

Excavation Regulations Town of Moultonborough

Planning Board Approved
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Excavation Regulations

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1.0 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 Planning Board by NH RSA 155-E, the Town adopts the following regulations to govern the excavation of earth materials in the Town of Moultonborough.

2.0 Purpose and Intent

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

3.0 Definitions

Abutter means: (1) any person whose property is in New Hampshire and adjoins or is directly across the street or stream from the land under consideration. (2) 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. (3) 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. (4) For purposes of notification and receiving testimony, abutter means all affected towns and the regional planning commission in the case of a development having regional impact, as determined by the Board.

Applicant means the owner of the property to be excavated or the owner's agent, so designated in writing as part of the excavation application.

Berm means a mound of earth that may contain stumps of sufficient height to serve as sight, sound, sand, and dust screening of operations in an excavation site.

Board means the Moultonborough Planning Board.

Commercial Excavation means excavation of earth intended for commerce, excluding excavation that is strictly conducted for the purpose of alteration, renovation, improvement, or construction to the property on which the excavation takes place. Any material leaving the property for whatever reason is considered to be a commercial operation, except agricultural activities, as defined by NH RSA 21:34-a.

Contiguous means land whose perimeter can be circumscribed without interruption in common ownership except for roads or other easements, wholly within the Town, except in the case of stationary manufacturing plants, whose perimeter is not defined by the Town's boundaries.

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Dimension Stone means 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 to be produced. Dimension stone does not include earth as defined below.

Earth means 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.

Excavation means a land area that is used, or has been used, for the commercial taking of earth, including all slopes.

Excavation Area means the area within an excavation site where excavation has occurred or is eligible to occur under the provisions of RSA 155-E. This is also known as the pit area.

Excavation Site means any area of contiguous land in common ownership upon which excavation takes place.

Existing Excavation means any excavation that lawfully existed as of August 24, 1979, from which earth material of sufficient weight or volume to be commercially useful had been removed during the 2-year period before August 24, 1979.

Expansion: (a) of existing excavations means excavation beyond the limits of the Town and the area which on 8/24/79 had been contiguous to and in common ownership with the excavation site and has been appraised and inventoried for tax purposes as part of the same tract as the excavation site. (b) of stationary manufacturing plants means to any contiguous lands which were in common ownership with the site of the plant on 8/4/89.

Noise as defined in the Town of Moultonborough Ordinance No. 10-Unnecessary Noise.

Reclamation means the restoring of an excavation site to a standard at least equal to those outlined in Section 9.0, Site Reclamation Standards.

Revocation means the revoking of the approved extraction permit by the Planning Board. The revocation requires ceasing operations until such time as the owner or operator can bring the operation into compliance, and subsequently reapply for permitted status with the Planning Board at a regular meeting using standard application steps as outlined in this article.

Stationary Manufacturing and/or Processing Plants means facilities that are placed on a site for the purposes of sorting, washing, screening, crushing, classifying, drying, or processing excavated earth materials.

Suspension means the ordered cessation of that portion of an extraction operation that is in violation of this Article until such time as the owner or operator can demonstrate compliance to the Code and Compliance Officer.

4.0 Applicability

4.1 Projects Requiring a Permit

4.1.1 Those that commenced operations since August 24, 1979 without first obtaining a permit, unless specifically exempted by Section 4.2. below.

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- 4.1.2 Any excavation proposing to begin operation after the effective date of these regulations.
- 4.1.3 Those that have lawfully operated prior to August 24, 1979 and wish to expand the excavation area.
- 4.1.4. Those excavations from an area that on August 4, 1989 was contiguous to or was contiguous land in common ownership with stationary manufacturing and processing plants that were in operation as of August 24, 1979 and wish to expand.

4.2 Projects Exempt from a Permit

The following projects do not require a permit but are nevertheless subject to Sections 8.0 Operational Standards; 9.0 Site Reclamation Standards; and 10.0 Incremental Reclamation. In the event of a question regarding compliance, the Board may require the owner/operator to come before the Board and submit such information as may be necessary to demonstrate compliance with said standards.

