
Sand & Gravel Regulations

Article

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**SAND & GRAVEL
REGULATIONS
TOWN OF NEWTOWN
FAIRFIELD COUNTY, CONNECTICUT
ORIGINAL EFFECTIVE DATE
AUGUST 25, 1958
As amended through August 11, 2003
Newtown Planning and Zoning Commission
Tel: (203) 270-4276**

ARTICLE I - PURPOSE AND INTENT

1.01 Purpose and Intent

These regulations shall be known and may be cited as The Sand and Gravel Regulations of the Town of Newtown. These regulations shall be liberally construed and applied to promote their underlying purposes and policies which are stated to be as follows.

1.01.100 To regulate all construction or grading activities upon improved or unimproved real estate and to control the excavation, removal, grading, or addition of soil, loam, sand, gravel, clay, rock or any other earth material on land or premises not in public use in the town of Newtown.

1.01.200 To provide for the maintenance and preservation of existing elevations and contours and for the establishment of proposed elevations and contours in appropriate cases subject to the provisions of these regulations.

1.01.300 To control and regulate all excavation, removal, grading, and addition of earth materials so as to prevent the creation of any safety or health hazard, including without limitation, soil erosion, stagnant water, water pollution and excessive drainage runoff to the public or to owners of adjoining or adjacent property and to preserve land values of premises situated within the Town of Newtown and to provide for the quiet use and enjoyment thereof.

1.01.400 To preserve the vegetation and other natural growth for the purpose of preventing erosion by the wind or water and to protect historic factors such as stone walls and archaeological artifacts for the purpose of preserving our heritage on premises situated within the Town of Newtown.

1.01.500 To accomplish such other purposes as permitted by Connecticut General Statutes., as needed, Sec 7-148, Sec. 8-2 Sec. 8-25.

1.02 Two classes of permits are hereby established and shall be referred to as a Construction Permit and a Mining Permit .

1.02.100 Permits of both classes shall be issued to the Applicant/Permittee only who shall be responsible for carrying out its terms. Said permit shall be non-transferable. The Applicant/Permittee shall transfer ownership with the right to excavate, remove, grade, or add earth materials thereon or therefrom for which the permit is obtained. If any such transfer is made, the permit shall be immediately null and void without the necessity of an order as provided by Sections 2.02.500 and 3.02.300 hereof.

1.03 No excavation, removal, grading, or addition of soil, loam, sand, gravel, clay, rock, or any other earth material upon land or premises not in public use in the Town of Newtown shall be commenced or conducted, except in accordance with and subject to the provisions of these regulations.

1.04 For the purpose of this regulation Application and/or Permittee shall mean the owner or any other person, firm, or corporation claiming a right under a recorded deed or easement to excavate and/or remove earth material from or to add material to or to grade earth material upon a premises.

1.05 The following limitations shall be imposed upon any residential building lot created or approved on or after April 11, 1997 whether by first cut, by subdivision, by resubdivision, or realignment of lot lines.

1.05.100 No more than 200 cubic yards of earth materials shall be removed from each such lot in addition to an amount equal to the volume of the building foundation, sewage disposal system and, if applicable, a water storage tank for fire suppression, or other structures being constructed below grade, or a drainage basin approved by the Commission.

1.05.110 No more than 200 cubic yards of earth materials shall be added to each such lot in addition to materials added for foundation, stones for footings and slabs, gravel for driveway, processed stone for the driveway, septic materials, top soil to meet code, mulch for slopes, curtain drain materials.

1.05.120 The 200 cubic yard limitation on removal of or the addition of earth materials on lots in Section 1.05.100 and 1.05.110 shall include any material deposited or removed within the lot area, including such material that is associated

with or necessary for an existing or proposed road when such regrading is not within the existing or proposed public right of way (Effective 4/17/00).

1.06 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 situation.

1.07 Permits under these Regulations shall not be required for:

1.07.100 The construction of a wall, driveway, sewer, gas, water or other utility line, fence, sidewalk, septic system, drainage structure or landscaping in conjunction with the use of premises permitted by the Zoning Regulations of the Town Newtown provided said construction does not result in the removal from or the addition to the premises of more than 100 cubic yards of earth material.

1.07.200 The removal of topsoil from one part of premises to another part of the same premises, when such removal is reasonably necessary for the purpose of farming or landscaping said premises.

