

## **REGULATIONS GOVERNING EARTH EXCAVATIONS**

### **TOWN OF GREENFIELD, NEW HAMPSHIRE**

Adopted: November 25, 1990

#### **SECTION I. AUTHORITY**

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. Pursuant to the authority vested in the Greenfield Planning Board by RSA 155-E, the Planning Board adopts the following regulations to govern the excavation of earth materials in the Town of Greenfield, New Hampshire.

#### **SECTION II. PURPOSE AND SCOPE**

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

#### **SECTION III. DEFINITIONS**

- A. Abutter: Shall mean any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration. 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. 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.
- B. Applicant: Shall mean the owner of the property to be excavated or the owner's agent, so designated in writing as part of the excavation application.
- C. Dimension Stone: Shall mean rock that is cut, shaped or selected for use in blocks, slabs, sheets, or other construction units of specified shapes or sizes and is used for external or interior parts of buildings, foundations, curbing, paving, flagging, bridges, revetments, or for other architectural or engineering purposes. Dimension stone includes quarry blocks from which sections of dimension stone are produced. Dimension stone does not include earth as defined below.

D. Earth: Shall mean sand, gravel, rock, soil or construction aggregate produced by quarrying, crushing or any other mining activity or such other naturally occurring unconsolidated materials that normally mask the bedrock.

E. Excavation: Shall mean a land area which is used, or has been used, for the commercial taking of earth, including all slopes.

F. Excavation Area: Shall mean the surface area within an excavation site where excavation has occurred or is eligible to occur under the provisions of this chapter.

G. Excavation Site: Shall mean any area of contiguous land in common ownership upon which excavation takes place.

H. Existing Excavations, ~~Existing~~: Shall mean those excavations 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, and in conformance with local zoning and other regulations, and operated on or before August 24, 1979.

I. Expansion: Shall mean either the removal of topsoil from a new area or excavation beyond the limits of the Town and/or the area which in 1979 had been contiguous to and in common ownership with the excavation and has been appraised and inventoried for tax purposes as part of the same tract.

J. Fees: Shall mean the following:

- a. Filing fee: Shall mean the required fee, to be paid upon submission of an excavation application to the Planning Board, to defray the cost to the Town for reviewing the application.
- b. Review fee: Shall mean those fees paid by the applicant to the Planning Board before issuance of a permit to defray the costs of permit compliance.
- c. Inspection fee: Shall mean any costs associated with site inspections should the Planning Board require the advice of an engineer or other agent to ensure compliance with the conditions of the permit.
- d. Compliance hearing fee: Shall mean those fees paid by the applicant to cover the costs of the public hearing associated with the Board's determination of permit violations.

K. Reclamation: Shall mean the restoring of an excavation site to a minimum standard as outlined in SECTION X of these regulations.

L. Stationary Manufacturing and/or Processing Plants: Shall mean facilities which are permanently placed on a site for the purposes of sorting, washing, screening, crushing, classifying, drying or processing excavated earth materials.

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Comment [MPC1]: RSA 155-E:2, I

**SECTION IV. PROJECTS REQUIRING A PERMIT**

No owner shall permit any excavation of earth on his premises without first obtaining a permit therefor, except as follows:

Comment [MPC2]: RSA 155-E:2 intro.

A. The following projects do not require a permit, but are nevertheless subject to SECTIONS IX A, X and XI of these regulations and the express operational standards of RSA 155-E:4-a and the express reclamation standards of RSA 155-E:5 and RSA 155-E:5-a. The Planning Board may require the owner/operator to come before the Board at a fully-noticed public hearing to demonstrate compliance with these standards.

a. Existing excavations, ~~which lawfully existed on or before August 24, 1979, are~~ subject to the following:

Comment [MPC3]: RSA 155-E:2,1

i. Such an excavation shall be exempt from local zoning or other ordinances regulating the location of the excavation site, provided that at the time the operation began, it was in compliance with any local ordinances that may have been in effect.

ii. The owner or operator shall file an excavation report with the Planning Board no later than August 4, 1991. Any existing excavation that fails to file said report shall no longer be considered to be grand fathered and must obtain a permit from the Planning Board before continuing excavation of the site. The report shall contain the following information:

1. Tax map and lot number;
2. Location of site;
3. The date excavation first began;
4. The date excavation was complete (if applicable);
5. A description of the permissible limits of expansion;  
as described in SECTION IV B & C;
6. An estimate of the area which has been excavated to date; and
7. An estimate of the amount of commercially-viable earth materials still available on the site.

Comment [MPC4]: There is no SECTION IV C; Section VIII covers permissible expansion; also RSA 155-E:2,I(b) is the applicable State statute.