- 4.2.1 Existing Excavations that lawfully existed as of August 24, 1979 from which earth materials of sufficient weight and volume to be commercially useful has been removed during the 2-year period before August 24, 1979, provided that:

4.2.1.1 At the time operation began it was following any local ordinances that may have been in effect.

4.2.1.2 The owner or operator of such an excavation area shall have filed an excavation report per RSA 155-E: I (d) with the Board no later than August 4, 1991. Any existing excavation that failed to file this report shall no longer be grandfathered and must obtain a permit from the Board before continuing excavation of the site.

- 4.2.2 The following projects do not require a permit but are nevertheless subject to Sections 8.0 Operational Standards; 9.0 Site Reclamation Standards; and 10.0 Incremental Reclamation of these regulations. Compliance with these standards is mandatory to retain the non-permit status. Loss of such non-permit status can occur only after the Board has given written notice that the excavation is not in compliance and the owner has failed to bring it into compliance within 30 days of receipt of such notice.

4.2.2.1 Excavations from a site that on August 4, 1989 was contiguous to or was contiguous land in common ownership with stationary manufacturing and processing plants which were in operation as of August 24, 1979 and which use earth obtained from such excavation site.

4.2.2.2 Excavations from a site that on August 4, 1989 was contiguous to, or was contiguous land in common ownership with stationary manufacturing and processing plants for which local or state permits have been granted since August 24, 1979 and before August 4, 1989, which used earth obtained from such site.

- 4.2.3 An excavation performed exclusively for the lawful construction, reconstruction, or maintenance of a Class I, II, III, IV, or V highway. A copy of the pit agreement executed between the pit owner, the agent, and the governmental unit shall be filed with the Board prior to the start of excavation. In addition, the provisions of Section 6.0 Prohibited Projects of this regulation and the provisions of NH RSA 155E:2, IV, (b) and (c) shall be complied with.

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

4.2.4.1 Excavation that is exclusively incidental to the lawful construction or alteration of a building or structure, 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 other required state and local permits have been issued.

4.2.4.2 Excavation that is incidental to agricultural or silvicultural activities, normal landscaping, or minor topographical adjustment. In the event of questions, the Town Planner shall determine what is incidental in accordance with NH RSA 21:34-a.

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

4.2.6 A person owning land abutting a site that 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 Town Planner.

5.0 Abandoned Excavations

5.1 Any excavation, except for those associated with stationary manufacturing plants, whether subject to a permit under these regulations or not, for which the affected area has not yet been brought into complete compliance with the reclamation standards of this regulation shall be considered abandoned if:

5.1.1 No material of sufficient weight or volume to be commercially useful has been removed from the site during any 2-year period either before, on, or after August 4, 1989. The time period may be extended if, prior to the end of the time period, the Board approves a reclamation timetable, and a bond or other surety is posted in a form and amount prescribed by the Town Engineer sufficient to cover the costs of reclaiming the entire site, however, in no case shall the incremental surety amount be less than \$3000.00/acre.

5.1.2 The excavation site is in use and is not an excavation associated with stationary manufacturing plants, but either has not been brought into compliance with the incremental reclamation standards of this regulation, or a bond or surety has not been posted and the Board has not approved a reclamation timetable.

5.1.3 The owner or operator of the excavation has neither secured a permit pursuant to these regulations nor filed an excavation report with the Planning Board within the prescribed period.

5.2 In the event the Code & Compliance Officer determines that any abandoned excavation presents a hazard to the public health, safety or welfare, the owner may be required, following a public hearing, to comply with the timetable and bonding or surety requirements outlined above, or to complete reclamation within a reasonable period of time. Should reclamation not be completed, the Board may request the Town to authorize reclamation at the Town's expense. The Town's costs shall constitute an assessment against the owner and shall create a lien against the property 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.