1.07.300 An excavation which is made solely for the purpose of the construction of a foundation or cellar hole, the installation of a sewage disposal system, or water storage tank for fire suppression provided that no topsoil is removed from the premises and provided further that no more than 100 cubic yards of earth material is removed from or added to the premises in addition to an amount equal to the volume of the building foundation or other structure being constructed below grade.

ARTICLE II - CONSTRUCTION PERMITS

2.01 Construction Permits

2.01.100 A Construction Permit shall be obtained from the Zoning Enforcement Officer, except as permitted by Section 1.07 hereof, before any grading, construction, site work, or development is commenced upon any and in Newtown.

2.01.200 No Construction Permit shall be issued for any excavation, removal, grading, or addition of earth materials upon any land unless such excavation, removal, grading, or addition is necessary and clearly incidental to the improvement of property as permitted by the Newtown Zoning Regulations, The Newtown Road Ordinance and Subdivision Regulations and the quantity of materials for which a permit is sought is within the limits set therein.

2.01.300 No topsoil shall be stripped in connection with any construction, except from

the smallest area necessary. All such topsoil shall be stockpiled and used to recover the disturbed area. No topsoil shall be removed from any land or premises except as permitted pursuant to Sections 8.03.800 through 8.03.860 of the Zoning Regulations. (Amended effective 4/11/97, 11/12/01, 8/11/03)

2.01.400 Rock and stone crushers are permitted as construction activities, provided that: (1) the use of such rock or stone crushers is utilized solely as part of the construction of an approved development; (2) the use of rock or stone crushing will serve a public health, safety and general welfare purpose, including the reduction of construction traffic on public roads; (3) all material crushed on site must originate and be used on site, and (4) a rock crushing permit is obtained from the Zoning Enforcement Officer.

The rock crushing shall be for the least number of days necessary to complete said construction activity. A rock crushing permit shall be limited to a maximum of thirty (30) consecutive calendar days. Rock crushing shall be limited to the hours of 9:00 AM to 5:00 PM, Monday through Friday (excluding state and federal holidays). A permit fee of \$1,000.00 in cash or bank or certified check payable to the Town of Newtown shall accompany the written application form. (Added, effective February 17, 2003)

2.02 Construction Permit Procedures

2.02.100 An Applicant seeking a Construction Permit shall file a written application with the Zoning Enforcement Officer on a form supplied by the Planning & Zoning Commission, signed by the owner of the premises and the person, firm or corporation intending to carry out the work sought under the permit. The following documents shall accompany such applications:

2.02.110 A plot plan certified by a Land Surveyor as meeting the requirements of an A-2 class survey of the Connecticut Technical Council which shows the entire property. Such plot plan shall indicate the area thereof which is subject to development, excavation or filling and an area for the stockpiling of topsoil during construction.

2.02.120 If earth material other than topsoil is to be excavated, removed, graded, or added, topographical maps at a scale of 1" = 40' certified by a licensed Professional Engineer showing existing contours and finished contours at intervals of 2 feet for grades of less than 3% and 5 feet for grades of 3% and up must be filed. No excavation below the proposed finished grade or beyond the proposed perimeter is permitted.

2.02.130 An exact computation in cubic yards of the amount of earth material which will be excavated, removed, graded, or added to the site prepared by the applicant's licensed Professional Engineer. Such computation shall be supported by the topographical maps required by section 2.02.120.

2.02.140 A statement that clearly defines the extent of and time frame for site construction and site recovery including grading and planting.

2.02.150 An erosion and sedimentation control plan as provided for in Article X of the Newtown Zoning Regulations.

2.02.160 A valid Inland Wetlands license or a written statement from said agency that such a license is not required.

2.02.170 A performance security payable to the Town of Newtown, either in the form of a certified check or a letter of credit. The security shall be in terms satisfactory to Town Counsel and in an amount equivalent to the cost of site recovery as determined by the applicant's Professional Engineer and approved by the Town Engineer. Such security shall assure the town of Newtown that the area for which the Construction Permit is issued shall be graded, recovered with topsoil and successfully planted with grass or other ground cover by the date the Construction Permit expires.

2.02.175 The terms of the performance security shall allow the Town access to such funds and shall be accompanied by a written agreement signed by the owner of the premises, executed with the same formalities as a Connecticut deed of real estate containing terms satisfactory to Town Counsel, which permits the Town or its designee to enter upon the premises to undertake site recovery in the event that the Permittee fails to refuse to complete the site recovery and planting in accordance with the Construction Permit as issued, and/ or the abandonment thereof, within one year from the expiration of the Permit.

