

## **TOWN OF LYME EXCAVATION REGULATIONS**

### **I. Authority and Purpose**

Chapter 155-E of the New Hampshire Revised Statutes requires that, with several exceptions, all mining and excavation operations in the State obtain prior approval and permit from the local municipality in which the operation is to occur. Unless otherwise specified at town meeting, this authority falls to the local planning boards. The purpose of the Statute is to minimize safety hazards created by open excavations; to safeguard the public health and welfare; to preserve our natural assets of soil, water, forests and wildlife; to maintain aesthetic features of our environment; to prevent land and water pollution; and to promote soil stabilization.

The Lyme Planning Board adopts the following regulations governing excavations in the Town of Lyme.

### **2. Definitions**

- 2.1 Earth shall mean sand, gravel, rock, soil, or construction aggregate.
- 2.2 Excavation shall mean a land area which is used, or has been used, for the commercial taking of earth, including all slopes, resulting in the removal of more than 100 cubic yards of earth.
- 2.3 Excavation Site shall mean any area of contiguous land in common ownership upon which excavation takes place.

### **3. Application and Review**

An application for permit, including both an excavation plan and a restoration plan, shall be submitted to the Planning Board (the "Board") including all the information listed below. The Planning Board may waive one or more of the required items. No permit shall be granted to any project which would be unduly hazardous or injurious to the public welfare or where the excavation would substantially damage a known aquifer including those designated by the U.S. Geological Survey. The Board may impose conditions on any permit that might be granted to minimize any adverse impacts.

- 3.1 Excavation Plan at a scale of no less than one inch equals one hundred feet and showing the area to be excavated and the land falling within 100 feet (or more if requested by the Board) of the perimeter of the area to be excavated including:
  - 3.1.1 seal and signature of an engineer or soils scientist registered in the State of New Hampshire, or signature of County Soil Conservation Agent;
  - 3.1.2 existing topography at contour intervals of five or fewer feet, based on mean sea level;
  - 3.1.3 wooded and heavily vegetated area;
  - 3.1.4 all surface drainage patterns including wetlands and standing water;
  - 3.1.5 location of all easements, on or below the ground;
  - 3.1.6 location and width of all public roads and rights-of-way;

- 3.1.7 a log of borings or 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;
- 3.1.8 location and extent of any stone walls, ledge outcroppings, wells, existing building, septic systems, utilities, and the like;
- 3.1.9 an insert site location map showing the proposed operation in relation to existing roads, housing, and community facilities;
- 3.1.10 any existing and all proposed excavation areas;
- 3.1.11 any existing and all appurtenant facilities/activities;
- 3.1.12 existing and proposed access roads, including width and surface materials;
- 3.1.13 existing and proposed parking areas;
- 3.1.14 existing and proposed fencing/buffers, including height and materials;
- 3.1.15 storage areas for topsoil to be used in reclamation; and
- 3.1.16 all measures to control erosion, siltation, water pollution, air pollution, and hazards to human safety.
- 3.1.17 hauling information, including routes to be utilized, the type and weight of motor vehicles involved, and the frequency and schedule of operations of such vehicles.
- 3.1.18 copy of state alteration of terrain permit if applicable.
- 3.2 Restoration Plan at same scale as Excavation Plan, and covering the same area, including:
  - 3.2.1 seal and signature of an engineer registered in the State of New Hampshire, or signature of County Soil Conservation Agent;
  - 3.2.2 all boundaries of the area proposed for restoration;
  - 3.2.3 final topography of the area proposed for restoration as in 1.b. above;
  - 3.2.4 final surface drainage pattern, including the location and physical characteristics of all artificial and/or modified drainage facilities;
  - 3.2.5 schedule of final restoration activities including seeding mixtures, cover vegetation, fertilizer types, and rates;
  - 3.2.6 photographs of the site before excavation (from at least two different vantage points); and
  - 3.2.7 subsequent use of the site, if known or anticipated.
- 3.3 Local Zoning Conformance shall be demonstrated by the Applicant prior to an Excavation Permit being issued by the Planning Board.
- 3.4 Applications shall be resubmitted annually on or before July 1.
- 3.5 The Planning Board shall accept a performance bond, irrevocable letter of credit or other type or types of security to ensure that final, approved restoration of the

site is actually completed. The amount shall be determined by the Board, based on the area of the excavation pit and any other areas (such as topsoil storage area) which will require restoration after termination of excavation operations. The security is to be released by the Town only after a final restoration inspection by the Planning Board or its designee.

- 3.6 Notice of Restoration Obligation shall be recorded at the Grafton County Registry of Deeds.
- 3.7 Expiration of Excavation Permit shall occur one year after its issuance. The Applicant shall reapply at that time if the excavation and/or restoration operations will take a longer period of time. Such renewal shall consist only of reapplying to the Planning Board at public meeting and shall not require a public hearing process. If violations of the original permit have occurred, the Board may require all new data and plans (with public hearing) and/or deny the re-issuance of the permit.

#### 4. Standards:

Standards for the excavation process and for the restoration of such sites are set forth below. The Planning Board or its designee shall periodically inspect the operations and shall perform a final restoration inspection in order to ensure that the approved plans have been followed.

