



*2009*

**EXCAVATION REGULATIONS  
FOR THE TOWN OF LITCHFIELD, NH**

*Adopted October 12, 1981*

*Amended August 2, 1982, March 8, 1983*

*Recodified September 29, 1984*



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**100**            **PURPOSE**

This ordinance is enacted pursuant to the authority granted to the Town of Litchfield to regulate earth moving activities within its boundaries under the provisions of Chapter 155-E: Sections I-II inclusive, of the NH Revised Statutes Annotated.

100.1            The Planning Board of the Town of Litchfield is designated the "Regulator as provided in RSA 155-E:1, III, and shall have all powers and duties granted thereto by RSA 155-E: I-II.

100.2            Pursuant to its responsibility as the regulator, and in accordance with the provisions of RSA 155-E:II, the Planning Board is hereby authorized to adopt and from time to time amend regulations governing earth moving activities within the Town of Litchfield to ensure that said activities are conducted in a safe manner in accordance with sound environmental practice and to further provide proper assurances that suitable restoration of affected areas are obtained.

100.3            These regulations supplement the provisions of RSA 155-E and provide further clarification of the statutory requirements and their application in the municipality of Litchfield. They are adopted as provided in RSA 155-E:II, RSA 674:36 and RSA 674:36. Applicants should familiarize themselves with both RSA 155-E and these regulations to be fully informed as to permit requirements.

**110**            **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 a barrier, but shall be included in the distance requirement for purposes of determining whether a person is an abutter, RSA 672.

**APPLICANT.** Owner of the excavation site or the owner's designee.

**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 . . .". [Reference to 1984 USGS Study]

**BOND REQUIREMENT.** An amount to be determined by the Planning Board that would be required to complete restoration of each acre or part of each acre in accordance with Section 1030.3, Restoration Plan. Bonding shall be filed with the Town of Litchfield.

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

**EXCAVATION PERMIT (RSA-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 associated documents which contain excavation project information. The application must be submitted in duplicate to the regulator 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:II).** A fee of \$50.00 submitted by the applicant to the regulator, 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 regulator 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 Specifications 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.

**120 EXCAVATION PERMIT APPLICATION**

The applicant shall submit to the regulator and the Conservation Commission the information and documents specified in RSA 155-E:3 and in the Excavation Permit Application.

120.1 The application submission shall include:

- a. The application form containing the owner's name, location of project, abutters' names and addresses, access routes, etc;
- b. An excavation plan showing the excavation site and the scheme for removal of excavated material;
- c. A restoration plan describing the process of site grading and revegetation following completion of the excavation project; and
- d. Related permit approvals or other documents pertinent to the excavation proposal.

120.2 Excavation Plan:

- a. 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.
- b. 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 barriers 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. description of project duration and phasing;
8. the names of abutting land owners;
9. photograph(s) of the existing site;
10. notations as to 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 regulator.

c. Project Site Requirements

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

1. 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 ("Highway Access") shall be adhered to by the applicant and shall be shown on the excavation plan.
2. 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.
3. 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 regulator shall determine whether or not substantial damage to the aquifer will be incurred by considering the following criteria:
  - a) 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;
  - b) 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;
  - c) the regulator 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.
4. 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.

5. 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.
6. Visual Barriers. A vegetative of topographical buffer shall be maintained between surrounding streets, 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.
7. No excavation shall occur within 50 feet of the boundary of any abutter.

120.3

Restoration Plan:

- a. 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 must perform restoration in compliance with RSA 155-E:5. The regulator 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 regulator within six (6) months of their notification. The Excavation Permit Application Form shall be used for this submission.
- b. The restoration plan shall meet, at a minimum, the requirements set forth in RSA 155-E:5.
  1. The character of the restored landscape shall blend with the surrounding natural features.
  2. 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.
- c. The restoration plan shall be drawn at the same scale and shall use the same base survey information as that utilized in the preparation of the excavation plan.
- d. 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; and
  6. sections showing existing excavated and restored topography configurations.
- e. Restoration of all excavations in accordance with these regulations shall have been completed within the permit period or any additional period as may be allowed by the regulator not to exceed one year.