2.02.180 Proof in the form of a certificate of insurance that the Applicant carries sufficient liability insurance to save the town of Newtown harmless from any liability resulting from his/her operations as approved by Town Counsel.

2.02.200 A permit fee of \$200.00 in cash or bank or certified check payable to the Town of Newtown.

2.02.300 A Construction Permit shall be effective for one year from the date it is issued provided that the applicant remains in compliance with all terms of the permit. Such permit may be extended for up to one year provided the Zoning Enforcement Officer finds that 1) there are no violations of the Zoning Regulations 2) the structure or building to which the excavation, removal, grading, or filing is incidental is incomplete and the completion thereof is being actively pursued by the Permittee; 3) that the applicant's performance security will cover the extension of time allowed herein; and 4) that an updated insurance certificate is received.

2.02.400 Upon the request of the Zoning Enforcement Officer, the Permittee shall a progress report that clearly demonstrates the extent of excavation, removal, grading, or filing of earth materials if deemed necessary to assure compliance with all terms of

the Construction Permit.

2.02.500 Should the Zoning Enforcement Officer find that an applicant's performance is in violation of the Construction Permit, the Zoning Regulations or upon receipt of a notice from the applicable agency or department that a violation of the Building Code, Sanitary Code or Road Ordinance of the Town of Newtown exists, such Construction Permit shall be revoked. An applicant's failure to comply with any requirements of these regulations shall be cause for the revocation of a permit provided that notice of said violation has been given to the Permittee together with an order to comply therewith within a reasonable time and the Permittee has failed to comply with said order.

ARTICLE III - MINING PERMITS

3.01 Mining Permits

3.01.100 Any person seeking a Mining Permit to undertake the excavation, storage and removal of sand and gravel as permitted by Section 4.18.230 of the Newtown Zoning Regulations or the renewal of a legally nonconforming operation shall file the following documents with the Zoning Enforcement officer.

3.01.200 A written application on a form supplied by the Planning & Zoning Commission, signed by the owner(s) of the premises and the person, firm or corporation intending to carry out the work sought under the permit.

3.01.300 An A-2 class survey prepared by a licensed Land Surveyor and a licensed Professional Engineer, where required by State Statute, which survey shall be drawn to a scale of 1 inch = 40 feet for permit areas and to a scale of 1 inch = 100 feet for permit areas ten acres or greater, and shall describe and delineate the following:

3.01.310 The location and elevation of all existing and proposed streets, roads, highways, ponds, watercourses, wetlands, wells and septic systems on the permit area and within 200 feet thereof on all sides; the details of regrading and re-vegetation of the premises at the conclusion of excavation; an area for the stockpiling of topsoil; the foliage lines; and proposed means of access to the area of proposed excavation to and from the public highways.

3.01.320 Soil data, including boring logs or open test pits and locations to lowest excavated grade and finished grade shown on the permit cross section. Such borings or open test pits shall indicate soil types and ground water table data.

3.01.330 Provisions for proper surface and sub-surface drainage of the premises and the adjoining area during said excavation and after completion thereof.

3.01.340 The existing and the proposed contours and elevation at 5 foot intervals of the premises upon which the excavation is to be made and of the area surrounding it

within 100 feet. At least five interior transverse cross-section drawings on both the longest axis and axis perpendicular thereto at equal intervals not to exceed 100 feet with the outermost drawing in each direction being no further than 50 feet from the outside extremities of the proposed excavation.

3.01.350 The acreage or square footage of the actual area to be excavated, the volume expressed in cubic yards to be removed during the life of the permit, and, where the Applicant expects to continue excavation under a renewal permit, the total volume in cubic yards of all material expected to be excavated.

3.01.400 An erosion and sedimentation control plan as provided for in Article X of the Newtown Zoning Regulations.

3.01.500 A valid Inland Wetlands license or a statement from said Commission that such a license is not required.

3.01.600 If the Applicant expects to make an excavation below the normal ground water table so that a pond will result, a drainage analysis map and drainage computations prepared by a licensed Professional Engineer showing the watershed area of said pond, all sources of water which would supply said pond with water, a computation of the flow of water into and out of said pond, other pertinent hydrological factors, and a statement by said licensed Professional Engineer that the water supply of said pond is sufficient to avoid stagnation and will not create a hazard to any existing land uses or facilities.

