

SECTION 8 - Earth Removal, Excavation, Filling, Stockpiling and Grading

8.1 Scope:

To permit earth removal, excavation, filling, stockpiling and grading only as the minimum required for preparing land for residential, business or industrial development or for maintenance or improvement of bodies of water. These activities may be permitted by Exemption, Administrative Permit or Special Exception as set forth in this Section. No other such described activities, except as provided for herein are permitted.

8.2 Purpose:

The purpose of these Regulations is to:

- A. Prevent or diminish any adverse effect of all earth disturbing operations upon the health safety or welfare of the community, any undue disturbance or annoyance of the occupants of the premises in the general neighborhood of such an operation, any impairment of the usefulness or the value of the properties in the area and to prevent any unwarranted adverse effect upon subsurface water resources in the area.
- B. Promote the most desirable use of land and development of land and improvements in accordance with a well-conceived and approved plan which minimizes disturbance of Bethany's natural landscapes in concert with the Town Plan of Conservation and Development.
- C. Protect against detrimental impacts on or significant alteration of historic areas, scenic landmarks or a neighborhood's or the Town's essential characteristics, including significant natural resources and topographic features.
- D. Regulate earth removal, excavation, filling, stockpiling and grading operations so as to minimize negative impacts upon the use and enjoyment of surrounding properties, by their residents including

but not limited to negative effects upon health, safety, property values and the future use of the premises involved.

- E. Protect areas against fire, explosives, toxic and noxious matter and other hazards and against offensive noise, vibration, dust, smoke, and other objectionable influences.
- F. Enable the use of such controls and imposition of conditions as are necessary and desirable to achieve the purposes of these regulations.

8.3 General Standards for Application Review and Decision Making for all Section 8 Permit Applications.

- A. No natural earth materials, including but not limited to loam, topsoil, sand, gravel, clay, peat, quarry stone, inorganic or organic matter, shall be removed, excavated, filled, stockpiled or graded from or on any premises located in any zone, except as authorized herein.
 - 1. Plan of Conservation and Development. The proposed activity shall be compatible with the adopted Plan of Conservation and Development; especially it's goals, policies and programs.
 - 2. Historic and Scenic. The proposed activity shall not destroy or deface historic or scenic areas, or landmarks; or otherwise detrimentally affect or significantly alter a neighborhood's or the Town's essential character, including significant topographic features.
 - 3. Appropriateness of Location. The proposed activity and ultimate use shall be determined to be compatible with the specific zone and neighborhood, including but not limited to, impact on property values, noise levels, traffic, odor, dust, general appearance and surrounding existing and proposed development.
 - 4. Scope of the Application. The excavation proposed must be for the minimum needed to achieve the ultimate intent of the application and must be designed to be in harmony with the neighborhood.

5. Regulatory Conformance. The proposed activity must be found to be in conformity with the Zoning and Subdivision Regulations of the Town of Bethany and all other applicable Town codes and ordinances, and the purposes of these Regulations as set forth in Section 8.2.
6. Safety. The proposed activity shall not adversely affect accessibility for emergency vehicles and equipment, increase fire or traffic hazards, or have the potential to damage Town roads, bridges or other public facilities.
7. Fee. Any application, to be considered complete, must contain all listed and Commission requested items, including the proper fees. Failure to provide a complete application shall be grounds for denial of the application.
8. Requested Additional Information. If the Commission, or its agents find the need for additional information before or during the formal review of the application, the Commission reserves the right to require additional information from the applicant including but not limited to; additional engineering investigations, including borings, soils, ledge or groundwater information.
9. Pre-existing Permits. Any Administrative Permit or Special Exception Permit existing and in effect, on the effective date of these Regulations will remain valid until it expires, however all such permits shall not be eligible for renewal but shall require the filing of a new application pursuant to these Regulations.
10. Inspection and Compliance. During the term of any Permit issued under this Section and until the operation is complete, the Commission or its designated agent may, at any reasonable time, inspect the land to verify compliance with the requirements of the Permit. The applicant and owners shall give to the Commission at the time of issuance of the Permit, a written consent to enter upon and inspect the premises to verify compliance. The Commission may also require the applicant to submit periodic written reports, prepared and sealed by a land surveyor and/or professional engineer, showing the status and progress of the operation.

