

THORNTON EXCAVATION REGULATION

REVISED 6-26-86

1. PURPOSE: To cope with the recognized safety hazards which open excavations create; to safeguard the public health and welfare; to reserve our natural assets of soil, water, forests, and wildlife; to maintain aesthetic features of our environment; to prevent land and water pollution; and to promote soil stabilization. They are adopted as provided in RSA 155-E, RSA 674:36.

DEFINITIONS

ABUTTER. Any person who owns land within 200 feet of the boundaries of the land under consideration. A way, as defined in RSA 59:1, XXXV, shall not be considered a barrier, but shall be included in the distance requirement for the purposes of determining whether a person is an abutter (RSA 673:3). Abutters shall include all persons who abutt access roads between the land to be excavated and a town road or state highway.

APPLICANT. Owner of the excavation site or the owner's designee.
If the owner is a partnership or corporation. The partners, or stockholders shall be identified.

APPLICATION. A complete submission of information and plans as required by the statute 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".

APPLICATION FEE. (RSA 155E:8). A fee of \$50.00 submitted with the application by the applicant to the regulator, to defray the cost of processing the application, plus mailing fees for abutters.

EXCAVATION. A land area which is used, or has been used, for the Commercial taking of earth including all slopes.

EXCAVATION PERMIT (RSA 155-E:8). A permit issued by the regulator allowing the excavation of material at a specific site, in a manner consistent with RSA 155-E and local regulations for the period designated on the permit itself.

EXCAVATION PERMIT APPLICATION. A form and all associated documents needed to conform with RSA-E and these regulations which contain excavation project information. The application must be submitted in duplicate to the regulator.

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.

PIT AGREEMENT. An agreement between the excavation site owner and the contractor describing the procedure for material excavation.

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

II. EXCAVATION PERMIT APPLICATION

A. The applicant shall submit to the regulator the information and documents specified in RSA 155-E:3 and the Excavation Permit Application. Applicants should familiarize themselves with the RSA 155-E and these regulations. A public hearing will not be scheduled until the application is complete. An application will not be complete until all provisions of RSA 155-E including regulations adopted under 155-E:11, have been compiled with.

B. The Application submission shall include:

1. The Application form as supplied by the Thornton Planning Board, containing the owner's name location of project, abutters' names and addresses, access routes, etc.
2. An excavation plan showing the excavation site and the scheme for removal of excavated material.

3. A restoration plan describing the process of site topography and revegetation 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 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. Other information which must be contained in the plan is:

1. Existing topography and proposed topography at 5' intervals at the completion of excavation (prior to restoration), the regulator may require 2' intervals.
2. Distances between disturbed areas and closest property lines
3. Zoning district (s)
4. Existing visual barriers to be retained
5. Aquifer limits/location as indentified by the US Geological Survey
6. Lakes, streams, significant natural and man-made features
7. A description of project duration and phasing
8. The names and addresses of abutters, as defined above
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 the public highways
11. The elevation of the highest annual average ground water table within or next to the proposed excavation.
12. Topsoil storage sites during the excavation phase.
13. 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 regulator.

B. State Agency Approvals. Permits from the Water Supply Pollution Control Commission, Wetlands Boards, or Resources Boards or letter from said Boards stating a permit isn't required.

C. Restoration Plan. Excavation site restoration plans shall be prepared and submitted by all new and existing excavation site owners except as noted in RSA 155-E:2.

As required by Chapter 481:3, New Hampshire laws of 1979, the owners of existing excavation operations as of 08/24/79 must perform restoration in compliance with RSA 155-E:5. The regulator shall notify all existing excavation owners of their site restoration responsibility. Owners of existing excavation operations shall submit a restoration plan and appropriate bonding to the regulator 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 natural restored landscape shall blend with the surrounding features. The restored site shall be rendered in a condition that will not preclude its future use in a manner consistent with the zoning ordinance and map.

The restoration plan shall contain the following information:

1. Restored topography and drainage at the completion of the restoration phase.

2. The phasing of site restoration showing designated areas

and completion dates.

3. Soil conditioning specifications.

4. Seeding and mulching specifications.

5. The plant materials to be used in restoration,
their quantities and sizes.

6. Sections showing existing, excavated and
restored topography configuration.

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 street 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 ("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:3 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-E:4 VI). No excavation project shall substantially damage any aquifer identified on mapping prepared by the US Geological Survey if available. The regulator 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 regulator may require that the applicant provide data or reports prepared by a Professional Engineer or ground water consultant which assess 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 shall 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 may be required between surrounding street, highways, commercial, and residential land uses and the excavation site. The regulator 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. Hours of Operation.

1. The regulator shall establish hour and days of operation for an excavation pit in the Town of Thornton on a case by case basis and said hours shall be listed on the posted permit. This provision is subject to enforcement under RSA 155-E:10

2. The regulator may require the permittee to maintain roads that excavated material is transported over and may require a bond or surety to ensure compliance.

H. Excavation within 50 feet (but not closer than 10 feet) of a boundary must have written approval of the abutter.

I. The permittee shall make provisions for dust control and said provisions may be a condition of permit approval.

J. Permittee shall repair any damage to town or state highway that is specifically attributable to the operation of the permittee.

V. 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 in duplicate form.

B. Application Fee. An application fee of \$50.00 shall be paid to the regulator by the applicant prior to processing of the application.

C. Bonding. The regulator has established the amount of the performance bond to be not less than \$5000.00 per acre.

The bond amount shall be adequate to restore the excavation site in accordance with RSA 155-E:5. The bond will be returned to the applicant when restoration work has been completed and a final satisfactory site inspection has been conducted by the regulator.