Note: The owner and /or operator of an excavation may lose some or all grand fathered rights if he:

- i. Fails to file an excavation report;
- ii. fails to operate in compliance with the operational and reclamation standards of RSA 155-E;
- iii. fails to obtain Planning Board approval for expansion beyond the limits described in RSA 155-E;
- iv. fails to obtain Planning Board approval for any quarrying or crushing of bedrock, if such an operation is started after August 4, 1989;

v. has an operation which was not in compliance with the Zoning Ordinance and other relevant regulations in effect on the date he began operations.

b. Excavations from an area which on August 4, 1989, was contiguous to, or was contiguous land in common ownership with, stationary manufacturing and processing plants in operation as of August 24, 1979, which use earth obtained from said area.

Comment [MPC5]: RSA 155-E:2, III (a)

c. Excavations from an area which on August 4, 1989, was contiguous to, or was contiguous land in common ownership with, stationary manufacturing and processing plants which have been granted state or local permits since August 24, 1979 and before August 4, 1989, which use earth obtained from said area. The operation and reclamation of such areas shall be governed by the conditions of the state or local permit and any extension or renewals thereof.

Comment [MPC6]: RSA 155-E:2, III(b)

d. An excavation performed exclusively for the lawful construction, reconstruction, or maintenance of a Class I, II, III, IV, or I highway by a unit of government, which has jurisdiction for the highway or an agent thereof which has a contract for the construction, reconstruction, or maintenance of the highway. The applicant is required to come before the Planning Board at a public hearing to demonstrate compliance with SECTIONS IX, X and XI of these regulation; in addition, the application is also subject to RSA 155-E:2, IV (a), (b), and (c).

B. The following projects are exempt from a permit and are not subject to regulation by the Planning Board:

1. Excavation that is exclusively incidental to the lawful construction or alteration of a building or structure, or the construction or alteration of a parking lot or way including a driveway on a portion of the premises where removal occurs. 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.

(In the event of questions, the Planning Board shall determine what is incidental.)

3. Excavation from a granite quarry for the purpose of producing dimension stone, if such excavation requires a permit under RSA 12-E (Mining and Reclamation).

4. A person owning land abutting a site which was taken by eminent domain or by any other governmental taking upon which construction is taking place may stockpile earth taken from the construction site and may remove the earth at a later date after written notification to the Board.

**SECTION VI. ABANDONED EXCAVATIONS**

The permit and zoning exemptions under RSA 155-E:2, I shall not apply to any abandoned excavations, as defined below:

- A. Any excavation, except for excavations described in RSA 155-E:2, III, whether subject to permit under these regulations or not, for which the affected area has not been brought into complete compliance with the reclamation standards of this regulation shall be deemed abandoned if ~~excavation occurred on the site subsequent to August 24, 1979 and:~~
  - 1. No earth material of sufficient weight or volume to be commercially useful has been removed from that excavation site during any 2-year period, either before, on, or after August 4, 1989; provided, however, that before the end of such 2-year period, the owner or operator may extend the period by submitting to the regulator a reclamation timetable to be approved by the regulator, and posting a bond or other security with the municipal treasurer in a form and amount prescribed by the regulator, sufficient to secure the reclamation of the entire excavation site in accordance with the standards of RSA 155-E:5; ~~No earth material has been removed from the site during any three (3) year period either before or after August 4, 1989; the owner or operator may however, extend the period by submitting a timetable for reclamation to the Planning Board and posting a bond or other surety sufficient to cover the costs of reclamation in a form and amount prescribed by the Planning Board;~~ or
    - 2. The excavation is still in use, but the owner or operator has not brought the affected area into compliance with the incremental reclamation requirements of this regulation within three (3) years of August 4, 1989 or posted a bond or other surety sufficient to cover the costs of reclamation; or
    - 3. The owner or operator of the excavation has neither secured a permit pursuant to this regulation nor filed a report of an existing excavation within the prescribed time period.
  - B. The Planning Board may order the owner of any land containing an abandoned excavation to either file a reclamation timetable and bond or other surety, or to complete the reclamation in accordance with this regulation within a stated reasonable time. Failure to complete said reclamation in the prescribed time period may result in the Planning Board requesting the Town to authorize reclamation at Town expense. The Town's costs shall constitute an assessment against the owner and shall create a lien against the real estate on which the excavation is located. Such assessment and lien may be enforced and collected in the same manner as provided for real estate taxes.

