



TOWN OF NEW HAMPTON, NH

Earth Excavation and Reclamation Regulations

ADOPTED by New Hampton Planning Board, July 21, 1992
AMENDED September 21, 2021

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Section 1.0 - General Provisions

1.01 Title

These regulations shall hereafter be known, cited, and referred to as the Earth Excavation and Reclamation Regulations of the Town of New Hampton, NH.

1.02 Purpose

The purpose of these regulations is to enable the Town of New Hampton, NH to cope with the recognized safety hazards which open excavations create; to safeguard the public health and welfare; to preserve the Town's natural assets of soil, water, forests, and wildlife; to maintain aesthetic features of the Town's environment; to prevent land and water pollution; and to promote soil stabilization.

1.03 Authority

Pursuant to the authority given to the Planning Board by New Hampshire RSA 155-E:1(III)(a), and in accordance with the provisions of RSA 155-E, the New Hampton Planning Board hereby adopts the following regulations governing earth excavation in the Town of New Hampton, NH on July 21, 1992, as amended.

1.04 Jurisdiction

These regulations shall apply to all earth excavations as defined by RSA 155-E within the Town of New Hampton.

1.05 Provisions

In addition to these regulations, the provisions of RSA 155-E are hereby adopted by the Town of New Hampton for the regulation of earth excavation.

1.06 Definitions

Applicable definitions found in the Town of New Hampton's Zoning Ordinance, Subdivision Regulations, Site Plan Review Regulations and in RSA 155-E are incorporated herein by reference. In addition, the following definitions are adopted:

- Applicant - the owner of the excavation site at the time of application or said owner's written designee.
- Application - a complete submission of information and plans as required by Section 2.0 (Application Procedure) of this regulation.
- Excavation Pit Agreement - an agreement between the excavation site owner and the contractor describing the terms and procedures for material excavation.
- Financial Guarantee - a type of security, acceptable in amount to the planning Board, and in a form acceptable to the Board of Selectmen.

Section 2.0 - Application Procedures

2.01 General Procedure

Whenever any new or the expansion of an existing earth excavation for commercial purposes is proposed, before any land clearing is begun or the removal of sand, gravel, soil or construction aggregate (except as grandfathered under RSA 155-E:2 I(b)), as modified by RSA 155-E:4-a, I, II, II-a, the land owner or person designated by the owner shall submit an application for and receive an excavation permit from the New Hampton Planning Board or its duly authorized agent. The applicant shall use the application form supplied by the Planning Board. A copy of the completed application must also be sent to the New Hampton Conservation Commission by the applicant at the time of its submission to the Planning Board.

2.02 Application

The application shall be made on the form as found in Appendix A and will include the following:

- (a) The names and addresses of all abutters to the site as defined by RSA 672:3.
- (b) An excavation plan showing the excavation site and the scheme for removal of excavated materials consisting of the information required in Section 2.05 of these regulations.
- (c) A reclamation plan consisting of the information required in Section 2.06 of these regulations and describing the process of site grading and revegetation following completion of the excavation project.
- (d) The appropriate fees as outlined under section 2.04 of these regulations.
- (e) A financial guarantee of sufficient size to cover the cost of reclaiming the site as outlined in section 2.07 of these regulations.
- (f) Copies of relevant documents and other permit approvals necessary for the excavation project. Permit approvals may include, but are not limited to, the following:
 1. Written permission from NHDES Department of Land Resources Management, Alteration of Terrain Bureau under RSA 485-A:17.
 2. NHDES Department of Land Resources Management, Wetlands Bureau approval as required by RSA 482-A.
 3. US Army Corps of Engineer's approval for activities regulated by the NHDES and within US Army Corps of Engineers (the Corps) jurisdiction.
 4. Any applicable air quality permits or requirements.
 5. Any other permit or approval required for such excavation by any federal, state, or local body.
- (g) Such other information as the planning Board may reasonably require during the review of an application.

2.03 Review of Application

The Planning Board may contract with an engineering firm or other applicable firm to review the application and/or conduct a traffic study. The cost of the review or study, as authorized by RSA 155-E:11, shall be at the applicant's expense.

2.04 Fee Schedule

Application Review Fee - \$100.00 application fee, or \$25 per acre of excavation area, whichever is greater, plus mailing and notification expense, to be submitted with the completed application.

Inspection Fee - an inspection fee will be charged to the applicant at the time of the inspection. Such fee shall be the actual cost charged by the Selectmen or their designated agent. Applicant will be notified of the amount of this cost before it is incurred.