120.4 Preparation and Submission:

- a. The applicant shall adhere to RSA 155-E:3 and these regulations during the process of application preparation and submittal.
- b. The completed application shall be submitted in duplicate form (one copy to each) to the regulator as well as the Litchfield Conservation commission.

120.5 Excavation Fee:

An excavation fee of \$50.00 shall be paid to the regulator by the applicant prior to issuance of an excavation permit.

120.6 Action of Permit:

Within 20 days of the hearing required in RSA 155-E:7, the regulator shall make a decision to grant or deny the requested permit. Excavation permit approval by the regulator 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 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.

Permit Validity: The excavation permit shall be valid for a period of one year.

120.7 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 the regulations. The excavation permit application need only describe those information items which have changed in content from the previous application submission. Fees and bonding will be established 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 similar to that provided these regulations.

120.8 Administration:

- a. No person, firm or corporation shall within the Town of Litchfield, undertake any clearing, grading, removal, excavation or other disturbance of land without first obtaining a permit from the Planning Board.
- b. Said permit may be granted pursuant to the provisions of RSA 155-E, I-II, as well as any additional regulations the Planning Board may have adopted for such purpose.
- c. The Planning Board may adopt, and from time to time amend, a permit fee schedule so as to recover all reasonable costs of administration of this Ordinance, as well as inspections.

120.9 Enforcement:

- a. The Planning Board may appoint an Enforcement Officer to enforce the provisions of any permit issued hereunder. Said enforcement officer shall have the powers and duties prescribed in RSA 155-E:10.
- b. The regulator (or its designee) will 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/ restoration plans.
- c. Fee Schedule. A fee of \$25.00 for each site visit shall be levied by the regulator. Only those site visits made by the regulator (or its designee) to affirm compliance with the excavation permit conditions and restoration plan shall be counted for this purpose. The method for and amount of payment shall be determined by the regulator.

**130 BONDING**

The regulator hereby determines that any applicant shall file with the Town of Litchfield a bond to be determined by the Planning Board for each acre or part of an acre to be excavated. This 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.

**140 PIT AGREEMENT**

140.1 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, and V highways. A copy of the agreement shall be submitted for acceptance to the regulator.

140.2 Excavation shall not proceed until the regulator 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.

140.3 The pit agreement for Class IV and V highway construction projects shall be essentially the same as the pit agreement set forth in Section 106 of "Standard Specifications for Highways and Bridges" prepared by the New Hampshire Department of Public Works and Highways.

**150 EXISTING OPERATIONS**

Any owner of a lawfully existing earth excavation operation upon the effective date of this ordinance may continue such existing operation pursuant to the permit previously granted by the Board of Selectmen provided, however, that no operation may be substantially altered or enlarged except in conformance with this ordinance or any regulations adopted hereunder and further provided that all owners shall suitably restore said area of operation within one year following the cessation of the excavation or any completed section thereof so as to secure the area against any unsafe or hazardous conditions which may endanger the health and safety of the general public. Provided, however, that in order to insure compliance with the terms of RSA 155-E:5, the owner shall submit to the regulator a restoration plan and appropriate bonding as may be specified in the excavation regulations for the Town of Litchfield.

Upon the effective date of this Ordinance, the prior excavation regulations for the Town of Litchfield adopted by the Planning Board on October 13, 1981, and amended on August 2,

1982 shall be deemed to be adopted pursuant to the terms of this Ordinance and shall remain in full force and effect until amended, revoked or repealed by subsequent action of the regulator.

**160            *SPECIAL EXCEPTION***

NH RSA CHAPTER 155-E LOCAL REGULATION EXCAVATIONS

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