



TOWN PLAN AND ZONING COMMISSION

SPECIAL MEETING
Wednesday, June 10, 2015

Town Hall Conference Room L-101
131 Cedar Street, Newington, CT 06111

6:00 p.m.

AGENDA

I. ROLL CALL AND SEATING OF ALTERNATES

II. REVIEW OF ZONING REGULATIONS

- a. Subsection 3.2X: [new] Uses Permitted in the OS Open Space Zone
- b. Subsection 3.2Y: [new] Special Exceptions Permitted in the OS Open Space Zone
- c. Section 6.1: Off-Street Parking and Loading Regulations
- d. Section 6.2: Signs
- e. Section 6.3: Flood Plain Regulations
- f. Section 6.4: Removal of Earth Products
- g. Section 6.5: Filling of Land

III. ADJOURN

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Tanya D. Lane
TOWN CLERK

Submitted,

Craig Minor, AICP
Town Planner

STAFF REPORT
Complete Review of Zoning Regulations

June 8, 2015

Petition #02-15:
Zoning Amendments
Town-wide
Town Plan and Zoning Commission, applicant

Description of Petition #02-15:

This is a complete review of the current zoning regulations, looking for fairly simple items that need minor adjustments.

Staff Comments:

1. Section 3.2X and 3.2Y (new Open Space Zone): See attached memo.
2. Section 6.1: Off-Street Parking and Loading: The minimum parking requirements were reviewed last year when we created the Low Impact Development regulations, and were adjusted downward for most types of use. We don't need to look at this again right now.
3. Section 6.2: Signs: There was a TPZ subcommittee that spent many hours last year trying to revise the "temporary sign regulations" to make them more enforceable as well as more "user friendly". They stopped meeting when it was decided to do a complete zoning overhaul. The attached is the status of their work when they stopped, with one additional change proposed by me: a change to the "digital sign" regulation, to make it clear that no backlit nor LED sign of any type is allowed except for "time and temperature" and gas station signage.
4. Section 6.3: Flood Plain Regulations: These regulations are very complex and engineering-based, so I do not recommend making any changes.
5. Section 6.4: Removal of Earth Products: This section allows the excavation of a basement and related incidental grading "as of right", and allows the (commercial) removal of soil, sand, gravel, etc. by special permit. There are two problems with this.
 - a. The regulation doesn't say what the review and approval process is for "as of right" excavation. There has been at least case where a homeowner wanted to significantly increase the level area of his yard by removing a large amount of earth material, to the consternation of his neighbors. When the Zoning Enforcement Officer told him to provide a professionally prepared site plan for the Town Engineer to review, he questioned the ZEO's authority to do so. This would rectify that.
 - b. The requirements and approval process described in Sections 6.4.3 (Conditions) and 6.4.4 (Approval) probably apply only to Section 6.4.2 (the special permit removal of earth material), but it is not clear. And if it does, then there are no requirements and approval process for Section 6.4.1 (as of right removal). I have proposed some amendments to address this.
6. Section 6.5: Filling of Land: Unlike the "Removal of Earth Products" section, this section does not clearly say whether a landowner can bring in fill – it is stated in a negative way, in the "special permit" section. Also, like the "Removal of Earth Products" regulations, it is not clear if Section 6.5.4 (Approval) applies also to "as of right" filling. The attached amendment addresses that.

cc:
file



John Salomone
Town Manager

TOWN OF NEWINGTON

131 Cedar Street Newington, Connecticut 06111

Town Planner

Craig Minor, AICP
Town Planner

Memorandum

To: Town Plan and Zoning Commission
From: Craig Minor, Town Planner 
Date: June 8, 2015
Re: Proposed "Open Space Zone"

This draft is based on a combination of the Town of Avon's "Open Space" and "Agricultural" zones, modified to reflect the Commissioners' comments made during the April 22, 2015 and May 27, 2015 special meetings.

cc:
file

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www.newingtonct.gov

[new] Section 3.22: Uses Permitted in OS (Open Space) Zones

In Open Space Zones, land and buildings may be used and buildings may be altered or erected to be used for the following purposes and no other:

- 3.22.1 Planting and cultivation of any crop including flowers, fruit, vegetables, forestry, nurseries, and field crops whether for personal or commercial purposes.
- 3.22.2 Municipal playgrounds, recreation areas, and parks.
- 3.23.3 Designated open space in residential developments.
- 3.22.4 Educational activities accessory and incidental to any of the above permitted uses.

