



# Town Of Milford Gravel Removal Ordinance

Adopted 1990  
Title 10-A

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**PREAMBLE:**

The purpose of this Ordinance is to implement the authority given to this municipality under [NH RSA 155-E](#). this statute dictates that reasonable opportunities must exist within the community to extract gravel resources. In addition, a town may implement specific requirements to protect the public's health and welfare, prevent pollution, soil erosion and oversee restoration.

**ARTICLE I: EXISTING EXCAVATIONS**

All owners of excavation sites that were in legal operation prior to August 24, 1979 will be duly notified of their grandfathered status by the Planning board. It is determined that the zoning or similar ordinance of the Town of Milford in effect on the effective date of [NH RSA 155-E](#) as amended (August 4, 1989) did not prohibit excavation anywhere in Town and, accordingly these existing grandfathered excavations may expand as provided by [NH RSA 155-E:2 \(I\) \(b\)](#).

**A. REPORT REQUIRED**

The Planning Board shall determine upon examination those operations that appear to be existing operations within the meaning of the statute and the owner(s) of the same shall be given written notice of that determination. Additionally, the Planning Board shall also, in conducting such examination, determine if any excavation sites in town are "abandoned" within the meaning of [NH RSA 155-E:2 \(II\)](#) and shall similarly give the owners of such sites notice of that determination as well.

Such notification shall be made by certified mail or in-hand service and shall provide such owner (s) the right to a hearing before the board in the event such characterization of their property is questioned. Said owner(s) shall have sixty (60) days from receipt of such notice to request a hearing and the Planning Board shall hold such a hearing within sixty (60) days of receipt of such hearing request. All abutters shall be notified of said hearing at least for other matters before the Planning Board and the cost of such notifications shall be charged to the applicant as is customarily done.

Gravel removal operations that are deemed grandfathered pursuant to the above procedures by the Planning Board shall file a written report to the regulator within one (1) year of receiving such notice. Said report shall contain the following:

1. The location of the excavation and the date the excavation first began;
2. A description of the limits of permissible expansion, as described in subparagraph [155-E:2 \(I\)\(b\)](#), which are claimed to apply to the excavation;
3. An estimate of the area which has been excavated at the time of the report; and
4. An estimate of the amount of commercial viable earth materials still available on the parcel.

Any owner (s) that fail to provide the above mentioned information shall be deemed abandoned as set forth in [NH RSA 155-E:2 II \(a\)\(3\)](#). When the Planning Board receives the information required above, the Board shall notify the owner(s) within sixty (60) days of a hearing in the same fashion as the hearing above to review the information provided in the report. The Board shall and may request the applicant to elaborate on the same in order that the Board will have sufficient information to establish standards for reclamation and operation as well as establishing the terms of any bonding to secure compliance with operational and reclamation standards as permitted in the statute.

## **B. OPERATIONAL AND RECLAMATION STANDARDS**

All grandfathered gravel operations within the Town of Milford shall comply with the operational and reclamation standards contained in [NH RSA 155-E](#), as determined through the hearing process outlined above. In addition, the Board will determine if any incremental reclamation is justified pursuant to NH RSA 155-E:5-a.

## **C. HIGHWAY EXCAVATION EXEMPTION**

In cases where an operator seeks an exemption from the gravel permit requirements as outlined in [NH RSA 155-E:2 IV](#) (excavation exclusively for government highway projects) the requirements of [155-E:2 IV](#) shall be adhered to in the following fashion:

The owner(s) shall provide the pit agreement to the regulator as required by the statute. The owner(s) shall also provide to the regulator simultaneously with the provision of the pit agreement one of the following:

1. A copy of the decision of the NH RSA 21-L appeals board indicating and exemption from local zoning; or
2. A copy of the decision of the local Zoning Board of Adjustment granting a special exception to conduct such a use pursuant to NH RSA 155-E:4 III if applicable; or
3. A statement from the local Planning Director indicating that the proposed use is a permitted use within the zoning district in question.

Once the foregoing has been provided the owner(s) shall be required to attend an abutter notified public hearing of the regulator to address the question of compliance with operational and reclamation standards of NH RSA 155-E:4-a and 5-a.

## **ARTICLE II: PERMIT PROCESS**

All operations other than those identified above or otherwise exempted under NH RSA 155-E, shall be required to obtain a permit as outlined by NH RSA 155-E:3. After receipt of an application which provides the information identified below, the Planning board shall within sixty (60) days schedule a public (abutter notified) hearing on the application.

In addition to those requirements outlined in NH RSA 155-E:3, Application for Permit, the following provisions shall apply:

1. Five (5) copies of the excavation plan shall be submitted at a scale no less than one inch = 100". The Assessors map and lot number shall also be noted.
2. A description of the proposed haul roads used by the operator shall be provided. The regulator reserves the right to conduct a traffic study at the applicant's expense. The purpose of this study is to determine the impact that the project may have on the surrounding road system. A road bond and/or off-site road improvements may be required based upon the condition of the local road system and anticipated site generated traffic volume.
3. Drainage calculations based upon a twenty-five (25) year storm may be required.
4. Name and seal of a New Hampshire registered engineer and/or surveyor shall be affixed to the site plan.
5. The site plan shall indicate compliance with the Erosion and Sediment Control requirements as outlined within the Development Regulations of the Town of Milford.
6. Detail how the operation will control dust generated by the project.
7. A High Intensity Soil Survey map may be required to detail the edge of wetland areas.
8. A reclamation plan shall also be provided detailing how the site will be regarded and stabilized upon completion of the project.
9. The addition of vegetated visual barriers may be required depending upon existing neighborhood conditions.
10. No portion of any excavation site shall exceed ten (10) acres at one time. The site plan shall detail the sequence of operation in sections no greater than ten (10) acres each.

