

***EXCAVATION REGULATION
FOR THE TOWN OF WOODSTOCK
NEW HAMPSHIRE***

Planning Board Approval and Certification:

Date: _____

Bonnie Ham, Chair

Margaret Aranyosi

Robert McAfee

Patrick Griffin

Michael Donahue

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Section I: Authority and Adoption

Chapter 155-E of the New Hampshire Revised Statutes Annotated stipulates that, with some exceptions, all earth excavations in the State are subject to regulation from the local municipality in which the operation occurs. The Planning Board adopts the following regulations to govern the excavation of earth materials in the Town of Woodstock after a duly noticed public hearing held on November 19, 2018.

Planning Board Certification: (Signatures on file)

Bonnie Ham, Chair
Margaret Aranyosi
Robert McAfee
Patrick Griffin

Michael Donahue
Hanna Kinne
Scott Rice

Filed with the Board of Selectmen: _____

Filed with Town Clerk: _____

Filed with Grafton County Registry of Deeds: _____

Filed with NH OEP: _____

Section II: Purpose and Scope

The goals of this regulation are to: provide for reasonable opportunities for excavation; minimize safety hazards which can be created by open excavations; ensure that the public health and welfare will be safeguarded; and protect natural resources and the environment. For the purpose of achieving these goals, no earth materials in the Town shall be excavated or removed except in conformance with this regulation.

This regulation supplements the provisions of RSA 155-E and provides further clarification of the statutory requirements and their application in the municipality of Woodstock, NH. They are adopted as provided in RSA 155-E:11. And, as adopted, whenever the local regulation differs from the most recent provisions of RSA 155-E, those which impose a greater restriction or higher standard shall be controlling.

Applicants should familiarize themselves with both RSA 155-E and this regulation to be fully informed as to permit requirements.

SECTION III – DEFINITIONS

A. **Abutter** means:

- (1) Any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration.
- (2) For the purposes of receiving testimony only, and not for purposes of notification, the term “abutter” shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration.
- (3) In the case of an abutting property being under a condominium or other collective form of ownership, the term “abutter” means the officers of the collective or association, as defined in RSA 356-B: 3, XXIII.
- (4) For the purposes of notification and receiving testimony, abutter means all affected towns and the regional planning commission(s) in the case of a development having regional impact, as determined by the Board.

B. **Applicant** means the owner of the property to be excavated or the owner's agent, so designated in writing as part of the excavation application.

C. **Application** - A complete submission of information and plans as required by the statute RSA 155-E, local regulations, and in the excavation permit application.

D. **Application Fee** - \$150 per application/re-application.

E. **Aquifer** - those areas designated by blue shading or hatching which appear on state-wide mapping prepared by the United States Geological Survey.

F. **Board** - means the Woodstock Planning Board.

G. **Commercial Excavation** - means excavation of earth intended for commerce, excluding excavation that is strictly conducted for the purpose of alteration, renovation, improvement or construction to the property on which the excavation takes place.

H. **Contiguous** - means land whose perimeter can be circumscribed without interruption in common ownership except for roads or other easements, in a single town, except in the case of stationary manufacturing plants, whose perimeter is not defined by town boundaries.

I. **Excavation Permit** - A permit issued by the Planning Board (regulator) allowing the excavation of material at a specific site, in a manner consistent with RSA 155-E and the local regulation for the period designated on the permit itself.

- J. **Excavation Permit Application** - A form and associated documents that contain excavation project information.
- K. **Existing Excavation** - means any excavation which lawfully existed as of August 24, 1979, from which earth material of sufficient weight or volume to be commercially useful has been removed during the 2-year period before August 24, 1979. All pit owners must comply with RSA 155-E: 2,I, (d), otherwise pit is determined to have been abandoned.
- L. **Incidental to Excavation** (subordinate and minor to excavation - exempt from permit)
- 1) Excavation that is exclusively incidental to the lawful construction or alteration of a building or structure, a parking lot or way including a driveway on a portion of the premises when total earth removal quantity is not more than 1000 cubic yards. This excavation cannot be started however until all required state and local permits have been issued.
 - 2) Excavation that is incidental to agricultural or silvicultural activities, normal landscaping or minor topographical adjustment.
 - 3) In the event of questions, the Board shall determine what is incidental.
- M. **Reclamation** - means the reclaiming of an excavation site to a standard at least equal to those defined in 155-E: 5 and 5-a.
- N. **Reclamation Bond** - a surety posted by the property owner prior to issuance of a permit, the amount of which guarantees reclamation of the pit site in accordance with the standards defined in "**RECLAMATION**". This bond is only intended to guarantee reclamation and is not for the purpose of liability.
- O. **Owner** - An individual or corporation who claims ownership of the land containing the excavation site, by virtue of a properly executed deed filed at the County Registry of Deeds.