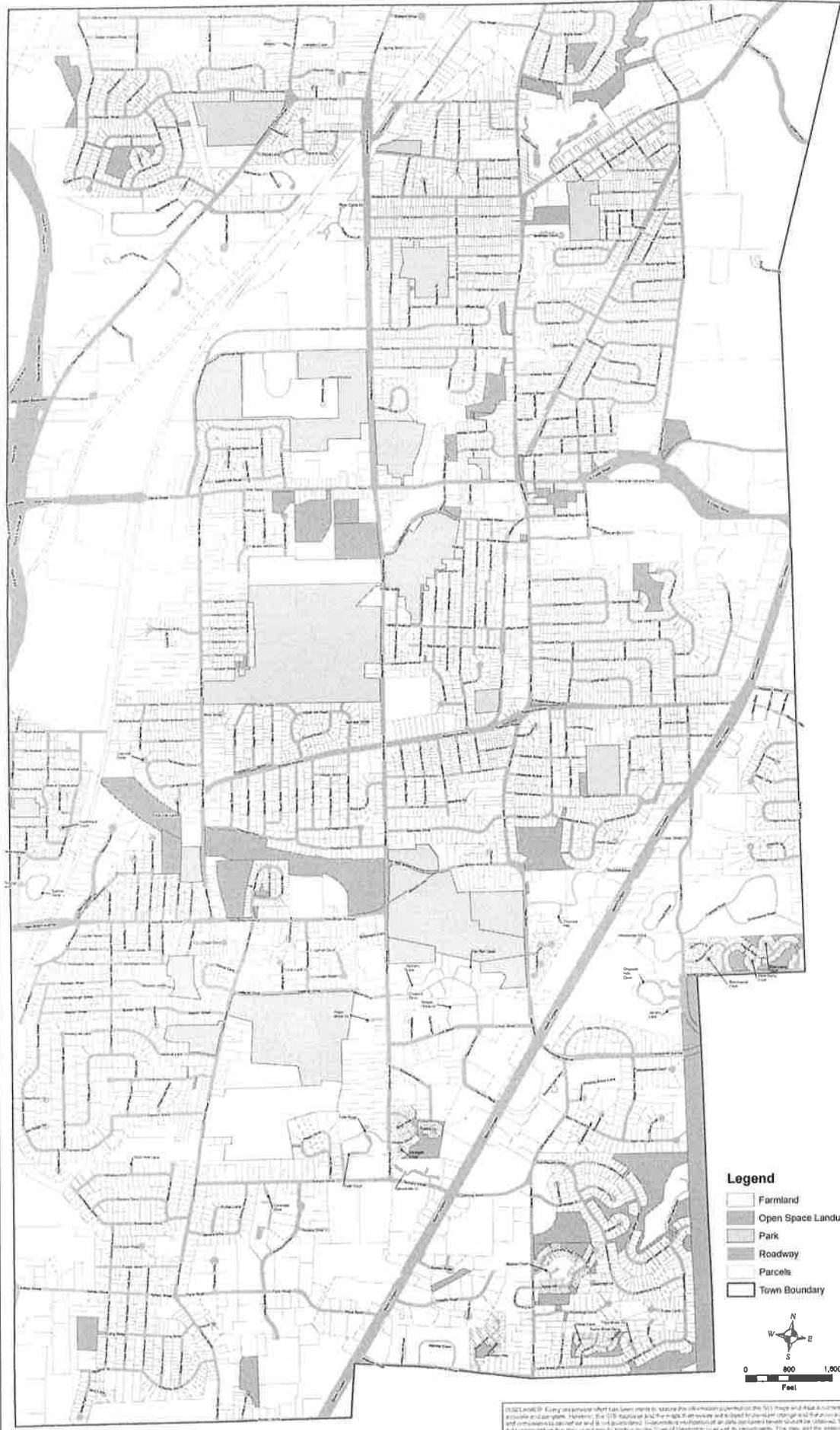
[new] Section 3.23 Special Exceptions Permitted in OS (Open Space) Zones

The following uses are declared to possess such special characteristics that each must be considered a special exception. They may be permitted by the Commission subject to the following conditions, and the provisions of Sections 5.2 and 5.3.

- 3.23.1 Golf courses

Town of Newington

Open Spaces Land Use



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Map by
Department
of Information
Technology
GIS Services
Division
Date: 4/30/2015



[Staff-proposed additions are shown in **bold underline**. Staff-proposed deletions are shown in **bold strikethrough**.]

