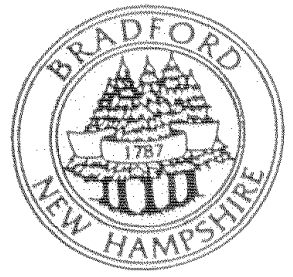


TOWN OF BRADFORD

NEW HAMPSHIRE 03221



EARTH EXCAVATION & RECLAMATION REGULATIONS

TOWN OF BRADFORD
MERRIMACK COUNTY
NEW HAMPSHIRE

Adopted
~~October 23, 2007~~
Public Hearing
February 10, 2015

Anyone planning to submit an application under RSA 155-E, is advised to familiarize themselves with this document. While it is based on state statute, and in no case is less restrictive, there are requirements specific to the Town of Bradford that must be followed. Reviewing these Regulations in advance will save the applicant time delay, additional fees, and possible future penalties.

TOWN OF BRADFORD
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SECTION I: 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 RSA 155-E: 1, III, the Planning Board adopts the following regulations to govern the excavation of earth materials in the Town of Bradford.

SECTION II: PURPOSE AND SCOPE

The goals of these regulations 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. For the purpose of achieving these goals, no earth materials in the Town shall be removed except in conformance with these regulations.

SECTION III: DEFINITIONS

A. **Abutter** means:

1. Any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration as defined by RSA 673:3.
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.
4. For the purposes of notification and receiving testimony, abutter means all affected towns and the regional planning commission(s) in the case of a development having regional impact, as defined by RSA 36:54.

B. Agricultural Use means land used for farming, dairying, pasturage, horticulture, floriculture, silviculture, animal husbandry, poultry husbandry, and equestrian activities. The word “agriculture” shall include the entirety of RSA 21:34-a.

C. **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.

D. **Aquifer** means those areas designated by blue shading or hatching which appear on statewide mapping prepared by the United States Geological Survey.

E. **Board** means the Bradford Planning Board.

F. **Commercial** means any use of earth material for sale or resale on or off the site of the excavation area. In addition, an excavation shall be considered commercial if earth materials are transported off the excavation area. Excavations which use earth materials in the process of other material such as but not limited to, concrete, asphalt and other building materials shall be considered commercial.

G. **Commercial Excavation** means excavation of earth intended for commerce, and may include excavation that is conducted for the purpose of alteration, renovation, improvement or construction to the property on which the excavation takes place. Earth leaving the property for sale, barter or exchange is considered to be a commercial operation.

H. **Commercially Useful** means the amount of excavated earth deemed by the regulator to be commercially useful which has been determined to be 1000 cubic yards or more.

I. **Contiguous** means land whose perimeter can be circumscribed without interruption in common ownership except for roads or other easements, in a single town, except in the case of stationary manufacturing plants as described in RSA 155-E:2, III whose perimeter is not defined by town boundaries.

J. **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.

K. **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.

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

M. **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.

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

O. **Existing Excavation** means 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 as specified in RSA 155-E:2.1.

P. Expansion:

1. of existing excavations means excavation beyond the limits of the Town and the area which on August 24, 1979 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.

2. of stationary manufacturing plants means to any contiguous lands that were in common ownership with the site of the plant on August 4, 1989 whether or not state and local permits were granted before August 4, 1989.

Q. **Incidental Excavation** means excavation of earth which has been granted an exception from an excavation permit by the regulator.

R. **Minor Topographical Adjustment** means a onetime removal of earth from the site of less than 1000 cubic yards that is exclusively necessary to change the physical configuration of the land for a specified use or situation.

S. **Normal Landscaping** means the on-site alteration and contouring of the land exclusively devoted to improving the functional utility and planting of the grounds.

T. **Pit Agreement** means a document executed by the Board of Selectmen and the owner filed with the regulator prior to the start of any excavation that meets the criteria in RSA 155-E:2,IV for work performed exclusively for the lawful construction, reconstruction, or maintenance of a Bradford Class V highway.

U. **Reclamation** means the restoring of an excavation site to a standard at least equal to those outlined in Section X of these regulations.

V. **Regulator** means the Bradford Planning Board.

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

SECTION IV: PROJECTS REQUIRING A PERMIT

Any excavation of earth unless specifically granted an exception by either RSA 155-E:2 or specifically exempted in Section V of these regulations.

~~1. Those that commenced operations since August 24, 1979 without first obtaining a permit, unless specifically exempted by Section V below.~~

~~2. Any excavation proposing to begin operation after the effective date of these regulations.~~

~~3. Those that have lawfully operated prior to August 24, 1979 and wish to expand the excavation area beyond the limits contained in the report submitted in accordance with RSA 155-E:2, I(d).~~

SECTION V: PROJECTS EXEMPT OR GRANTED AN EXCEPTION FROM A PERMIT

1. The regulator has determined that none of the existing excavation sites in the town of Bradford are “grandfathered” under RSA 155-E:2.

2. The regulator has determined that none of the existing excavation sites in the town of Bradford are Stationary Manufacturing Plants under RSA 155-E:2.

The following projects do not require a permit, but are nevertheless subject to Sections IX, X, and XI of these regulations. 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.

