

Town of Raymond, New Hampshire

Earth Excavation Regulations



Adopted October 5, 1989

Amended: March 1, 2001 and May 20, 2010



TOWN OF RAYMOND EARTH EXCAVATION REGULATIONS
ADOPTED 05/20/2010

ARTICLE I – AUTHORITY, PURPOSE AND SCOPE	1
ARTICLE II – DEFINITIONS	1
ARTICLE III - PROJECTS REQUIRING A PERMIT	4
ARTICLE IV PROJECTS EXEMPT FROM A PERMIT	4
ARTICLE V - PROHIBITED PROJECTS	6
ARTICLE VI - CRITERIA FOR NON-CONFORMING EXPANSIONS	6
ARTICLE VII - MINIMUM & EXPRESS OPERATIONAL STANDARDS	7
ARTICLE VII - MINIMUM & EXPRESS SITE RECLAMATION STANDARDS	8
ARTICLE IX - INCREMENTAL RECLAMATION	9
ARTICLE X - BLASTING	9
ARTICLE XI - PERFORMANCE GUARANTEE AND LIABILITY INSURANCE	10
ARTICLE XII - EXCEPTIONS TO OPERATIONAL AND RECLAMATION STANDARDS	11
ARTICLE XIII - APPLICATION FOR EXCAVATION	11
ARTICLE XIV – PERMIT: HEARING, ISSUANCE, CONDITIONS AND EXPIRATION	20
ARTICLE XV - ADMINISTRATION	21

TOWN OF RAYMOND EARTH EXCAVATION REGULATIONS
ADOPTED 05/20/2010

ARTICLE 1 - AUTHORITY, PURPOSE AND SCOPE

1.100 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 of Raymond and RSA 155-E, the Planning Board adopts the following Regulations to govern the excavation of earth materials and reclamation of excavation sites in the Town of Raymond.

1.200 PURPOSE AND SCOPE

In recognizing that earth excavation is an allowable use in certain zones within the Town of Raymond, the goals of the Earth Excavation Regulations are:

- a. To minimize safety hazards which can be created by open excavation;
- b. To ensure that the public health and welfare will be safeguarded;
- c. To protect natural resources and environment, including but not limited to water pollution and stability of soils; and
- d. To 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.

ARTICLE II – DEFINITIONS

2.100 COMMON MEANINGS

For terms for which no definition is provided, Raymond’s Ordinances and Regulations may reference The Latest Illustrated Book of Development Definitions by Moskowitz and Lindbloom, published by the Center for Urban Policy and Research, dated 2004, as may be amended.

01. Abandoned Excavations: An excavation site from which no earth of sufficient weight or volume to be commercially useful has been removed from that excavation site during any two-year period, either before, on, or after August 4, 1989 (RSA 155-E:2 II (a)).

02. Abutter: Any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration. For any earth excavation permit application involving proposed blasting, “abutter” shall also include any person whose land is located within ½ mile (2,640 feet) of the area in which blasting is proposed. 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. For purposes of notification and receiving testimony, abutter means all affected towns and the regional planning commissions(s) in the case of a development having regional impact, as determined by the Planning Board utilizing the criteria set forth in RSA 36:55. 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.

TOWN OF RAYMOND EARTH EXCAVATION REGULATIONS
ADOPTED 05/20/2010

03. **Applicant:** The owner of the excavation site or person designated by the owner in writing at the time of application.
04. **Application:** A complete submission of information and plans as required by RSA 155-E and the Town of Raymond Earth Excavation Regulations.
05. **Application for Amendment:** An application to amend an existing excavation permit pursuant to the provisions of RSA 155-E:6.
06. **Aquifer:** A geologic formation, group of formations, or part of a formation that is capable of yielding quantities of ground water usable for a municipal or private water supply.
07. **Board:** The Planning Board of the Town of Raymond, New Hampshire.
08. **Buffer:** The area between the excavation site and (1) a highway right-of-way (2) an abutting property line, or (3) a river, stream, wetland, or protected wetland.
09. **Compliance Review:** A mandatory review of any Excavation Permit, which has been granted by and is under the jurisdiction of the Town of Raymond Planning Board (See Article XV (A)(2)).
10. **Contiguous:** Land for which its perimeter can be circumscribed without interruption in common ownership, except for roads or other easements, in a single town.
11. **Dimension Stone:** Granite rock that is cut, shaped, or selected for use in blocks, slabs, sheets, or other construction units of specified shapes or sizes and used for external or interior parts of building 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.
12. **Earth:** Means sand, gravel, rock, topsoil, 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.
13. **Commercially Useful Volume:** The volume of earth which is commercially useful is 1,000 cubic yards or more per calendar year.
14. **Excavation:** Means a land area which is used or has been used for the commercial taking of earth, including all slopes.
15. **Excavation Performance Agreement:** An agreement between the excavation site owner and the contractor describing the terms and procedures for material excavation.
16. **Excavation Area Limits:** The location of the final proposed top of slope of any and all proposed excavation areas on an excavation site which will exist upon completion of the project as displayed on the approved final plan in accordance with the provisions of the Town of Raymond Earth Excavation Regulations.