Comment [MPC7]: RSA 155-E:2, II(a)

Comment [MPC8]: RSA 155-E:2, II(a)(1), more stringent than Town's regulation; 2 years versus 3 years

**SECTION VII. PROHIBITED PROJECTS**

No permits shall be granted to the following projects:

- A. For excavation within fifty (50') feet of the boundary of a disapproving abutter or within ten (10') feet of the boundary of an approving abutter unless approval is requested by said abutter.
- B. Where the issuance of the permit would be unduly hazardous or injurious to the public welfare. The Planning Board shall give particular consideration to such factors as: noise, traffic, dust, fumes, danger from operation, or any such other factors which may relate to and impact on the orderly coordinated and harmonious physical development of the Town.
- C. Where existing visual barriers would be removed, except to provide access to the excavation.
- D. Where the excavation would substantially damage a known aquifer as designated by the United States Geological Survey.
- E. When the excavation is planned beneath or adjacent to inland surface waters or wetlands in such a manner that a permit is required from the New Hampshire Department of Environmental Services or federal agencies with jurisdiction over the premises, except that the Planning Board may approve the application when all necessary permits have been obtained.
- F. Where the excavation is not permitted by zoning or other applicable ordinances.
- G. Where the project cannot comply with the requirements of SECTIONS IX, X and XI of these regulations.
- H. For areas which cannot be reclaimed within twelve (12) months according to the reclamation standards specified in SECTION X, except for excavation of operating stationary manufacturing plants as required pursuant to RSA 155-E:5-a.

Comment [MPC9]: RSA 155-E:5-a

### **SECTION VIII. EXPANSION OF NON-CONFORMING EXCAVATION SITES**

Should the local Zoning Ordinance contain any amendments as of August 4, 1989 that would prohibit excavations in an area where an existing excavation is located, any expansion of such an excavation shall not be permitted unless, after due notification and public hearing, the Planning Board finds that the expansion will not have a substantially different and adverse impact on the neighborhood. These impacts will be determined by the Board during the permit process, as neighborhoods will vary in their requirements; however, the following criteria will be taken into consideration:

- A. The excavation will not cause an unreasonable diminution in property values or unreasonably change the character of the neighborhood.
- B. The excavation will not unreasonably accelerate the deterioration of highways or create safety hazards in the use of said highways.

- C. The excavation will not create any unreasonable nuisance or create public health or safety hazards.

#### **SECTION IX. EXCAVATION PLAN REQUIREMENTNS**

It shall be a violation of this chapter for any person to excavate, or for any owner to permit excavation on his excavation site, when such excavation is subject to a permit under this chapter, without complying with the following minimum standards or when such excavation is not subject to a permit under this chapter pursuant to RSA 155-E:2 without complying with the following express standards:

Comment [MPC10]: RSA 155-E:4-a

##### A. Operational Standards:

1. No excavation shall be permitted closer than one hundred fifty (150') feet to an existing dwelling or to a site for which a building permit has been issued at the time the excavation permit is granted.
2. No excavation shall be permitted below road level within fifty (50') feet of the right-of-way of any public highway as defined in RSA 229:1 unless such excavation is for the purpose of said highway.
3. Vegetation shall be maintained or provided within the peripheral areas required in paragraphs 1A and 2B of this Section.
4. No fuels, lubricants or other toxic or polluting chemicals shall be stored on-site unless in compliance with state laws or rules pertaining to the storage of such materials.
5. Where temporary slopes will exceed a 1:1 grade, a fence or other suitable barricade shall be erected to warn of danger and/or to limit access to the site.
6. Appropriate drainage shall be provided to prevent the accumulation of freestanding water for prolonged periods. Excavation practices which result in continued siltation of surface waters or any degradation of water quality of any public or private water supplies are prohibited.
7. No excavation shall be permitted within 75 feet of any great pond, navigable river, or any other standing body of water 10 acres or more in area or within 25 feet of any other stream, river or brook which normally flows throughout the year, or any naturally occurring standing body of water less than 10 acres, prime wetland as designated in accordance with RSA 482-A:15, I or any other wetland greater than 5 acres in area as defined by the department of environmental services.
8. For excavation projects which require a permit from the department of environmental services pursuant to RSA 485-A:17, the provisions of that statute, and rules adopted under it, shall supersede this paragraph as to

Comment [MPC11]: RSA 155-E:4-a, IV

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Comment [MPC12]: RSA 155-E:4-a, II-a

Comment [MPC13]: RSA 155-E:5, V

~~areas of excavation sites covered thereby. The excavator shall file a copy of permits issued under RSA 485-A:17 with the Planning Board. Projects requiring a permit from the State of New Hampshire, Division of Water Supply and Pollution Control pursuant to RSA 149:8 (a) shall file a copy of said permit with the Planning Board prior to receiving excavation approval.~~