##### 4.1 Excavation Operating Standards

- 4.1.1 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.
- 4.1.2 No excavation covered under RSA 155-E shall be permitted: 1.) 10 feet of an adjoining abutter unless a written request is obtained from abutter or closer than 50 feet of the boundary of a disapproving abutter or, 2.) within 150 feet of any dwelling which either existed or for which a building permit has been issued at the time the excavation is commenced, 3.) within 75 feet of any pond greater than 10 acres (Post Pond, Pout Pond, Trout Pond, and Reservoir Pond) or the Connecticut River or within 25 feet of any other year-round water body or stream or a wetland of greater than 5 acres in area.
- 4.1.3 Natural vegetation in buffer areas noted above and adjacent to neighboring properties on which excavation is not intended shall be maintained for the purposes of erosion control, screening, noise reduction, and property valuation.
- 4.1.4 No actual excavation is to exceed two (2) acres at one time unless specifically authorized by the Planning Board. Larger operations should phase excavation and restoration accordingly.
- 4.1.5 Appropriate erosion, sedimentation, air, and water quality measures shall be integrated into the excavation process.

- 4.1.6 No excavation shall be permitted so close to the seasonal high water table or to bedrock (as indicated by the required borings or test pits) as would preclude the subsequent reuse of the site in accordance with existing public health standards, local zoning, and local master plan.
- 4.1.7 Where the depth of excavation will exceed 15 feet and temporary slopes will exceed 1:1 in grade, a fence or other suitable barricade shall be erected to warn of danger and/or limit access to the site.
- 4.1.8 Drainage shall be maintained so as to prevent the accumulation of free-standing water for prolonged periods. Excavation practices which result in continued siltation of surface waters or any degradation of water quality of any public or private water supplies are prohibited.
- 4.1.9 No fuels, lubricants, or other toxic or polluting materials shall be stored on-site unless in compliance with state laws or rules pertaining to such materials.
- 4.1.10 Topsoil shall be stripped from the excavation area and shall be stockpiled for use in subsequent restoration of the site.
- 4.1.11 All temporary structures required during excavation operations shall be removed from the site within 30 days after such operations cease.
- 4.1.12 All vehicles transporting excavated materials shall utilize adequate covering and/or sideboards to prevent dust and spillage when loaded.
- 4.1.13 All other town and State regulations which may apply.

#### 4.2 Site Restoration Standards

Within 12 months after the expiration date of a permit issued (including renewals) or of the completion of any excavation, whichever occurs first, the owner of the excavated land shall have completed the reclamation of the areas affected by the excavation to meet each of the following standards:

- 4.2.1 Except for exposed rock ledge, all areas which have been affected by the excavation or otherwise stripped of vegetation shall be spread with topsoil or strippings, if any, but in any case covered by soil capable of sustaining 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, wet out in accordance with acceptable horticultural practices.
- 4.2.2 All debris, stumps, boulders, etc. shall be disposed of in a manner acceptable to the Planning Board or its designee.
- 4.2.3 All slopes, except for ledge, shall be graded to natural response 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 Planning Board. Changes of slope shall not be abrupt, but shall blend with the surrounding terrain. No slope in solid material shall be left in steeper than 3:1 (three horizontal feet for each one foot of vertical drop).

- 4.2.4 Stockpiled topsoil shall be re-spread over the disturbed area to a depth to allow and maintain re-vegetation. Areas having the most critical problems to re-vegetation shall be given first priority should available topsoil be limited. The disturbed area(s) shall be fertilized, if necessary, and seeded with a grass or grass/legume mixture.
- 4.2.5 If deemed necessary by the Planning Board, suitable trees or shrubs may be planted in order to provide screening and natural beauty and to aid in erosion control. Such planted areas shall be protected from erosion during an appropriate establishment period by mulch and structural erosion control devices.
- 4.2.6 Upon completion of the restoration operations, 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 low.
- 4.2.7 The responsible party shall not be released from its performance commitment (restoration bond, etc.) until the Planning Board certifies compliance with all terms of the Excavation Plan and the Restoration Plan.

5. Administration and enforcement

- 5.1 Public Hearing(s) shall be held by the Planning Board prior to the issuance of an Excavation Permit, in accordance with RSA 155-E:7.
- 5.2 Inspections may be made by the Planning Board or its designee at least two times each year of operation and restoration. Prior notice of such inspections need not be given. Upon completion of the restoration operations, a final inspection shall be made prior to releasing the restoration bond.
- 5.3 Enforcement of the Excavation Permit process shall be as described in RSA 155-E:10.
- 5.4 Appeals, by any person aggrieved by an official action of the Planning Board, acting under this regulation may be processed as provided by RSA 155-E:9.

6. Authority and Amendment:

- 6.1 Invalidity of any section, subsection, or phrase of these Excavation Regulations, as found for any reason, by a court of competent jurisdiction, shall not affect the validity of the remaining portion of these regulations.
- 6.2 Amendments to these regulations may be made by the Planning Board in accordance with RSA 155-E:6.
- 6.3 These rules regulations were adopted by the Lyme Planning Board on September 22, 1983, after a duly noticed public hearing was held on September 8 and 22, 1983. Amendments made on July 24, 1986 and July 13, 2006
- 6.4 Effective date of these regulations shall be the same date as they are approved by the Planning Board.

7. Certification

<hr/> Freda Swan, Chair	<hr/> Date
<hr/> Jack Elliott, Vice-Chair	<hr/> Date
<hr/> Richard G. Jones, Selectboard Representative	<hr/> Date
<hr/> John Billings, Member	<hr/> Date
<hr/> Dan Brand, Interim Member	<hr/> Date