D. Action on Application. A public hearing will be held within 30 days of the date that the regulator votes that the application is complete. Within 20 days of the hearing required in RSA 155E:7, the regulator shall make a decision to grant or deny the requested permit. Excavation approval by the regulator shall be in the form of a memorandum citing all permit issuance conditions, accompanied by a weatherable permit signed depicting the location of the excavation site, signature (s) of the regulator 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 regulator stating the reasons for the denial.

E. Permit Validity. The excavation permit shall be valid for a period of 2 years maximum.

VI A permit is not required for excavation performed exclusively for the lawful construction, reconstruction or maintenance of a class I, II, III, IV or V highway by a 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, provided that a copy of the pit agreement executed by the owner, the agent and governmental unit shall be filed with and accepted by the regulator prior to start of excavation but such excavation

and shall not be exempt from the provisions of RSA 155-E:4
155-E:10.

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 regulator in the manner set forth in Section II of these regulations. The excavation permit application need only describe those information items which have changed in content from the previous application by the regulator 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 regulator for a permit amendment. An application shall be completed and submitted to the regulator in a manner, constant with these regulations.

VIII ADMINISTRATION AND ENFORCEMENT

A. The regulator or its duly authorized agent may suspend or revoke the permit of any person who has violated any provision of his permit or this chapter or made a material misstatement in the application upon which his permit was granted. Such suspension or revocation shall be subject to a motion for rehearing thereon and appeal in accordance with RSA 155-E:9.

The regulator or a person affected hereby may seek an order from the Superior Court that the violator cease and desist from violation of any provision of his permit or this chapter

compliance and take such action as may be necessary to be in
Court issues with his permit and this chapter. If the Superior
affected, as the such an order the regulator or the person
have judgment for all costs and attorney case may be, shall
fees in seeking such an order.

chapter, a To ascertain if there is compliance with this
hereunder, the permit issue hereunder or an order issued
upon any regulator or its duly authorized agent may enter
excavation land on which there is reason to believe an
effect is being conducted or has been conducted since the
date of this chapter.

permit Whoever violates any provision of this chapter, a
hereunder shall be issued hereunder or a valid order issued
guilty of a misdemeanor if a natural person, or
guilty of a felony if any other person.

B. Enforcement (also refer to RSA155-E:10). The Board
may conduct site inspections to verify permit compliance on an
annual basis unless a more frequent site visitation is
necessary due to special characteristics of the excavation and /or
restoration plans.

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:

E. Amendments. These regulations may be amended by
the Board but only following public on the proposed changes.

F. Effective Date. These regulations shall become effective upon passage and proper filing.

IX ADOPTION VERIFICATION

These regulations have been adopted by the Thornton Planning Board on _____ After a duly public hearing held on _____.

Planning Board Certification:

Secretary

Chairman

=====

Filed with the Board of Selectmen:

Filed with the Town
Clerk: _____

X. RATE SCHEDULE

A. Application Fee shall be \$50.00 per application.

B. Bond Amount: Shall be not less than \$5000. per acre.

PERMIT APPLICATION INFORMATION

FOR EXCAVATION

THORNTON N.H.

Excavation regulations have been adopted by the municipality of Thornton as provided in RSA 155-E-11, RSA 674:36. These regulations supplement the provisions of RSA 155-E and provide clarification of the statutory requirements and their application in the municipality. Applicants should familiarize themselves with both RSA 155-E and excavation regulations in order to be fully informed as to permit requirements.

I. Permit Required. No owner shall permit any excavation of earth on their premises without first obtaining a permit therefore, except in the following instances as stated in RSA 155-E2:

A. Excavation that is 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 that is incidental to agricultural or silvacultural activities normal landscaping or minor topographical adjustment.

C. Excavation from an area contiguous to or from contiguous land in common ownership with stationary manufacturing and processing plants in operation as of the effective date of this chapter which use earth obtained from such areas.

D. Excavation from a granite quarry.

E. Excavation performed exclusively for the lawful construction, reconstruction or maintenance of a Class I, II, III, IV, or V highway or an agent of the unit of government which has a contract for the construction, reconstruction or maintenance of the highway, provided that a copy of the pit agreement executed owner, the agent and the governmental unit shall be filed with and accepted by the regulator prior to start of excavation but such excavation shall not be exempt from the provisions of RSA 155-E:4 and 155-E:10.

II. RSA 155-E:4 specifically prohibits the following projects from receiving a permit for excavation:

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. When the excavation is not permitted by zoning or other applicable ordinance

C. When the issuance of the permit would be unduly hazardous or injurious to the public welfare.

D. Where existing visual barriers in the areas specified in RSA 155-D:3 III would be removed, except to provide access to the excavation; Note: Thornton Regulator may require visual barrier.

E. Where the excavation would substantially damage a known aquifer, so designated by the United States Geological Survey.

F. When excavation is planned beneath or adjacent to inland surface waters in such manner that a permit is required from the Water Resources Board, the Special Board on Dredge and Fill or other state or federal agencies with jurisdiction over the premises; but the regulator may approve the application when all necessary permits have been obtained; or

G. Where the project cannot comply with the restoration provisions (of RSA 155-E:5).

III. Excavation pit restoration must be undertaken by:

Existing pit owners (NH Law 481:3,1979)

Pits used for highway excavation (RSA 155-E:2)

All newly opened pits (RSA 155-E:2)

IV. State permits may be required under 155-E:4

1. Water Supply Pollution Control Commission

Site Specific Permit or Alteration of Terrain Permit

is required whenever 100,000 sq. ft. of contiguous area is disturbed.

2. Wetlands Board Permit

Required whenever a wetland is involved in or around the borders.

3. Water Resources Board

Required if there is any involvement with wetlands, streams or excavation below ground water level.

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