**ARTICLE III: PROHIBITED PROJECTS**

In addition to those prohibitions outlined in NH RSA 155-E:4, the following shall apply:

1. No permit for gravel removal shall be allowed unless explicitly provided for within the Zoning Ordinance.

**ARTICLE IV: HAZARD TO PUBLIC WELFARE**

When a proposed gravel operation will pose an undue hazard to the public the Planning Board, after a duly advertised public hearing, may reject the application for a permit. The Planning Board shall indicate to the applicant in writing the reasons for its denial and the information upon which the Planning board is basing its findings.

The following criteria shall be used by the Planning Board to determine if a public hazard exists:

- The amount of traffic generated by the site, in conjunction with the close proximity of residential uses, would create a dangerous situation for those who reside in the area.
- Noise, fumes and dust associated with the proposed operation would create a hazardous or harmful living environment for the abutting land owners.
- The operation itself cannot be carried out in a safe manner, posing a hazard to the environment, abutting landowners and the public at large.

**ARTICLE V: OPERATIONAL STANDARDS**

In addition to those criteria outlined in NH RSA 155:E:4-a, the following provisions shall apply:

1. No operation of the gravel business shall operate outside the hours of 7:00AM to 5:00PM, Monday through Friday. In addition , no excavation shall be allowed on a legal holiday. Other hours may be required or permitted which are compatible with neighborhood conditions.
2. Trucks entering signs shall be erected by the operator as required by the Director of Public Works and the Planning Board.
3. A copy of the approved gravel removal plan shall be on site at all times.
4. Topsoil shall be stripped and stockpiled for subsequent use in reclamation of the site.
5. Natural vegetation

**ARTICLE VI: RECLAMATION STANDARDS**

The intent of this section is to allow for the lawful continuance of non-conforming uses, and/or structures and to allow a certain reasonable level of alteration, expansion or change that will not change the nature of the use and unduly impact the neighborhood.

- A. Continuance: A non-conforming use may be continued, although such use does not conform to the current provisions of this Ordinance.
- B. Discontinued use: Whenever a non-conforming use has been discontinued for more than one (1) year for any reason, such non-conforming use shall not thereafter be reestablished, and the future use of the property shall be in conformity with the provisions of this Ordinance.
- C. Alterations: Alteration, expansion or change of a non-conforming use or structure shall only be permitted by Special Exception by the Zoning Board of Adjustment if it finds that:
  1. The proposed alteration, expansion or change will not change the nature of the original use; and
  2. The proposed alteration, expansion or change would involve no substantially different effect on the neighborhood. (1999)

**ARTICLE VII: PERMIT FEES**

No residential, business, commercial or industrial use shall be permitted which could cause any undue hazard to health or safety or which is offensive to the public because of noise, vibration, noxious odor, smoke or other similar reason.

**ARTICLE VIII: REQUIRED INFORMATION**

- A. Any uses of land and/or structures not specifically included in each zoning district as either acceptable or acceptable by special exception shall be considered as not permitted within that zoning district. (1997)

EXCAVATION SITE PLAN REVIEW  
COMPLETED APPLICATION CHECKLIST

1. A signed and dated application.
2. Nam and address of owner, the person doing the excavation and all abutters.
3. An excavation plan which:
  - a. Is at a scale no less than 1" = 100';
  - b. Shows area to be excavated and within 150';
  - c. Six copies are submitted;
  - d. Has the seal or signature of a registered engineer;
  - e. Has existing topography at five or fewer feet contours;
  - f. Show the breadth, depth and slope of proposed elevation and existing excavation and estimated duration;
  - g. Shows wooded and heavily vegetated areas;
  - h. Shows all surface drainage patterns including wetlands and standing water; HISS mapping'
  - i. Shows location of all easements on/below the ground;
  - j. Includes location and width of all public roads and rights-of-ways;
  - k. Includes a log of borings or test pits to include ground water levels;
  - l. Shows stone walls, ledge outcroppings, wells, existing buildings, septic systems, utilities and the like;
  - m. Includes a LOCUS map at a scale of one inch equals on thousand feet showing the proposed operation in relation to existing roads;
  - n. Shows any and all accessory facilities/activities;
  - o. Includes existing and proposed access roads including width and surface materials;
  - p. Shows existing and proposed parking areas;
  - q. Shows the location of driveways and road intersections within two hundred feet of property boundary;
  - r. Includes fencing, buffers and other visual barriers including height and materials;
  - s. Identifies storage areas for topsoil to be used in reclamation;
  - t. Identifies all measures to control erosion, sedimentation, water pollution, air pollution and safety hazards;
  - u. Identifies zoning districts;
  - v. Includes copies of all state or federal permits required for the excavation;
4. Location and boundaries of the proposed excavation and the number of acres involved in the project;
  - Haul routes
  - Hours of operation
  - Dust control
  - Excavation 50' from disapproving abutter; 10' from approving abutter

5. A site reclamation plan which:
  - a. Is at the same scale as the excavation plan;
  - b. Six copies are submitted;
  - c. Includes the seal and signature of a registered engineer;
  - d. Shows all boundaries of the area proposed for reclamation
  - e. Includes the final topography of the reclaimed area;
  - f. Shows final surface drainage patterns;
  - g. Includes the schedule of final reclamation activities including seeding mixtures, cover vegetation, fertilizer types, rates and trees;
  - h. Final slopes shown as being regarded to at least 2:1