Section 6.2 Signs

6.2.1 General:

- A. No billboards are permitted and are non-conforming uses that shall be removed and not replaced. (Effective 12-01-01)
- B. No advertising signage is permitted which does not refer to a business or activity located on the same premises. **Merchandise and/or products displayed for sale are considered signage under this section except as permitted in 6.2.1.(F).**
- C. No signs shall be located above the parapet or roof peak.
- D. The placement and erection of any signs shall require a zoning permit and a building permit, except that directional signs not exceeding 3 square feet in area per side may be located within the street right of way without zoning or building permits upon the approval of the Town's Traffic authority.
- E. As defined in Section 9, a sign **which that** has intermittent internal illumination by mechanical or digital controls **(either backlit or LED) that produce an illusion of movements such as, but not limited to, flashing, running, rotating, video graphics, change in color and brightness or scrolling advertisement message** shall not be permitted except: (Effective 6-8-2011)
 - 1) Time and/or temperature sign by means of intermittent lighting, provided that the largest dimension of such a sign does not exceed 6 square feet. (Effective 6-8-2011)
 - 2) Fuel product price sign that is digitally controlled and a component of the business's free standing sign provided that each product per gallon price size does not exceed 1 foot high by 3 feet wide and does not move, flash, run, scroll, rotate or change color or brightness. Digitally controlled product price sign shall not be permitted in the Business Town Center District (B-TC) and the Business District (B) zones. (Effective 6-8-2011)

F. Temporary Signs:

1) A permit for a temporary sign ~~F. Temporary permits for a sign~~ advertising a real estate development may be issued for a six month period and may be renewed for a additional six month periods.

2) Permits for temporary signs ~~Temporary permits for signs~~ advertising a **sale or** special event may be issued by the Zoning Enforcement Officer for not more than **forty (40) twenty five (25) consecutive** days per calendar year **in increments of not less than five (5) days. upon approval of a zoning permit prior to placement.** A building permit shall not be required **for special event signs** and only the zoning permit fee shall be charged. (Effective 6-8-2011)

[Staff-proposed additions are shown in **bold underline**. Staff-proposed deletions are shown in **bold strikethrough**.]

3) A new business coming to Newington for the first time or an existing business relocating or expanding within Newington may request an additional twenty (20) days of promotional advertising days. (Effective 6-8-2011)

4) Temporary signs shall only be displayed on the property of the business advertising the sales and/or event and cannot be placed in the State or Town street right of way.

5) Temporary signs shall not be lighted, flashing, digital or rotating, and may be denied if determined by the Zoning Enforcement Officer to be a hazard to the public.

~~Temporary signs may be pennants, streamers or banners attached to the building promoting the sale event and ground signs, not to exceed two, not higher than 10 feet and larger than 50 square feet per side. Not more than one ground-mounted cold air inflatable sign, not to exceed 18 feet in height is permitted. No roof mounted sign or cold air inflatable tethered to the roof are permitted. (Effective 4-6-2011)~~

6) Permits for temporary pennants, streamers or banners attached to the building or on the ground advertising a sale or special event may be issued by the Zoning Enforcement Officer for not more than forty (40) consecutive days per calendar year in increments of not less than five (5) days. Such banners shall be not larger than 50 square feet per side. Not more than one ground-mounted cold air inflatable sign, not to exceed 18 feet in height, is permitted. No roof-mounted sign or cold air inflatable tethered to the roof are permitted.

7) Temporary signs may be cardboard or plastic, on the ground, not to exceed two, not higher than 10 feet and not larger than 50 square feet per side.

G. No illuminated sign shall be lighted or placed so as to provide glare or blinding effects upon automotive traffic or adjoining residential zones, no shall such sign diminish or detract from the effectiveness of any traffic signal.

6.2.2 Residential Signs:

In residential zones, the following signs are only permitted on a lot:

- A. One sign not over one square foot in area giving the name of the **residential** occupant of the premises.
- B. **Not more than 2 One** "for sale" or "for rent" signs not over 6 square feet in area and located at least 10 feet from the lot line. **There is no time limit on such signs.**
- C. One bulletin board on church or school property not over 36 square feet in area and located at least 10 feet from the front lot line.

[Staff-proposed additions are shown in **bold underline**. Staff-proposed deletions are shown in **bold strikethrough**.]