- B. Hauling: Hauling routes and schedules shall take into account the surrounding land uses and road conditions.
1. At the time of filing the application, the excavator shall submit a hauling plan which shall include, but is not limited to the following information:
    - a. routes to be utilized;
    - b. the type and weight of motor vehicles involved; and;
    - c. the routing schedule.
  2. The Planning Board may, at the applicant's expense, have a traffic study prepared in order to ensure that public safety, neighborhood compatibility and road capacity and condition have been properly considered and optimized in the hauling plan.
  3. Since trucks commonly used for the transport of earth materials are of such weight that they may have an adverse impact on a road's surface as well as on the underlying roadbed, all excavators shall obtain written permission from the Board of Selectmen for use of the hauling route, as provided by RSA 236:9. The Board of Selectmen may place conditions including, but not limited to, assessments on their approval.
  4. Any intersections of roads and drives to excavation sites that utilize a state road shall have, in writing, all permits noting locations, drainage improvements and widths allowed. A copy of the state permit, along with the application itself and all related correspondence shall be submitted when the application for excavation approval is filed with the Board. For intersections of streets or driveways with a town road, the excavator shall obtain a written opinion and/or sketch of the intersection for the town Director of Public Works. A copy of this opinion shall be submitted when the application for excavation is filed. Notwithstanding this condition, the final location of the curb cut and the conditions thereof, shall be at the discretion of the Planning Board.
- C. Hours of Operation: Planning Board shall consider factors such as the level of operation, the type of neighborhood(s) affected and road conditions in determining the hours of operation to be permitted for the excavation site.

## **SECTION X. SITE RECLAMATION STANDARDS**

- A. Areas visible from a public way, from which trees have been removed, shall be replanted with tree seedlings, set out in accordance with acceptable horticultural practices.

- B. All disturbed areas shall be spread with topsoil or any other soil capable of maintaining vegetation, and shall be planted with seedlings or grass suitable to establish permanent vegetation.
- C. All earth and vegetative debris resulting from the excavation shall be removed or otherwise lawfully disposed of.
- D. All slopes shall be graded to natural repose for the soil type. With no exception shall any slope be left steeper than 2:1. Changes of slope shall not be abrupt, but shall blend with the surrounding terrain.
- E. Any standing bodies of water created by the excavation that are judged to constitute a hazard to health and safety shall be eliminated.
- F. 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 proportions of flow.
- G. For excavation projects which require a permit from the department of environmental services pursuant to RSA 485-A:17, the provisions of that statute, and rules adopted under it, shall supersede this paragraph as to areas of excavation sites covered thereby. The excavator shall file a copy of permits issued under RSA 485-A:17 with the Planning Board. For excavation projects requiring a permit from the State of New Hampshire, Division of Water Supply and Pollution Control, the provisions of RSA 149:8-a shall supercede this regulation. Copies of all such permits shall be filed with the Planning Board.

Comment [MPC14]: RSA 155-E:5, V

**SECTION XI: INCREMENTAL RECLAMATION**

Except for excavation sites of operating stationary manufacturing plants, aAny excavation area of five (5) continuous acres or more, which either is depleted of commercial earth materials, excluding bedrock, or from which no earth materials have been removed for a two (2) year period, shall be reclaimed in accordance with SECTION X of these regulations, within one (1) year following such depletion or the period of non-use, regardless of whether other excavation is occurring on adjacent land in contiguous ownership. Each operator, other than the operator of stationary manufacturing plants which are exempt from permit requirements pursuant to RSA 155-E:2, III, shall prepare and submit for the Planning Board's record a reclamation plan for the affected land, including a timetable for reclamation of the depleted areas within the reclamation site

Comment [MPC15]: RSA 155-E:5-a

**SECTION XII: PERFORMANCE BOND**

No site development plan for excavation shall be approved until the excavator has filed with the Board an engineer's estimate of the costs of reclamation and of sediment and erosion control measures, be accompanied by a cash deposit, reclamation bond or irrevocable letter of credit in a form satisfactory to Board Counsel and in an amount sufficient to cover the total anticipated costs of reclamation as well as:

- A. The cost of all required professional oversight and inspection of the project, and
- B. An adequate contingency sum to cover those additional costs, which might be incurred if the Town were required to complete the improvements.

The precise amount of security shall be determined by the Planning Board.

If the excavation falls under the jurisdiction of these regulations, the term of the bond shall be equal to the term of the permit plus twelve (12) months. If the excavation does not fall under the jurisdiction of these regulations, the bond shall be issued on an annual, renewable basis. If the bond is not renewed prior to its expiration date, the Town shall call the bond.