11. Joint Application. Where two (2) or more adjoining lots are to be considered for a permit, the Commission may treat a joint application as one application and require adequate slope and drainage agreements are provided to allow for necessary coordination of any operations.
12. Enforcement Procedure: When these Regulations are violated or the Commission or its agent(s) are made aware of any noncompliance with the approved plan during the operation, such violation(s) shall be cause for the Commission to proceed with an enforcement action as set forth at Section 8-12 of the Connecticut General Statutes.
13. Insurance. No Permit approved under this Section shall be issued until the applicant has filed with the Commission a certificate evidencing that the applicant has obtained a policy of public liability insurance with a limit of not less than \$500,000 as to personal injury, including death and \$1,000,000 as to property damage, covering all operations to be conducted pursuant to the approved Permit. In the event of cancellation or non-renewal of such insurance, the Permit shall automatically terminate.
14. Possible Actions: The Commission may approve, modify and approve or deny any application made to it under this section.
15. Frequency: The Commission shall not be required to hear any application for a special exception permit relating to the same or substantially the same earth removal, excavation, filling grading or stockpiling activities, more than once in a period of twelve (12) months.

B. Notice Requirements for all Section 8 Applications:

1. Inland Wetlands Commission: If the application involves an activity regulated pursuant to Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, the applicant shall submit an application to the Inland Wetlands and Watercourses Agency, (the Wetlands Commission), of the Town of Bethany no later than the day the application is filed with the office of the Planning

and Zoning Commission. The application to the Planning and Zoning Commission shall clearly indicate when the application was filed with the Bethany Wetlands Commission. If it has been determined by the Wetlands Commission that a wetlands permit is not required, then a letter from the Wetlands Commission so indicating shall be submitted with the application to Planning and Zoning. The final report from the Wetlands Commission is required before the Planning and Zoning Commission may approve any application.

2. Public Water Supply Watershed Notice Requirements:

If the land which is the subject of the application is within the designated watershed of any water company as defined in Section 16-1 of the Connecticut General Statutes, and the water company has filed a map showing the boundaries of its watershed on the land records of the Town of Bethany and with the Bethany Planning and Zoning Commission, the applicant shall provide written notice of the application to the affected water company or water companies, which notice shall be mailed not later than the same day as the date of application to the Planning and Zoning Commission. Said notice shall be mailed by certified mail, return receipt requested.

3. Notice to abutting property owners:

- A. Applicants for an Administrative or Special Exception Permit are required to notify property owners of record, as listed in the most current information on file with the Town Clerk, within 500 feet of any portion of the property upon which the proposed activity will take place. Such notice will include a brief description of the proposed activity and the date and time of the scheduled hearing.
- B. The required notice will be mailed via Certified Mail return receipt requested, no later than 14 days prior to the date of the public hearing or any continuation thereof.

C. Delay of Decision:

If an application involves an activity regulated pursuant to Sections 22a-36 to Sections 22a-45, inclusive, of the Connecticut General Statutes, no decision on the application shall be rendered by the Planning and Zoning Commission until the Bethany Inland Wetlands Commission has submitted a report of its final decision to the Commission, in conformance with the relevant time limits found in the Connecticut General Statutes. The provisions of this subsection shall not be construed to apply to any extension consented to by an applicant.

8.4 Types of Permits:

A. Exemptions:

Except as provided in Section 8.4 (B), the provisions of Section 8 and the requirements to obtain a Permit from the Zoning Enforcement Officer, hereunder shall not apply where the removal, excavation, filling, grading, stockpiling or screening of materials is solely for one or more of the following purposes:

1. All Exempted activities are subject to the Standards and Conditions set forth in Section 8.7 A. 3. c., d., h., l., m., p., q. and r.. In addition Section 8.7 A. 3. a. shall also apply except that operation, maintenance or running of machinery in connection with such activities shall be permitted between 9:00 a.m. and 4:00 p.m. on Saturdays and between 12:00 noon and 4:00 p.m. on Sundays, and provided such activity is not on a prohibited day as noted herein.
2. Any removal, excavation, filling or grading, but not the stockpiling of earth materials on any lot, provided such activity involves no more than five hundred (500) cubic yards of earth material and further, provided, that this exemption shall apply only once in any calendar year. Calculations proving the exempt amount shall be provided by a registered professional engineer. This Exemption shall not apply to a parcel for which the Commission has issued an Administrative or Special Exception Permit and which parcel has not been finally reclaimed.