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5.3 The provisions of Section 5.2, above also apply to any excavation that ceased commercially useful operation prior to August 24, 1977, but for which the affected area has not been brought into compliance with the reclamation standards, if the Code & Compliance Officer determines in writing that specified reclamation measures are necessary to eliminate or mitigate an identified hazard to public health or safety.

6.0 Prohibited Projects

The Planning Board shall not grant a permit:

- 6.1 Where the project cannot comply with the requirements of Sections 8.0 Operational Standards, 9.0 Site Reclamation Standards, and 10.0 Incremental Reclamation.
- 6.2 For excavations within 50 feet of the boundary of a disapproving abutter or within 10 feet of an approving abutter unless approval is requested by said abutter.
- 6.3 Where the excavation is not permitted by zoning or other applicable ordinances, provided, however, that reasonable opportunities for excavation exist in the Town, as described in RSA 155-E: 4, III.
- 6.4 Where the issuance of the permit would be unduly hazardous or injurious to the public welfare. The Board shall consider such factors as noise, traffic, dust, fumes, or danger from operation.
- 6.5 Where existing visual barriers would be removed, except to provide access to the excavation.
- 6.6 Where the excavation would substantially damage a known aquifer, as designated by the United States Geological Survey.
- 6.7 When the excavation cannot receive required necessary approvals from state or federal agencies, such as Alteration of Terrain or Wetlands permits.

7.0 Criteria for Non-conforming Expansions

Expansion of existing excavations located in an area in which excavations are no longer permitted by zoning that was in effect on August 4, 1989 may be restricted or modified with conditions by the Board, if after notice to the owner and a public hearing, the Board finds that the expansion will have a substantially different and adverse impact on the neighborhood. Impacts will vary depending upon the particular neighborhood; nevertheless, the following criteria will be taken into consideration:

- 7.1 The excavation will not cause a diminution in area property values or unreasonably change the character of the neighborhood.
- 7.2 The excavation will not create any unnecessary noise or create health or safety hazards.
- 7.3 The excavation will not unreasonably accelerate the deterioration of highways or create safety hazards in the use thereof.

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8.0 Operational Standards

8.1 For excavations not requiring a permit, the following standards apply. For those excavations requiring a permit, these standards are considered to be the minimum; more stringent standards such as are consistent with the purpose of these regulations may be applied, as deemed necessary by the Board.

8.1.1 No excavation shall be permitted within 50 feet of the boundary of a disapproving abutter, within 150 feet of a dwelling that either existed or for which a building permit has been issued at the time the excavation is commenced.

8.1.2 No excavation shall be permitted below road level within 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.

8.1.3 Vegetation or suitable berm or combination of both shall be maintained or provided within the peripheral areas of Items 1 and 2 of this section.

8.1.4 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.

8.1.5 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.

8.1.6 Appropriate drainage shall be provided to prevent the accumulation of freestanding water for prolonged periods.

8.1.7 Excavation practices that result in continued siltation of surface waters or any degradation of water quality of any public or private water supplies are prohibited.

8.1.8 No excavation shall be permitted within 100 feet of any lake, great pond, navigable river, or any other standing body of water 10 acres or more in area, or within 50 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 area as defined by the NH Department of Environmental Services (DES) and the Moultonborough Zoning Ordinance, Article IX, Overlay Districts, A. Wetland Resources Conservation Overlay District.

8.1.9 Sand and gravel extraction operations shall not excavate below an elevation four (4) feet above the seasonal high-water table. Refer to the Moultonborough Zoning Ordinance, Article XIII, Groundwater Protection Ordinance, for monitoring and inspection requirements.

9.0 Site Reclamation Standards

Within 12 months following the expiration date of a permit issued under these regulations, or the completion of any excavation with the exception of agricultural activities, whichever occurs first, the excavated area shall be reclaimed in accordance with the following standards:

Excavation Regulations

9.1 For excavations not requiring a permit, the following standards apply. For excavations requiring a permit, these standards are considered to be the minimum; more stringent standards such as are consistent with the purpose of these regulations may be applied, as deemed necessary by the Board.

