

**TOWN OF NORTH HAMPTON, N.H.**

**EXCAVATION REGULATIONS**

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**TOWN OF NORTH HAMPTON**  
**EXCAVATION REGULATIONS**

**SECTION 1 - GENERAL PURPOSE AND AUTHORITY**

Chapter 155-E of the New Hampshire Revised Statutes Annotated 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. The purpose of the Statute and of these locally adopted Excavation Regulations 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.

**SECTION 2 - DEFINITIONS**

- 2.1 “Abutter” means any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local land use board. For 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 receipt of notification by a municipality of a local land use board hearing, 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.
- 2.2 “Application” means a completed application for an excavation permit. An application shall not be considered complete until all of the Excavation Application Checklist items (Appendix B) have been completed and accepted to the satisfaction of the Regulator in addition to any other requirements of this regulation.
- 2.3 “Commercial” means any use of any earth material for sale or resale on or off site of the excavation area. In addition, an excavation shall be considered commercial if earth materials are transported to other land whose ownership is different than the ownership of the land from which the earth was excavated. Excavations which use earth materials in the processing of other material such as, but not limited to, concrete, asphalt, and other building materials shall be considered commercial.
- 2.4 “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 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 in Section 2.5.
- 2.5 “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.
- 2.6 “Excavation” means a land area which is used, or has been used, for commercial taking of earth, including all slopes.

- 2.7 “Excavation site” means any area of contiguous land in common ownership upon which excavation takes place.
- 2.8 “Notice of Intent” means a written notice to the Regulator and to the Conservation Commission to inform them of the intent to apply for a permit to excavate for a new excavation, or for expansion of, or continuation of an excavation in operation at the time of adoption of this Regulation.
- 2.9 “Regulator” means the Planning Board of the municipality.

**SECTION 3 - PERMIT REQUIRED**

All excavation areas require a permit except:

- 3.1 An excavation which lawfully existed and was in use on or before August 24, 1979, may continue to excavate without a permit subject to the following:
  - 3.1.1 such an excavation site shall be exempt from local zoning and other regulations, provided that at the time the excavation was first begun, it was in compliance with any local ordinances and regulations that may have been in effect.
  - 3.1.2 such an excavation site may not be expanded 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 appraised and inventoried for property tax purposes as part of the same tract as the excavation site.
  - 3.1.3 whenever such excavation is not allowed by local zoning or similar ordinances in effect on the effective date of this section regulating the location of the excavation site, expansion may be restricted or modified with conditions by order of the Regulator if after notice to the owner and a hearing, the Board finds that such expansion will have a substantially different and adverse impact on the neighborhood.
  - 3.1.4 such an excavation shall be performed in compliance with the operational and reclamation standards in these regulations (Section 6, 7, and 8).
  - 3.1.5 the owners or operators of any existing excavation site for which no permit has been obtained shall file an excavation report with the Regulator within one year of written notification by the Regulator and in no case later than August 4, 1991. Any existing excavation that fails to file a report within one year time period shall be determined to be abandoned per 4.1.3.

The report shall contain the following information:

- 3.1.5.1 the location of the excavation - tax map and lot number;
- 3.1.5.2 the date the excavation first began;
- 3.1.5.3 a description of the permissible limits of expansion as described in Section 3.1.2;
- 3.1.5.4 an estimate of the area which has been excavated to date; and
- 3.1.5.5 an estimate of the amount of commercially viable earth materials still available on the parcel.