3. Necessary removal, excavation, filling, grading, stockpiling or screening of materials in direct connection with the construction or alteration of a structure, septic system, driveway or other utility on a lot for which all appropriate permits have been issued and which activity involves less than one thousand (1,000) cubic yards of earth material. Calculations proving the exempt amount to be done by a registered professional engineer.
4. The normal maintenance and repair of roads and driveways and the construction of new roads, by the Town.
5. Compost heaps and manure piles generated from permitted on-site activities as long as such activities are being properly managed and not causing pollution or a public nuisance or a health hazard.

B. Administrative Reviews and Permits:

1. If a proposed activity meets all of the following required criteria, an Administrative Permit must be applied for prior to conducting the activity. The Commission may, if it deems necessary require that proof or certification from a properly licensed professional engineer and/or surveyor be submitted regarding any aspect of this permit application.
 - a. Necessary removal, filling, excavation, grading, stockpiling or screening of material on a lot in direct connection with construction or alteration of a structure, septic system, driveway or other utility on a lot for which the appropriate permits have been issued and which such activity involves no more than five thousand (5,000) cubic yards of material; and
 - b. The open, unfinished, unreclaimed, unrevegetated or unstabilized area, at any one time is less than one acre, and
 - c. The operation shall be started and completed within six (6) months from the date of issuance of the Permit, or
 - d. Necessary removal, filling, excavation, grading or stockpiling of material from a lot in order to eliminate a threat to the environment, public health or safety, which involves the movement of no more than five thousand (5,000) cubic yards of material; or

- e. The applicant is under a current, valid order of a federal, state or local government which requires it to engage in the removal, filling, excavation, grading or stockpiling of material on a lot, which involves the movement of no more than five thousand (5,000) cubic yards of material; or
- f. Necessary removal of boulders, stumps or debris and application of top soil and other necessary materials to complete clean up and final reclamation of a site in accordance with a plan previously approved by the Commission, provided that the work involves the movement of a total of no more than five thousand (5,000) cubic yards of material; and
- g. The open area at any one time is less than one acre; and
- h. The operation shall be started and completed within six (6) months from the date of issuance of the Permit.

C. Special Exception Permits:

- 1. All Special Exception Permits are issued by the Commission after receipt of a complete application and after holding a duly noticed public hearing and after review based on the scope, purposes, standards and criteria contained herein.
- 2. Any proposed activity not meeting the criteria for an Exempt Permit or an Administrative Permit must make application for a Special Exception Permit as contained herein.

8.5 Application Requirements for Administrative and Special Exception Permit Applications:

- A. Refer to Section 8.3 for General Requirements.
- B. Applications for any permit pursuant to this section shall be submitted on forms provided by the Commission, signed by the applicant and all owners of the land where the activity is proposed to occur. All owners of the land shall be co-applicants.
- C. The application fee for any permit under this section as set forth in the Town of Bethany Land Use Fee Schedule Ordinance, as may be amended from time to time, must be submitted with the application. Failure to pay the application fee shall constitute an incomplete application and shall be cause for denial of the application.

D. Thirteen (13) copies of a project plan showing the location of the proposed operation shall be submitted with the application. Such plan shall be drawn to a 1" equals 40' scale. The plans shall show at least the following:

1. An overall or final conceptual development plan for the ultimate use of the property must be submitted at this time with the application. Note that if the ultimate use of the property is for subdivision purposes, a subdivision plan must be submitted with the plan for the excavation as well.
2. The quantity and type of earth product to be removed, filled, excavated, graded or stockpiled and the limits of the proposed operation. Any available test boring information shall also be submitted.
3. The total acreage of the land and the length and direction of the present property lines. Note: An A-2 survey of the property is required for a Special Exception application.
4. Existing and proposed contours. Note: The Commission requires a T-2 survey of the property for a Special Exception application.
5. The estimated starting and completion dates and the proposed hours and days of operation, including vehicle routes.
6. Proposed measures for control of erosion and sedimentation from the site. In addition, plans, which adequately address stormwater management issues and concerns, are also required.
7. A plan with narrative as necessary, which describes final and/or temporary reclamation of the property, as appropriate.
8. Upon finding of unusual soil conditions or of insufficient data to properly assess compliance with these Regulations the Commission may require the applicant to provide additional information on soils, rock ledge, groundwater conditions, drainage or any other information deemed necessary and appropriate by the Commission.
9. The names and addresses of the present owner or owners of the land and the location and names and addresses of owners of all adjacent property, including property separated from the land by any roads. All names and addresses shall be as shown on the Town Assessor's most current records;