3.01.700 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 Clerk of the Town of Newtown.

3.01.800 A written statement from the Tax Collector of the Town of Newtown certifying that all taxes levied against the property on the current Grand List or previous Grand Lists have been paid in full and that there are no unreleased tax liens encumbering said property.

3.01.900 A permit fee of \$1000.00 payable in cash or by bank or certified check to the order of the Town of Newtown.

3.01.1000 Proof in the form of a certificate of insurance that the Applicant carries sufficient liability insurance to save the Town of Newtown harmless from any liability resulting from his/her operations as approved by Town Counsel.

3.01.1100 A performance security payable to the Town of Newtown, either in the form of a certified check or a letter of credit. The security shall be in terms satisfactory to Town Counsel and in an amount equivalent to the cost of site recovery as determined by the applicant's Professional Engineer and approved by the Town Engineer. The security shall be held for a period of one year beyond the date of the

site recovery. Such security shall assure the Town of Newtown that the area for which the Mining Permit is issued shall be graded, recovered with topsoil and successfully planted with grass or other ground cover pursuant to these regulations within one year following the expiration of the Mining Permit. Such security shall also assure to the Town full compliance with all the other requirements of these regulations including, without limitation, that any pond created hereunder shall conform to the slope and size requirements set forth herein and shall not stagnate or create a health hazard and that if said pond does stagnate or create a hazard within a year following the expiration of the Mining Permit then such stagnation or hazard shall be mitigated within three months after stagnation or the creation or the creation of the hazard occurs.

3.01.1200 The terms of the performance security shall allow the town access to such funds and shall be accompanied by a written agreement by the owner of the premises executed with the same formalities as a Connecticut deed of real estate containing terms satisfactory to Town Counsel which permits the Town of Newtown or its designee to enter upon the premises, grade the area under permit, cover all disturbed areas with topsoil and plant grass or other suitable ground cover thereon in the event that the Permittee fails or refuses to complete the grading recovery and planting in accordance with the Mining Permit as issued and/or abandonment thereof within one year from the expiration of the Mining Permit.

3.02 Mining Permit Performance Standards

3.02.100 All Mining Permits shall expire on the first day of June in the year following the date of issuance.

Any Mining Permit may be renewed upon the payment of the permit fee, required by Section 3.01.800 hereof, the filing of a new performance security and the submission of an updated application, insurance certificate, and information required pursuant to these regulations. Renewal applications containing all the required documents shall be submitted at least 30 days but no more than 60 days prior to the expiration of the Mining Permit being renewed.

3.02.200 Prior to issuing a new or renewed Mining Permit the Zoning Enforcement Officer shall expressly find that no violation of any Mining Permit held by the Applicant, these regulations or the Sanitary Code or Road Ordinance of the Town of Newtown exists.

3.02.300 Should the Zoning Enforcement Officer find that an applicant's performance is in violation of the Mining Permit, such permit shall be revoked. An applicant's failure to comply with any requirements of the Zoning Regulations, Building Code, Sanitary Code or Road Ordinance of the Town of Newtown shall be cause for the revocation of a Permit provided that notice of said violation has been given to the Permittee together with an order to comply therewith within a reasonable time, and the Permittee has failed to comply with said order.

3.02.400 Upon the request of the Zoning Enforcement Officer, the Permittee shall submit a progress report that clearly demonstrates the extent of excavation or removal that will or has occurred during any period covered by the permit to assure compliance with all terms of the Mining Permit.

3.02.500 Adequate barricades or fences shall be erected and maintained together with adequate provisions for prevention of accumulation of ground or surface water; adequate provisions shall be made for the muffling of sound and the prevention of dissemination of dust; provisions shall be made for such highway warning or similar signs as may be necessary or required, all subject to the approval of the Zoning Enforcement Officer or Commission which may also require the Permittee to install permanent guard fencing where needed for public safety and it shall be required around all ponds both during and after the excavation. The Permittee shall also treat all access roads and excavation area with calcium chloride or similar material for the prevention of dissemination of dust.