TOWN OF RAYMOND EARTH EXCAVATION REGULATIONS
ADOPTED 05/20/2010

17. **Excavation site:** Means any area of contiguous land in common ownership upon which excavation takes place.
- a. **Pre-existing Excavation:** Any excavation which lawfully existed as of August 24, 1979, from which earth material of sufficient weight or volume to be commercially useful has been removed during the 2 year period before August 24, 1979.
- b. **Expansion** Excavation beyond the limits of the Town and/or the area which in 1979 had been contiguous to and in common ownership with the excavation and has been appraised and inventoried for tax purposes as part of the same tract.
18. **Express Standards** Those operational and reclamation standards outlined in these Regulations. Express standards are considered to be the minimum standards applied to any excavation that requires a permit.
19. **Noise** Any undesired audible sound that annoys or disturbs humans or that causes or tends to cause an adverse psychological or physiological effect on humans.
20. **Operational Equipment** The operation of any motorized equipment or vehicles or the use of back-up warning devices or other noise-generating devices. It includes excavation activities, as well as any activity ancillary to excavation, such as land clearing or reclamation, which generates noise from power equipment such as bulldozers or chainsaws. The term does not include the use of personal passenger vehicles to access or inspect the site or normal conversation.
21. **Overburden** Earth and other natural materials over and around the minerals which will be displaced by excavation operations.
22. **Permit** Permission granted by the Planning Board after a Public Hearing to engage in excavation activities in accordance with these regulations and with the requirements of RSA 155-E, subject to any reasonable conditions set forth by the Planning Board.
23. **Reclamation** The restoring of an excavation site to a standard at least equal to those outlined in Article VIII of the regulations.
24. **Regulator** The Raymond Planning Board.
25. **Stationary Manufacturing and/or Processing Plants** Facilities which are permanently placed on a site for the purposes of sorting, washing, screening, crushing, classifying, drying or processing excavated earth materials.
26. **Structure:** A combination of materials that form a construction for use, occupancy or ornamentation, whether installed on, above or below the surface of land.
27. **Temporary Processing Equipment:** Machinery or equipment placed temporarily on a site for the purposes of sorting, washing, screening, crushing, classifying, drying or processing excavated materials.

TOWN OF RAYMOND EARTH EXCAVATION REGULATIONS
ADOPTED 05/20/2010

28. **Trip:** A single or one-direction vehicle movement with either the origin or the destination (exiting or entering) inside a study site. For trip generation purposes, the total trip for a land use over a given period of time is the total of all trips entering plus all trips exiting a site during a designated time period.

29. **Visual Barrier:** A man-made structure or natural vegetative growth. This includes, but is not limited to; vegetated fence rows; forested land whether managed or undisturbed, natural or planted. Where no effective barrier exists, the Board may require the planting of a row of evergreens at least 4 feet in height at planting, which will grow to a dense vegetative buffer no less than 6 feet high, or the construction of a Board-approved fence that is opaque, neatly maintained, and not less than 6 feet high.

30. **Well:** A hole or shaft sunk into the earth to tap an underground supply of water.

ARTICLE III - PROJECTS REQUIRING A PERMIT

01. Projects that have commenced operations since August 24, 1979 without first obtaining a permit, unless specifically exempted by Article V below.

02. Any excavation that began operations after October 9, 1989, the effective date of these Regulations, and as thereafter amended.

03. Excavations that have lawfully operated prior to August 24, 1979 and wish to expand the excavation area beyond the limits of the Town in which it is situated and the area which on August 24, 1979 and at all times subsequent thereto has been contiguous to and in common ownership with the excavation site of that date and has been appraised and inventoried for property tax purposes as part of the same tract as the excavation site as of that date.

04. Those excavations from an area 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 wish to expand to any non-contiguous lands.

ARTICLE IV - PROJECTS EXEMPT FROM A PERMIT

4.100 The following projects do not require a permit, but are nevertheless subject to the Minimum and Express Operational Standards set forth in RSA 155-E:4-a. 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.

A. Excavations which lawfully existed as of August 24, 1979 from which earth material of sufficient volume (1,000 cubic yards) to be commercially useful has been removed during the 2-year period before August 24, 1979, subject to the following:

1. Such an excavation shall be exempt from local zoning or other ordinances regulating the location of the excavation site, provided that at the time operation began it was in compliance with any local ordinances that may have been in effect.

TOWN OF RAYMOND EARTH EXCAVATION REGULATIONS
ADOPTED 05/20/2010

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.

4.200 The following projects do not require a permit, but remain subject to to the Minimum and Express Operational Standards set forth in RSA 155-E:4-a. 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 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 as per RSA 155-E:2, III(a).

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

B. Excavations from a site which 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 has been granted since August 24, 1979 and before August 4, 1989, which used earth obtained from such site. The operation and reclamation of such excavations shall continue to be regulated by such permits and any renewals or extensions thereof by the permitting authority or authorities.

C. 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 and the governmental unit shall be filed with the Board; in addition, the provisions of Article VII of this regulation are to be complied with. The New Hampshire Department of Transportation may apply directly to the Zoning Board of Adjustment for an exemption from local zoning or other regulations with respect to the excavation or transportation of materials being used for construction, reconstruction or maintenance of a Class I, II, or III highway as provided for in RSA 155-E:2(IV)(c).

4.300 The following projects are exempt from a permit and are not subject to regulations by the Planning Board:

A. Excavation involving less than 5 acres of impacted area that is exclusively incidental to the construction or alteration of a building or structure, of a parking lot or way, including a driveway on a portion of the premises where the removal occurs. This excavation cannot commence until all required state and local permits have been issued. Any excavation exceeding 5 acres of impacted area shall require a permit under these Regulations.

B. Excavation that is incidental to agricultural or silvicultural activities, normal landscaping, or minor topographical adjustment.

C. 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).

D. 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 Board.

TOWN OF RAYMOND EARTH EXCAVATION REGULATIONS
ADOPTED 05/20/2010

ARTICLE V - PROHIBITED PROJECTS

A. The Board shall not grant a permit for the following projects:

1. For excavations which will not be in compliance with the standards outlined in Article VII of these regulations.
2. Where visual barriers existing along the outermost boundary of the proposed excavation area would be removed, except to provide access to the excavation. Where removal of a visual barrier is required for this purpose, the width of removal shall not exceed 50 feet for access.
3. Where the issuance of the permit would be unduly hazardous or injurious to the public welfare. The Board shall give particular consideration to such factors as noise, traffic, dust, fumes, impact to groundwater or danger from operation.
4. Where an applicant cannot demonstrate to the Planning Board adequate safeguards to prevent damage to a known aquifer, as designated by the United States Geological Survey.
 - a. Excavation operations shall be performed in such a manner as to not cause damage to any aquifer. The Planning Board shall determine whether or not damage to the aquifer will be incurred by considering the following criteria:
 - i. The excavation shall not detrimentally affect the quality of groundwater contained in the aquifer by directly contributing to pollution or by increasing the long term susceptibility of the aquifer to potential pollutants;
 - ii. The excavation shall not cause a significant reduction in the long term volume of water contained in the aquifer or in the storage capacity of the aquifer.
 - iii. The Planning Board may require that the applicant provide data or reports prepared by a professional groundwater consultant, which assess the potential aquifer damage that could be caused by the proposed excavation project. The Planning Board may require that the information submitted be reviewed by its own groundwater expert at the applicant's expense.
5. When an applicant has not received necessary land use permits from state or federal agencies.
6. 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.
7. Where the project cannot comply with the requirements of Articles VII, VIII, IX and X of these Regulations.

