

EXCAVATION REGULATIONS TOWN OF DEERFIELD, NEW HAMPSHIRE

As revised and adopted April 5, 1989

These regulations supplement the provisions of RSA 155-E and provide further clarification of the statutory requirements and their application in the Town of Deerfield. They are adopted as provided in RSA 155-E:11, RSA 36:21-a and RSA 36:22. Applicants should familiarize themselves with both RSA 155-E and these regulations to be fully informed as to permit requirements. The Board may waive certain requirements for an application for an excavation of more than one-quarter acre.

I. DEFINITIONS:

Abutter: Any person who owns land within 200 feet of the boundaries of the land under consideration. A way, as defined in RSA 259:1, XXXV, shall not be considered to be barrier, but shall be included in the distance requirement for purposes of determining whether a person is an abutter, (RSA 36:11).

Applicant: Owner of the excavation or the owner's designee.

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

Aquifer: Those areas designated by blue shading or hatching which appear on statewide mapping prepared by the United States Geological Survey entitled: "Availability of Ground Water ...".

Excavation Fee (RSA 155-E: 8): A fee of \$50.00 submitted by the applicant to the Planning Board, following the public hearing and prior to the issuance of an excavation permit, to defray the cost of processing the application.

Excavation Permit Application: A form and associated document which contain excavation project information. The application must be submitted in duplicate to the Planning Board and the Conservation Commission.

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.

Permit Fee (RSA 155- E: 11): A fee submitted by the applicant to the Planning Board, as one of the prerequisites to issuance of an excavation permit, for the purpose of defraying costs associated with permit compliance inspections. The fee is established by the Planning Board based on the area (acreage) and duration of the excavation project.

Pit Agreement: An agreement between the excavation site owner and the contractor describing the procedure for material excavation (see Section 106.02 of "Standard Specification for Roads and Bridges" published by the New Hampshire Department of Public Works and Highways").

Stationary Manufacturing and Processing Plants: Structural improvements that are permanently placed and that are integral to the grading, crushing and stockpiling of excavated material.

II. 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, location of the project abutter's names and addresses, access routes, etc.
 - 2. An excavation plan showing the excavation site and the scheme for removal of the excavated material.
 - 3. A restoration plan describing the process of site grading and re-vegetation following completion of the excavation project, and,
 - 4. Related permit approvals or other documents pertinent to the excavation proposal.

III. SUBMISSION DOCUMENTS:

- A. **Excavation Plan:** The Owner/Applicant shall submit a plan at scale of not less than one inch equals one hundred feet- 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 plan shall be prepared by a registered professional engineer licensed in the state of New Hampshire. Other information which must be contained in the plan is:
 - 1. Proposed topography at the completion of excavation (prior to restoration),
 - 2. Distances between disturbed areas and closest property lines,
 - 3. Zoning district(s),
 - 4. Existing visual barrier to be retained,
 - 5. Aquifer limits/location as identified by the U.S. Geological Survey,
 - 6. Lakes, streams, significant natural and man-made features,
 - 7. A description of project duration and phasing,
 - 8. The names of abutting land owners,
 - 9. Photograph(s) of existing site,

10. Notation as to the excavation site acreage and volumes of material to be removed.
11. The location and design of site access roads leading to and from public highways.
12. The elevation of the highest annual average ground-water table within or next to the proposed excavation.
13. Topsoil storage sites during the excavation phase,
14. The plan shall be drawn at a scale and contour interval which allows a thorough understanding of project scope. Sectional drawings may be required by the Planning Board.
15. Permanent horizontal and vertical control points to adequately control the excavation,
16. A hydrogeological report, prepared by a qualified scientist describing the property to be excavated and what impact the proposed excavation will have on the groundwater of the site may be required. If a report is required by the Board, qualifications shall be submitted to the Board for approval.
17. A locus map at a scale of one inch 1000 feet,
18. Boring logs or test pit data that extends to either seasonal high-water table, ledge or a minimum of six feet below the maximum proposed excavation depth, including location and soils data; groundwater contours; characterization of groundwater quality.

