

RD of  
Substation

## EARTH EXCAVATION REGULATIONS

Town of Hill, N.H.

### Section I. Authority

In accordance with the provisions of New Hampshire Revised Statutes Annotated, Chapter 155-E, the Hill Planning Board adopts the following regulations governing the excavation of earth and the reclamation of excavation sites in the Town of Hill, New Hampshire.

### Section II. Definitions

- 2.1 Abutter - Any person whose property adjoins or is directly across the street or stream from the land under consideration.
- 2.2 Applicant - The owner of the excavation site or agent designated by the owner in writing at the time of application.
- 2.3 Application - A properly filled out and executed Excavation Permit Application Form with complete submission of information and plans as required by statute RSA 155-E, these regulations and in the Application Form.
- 2.4 Aquifer - A water bearing stratum of permeable rock, sand, or gravel. These areas appear on statewide mapping prepared by the United States Geological Survey entitled, "Availability of Ground Water".
- 2.5 Earth - Sand, gravel, rock, soil or construction aggregate.
- 2.6 Excavation - A land area which is used, or has been used for the commercial taking of earth, including all slopes.
- 2.7 Excavation Pit Agreement - An agreement between the excavation site owner and the contractor describing the terms and procedure for material excavation.
- 2.8 Stationary Manufacturing and Processing Plants - Structures that are permanently placed and that are integral to the grading, crushing and stockpiling of excavated material.

### Section III. Application Procedure

#### 3.1 General Procedure

Whenever any Earth excavation for commercial purposes is proposed, before any land clearing is begun or the removal of any sand, gravel, rock, soil or construction aggregate and before any permit



for earth excavation is granted, the landowner or agent designated by the owner shall file with the Planning Board, at least 15 days prior to the duly noticed meeting at which the Application will be submitted and accepted for consideration by the Board, a Completed Application for a permit as required by Paragraph 3.2 hereof. The Applicant shall use an Excavation Permit Application Form supplied by the Planning Board.

A copy of the application must also be sent by the applicant to the Town Conservation Commission, if one is established.

Excluded from the permit requirement are the following activities:

- a. Excavation incidental to the lawful construction or alteration of a building or structure or the lawful construction or alteration of a parking lot or way, including a driveway, on a portion of the premises where removal occurs.
- b. Excavation for agricultural or silvicultural activities, landscaping or minor topographical adjustments.
- c. Excavation from an area contiguous to, or from contiguous land in common ownership with, a stationary manufacturing and processing plant in operation as of the effective date of RSA Chapter 155-E, which use Earth obtained from such areas.
- d. Excavation exclusively for the lawful construction, reconstruction or maintenance of a Class I, II, III, IV or V highway by or for a unit of government, provided that a copy of the Excavation Pit Agreement signed by the pit owner and the governmental unit shall be filed with the Planning Board prior to starting of the excavation. Such excavation shall not be exempt from the provisions of Paragraphs 3.3 hereof and RSA E:1D.

### 3.2 Completed Application Requirement

The Application for permit shall be signed and dated by the Applicant and shall contain at least the following information:

- a. The name and address of the owner of the land to be excavated, the name and address of the person who will actually do the excavation and the name and address of all Abutters, as indicated in town records not more than 5 days before the day of filing the application to the land on which the Excavation is proposed. Name, address and location of such Abutters shall also be shown on the Excavation Plan required by Section 6.1 hereof.
- b. An Excavation Plan in accordance with Section 6.1 hereof showing the excavation site and the scheme for removal of excavated material.



- c. A Restoration Plan in accordance with Section 6.2 hereof describing the process of site regrading and revegetation following completion of the excavation project.
- d. Such related permit approvals, other pertinent information and documents as the Planning Board may reasonably require. Such application shall constitute a Completed Application sufficient to invoke jurisdiction under RSA 36:23-I(b).