ARTICLE VI - CRITERIA FOR NON-CONFORMING EXPANSIONS

A. Expansion of pre-existing excavations permitted by local zoning in effect on August 4, 1989 located in an area in which excavations are no longer allowed may be restricted or modified with

TOWN OF RAYMOND EARTH EXCAVATION REGULATIONS
ADOPTED 05/20/2010

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. Any potential impacts will be determined by the Board during a duly noticed public hearing. The following criteria will be taken into consideration.

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 unreasonably accelerate the deterioration of highways or create safety hazards in the use thereof.
3. The excavation will not create or exacerbate any nuisance or create health or safety hazards.

ARTICLE VII - MINIMUM & EXPRESS OPERATIONAL STANDARDS

A. For excavations not requiring a permit, the express operational standards of RSA 155-E:4-a shall apply. For those excavations requiring a permit, the following standards are considered to be the minimum. In addition, reasonable conditions, as deemed necessary by the Board, and which are more stringent than these minimum standards, may be imposed pursuant to RSA 155-E:8.

1. Proximity to Abutting Properties:

a. No excavation shall be permitted within 100 of the property line of a disapproving abutter, or within 20 feet of the property line of an approving abutter unless approval is granted, in writng, by said abutter. In no case shall the Planning Board allow blasting any closer than 50 feet from a property line.

b. No excavation shall be permitted any closer than 200 feet to an existing dwelling or building site for which a building permit has been issued at the time an 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 required by Items 1(a) above.

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.

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 limit access to the site.

6. Appropriate drainage systems shall be provided to prevent the accumulation of free standing water for prolonged periods.

7. Excavation practices which result in continued siltation of surface waters are prohibited.

TOWN OF RAYMOND EARTH EXCAVATION REGULATIONS
ADOPTED 05/20/2010

8. Excavation practices which result in any degradation of water quality or quantity of any public or private water supplies are prohibited.
9. No excavation shall be permitted within the Shoreland Protection Area, as that term is defined by the Raymond Zoning Ordinance, or within 25 feet of any natural water course 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 Wetlands Board.

ARTICLE VIII - MINIMUM & EXPRESS SITE RECLAMATION STANDARDS

For excavations not requiring a permit, the express reclamation standards set forth in RSA 155-E:5 shall apply. For those excavations which require a permit, the following minimum standards shall apply. In addition, reasonable conditions, as deemed necessary by the Board, and which are more stringent than these minimum standards, may be imposed pursuant to RSA 155-E:8. Within twelve (12) months after the expiration date in the permit issued under these Regulation or after the completion of the excavation or any of its phases, whichever first occurs, the owner of the excavated area shall reclaim the areas affected by the excavation to meet each of the following minimum standards:

- a. Areas visible from a public way, or by a residential abutter, from which trees have been removed, shall be replanted with tree seedlings as described in Article XIII(B)(15) and planted in accordance with acceptable horticultural practices.
- b. In the case of an excavation area floor consisting of ledge, there shall be spread topsoil or any other soil capable of maintaining vegetation and shall be planted with tree seedlings and/or grass suitable to prevent erosion. Topsoil must be tested in accordance with Article XIII(B)(16).
- c. Where a floodplain has been excavated, a geomorphic assessment shall be made prior to reclamation to determine if adjusted channel conditions will be impacted and what degree and type of fill will be most suited to preserve, among other issues, the hydraulic conductivity of the aquifer. An amended reclamation plan in conformance with this geomorphic assessment shall be developed and followed.
- d. Earth and vegetative debris resulting from the excavation shall be removed or otherwise lawfully disposed of. Topsoil shall remain on site.
- e. All slopes, except 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 Board. Changes of slope shall not be abrupt, but shall blend with the surrounding terrain. With no exception shall any slope be steeper than 2:1. A 3:1 slope is preferred to facilitate seeding.

TOWN OF RAYMOND EARTH EXCAVATION REGULATIONS
ADOPTED 05/20/2010

- f. Any standing bodies of water created by the excavation that are judged by the Town of Raymond to constitute a hazard to health and safety shall be eliminated.
- g. 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.
- h. Any excavation project which requires a permit from the Water Division of New Hampshire Department of Environmental Service pursuant to RSA 485-A17 shall abide by the reclamation standards which are most stringent, whether they be in these Regulations or the alteration of terrain permit. Copies of all such permits shall be filed with the Board.

ARTICLE IX - 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 Article VIII 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 Board for approval. Any permit holder failing to reclaim in accordance with a permit shall be subject to Article XIV(G), entitled "Suspension of Permit."

ARTICLE X - BLASTING

If an excavation requires the blasting of materials, applicant shall so indicate in the application and certify that all blasting operations shall conform to NH RSA 158, along with the rules and regulations for Explosives promulgated by the Division of State Police, NH Department of Safety.

A. Local Blasting Permit Required

- i. Blasting permits are issued and administered by the Raymond Fire Chief or designee. Blasters shall be responsible to pay local blasting permit fees, as may be revised from time to time by the Board of Selectmen.
- ii. Blasting permits shall not be issued for excavation sites until an excavation permit has been issued by the Planning Board. The Fire Chief or designee shall confirm with the Community Development Department that conditions of the excavation permit which are related to blasting have been completed and documentation provided prior to issuing a blasting permit.