Existing Excavations are exempt from a permit provided that:

1. At the time operation began, it was in compliance with any local ordinances that may have been in effect;

2. The owner or operator of such an excavation area shall have filed an excavation report per RSA 155 E:2, I(d) with the Board no later than August 4, 1991. Any existing excavation that failed to file the report shall no longer be considered to be an existing excavation and must obtain a permit from the Board before continuing excavation of the site.

3. Such excavation shall be performed in compliance with the operational and reclamation standards as expressly set forth in RSA 155 E:4, 5, and 5-a.

4. The owners or operators of any existing excavation area for which no permit has been obtained under these regulations and for which an excavation report as required by RSA 155 E:2, I(d), was not filed with the Regulator by August 4, 1991, shall be determined to be abandoned per Section VI.

3. An excavation performed exclusively for the lawful construction, reconstruction, or maintenance of a Class I, II, III, IV, V highway by a unit of government having jurisdiction, or by their agent pursuant to RSA 155-E:2,IV. The following projects do not require a permit, but are nevertheless subject to Sections VII, IX, X, and XI of these regulations. Compliance with these standards is mandatory in order to retain the non-permit status. Loss of such non-permit status can occur only after the regulator 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. A copy of the pit agreement executed between the pit owner and the governmental unit will be filed with the regulator.

1. Excavations from a site which 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.

2. Excavation from a site that on August 4, 1989 was contiguous to, or 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.

3.

4. The following projects are ~~exempt from a permit and are not subject to regulation by the Board~~ deemed to be an exception, and may be subject to oversight pursuant to Section XIII:

a. 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 when total earth removal quantity is not more than ~~300~~ 1000 cubic yards. This excavation cannot be started, however, until all required local, state, and federal permits have been issued.

b. Excavation that is incidental to agricultural use ~~or silvicultural activities~~, normal landscaping or minor topographical adjustment when total earth removal quantity is not more than ~~300~~ 1000 cubic yards. In the event of questions, the Board shall determine what is incidental.

5. Excavation from a granite quarry for the purpose of producing dimension stone, if such excavation requires a permit under RSA 12-E (Mining and Reclamation).
6. Incidental excavations exceeding ~~300~~ 1000 cubic yards may be granted an exception from a permit by the regulator based upon the facts and circumstances of the proposed project.
7. A person owning land abutting a site which 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 regulator.

SECTION VI: ABANDONED EXCAVATIONS

For a commercial excavation site to be considered "active" (not abandoned), an Intent to Excavate Form PA-38 shall be filed each March, and a current NH DRA Excavation Tax Certificate shall be displayed on site by April 1 of each year, along with a current Town of Bradford Excavation Permit.

Any excavation, except for those associated with stationary manufacturing plants, for which the affected area has not been brought into complete compliance with the reclamation standards of this regulation shall be considered abandoned if:

1. No earth 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 regulator approves a reclamation timetable, and a bond or other surety is posted in a form and amount prescribed by the regulator sufficient to cover the costs of reclaiming the entire site.
2. The excavation is in use, but has not been brought into compliance with the incremental reclamation standards of this regulation, a bond has not been posted, or the regulator has not approved a reclamation timetable.
3. The owner or operator of the excavation has neither secured a permit pursuant to these regulations nor filed the report with the regulator as required pursuant to RSA 155-E:2, I(d).

In the event the regulator 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 requirements outlined above, or to complete reclamation within a reasonable period of time. Should reclamation not be completed, the regulator may request the Town to authorize reclamation at the Town's expense. The Town's cost shall constitute an assessment against the owner, and shall create a lien against the property. Such assessment and lien may be enforced and collected in the same manner as provided for real estate taxes.

If the regulator has determined that a danger to public health or safety exists from any excavation which ceased commercially useful operation prior to August 24, 1977, for which the affected areas has not been brought into compliance with the minimum and express reclamation standards in Section X, the regulator shall state so in writing and the provisions of the above paragraph shall apply.

SECTION VII: PROHIBITED PROJECTS

The regulator shall not grant a permit under the following conditions:

1. For excavations within 50 feet of the boundary line of a disapproving abutter or within 10 feet of an approving abutter unless approval is requested by said abutter.
2. Where existing visual barriers would be removed, except to provide access to the excavation.
3. Where the issuance of the permit would be unduly hazardous or injurious to the public welfare, the regulator shall give particular consideration to such factors as noise, traffic, dust, fumes, or danger from operation.
4. Where the excavation would substantially damage a known aquifer.
5. When the excavation cannot receive necessary approvals from state or federal agencies, such as Alteration of Terrain or Wetlands permits.

6. Where the excavation is not permitted by zoning or other applicable ordinances, provided, however, that reasonable opportunities for excavation exist in town, as described in RSA 155-E:4, III.

7. Where the project cannot comply with the requirements of Sections IX, X, and XI of these regulations.

8. Where the planned excavation will be in violation of RSA 155-E:4.

SECTION VIII: EXPANSION OF EXISTING EXCAVATIONS

When the scope of an approved permitted excavation is proposed to be altered as to affect the size or location of the excavation, the rate of removal, or the plan for reclamation, the owner must submit a new application, plans, and other required submission items for a new excavation permit hearing process.