- 3.2 Excavations from an area contiguous to, or contiguous land in common ownership with, stationary manufacturing and processing plants in operation as of August 24, 1979, which use earth from said area. Such excavations shall be performed in compliance with the operational and reclamation standards contained in Section 6, 7, and 8 of this regulation.
- 3.3 Excavations from an area contiguous to, or contiguous land is common ownership with, stationary manufacturing and processing plants which have been granted state or local permits since August 24, 1979, and which use earth obtained from said area. The operation and reclamation of such areas shall be governed by the conditions of the state or local permit and any extensions or renewals thereof.
- 3.4 An excavation performed exclusively for the lawful construction, reconstruction, or maintenance of a class I, II, III, IV, or V highway by a unit of government which has jurisdiction for the highway or an agent of the unit of government which has a contract for the construction, reconstruction, or maintenance of the highway, provided that:
  - 3.4.1 a copy of the pit agreement executed by the owner, the agent and the governmental unit shall be filed with and accepted by the Regulator prior to the start of excavation; and such excavation shall not be exempt from the provisions of Sections 6, 7, and 8 of this regulation, nor from any other land use regulations of the municipality. In addition, a plan must be filed with the Regulator which identifies and limits the exemption granted to only that portion of the pit that is necessary for the public highway project. Failure to file a copy of the pit agreement or the above referenced plan with the municipality or to comply with the terms of the agreement constitutes a violation enforceable under the provisions of Section 16 of these regulations.
  - 3.4.2 the New Hampshire Department of Transportation or its agent may apply to the appeals board created under RSA 21-L to be exempted from the provisions of local land use regulations. The appeals process includes a formal public hearing in the affected municipality as set forth in RSA 155-E:2, IV(c).
  - 3.4.3 such exempted excavation shall comply with Section 7 and Section 8 herein.
- 3.5 Excavation that is exclusively incidental to the lawful construction or alteration of a building or structure or the lawful construction or alternation of a parking lot or way including a driveway on a portion of the premises where removal occurs. This excavation cannot be started, however, until all required state and local permits necessary for the construction or alteration of the building, structure parking lot or way have been issued.
- 3.6 Excavation that is incidental to agricultural or silvicultural activities, normal landscaping or minor topographical adjustment.
- 3.7 Excavation from a granite quarry for the purpose of producing dimension stone, if such excavation requires a permit under RSA12-E.
- 3.8 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.

- 3.9 Applications proposing blasting for any purpose shall comply with the Board’s Regulations Governing Blasting and/or Explosive Demolition, included in the Excavation Regulations as Appendix G.

**SECTION 4 - ABANDONED EXCAVATIONS**

The permit and zoning exemptions under Section 3 shall not apply to any abandoned excavations as defined in Section 4.1.

- 4.1 Any excavation for which the affected area has not been brought into complete compliance with the reclamation standards of this regulation (Section 6 and 8) shall be deemed abandoned if excavation occurred on the site subsequent to August 24, 1979, and:
  - 4.1.1 no earth material has been removed from the excavation site during any three (3) year period; the Regulator may extend the 3 year period if the owner/operator submits an acceptable timetable for reclamation to the Regulator and posts a bond or other surety in a form and amount prescribed by the Regulator sufficient to cover the costs of reclamation; or
  - 4.1.2 the excavation is still in use, but the owner or operator has not brought the affected area into compliance with the incremental reclamation requirements of this regulation within three (3) years of August 4, 1989, or posted a bond or other surety sufficient to cover the cost of reclamation; or
  - 4.1.3 the owner or operator of the excavation has neither secured a permit pursuant to this regulation nor filed a report of an existing excavation within the prescribed time period specified in 3.1.5.
- 4.2 The Regulator, after notice and hearing pursuant to RSA 155-E:7, may order the owner of any land containing an abandoned excavation to either file a reclamation timetable and bond or other surety within six months of notification by the Regulator to do so, or to complete the reclamation in accordance with this regulation within one year of notification. The time periods stated above may be changed for particular applications only if specifically authorized in writing by the Regulator.

Failure to complete said reclamation within the prescribed time period may result in the regulator requesting the governing body to cause reclamation to be completed at the expense of the municipality. The municipality’s costs shall create a lien against the real estate on which the excavation is located. Such assessment and lien may be enforced and collected in the same manner as provided for real estate taxes.