B. Restoration Plan: Excavation site restoration plan shall be prepared and submitted by all new excavation and existing excavation site owners except as noted in RSA 155- E: 2. As required by Chapter 481: 3, New Hampshire laws for 1979, the owners of existing excavation operations must perform restoration in compliance with RSA 155- E: 5. The planning Board shall notify all existing excavation operations owners of their site restoration responsibility. Owners of existing excavation operations shall submit a restoration plan and appropriate bonding to the Planning Board within six (6) months of their notification. The Excavation Permit Application Form shall be used for this submission.

The restoration plan shall meet, at a minimum, the requirements set forth in RSA 155-E: 5. The character of the restored landscape shall blend with the surrounding natural features. The restored site shall be rendered in a condition that will preclude its future use in a manner consistent with the zoning ordinance and map.

The restoration 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 shall contain the following information:

1. Seal and Signature of engineer register in the State of New Hampshire,

2. Restored topography and drainage at the completion of the restoration phase,
3. The phasing of site restoration showing designated areas and completion dates,
4. Soil conditioning specifications,
5. Seeding and mulching specification,
6. The plant materials to be used in restoration, their quantities and sizes,
7. Cross sections showing existing, excavated and restored topography configuration, and
8. Cost estimates for restoration of the site.

IV. **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 the 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 ("Highway Access") shall be adhered to by the applicant and shall be shown on the excavation plan.
- B. **Traffic Circulation and Truck Routes (RSA 155-E: III):** Permit approval shall be conditioned on compliance by the Applicant with street and highway regulations promulgated by Federal, State and Local units.
- 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 Planning 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 ground-water 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 Planning Board may require that the Applicant provide data or reports prepared by a Professional Engineer or Ground-water consultant which assesses the potential aquifer damage caused by the proposed excavation project.

- D. **Topsoil Cover:** Prior to the withdrawal of material at a new excavation site, topsoil material shall be stripped and stored for site restoration use when the excavation project is completed. This should be undertaken in a phased manner

to minimize erosion potential. Topsoil may be revegetated during the period of storage.

- E. **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.
- F. **Visual Barriers:** A vegetative or topographical buffer shall be maintained between surrounding streets, highways, commercial and residential land uses and the excavation sites. The Planning Board shall direct the applicant as to specific requirements for the proposed excavation site. To the extent possible, existing barriers should be retained as the excavation project is conducted.
- G. **Stump Disposal:** All stumps removed from the area to be excavated shall be disposed of in accordance with requirements of the New Hampshire Department of Environmental Services. No permit shall be issued unless a disposal site has been approved or agreement is obtained for disposal off-site at an approved disposal area.
- H. **Vegetative Cover:** Portions of the site shall have trees or shrubs planted to provide screening, erosion control and for the restoration of the natural beauty of the site. The applicant shall provide a report from an agronomist on the type of vegetative cover to be placed on the site.
- I. **Topography:** Upon completion of the restoration operations, the topography of the land shall be left so that water draining from the site leaves the property at the original, natural drainage points and in the natural rate of flow.
- J. **Slopes:** All restored slopes shall be left at a maximum slope of 3:1 (three horizontal feet for each one foot of vertical drop) unless it can be clearly demonstrated by the applicant that a steeper slope can be adequately vegetated and stabilized. Under no case shall a slope be left steeper than 2:1.

V. **PROHIBITED PROJECTS**

The regulator shall not grant a permit:

- A. Where an excavation is proposed below road level within 50 feet of any highway right of way unless such excavation is for the purpose of said highway;
- 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 is requested by said abutter;
- C. For excavation within 250 feet of an occupied dwelling;
- D. When the excavation is not permitted by zoning or other applicable ordinance;
- E. When the issuance of the permit would be unduly hazardous or injurious to the public welfare;
- F. Where existing visual barriers would be removed, except to provide access to the excavation;
- G. Where excavation would damage a known aquifer, so designated by the U.S. Geological Survey, or would be lower than four feet vertical to the known aquifer or within 4 feet, vertical, to seasonal high water;

- H. For excavation within 75 feet of wetlands (poorly or very poorly drained soils), streams or open bodies of water. The natural vegetation shall be retained within this 75 foot buffer. A high intensity soil survey may be required by the Planning Board to accurately identify wetland areas.

