



Town Of Milford Gravel and Earth Removal Regulations

Adopted 1990
Title 10-A

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AUTHORITY

The Town of Milford Planning Board hereby adopts the following regulation pursuant to its authority as set forth at RSA 155-E, and establishes that these regulations supplement the provisions of RSA 155-E and provide further clarification of the statutory requirements and their application within the Town of Milford. They are adopted as provided in RSA 155-E, and as adopted, whenever local regulations differ from the most recent provisions of RSA 155-E, those which impose a greater restriction or higher standard shall be controlling.

PURPOSE:

The purpose of this regulation is to implement the authority given to this municipality under NH RSA 155-E, as amended. This statute dictates that reasonable opportunities must exist within the community to extract gravel and earth. 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: DEFINITIONS

Earth: Sand, gravel, rock, soil or construction aggregate produced by excavating, crushing or any other mining activity or such other naturally occurring unconsolidated materials that normally mask the bedrock. Per RSA 155-E:1. IV, dimension stone does not include earth as defined in RSA 155-E:1, I.

Excavation: Land area which is used, or has been used, for the commercial taking of earth, including all slopes.

Excavation Site: Any area of contiguous land in common ownership upon which excavation takes place.

Existing Excavation: Any excavation 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.

Reclamation: The restoring of an excavation site to a standard at least equal to those outlined in Section IX of these regulations.

ARTICLE II: EXCAVATION OPERATIONS BEFORE AUGUST 24, 1979

Owners who operated excavation sites in continuous operation prior to August 24, 1979 as provided by NH RSA 155-E:2 (I), as amended, are not required to apply for a gravel removal permit and, accordingly these existing grandfathered excavations may be expanded as provided by NH RSA 155-E:2 (I) (b), as amended.

ARTICLE III: PERMIT REQUIRED

All commercial excavations proposing to begin operation after the adoption date of these regulations require a permit except those specifically exempted in RSA 155-E-2 and 155-E:2-a.

ARTICLE IV: EXCEPTIONS AND WAIVERS

In addition to those exceptions outlined in NH RSA 155-E:2-a, as amended, the Planning Board may, upon application and following a duly-noticed hearing, grant an exception in writing to the standards contained herein for good cause shown. The written decision shall state specifically what requirements are being waived and include any reasonable alternatives.

ARTICLE V: PERMIT APPLICATION PROCESS

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

1. Three (3) large copies (22"x34") and one (1) reduced (11"x17") copy of the excavation plan shall be submitted at a scale no less than one inch = 100 feet. 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 Planning Board 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 Stormwater Management Permit may be required if more than 5,000 SF of site disturbance and detailed plans shall be required if more than 20,000 SF of site disturbance;
8. A reclamation plan shall also be provided detailing how the site will be regraded 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.
11. Upon approval of the excavation plan by the Planning Board, five (5) large copies (22"x34") and one (1) reduced (11"x17") copy of the excavation plan and reclamation plan shall be submitted at a scale no less than one inch = 100" feet.

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.

The Planning Board reserves the right, per RSA 155-E: 3, VII to request additional reasonable information deemed necessary to make an informed decision, or to have plans reviewed by an outside agency. All expenses of preparation of all plans, maps, and reports accompanying the application shall be at the applicant's expense.

ARTICLE VI: PROHIBITED PROJECTS

In addition to those prohibitions outlined in NH RSA 155-E:4, as amended, no permit for gravel removal shall be allowed unless explicitly provided for within the Zoning Ordinance.

ARTICLE VII: HAZARD TO PUBLIC WELFARE

When a proposed gravel and earth removal 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:

1. 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.
2. Noise, fumes and dust associated with the proposed operation would create a hazardous or harmful living environment for the abutting land owners.
3. 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 VIII: 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 and earth removal 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 and earth 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 adjacent to neighboring properties on which excavation is not intended shall be maintained for the purpose of erosion control, screening, noise reduction, dust control, and property evaluation.

ARTICLE IX: RECLAMATION STANDARDS

In addition to those standards set forth in RSA 155-E:5, E:5-a and E:5-b, the following shall apply:

1. Stockpiled topsoil shall be spread over the disturbed area to allow revegetation. These disturbed areas will be adequately fertilized and reseeded to maintain a healthy vegetated cover.
2. If deemed necessary by the Planning Board, suitable trees and/or shrubs may be required in order to provide screening, natural beauty and to aid in erosion control. Such planted areas shall be protected from erosion during an appropriate established period by mulch and structural erosion control devices.

ARTICLE X: ADMINISTRATION AND ENFORCEMENT

A. PERMITS AND FEES

Permits shall be issued only to the owner or his agent and shall not be transferable without the written consent of the Planning Board. A copy of the permit shall be prominently displayed at the site or the principal access point to the site. A permit shall be valid for one (1) year and the expiration date shall be specified at the time of issuance. In addition to those criteria outlined in NH RSA 155-E:8 and the required abutter and site plan fees, (a schedule is available in the Planning Office), the following fees shall apply:

1. A \$50 annual gravel and earth removal permit fee shall be required to cover the cost of inspections necessary to determine compliance.
2. A fee payable to the Hillsborough County Register of Deeds (HCRD) shall be paid upon approval, for the filing of any new plan, if so required by the Planning Board.

Additional reasonable fees shall be charged should the Planning Board require the advice of an engineer or other expert to review plans or inspect the site to determine permit compliance.

B. BONDING

The bond amount, established by the Planning Board to cover reclamation of the site, shall be based on an amount of seven thousand five hundred dollars (\$7,500) per acre. Given the actual acreage of the site, this figure shall be prorated accordingly. The bond amount shall be adequate to reclaim the excavation site in accordance with RSA 155-E:5. The bond will be returned to the applicant when reclamation work has been completed.

C. RENEWAL

Excavation permits shall be valid for the term of one (1) year. A renewal permit must be in place prior to continuing excavation activities beyond the expiration date. The owner may apply for renewal of an excavation permit through the Office of Community Development for a fee not to exceed fifty dollars (\$50.00) per year.

D. APPEALS

Any person affected by the Board's decision to approve or disapprove an application or any amendment thereto or any suspension or revocation of a permit pursuant to RSA 155-E:10, may appeal to the 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 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.

ARTICLE XI: REQUIRED INFORMATION

It shall be implicit in any approved permit and stated on said permit that the owner(s) are granting the Planning Board or its agents the right to enter on the property without notice to determine compliance with the conditions of the permit or any reclamation.

APPENDIX

**EXCAVATION SITE PLAN REVIEW
COMPLETED APPLICATION CHECKLIST**

1. A signed and dated application.
2. Name and address of owner, the person doing the excavation and all abutters.
3. An excavation plan which includes:
 - a. Is at a scale no less than 1" = 100';
 - b. Shows area to be excavated and within 150';
 - c. Three (3) large copies (22"x34") and one (1) reduced (11"x17") copy;
 - d. Has the seal or signature of a registered engineer;
 - e. Has existing topography at five or fewer feet contours;
 - f. Shows 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;
 - 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 1"= 1,000 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. Plans for stormwater management if more than 5,000 SF of site disturbance;
 - v. Identifies zoning districts;
 - w. 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. Three (3) large copies and one (1) reduced (11"x17") copy and a pdf.;
 - 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 regraded to at least 2:1

6. Other Information:

The Planning Board reserves the right, per RSA 155-E: 3, VII, to request additional reasonable information deemed necessary to make an informed decision, or to have plans reviewed by an outside agency. All expenses of preparation of all plans, maps, and reports accompanying the application shall be at the applicant's expense.