10. A detailed written narrative of the complete project including, the purpose, and objectives of the proposed operation and at a minimum;
 - a. A written itemized estimate of the cost to complete the proposed operation;
 - b. The quantity and type of earth materials to be removed, excavated, filled, graded or stockpiled and the area limits of the proposed operation;
 - c. A description of the proposed vehicular access to the land and location of the proposed work and roadways within the parcel.
 - d. The estimated number and types of trucks and location, if fixed, of all other machinery proposed to be used for the operation.
 - e. The estimated duration of the project including starting and completion dates and the proposed hours and proposed days of operation.
 - f. Details of the existing and proposed drainage plans, including drainage systems, proposed measures for soil erosion and sedimentation control from the site and details of proposed seeding and reclamation for the area of the proposed operation.
11. An A-2 survey of the property, including a minimum of two (2) permanent identifiable bench marks on or near the property.
12. A location key, drawn to a scale of at least one inch equals two thousand feet, (1" = 2,000'), showing the location of the land in relation to surrounding property, all zoning districts, all streets within one thousand (1,000) feet of the property, and the Town line, if it is within five hundred (500) feet of the parcel;
13. Existing and proposed contours at two (2) foot intervals with spot elevations and cross sections at high and low points, extending at least seventy-five (75) feet beyond the limits of the work area, even if it is off the property. Five (5) foot contour intervals are permitted for land where existing slopes are in excess of 10 percent but less than 25 percent slope. Ten (10) foot contour intervals are permitted for land

where existing slopes are 25 percent or more. Accuracy and source of information are to be field survey or other acceptable method and must be stated on the plan.

Topography must be to a minimum T-2 accuracy for existing conditions.

14. A detailed landscaping / reclamation plan, including a work schedule for completion, shall be prepared by a qualified design professional experienced in the reclamation of property, which will show the type, location and extent of all proposed vegetation to be retained or restored to the land in accordance with the specific requirements of the project using Natural Resources Conservation Service guidelines for reclamation and specifically taking into account the natural vegetation of the area before any excavation, grading or filling was done. Maximum slopes for any reclaimed area are to be 1 foot vertical to 3 feet horizontal.
15. The location and size of any and all existing buildings, streets, monuments, recognized landmarks, rock outcroppings or structures on the land and comparable information on adjacent properties for a distance of seventy-five (75) feet beyond the parcel boundaries. The source of such information is to be stated on the plan.
16. The size, location, invert and surface elevations and flow direction, where applicable, of existing water bodies, water courses, swamps, marshes, flood plains and wooded areas on and adjacent to the land. All wetlands are to be flagged in the field and shown on the plans. Maps approved by the Wetlands Commission are acceptable to meet this requirement.
17. A box on the plan with the words "Permit Approved by the Bethany Planning and Zoning Commission", and a labeled blank line for the signature of the Chairperson or Secretary of the Commission.
18. The Commission reserves the right to request any additional information it deems necessary to properly review and decide the application.

8.6 Review Procedure:

A. Initial Review:

Applications submitted pursuant to this Section shall be reviewed by the Commission's designated review person. The designated review person if appropriate, shall refer the application to the Planning and Zoning Commission for its review, processing and action. The Commission, after review may approve, approve with modifications or deny the application or set a public hearing date if one is required and then act on the Permit. Such Permits shall contain appropriate conditions and standards as dictated by the purposes of this Section.

B. Decisions:

1. The Commission within sixty-five (65) days of the official receipt date of an administrative application shall render a decision on the application. The applicant may consent to one or more extensions of such time period, provided the total period of any such extensions shall not exceed sixty-five (65) days.
2. If the application meets the criteria for a Special Exception the Commission shall set a public hearing date for within 65 days of the official receipt date of the application. The hearing shall be conducted and the decision made within the parameters contained in the Connecticut General Statutes.

C. Transferability: No Administrative or Special Exception Permit is transferable without the express consideration and decision of the Commission.

D. Expiration: Administrative Permits shall automatically expire six (6) months after the date of approval, unless the Permit contains a different expiration date specified by the Commission at the time of original approval. Special Exception Permits shall automatically expire after one year unless specified differently by the Commission at the time of approval

- E. Renewal: No operations are permitted after the Permit expires. The Commission may, at its sole discretion, renew the Administrative Permit for up to six (6) months upon written request for renewal. Such renewal request must be made at least one (1) month, but no more than three (3) months, prior to the expiration of the Permit and be accompanied by the proper fee. A special Exception Permit may be extended by the Commission for up to 1 year, or any time less which the Commission finds desirable.

