9 The Permit grantee shall install observation wells having a minimum of 1 ½ inch diameter for the purpose of monitoring groundwater levels. The number and location of observation wells shall be determined by the PGA during the Permit review process. Readings of the water levels shall be taken by the applicant or its agent at thirty (30) day intervals and submitted to the PGA for the duration of the project.

5.10 No gravel, soil, loam, or other earth material shall be removed within any elevation less than six (6) feet above spring high water table or at any other higher elevation that would preclude subsequent re-use of the area in accordance with existing public health standards. This elevation shall be established from observation wells and the level related to permanent monuments and/or temporary points of reference on the property.

5.11 No area shall be excavated and/or filled so as to cause the accumulation of free-standing water. Permanent drainage shall be provided as needed in accordance with accepted engineering and conservation practices. Measures shall be taken to insure that silting and sedimentation of nearby streams is not caused by any temporary or permanent drainage systems on site.

5.12 Sufficient topsoil shall be stripped from the operation area and stockpiled for use in restoring the area after the operation has ceased.

5.13 Any temporary shelters or buildings erected on the premises, for use by personnel or storage or maintenance of equipment shall be screened from public view. These structures shall be removed from the premises within thirty (30) days after conclusion of the operation(s) or expiration of the Permit.

5.14 All excavation and/or placement of fill shall be in full compliance with Chapter 131 Section 40 of the Massachusetts General Laws, otherwise known as the Massachusetts Wetland Protection Act, and Chapter 202 (Wetlands) of the Town's General Bylaws.

#### 6) Restoration Standards

6.1 No slope shall be left with a grade steeper than one foot (1') vertical to two feet (2') horizontal unless approved by the PGA.

6.2 All debris, stumps, boulders, and similar material, shall be removed from the site. No such material shall be buried on site without specific written approval from the Board of Health. Organic material such as stumps, brush, wood and similar materials shall be disposed of in accordance with any state and local permits.

6.3 On the first of September of the current year, all areas that have been brought to grade, and all other areas where no further earth removal is to occur, shall begin to be restored in accordance with these standards. Such restoration is to be completed no later than October 15<sup>th</sup>, or such later date as approved by the PGA. Failure to achieve restoration results acceptable to the PGA will require the applicant to re-sow any vegetation during the period between April 15<sup>th</sup> and May 31<sup>st</sup>. On a case by case basis, the PGA may require that restoration be done after a certain amount of land disturbance and/or more than once a year.

6.4 The work required for restoration shall include sub-grade preparation for topsoil; re-handling and spreading stripped topsoil, including finish grading and compaction; provision for importing loam if required to achieve a depth of topsoil of 4 inches uniformly; application of lime; application of fertilizer, seed and wood fiber or hay mulch employing the hydro-seeding spray method; and maintenance of seeded areas until review and approval by the PGA.

6.5 Trees or shrubs may be planted in order to provide screening, natural beauty, and to reduce erosion. The planted area shall be protected from erosion during the establishment period.

6.6 The project shall not be constructed as to increase stormwater runoff to abutting properties and/or wetland resource areas in the post development stages, as measured against pre-construction stages.

6.7 Prior to the release of the Performance Guarantee, and/or expiration of the Permit, ground levels and grades shall be established as shown on the topographic plan.

6.8 Before release of performance guarantee and/or expiration of the Permit, "as built" drawings shall be prepared by a registered engineer or land surveyor at a scale acceptable to the PGA. The drawings shall show final grades; location and elevations of monuments; location, type, and size or capacity of stormwater drainage and other utilities installed; the location, boundaries and depth of organic fill areas; the location of access roads; and similar permanent improvements. An original opaque ink or Mylar or other suitable permanent and reproducible plan, and one print thereof shall be submitted to the PGA. The plan shall include an insert "locus plan" at a scale of 1" = 300', showing the area in relation to nearby streets, natural features and surrounding areas.

7) Performance Guarantee

A surety bond or similar guarantee may be required for each area on which the Permit has been issued, in order to guarantee performance. The amount of such surety shall be determined by the PGA's consultant (see Section 8 below). The amount of such performance guarantee shall be sufficient to ensure final compliance with the plan as approved including full compliance with the restoration standards contained in these rules and regulations. The performance guarantee will be released upon request of the Permit holder after the PGA has determined that the holder has completed the operation and restored the area excavated in conformity with his Permit and issues a Certificate of Compliance (see Section 8.3 below).

8) Plan Review and Compliance Monitoring

8.1 Plan Review Assistance: To assist the PGA in its review of plans during the Permit approval process, the PGA, at its discretion may hire an engineer or other qualified professional to act as a consultant to the Board. The cost of these consultant services shall be paid by the Applicant and the PGA will not sign any Permit decision until all consulting fees are paid in full.

8.2 Compliance Monitoring: In an effort to monitor the plan's implementation during the duration of the Permit, the PGA, at its discretion may hire an engineer or other qualified professional that will perform periodic inspections and submit written reports detailing the project's progress and compliance with the Permit's conditions of approval. The interval and content of such inspection and reporting shall be determined during review of the Permit application. The cost of these compliance monitoring shall be paid by the Applicant.

8.3 Certificate of Compliance: Upon satisfactory completion of approved project, the applicant shall request a Certificate of Compliance. The PGA, as the case may require, shall perform an inspection prior to granting such Certificate and releasing the performance guarantee or other security.

8.4 Use of Guarantee to Restore Discontinued Sites: In the event that an earth removal and/or fill operation is discontinued for a period of twelve (12) months, and the applicant has failed to restore the site, the Town of Westminster may require the use of the performance guarantee to restore the site.

9) Waiver of Compliance

The PGA may waive strict compliance with these rules and regulations when such action is in the public interest and not inconsistent with the purpose and intent of the Earth Removal and Placement of Fill Bylaw or these rules and regulations.

10) Severability

The provisions of these rules and regulations are severable, and the invalidity of any section, subdivision, paragraph or other part of these rules and regulations shall not affect the validity of the remaining rules and regulations.