- D. Building contractors signs on buildings under construction limited to a total area for all such signs of 60 square feet or temporary on site ground sign not over 6 square feet in area. All such signs must be removed within 5 days after the completion of the building.
- E. For a residential development approved by Special Exception Section 3.7 a monument sign not more than 75 square feet in area on one side, nor more than 150 square feet in area on both sides and located within the building setback lines shall require Special Exception Approval of the Commission. (Effective 8-15-07).
- F. **One sign not over two square feet in area for an approved home occupation or professional office in accordance with Section 3.4.4.B.**
- G. **One sign not over 36 square feet in area giving the name of the church, daycare, or other permitted non-residential activity on the premises that is not a home occupation or professional office per Section 3.4.4.**

6.2.3 Non-Residential Wall Mounted Business Signs [no change]

6.2.4 Free Standing Business Signs [no change]

6.2.5 Directory Signs [no change]

6.2.6 Maintenance [no change]

6.2.7 **Exceptions (effective DD/MM/2014):**

The following types of signs are exempt from the provisions of this regulation:

A. Vehicle Signs

B. Directional Signs, including those not exceeding 3 square feet within the street right of way upon the approval of the Local Traffic Authority.

C. Political Signs

[Staff-proposed additions are shown in **bold underline**. Staff-proposed deletions are shown in ~~**bold strikethrough**~~.]

Section 6.1 Off-Street Parking and Loading Regulations

6.1.1 Parking

There shall be provided, at the time of application for a building permit for the erection, alteration, enlargement or change in use of any building or land for which off-street parking is required, a plan showing functional required parking space, including the means of access and interior circulation and landscaping.

- ~~J. These regulations may be modified by the Commission where circumstances relating to the peculiar and exceptional nature of the uses are such that the specific requirements of the parking regulations do not apply.~~
- J. Other than as permitted in Section 3.23.1 (Accessory Outside Use Standards), nothing may occupy a parking space provided in accordance with Section 6.1*other than a properly registered motor vehicle .
- K. For properties with parking lots on the Berlin Turnpike, the row of parking spaces closest to the Berlin Turnpike shall be reserved for customer parking only. Employee-owned vehicles and vehicles belonging to or under the control of the owner or tenant may not occupy these parking spaces.

Section 9.2 Definitions

SIGN: Any object, device, display, or structure, or part thereof, situated outdoors which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images. Does not include national or state flags, window displays, graffiti, athletic scoreboards, or official announcements or signs of government.

SIGN, VEHICLE:

Sign on a vehicle of any kind, painted or attached directly to the body of the original vehicle which does not project or extend beyond the original manufactured body proper of the vehicle. Such vehicle must be registered with the State of Connecticut; in motion or parked in an approved parking or loading space at the business location; is capable of movement; and used for transport purposes in the business.

SIGN, POLITICAL:

A temporary sign announcing or supporting political candidates or issues in connection with any national, state, or local election.

New text proposed by staff is shown in **bold underline**. Text proposed by staff to be deleted is shown in ~~**bold strikethrough**~~.

6.4 Removal of Earth Products

6.4.1 General

Except as otherwise provided in this section, there shall be no removal, in any zone, of soil, sand, gravel, stone or other earth products, ~~**except excavation for basements of structures to be erected on the land forthwith, and except for grading or landscaping incidental to the development of the land, or to grading for public improvements.**~~

6.4.2 As of Right

Excavation ~~excavation~~ for basements of structures to be erected on the land forthwith, and ~~except for~~ grading or landscaping incidental to the development of the land, ~~or to~~ **and** grading for public improvements.

A. The applicant shall submit a site plan of the area where removal is proposed, prepared by a registered professional engineer, showing the existing and proposed finished grades.

6.4.3 Special Permit

The Commission may grant a permit for the removal of soil, sand, gravel, stone or other earth products not incidental to the above purposes, subject to the following conditions and the provisions of Sections 5.2 and 5.3.

~~6.4.4~~ Conditions

- A. The applicant shall submit a site plan of the area where removal is proposed, prepared by a registered professional engineer, meeting the provisions of Section 5.2 and also showing the existing and proposed finished grades at the conclusion of operations, provisions for drainage, proposed landscaping and type of cover crop, the location of rock faces and exposed bedrock outcropping, and any other features considered necessary by the Commission for adequate study of the proposal. (Effective 3-4-2011)
- B. The plan shall provide for proper drainage of the area after completion. No bank shall exceed a slope of one foot of vertical rise in 2 feet of horizontal distance. No removal shall take place within 50 feet of a property line except when modified by a two-third vote of the Commission. (Effective 3-4-2011)
- C. At the conclusion of operations, the whole area where removal has taken place shall be covered with not less than 4 inches of topsoil and seeded with a suitable cover crop. This requirement may be modified by the Commission where no practical purpose is accomplished by adherence to it.
- D. No equipment not required for actual removal of the material shall be allowed. The processing of earth product is prohibited except when permitted by the Commission and approved by a two thirds vote. (Effective 8-15-07)
- E. The property shall be maintained in safe condition, no ponding of water, steep slopes or any potentially hazardous condition.