VI. APPLICATION PROCEDURE

- 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 on duplicate form (one copy to each) to the Deerfield Planning Board as well as the Deerfield Conservation Commission

Applicant shall be responsible for reasonable costs incurred by the Planning Board in association with application.

- B. **Excavation Fee:** An excavation fee of \$50.00 shall be paid to the Planning Board by the Applicant prior to issuance of excavation permit.
- C. **Bonding:** The Planning Board shall establish the amount of the performance surety in the form of an irrevocable letter of credit or cash prior to issuance of the excavation permit. The surety amount shall be adequate to restore the excavation site in accordance with RSA 155-E:5. The surety will be returned to the applicant when restoration work has been completed and a final satisfactory site inspection has been conducted by the Planning Board.
- D. **Action on Permit:** Within 20 days of the hearing in RSA 155 E: 7, the Planning Board shall make a decision to grant or deny the requested permit. Excavation permit approval by the Planning Board shall be in the form of a memorandum citing all permit issuance conditions, accompanied by a weatherable permit sign depicting the location of the excavation site, the signature(s) of the Planning Board 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 Planning Board, stating the reasons for denial.
- E. **Pit Agreement:** A pit agreement between the owner, the contractor and the governmental unit shall be executed whenever the excavated material is to be used in the construction or modification of Class I, II, III, IV, V highways. A copy of the agreement shall be submitted for acceptance to the Planning Board. Excavation shall not proceed until the Planning Board has accepted the pit agreement and has been placed in an assured position that the excavation site will be restored in conformance with RSA 155-E: 5. The pit agreement for class IV and V highway construction projects shall be essentially the same as the pit agreement set forth in the of "Standard Specifications for Highways and

Bridges" prepared by the New Hampshire Department of Public Works and Highways".

- F. **Permit Validity:** The excavation permit shall be valid for a period of one year.
- G. **Size of Permitted Operations:** No excavation within the site shall exceed five acres; operators shall begin reclamation prior to or concurrent with beginning excavation of next five acre parcel.

VII. **RENEWAL AND AMENDMENT OF EXCAVATION PERMIT**

- A. **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 II of these regulations. The excavation permit application need only describe those information items which have changes in content from the previous application submission. Fees and bonding will be established by the Planning Board for the renewal period.
- B. **Permit Amendment:** If adherence to the permit conditions (including the excavation/restoration plans) cannot be maintained, the owner shall apply to the Planning Board for a permit amendment. An application shall be completed and submitted to the Planning Board in a manner similar to that provided in Section II of these regulations.

VIII. **ADMINISTRATION AND ENFORCEMENT**

- A. **Permit Fee Schedule:** A fee of \$500 per disturbed acre for the first 5 acres. \$300 per acre for the next 5 acres, \$200 per acre for the next 10 acres and \$100 per acre for all land in excess of 20 acres shall be levied by the Planning Board at the time of approval to cover the costs of site visits made by the Board or their agent. These site visits shall be made by the Planning Board (or its designees) to affirm compliance with the excavation permit conditions and restoration plan.
- B. **Enforcement (Also refer to RSA 155-E:10):** The Planning Board (or its designee) will conduct site inspections to verify compliance on an annual basis unless a more frequent site visitation is necessary due to special characteristics of the excavation/restoration plans.
- C. **Other Regulations:** Where these regulations are in conflict with other local ordinances and/or regulations, the more stringent shall apply.
- D. These regulations shall become effective upon passage and proper filing.

These regulations as revised were adopted by unanimous decision on April 5, 1989, by the Deerfield Planning Board following a duly noticed public hearing of October 6, 1988.