Any future enlargement of the commercial use or alteration of use can be made only with the approval of the Board of Adjustment by special exception. (Bradford Zoning Ordinance III:B-2)

~~Expansion of existing excavations located in an area in which excavations are no longer permitted by local zoning that was in effect on August 4, 1989 may be restricted or modified with conditions by the regulator, if after notice to the owner and a public hearing, the regulator finds that the expansion will have a substantially different and adverse impact on the neighborhood. The applicant must demonstrate that:~~

- ~~1. The excavation will not cause a diminution in area property values or unreasonably change the character of the neighborhood.~~
- ~~2. The excavation will not create any nuisance or create health or safety hazards.~~
- ~~3. The excavation will not unreasonably accelerate the deterioration of highways or create safety hazards in the use thereof.~~

SECTION IX: OPERATIONAL STANDARDS

~~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 regulator.~~

1. No excavation shall be permitted within 50 feet of the boundary of a disapproving abutter, within 10 feet of the boundary of an approving abutter, or closer than 150 feet to an existing dwelling or to a site for which a building permit has been issued at the time the excavation permit is granted.
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.
3. Vegetation shall be maintained or provided within the peripheral areas of items 1 and 2 of this section.
4. No fuels, lubricants or other toxic or polluting chemicals shall be stored onsite unless in compliance with State laws or rules pertaining to the storage of such materials.
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.
6. Appropriate drainage shall be provided to prevent the accumulation of freestanding water for prolonged periods.
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. No excavation shall be permitted within 150 feet of any great pond, navigable river, or any other standing body of water 10 acres or more in area, or within 75 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 greater than 5 acres in area as defined by the State of New Hampshire Department of Environmental Services.
9. Natural vegetation adjacent to neighboring properties on which excavation is not intended shall be maintained for the purpose of erosion control, screening, noise

reduction, and property valuation. A vegetative buffer or topographical berm of a minimum of fifty feet (50') 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 and may, in its discretion, waive or alter the fifty foot requirement in the case of an approving abutter, but in no case shall the buffer be less than twenty-five (25') feet. In situations where the natural vegetation has been removed prior to or during the application submittal process, the regulator may require that a vegetative buffer be planted/restored.

10. Where existing, a natural buffer shall be maintained within the one hundred fifty (150') feet of the reference line as defined by RSA 483-B:4,XVII. The purpose of this buffer shall be to protect the quality of public waters by minimizing erosion, preventing siltation and turbidity, stabilizing soils, preventing excess nutrients and chemical pollution, maintaining natural water temperature, maintaining a healthy tree canopy and under story, preserving fish and wildlife habitat, and respecting the overall natural condition of the protected shore land.

11. Nothing herein contained shall be construed to forbid the creation of a lake or pond; provided that adequate provision has been made for the runoff of water in such manner as will not injure any roads, highways, or abutting property. If more than 1000 cubic yards of earth will be removed from the parcel as a result of the project, an excavation permit shall be obtained. All ponds must have a slope no less than 3:1. No construction shall begin until all required local, state, and federal permits have been issued.

12. The regulator will determine the acceptable hours of operation with consideration taken to residents' needs and the needs of the owner of the excavation.

A. Processing

1. Processing machinery shall be erected or maintained on the lot as approved within the operational plan and such machinery shall be removed from the lot upon expiration of the permit or as otherwise provided in the permit.

2. No material shall be stock piled or located outside the permit area.

3. No blasting shall occur without receiving approval during the permitting process.

4. Crushing may not be introduced without a request being submitted to the regulator who will hold a public hearing and then rule. The regulator may restrict the hours of operation of such activity.

B. On-site Storage—Solid Waste

1. Waste, building materials and rubble (i.e. "demolition and construction debris" or "C&D waste") shall not be stored or buried on the site without written approval by the regulator. If approved by the regulator, the burial/storage site will be noted on the plan and performed in accordance with all local, state and federal regulations.

2. Stumps and brush shall be allowed to be buried or stored on site so long as the stumps and tree parts are buried in a manner to preclude the development of sink hole and erosion of cover materials and will be protective of the environment, public health and safety. The burial or storage will be performed in accordance with all local, state and federal regulations. The site plan and property deed will provide:

a. A statement that the property has been used for the disposal of stumps and tree parts;

b. The date the activity took place;

c. The location of the burial area(s) with sufficient specificity as to allow an independent third party to locate the area(s); and

d. The estimated quantity of waste disposed on the property.

3. The site will not be used for storage of junk vehicles, machinery, etc. as defined in RSA 236:112.

SECTION X: SITE RECLAMATION STANDARDS

~~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 regulator.