Performance bonds may also be required for pre-reclamation sediment and erosion control measures.

Excavation shall not commence until the performance bond has been received by the Town. The performance guarantee shall not be released until all improvements have been completed in substantial accordance with the requirements and until completion has been verified by the Planning Board, either by certification by an agent of the Town or as a result of a compliance hearing. To protect against latent defects, including, but not limited to, the failure of revegetation measures, twenty (20%) percent of the original value of the security shall be retained for a period of two (2) years.

**SECTION XIII. ADDITIONAL PERMIT REQUIREMENTS**

All existing or grand fathered operations are subject to the minimum standards of SECTIONS IX, A and X. Operations requiring a permit may be subject to additional conditions, as deemed necessary by the Planning Board, that are consistent with the purpose of these regulations.

**SECTION XIV. EXCEPTIONS**

Due to the diverse nature of excavation operations which vary in scale and scope, and due to the varying conditions of the land to be excavated, the Planning Board may in its discretion, waive certain standards contained in SECTIONS IX, X, XI and XII where, in the opinion of the Planning Board, the proposed excavation will be of small scale and have very limited impact on the site, its abutters, and the Town, and strict application of these requirements would create an undue and excessive hardship for the applicant. The applicant must request any waivers in writing as part of the application. The written decision shall state specifically what requirements are being waived and include any reasonable alternatives. The decision of the Planning Board may be appealed in accordance with RSA 155-E:9.

## **SECTION XV. APPLICATION FOR EXCAVATION**

The applicant for an excavation permit shall submit to the Planning Board a completed application form, an excavation and a reclamation plan, any other submission documents as requested and the filing fee. At least three (3) copies of all plans shall be filed with the Planning Board prior to a scheduled public hearing and one (1) copy shall be sent to the Greenfield Conservation Commission. The plans shall be at [the](#) scale of 1" = 100'.

These same procedures and information apply to operators not needing a permit but who do need to demonstrate to the Planning Board their compliance with the regulations. Submission documents shall include the following items:

- A. Application Form: An application form signed and dated by the applicant and accompanied by any necessary state and federal permits.
- B. Excavation Plan: An excavation plan, which shall show:
  1. Name and address of the owner, the excavator (if different) and all abutters;
  2. Seal and signature of an engineer or surveyor licensed in the State of New Hampshire;
  3. Sketch and description of the location and boundaries of any existing excavations, the proposed excavation, the area in square feet and acres of the proposed excavation and the municipalities involved;
  4. Zoning district boundaries of the proposed area and within two hundred (200') feet of the boundary of the project;
  5. The location of existing buildings, structures, septic systems and wells within two hundred (200') feet of the boundary;
  6. Lot lines, public roads, driveways, intersections, right-of-ways and all easements within two hundred (200') feet;
  7. Topography at contour intervals of five (5') feet or less;
  8. All surface drainage patterns including wetlands and standing water;
  9. Sketch and description of existing and proposed access roads, including width and surface materials;
  10. The breadth, depth and slope of the proposed excavation and the estimated duration of the project;
  11. The elevation of the highest annual average ground water 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 (6') feet below the maximum proposed excavation depth, including location and soils data; boring logs may be submitted separately;
13. Proposed fencing, buffers or other visual barriers, including height and materials; and
14. All measures to control erosion, sedimentation, water pollution, air pollution, and hazards to human safety.

C. Reclamation Plan: A reclamation plan, which shall show:

1. Seal and signature of a licensed surveyor or engineer;
2. All boundaries of the area proposed for reclamation, and the land within two hundred (200') feet of the boundary of this site;
3. Final topography of the area proposed for reclamation, at contour intervals of five (5') feet or less;
4. Final surface drainage pattern, including the location and physical characteristics of all artificial and/or modified drainage facilities;
5. Timetable as to fully-depleted sites within the excavation area; and
6. Schedule of final reclamation activities including seeding mixtures, cover vegetation, fertilizer types, and application rates.

D. Other Information:

The Planning Board reserves the right, per RSA 155-E:2 VII to request any other information it deems necessary to make an informed decision, or to have plans reviewed by an outside agency. Any expenses incurred for such information or reviews shall be borne by the applicant.

## **SECTION XVI. APPLICATION PROCEDURES**

Whenever any excavation is proposed and before any excavation or land clearing is begun, the property owner, or the owner's authorized agent – unless exempt under the provisions of SECTION V – shall apply for and secure approval of the proposed excavation. The procedure includes an optional pre-application review where, without the requirement of formal public notice, an excavator may arrange to meet with the Board at a regularly scheduled meeting for a preliminary consultation. Such a consultation shall be directed at a review of the basic concept of the proposal and at a review of procedural requirements. Discussions shall be of a general nature only and no decisions may be made. The review is not binding in any way on either the Board or the applicant.