SECTION IV. EXCAVATION PERMIT APPLICATION

- A. The applicant shall submit to the Planning Board and the Conservation Commission the information and documents specified in **RSA 155-E: 3** and in the Excavation Permit Application.
- B. The application submission shall include:
1. The application form containing the owner's name and address, location of project, abutters' names and addresses, access routes, etc. (See Woodstock Excavation Permit Application and Abutters List.)
 2. An excavation plan, showing the excavation site and the scheme for removal of excavated material.

3. A reclamation plan, describing the process of site grading and revegetation following completion of the excavation project.
4. Related permit approvals or other documents pertinent to the excavation proposal.

SECTION V. SUBMISSION DOCUMENTS

- A. Excavation Plan. The applicant shall submit a plan describing the specific location and extent of the proposed excavation project. The excavation plan shall include existing topographic and site boundary information compiled and prepared by a Registered Land Surveyor. The applicant may need to submit a plan prepared by an engineer if determined as necessary by the Planning Board. Other information which must be contained in the plan, unless waived by the Board, includes:
1. Proposed topography at the completion of excavation (prior to reclamation).
 2. Distances between disturbed areas and closest property lines and all dwellings within 150' of proposed excavation.
 3. Existing visual barriers to be retained.
 4. Aquifer limits/location as identified by U.S. Geological Survey.
 5. Lakes, streams, ponds, significant natural and man-made features.
 6. Estimation of the project duration.
 7. The names of abutting land owners.
 8. A photograph(s) of the existing site.
 9. Notations as to excavation site acreage and volumes of material to be removed.
 10. The location and design of site access roads leading to and from public highways.
 11. The elevation of the highest annual average groundwater table within or next to the proposed excavation.
 12. Test pits that extend to either the seasonal high water table, ledge, or a minimum of six feet below the maximum proposed excavation depth, including location and soils data; boring logs may be submitted separately.
 13. The plan shall be drawn at a scale and contour interval which allows a thorough understanding of project scope. The Board may require sectional drawings.
 14. Proposed hours of operation.
 15. Alteration of terrain permit, if applicable.

B. Reclamation Plan.

1. The reclamation plan shall meet, at a minimum, the requirements set forth in RSA 155-E:5. The character of the reclaimed landscape shall blend with the surrounding natural features.

2. All top soil needed to reclaim the property should be stored on site. Restoration should be with natural materials specific to the site.
3. 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.
4. The reclamation plan shall contain the following information:
 - a. Reclaimed topography and drainage at the completion of the reclamation phase.
 - b. The phasing of site reclamation showing designated areas and completion dates.
 - c. Soil conditioning specifications.
 - d. Seeding and mulching specifications.
 - e. The plant materials to be used in reclamation, their quantities and sizes.
 - f. Sections showing existing, excavated and reclaimed topography configuration.
5. Incremental Reclamation, as described in 155-E: 5-a, shall be followed where appropriate.

SECTION VI. PROJECT SITE REQUIREMENTS

The following site development standards should be incorporated into the site excavation plan and/or conditions for permit approval.

- A. Excavation Site Access Roads Access roads leading to and from the excavation site shall intersect existing streets and roads at locations that have been duly approved by state or local officials and in a manner that will not endanger the safety of highway users and local residents. The provisions of RSA 249:17 and 18 (DOT Driveway Permits) shall be adhered to by the applicant when applicable. A copy of the permit shall be provided to the Board.
- B. Traffic Circulation and Truck Routes Permit approval shall be conditioned on compliance by the applicant with street and highway regulations promulgated by Federal, state and local units. The Board shall consider the impact on traffic, noise (from truck traffic and equipment operation), and hours of operation as part of the permitting process.
- C. Excavation Within Aquifer Areas (RSA 155-E: 4 VI) No excavation project shall substantially damage any aquifer identified on mapping prepared by the U.S. Geological Survey. The Board shall determine whether or not substantial damage to the aquifer will be incurred by considering the following criteria: 1. The excavation shall not detrimentally affect the quality of the groundwater contained in the aquifer by directly contributing to pollution or by increasing the long-term susceptibility of the

aquifer to potential pollutants 2. The excavation shall not cause a significant reduction in the long-term volume of water contained in the aquifer or in the storage capacity of the aquifer.

The Board may require that the applicant provide data or reports prepared by a professional engineer or groundwater consultant which assess the potential aquifer damage caused by the proposed excavation project.

- D. Visual Barriers. A vegetative or topographical buffer shall be maintained between surrounding streets, highways, commercial and residential land uses and the excavation site. The Board shall direct the applicant as to specific requirements for the proposed excavation site. To the extent possible, existing barriers should be retained for the duration of the excavation project.
- E. Noise Abatement. The Board will consider methods of noise abatement, if necessary, when noise would jeopardize the health and welfare of the residents of surrounding properties and/or degrades the quality of life of residents of Woodstock, but without unduly prohibiting, limiting, or otherwise regulating the ability to use noise-producing equipment and pursue routine earth excavation operations.
- F. Markers. The applicant must install pre-approved visible barrier markers at the site to denote perimeter of the approved site.