B. Additional Minimum Requirements for Blasting

- i. In recognizing that blasting for excavation sites can be intense and frequent for short-term projects or occur over a period of years, the Planning Board must collect information that will enable it to determine a project's ability to comply with the goals as delineated in Article I, Section 1.200 of these Regulations. To that end, the Planning Board shall require from an applicant, at a minimum, but not be limited to:

TOWN OF RAYMOND EARTH EXCAVATION REGULATIONS
ADOPTED 05/20/2010

- ii. Studies that will provide analysis of potential for groundwater or aquifer contamination from blasting, (i.e. – hydro geologic study, etc.);
- iii. Detailed Blasting Plan to include drilling, explosives handling and loading procedure; observation procedures; blast evaluation procedures; procedures for handling and storage of blasted rock; and spill prevention measures and mitigation;
- iv. As a condition precedent of an excavation permit, the Planning Board may require the Applicant to conduct pre-blast surveys on all structures and wells not controlled by the applicant up to within 2000 feet of the excavation area limits. Applicant shall provide a detailed record of each survey to the Fire Chief or his designee and the Community Development Department for placement in the project file. Applicant shall be responsible for providing updated information annually over the term of the excavation permit.

ARTICLE XI - PERFORMANCE GUARANTEE AND LIABILITY INSURANCE

Prior to the granting of an excavation permit, the applicant shall submit to the Board of Selectmen sufficient surety, as determined by the Planning Board to guarantee reclamation of the site, repair of blasting damage, repair of Town Roads, if damaged as result of the excavation, and compliance with the Excavation Performance Agreement.

A. The following are acceptable forms of surety:

- 1. A certified check, bank check, or savings account passbook properly endorsed to the Town of Raymond.
- 2. A surety bond issued to the Town of Raymond by a surety company authorized to do business in New Hampshire.
- 3. An irrevocable letter of credit with an automatic call provision drawn on a New Hampshire bank.
- 4. Other form approved by the Board of Selectmen.

B. Town Counsel shall review the suitability and enforceability of the Performance Guarantee. 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.

C. The Performance Guarantee shall not be released until the Planning Board is satisfied, after inspection by its agent or engineer, that all conditions of the reclamation plan and necessary repairs have been completed.

D. The Planning Board may require an applicant to provide and maintain proof of liability insurance deemed sufficient by the Board to protect owners of lands and properties that may be damaged by any act of omission, commission, or negligence in connection with the use of and operations on the excavation site by the applicant, the owner of the site, and its/their successors, agents, invitees, and guests.

TOWN OF RAYMOND EARTH EXCAVATION REGULATIONS
ADOPTED 05/20/2010

ARTICLE XII – EXCEPTIONS TO OPERATIONAL AND RECLAMATION STANDARDS

Due to the diverse nature of excavation operations, which vary in scale and scope, and due to the varying conditions of the land to be excavated, the Board may, upon written application following a duly-noticed hearing, grant any exception in writing to the standards contained in Articles VII, VIII, and IX for good cause shown.

A. To show good cause, the applicant must demonstrate:

1. The granting of the exception will not be detrimental to the public safety, health, or welfare or injurious to other property;
2. The particular physical surroundings, shape or topographical conditions of the specific property involved, will create a hardship to the owner as distinguished from a mere inconvenience, if the strict letter of these Regulations is carried out.
3. Specific circumstances indicate that the exception will properly carry out the spirit and intent of these Regulations.

B. Procedures.

1. A petition for any such exception shall be submitted in writing by the applicant at the time the application is filed for consideration by the Planning Board. The petition shall state fully the grounds for the exception and all of the facts relied upon by the petitioner.
2. Notice of hearing on the requested exception shall be provided to all abutters, and may be included as part of a notice of hearing on the application for an earth excavation permit.
3. If an applicant submits a petition for exception after an application for an earth excavation permit has been filed, and notice has been given to abutters, a new notice to abutters shall be provided giving notice of the petition for exception.

C. If the exception request is granted then the Board shall issue a written decision indicating what standards are being relaxed and include reasonable alternative conditions or standards. The Board's decision may be appealed in accordance with RSA 155-E:9.

D. Procedures for waiver of requirements of these Earth Excavation Regulations other than those in Articles VII, VIII, and IX are provided in Article XV(H).

ARTICLE XIII - APPLICATION FOR EXCAVATION

The applicant for an earth excavation permit shall submit to the Board a completed application form, an excavation and a reclamation plan, any other submission documents as requested, and applicable fees. At least 8 full size copies of all plans, 10 sets of 11" x 17" plans, along with digital copies, shall be filed with the Community Development Department prior to a scheduled Technical Review Committee and/or Board meeting, and one copy shall be sent to the Conservation Commission. Said digital copies shall be provided in PDF format and in the following GIS format: NH State Plane FIPS Zone 4746, units of feet, NAD 1983. SCHEMA Layer 1 is to be parcel lines;

TOWN OF RAYMOND EARTH EXCAVATION REGULATIONS
ADOPTED 05/20/2010

Layer 2 is to be pavement lines; Layer 3 is to be Dimensions, etc., all in DXF format. A Registered Land Surveyor shall prepare the Excavation Plan at a scale of 1" = 100'. Please refer to Article XIII(C) of these Regulations for applicable fees, which must also be submitted with the application.

An application for an amended permit pursuant to RSA 155-E:6 shall be made by submitting the information set forth below. The Board or its designee may waive applicable portions of the submission requirements if it is determined that the original submission materials remain accurate.

A. Excavation Plan Sheets and Supporting Information

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

1. Sheet 1 shall contain:

- i) The name(s) and address(es) of the owner(s) and the excavator (if different);
- ii) The name address and signature and professional stamp of the person preparing the plan and the date of plan preparation;
- iii) A complete list of abutters, showing their names, addresses, tax map and lot numbers and location of their parcels in relation to the proposed excavation site;
- iv) Date, bar scale and north arrow, locus map and parcel size;
- v) Table to reflect subsequent revisions to the plan.

2. Sheet 2 shall contain:

- i) The name(s) and address(es) of the owner(s), the excavator (if different) and signature and professional stamp of the person(s) preparing the plan; date, bar scale and north arrow;
- ii) Zoning district boundaries of the proposed area and within 200 feet of the excavation site property lines.
- iii) Lot lines, public streets, driveways, intersections, rights-of-way, and all easements within 200 feet of the excavation site property lines.
- iv) Sketch and description of the location and boundaries of the proposed and any existing excavations, the area in square feet and acres, and affected towns.
- v) If there will be blasting as part of the proposed project, utilizing publicly available information, Applicant will show the location of property lines, public streets, driveways, intersections, rights-of-way, easements, dimensions and bearings of existing buildings, structures, and community wells/water systems within 500 feet of the property lines of the parcels upon which excavation will take place.