3.02.600 At the conclusion of the work of excavation, or of any portion thereof, the area where excavation and removal or grading has taken place shall be covered with not less than six (6) inches of topsoil, seeded or covered with an approved ground cover and properly mulched to insure stability. Grass seed used should be fresh, re-cleaned seed of the latest crop of lawn or meadow mix in a conformance with Connecticut Highway Department Specification 810 and young trees shall be planted wherever trees have been removed. No excavation shall be made lower than three (3) feet above ledge. Seeding, or planting of ground cover or trees shall be done at the first suitable planting season following completion of any part of the operation. 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 restored and repaired to the satisfaction of the Planning and Zoning Commission.

3.02.700 All trees outside the excavated area shall be protected from damage.

3.02.800 The Permittee shall provide at his expense any special police or flagmen deemed necessary by the Planning and Zoning Commission.

3.02.900 The Permittee shall grant the right of entry to the Planning and Zoning Commission and to the Zoning Enforcement Officer at any reasonable time for the purposes of inspecting the premises and the Permittee's operations thereon.

3.02.1000 Any topsoil stripped in connection with a mining permit shall be stockpiled on site and used to recover the disturbed area following the completion of excavation. No topsoil shall be removed from any premises.

3.02.1100 No Mining Permit shall be issued or renewed:

3.02.1110 For an excavation outside the Industrial M-6 zone which is nonconforming

but legally pre-existing the Newtown Zoning Regulations - during any permit year of an area in excess of five (5) acres, nor within two hundred (200) yards of any other excavation unless said other excavation is conducted on other premises not then or previously owned by the Permittee or the then record title holder of the aforesaid five (5) acre area.

3.02.1120 For an excavation in the Industrial M-6 Zone during any permit year of an area in excess of a total of twenty (20) acres on any piece or pieces of property which are owned or controlled by the same person or persons.

3.02.1130 Within fifty (50) feet of any property or street line, or within one hundred (100) feet of any dwelling.

3.02.1140 If the resulting embankment remains at an incline in excess of 3 feet horizontal to 1 foot vertical, and if the top of the resulting embankment ends in a vertical curve with a radius of less than ten (10) feet tangent to the existing ground surface.

3.02.1150 Unless the Permittee shall agree to all requirements of a Mining Permit as set forth in these regulations.

3.03 For the health, welfare, and safety of the residents of the Town of Newtown, no work of any nature shall be performed under any Mining Permit granted under the terms of this regulation, except between the hours of 7:00 A.M. and 6:00 P.M. daily, and no such work shall be performed on Saturday, Sundays or legal holidays of the State of Connecticut.

3.04 Any Permittee under permit granted under the terms of these regulations or any person acting for or under him who shall cause damage to any road or roads of the Town of Newtown, shall be liable for the cost of repairing said damage. The Permittee shall be responsible for cleaning, when necessary, any State, Town or private road over which earth materials shall have been transported.

3.05 No excavation shall be made below the normal ground water table which causes a lake or pond to stagnate or cause a hazard to health or safety or to existing land uses or facilities. The bottom of any pond created shall not slope down from the shoreline at a slope in excess of 1 foot vertical for each 3 foot horizontal. The final area of an pond created shall not be so large as to lessen the full residual use of the land for purposes other than sand and gravel mining, and shall in no event exceed 50% of the area of the lot devoted to sand and gravel mining use at the time this regulation or preceding regulation was adopted. If any such lake or pond is expected to be created, the applicant shall file the documents required by Section 3.01.500 hereof.

3.06 No machinery or equipment not required for the actual removal or excavation of the material shall be used or stored on the site.

3.07 In addition to all other legal and equitable remedies to enforce these regulations, any person, firm or corporation violating or assisting in the violation of any of the provisions hereof or any permit granted hereunder shall be fined not more than One Thousand (\$1000) Dollars for each offense. Each day of violation shall be deemed a separate offense. The Zoning Enforcement Officer is authorized to issue cease and desist orders and to commence such legal actions as may be necessary to enforce these regulations.

3.08 The previous provisions of the regulations entitled "The Sand and Gravel Regulations of the Town of Newtown" effective April 25, 1987 are repealed as of the effective date of this revision. It is not intended that the requirements of any other law or regulation be repealed or otherwise made ineffective by this regulation, and in case of conflict, the more restrictive of the relevant provisions of this and other laws and regulations shall apply.

3.09 All permits issued under the aforesaid regulations repealed by Section 3.08 hereof, which are in effect as of the effective date of these regulations shall continue in effect as mining permits until June 1 of the year following issuance, unless revoked under the provisions of the aforesaid regulations.

3.10 The effective date of these regulations shall be April 11, 1997