

Town of Auburn, New Hampshire  
RSA 155- E Excavation Regulations

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These regulations have been adopted by the Auburn Planning Board (regulator) on December 20, 1985 after a duly noticed public hearing held on December 20, 1985.

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**EXCAVATION REGULATIONS  
TOWN OF AUBURN, NEW HAMPSHIRE**

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**Appendices**

- A New Hampshire RSA Chapter 155-E "Local Regulation Excavations"
- B RSA Chapter 149:8-a "Dredging (Terrain Alteration)"

## **Section 1 - Purpose**

These regulations supplement the provisions of RSA 155-E and provide further clarification of the statutory requirements and their application in the municipality of Auburn, New Hampshire. They are adopted as provided in RSA 155-E:11, RSA 675:6,7 & 8. Applicants should familiarize themselves with both RSA 155-E and these regulations to be fully informed as to permit requirements.

## **Section 2 - Definitions**

- A. **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 672:3.
- B. **Applicant:** Owner of the excavation site or the owner's designee.
- C. **Application:** A complete submission of information and plans as required by the statute RSA 155-E, local regulations, and by the excavation permit application.
- D. **Aquifer:** Those areas designated by the blue shading or hatching which appear on statewide mapping prepared by the United States Geological Survey entitled "Availability of Ground Water ..."
- E. **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 issuance of an excavation permit, to defray the costs of processing the application.
- F. **Excavation Permit (RSA 155-E:8):** A permit issued by the regulator allowing the excavation of material at a specified site, in a manner consistent with RSA 155-E and local regulations for the period designated on the permit itself.
- G. **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.
- H. **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.
- I. **Permit Fee ( RSA 155-E:11):** A fee 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.

- J. **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)
- K. **Regulator** : The Planning Board of the Town of Auburn, New Hampshire.
- L. **Temporary and Statutory Manufacturing and Processing Plants** Structural improvements that are permanent or temporary and that are integral to the grading, crushing, and stockpiling of excavated material.

### **Section 3 - Excavation Permit Application**

- 3.01 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.
- 3.02 The Application submission shall include:
  - 1. The application form 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 grading and revegetation following completion of the excavation project, and,
  - 4. Related permit approvals or other documents pertinent to the excavation proposal including but not limited to Dredge and Fill and Chapter 149:8-a.

### **Section 4 - Submission Documents**

- 4.01 **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 Licensed Land Surveyor. Other information which must be contained in the plan is:
  - 1. Proposed topography at the completion of excavation (prior to restoration).
  - 2. Distance between disturbed areas and closest property lines.
  - 3. Zoning district(s).
  - 4. Existing visual barriers to be retained.
  - 5. Aquifer limits/locations as identified by the U.S. Geological Survey or other sources.

6. Lakes, streams, wetlands and other natural and man-made features.
7. A description of project duration and phasing.
8. The names and addresses of abutting land owners.
9. Photograph(s) of the existing site.
10. Notations as to the size in acres of maximum excavated area, (maximum excavated area shall not exceed 5 acres at any time), the 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 groundwater table within or next to the proposed excavation.
13. Topsoil storage sites during the excavation process.
14. Erosion control and drainage plans.
15. The plan shall be drawn at a scale and contour interval which allows a through understanding of project scope. Sectional drawings shall be required by the regulator.
16. Failure to provide all requested information shall constitute grounds for rejection.

**4.02 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 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.

The restoration plan shall meet, at a minimum, the requirements set forth in RSA 155-E:5. The character of the restored landscape shall blend with the surrounding natural 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 be drawn at the same scale and shall use the same base survey information as the utilized in the preparation of the excavation plan. 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.
7. Failure to provide all requested information shall constitute ground for denial.

#### **Section 5 - Project Site Requirements**

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

- 5.01 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 the 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. The applicant shall be required to bear the cost of any and all traffic control measures, such as flag persons, special duty police officers, flashing lights, barriers, etc. if and when required by the regulator.
- 5.02 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.
- 5.03 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 or on more detailed aquifer mapping if such exists. The regulator shall determine whether or not substantial damage to an 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 the applicant provide data and reports prepared by a Professional Engineer or groundwater consultant which assess the potential aquifer damage caused by the proposed excavation project.