**SECTION 5 - APPLICATION FOR PERMIT**

- 5.1 Except as provided in Section 3, any owner of owner’s designee subject to this chapter shall, prior to excavation of or continuance or expansion of excavation of any land, apply to the Regulator for a permit for excavation and submit a reclamation plan in accordance with the application and information submittal deadline schedule adopted by the Planning Board. The permit application shall be signed and dated by the applicant and shall contain at least the following information in addition to that required by the Excavation Application Checklist and other applicable regulations. The Regulator may waive items listed under this section; such waiver must be in writing.

- 5.1.1 The name and address of the owner of the land to be excavated, the person who will actually do the excavating and all abutters to the premises on which the excavation is proposed;
- 5.1.2 An Excavation Plan at a scale of no less than one inch equals one hundred feet (1" = 100') and showing the area to be excavated, appropriate buffers, and any dwelling units, septic systems, and wells within 150 feet of the perimeter of the area to be excavated. All plans submitted to the Regulator shall comply with the Erosion and Sedimentation Control provisions in the Town's Subdivision Regulations. All plans submitted shall be of a quality that they are easily understood and of an accuracy that compliance can easily be checked. At least six (6) copies of final plans shall be filed with the Regulator prior to issuance of a permit.

The Excavation Plan shall include:

- 5.1.2.1 seal or signature of an engineer registered in the State of New Hampshire;
- 5.1.2.2 existing topography at contour intervals of two feet, based on a permanent assumed benchmark;
- 5.1.2.3 proposed topography at two foot intervals at the completion of excavation and restoration;
- 5.1.2.4 the excavation site acreage, the breadth, depth and slop of the proposed excavation, (and existing excavation where applicable), volume of material to be removed and a description of project duration and phasing;
- 5.1.2.5 existing vegetation;
- 5.1.2.6 all surface drainage patterns including wetlands and standing water, lakes, streams, and the like;
- 5.1.2.7 location of all easements, on or below the ground;
- 5.1.2.8 names, location and width of all public roads and rights-of-way;
- 5.1.2.9 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;
- 5.1.2.10 location and extent of any stone walls, ledge outcroppings, wells, existing buildings, septic systems, utilities, significant natural and man-made features, and the like;
- 5.1.2.11 a locus map, at a scale of one inch equals one thousand feet (1" = 1000'), showing the proposed operation in relation to existing roads;
- 5.1.2.12 any existing and all proposed excavation areas;
- 5.1.2.13 any existing and all accessory facilities/activities;



- 5.1.2.14 existing and proposed access roads, including width and surface materials;
  - 5.1.2.15 existing and proposed fencing, buffers or visual barriers, including height and materials;
  - 5.1.2.16 storage areas for topsoil to be used in reclamation;
  - 5.1.2.17 all measures to control erosion, sedimentation, water pollution, air pollution, and hazards to human safety;
  - 5.1.2.18 the location of existing buildings, structures, septic systems and wells on abutting properties within one hundred and fifty (150) feet of the property boundary;
  - 5.1.2.19 the location of all driveways and road intersections within two hundred (200) feet of the property boundary;
  - 5.1.2.20 aquifer locations and limits as identified by the U.S. Geological Survey and other acceptable sources;
  - 5.1.2.21 zoning districts.
- 5.1.3 A Reclamation Plan, on the same scale and covering the same area as the Excavation Plan. All plans submitted to the Regulator shall comply with the Erosion and Sedimentation Control provisions in the Town's Subdivision Regulations. All plans submitted shall be of a quality that they are easily understood and of an accuracy that compliance can easily be checked. At least six (6) copies of final plans shall be filed with the Regulator prior to issuance of a permit.