Engineering Review Fee and/or Traffic Study Fee - an engineering review fee and/or a traffic study fee, as noted under Section 2.03 of these regulations, as determined by the New Hampton Planning Board.

Permit Renewal Fee - \$50.00

2.05 Excavation Plan

An excavation plan shall consist of all the applicable information as required in section VI of the Site Plan Review Regulations, and the following:

- (a) Proposed topography at the completion of excavation (prior to reclamation).
- (b) Distances between the limits of the proposed excavation and the closest property lines.
- (c) Existing setbacks and visual barriers which will be retained, as per RSA 155-E:4-a (I), (II), (II-a), and (III).
- (d) Aquifer limits/location as identified by the U.S. Geological Survey and/or the Department of Environmental Services Water Division.
- (e) An estimate of the project duration and phasing.
- (f) Notations on the plan as to the excavation site acreage and volumes of material to be removed.
- (g) The elevation of the seasonal high groundwater table within or next to the proposed excavation.
- (h) Topsoil storage sites during the excavation phase.
- (i) A description of the proposed equipment, including but not limited to, trucks (loaded weight) and crushers, including any water supply and disposal. In addition, a description of machine shops and any other structures must be provided to the New Hampton Planning Board with the excavation plan.
- (j) If any of the waste material is planned to be stockpiled or stored on the site, then the location of same shall be indicated on the excavation plan.
- (k) An estimate of the maximum number of trips per day in and out of the excavation site.

2.06 Reclamation Plan

Excavation site reclamation plans shall be prepared and submitted by all new and existing excavation site owners who are subject to the provisions of RSA 155-E and these regulations. The owners of existing excavation operations must perform reclamation in compliance with RSA 155-E:5 and 155-E:5a. Owners of existing excavation operations shall submit a reclamation plan and appropriate financial guarantee to the New Hampton Planning Board for its approval, within six (6) months of their registration under RSA 155-E:2, or within one year of the effective date of these regulations, whichever is earlier. The Excavation/Reclamation Application Form shall be used for this submission.

The reclamation plan shall meet, at a minimum, the requirements set forth in RSA 155-E:5, 155-E:5a and the current revision of the United States Department of Agriculture, Soil Conservation Service Technical Note PM-NH-21 "*Vegetating New Hampshire Sand and Gravel Pits*". In addition, the character of the restored landscape shall blend with the surrounding natural features.

The reclamation plan shall be drawn at the same scale and shall use the same base survey information as that utilized in the preparation of the excavation plan. The reclamation plan shall also contain the following information:

- (a) Reclaimed topography and surface drainage at the completion of the reclamation phase.
- (b) The phasing of the site reclamation showing designated areas and completion dates.
- (c) Soil conditioning specifications.
- (d) Seeding and mulching specifications.
- (e) Plant materials to be used in the reclamation, their quantities and sizes.
- (f) Sections showing existing, excavated, and reclaimed topography configurations.

2.07 Financial Guarantee

(a) Financial Guarantee

Before final approval of an excavation operation, the owner shall file a financial guarantee in an amount determined by the New Hampton Planning Board to be sufficient to cover the costs of the reclamation of the site and all, or any part, of the cleaning of the site upon completion of the work. The cleaning of the site shall include, but is not limited to, the removal of stumps, large boulders, general cleanup, and any other miscellaneous debris.

(b) Financial Guarantee Amount

The amount of the financial guarantee shall be set by the New Hampton Planning Board at the time of the final approval. All financial guarantees are to be made payable to the Town of New Hampton, NH, posted with the Board of Selectmen, and be in the amount of 100 percent of the estimated costs of the reclamation as outlined under Section 2.07 (c) of these regulations.

(c) Extent of Financial Guarantee

The amount of the financial guarantee shall be based on the amount of land currently under excavation. In the case of completed or abandoned excavations, the amount of the financial guarantee shall be based on the amount of disturbed or un-reclaimed land. As an excavation site is reclaimed, the amount of the bond may be adjusted (increased or decreased) to reflect the amount of work which has been completed on the site. In no case will the amount of the bond be reduced to less than 10 percent of the original bond amount, as outlined under Section 2.07 (d) of these regulations.

(d) Review of Financial Guarantee

The amount of the financial guarantee shall be reviewed by the New Hampton Planning Board on an annual basis upon application for a permit renewal. The applicant shall be responsible for any additional increase in the amount of the financial guarantee before receiving a permit renewal.