### 3.3 Prohibited Projects

The Planning Board shall not grant a permit:

- a. Where excavation is proposed below road level within 50 feet of any highway or right-of-way unless such excavation is for the purpose of said highway or right-of-way.
- b. For excavation within 50 feet of the boundary of a disapproving Abutter or within 10 feet of the boundary of an approving Abutter unless approval of the permit is requested by said Abutter.
- c. When the excavation is not permitted by zoning or other applicable ordinance.
- d. When issuance of the permit would be unduly hazardous or injurious to the public welfare.
- e. Where existing visual barriers in the areas specified in the Excavation Plan would be removed, except to provide access to the excavation.
- f. Where the excavation would substantially damage a known aquifer, so designated by the U.S. Geological Survey.
- g. When excavation is planned beneath or adjacent to inland surface waters in such manner that a permit is required from any State or Federal Agencies with jurisdiction over the premises; but the Planning Board may approve the application when all necessary permits have been obtained.
- h. Where the project cannot comply with the restoration provisions of RSA 155-E;5 and these regulations.

### 3.4 Application for Amendment

When any alteration in the scope of an excavation project for which a permit has been issued is proposed so as to affect either the size or location of the Excavation, rate of removal or Restoration Plan, the landowner or representative designated by the owner shall submit to the Planning Board an application for amendment of his excavation permit. The application for amendment shall be subject to the same approval procedure as the original Excavation Permit Application.



#### Section IV. Fees and Bonding

##### 4.1

Before the Planning Board issues a permit for excavation, the landowner or representative designated by the owner must post a bond and pay a permit fee and an excavation fee.

- a. Permit Fee - An Excavation Permit Application shall be accompanied by a permit fee of twenty-five dollars (\$25.00) plus an additional two dollars (\$2.00) for each property Abutter, to defray the cost of posting and publishing notices of the hearing and notifying the Abutters.
- b. Excavation Fee - An excavation fee of twenty-five dollars (\$25.00) for up to three acres with an additional fee of five dollars (\$5.00) for each additional acre over three, not to exceed fifty dollars (\$50.00) in total, shall be paid for an annual site inspection of the excavation project. Such fee shall be paid prior to issuance of the permit.
- c. Payment - Failing to pay any fee when due shall constitute valid grounds for the Planning Board to terminate further consideration of, and disapprove the application without a hearing.

##### 4.2

#### Bonding

*ynb* A performance bond <sup>may</sup> ~~shall~~ be required prior to the issuance of an excavation permit. The bond must be sufficient to guarantee compliance with the permit and restoration of the total excavation site, the amount to be negotiated at the time of issuing the permit, based on current per acre cost of such compliance and site restoration. All bonds shall be posted with the Town Treasurer and be in an amount of 100 percent of the estimated cost.

The bond shall not be released until after a final site inspection has been made and certification of completion of compliance and required restoration has been made in accordance with the permit and excavation and restoration plans.

#### Section V. Submission, Hearing and Notices

##### 5.1

#### Submission

A Completed Application, as required by Paragraph 3.2 hereof, shall be submitted to and accepted for consideration by the Planning Board only at a public meeting of the Board, and after:

- a. Said Application has been filed with the Board at least 15 days prior to such meeting, and
- b. Notice to Applicant, Abutters has been mailed, and Notice to the public has been posted or published, at least 10 days prior to such submission meeting in accordance with Paragraphs 5.3 hereof.



## 5.2

### Hearing

- a. Prior to the approval of a Completed Application, a public hearing shall be held as required by RSA 155-E:7 with notice to Applicant, Abutters and the public in accordance with Paragraphs 5.3 and 5.4 hereof.
- b. The public hearing shall be held within 30 days of a Completed Application submission including all required related materials. The Planning Board shall approve or disapprove the application within 20 days after the hearing or any continuation thereof, giving reasons for disapproval.

## 5.3

### Submission Notice

Submission notice to the applicant, abutters and public shall be given by the Planning Board as follows:

- a. To Abutters and the Applicant by certified mail, return receipt requested mailed at least 10 days prior to submission.
- b. To the general public at the same time by posting in at least 3 public places in the town or publication in <sup>two</sup> ~~a~~ newspapers of general circulation in the town. The notice shall give the date, time and place of the Board meeting at which the Application will be formally submitted to the Board, and shall include a general description of the proposal which is the subject of the Application and shall identify the Applicant and location of the proposal. JMB

## 5.4

### Hearing Notice

- a. For any public hearing on the Application, the same notice as required for notice of submission of the Application shall be given, except that the hearing notice shall be given at least 14 days before the hearing date.
- b. If the notice of public hearing has been included in the notice of submission or any prior notice, additional notice of that public hearing is not required, nor shall additional notice be required of an adjourned session of a hearing with proper notice of the date, time and place of the adjourned session was made known at the prior hearing.