Prior to the Planning Board rendering a decision for an excavation permit, a public hearing shall be held with due notification of all abutters and the public. The procedure for holding these public hearings is as follows:

A. Filing of the Application

1. Applications for excavation permits shall be filed with the Planning Board at least twenty-one (21) days prior to the next regularly scheduled Planning Board meeting.
2. The applications will be submitted at a duly noticed public hearing, and will be accepted by the Board only if found complete.

B. Application Fees: All fees and review expenses shall be paid prior to the rendering of services:

1. Administration and public notice fees, as specified in Appendix A, shall be submitted when an application is filed or prior to public notice being given for additional hearings, as the case may be.
2. A deposit sufficient to cover the cost of other review services shall be paid prior to any work being authorized by the Board. For activities where work orders are deemed appropriate by the Board, such authorizations shall be signed by both the Board and the applicant.

C. Notices Required:

1. All abutters will be notified of the hearing by certified mail; return receipt requested not less than fourteen (14) days prior to the hearing. Names and addresses of abutters must be taken from Town records not more than five (5) days before filing the application.
2. Public notice of the hearing will appear in the local newspaper and in at least three (3) public places in Greenfield not less than fourteen (14) days prior to the hearing.
3. The notice must include the location and general description of the proposal as well as the date, time place of the hearing.
4. All costs for notification shall be borne by the applicant. Failure to do this is a valid reason for the Board to disapprove the application.

D. Board Action on Application:

1. Providing that the application is complete, the Board shall vote to accept the application, after which time the Board has thirty (30) days to schedule a public hearing.
2. Should the application not be accepted as complete, another public hearing for submission must be scheduled.

3. Site Inspection of Property: Before granting any new permit, the Board or its designee shall conduct at least one on-site inspection of the property. The Board may also require a site inspection in the case of applications for amended permits or for permit renewals. The Greenfield Conservation Commission shall be notified of all site inspections.

Between April 1<sup>st</sup> and October 1<sup>st</sup>, inspections shall be scheduled within thirty (30) days of the first session of the public hearing. During the rest of the year, inspections shall be scheduled if, and when, the Board determines that ground conditions are suitable for adequate observation as well as for the taking of soil samples. To prevent unnecessary delay, excavators are encouraged to submit their applications during the clement seasons.

4. Review Procedures, Other. In addition to Planning Board review, all applications shall be reviewed by the Greenfield Conservation Commission, which shall respond in writing at or prior to the public hearing. The processing of an application shall not be delayed because of any failure of the Conservation Commission to respond on a timely basis.

Also, the Board may engage, at the applicant's expense, professional services, which are, in the judgment of the Board, required for adequate and proper evaluation of the proposal. Such professionals may include, but are not limited to, lawyers, surveyors, engineers, soil scientists, and geologists.

5. Within twenty (20) days of the close of the hearing on the application or any continuation thereof, the Board shall make a decision regarding the application. The conditions of approval shall specify: the duration of the permit; the expiration date of the permit; the terms, if any, of the permit renewal; the amount of the restoration security guarantee; the hours of operation if limited; charges to be paid for semi-annual inspections; hauling routes, if restricted; restrictions on future development, if any; and other conditions which are appropriate to the project.

Notice of this decision shall be recorded in the minutes of the meeting and placed on file in the Selectmen's Office within seventy-two (72) hours.

6. The applicant shall receive a copy of the minutes containing the Board's decision. If the application was approved with special conditions, these conditions shall be stated in the minutes. If the application is disapproved, the reasons for the disapproval shall be given.