TOWN OF RAYMOND EARTH EXCAVATION REGULATIONS
ADOPTED 05/20/2010

vi) Test pits and test pit data, which shall be stamped by a certified soil scientist or a licensed professional engineer that is a licensed also a licensed septic designer in the State of New Hampshire.

3. Sheet 3, Entitled “Existing Conditions” shall include:

i) The name(s) and address(es) of the owner(s), the excavator (if different) and signature and professional stamp of the person(s) preparing the plan; date, bar scale and north arrow;

ii) All surface drainage patterns including wetlands and standing water. Wetlands boundaries shall be stamped by a certified wetlands scientist.

iii) Location and description of existing access roads, including width and surface materials.

iv) Flood plain elevations and elevation of highest known flooding on site.

4. Sheet 4, Entitled “Excavation Plan” shall include:

i) The name(s) and address(es) of the owner(s), the excavator (if different) and signature and professional stamp of the person(s) preparing the plan; date, bar scale and north arrow;

ii) The size, complexity and scope of the proposed excavation and the estimated duration of the project.

iii) Proposed access roads, including width and surface materials.

iv) The elevation of the highest annual average ground water table within or next to the proposed excavation.

v) The location of test pits that extend to the seasonal high water table, ledge, or a minimum of six feet below the maximum proposed excavation depth, including soils data. Boring logs may be submitted separately and referenced on Sheet 6.

vi) Proposed fencing, buffers or other visual barriers, including height and materials.

vii) Proposed facilities - if any covered structures other than refueling and/equipment storage areas are proposed, the application may be subject to the Raymond Site Plan Review Regulations. The Code Enforcement Officer shall make the determination as to whether site plan review is required when a zoning determination is issued.

viii) All measures to control erosion, sedimentation, water pollution, air pollution and hazards to human safety .

ix) Planned sequencing or applications for permits showing excavation activities, the location of stockpiles, loam, temporary vegetation and material stockpiles areas, along with any other information as may be requested by the Board. Include a narrative to

TOWN OF RAYMOND EARTH EXCAVATION REGULATIONS
ADOPTED 05/20/2010

describe the phasing, volume of material to be removed in each phase, approximate timing of each phase and the overall duration of the earth excavation operation.

x) Information and truck traffic, designated routes, hours of operation, maximum number of daily trips and weight limits and methods to prevent materials from the site being tracked onto public roadways.

xi) Proposed contours in appropriate increments of 2 to 5 feet, depending on the scope of the project, with spot grades in the flat areas to identify the slope across the bottom. No final grade shall consist of slopes less than 1%.

5. Sheet 5, Entitled “Reclamation Plan,” shall include the following:

The Reclamation Plan shall be drawn at the same scale and use the same base survey information as the Excavation 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 depict or be accompanied by the following items, unless waived by the Board:

- i. The name(s) and address(es) of the owner(s), the excavator (if different) and signature and professional stamp of the person(s) preparing the plan; date, bar scale and north arrow;
- ii. All boundaries of the area proposed for reclamation and the land within 200 feet of the boundary of this site;
- iii. Final topography of the area proposed for reclamation, at contour intervals of five feet or less along with cross section(s) showing restored topography every 100 feet.
- iv. Final surface drainage pattern, including the location and physical characteristics of all artificial and/or modified drainage facilities;
- v. Phasing of the site restoration;
- vi. Schedule of final reclamation activities including soil fertilization, seeding and mulching specifications, plant and other landscaping material to be used in reclamation, and their size and quantities. The specific vegetative reclamation element shall be designed and approved by an agronomist, soil scientist, conservation district representative or other specialist recognized by the State of New Hampshire;
- vii. Erosion and sedimentation control plan indicating the type and location of erosion and sedimentation control methods to be used; The New Hampshire Stormwater Management Manual, prepared by the NH Department of Environmental Services, as may be amended from time to time, shall be used at a minimum. The manual can be downloaded from:

<http://des.nh.gov/organization/divisions/water/stormwater/manual.htm>

TOWN OF RAYMOND EARTH EXCAVATION REGULATIONS
ADOPTED 05/20/2010

6. Sheet 6, entitled, “Supplemental Studies, Plans and Materials Index” shall include references to and be accompanied by, but not be limited to:
- i) Stormwater Management Plan, including calculations, models showing pre- and post-development flow;
 - ii) Traffic Study, the scope of which to be proposed by developer and reviewed by the Town’s traffic engineer;
 - iii) Noise Control Study and Abatement Plan;
 - iv) Hydro geologic Study;
 - v) Dust Emissions Control Plan;
 - vi) Site Security Plan;
 - vii) Operations and Emergency Response Plan, to include:
 - (1) Description of typical operations and activities;
 - (2) Description of worker training with regard to emergency response, including identification of key personnel and respective contact information;
 - (3) Description of all operational equipment, fuel types and fuel storage containments and policy for equipment placement and storage during non-operational periods;
 - (4) Description of all potential groundwater contaminants and method of storage and use, including site restricted materials;
 - (5) Description of site security and access control;
 - (6) Detailed Emergency Response Plan, including a description and inventory of emergency response kits on site; the name, contact information and copy of emergency response agreement with a qualified environmental services firm; contact information for a site supervisor that can be reached at any time and a description of the response by applicant employees and standby environmental services firm in the event of a spill.
 - (7) Detailed description of Groundwater Monitoring Program, as applicable.
 - (8) Blasting plan (see Article X, Section B(iii)).
 - viii) Copies of all necessary State and Federal Permits, along with applications and supporting documentation submitted for such permits;
 - ix) Any other studies deemed necessary by the Planning Board.