9.1.1 Except for exposed rock ledge, 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 prevent erosion. 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.

9.1.2 All earth and vegetative debris resulting from the excavation shall be removed or otherwise lawfully disposed of.

9.1.3 All slopes, except for exposed ledge, shall be graded to natural repose (2:1 slope) for the type of soil of which they are composed so as to control erosion or at a ratio of horizontal to vertical proposed by the owner and approved by the Board. Changes of slope shall not be abrupt but shall blend with the surrounding terrain.

9.1.4 Any standing bodies of water created by the excavation that is judged to constitute a hazard to health and safety shall be eliminated.

9.1.5 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. For excavation projects requiring a permit from the Division of Water Supply and Pollution Control, the provisions of RSA 485-A: 17 shall supersede this regulation. Copies of all local, state, and federal required permits shall be filed with the Land Use Department.

10.0 Incremental Reclamation

Except for excavation sites of operating stationary manufacturing plants, any excavated area of 5 contiguous acres or more which is depleted of commercial earth materials, excluding bedrock, or any excavation operation from which earth materials of sufficient weight or volume to be commercially useful have not been removed for a 2-year period, shall be reclaimed in accordance with Section 9.0, Site Reclamation Standards within 12 months following such depletion or non-use, regardless of whether other excavation is occurring on adjacent land in contiguous ownership. A reclamation plan, including a reclamation timetable for the depleted areas within the reclamation site, shall be submitted to the Board for review and approval by each operator, other than the operators of stationary manufacturing plants that are exempt from permit requirements.

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11.0 Performance Guarantee

11.1 Prior to Permit or Any Work on New Area

Prior to the granting of any permit or to the removal of topsoil or other overburden material from a new area within an existing excavation site, the applicant shall submit to the Land Use Department a sufficient surety as determined by the Town Planner. In no case shall the incremental surety amount be less than \$3000.00/acre. The purposes of the surety are to guarantee reclamation of the area, compliance with the permit, and to defray costs of any inspections. Off-site improvements for potential damage of Town roads or facilities caused by the transportation of earth materials shall be discussed at this stage.

11.2 Surety

The surety may be in the form of a performance bond, property escrow, irrevocable letter of credit, or any other form approved by the Board. The surety may be phased to coincide with the phasing of work, in an amount sufficient to guarantee reclamation of the applicable section, to be released as sections are completed. Prior to a new section being opened, new securities shall be posted. The surety shall not be released until the Town Planner is satisfied that all conditions of the site reclamation plan have been complied with.

12.0 Waivers

Due to the diverse nature of excavation operations that vary in scale and scope, and due to the varying conditions of the land to be excavated, the Board may, upon application and following a duly-noticed hearing, grant any waiver in writing to the standards contained in Sections 8.0, 9.0 10.0 for good cause shown. The written decision shall state specifically what requirements are being waived and include any reasonable alternatives.

13.0 Application Procedures

Prior to the 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:

13.1 Filing of the Application

13.1.1 Applications for excavation permits shall be filed with the Land Use Department by April 1st biannually.

13.1.2 The application will be reviewed with the applicant upon submittal to the Land Use Department and will be accepted only if it is found to meet all submission requirements for a completed application. The application must be accepted by the Land Use Department as complete no later than April 20th to be scheduled for a public hearing. If the application is not completed by the deadline, then another meeting may be scheduled, but may not be later than the expiration date of the permit. All operations shall cease upon permit expiration until a new hearing is scheduled and a completed application is approved.

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13.2 Board Action on Application

13.2.1 At the Board's first meeting date in May, the Board may vote to accept the application, and if accepted, will determine whether it has the potential for regional impact, and will then schedule a public hearing to be held within 30 days. The Board may for good cause with proper notice, accept the application, hold the public hearing, and make a decision during the same meeting if it finds no grounds for regional impact.

13.2.2 Within 20 days of the close of the hearing on the application, or any continuation thereof, the Board shall make a decision. Notice of this decision shall be recorded in the minutes of the meeting and placed on file in the Land Use Department within 72 hours.