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

1. 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.
2. On any sites visible from the public way, the regulator shall require planting of trees or other vegetation as screening.
3. Except for exposed rock ledge, all disturbed areas shall be spread with topsoil or other soil capable of maintaining permanent vegetation, and shall be planted with tree seedlings or grass suitable to prevent erosion.
4. All earth and vegetative debris resulting from the excavation shall be removed or otherwise lawfully disposed.
5. All graded areas covered with soil shall be seeded or planted with tree seedlings. The area shall be maintained and nurtured until a permanent vegetative crop is established.
6. All slopes, except for exposed ledge, shall be graded to natural repose 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 regulator. Changes of slope shall not be abrupt, but shall blend with the surrounding terrain.
7. All finish grade elevations shall maintain a minimum two (2) foot separation above the seasonal high water-table, except for when a pond is created or an exception is granted by the regulator. The regulator may grant an exception when presented with affirmative evidence that risk to ground water contamination is mitigated.
8. Any standing bodies of water created by the excavation that have been judged by the regulator to constitute a hazard to health and safety shall be eliminated.
9. 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 original and natural proportions of flow.
10. For excavation projects requiring a Alteration of Terrain Permit from the New Hampshire Department of Environmental Services, the provisions of RSA 485-A: 17 shall supersede the regulation in number 9. Copies of all such permits shall be filed with the regulator.

SECTION XI: 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 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 X of these regulations 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 regulator for approval.

SECTION XII: PERFORMANCE GUARANTEE

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 Planning Board a performance bond with sufficient surety as determined by the Board under advice from the Town Engineer or designee. The purposes of the bond are to guarantee reclamation of the area, compliance with the permit, and any inspections. Off-site improvements for potential damage of Town roads or facilities caused by the transportation of earth materials may require a separate bond.

The board may accept the following methods of posting a performance guarantee:

1. Cash or savings passbook held in the name of the town and deposited with the town treasurer;

2. A bond issued by a guarantee company located within and authorized to do business in the State of New Hampshire, in an amount and manner acceptable to the regulator, after consultation and approval by Town Counsel; or
3. A letter of credit in an amount and manner acceptable to the regulator after consultation and approval by Town Counsel.

This provision assures proper and legally binding agreements and appropriate economic assurance for the protection of the Town and its citizens. The surety may be phased to coincide with the phasing 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 Board is satisfied that all conditions of the site reclamation plan have been complied with.

In the granting of an exception for an incidental excavation project that will remove more than 1000 cubic yards of earth from the site, the regulator may require a performance surety to ensure compliance with reclamation specifications.

SECTION XIII: EXCEPTIONS

Due to the diverse nature of excavation operations, the regulator may, upon application and following a duly-noticed hearing, grant any exception in writing, of the standards contained in Sections IX, X, and XI of this regulation for good cause shown. A request for any exception must be submitted in writing as part of the application.

The regulator shall not approve any exceptions unless a majority of those present and voting shall find:

1. The granting of the exception will not be detrimental to the public safety, health or welfare or injurious to other property and will promote the public interest.
2. The exception will not, in any manner, vary the provision of the Bradford Zoning Ordinance.
3. Such exception will substantially secure the objectives, standards and requirements of these regulations; and
4. A particular and identifiable hardship exists or a specified circumstance warrants the granting of an exception. Factors to be considered in determining the existence of a hardship or special circumstance shall include, but are not limited to:
 - a. Topography
 - b. Existing site features
 - c. Geographical location of the property
 - d. Size, magnitude or project being evaluated
 - e. Alternative proposals which are determined by the regulator to provide greater overall benefit to the residents of Bradford.

The written decision shall state specifically what requirements are being waived and may include any reasonable alternatives.

The decision on a request for such exception may be appealed in accordance with Article XVI. E.

SECTION XIV: APPLICATION PROCEDURES

A preliminary consultation is required prior to the formal filing of an application under these regulations. Only a brief sketch and outline of the proposal is necessary for this discussion which is not binding on either the regulator or the applicant.

Prior to the regulator 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:

A. Filing of the Application

1. Applications for excavation permits shall be filed at the Town Hall 21 days before the meeting of the regulator at which the application is to be ~~submitted~~ reviewed as complete. To provide continuity for expiring permits, the application for a new permit should be filed at least 60 days prior to expiration of the current permit.
2. The application will be reviewed with the applicant or agent at the meeting, and will be accepted by the regulator only if it is found to meet all submission requirements for

a completed application. Should the application not be accepted as complete, another meeting must be scheduled for resubmission.

B. Regulator Action on Application

1. Following a vote to accept the application as complete, the regulator will schedule a public hearing to be held within 30 days.
2. Within 20 days of the close of the hearing on the application, or any continuation thereof, the regulator shall make a decision. Notice of this decision shall be recorded in the minutes of the meeting and placed on file in the Town Hall within 72 hours.
3. The applicant shall receive a written copy of the minutes along with the decision. In the event the application is disapproved, the reasons for the disapproval shall be given.

C. Notices Required for Public Hearing

1. All abutters and the Conservation Commission 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.
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 public hearing.
3. The notice must include the location and general description of the proposal as well as the date, time, and place of the public hearing.

D. Fees

1. ~~A filing fee of \$100 plus notice costs to abutters and newspaper of general circulation, shall be paid upon submission of an application. Failure to pay such cost shall constitute grounds for the Board to not accept the application.~~
2. ~~A permit fee of \$50 shall be paid upon the issuance of a permit.~~

1. Fee Schedule:

Application: \$110.00

Newspaper Notice: \$40.00

Escrow Fee: \$400.00

(Above fees with three [3] separate checks to "Town of Bradford")

Notification: Certified Mail cost per abutter (check to Postmaster)

Failure to pay above fees shall constitute grounds for the regulator to not accept the application.