TOWN OF RAYMOND EARTH EXCAVATION REGULATIONS
ADOPTED 05/20/2010

ALL SUPPLEMENTAL STUDIES, PLANS AND OTHER MATERIALS SHALL BE CONDUCTED, DESIGNED AND PERFORMED IN ACCORDANCE WITH BEST MANAGEMENT PRACTICES, WHERE APPLICABLE.

B. Site Standards and Requirements

The applicant shall maintain the site according to the following standards. The applicant may request, in writing, a waiver, to one or more of these site standards and conditions.

1. Topsoil

Prior to excavation of materials, all topsoil shall be stripped and stored on-site for site reclamation upon the completion of the excavation project. This shall be done in a phased manner to minimize possible erosion. Topsoil, whether on site or hauled in, shall consist of a loose friable soil with no admixture, refuse, or material toxic to plant growth. Topsoil shall be free from stones, lumps, stumps, or similar objects, with no more than 5% to 10% being greater than 2 inches but, in no case, greater than 4 inches. Prior to stripping material to be used as topsoil, it shall have demonstrated by the occurrence upon it of healthy crops, grass or other plant growth, that it is of good quality

2. Visual Barriers

A vegetative or topographical visual barrier or buffer shall be maintained between surrounding roads, commercial and residential land uses and the excavation site wherever possible, and shall be indicated as such on the excavation plan.

3. Aquifers

No excavation shall take place within six (6) vertical feet of the seasonal high water table as determined by a qualified professional engineer who is also a licensed septic system designer or a certified soil scientist.

- i. In areas abutting floodplains, no excavation shall take place within 6' of the base flood elevation.

4. Access Roads

Access roads leading to and from the excavation site shall intersect existing streets and roads at locations that have been duly approved by State and local officials and in a manner that will not endanger the safety of highway users and local residents. The provisions of RSA 236:13 and 14 shall be adhered to by the applicant and shall be shown on the excavation plan. Access roads shall be obliterated upon depletion and/or completion of the project unless requested to be retained by the regulator.

5. Vehicular Barrier

A locked barrier to prohibit vehicular access when the excavation site is not in operation shall be required. A means of access for the Fire Department shall be provided as required by the Fire Chief (i.e., keyed entry box).

TOWN OF RAYMOND EARTH EXCAVATION REGULATIONS
ADOPTED 05/20/2010

6. Waste Disposal

No disposal of any waste material, including solid and/or hazardous waste, septage, dredge spoils, or organic waste and debris, shall be undertaken on the excavation site without appropriate State approval under RSA 149:M.1 or other appropriate State regulations..

7. Hours of Operation

Start-up time for all operational equipment associated with excavation and removal of material from the site shall be no earlier than 6:30 a.m. on permitted work days and shall be kept at low idle, with no movement of said equipment permitted until 7:00 a.m.; all processing must be shut down by 4:30 p.m. Monday through Friday and termination of removal from the site shall be no later than 6:00 p.m. during the week. Operations are permitted from 7:00 a.m. to noon on Saturdays, with all activity to cease at noon. No operations shall take place on Saturday afternoons or Sundays.

8. Dust Control

A dust control plan shall be submitted by the Applicant and dust control measures will be instituted and monitored by the Planning Board or its duly authorized agent, where necessary and at the expense of the Applicant, to protect abutting property owners. No fugitive dust shall leave the excavation site.

9. Noise Control Study and Abatement Plan

The applicant shall, utilizing recognized methodology and qualified personnel, determine the ambient noise level, utilizing the appropriate sound scale, at the property lines of the parcel(s) which contain the proposed excavation area. The applicant shall provide a Noise Control and Abatement Plan which will manage noise emanating from operations to a level not to exceed 5 decibels, at the appropriate scale, over the ambient level at any property line or at all property boundaries, including public rights of way. To ensure continued compliance with the established noise criteria, continuous monitoring shall be conducted at several locations surrounding the site by means of weatherproof noise monitors, installed semi-permanently and programmed to operate continuously. These shall be programmed to provide hourly statistical sound levels, which will be downloaded monthly, with the data submitted to the Town by a third party, at the expense of the applicant, to demonstrate continued compliance. Logs shall be maintained for 30 days by the applicant.

11. Road Repair

The applicant shall be held liable for the repair of Town-maintained roads which are damaged as a result of hauling earth from the site at any time during the course of site operation. The Planning Board shall require the submission of performance security, according to the provisions of Article XI of these Regulations, to ensure adequate repair of damaged road segments following site restoration. During seasonal postings of local roads by the Board of Selectmen, hauling shall be coordinated with the Public Works Director, who reserves the right to regulate said hauling in accordance with State law.

TOWN OF RAYMOND EARTH EXCAVATION REGULATIONS
ADOPTED 05/20/2010

12. Maintenance of Traffic

It shall be the Applicant's responsibility to provide and bear the cost for adequate means of traffic control at all hours of excavation operations. Said means shall include, but not be limited to, flag persons, signage, barriers, traffic details, warning flashers and lights, special duty police details and gates. Adequacy of traffic maintenance shall be determined by the Town Manager. Should the Town Manager determine that traffic is not being adequately maintained, said determination shall be considered a violation of the Excavation Permit.

13. Maximum Excavation Limit

Final excavation grade shall be maintained at a minimum of 6 feet to documented seasonal high water table, in accordance with Article XIII(B)(3).

14. Stump and Slash Disposal

Stumps and slash generated during the site preparation shall be chipped on site and the resulting chips used on site for erosion control, or removed from the site, or:

Stumps and slash may be land filled if said disposal site is approved by the State of New Hampshire in accordance with RSA 149:M or current State regulation.

15. Tree Seedling Specification

- a. Non-homogenous plantings. Plantings shall be native plantings capable of surviving in droughty conditions. A minimum of eight indigenous varieties or species per acre shall be planted.
- b. Tree seedlings shall be two (2) year old plants or plants furnished under standard nursery order.
- c. Seedlings without center buds and seedlings without pruned roots will not be accepted.
- d. Seedlings shall be set out in accordance with accepted horticultural practices at eight (8) foot spacing in both directions.