13.2.3 The applicant shall receive a written copy of the minutes along with the decision. In the event the application is denied, the reasons for the denial shall be given.

13.3 Notices Required for Public Hearing

13.3.1 All abutters will be notified by certified mail, not less than 10 days prior to the meeting at which the application will be submitted for acceptance. Names and addresses of abutters must be taken from Town records not more than 5 days before filing the application.

13.3.2 Public notice will appear in a newspaper of general circulation and in at least three public places not less than 10 days prior to the meeting.

13.3.3 The notice must include the location and general description of the proposal, as well as the date, time, and place of the meeting.

13.4 Fees

13.4.1 A filing fee of \$150.00 plus abutter notification postage shall be paid upon submission of an application, to defray the costs of posting notice for the public hearing. Failure to pay such cost shall constitute grounds for the Board to not accept the application.

13.4.2 A permit fee of \$50.00 shall be paid upon the issuance of a permit, to defray the costs of permit compliance.

13.4.3 A fee payable to the Carroll County Register of Deeds (CCRD) shall be paid upon approval, for the filing of any new plan, if so required by the Planning Board.

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

14.0 Application Submission Items

The applicant shall submit at least 10 copies of an Excavation and a Reclamation Plan and transmit same in pdf format via email; one additional copy shall be sent to the Conservation Commission. The plans shall be at a scale appropriate for the land area involved. The Board may, upon good cause shown, waive any of the items in Paragraphs 14.1 Excavation Plan or 14.2 Reclamation Plan below.

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14.1 Excavation Plan

The excavation plan shall address specific actions to be taken on the site relative to fuel and chemical handling and storage, dust control, traffic, noise control and abatement, and comprehensive site safety of unauthorized persons. The plan shall show or be accompanied by the following items:

- 14.1.1 Name and address of the owner, the excavator (if different) and all abutters.
- 14.1.2 Name, address, and signature with professional stamp of the person preparing the plan; date, bar scale and north arrow.
- 14.1.3 Zoning district boundaries of the proposed area and within 200 feet of the boundary of the project.
- 14.1.4 Sketch and description of the location and boundaries of the proposed and any existing excavations; including the area in square feet and acre.
- 14.1.5 The location of existing buildings, structures, septic systems, and wells within 200 feet of the boundary.
- 14.1.6 Public streets, driveways, intersections, rights-of-way, and all easements within 200 feet; road network to be affected; intended transportation routes to be used.
- 14.1.7 Topography at contour intervals of five feet or less.
- 14.1.8 All surface drainage patterns including wetlands and standing water.
- 14.1.9 Sketch and description of existing and proposed access roads, including width and surface materials.
- 14.1.10 The breadth, depth and slope of the proposed excavation and the estimated duration of the project.
- 14.1.11 The elevation of the highest biannual average ground water table within or next to the proposed excavation. Refer to Moultonborough Zoning Ordinance, Article XIII, Groundwater Protection Ordinance, VIII, I, for requirements of compliance with the four (4) foot buffer rule.
- 14.1.12 Test pits that extend to either the seasonal high-water table, ledge, or a minimum of six feet below the maximum proposed excavation depth, including location and soils data; boring logs may be submitted separately.
- 14.1.13 Proposed fencing, buffers, or other visual barriers, including height and materials.
- 14.1.14 All measures to control erosion, sedimentation, water pollution, air pollution, and any hazards to human safety.
- 14.1.15 Plans for storm water management.
- 14.1.16 Plans for storage, use, and disposal of petroleum products and other regulated materials.
- 14.1.17 Methods to prevent materials from the site from being tracked onto public roadways.
- 14.1.18 Copies of all necessary state and federal permits.