## **SECTION XVII. ADMINISTRATION AND ENFORCEMENT**

- A. PERMITS: Permits shall be issued only to the owner or his agent and shall not be transferable without the prior written consent of the Planning Board. A copy of the permit shall be prominently displayed at the site or the principal access to the site. A permit shall be valid for no more than three (3) years and the expiration date shall be specified. A permit is automatically withdrawn if no substantial work is done on the site for a period of two (2) years. Failure to file for a permit shall be considered a violation and operators who fail to file will be issued a cease and desist order. The board may include in the permit any such reasonable conditions as are consistent with the purpose of these regulations.
- B. AMENDMENTS AND RENEWALS: Permit holders wishing to renew or amend a permit by altering the size or location of the excavation, the rate of removal or the plan for reclamation shall follow the same procedures as those required for an excavation permit.
- C. INSPECTIONS: The Planning Board or its designated agent shall make periodic inspections of all excavation sites to determine if the operations are in conformance with these regulations and the approved plans.
- D. SUSPENSIONS AND REVOCATIONS: The Planning Board may suspend or revoke a permit if the Board determines that any provision of the permit has been violated, a material misstatement was made in the application upon which a permit was granted, or any unsafe or hazardous conditions are determined to exist. Such suspension or revocation shall be subject to a motion for rehearing thereon and appeal in accordance with these regulations.
- E. APPEALS: Any person affected by the Planning Board's decision to approve or disapprove an application or an amendment thereto or any suspension or revocation of a permit, may appeal to the Planning Board for a rehearing on such decision or any matter determined thereby. The motion for rehearing shall be filed within ten (10) days of such decision and shall fully specify every ground upon which it is alleged that the decision or order complained of is unlawful or unreasonable. The Planning Board shall either grant or deny the request for rehearing within ten (10) days, and if the request is granted, a rehearing shall be scheduled within thirty (30) days. Any person affected by the Board's decision on a motion for rehearing may appeal in accordance with RSA 677:4-15.
- F. FEES: Fees, as outlined in Appendix A, shall be assessed against all applications, granted permits, and excavation operations so that the Town may recover all reasonable costs incurred in the administration of these regulations. Failure to pay these or any other costs associated with the application process shall be grounds for denial of the permit or approval.
- G. PENALTIES: Fines, penalties and remedies for violations of this regulation shall be the same as for violations of RSA 676:15 and RSA 676:17. Whoever violates any provision of this regulation, a permit or a valid order issued hereunder shall be guilty of a misdemeanor.

**SECTION XVIII. SEPARABILITY**

The invalidity of any provision, sentence, paragraph, etc. of this regulation shall not affect the validity of any other provision.

**SECTION XIX. EFFECTIVE DATE**

These regulations shall take effect upon adoption by the Planning Board and as amended.

Originally adopted: 11/25/1990 by:

David Hedstrom  
 Jerry Adams  
 Robert V. Smith  
 Thomas F. Bregani

<b><u>EARTH EXCAVATION REGULATIONS</u></b>					
	No Permit Required	Permit Required	Must Comply w/ Minimum Standards	Must Post Reclamation Bond	Excavation Report
1) Existing as of 8/24/79	X	For Expansion	X	For Expansion	X
2) Begun since 8/24/79		X	X	X	
3) In connection with statutory manufacturing plants	X		X	For Expansion	
4) Highway Excavations	X		X	For Expansion	
5) Incidental to building, etc.	X				
6) Incidental to agriculture, etc.	X				
7) Granite Excavations	Not regulated by the Planning Board				
8) Abandoned pre 8/24/79	No Regulation				
9) Abandoned post 8/24/79				X	
10) Nonconforming as of 8/4/89		For Expansion	X	For Expansion	

**APPENDIX "A"**  
**FEE SCHEDULE**

A. Filing Fees:

Administrative fee	_____	\$50.00
Postage fee _____ @ \$_____ each	\$ _____	
Advertising fee	\$ _____	

B. Review Fees:

Review fees will be charged as incurred for legal, engineering and other planning reviews.

C. Inspection Fees:

Inspection fees will be charged as incurred for legal, engineering and other inspection costs.

D. Compliance Hearing Fees:

Administrative fee	_____	\$50.00
Postage fee _____ @ \$_____ each	\$ _____	
Advertising fee	\$ _____	

**APPENDIX "B"**

**EXCAVATION PERMIT APPLICATION**

1. Submit completed application, with additionally required information or permits attached to:

Secretary, Planning Board  
Town of Greenfield  
PO Box 256  
Greenfield, NH 03047

Secretary, Conservation Commission  
Town of Greenfield  
PO Box 256  
Greenfield, NH 03047

2. Date of Submission \_\_\_\_\_
3. Name of Owner(s)/Applicant: \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
\_\_\_\_\_

4. Location of proposed/existing excavation (town or state roads, nearest other locational information, map, plot and lot identification number from tax map).