- 5.04 Topsoil Cover.** Prior to the withdrawal of material at a new excavation site, topsoil material shall be stripped and stored on-site for site restoration use when the excavation project is complete. This should be undertaken in a phased manner to minimize erosion potential. Topsoil shall be revegetated during the period of storage. (Maximum area stripped shall not exceed 5 acres total at any one time.)
- 5.05 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.
- 5.06 Maximum Disturbed Area.** Maximum area stripped shall not exceed five (5) total acres at any one time.
- 5.07 Pit Erosion.** No pit shall be left in such a condition that erosion of the pit during or after completion of the work may result in water pollution by silt or other deleterious substances. Pits shall be left in such shape and condition that material will not wash to block or obstruct drainage ways. The area shall be left as free draining is practical.
- 5.08 Revegetation:**
1. All disturbed areas shall be spread with the original topsoil or sufficient topsoil to cover disturbed areas to a minimum depth of three (3) inches.
  2. Areas for which trees have been removed shall be replanted with white pine seedlings.
  3. Areas where low brush or grass has been removed shall either be planted with seedlings or seeded with a slope seed mixture conforming to State of New Hampshire Department of Public Works Highways slope-seed mixture.
- 5.09 White Pine Seedlings**
1. Seedlings shall be two (2) year old plants or plants furnished under a standard nursery order for white pine seedling.
  2. Seedlings without center buds and seedlings with pruned roots will not be accepted.
  3. Seedlings shall be set out in accordance with accepted horticultural practice at eight (8) foot spacing in both directions.
- 5.10 Access Roads.** Such roads shall be obliterated upon depletion of pit unless requested to be retained by the regulator.
- 5.11 Seeding.** All seeding shall be accomplished in conformance with "The State of New Hampshire Standard Specification for Road and Bridge Construction" Section 644-Grass Seed, with exception of Method and Measurement and Basis of Payment, which shall not apply.

- 5.12 Visual Barriers.** A vegetative or topographical buffer shall be maintained between surrounding streets, highways, commercial, and residential land uses and the excavated site. The regulator shall direct the applicant as to specific requirements for the proposed excavation site. Existing barriers shall be retained as the excavation project is conducted.

#### **Section 6 - Application Procedure**

- 6.01 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 (one copy to each) to the regulator as well as the Auburn Conservation Commission.
- 6.02 Excavation Fee.** An excavation fee of \$50.00 (fifty dollars) shall be paid to the regulator by the applicant prior to issuance of an excavation permit.
- 6.03 Bonding.** The regulator shall establish the amount of the performance bond prior to issuance of the excavation permit. The bond amount shall be adequate to restore the excavation site in accordance with RSA 155-E:5, as well as to restore roads which access the site if necessary and all roads over which material is to be hauled. 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.
- 6.04 Action on 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 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.
- 6.05 Pit Agreement.** 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, V highways. A copy of the agreement shall be submitted for acceptance to the regulator. 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. 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.
- 6.06 Permit Validity.** The excavation permit shall be valid for a period of one (1) year.
- 6.07 Completion Notification.** The applicant shall notify the regulator in writing when the excavation of the site has been completed.



- 6.08** The completed application is to be delivered to the Secretary of the Planning Board or Selectmen's Secretary, a minimum of twenty-one (21) days before the next scheduled Planning Board public hearing. The applicant will be notified of the date and time of their public hearing upon completion of review and acceptance of the completed application of the Board.

### **Section 7 - Renewal and Amendment of Excavation Permit**

- 7.01 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 3 of these regulations. The excavation permit application need only describe those information items which have been changed in content from the previous application submission. Fees and bonding shall be as established for new permits.
- 7.02 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 in Section 5 of these regulations.

### **Section 8 - Administration and Enforcement**

- 8.01 Permit Fee Schedule.** A fee of \$50.00 (fifty dollars) per excavated pit acre 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 payments shall be determined by the regulator.
- 8.02 Enforcement (also refer to RSA 155-E:10)** The regulator will conduct site inspections to verify permit compliance on an annual basis unless more frequent site visitation is necessary due to special characteristics of the excavation/restoration plans.
- 8.03 Other Regulations.** Where these regulations are in conflict with other local ordinances and/or regulations, the more stringent shall apply.
- 8.04** These regulations shall become effective upon passage and proper filing.
- 8.05** The violation of any condition of the pit permit shall result in a two (2) week suspension of permit for first offense and thirty (30) day suspension for each subsequent offense. Should violations become chronic and repetitive, the regulator shall revoke permit.