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14.2 Reclamation Plan

The reclamation plan shall address the effects of the proposed excavation on soil, surface and groundwater, vegetation, overburden, topography, and fill material, and should address future land use consistent with the Town's Master Plan. The plan shall show or be accompanied by the following items:

- 14.2.1 Name, address, and signature with professional stamp of the person preparing the plan; date, bar scale and north arrow.
- 14.2.2 All boundaries of the area proposed for reclamation and the land within 200 feet of the boundary of this site.
- 14.2.3 Final topography of the area proposed for reclamation, at contour intervals of five feet or less.
- 14.2.4 Final surface drainage pattern, including the location and physical characteristics of all artificial and/or modified drainage facilities.
- 14.2.5 Timetable as to fully depleted sites within the excavation area.
- 14.2.6 Schedule of final reclamation activities including seeding mixtures, cover vegetation, fertilizer types, and application rates.

14.3 Other Information

The Board reserves the right, per RSA 155-E: 3, VII to request any other information it deems necessary to make an informed decision, or to have plans reviewed by an outside agency. According to the authority vested in the Board by RSA 676:4, I (g), any reasonable expenses incurred for such information or reviews shall be charged to the applicant. Failure to pay such costs constitutes valid grounds for the Board to deny the application. The following items shall accompany the application:

- 14.3.1 A biannual report documenting compliance with the requirements of Moultonborough Zoning Ordinance, Article XIII, Groundwater Protection Ordinance. Pursuant to RSA 155-E:11, the requirements of this section may be waived if the applicant demonstrates that such exception shall be recorded in the Registry of Deeds, and one copy filed with the NH Department of Environmental Services.
- 14.3.2 A written statement from the Tax Collector of the Town of Moultonborough that all current property and excavation taxes levied against all properties in the operation have been paid in full and that there are no unreleased tax liens encumbering said properties.
- 14.3.3 A copy of the Notice of Intent to Excavate filed with the Assessor's Office of the Town of Moultonborough.
- 14.3.4 A copy of the surety bond or other form of performance guaranty as approved by the Planning Board.

15.0 Administration and Enforcement

15.1 Permits

- 15.1.1 Permits shall be issued only to the owner or his agent and shall not be transferable without the prior written consent of the Board. A copy of the permit shall be prominently displayed at the site or the principal access to the site.

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15.1.2 A permit shall be valid for two (2) years and the expiration date shall be May 30th.

15.1.3 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 by the Code and Compliance Officer.

15.1.4 The Board may include in the permit any such reasonable conditions as are consistent with the purpose of these regulations.

15.1.5 All permitted sites shall be inspected on a biannual basis by the Code and Compliance Officer or his designee. Inspections shall be scheduled in April to coincide with biannual permit applications and in October each year. The inspection reports shall be timely submitted to the Board for their review.

15.2 Amendments and Renewals

Permit holders wishing to alter the size or location of the excavation, the rate of removal or the plan for reclamation shall apply for a renewal or amendment; following the same procedures as those required for the original excavation permit.

15.3 Inspections

The Code and Compliance Officer or his designee may make periodic inspections of all excavation sites to determine if the operations are in conformance with these regulations and the approved plans.

15.4 Suspensions and Revocations

The Board may suspend or revoke a permit if the Code and Compliance Officer determines that any provision of the permit has been violated, a material misstatement made in the application upon which a permit was granted, or any unsafe or hazardous conditions are determined by a site inspection to exist. Such suspension or revocation shall be subject to a motion for rehearing thereon and appeal in accordance with these regulations to the Zoning Board of Adjustment.

15.5 Appeals

Any person affected by the Planning Board's decision to approve or disapprove an application or any amendment thereto or any suspension or revocation of a permit, may appeal to the Zoning Board of Adjustment 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 Zoning Board shall either grant or deny the request for rehearing within (10) days, and if the request is granted, a rehearing shall be scheduled within thirty (30) days. Any person affected by the Zoning Board's decision on a motion or rehearing may appeal in accordance with RSA 677:4-14.

15.6 Penalties

Fines, penalties and remedies for violations of this regulation shall be the same as for violations of RSA 676:15 and 17. Whoever violates any provision of this regulation, a permit or a valid order issued hereunder shall be guilty of a misdemeanor.