16. Seeding Procedures

All seeding shall be accomplished in conformance with the State of New Hampshire, Department of Transportation, Standard Specifications for Road and Bridge Construction, latest edition, Section 644-Grass Seed; Sub-Sections 1.1 through 3.7.3 inclusive, as may be amended from time to time. Topsoil shall be tested for nutrient content prior to seeding to enable application of proper soil amendments. Results of the testing and a list of amendments to the soil shall be provided to the Town, along with certificates attesting to seed compliance with DOT standards, however, as a minimum, there shall be at least 1 soil sample for every 500 cubic yards of loam to be installed.

TOWN OF RAYMOND EARTH EXCAVATION REGULATIONS
ADOPTED 05/20/2010

17. Revegetation

- a. All disturbed areas shall be spread with topsoil or any other soil capable of maintaining vegetation, and shall be planted with tree seedlings and/or grass suitable to prevent erosion.
- b. At a minimum, areas from which trees have been removed shall be replanted in accordance with XIII(B)(15) of these Regulations.
- c. At a minimum, areas where low brush or grass has been removed shall either be planted with seedlings or a seed mixture conforming to the standard in XIII(B)(16) of these Regulations.

18. Signage

- a. All excavation sites shall be properly identified at all vehicle access points by signs clearly stating name, owner, permit number.
- b. Perimeters of excavation sites shall be posted with signs at a maximum 50 foot interval, notifying trespassers of potential danger.

19. Fuel Storage and Refueling

All fuel storage and refueling shall take place in a secure designated area constructed especially for said purpose. No underground storage of fuels will be allowed. Excavation Plan shall clearly show refueling area and facilities. Vegetable or bio-based fuels shall be utilized when possible for operational equipment.

C. FEES

1. Application fee shall be \$150.00.
2. Abutter notification fee in the amount of ten dollars (\$10.00) per abutter shall be paid at the time of application.
3. The above fees shall be reviewed from time to time, and may be amended by the Planning Board to cover reasonable costs associated with the application and permitting process.
4. In addition to the application fee, an Administrative Escrow Account shall be established to reimburse the Town for administrative and other expenses associated with public notices, peer review of plans, studies and other matters required by the particular application. Said Administrative Escrow Account shall be established at a minimum of \$1,250.00 and replenished at such time that the balance drops to \$850.00 or less;
5. Upon approval of an application, an Inspection and Enforcement Escrow account shall be established in accordance with Article XV(B)(5) of these Regulations.

TOWN OF RAYMOND EARTH EXCAVATION REGULATIONS
ADOPTED 05/20/2010

6. In accordance with RSA 155-E:8, an excavation fee of fifty dollars (\$50.00) shall be paid upon issuance of a permit .

ARTICLE XIV – PERMIT: HEARING, ISSUANCE, CONDITIONS AND EXPIRATION

1. A public hearing on the application, and on any request for exception to operational or reclamation standards, shall be held pursuant to the provisions of RSA 155-E:7.

2. Following such hearing if the Planning Board approves the application and determines it is not prohibited by RSA 155-E:4, then the permit may be granted following the posting of a fee and bond or other security pursuant to RSA 155-E:8 and Article XI of these Regulations.

3. The permit shall contain an expiration date. Permit expiration dates shall be two years.

4. The permit may contain reasonable conditions in accordance with the provisions of RSA 155-E:8 and these Earth Excavation Regulations. Such conditions may include the requirement that an applicant enter into an excavation performance agreement. If an Excavation Performance Agreement is required, then the Agreement must be executed within 30 days of Planning Board approval.

5. A copy of the permit shall be prominently posted at the excavation site or the principal access thereto.

6. A permit shall not be assignable or transferable without the prior written consent of the Planning Board.

7. Unless otherwise expressly stated or modified in any decision of the Planning Board on an application for earth excavation permit, conditions of any permit shall include, without need for express incorporation by reference: (1) all provisions of these Earth Excavation Regulations, (2) all provisions of RSA Chapter 155-E, (3) all notes, limitations, and representations contained in an application, plans and accompanying documents, as may be amended during the course of the hearing, and (4) all conditions, limitations and requirements of any State or Federal permit relating to use of the site for excavation activities.

8. If at the end of the permit term, the project is not completed, the applicant may submit a new permit application in accordance with the requirements of Article XIII of these Regulations. Such application will conform to the regulations in place at the time of the new permit application, except that excavations in existence as of May 20, 2010, need not fully comply with current Regulations unless and until they submit a new permit application in 2012. The Board or its designee may waive applicable portions of the submission requirements if the Planning Board determines that application materials submitted for any prior permit(s), or produced for the record during the course of any prior hearing(s), reflect current and accurate information.

TOWN OF RAYMOND EARTH EXCAVATION REGULATIONS
ADOPTED 05/20/2010

ARTICLE XV: ADMINISTRATION

A. Enforcement

1. The Planning Board or its duly authorized agent is responsible for the enforcement of these regulations, as provided by RSA 155-E:10. The Board shall visit the site once a year to inspect the site and its condition. The Code Enforcement Officer or other qualified inspection agents appointed by the Planning Board may visit the site for compliance inspections at any time. The Board or its agents may visit the site at any time and without limitation in response to complaints or to respond to any health, safety or public welfare concerns.

2. Mandatory annual compliance hearings shall be held on the second Thursday of every June. The purpose of a Compliance Review is to:

- ensure an applicant's continued compliance with the Excavation Permit;
- review progress on the excavation site;
- inform the Planning Board of any changes in conditions or other factors that may encourage or delay progress on the site.

Any inspections which the Planning Board determines are necessary to conduct compliance review shall be done in accordance with Article XV(B) of these Regulations. In cases where the Planning Board finds that an applicant is out of compliance with its Excavation Permit, it may assess penalties, suspend or revoke the permit in accordance with Article XV(F) of these Regulations. A Compliance Review can be called at any time the Planning Board determines a review is needed.

3. An excavation permit may be suspended or revoked for any applicant who has violated any provision of the permit, the Town's Earth Excavation Regulations or of Chapter 155-E, or made a material misstatement in the permit application upon which the permit was granted. Such suspension or revocation shall be subject to a motion for a rehearing and appeal in accordance with RSA 155-E:9.

