

Example Earth Movement Language

Applicability - This section shall apply to the importing, exporting and/or regrading of earth materials as defined in Section @ of this by-law. Except on land in public use, no person shall conduct or cause to be made any earth movement activities for purposes not in conformity with the intent and purpose of this by-law. Earth movement activities as described above and defined shall be in accordance with one of the following procedures.

Regrading, Importing or Exporting of Earth Materials Incidental to Subdivision Development in Single Residence Districts.

1. A special permit from the Planning Board shall be required for any earth movement undertaken in connection with the construction of streets in a subdivision. Whenever and wherever possible, cuts and fills associated with the construction of such streets shall be balanced to minimize movement of materials on or off the right-of-way.
2. A special permit from the Planning Board shall be required for earth movement associated with the preparation of lots in a subdivision. Under such a permit, regrading shall be in conformity with the slope requirements set forth in Section @ of this by-law. Changes in the final elevations from those shown on the definitive plan shall be limited to less than one foot.
3. Applications for special permits for earth movement shall, at a minimum, indicate the quantity and composition of materials to be regraded, imported or exported, the estimated number of truckloads involved, the purpose for which the materials are to be moved and the location of the site on which the earth movement will be conducted. All calculations pertaining to the quantity of earth materials involved shall be prepared and certified by a registered professional engineer. Before granting any special permit under Section @ or @ the Planning Board must find that the subdivision plan as a whole makes the best feasible design of existing topography, and in making such finding the Board shall take into account the magnitude of the change in topography resulting from the subdivision plan, the extent of cuts and fills, the amounts of earth materials involved, the removal of existing vegetation, the preservation and protection of significant natural topographic features such as eskers, streams, mature vegetation and rock outcrops, and the type and size of the subdivision plan, whether it be conventional or cluster. The Board shall consider the effects on adjacent properties and streets resulting from the earth movement activities and may impose and set forth in the permit such restrictions and conditions as deemed reasonable and in the public interest, including but not limited to the following:
 - a. The duration of time during which the special permit may be exercised
 - b. The extent, depth and contours of the land
 - c. The grades of slopes
 - d. The proximity to any public way
 - e. The hours during the day during which the activities may be conducted
 - f. The hours of the day during which vehicles may be loaded or unloaded and the times during which such vehicles may enter or leave the property
 - g. The use of covers over earth materials in vehicles involved in transporting earth materials;
 - h. The cleaning of street surfaces during and following the transport of earth materials
4. Earth movement associated with the preparation of a specific building lot may take place only after the issuance of a building permit by the Inspector of Buildings, and such earth moving activities shall be subject to the provisions of all applicable special permits issued by the Planning Board. Earth movement solely associated with the required standards for construction or

Example Earth Movement Language

installation of a sewage disposal system is allowed subject to a report from the Board of Health certifying that the volumes of such earth materials are required for such system, and that such materials are solely associated with the required standards for construction or installation of the system, said report to be submitted to the Planning Board as part of the application for a special permit.

Regrading, Importing or Exporting of Earth Materials Incidental to Construction or Improvements on Individual Lots in Single Residence Districts.

Regrading or importing of less than three hundred cubic yards or exporting of less than fifty cubic yards of earth materials during any three-year period is permitted. Where volumes in excess of these limits are desired, application must be made to the Inspector of Buildings for an earth moving permit. All regrading shall be in conformity with the slope requirements set forth in Section 4.1.4.5 of this By-law and shall be limited to less than eight hundred cubic yards on lot areas less than one acre and eight hundred cubic yards per acre of lot area on lots greater than one acre. Importing or exporting shall be limited to five hundred cubic yards per acre of lot area up to a maximum of two thousand cubic yards for any single lot. The application shall contain the information required under Section 6.3.2.3 above. All calculations pertaining to the quantity of earth materials involved shall be prepared and certified by a registered professional engineer. The Inspector of Buildings may impose and set forth in the permit such restrictions and conditions as deemed reasonable and in the public interest, including but not limited to the conditions set forth in Sections 6.3.2.3.a through h above. Regrading, importing or exporting of earth materials in excess of the limits specified in this paragraph shall be permitted only if specifically required by the Board of Health for the construction of sewage disposal systems, and a report from the Board of Health certifying same shall be submitted to the Inspector of Buildings.

Earth Movement Incidental to Construction or Improvements in Apartment, Business or Industrial Districts.

Regrading, importing or exporting of earth materials incidental to construction or improvements in Apartment, Business or Industrial Districts shall be subject to the provisions of Sections 7.2, 7.3, 7.5, 7.6.2, 7.6.3, and 9.5 of the by-law which require site reviews by the Planning Board.

Miscellaneous Earth Movement.

A special permit from the Board of Appeals shall be required for earth movement not covered under the provisions of Sections 6.3.2, 6.3.3, and 6.3.4. Regrading or importing of less than three hundred cubic yards or exporting of less than fifty cubic yards of earth materials during any three-year period is allowed without special permit