

Westwood Building Department
50 Carby Street
Westwood, MA 02090
781-320-1091

EARTH MATERIAL MOVEMENT BYLAW

Attached is a copy of the Earth Material Movement Bylaw for the Town of Westwood and an affidavit certifying that your proposed project does not require zoning relief. Please read the bylaw, paying special attention to sections 7.1.8.1 & 7.1.8.3. If you are applying for a permit that will require excavation for a foundation other than sonatubes, regrading of the lot with either soil excavated on site or imported to the site, or exporting fill from the site, the affidavit must be completed, signed, notarized, and submitted with your application. This affidavit is for one and two family projects and accessory structures there to.

Respectfully,

Joseph F. Doyle, Jr.
Building Commissioner

Town of Westwood
Commonwealth of Massachusetts
BUILDING DEPARTMENT

I, _____ (name), hereby certify that I have read and understand Westwood Zoning Bylaw, Section 7.1 [Earth Material Movement]. I further certify that the project proposed for _____ (address)

fully complies with the exemption criteria set forth in subsections 7.1.8.1 & 7.1.8.3 of that bylaw, such that the project does not require an Earth Material Movement special permit.

I certify that the project as proposed:

- Will not bring more than 200 cubic yards of soil, gravel, rock or other earth material onto the property, including any materials used to create a level yard; and
- Will not remove more than 200 cubic yards of soil, gravel, rock or other earth material from the property, including any materials removed to create a level yard, but excluding materials displaced by below grade components of foundations, driveways, sidewalks, or paths; and
- Will not result in finished grades with slopes of 15% or greater; and
- Will not result in a finished elevation of 5 feet or more above surrounding and undisturbed grade elevations.

Applicant's Signature: _____

Date: _____

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss.

On this _____ day of _____, 20____, before me, the undersigned notary public, personally appeared the above-named _____, of _____, Westwood, MA, proved to me through satisfactory evidence of identification to be the person(s) whose name(s) is signed on the preceding document, and who acknowledged to me that he/she/they signed it voluntarily for its stated purpose, and who acknowledged it to be his/her/their free act and deed.

Notary Public
My commission expires: _____

WESTWOOD ZONING BYLAW

SECTION 7.0 SPECIAL REGULATIONS

7.1 EARTH MATERIAL MOVEMENT (EMM)

7.1.1 **Special Permit Required.** No soil, loam, sand, gravel, topsoil, borrow, rock, sod peat, humus, clay, stone or other earth material shall be exported, imported and/or regraded on any premises within the Town unless such export, import and/or regrading will constitute an exempt operation as hereinafter provided or is done pursuant to a special permit therefor granted by the Planning Board.

7.1.2 **Application Requirements.** An application for a special permit for Earth Material Movement (EMM) shall be accompanied by a site plan and all other application materials required by the rules and regulations of the Planning Board. The site plan shall be prepared by a Registered Land Surveyor or Registered Professional Engineer and shall include the following information:

7.1.2.1 Existing topographical contours of the subject land shown at two (2) foot intervals;

7.1.2.2 Existing topographical contours of adjacent land shown at two (2) foot intervals, if available;

7.1.2.3 Topographical contours as proposed after completion of the

7.1.2.4 Proposed lateral support to adjacent properties;

7.1.2.5 Proposed drainage and soil erosion prevention measures;

7.1.2.6 Quantity and composition of earth material to be exported, imported or regraded;

7.1.2.7 Other information necessary to indicate the complete physical characteristics of the operation.

7.1.3 **Special Permit Decision.** An EMM Special Permit shall be granted by the Planning Board only upon its written determination that operations conducted under such special permit, subject to the conditions imposed thereby, will not be contrary to the best interests of the Town, and will be in harmony with the general purpose and intent of this Section. No special permit for the movement of earth material (including temporary structures accessory thereto), shall be granted if the Board finds that operations conducted thereunder would:

7.1.3.1 Be injurious or dangerous to the public health or safety;

7.1.3.2 Produce noise, dust or other effects observable at the lot lines in amounts seriously objectionable or detrimental to the normal use of adjacent property;

7.1.3.3 Result in transportation of materials on ways giving access to the subject land which will cause traffic congestion or hazards;

7.1.3.4 Result in transportation which will cause undue injury to roadway surfaces;

7.1.3.5 Result in change in topography and cover which will be disadvantageous to the most appropriate use of the land on which the operation is conducted;