## Section VI. General Submission Requirements

As part of the application for an excavation permit, the Applicant shall submit the following:

## 6.1

### Excavation Plan

An Excavation Plan shall be at a scale and contour interval which provides a thorough understanding of the project, indicating the specific location and extent of the proposed excavation project. JMB  
The Excavation Plan, <sup>be</sup> prepared by a Registered Land Surveyor, shall contain at least the following information: The Excavation Plan

*The Board may require that*



- a. Sketch and description of location and boundaries of the proposed Excavation, number of acres to be involved in the project, and existing topographic and property boundaries.
- b. The distances between Excavation areas and property lines.
- c. Sketch and description of new or existing visual barriers to be utilized between the excavation and public highways and Abutters.
- d. Breadth, depth and slope of proposed excavation of the project.
- e. Boundaries of any aquifer areas, as identified by the United States Geological Survey. Also, indicate any surface water body or streams adjacent to the proposed Excavation.
- f. The elevation of the highest annual average groundwater table within or next to the proposed Excavation.
- g. Sketch and description of new or existing access roads to be utilized leading to and from the proposed Excavation. Access roads shall intersect existing roads at locations that will not endanger the safety of highway users and local residents. Such locations shall be approved by the State Commissioner of Public Works and Highways or by the local Road Agent when a local road is involved.
- h. Estimated duration of the project.

## 6.2 Restoration Plan

A Restoration Plan of the excavation site shall be prepared and submitted by all applicants.

Within twelve (12) months after the expiration date indicated on the excavation permit or the completion of the excavation, whichever occurs first, the owner of the excavated land shall restore the area affected by the excavation to blend into the landscape of surrounding natural features and comply with RSA 155-E:5 and these Regulations.

The Restoration 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 Restoration Plan shall contain at least the following information:

- a. Restored topography and drainage, eliminating any standing water created during the excavation project that may constitute a hazard to health and safety.
- b. The phasing of site restoration, indicating areas and dates that restoration will be completed.



- c. Cross section or sections showing existing, excavated and restored topography configuration, including slopes to be graded to natural repose.
- d. Soil fertilization, seeding and mulching specifications and plant material to be used in restoration, including size and quantities.
- e. Plan for burial or removal of debris resulting from the excavation.

All existing excavation operators shall be notified by the Planning Board of their site restoration responsibility as required by RSA Chapter 481:3, New Hampshire Laws of 1979. Such restoration shall be performed in compliance with RSA 155-E:5 and these Regulations.

## Section VII. Site Requirements

### 7.1 Topsoil

Prior to excavation of material, all topsoil shall be stripped and stored on-site for site restoration upon the completion of the excavation project. This should be done in a phased manner to minimize possible erosion.

### 7.2 Visual Barriers

A vegetative or topographical visual barrier or buffer shall be maintained between surrounding roads, commercial and residential land uses and the excavation site wherever possible.

## Section VIII. Administration

### 8.1 Enforcement

The Planning Board or its duly authorized agent is responsible for the enforcement of these regulations as provided by RSA 155-E:10, and may suspend or revoke the excavation permit of any person who has violated any provision of his permit, these regulations or of Chapter 155-E or made a material misstatement in the permit application upon which his permit was granted. Such suspension or revocation shall be subject to a motion for a rehearing thereon and appeal in accordance with RSA 155-E:9.

### 8.2 Appeals

Any interested person, affected by a decision of the Planning Board, disapproving or approving an Excavation Permit Application, may appeal to the Planning Board for a rehearing on such decision as provided by RSA 155-E:9. Appeals from the Planning Board's decision on such motion for rehearing may be made under RSA 31:77-87.



8.3 Other Regulations

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

8.4 Adoption

These regulations shall become effective after a public hearing, adoption and certification by the Planning Board placed on file with the Board of Selectmen, the Town Clerk and the Merrimack County Registry of Deeds.

Adoption Verification

These regulations have been adopted by the Hill Planning Board on August 17, 1981, after a duly noticed public hearing held on August 17, 1981.

Planning Board Certification

Donald W. McNeish

CHAIRMAN

John A. Therry

Marion L. Wilson

Jan P. Chandler