Permit Fee: \$50.00 upon issuance of permit (check to "Town of Bradford")

2. Escrow Fee:

It shall be the responsibility of the applicant to pay reasonable fees for special investigative studies, environmental assessments, legal review of documents, administrative expenses, and other matters that may be required to make an informed decision on a particular application. Upon filing of the application, ~~an a four hundred~~ (\$400.00) dollar escrow account shall be established to cover the initial costs of required reviews.

3. Surety Fee:

~~A Surety fee of a minimum of one thousand (\$1,000) dollars~~ will be required for engineering review as deemed necessary by the regulator. The dollar amount will be based on soil, topography, and other ecological factors, not to exceed one thousand five-hundred (\$1500.00) dollars per acre, or one thousand five-hundred (\$1500.00) dollars for an excavation site of less than one acre. This amount The surety fee is to be held in escrow and will not be used for payment of any fees, but will be released to the owner at such time as the excavation pit is completely finished and reclaimed.

SECTION XV: APPLICATION SUBMISSION ITEMS

The applicant shall submit at least 5 copies of the Excavation and the Reclamation Plans to the regulator. The applicant shall submit one copy to the Conservation Commission. The plans shall be at a scale ~~appropriate for the land area involved no~~ greater than 1 inch equals 100 feet. Engineered plans are not specifically required unless state or federal regulation requires a site specific plan or the regulator

determines the project is of sufficient scope or contains characteristics which make an engineered plan desirable.

In addition to the physical copies required, one copy of all required submittals shall be submitted in an electronic format (pdf or image file). Submission may be via email or physical media (dvd, usb drive, etc).

A. 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 in sufficient detail and clarity or be accompanied by the following items:

1. Name and address of the owner, the excavator (if different) and all abutters, as defined in RSA 672:3.
2. Locus map showing site and all adjacent water bodies, ponds, third order streams, and aquifers.
3. Plan showing proposed excavation.
4. New excavations require a survey by a Registered Land Surveyor to establish an accurate base map showing boundary lines, topography, and significant features within 200' of the excavation area.
5. Sketch and description of existing and proposed access roads, including width, surface materials and visual barriers to public highways.
6. The breadth, depth and slope of the proposed excavation and the estimated duration of the project.
7. The elevation of the highest annual average ground water table within or next to the proposed excavation.
8. Base flood elevations and flood hazard areas based on available FEMA maps
9. Delineation of soil, wetland, and any areas greater than 50% slope. (*see Bradford Zoning Ordinance*)
10. Name, address, and signature of the person preparing the plan, date, bar scale and north arrow.
11. Acknowledgment block for Conservation Commission, and other Town Department Heads as deemed appropriate by the regulator.
12. Approval line for Planning Board signatures
13. Zoning district boundaries of the proposed area and within 200 feet of the boundary of the project.
14. Copies of all necessary state and federal permits.
15. The location of existing buildings, structures, septic systems, and wells within 200 feet of the boundary.
16. All measures to control erosion, sedimentation, water pollution, air pollution, and any hazards to human safety.
17. Plans for storm water management.

At the discretion of the regulator, the following items may be required to be shown on plans or to accompany plans:

1. Existing topography at contour levels of two feet or less.
2. All surface drainage patterns including wetlands and standing water.
3. Proposed fencing, buffers or other visual barriers, including height and materials.
4. Public streets, driveways, intersections, rights-of-way, and all easements within 200 feet; road network to be affected; intended transportation routes to be used.
5. Plans for equipment maintenance.
6. Methods to prevent materials from the site from being tracked onto public roadways.
7. A State Certified Soil Scientist shall evaluate 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.

B. 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 Master Plan. The plan shall show or be accompanied by the following items:

1. Name, address, and signature of the person preparing the plan; date, bar scale and north arrow.
2. All boundaries of the area proposed for reclamation and the land within 200 feet of the boundary of this site.
3. Final topography of the proposed area to be disturbed by excavation at contour intervals of five feet or less or as otherwise determined by the regulator.
4. Final surface drainage pattern, including the location and physical characteristics of all artificial and/or modified drainage facilities.
5. Timetable as to fully depleted sites within the excavated area.
6. Schedules of final reclamation activities including seeding mixtures, cover vegetation, fertilizer types, and application rates.

C. Other Information

The Planning 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, 1 (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.

SECTION XVI: ADMINISTRATION AND ENFORCEMENT

A. Permits

1. Permits shall be issued only to the owner or his agent and shall not be transferable without the prior written consent of the regulator. ~~A copy of the permit shall be prominently displayed at the site or the principal access to the site.~~
2. The Town of Bradford Excavation Permit shall be displayed in a conspicuous location near the entrance to the excavation site, and if required, the state of NH Department of Revenue Excavation Tax Certificate (Form PA-40).
3. Expiration Date: A permit shall be valid for ~~three years~~ up to five (5) years and the expiration date shall be specified.
For excavation sites where the NH Department of Environmental Services Alteration of Terrain Permit an update process applies, the expiration date of the town permit shall coincide with the next State of NH DES Alteration of Terrain update date. As of 2014 this is every fifth (5th) anniversary from the original State of NH permit issuance date. For excavation sites where the NH DES Alteration of Terrain does not apply, the expiration date shall be:
 - a.) Five (5) years from date of final approval by the Planning Board for a NEW excavation site.
 - b.) Five (5) years from expiration date for previously permitted excavation sites.