New text proposed by staff is shown in **bold underline**. Text proposed by staff to be deleted is shown in ~~**bold strikethrough**~~.

6.4.4 Approval

In passing upon applications for **special** permits under this section, the Commission shall consider the effects of such removal on surrounding property and the future usefulness of the premises when the operation is completed. The Commission may require the applicant to post surety with the Town Manager in an amount approved by the Commission as sufficient to guarantee conformity with the provisions of this section. The Commission may place a time limit upon any **special** permit granted, which in no case shall exceed 2 years. Upon approving a **special** permit, the Commission shall file with the Town Engineer at least one copy of the approved plan of operations, so that no removal may take place except in conformity with this section.

6.5 **Filling of Land**

6.5.1 General

The ~~purpose of this section is~~ **purposes of this section are to (a)** conserve and preserve water storage areas by helping to maintain the ground water level and stream flow, **(b)** secure the safety of traffic movement, and **(c)** control any fill operations that may create a safety or health hazard to the public or adjacent property owners, or be detrimental to the immediate neighborhood or the Town.

~~6.5.2~~ **Special Permit**

~~The Commission shall grant a permit for the filling of land subject to the following conditions and the provisions of Sections 5.2 and 5.3. A permit is required except in the following circumstances:~~

- ~~A. Construction of a building for which a building permit has been duly issued.~~
- ~~B. Agricultural or landscaping operations, including pond operations, providing a report approving the operation is provided to the Town Engineer by the Soil Conservation Service.~~
- ~~C. Where such filling operations have been approved by the Commission as a part of a subdivision or a site plan. No filling of land shall commence until a building permit for the project has been issued. This condition may be waived by a two thirds vote of the Commission.~~
- ~~D. Within the rights of way of the State of Connecticut.~~
- ~~E. Regrading of one residential lot to improve the property, providing the Town Engineer inspects and approves this operation before and after regrading takes place.~~

6.5.2 As of Right

- A. Construction of a building for which a building permit application has been submitted.
- B. Agricultural operations. The applicant shall submit a site plan of the area where the fill is proposed prepared by a registered professional engineer.

New text proposed by staff is shown in **bold underline**. Text proposed by staff to be deleted is shown in ~~**bold strikethrough**~~.

- C. Where such filling operations have been approved by the Commission as a part of a subdivision or a site plan. No filling of land shall commence until a building permit for the project has been issued.
- D. Regrading of a residential lot to improve the property. The applicant shall submit a site plan of the area where the fill is proposed, prepared by a registered professional engineer, **showing the existing and proposed finished grades.**

6.5.3 Special Permit

The Commission shall grant a permit for the filling of land subject to the following conditions and the provisions of Sections 5.2 and 5.3. A permit is required except in the following circumstances:

The Commission may grant a permit for the filling of land not incidental to the above purposes, subject to the following conditions and the provisions of Sections 5.2 and 5.3.

- A. The applicant shall submit a site plan of the area to be filled, prepared by a registered professional engineer, meeting the provisions of Section 5.2 and also showing finished grades at the completion of filling, type of fill material, and proposed access for vehicles and hours of operation, as well as any other information considered necessary by the Commission for adequate study of the proposal.
- B. The plan shall provide for proper drainage of the operation, during and after completion. No bank shall exceed a slope of one foot of vertical rise in two feet of horizontal distance. Necessary precaution against erosion shall be shown.
- C. At the conclusion of filling operation, the disturbed area shall be covered with not less than 4 inches of top soil and seeded with a suitable cover crop.

6.5.4 Approval

In passing upon applications for **special** permits under this section, the Commission shall consider the effects of such filling on surrounding property and the future usefulness of the premises when the operation is completed. The Commission may require the applicant to post surety with the Town Manager in an amount approved by the Commission as sufficient to guarantee conformity with the provisions of this section. The Commission may place a time limit upon any **special** permit granted, which in no case shall exceed 2 years. Upon approving a **special** permit, the Commission shall file with the Town Engineer at least one copy of the approved plan of operations, so that no filling may take place except in conformity with this section.