The Reclamation Plan shall include:

- 5.1.3.1 seal and signature of an engineer registered in the State of New Hampshire;
- 5.1.3.2 all boundaries of the area proposed for reclamation;
- 5.1.3.3 final topography of the area proposed for reclamation;
- 5.1.3.4 final surface drainage pattern, including the location and physical characteristics of all drainage facilities;
- 5.1.3.5 schedule of vegetative and temporary reclamation activities including seeding mixtures, mulching materials, fertilizer types, lime and application rates;
- 5.1.3.6 soil conditioning specifications, i.e., liming and fertilizing required based on UNH or other equivalent soils analysis organizations;
- 5.1.3.7 the plant materials to be used in the restoration, and their quantities and sizes;
- 5.1.3.8 subsequent use of the site, if known;

- 5.1.3.9 cross sectional views showing existing, excavated, and restored topography configuration;
- 5.1.3.10 erosion and sedimentation control plan on an excavation area of any size.
- 5.1.4 Copies of related permit, approvals and other documents pertinent to the excavation proposal, such as WSPCD (RSA 485-A:17), Wetland Board (RSA 482-A), stump disposal, State Highway Department (access permit, RSA 249:13-18), any other permits required by state or federal regulations, and such other information as the Regulator may reasonably require.
- 5.1.5 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 shall be provided to the Regulator prior to the issuance of an Excavation Permit. The Regulator may require modifications to such plans and/or may place conditions upon such operations, depending on surrounding land uses and road conditions. The Regulator reserves the right to conduct a traffic study at the applicant's expense to ensure that public safety, neighborhood compatibility and road capacity and condition have been properly considered and addressed in the hauling plan.
- 5.1.6 All application fees as per the Excavation Application Form (Appendix A).
- 5.2 All application documents, plans, supporting documentation and other materials shall also be provided in digital Portable Document Format (PDF), one file for each plan. Digitally submitted files are in addition to and do not replace any current submission requirements. Digital files shall be complete and exact copies of the corresponding paper submittals (e.g., plans shall be at the same scale and sheet size as the paper copies).
- 5.3 Applicants may submit additional digital files to assist in presentations at public hearings, but such additional digital files shall not be considered part of the application unless corresponding paper documents are also provided. This digital format will be kept in the Planning Department digital files and may be used to send plans to Planning Board Members, abutters, peer review engineers, and all other interested parties.
- 5.4 All expenses for preparation of all plans, maps, and report accompanying the application shall be borne by the applicant.

**SECTION 6 - ADDITIONAL PERMIT REQUIREMENTS**

6.1 Size and Reclamation Time Limit on New Excavation

No excavation of a new area shall exceed five acres in size at any one time. Any permitted excavation shall be reclaimed according to the approved application within one (1) year after the permit expiration date. If reclamation of the site is not completed within one (1) year after the permit expiration date, the Town may declare part of all of the bond forfeited, and use these monies to reclaim the site, in addition to the requirements of Section 13 (Issuance of Permit).

6.2 Additional Conditions

In accordance with Section 9, Prohibited Projects, the Regulator may attach reasonable conditions to permit approval. Such conditions may include, but not be limited to, the following.

- 6.2.1 the applicant shall be responsible for a proportionate share of refurbishing existing Town road(s) which access the excavation site, and for the repair of Town maintained roads which are damaged as a result of hauling earth from the site. The Regulator may require these costs to be bonded prior to the granting of a permit to excavate.
- 6.2.2 no solid and/or hazardous waste, septage, dredge spoils, or organic waste and debris shall be disposed of on the excavation site unless specifically authorized and/or permitted by the appropriate Federal, State and local authorities.