A permit is automatically withdrawn if no substantial work is done on the site for a period of ± 2 years from the date of the issuance of the permit, unless a written request for extension is approved by the regulator.

5. Failure to file for a permit shall be considered a violation and operators who fail to file will be issued an order to cease and desist.
6. The regulator may include in the permit any such reasonable conditions as are consistent with the purpose of these regulations.
7. The owner/operator of each excavation site shall forward to the Bradford Planning Board a copy of the State of NH Department of Environmental Services Alteration of Terrain Permit, a copy of the State of NH Department of Revenue Administration Excavation Tax Certificate (Form PA-40) if applicable, and any state inspection reports or communications within 10 days of receipt.

B. Amendments

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

C. Inspections

- ~~1. The Board will establish a schedule by which all permitted sites are inspected on a regular basis.~~ The Bradford Planning Board or its designee ~~may~~ shall make periodic inspections of all excavation sites to determine if the excavation operation is in conformance with the permit, town regulations, and the approved plans.
2. Bonding will be reviewed at the time of periodic inspections.
3. Inspections of each excavation site shall be scheduled at least once every 12 months and may be scheduled more frequently. Inspections shall normally be scheduled between April 16th and May 15th of each year, to follow the end of the NH DRA gravel tax year of March 31st. Additional inspections may be scheduled as necessary.
4. An inspection team shall consist of one member from each of the following groups: Planning Board, Conservation Commission, Zoning Board. Other town or state officials may be included as needed.
5. The Planning Board shall maintain an inspection checklist for use during inspections and for reference by excavation site owners. The list may be updated periodically as needed by the Board. Compliance with "Section IX: Operational Standards" and/or "Section X: Site Reclamation Standards" in these regulations shall be included as part of the inspection checklist.
6. Upon completion of each inspection, the inspection team shall summarize their findings in a letter to the excavation site owner/operator, with a copy to the Planning Board files.

D. Suspensions and Revocations

The regulator may suspend or revoke a permit (or an exception for incidental excavation) upon written notice to the excavation site owner;

1. If the regulator determines that any provision of the permit has been violated,
 2. If a material misstatement was made in the application upon which a permit was granted, or
 3. If any unsafe or hazardous conditions exist as determined by a site inspection.
- Such suspension or revocation shall be subject to a motion for rehearing thereon and an appeal in accordance with these regulations.
4. If the inspection team is denied access to an excavation or reclamation site after reasonable efforts to schedule a mutually agreeable date and time.
 5. If a commercial excavation site fails to file form PA-38 Intent to Excavate, and display a new NH DRA Excavation Tax Certificate by April 1 of each year.

E. Appeals

Any person affected by the regulator's decision to approve or disapprove an application by any amendment thereto or any suspension or revocation of a permit, may appeal to the regulator 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 regulator 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 regulator's decision on a motion or rehearing may appeal in accordance with RSA 677:4-15.

F. Penalties

Fines, penalties and remedies for violations of this regulation shall be the same as for those set forth in RSA 676:15, 17, 17-a, and 17-b.

SECTION XVII: SEVERABILITY

The invalidity of any provision, sentence, paragraph, etc. of this regulation shall not affect the validity of any other provision, sentence, paragraph, etc.

SECTION XVIII: EFFECTIVE DATE

~~October 23, 2007~~

January 27, 2015

PLANNING BOARD SIGNATURES

APPENDIX A

THIS CHECKLIST FORM MUST ACCOMPANY EACH APPLICATION

(signed by the actual owner)

CHECK LIST FOR PREPARING EXCAVATION APPLICATION

(processing of this application will be significantly delayed if it is not complete)

____ Five copies of the completed application form, accompanied by:

1. Three copies of mailing labels containing names and addresses of all abutters, taken from the town records not more than five (5) days before the day of filing.
2. Sufficient legible copies of the first page of the excavation plan reduced to no more than 11 x 17 inches (10 copies plus 1 for each abutter).
3. Names and addresses of all persons whose name and seal appear on the plat.
4. Names and addresses of all holders of conservation, preservation or agricultural preservation restrictions.

5. A copy of the State of NH DES Alteration of Terrain Application, Alteration of terrain Amendment Application, and/or Alteration of Terrain permit issued by the State of NH Department of Environmental Services showing the expiration date. (if applicable)

6. In addition to the physical copies required, one copy of all required submittals shall be submitted in an electronic format (pdf or image file). Submissions may be via email or physical media (dvd, usb drive, etc.)

Fees:

____ Application Fees: ~~\$100.00~~ \$110.00

____ Fee for require newspaper advertisement

____ Fee for certified mail to all abutters required by RSA 676:4,1 (d) at current P.O. rates

____ ~~Surety of a minimum of one thousand (\$1000.00) dollars~~ will be required for engineering review as deemed necessary by the regulators. The dollar amount will be based on soil, topography, and other ecological factors, not to exceed one thousand five-hundred (\$1500.00) dollars per acre, or one thousand five-hundred (\$1500.00) for an excavation site of less than one acre. This amount The surety fee is to be held in escrow and will not be used of payment of any fees, but will be released to the owner at such time as the excavation pit is completely finished and reclaimed.