8.7 Standard Permit and Operating Conditions:

- A. All Permit approvals issued under this Section shall be subject to the following standard conditions in addition to any special conditions the Commission may require:
1. To ensure the performance and completion of the permitted operation in accordance with these Regulations and the approved permit, the owner / applicant shall file with the Commission a Bond with Surety satisfactory to it. The form of Surety which may be provided and accepted by the Commission may be :
 - a. The pledge of a passbook savings account;
 - b. An irrevocable letter of credit;
 - c. A cash deposit with the Town of Bethany;
 - d. Such other Surety as may be acceptable to the Commission.
 2. The amount of the Bond and the form of Surety shall be determined by the Commission in its sole discretion. Should there be a failure of Surety during the term of the permit or any extension thereof, the permit shall automatically be suspended pending the filing of a new Surety by the owner/applicant/operator and acceptance by the Commission.

3. All permitted operations must comply with the following minimum standards and conditions:
 - a. There shall be no operation, maintenance or running of machinery or vehicles associated with the operation conducted between 5 p.m. and 8 a.m., nor during such additional hours as the Commission may decide, nor on Saturdays, Sundays, New Years Day, Good Friday, Memorial Day, July 4th, Labor Day, Thanksgiving Day and the following day, and Christmas Day, except with the approval of the Commission. Maintenance of machinery and vehicles is permitted on Saturdays between 9 a.m. and 12 noon, provided that such a day is not a holiday as described above as a prohibited work day. These restrictions do not apply to a retail operation in a Business and Industrial Zone during its normal working hours.
 - b. Truck access to the site shall be so arranged so as to minimize danger to pedestrian and vehicular traffic on or along public highways and so as to minimize negative impacts on surrounding properties. All access to any operation shall be barred by secured and locked gate(s). Cables, ropes, chains or similar barriers are not acceptable.
 - c. At all stages of the operation, and upon completion, proper drainage shall be provided to prevent collection and stagnation of water and to prevent harmful effects upon surrounding properties, except where such collection is part of the approved erosion and sedimentation control plan.
 - d. No water body, watercourse, inland wetland, or existing drainage area shall be altered in any way except as approved by the Bethany Inland Wetlands Commission and / or other appropriate regulatory authority.

- e. A copy of the approved plans and Permit shall be present on the site at all times that work is in progress until work has been completed and the site reclaimed to the satisfaction of the Commission.
- f. Such other standards and conditions as in the opinion of the Commission are required to achieve the purposes of Section 8 and to promote and protect the health, safety and general welfare of the public.
- g. The operation must be carried out in conformity with the project plan as approved and within the limits shown thereon, and there shall be an undisturbed buffer zone of one hundred (100) feet minimum from any property line or public road. The Commission may require additional buffer areas depending upon the effectiveness of other controls and conditions in reducing impacts upon surrounding premises. The Commission may change or eliminate the requirement of a 100 foot buffer if it finds that the operation will not have an adverse impact on adjoining parcels.
- h. The Commission, in its sole discretion, may allow screening or sifting of material generated on site if the Commission finds the screening or sifting will be for a short period of time and will not create an undue negative impact on surrounding properties. The applicant shall indicate on the plans the type of machinery to be used and its location on the site. All machinery for screening or sifting used in conjunction with the operation shall be set a minimum of two hundred (200) feet from all property lines. The short term temporary use of machinery for the crushing of boulders generated on the site from the operation may be allowed at the discretion of the Commission if the applicant can demonstrate that it is the most viable means of disposing of such boulders and that the

impact on the neighboring property owners will be minimal. The Commission may reduce the required buffer for Special Exception Permit operations which involve screening or sifting or crushing if the Commission finds the adjacent property is not being used for a residence or other use (such as recreation, day care, office building) that might be adversely affected by these operations.