(e) Financial Guarantee Release

The financial guarantee shall not be released until after the New Hampton Planning Board, or its designee, has made a site inspection and certified the completion of the required reclamation in accordance with the reclamation plan. Upon acceptance of the site by the Planning Board, the Board of Selectmen shall be authorized to release up to 90 percent of the financial guarantee. The Board of Selectmen shall retain 10 percent of the total value of the financial guarantee for a period of 36 months to insure the stabilization of the vegetation.

Section 3.0 - Excavation Permits

3.01 Permit Issuance

Upon its affirmative vote of approval, the Planning Board shall issue an excavation permit to the applicant, pursuant to RSA 155-E:2, and notify the Board of Selectmen and the Zoning Board of Adjustment of the approval.

3.02 Posting of Permits

Permits shall be posted on the excavation site within view upon entering the property and within a clear, weather-protective covering.

3.03 Expiration Date

All permits shall expire after one year on the anniversary date of the previous permit. The applicant is responsible for submitting the renewal application prior to the expiration date of the permit.

3.04 Permit Renewal

The applicant may renew the excavation permit and continue excavation operations by making application to the Planning Board in the manner set forth in Section 2.0 of these regulations. The excavation permit application need only supply that information which has changed from the previous application submission. The fee for a permit renewal shall be \$50, unless it is determined by the Planning Board that substantial changes have been made to the excavation which shall require additional review from the planning Board.

3.05 Permit Amendments

If adherence to the permit conditions (including the excavation/reclamation plans) cannot be maintained, the owner shall apply to the Planning Board for a permit amendment pursuant to RSA 155-E:6. An application shall be completed and submitted to the Planning Board for review and approval in the manner provided for in Section 2.0 of these regulations. The fee for a permit amendment shall consist of the application review fee, unless it is determined by the Planning Board that substantial changes have been made to the excavation which shall require additional review by the Planning Board.

3.06 Transfer of Permits

Pursuant to RSA 155-E:8, no permit issued under the authority of these Regulations shall be assignable or transferable without the prior written consent of the New Hampton Planning Board.

Section 4.0 - Operational Standards

- 4.01 The following operational standards must be adhered to during the operation of any excavation, permitted or not permitted, subject to the minimum and express operational standards pursuant to RSA 155-E:4a and these regulations:
- (a) Removal operations shall not be conducted between the hours of 8:00 PM and 6:30 AM.
 - (b) All equipment for sorting, washing, crushing, drying, processing, and treating, or other operating machinery, shall not be used closer than 100 feet from any public street or from any adjoining lot line.
 - (c) Lateral support shall be maintained for all adjacent properties as determined by a registered professional engineer.
 - (d) Excavation site design standards shall comply with RSA 155-E and the Town of New Hampton Site Plan Regulations Section X, as applicable. The more stringent requirement(s) shall govern. Means of access shall comply with NFPA 1140/1141 – Fire Protection Infrastructure for Land Development in Wildland, Rural and Suburban Areas. Intersections with existing streets and roads shall occur at locations and configurations that have been duly approved by state and/or local officials and in a manner that will not endanger the safety of highway users and residents. Access over class VI roads, bridges or ways shall be shown on the excavation plan and made a part of said plan.
 - (e) Topsoil - Prior to the excavation of earth at a new excavation area, all topsoil material shall be stripped and stored for possible use in reclaiming the site upon the completion of excavation at that site. The removal of topsoil should be undertaken in a phased manner to minimize erosion potential.
 - (f) Timber removal - The applicable New Hampshire statutes and regulations pertaining to forest practice and timber harvesting shall apply to the removal of vegetative cover at excavation sites.
 - (g) Visual barriers shall be those specified within Section X of New Hampton's Site Plan Review Regulations.
 - (h) Slopes - The Planning Board may, at its discretion, require the applicant to provide a slope study prepared by a licensed professional engineer that specifies excavation slopes that will provide a slope to minimize erosion from reclamation work or heavy rain and snow load for excavations not subject to an Alteration of Terrain permit pursuant to RSA 485-A:17.
 - (i) Rate of reclamation - All excavations must be reclaimed to comply with RSA 155-E:5, 155-E: 5a and these regulations by the end of one (1) year following the cessation of excavation operations.
 - (j) Debris - Loose, natural non-organic material resulting from the excavation shall be buried or removed.
 - (k) Waste material - No solid, liquid or hazardous waste, septage, dredge spoils, or organic material not resulting from the excavation shall be stored or disposed of on the excavation site unless specifically authorized and/or permitted by the appropriate federal, state or local authority(s).
 - (l) Set back - If the proposed site is close to surface water, such as a stream, river, lake or pond, particular attention shall be paid to the set back of the excavation from the water as described in RSA 155-E: 4-a, II-a.
 - (m) All excavation operators shall report the amount of material removed to the Selectmen and the Planning Board. These reports shall be submitted annually concurrent with mandatory

reporting to the NH Department of Revenue Administration. The Selectmen and the Planning Board shall determine whether an onsite inspection is necessary.