____ List of requested exceptions

____ I do hereby certify that this application for excavation meets all zoning regulations.

____ I do hereby agree that I am responsible for all costs for outside assistance and/or all consulting costs regarding this excavation as per Article 16.5 of the Excavation Regulations.

Signature (owner of record)

Date

The Application must be filed at the Bradford Town Hall at least 21 days before the date it is to be submitted to the Planning Board

APPENDIX B
TOWN OF BRADFORD, NEW HAMPSHIRE
EARTH EXCAVATION PERMIT APPLICATION

This entire form must be completed and questions answered in square footage, acreage, etc. ("see plan" is not acceptable) and relevant documents provided, including an updated abutters list, or the application may be delayed or denied.

File completed application together with fees and additional required information at the Bradford Town Hall

Map# _____ Lot# _____ Zoning District: _____

Type of Operation: _____

Pursuant to RSA 155-E, the following application must be submitted to the regulator to obtain an Excavation Permit. Prior to issuance of a permit, the regulator shall determine that the provisions of RSA 155-E, these regulations and any other applicable regulations or ordinances are met.

Applicants qualifying under the exemption provisions of RSA 155-E:2 and filing the reclamation plan pursuant to RSA 155-E are to utilize this form noting the intent of this application.

1. Reason for Application:

[] New Excavation Site [] Permit Expiration [] Exception [] Amendment
[] Reclamation
(RSA 155-E:3) (155-E:8) (155-E:5-b) (155-E:6) (155-E:5)

2. Date of Submission: _____

3. Name of Property Owner(s): _____

Mailing address: _____

Telephone #: _____

4. Name of Owner(s) / Owners' Designee / Agent:

(A notarized letter required indicating assigned agent, agent's address, telephone number and the amount of authority given.)

5. Name of Applicant / Contractor (person actually doing the excavation):

Mailing address: _____

Telephone #: _____

6. Name of Engineer or Surveyor who prepared the plans:

Mailing address: _____

Telephone #: _____

License #: _____

7. Earth to be removed from: Location of proposed / existing excavation (municipality, nearest roads, other local information)

Type of material (gravel, loam, top soil, clay, stone, etc.):

8. Tax Map and Lot number, name and addresses of all abutters (see definition). Names must be current, based on Town records, five (5) days prior to the submission of the application. (Include on List of Abutters form and show clearly on plan).
9. Area of land to be excavated in sq. ft. and acres (if excavated area is in excess of one (1) acre, topographical map illustrating area to be excavated must be provided):
10. Area of land excavated during previous permit period: _____
11. Total estimated volume to be excavated (in cubic yards): _____
12. Removal Schedule: _____
13. Description of breadth, depth and slope of proposed excavation:
- _____
14. Elevation of the highest annual average ground water table within and next to the proposed excavation: _____
15. Access to public highways:
- a. Detailed plan to be provided by proposed excavator indicating position of entry to public highway.
- b. If access to public highway is to be across land other than that owned by permit applicant, the following must be provided:
- (1.) Plan for proposed access indicating distances from dwellings, other buildings, water wells and sanitary systems
- (2.) Notarized signed permission from owner(s) of land to be used for access
16. Copies of all local, state and federal permits required and obtained. Permits include, but are not limited to the following:
- a. Dept. of Environmental Services- Alteration of Terrain Permit (RSA 485-A:17)
- b. Wetland Board (RSA 483-A)
- c. State Highway Department (Access Permit, RSA 249:13-18)

- d. State Pit Agreement (per NHDOT Standards Specifications for Road and Bridge Constriction, Section 106)
- e. US Army Corps of Engineers Dredge & Fill Permit
- f. EPA permit as required
- 17. Excavation Plan (5 copies)
- 18. Reclamation Plan - with timetable: (5 copies)
- 19. Proposed bond or other Surety by applicant to cover reclamation (this may be changed by the regulator).
- 20. Hauling Information:
 - a. Routes to be utilized
 - b. Frequency of truck traffic over routes
 - c. Size and weight of trucks used
- 21. Application Fees - See "Section XIV D. Fees"
- 22. Permit
- 23. Hours of Operation: _____

Submitted by:

Property Owner(s)

Contractor

Date:

FOR OFFICIAL USE ONLY
(Do not write in space below)

Date Received: _____ Received by: _____

Date Application Sent to Conservation Commission by Applicant:

Application Determined to be Complete: [] Yes [] No Date: _____

Planning Board / Regulator

Permission to remove the above described earth:

APPROVED: _____ NOT APPROVED: _____
conditions attached reasons attached

Planning Board / Regulator

Bradford, New Hampshire 03221

Expiration Date:

Date Paid:

Fee (yearly):

BRADFORD PLANNING BOARD EARTH EXCAVATION PERMIT APPLICATION

Application # _____

ABUTTERS LIST (as defined in RSA 672:3)

(As indicated in Town records not more than 5 days before the day of filing)

APPLICANT _____ DATE _____

Address _____

Complete this form and attach it to the application. Use additional sheets if necessary.