SECTION VII. APPLICATION PROCEDURE – INITIAL PERMIT

- A. Preparation and Submission. The applicant shall adhere to RSA 155-E:3 and these regulations during the process of application preparation and submittal. The completed application shall be submitted with five (5) paper copies. The submission shall include the application form, excavation plan, restoration plan, and any other supporting documents from other agencies required to review the application.
- B. Application Fee. The application fee as well as any mailing or recording fees necessary shall be paid to the Board by the applicant at the time of filing.
- C. Bonding. The Bond Amount, established by the Board to cover reclamation of the site, shall be based on a rate of \$25,000 per acre. Given the actual acreage of the site, this figure shall be prorated accordingly. The bond amount shall be adequate to reclaim the excavation site in accordance with RSA 155-E:5. The bond will be returned to the applicant when reclamation work has been completed by the applicant and the Board has conducted a final satisfactory site inspection.
- D. Action on Permit. - As specified in RSA 155-E: 7, the Board shall hold a public hearing within 30 days after receiving a complete application, noticing all abutters, Conservation Commission and the Woodstock Selectmen. Notice of the public hearing will be posted in 3 public places. Within 20 days of the hearing, the Board shall

render a decision to grant or deny the requested permit. Prior to granting of a permit, the Board will conduct a pre-inspection site visit, photograph the proposed site, be in receipt of the appropriate bonding, and be in receipt of necessary DES and EPA permits, DOT driveway permits, any other necessary state, federal, or local permissions, and be in compliance with municipal, state, and federal laws. The excavation permit approval by the Board shall cite all permit issuance conditions, on a weatherable permit sign depicting the location of the excavation site, the signature(s) of the Board, any conditions and the permit expiration date. The permit sign shall be posted in a secured manner at a prominent location near the excavation site. If the application is denied, the owner shall be notified, in writing, by the Board stating the reasons for the denial. A permit will not be issued until proof of Bond is received.

- E. Consultation. The Board shall have the discretion to consult with an expert for “peer review” of any site over one acre. The consultation, paid for by the applicant, could include, but is not limited to, review of the application, site review, and annual inspections.
- F. Permit Validity The excavation permit shall be valid for a period of five (5) years.

SECTION VIII. APPLICATION FOR SUBSEQUENT PERMITS AND AMENDMENT OF EXCAVATION PERMIT

A. Subsequent Permit Applications

1. The applicant may apply for subsequent permits for the same excavation pit and continue the excavation operations provided there are no changes to the original application and the excavation operations conform with the excavation regulation.
2. The procedure for subsequent permits is to submit a new application to the Board in the manner set forth in Section IV of these regulations. These forms must include: the application form containing the owner's name and address, location of project, abutters' names and addresses, access routes, etc. These documents may be copied from the initial permit applications, if there are no changes. However, current abutters must be duly noticed of the new application, a hearing must be held in accordance with Section VII:D above, and all required fees must be paid prior to the hearing. If for any reason they are not on file, the Board reserves the right to require the applicant to submit the missing documents with the current permit application.
3. Fees and bonding may be adjusted by the Board for the subsequent permit period.
4. All permit requests must comply with current RSA's and Woodstock Excavation Regulations.

- B. Permit Amendment When any excavation permit is proposed to be altered so as to affect either the size or location of the excavation, the rate of removal or the plan for reclamation, the applicant shall submit an application for amendment of its excavation permit which application shall be subject to approval in the same manner as provided for an excavation permit. RSA 155-E: 6.

SECTION IX. ADMINISTRATION AND ENFORCEMENT/INSPECTIONS

- A. Fees.
1. Reasonable Fees may be imposed to cover the costs of notice under RSA 155-E:8, and to cover administrative expenses, document review and any other costs which may be incurred during the permit process. The applicant will also be assessed any annual fees associated with annual inspections and to address noncompliance issues.
 2. All fees shall be remitted to the Board at the time of the application.
- B. Enforcement (also refer to RSA 155-E: 10).
Inspections:
1. The Board will conduct site inspections on the following schedule to verify permit compliance:
 - a. Annual site inspections of all permitted pits in Woodstock, with photographs, shall be done each September unless a more frequent site visitation is necessary due to special characteristics of the excavation and/or reclamation plans.
 - b. Proper notice – the Board shall give notice to the pit owner at least 5 days prior to scheduled site visits.
 - c. Subsequent Permit – when an application is received requesting a subsequent permit, a site inspection will take place with photographs **in addition to** the annual inspection.
 - d. Non-compliance (as determined by the Board) with the existing pit permit may result in refusal of a subsequent permit. RSA 155-E:10
- C. Other Regulations. Where these regulations are in conflict with other local ordinances and regulations, the more stringent shall apply.
- D. Appeal. See RSA 155-E:9.
- E. Amendments. These regulations may be amended by the Board, but only following a public hearing on the proposed changes. The Chairman or Secretary of the Planning Board shall transmit a record of any changes so authorized to the Register of Deeds of Grafton County and the Office of Energy and Planning.

- F. Effective Date. These regulations shall become effective upon passage and proper filing in line with the Bond issue date.