4.02 Depth of Excavation

- (a) The depth of excavation shall be a minimum of eight (8) feet above the seasonal high-water table existing at the location in question before commencement of excavation. The subsurface information described above shall be derived from test pits and verified by the Planning Board or its designee.
- (b) The Planning Board may grant an exception for excavations that propose to dig within eight feet above the seasonal high-water table, provided the following conditions are met:
 - (1) The applicant demonstrates that the proposed excavation will not adversely affect water quality by directly contributing pollution, or by increasing the long-term susceptibility of groundwater or surface water to potential pollutants; and
 - (2) The applicant provides a plan that depicts the proposed depth of excavation and its relation to the seasonal high-water table; and
 - (3) The applicant provides an enforceable restriction (e.g. covenant or easement) prohibiting any future on-site subsurface sewage disposal or any other use which could contaminate groundwater; and
 - (4) Where an exception is sought for excavation that will create temporary or permanent standing water, the applicant will provide adequate safety measures (e.g. grading perimeter slopes, fencing, etc.) as may be required by the Planning Board.
- (c) Written notice of such exception shall be filed with the Department of Environmental Services Water Division, Concord, NH by the New Hampton Planning Board.

Section 5.0 Exemptions

5.01 Highway Excavations

An excavation performed exclusively for the lawful construction, reconstruction, or maintenance of a class I, II, III, IV, or a highway by a unit of government having jurisdiction for the highway or an agent of the unit of government having jurisdiction for the highway or an agent of the unit of government which has a contract for the construction, reconstruction, or maintenance of the highway, shall be exempt from the permit provisions of these regulations, provided that:

- (a) A copy of the pit agreement executed by the owner, the agent, and the governmental unit shall be filed with the Planning Board prior to the start of excavation; and such excavation shall not be exempt from any land use regulations of the municipality. In addition, a plan must be filed with the Planning Board which identifies and limits the exemption granted to only that portion of the pit that is necessary for the public highway project. Failure to file a copy of the pit agreement or the above referenced plan with the municipality or to comply with the terms of the agreement constitutes a violation enforceable under the provisions of Section 6.05 of these regulations.

- (b) The New Hampshire Department of Transportation or its agent may apply to the Appeals Board created under RSA 21-L to be exempted from the provisions of local land use regulations. The appeals process includes a formal public hearing in the affected municipality as set forth in RSA 155-E:2, (IV) (c).

Section 6.0 - Administration

6.01 Enforcement

The Planning Board or its duly authorized agent is responsible for the enforcement of these regulations as provided by RSA 155-E:10. The Board of Selectmen is a dually authorized agent for the purpose of this section. The excavation permit of any individual, corporation, or company who has violated any provision of their permit, these regulations, or RSA 155-E, or made material misstatements in the permit application upon which this permit was granted, may be suspended or revoked. Such suspension or revocation shall be subject to a motion for a rehearing thereon and appeal in accordance with Section 6.03 of these regulations.

6.02 Inspections

- (a) Inspections of all permitted operations may be conducted by the Planning Board or their authorized agent and the cost of said inspections shall be borne by the operator of the excavation. The Board of Selectmen is a dually authorized agent for the purpose of this section.
- (b) Prior to the issuance of a renewal permit, an inspection of the site shall be conducted and all conditions and restrictions from previous approvals must be found to be in compliance.

6.03 Appeals

Any person aggrieved by the official decision of the Planning Board may appeal for a rehearing on such decision as provided by RSA 155-E:9.

6.04 Waivers

The Planning Board, upon application and following a hearing, may grant a waiver in writing to the standards contained in these regulations for good cause shown except as prohibited by RSA 155-E. The written decision shall state specifically what standards, if any, are being relaxed and include reasonable alternative conditions.

6.05 Penalties and Remedies

Fines, penalties and remedies for violations of these Regulations shall be those set out in RSA 676:15 and 676-17.