\_\_\_\_\_  
\_\_\_\_\_

5. Names and addresses of abutters (attach extra sheet if necessary)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. State permits required and obtained (attach if applicable):  
WSPCC (RSA 149:8a, RSA 148:5a)  
Wetland Board (RSA 483-A)  
State Highway Dept. (access permit, RSA 249:13-18)  
State Pit Agreement (NHDPW&H, Std, Spec's, Section 106)  
Others

7. Excavation/Restoration Plan; this information is to be submitted as plans attached to this application.

- a. Site surveyed by a Register Land Surveyor, to establish an accurate base map showing boundary lines, topography, and significant features.
- b. Excavation Plan to show:
  - property lines
  - existing topography
  - limits of excavation
  - excavation depths (excavated topography)
  - total area of excavation in acres
  - access road(s) and intersection with town or state highways
  - vegetation buffer
  - abutters names and addresses
  - distances from excavation limits to property lines
  - schedule of excavation volumes; phasing of excavation (areas and dates)
  - test pit groundwater elevations
  - topsoil storage area
  - drainage improvements (if necessary)
  - photograph(s) of existing conditions
- c. Restoration Plan to show:
  - restored topography
  - soil conditioning specifications
  - seeding and mulching specifications
  - plant materials/quantities sizes
  - phasing of restoration (areas and dates)
  - sections showing existing, excavated and restored topography

8. Hauling Information:

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

9. Performance Bond:

A performance bond in an amount to be determined by the Planning Board shall be required prior to the issuance of an excavation permit. The purpose of bond is to assure any costs associated with reclamation, sediment and erosion control measures and any damage to town roads as a result of the hauling operation will be funded by the pit owner or excavator.

During the hearing and review process, the Planning Board may require information in addition to that listed in items 7 & 8 above.

An application for permit renewal should be submitted to the regulator by the owner if excavation is to be continued beyond the termination date. The renewal application should identify and adjust all information contained in the original application that no longer is 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 and that I, the undersigned applicant, hereby agree to assume and pay for any engineering and /or consulting costs incurred by the Town of Greenfield in the processing and consideration of this application. Payment of such fees is a condition precedent to approval by the Planning Board.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Co-Applicant's Signature

### **APPENDIX "C"**

#### **EXCAVATION PERMIT APPLICATION CHECKLIST**

##### Excavation Plan (at a scale of 1" = 100'):

- A signed and dated application form
- Copies of any required permits
- Name and address of owner, excavator, and all abutters
- Seal and signature of licensed surveyor or engineer
- Sketch and description of the location and boundaries of proposed and any existing excavations in square feet and acres, and the municipalities involved.
- Zoning district boundaries of excavation area and within two hundred (200') feet of the area boundary.
- Lot lines, public streets, driveways, intersections, rights-of way, and all easements within two hundred (200') feet of the excavation.
- Location of existing buildings, structures, septic systems and wells within two hundred (200') feet of the excavation.
- Topography at contour intervals of five feet or less.
- All surface drainage patterns including wetlands and standing water.
- Sketch and description of existing a proposed access roads, including width and surface materials.
- Breadth, depth and slope of the proposed excavation.
- Elevation of the highest annual average ground water table within or next to the proposed excavation.
- Test pit data or log of borings to within either the seasonal high water table or a minimum of six feet below the proposed excavation depth.
- Fencing, buffers, or other visual barriers, including height and materials.
- Measures to control erosion and sedimentation, water and air pollution, and any hazards to public safety.

##### Reclamation Plan (at a scale of 1" = 100'):

- Seal and signature of a licensed surveyor or engineer
- All boundaries of the area proposed for reclamation, and the land within two hundred (200') feet of these boundaries.
- Final topography at contour intervals of five feet or less.
- Final surface drainage pattern.

- Timetable as to fully depleted sites within the project area.
- Schedule of final reclamation activities, including seeding mixtures, cover vegetation, fertilizer types and application rates.

#### EXCAVATION CHECKLIST:

- The excavation is permitted by the Zoning Ordinance.
- The excavation is within fifty (50') feet of a disapproving abutter or ten (10') feet of an approving abutter.
- The excavation will not be unduly hazardous to the public welfare.
- Existing visual barriers will not be removed, except to gain access to the excavation.
- The excavation will not substantially damage a known aquifer.
- The excavation is not closer than one hundred fifty (150') feet to an existing dwelling or to a site for which a building permit has already been issued.
- The excavation is not below road level within fifty (50') feet of the public right-of-way.
- Vegetation is maintained within the peripheral areas of items 6 and 7 above.
- Fuels, lubricants, etc. are not stored on the site.
- If temporary slopes exceed a 1:1 grade, an appropriate barricade is provided for.
- The excavation will not cause the accumulation of freestanding water for prolonged periods.

#### RECLAMATION CHECKLIST:

- Tree seedlings will be planted in areas visible from a public way to replace trees that were removed.
- All disturbed areas will be reseeded.
- Provision is made for the removal of all stumps and other debris.
- Slopes will be graded according to the soil type, and will not be left steeper than 2:1.
- No standing bodies of water created by the excavation will be left if they create a public safety hazard.
- The topography will be left so that drainage reverts to its original points and proportions of flow.