TAX MAP/LOT NO. NAME MAILING ADDRESS

	Engineer	
	Land surveyor	
	Soil Scientist	
	Applicant	

ABUTTERS AND PROFESSIONALS: Holders of conservation, preservation or agricultural preservation restrictions as defined in RSA 477:15, Engineer, architect, land surveyor, or soil scientist whose seal appears on the plat. Holders of any Easements, Rights of Way (ROW), or Right to Pass are considered Abutters (i.e. .. Utility company)

EARTH EXCAVATION PERMIT APPLICATION

Application # _____

NOTICE OF DECISION

BRADFORD PLANNING BOARD, BRADFORD, NEW HAMPSHIRE 03221

The application of _____

Location_____

Map_____, Lot_____

New Permit _____

Amendment _____

Exception _____

Reclamation _____

was approved ____ disapproved ____ by the Planning Board on _____

The following conditions of the approval, or reasons for disapproval, are attached:

Planning Board

Date

Note: The conditions of approval must be met within 180 days or the application will be considered null and void. The applicant may request an extension for valid reason. The request must be in writing.

CC: Applicant
 Code Enforcement Officer

Zoning Board of Adjustment
Board of Selectmen

**APPENDIX C
TOWN OF BRADFORD SAMPLE EARTH EXCAVATION PERMIT**



**PLANNING BOARD
TOWN OF BRADFORD
P.O. BOX 436
BRADFORD, NH 03221
TELEPHONE: (603)-938-5900
FAX: (603)-938-5694**

EXCAVATION PERMIT

**POST (WITH NH DRA EXCAVATION TAX CERTIFICATE) IN A PROMINENT PLACE
ON OPERATION SITE OR AT THE PRINCIPAL ACCESS POINT**

THIS PERMIT EXPIRES <UP TO FIVE YEARS FROM DATE OF APPROVAL>

MAP: _____ **LOT:** _____

LOCATION: _____

STREET ACCESS: _____

OWNER(S): _____

ADDRESS: _____ **TOWN:** _____ **STATE:** _____

CONTACT PERSON: _____ **PHONE:** _____

This certifies that: <insert gravel pit company name> is approved to operate under the Town of Bradford Earth Excavation and Reclamation Regulations as amended on November xx, 2014 and subject to further amendments from time to time. This permit is issued in accordance with Chapter 155-E of the New Hampshire Revised Statutes Annotated.

Permit is non-transferrable without written permission by the regulator.

ISSUED BY:

Name (print)

Name (print)

Signature – Planning Board Chair
Town of Bradford

Signature -- Planning Board Member
Town of Bradford

Date

Date

APPENDIX D
TOWN OF BRADFORD, NEW HAMPSHIRE
EARTH EXCAVATION INSPECTION CHECKLIST

This checklist will be reviewed annually, and modified as needed.

Checklist for Active Excavation Sites:

- 1) Are both DRA TAX Certificate and Bradford Excavation Permit prominently displayed at entrance to site?
- 2) Is NH DES Alteration of Terrain Permit needed for this site? (If permitted, the copy of this permit should be posted.)
- 3) Do any unsafe or hazardous conditions exist on or adjacent to the site?
- 4) Is an adequate record keeping process in place for tracking excavation volumes?
- 5) What was the most recent date of removal?
- 6) Does the reported volume appear to be consistent with general observations? (Photos from prior inspection or Google Maps might be used)
- 7) Are all of the conditions of the permit being met?
- 8) Is excavation within the approved area and consistent with the documented plan?
- 9) Is excavation within 50' of a disapproving abutter or within 10' of an approving abutter?
- 10) Is excavation within 150' of an existing or permitted dwelling?
- 11) Is excavation below road level within 50 feet of any public highway?
- 12) Has vegetation been maintained or provided around the peripheral areas of the site, except to gain access?
- 13) Are any fuels, lubricants, or other pollutants stored on site?
- 14) Are barricades provided for any slopes exceeding 1:1 grade?
- 15) Is there any indication of freestanding water for prolonged periods?
- 16) Is excavation within 75' of any great pond, navigable river, or any other standing body of water ten acres or more in area?
- 17) Is excavation within 25' of any stream, river, brook that normally flows throughout the year? Or, any naturally occurring standing body of water less than 10 acres, prime wetland, or any other wetland greater than 5 acres in area as defined by NH DES?
- 18) Is any processing machinery erected or maintained on the site? Was it approved as part of the permit?
- 19) Is any material stock piled or located outside the permit area?
- 20) Has any crushing been introduced on the site? Have specific hours of operation been approved by the regulator?
- 21) Is any waste, building material, or rubble being stored or buried on the site? Any stumps or brush?
- 22) Are there any junk vehicles or junk machinery stored on the site?
- 23) Is current bonding adequate to cover future reclamation?

Checklist for Reclamation (or sites in transition to reclamation):

- 1) Are tree seedlings planted in areas visible from a public way?
- 2) Have all disturbed areas been reseeded with tree seedlings or grass? Has a permanent vegetative state been established?
- 3) Have all stumps and other debris been removed or lawfully disposed of?
- 4) Are all changes in slope gradual to prevent erosion and blend with the surrounding terrain?
- 5) Are there any standing bodies of water created by the excavation? Are they a public safety or health hazard?
- 6) Has the topography been left so that drainage reverts to its original points and proportions of flow?