

SECTION 73 –RESOURCE REMOVAL, FILLING AND GRADING

73.1 GENERAL PROVISIONS

In no district shall it be permitted to change the contour of any lot, plot or parcel of land by adding, removing or regrading 500 cubic yards or more of loam, topsoil, sand, gravel, clay stone or other material or increase or decrease 25% of the lot area by a depth of two feet or more, without first obtaining approval from the West Haven Planning & Zoning Commission. When any activity of filling, excavating or regrading involves 500 cubic yards or more or an increase or decrease of 25% of the lot area by a depth of two feet or more, a special permit from the Commission and any other applicable federal, state or local agencies shall be required prior to initiating the activity. Any activity involving less than 500 cubic yards but not more than 20 cubic yards of fill, excavation or regrading shall be approved by the Commission of Planning & Development in consultation with the City Engineer or other appropriate city officials. In no event shall any activity of excavation, filling or regrading of any quantity take place without approval if it affects the adjoining properties.

73.2 ADMINISTRATIVE WAIVER.

The Commissioner of Planning and Development may at his discretion after consultation with the City Engineer, Building Official or other appropriate city officials, waive this requirement if:

- 73.2.1 The change in contour is a result of a building, structural improvement, public improvement or utilities project provided sufficient information, and
- 73.2.2 Documentation is furnished as part of the building permit application and site plan review process and it is deemed that the change in contour will have no significant detrimental affect on the adjoining properties, sensitive environmental features or any public or private roadways.

73.3 SPECIAL PERMIT REQUIRED

The Commission may grant a Special Permit for any grading, filling or removal operations on a lot, plot or parcel or any portion thereof, provided it meets the conditions specified herein and is not in violation of any ordinance, statute or regulation of the State of Connecticut and/or the City of West Haven and is judged to be environmentally sound and beneficial to the citizens of West Haven.

73.3.1 **Application.** Before any Special Permit may be granted, a written application shall be submitted to the Commission by the property owner or authorized agent on forms provided by the Commission, together with maps and plans prepared by an engineer or surveyor licensed to practice in the State of Connecticut as prescribed by the State Board of Registration, showing the following:

- a) The boundaries and dimensions of the property where the filling, grading or excavation is proposed and the area to be graded, filled or excavated.
- b) Existing contours in the area to be excavated, graded or filled and the proposed contours after completion of the grading, filling or excavation, which contours shall be prepared from an actual field survey based on bench marks noted and described on the map and drawn to a scale of not less than 100 feet to the inch with a contour interval not to exceed 2 feet;
- c) Existing and proposed drainage of the area and drainage easements or flowage rights;

- d) Surrounding streets and property lines and their elevations in regard to mean sea level;
- e) Existing and proposed structures on the premises and the finished floor elevation of the lowest floor level (basement);
- f) Proposed truck access to the fill or excavation area and disposal site particularly in relation to schools, playgrounds, and residential neighborhoods and;
- g) Contours of affected portions of adjoining properties not to exceed 5 foot intervals.

The Commission may hold a joint session with any other government commission or agency which must issue any permits for this work.

73.4 ADDITIONAL INFORMATION

The Commission may require submission of additional information on soil conditions, location and depth of rock ledge, ground water conditions, and other such information as is deemed necessary to make a reasonable review of the application.

73.5 FINDINGS REQUIRED

The Commission may grant a Special Permit for a limited time period not exceeding one (1) year, provided it makes written findings that:

- 73.5.1 Such excavation or removal, filling or grading will not result in the creation of any sharp declivities, pits, depressions, soil erosion, or fertility problems, depressed land values, or create any drainage or sewer problems or other conditions which would impair the use of the property and adjoining properties in accordance with the Zoning Regulations, and
- 73.5.2 Such excavation or removal, filling or grading will be in harmony with the general purpose and intent of the Zoning Regulations, and
- 73.5.3 The completed work shall not impair the future use of the property in accordance with the Zoning Regulations of the City of West Haven, and
- 73.5.4 The slopes and banks will not impair development and safe use of the property or adjacent property.

73.6 MANDATORY CONDITIONS OF APPROVAL

A Special Permit may be granted *only* upon the following conditions:

- 73.6.1 Screening, sifting, washing, crushing, or other processing shall not be conducted on the premises unless measures are taken to mitigate the adverse effects on noise, dust, dirt and traffic on adjoining residential districts;
- 73.6.2 No building shall be erected on the premises except as temporary shelter for machinery or for a field office;
- 73.6.3 Proper drainage shall be provided to prevent the collection and stagnation of water;
- 73.6.4 No sharp declivities, pits or depressions or soil erosion problem shall be created, and no slopes or banks created that will exceed one (1) foot of vertical rise to two (2) feet of horizontal distance;
- 73.6.5 Topsoil removed shall be stockpiled on the premises and shall be spread over the excavated area and exposed rock surfaces to a minimum depth of four (4) inches in accordance with the approved contour plan;
- 73.6.6 When grading, fill or excavation and removal operations have been completed the area shall be suitably landscaped and/or paved according to approved plans;

- 73.6.7 During the time of operation barricades or fences for the protection of the public, shall be erected as required by the Commission;
- 73.6.8 Truck access to the site shall be so arranged as to minimize danger to traffic and nuisance to surrounding properties;
- 73.6.9. The completed work shall not impair the future use of the property in accordance with the Zoning Regulations of the City of West Haven and that slopes and banks will not impair development and safe use of the property;
- 73.6.10 The premises shall be excavated or filled and graded in conformity with the plan as approved;
- 73.6.11 No drain-off of water or diversion of any watercourse with consequent flooding takes place shifting water, drainage, or flooding conditions from the premises to another;
- 73.6.12 That the applicant shall file with the Commission a performance bond in such amount as the Commission shall deem sufficient to insure the faithful performance of the work to be undertaken pursuant to the conditions and approval, which shall be approved by the Corporation Counsel as to form and deposited with the Comptroller. No excavation or removal or grading or filling operation shall begin until such bond is accepted by the Commission.

73.7 EXTENSION OF PERMIT

The Commission may renew a permit at the time of expiration if the owner of the property or his authorized agent files with the Commission a report of an engineer or surveyor licensed to practice in the State of Connecticut certifying that the excavation already completed conforms to the approved plans.

73.8 PERIODIC REPORTS

As an additional condition for granting of a Special Permit, the Commission may require the applicant to submit periodic reports of progress of the filling, grading, excavation or removal, including contours and cross sections, prepared and certified by an engineer or a land surveyor licensed to practice in the State of Connecticut. At anytime the Commission finds that the excavation or removal is not being conducted or cannot be conducted in accordance with plans as approved, the Commission may order the applicant to cease operations and revoke the permit.