- i. No fixed or permanent machinery, building or structures related to the proposed activity shall be erected or maintained on the land. If temporary structures are proposed to be used, they shall be shown on the submitted plans. The Commission may approve temporary structures if it deems them to be appropriate. All temporary structures must be in compliance with all applicable Town Regulations and shall be removed from the land not later than 30 days after the termination of the operation or the permit whichever is sooner.
- j. When the operation is completed, or work has progressed sufficiently to where reclamation is practicable, the area affected by the operation shall be graded or terraced, in accordance with the plan approved by the Commission, so that banks and slopes in disturbed areas shall be no steeper than 1:3 (vertical to horizontal). Subsoil shall be added as necessary to provide an appropriate base for the topsoil, so as to facilitate vegetation growth. The subsoil will be scarified in order to provide a good bond with the topsoil. Topsoiling of the disturbed area shall be done in accordance with the application and materials standards for topsoiling as set forth in the Erosion Sediment Control Handbook of the USDA/ SCS, (most recent edition as amended). The area shall be planted with suitable plantings and maintained by mulching, repairing and reseeding until the area is stabilized.
- k. Yellow markers, spaced at a minimum of one hundred (100) feet apart extending a minimum of two (2) feet above ground level at all times, shall be placed around

the perimeter of the operation by a licensed land surveyor in conformance with the approved grading plan and shall be maintained throughout the operation.

- l. Proper measures shall be taken to prevent undue negative impacts to neighboring properties from noise, dust, vibration, rock fragments or other unsightly or dangerous conditions. These proper measures may include but are not limited to; wetting of access roads, screening, fencing, matting, soil stabilization, limiting stockpiling and covering loaded trucks leaving the site. In addition the Commission shall require the maximum retention of existing natural buffers, including trees and topography wherever possible to achieve such protection.
- m. Where the excavation or filling results in slopes steeper than one (1) foot vertical to three (3) feet horizontal, or where the depth of fill is ten (10) feet or more, the Commission or its agent may, in the interest of public safety, require a safety fence to be erected, enclosing the fill or excavation.
- n. Access roads shall be temporary and shall be constructed and maintained with a dustless surface using calcium chloride, crushed stone, watering or paving or any other means acceptable to the Commission. A minimum of the first twenty-five (25) feet of the access road extending from the public highway shall be a paved surface, and the next seventy-five (75) feet shall be of 2" crushed stone. The Commission or its agent may vary these requirements based on specific site conditions.
- o. The area being worked in accordance with the Permit shall be kept to an absolute minimum. The Commission shall determine and approve the size, configuration and location of the working area, and at no time shall more than a total of five (5) acres in Business and Industrial Zone or three (3) acres in a Residential Zone be open. It is the intent of these Regulations that the remainder of the property shall be undisturbed land, temporarily stabilized pending

- reclamation, or stabilized and reclaimed in accordance with the approved plan.
- p. All boulders from the site may be buried. However the burial area shall be approved by the Commission and must be clearly shown on the plan. The burial area may not be enlarged without the permission of the Commission and shall be shown not to impair the suitability of the site for future uses permitted in the zone. All debris and stumps generated on the site shall be removed from the site. The applicant / owner shall supply a letter to the Commission stating where the stumps and debris are to be deposited. These materials must be disposed of in a legal manner.
 - q. The introduction of off site fill is permitted to accomplish finish grades as shown on the approved plan. Such fill must be clean earthen material.
 - r. The Commission may require the filing on the land records of the Town of Bethany a mylar showing the location of all burial areas on the site.
 - s. Stockpiling operations permitted in the B&I zone must also comply with the following minimum standards and conditions:
 - 1. Every effort shall be made to minimize negative visual impacts of any stockpile(s). The Commission may require changes in location, screening or other appropriate measures to accomplish this goal.
 - 2. No stockpiles shall produce a hazardous condition. The Commission may require the permittee to take suitable steps, such as fencing or enclosures, to prevent the creation or continuation of any such condition.
 - 3. Appropriate controls shall be used to prevent erosion and the uncontrolled spreading and spilling of the material stockpiled.

8.8 Release of Performance and Completion Guarantee:

Upon completion of the operation and the restoration of the premises in accordance with the approved plans and applicable regulations and modifications, including the removal of all equipment and temporary structures, the applicant may apply, in writing, to the Commission for the release of the performance and completion guarantee filed with the Commission. The guarantee shall not be released until the applicant's surveyor and engineer have certified to the Commission in writing that all improvements have been completed in accordance with the approved plans. "Record" plans at the same scale as the original application plans, shall include "as-built" project and grading plans, details of restoration measures and any modifications approved by the Commission. Four (4) prints of each plan shall be filed with the Commission.