6.06 Other Regulations

Where these regulations conflict with other local, state, or federal ordinances and/or regulations, the more stringent shall apply.

6.07 Adoption

These regulations shall be effective upon their approval by the Planning Board at a Public Hearing and filing of same with the Board of Selectmen and the Town Clerk.

6.08 Severability

The invalidity or unenforceability of any provision of these regulations shall not render invalid or unenforceable any other portion of these regulations.

Appendix A

Excavation/Reclamation Application Form

TOWN OF NEW HAMPTON, NH

Excavation/Reclamation Application Form

Pursuant to RSA 155-E, the following application must be submitted to the Planning Board to obtain an excavation permit. Prior to issuance of a permit, the Planning Board shall determine that the provisions of RSA 155-E, these regulations, and any other applicable regulations or ordinances are met.

Applicants qualifying under the exemption provisions of RSA 155-E:2 and filing the reclamation plan pursuant to RSA 155-E:5 are to utilize this form, noting the intent of this application.

1. Submit completed application, together with fees and additional required information to:
Chairman of the Planning Board
Town of New Hampton
6 Pinnacle Hill Road
New Hampton, NH 03256

2. Intent of Application:

- Excavation Permit _____
- Reclamation Plan Submission _____
- Permit Renewal _____

3. Date of Submission: _____

4. Name of Property Owner: _____

Address (mailing) _____

5. Name of Applicant: _____

Address (mailing) _____

6. Location of proposed/existing excavation (municipality, nearest roads, other locational information, tax map and lot number): _____

7. Tax map and lot number, name and address of all abutters (see definition).
Names must be current, based on Town records, five days prior to the submission of the application. (List below or attach separate sheet, and show clearly on plan):

8. Copies of all local, state and federal permits required and obtained.

Permits include, but are not limited to, the following:

- (a) Special exception from New Hampton Zoning Board of Adjustment
- (b) NH Dept of Environmental Services Water Division (RSA 485-A:17 and RSA 482-A)
- (c) State Highway Department Access Permit, RSA 249:13 or Town of New Hampton Access Permit
- (d) State Pit Agreement (per NHDOT Standard Specifications, Section 106.02)
- (e) Army Corp of Engineers Dredge and Fill Permit

9. Excavation Plan (5 copies):

The Excavation Plan shall contain the information out lined in Section VI of the Town of New Hampton's Site Plan Review Regulation, and the following:

- (a) Existing topography
- (b) Limits of excavation
- (c) Excavation depths (excavated topography)
- (d) Total area of excavation in acres
- (e) Access road(s) and intersection with town or state highways
- (f) Vegetation buffer
- (g) Distances from excavation limits to property lines
- (h) Schedule of excavation volumes; phasing of excavation (areas and dates)
- (i) Test pit groundwater elevations
- (j) Topsoil storage area
- (k) Drainage improvements (if necessary)
- (l) Photographs of existing conditions
- (m) A list of proposed equipment to be used
- (n) Location of any gravel to be stockpiled
- (o) An estimate of the number of trips per day from the site

10. Reclamation Plan (5 copies):

The Reclamation Plan shall contain the information out lined in Section VI of the Town of New Hampton's Site Plan Review Regulation, and the following:

- (a) Reclaimed topography
- (b) Phasing of reclamation (areas and dates)
- (c) Soil conditioning specifications
- (d) Seeding (and mulching if needed) specifications
- (e) Plant materials/quantities/sizes
- (f) Sections showing existing, excavated and reclaimed topography

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11. Hauling Information:

- (a) Routes to be utilized
- (b) Frequency of truck traffic over routes
- (c) Size and weight of trucks used

12. Application Fees:

Application Review Fee: \$100.00 or \$25.00 per acre (whichever is greater)
Permit Renewal Fee: \$50.00

13. Financial Guarantee:

A financial guarantee shall be required prior to the issuance of an excavation permit. The amount and form of guarantee shall be determined by the Planning Board with input from outside experts, at the cost to the applicant, as deemed necessary by the Planning Board.

14. Permit:

An excavation permit will be valid for a period of one (1) year. An application for permit renewal must be submitted to the Planning Board by the owner if excavation is to be continued beyond the termination date. The renewal application must identify and adjust all information contained in the original application that is no longer effective for the renewal period.

This is to certify that the information contained in this application is complete and true to the best of my knowledge.

Submitted by:

OWNER

Signature

Date

APPLICANT

Signature

Date

NOTE: The application must be signed by the current owner of the property.