B. Site Inspections

1. **Authorized Inspectors:** The Planning Board shall designate an employee of the Town or other qualified agents to carry out inspections of excavation sites. The Town will submit to the applicant a list of the Town's employees or agents authorized to carry out inspections, and the applicant shall communicate this information to its employees on the site. For inspection purposes the Town or its agents shall have the right to gain access to the site during hours when the site is in operation to carry out unscheduled inspections.

2. **Inspection Agents:** The Raymond Planning Board may contract with a qualified professional consultant, as determined to be appropriate by the Board, at the expense of the applicant, to provide inspection services, testing services and other such services as the Board, at its discretion, may require to ensure compliance with any permit to operate a gravel pit within Raymond.

TOWN OF RAYMOND EARTH EXCAVATION REGULATIONS
ADOPTED 05/20/2010

3. Inspections: Inspections will be performed for the purpose of confirming that operations are being conducted as specified in these Regulations and that any conditions imposed by the Planning Board during permit approval and/or subsequent compliance reviews are being met. New or start-up operations shall require compliance inspections by the Town's authorized Inspector at least twice a year, during active operations, for the first year, after which the number of inspections annually may be reduced at the sole discretion of the Planning Board, if the applicant has demonstrated good faith in complying with all of the requirements of the permit. For existing operations, the Planning Board reserves the right to send its authorized inspector at any time to observe the site and report back on the status of compliance with an existing permit. These inspections shall be at the cost of the applicant.

4. Cost: The Applicant shall be responsible for the costs of all inspections, legal costs, enforcement and administrative activities to be performed pursuant to any permit to operate. Such activities may include, but not be limited to: site inspections, Town road inspections between the excavation site and the State road network, water quality sampling and analysis, preparation of an annual report and other such requirements imposed by the Planning Board at the time of approval, or amendment of a permit to operate an excavation site within Raymond.

5. Inspection and Enforcement Escrow Account: The Town shall create and the applicant shall fund a non-interest bearing escrow account in the name of the applicant to ensure payment of the above-referenced costs. The account shall include a sufficient amount to cover all estimated costs for any pre-operation phase as well as anticipated inspections and testing for two years of excavation site operations. An accounting of disbursements from this account will be made to the applicant on a regular basis, to be arranged, but no less than annually. The applicant shall make an annual payment to the escrow account as necessary to bring it up to two years worth of estimated costs. Upon completion of the closure plan after operations at the excavation site have ended and all vegetative reclamation certified healthy, the Town shall return any remaining funds in the escrow account to the current owner. Should the closure plan not be completed within 3 years after operations at the excavation site have ended, the Town shall utilize the escrow account to complete the closure plan. The estimated cost and amount of the escrow account shall be determined by the Planning Board after consultation with its agents and shall reflect reasonable current cost for inspection services, for each site, on an annual basis. A minimum of two thousand five hundred dollars (\$2,500) will be required. Sites comprising more than five acres of proposed excavation activity shall be required to provide \$50 per acre in addition to the minimum fee.

C. Appeals

Any person, aggrieved by the final decision of the Planning Board, may appeal for a rehearing on such decision as provided by RSA 155-E:9.

D. Other Regulations

Where these Regulations are in conflict with other local ordinances and/or regulations, the more stringent shall apply, except as to RSA 155-E express standards, which may not be modified by local regulations. These Regulations are intended to be self supporting of other local land use regulations in Raymond.

TOWN OF RAYMOND EARTH EXCAVATION REGULATIONS
ADOPTED 05/20/2010

E. Adoption

These Regulations shall become effective after a public hearing, adoption and certification by the Planning Board and placed on file with the Board of Selectmen, the Town Clerk and the Rockingham County Registry of Deeds. A copy of these Regulations shall also be forwarded to the New Hampshire Office of Energy and Planning.

F. Penalties

Fines, penalties, and remedies for violations of regulations shall be the same as for violations of RSA title LX, as stated in RSA 676:15, 676:17, 676:17-a and 676:17-b. These fines may include violations based on failure to obtain a permit and/or commencing work before a permit is issued.

G. Suspension of Permit

The terms of these Regulations and Chapter 155 of RSAs are specifically incorporated into all permits issued hereunder.

At the Planning Board's discretion, rather than initiating legal action in response to minor violations which do not involve health or safety issues, the Planning Board may work with an excavator to remedy the violation and to impose lesser sanctions, including administrative fines and short suspensions of the permit. At any time and for any reason, the Planning Board may choose to initiate legal action if its attempt to work with the excavator is unsuccessful.

H. Waivers

Some requirements of these Regulations may be waived at the discretion of the Board, on request of an applicant, any interested party, or on its own motion, by majority vote.

Waiver may not be granted for operational and reclamation standards in Articles VII, VIII and IX of these Regulations, which must be followed unless the applicant requests an Exception, with notice to Abutters, as provided in Article XII of these Regulations. A waiver is likewise not available for minimum application contents required by RSA 155-E:3, and other conditions of state law. However, the Board may waive requirements of these Regulations that RSA 155-E does not mandate, and for which the Exception procedure is not required.

Applicants wishing to have any specific provision or requirement of these Regulations waived by the Board shall make a request in writing, identifying the provision, stating reasons for waiver, and demonstrating that:

- (a) Strict conformity with the regulations would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of these regulations;
- or

TOWN OF RAYMOND EARTH EXCAVATION REGULATIONS
ADOPTED 05/20/2010

- (b) Specific circumstances relative to the excavation, or conditions of the land in such excavation, indicate that the waiver will properly carry out the spirit and intent of the regulations.

Certification of Adoption

These Regulations were adopted originally by the Raymond Planning Board on October 5, 1989, amended on March 1st, 2001, and amended by vote on May 20th, 2010.

Witnessed by:

Ernest M. Cartier-Creveling
Community Development Director
May 20, 2010

Planning Board Members:

Jonathan Wood, Chairman
Carolyn Matthews, Vice Chair
Jim Kent, Secretary
Gretchen Gott
Bill Cantwell
Doug Vogel
Bill Hoitt, Selectmen's Representative