- 7.1.3.6 Have a material adverse effect on the natural or engineered drainage patterns of groundwater or surface water; or
 - 7.1.3.7 Have a material adverse effect on the health or safety of persons living in the neighborhood or on the use or amenities of adjacent land.
- 7.1.4 **Conditions.** In granting a special permit hereunder, the Planning Board shall impose reasonable conditions specially designed to safeguard the neighborhood and the Town, which shall include conditions as to:
- 7.1.4.1 Area and limits of work;
 - 7.1.4.2 Method of import, export and/or regrading of earth material;
 - 7.1.4.3 Type and location of temporary structures;
 - 7.1.4.4 Duration of time and termination date of import, export and/or regrading of earth material;
 - 7.1.4.5 Hours of operation;
 - 7.1.4.6 Policing of traffic entering and leaving the site;
 - 7.1.4.7 Routes for transporting earth material through the Town;
 - 7.1.4.8 Area and depth of excavation and/or fill;
 - 7.1.4.9 Proximity to street and lot lines;
 - 7.1.4.10 Grades of slopes;
 - 7.1.4.11 Reestablishment of ground levels and grades;
 - 7.1.4.12 Provisions for temporary and permanent drainage and erosion control;
 - 7.1.4.13 Disposition of boulders, tree stumps and other debris;
 - 7.1.4.14 Replacement of loam over the area of removal;
 - 7.1.4.15 Planting of the area to suitable cover, including trees; and
 - 7.1.4.16 Cleaning of roadway surfaces during and following transport of earth material.
- 7.1.5 **Fill Material.** A statement may be required from a certified professional to verify the source and content of fill material if the special permit is issued for the placement of fill. The analysis of the content of the fill material may be required so as to detect the presence and quantity of hazardous or substandard materials. This analysis shall be conducted by a certified professional hired by the Planning Board at the expense of the Applicant.
- 7.1.6 **Surety and Performance Bond.** A surety and performance bond, cash or other adequate security may be required to insure compliance with the terms, conditions, limitations and safeguards of such special permit and to indemnify the Town for any harm to any public well, roadway, wetland or other resource caused by such import, export and/or regrading of earth material and the equipment used for such operations on the premises or by ancillary activities.

- 7.1.7 **Time Limit.** No special permit for the export, import and/or regrading of earth material shall be granted for a period of more than one (1) year in a Residential District or more than three (3) years in a Nonresidential District, although the special permit may be renewed for additional periods in the same manner as for the initial issuance.
- 7.1.8 **Exempt Operations.** The movement of earth material in any of the following operations shall constitute an exempt operation and shall not require an EMM special permit:
- 7.1.8.1 **Less Than 200 Cubic Yards in Residential Districts.** Export, import and/or regrading of less than two hundred (200) cubic yards of earth material in the aggregate in any year on any one premises in a Residential District, so long as such export, import or regrading results in finished slopes of less than fifteen percent (15%) and finished elevations of less than five (5) feet above surrounding and undisturbed grade elevations.
- 7.1.8.2 **Less Than 250 Cubic Yards in Nonresidential Districts.** Export, import and/or regrading of less than two hundred (250) cubic yards of earth material in the aggregate in any year on any one premises within a Nonresidential District, so long as such export, import or regrading results in finished slopes of less than fifteen percent (15%) and finished elevations of less than five (5) feet above surrounding and undisturbed natural grade elevations.
- 7.1.8.3 **Excavation for Foundations.** Export and/or regrading of earth material necessarily excavated in connection with the lawful construction of a building or structure, or of a driveway, sidewalk or path incidental to any such building or structure, provided that the quantity of earth material removed does not exceed that actually displaced by the portion of building, structure, driveway, sidewalk or path below finished grade, and provided that resultant finished slopes are less than fifteen percent (15%) and finished elevations are less than five (5) feet above surrounding and undisturbed natural grade elevations.
- 7.1.8.4 **Agricultural, Horticulture or Floriculture Uses.** Export, import and/or regrading of earth material consisting of compost, peat, manure, loam or other vegetative or earthen matter by exempt agricultural, horticulture or floriculture uses necessary for, or directly related to, the planting, cultivation or harvesting of vegetative products or the raising or care of animals.
- 7.1.8.5 **Governmental Uses.** Export, import and/or regrading of earth material on land in use by the Town or other governmental agency.
- 7.1.9 **Subdivisions.** The export, import and/or regrading of earth material on any parcel of land for which a preliminary or definitive subdivision plan has been prepared shall be allowed only in the same manner as removal from other parcels of land in the Town. Consequently, tentative or final approval of a subdivision plan by the Planning Board shall not be construed as authorizing the export, import and/or regrading of earth material on the premises, even though in connection with the construction of streets and the installation of municipal services shown on a subdivision plan, and an EMM Special Permit shall be required pursuant to this Section.
- 7.1.10 **Existing Earth Material Removal Operations.** A sand or gravel pit, quarry or other earth material removal activity in lawful operation on any premises on the effective date of this Bylaw may continue as an exempt operation unless and until abandoned, or if operating under a prior special permit issued by the Board of Appeals or Planning Board, until the expiration thereof. Discontinuance for more than twelve (12) consecutive months shall be deemed to constitute abandonment. However, unless specifically authorized by such prior special permit or by a new special permit issued hereunder (i) the depth of excavation shall not be increased below the grade of the lowest point excavated on the effective date of this Bylaw; (ii) the total area of excavation shall not be increased by more than fifty percent (50%) over its area on said date; and (iii) the amount of material removed per day shall not exceed by more than fifty percent (50%) the daily average for the twelve (12) months preceding said date or the actual period of operation, if less than twelve (12) months.