## **SECTION 7 - OPERATIONAL STANDARDS**

- 7.1 No excavation covered under RSA 155-E shall be permitted closer than 50 feet of the boundary of a disapproving abutter. If concurrence is received from an abutter, in writing, then the boundary setback shall be ten feet.
- 7.2 No excavation covered under RSA 155-E shall be permitted closer than 150 feet of an existing dwelling or to a dwelling for which a building permit has been issued at the time the excavation is begun.
- 7.3 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.
- 7.4 Vegetation shall be maintained or provided within the buffer areas required by Sections 7.1, 7.2, and 7.3.
- 7.5 Natural vegetation 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. The Regulator shall have the authority to require additional screening (e.g., vegetation or fencing) where necessary.
- 7.6 Appropriate erosion, sedimentation, air and water quality measures shall be integrated into the excavation process. Excavations shall comply with the Erosion and Sedimentation Control provisions in the Town's Subdivision Regulations.
- 7.7 Where the depth of excavation will exceed 15 feet and temporary slopes will exceed 1:1 in grade, every reasonable effort shall be made to warn of danger and/or limit access to the site.
- 7.8 Excavation practices which result in siltation in streams or degradation of any water supplies are prohibited.
- 7.9 Topsoil shall be stripped from the excavation area and stockpiled for use in subsequent reclamation of the site. It shall be protected from erosion (e.g., by seeding, covering, or other acceptable practices). No topsoil shall be removed from the site without specific approval from the Regulator.
- 7.10 All temporary structures required during excavation operations shall be removed from the site within 30 days after such operations cease.
- 7.11 All vehicles transporting excavated material still utilize adequate coving and/or sideboards to prevent dust and spillage when loaded.

- 7.12 No fuels, lubricants or other toxic polluting chemicals shall be stored on-site unless in compliance with State and Federal laws or rules pertaining to fuels and lubricants, or other toxic or polluting chemicals.
- 7.13 Prior to the stripping of topsoil, removal of stumps, or other materials from a new excavation area, the excavator shall file a reclamation bond or other surety, as prescribed by the Regulator, sufficient to cover the cost of site reclamation.
- 7.14 Access roads leading to the excavation site shall intersect existing streets and roads at locations that have been duly approved by state or local officials and in a manner that will not endanger the safety of highway users and local residents. The provisions of RSA 236:13-14 (“Highway Access”) shall be adhered to by the applicant and shall be shown on the excavation plan.
- 7.15 Permit approval shall be conditioned on compliance by the applicant with street and highway regulations promulgated by federal, state and local units.
- 7.16 No excavation shall substantially damage any aquifer identified on mapping by the U.S. Geological Survey. The Board shall determine whether or not substantial damage to the aquifer will be incurred by considering the following criteria:
  - 7.16.1 The excavation shall not detrimentally affect the quality of the groundwater contained in the aquifer by directly contributing to pollution or by increasing the long term susceptibility of the aquifer to potential pollutants.
  - 7.16.2 The excavation shall not cause a significant reduction in the long term volume of water contained in the aquifer or in the storage capacity of the aquifer.
  - 7.16.3 The Board may require that the applicant provide data or reports prepared by a professional groundwater consultant which assess the potential aquifer damage caused by the proposed excavation project.
- 7.17 The applicable state statutes and regulations pertaining to forest practice and timber harvesting shall apply to the removal of vegetative cover at excavation sites.
- 7.18 Start-up time for all machinery associated with a gravel or sand pit shall be no earlier than 7:00a.m. and all machinery must be shut down by 5:00p.m.<sup>1</sup> Hours of operation other than those stipulated may be allowed if specifically authorized by the Regulator.
- 7.19 Excavation operations shall be set back at least 25 feet from wetlands (as defined in the Town’s zoning ordinance) and it must be demonstrated that no sedimentation of the wetlands will occur as a result of the excavation. The Regulator shall have the authority to require greater wetlands setbacks in situations where it can be demonstrated that they will be required to protect the wetlands from degradation due to proposed excavation operations.

**SECTION 8 - SITE RECLAMATION STANDARDS**

The Regulator or its designee shall periodically inspect the operations and shall perform a final reclamation inspection in order to ensure that the approved plans have been followed.

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<sup>1</sup> Specified days (e.g., excluding Sundays and State and/or Federal holidays) will be determined by the Regulator.

Within 12 months after the expiration date in a permit issued under this chapter or within one month of the completion of any excavation, whether subject to permit or not, 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 minimum conditions:

- 8.1 No slope in soil material shall be left steeper than 3:1 (three horizontal feet for each one foot of vertical drop) unless it can be demonstrated by the applicant that a steeper grade can be adequately vegetated and stabilized. In no case shall a soil material slope be left steeper than 2:1. Changes in slope shall not be abrupt, but shall blend with the surrounding terrain.
- 8.2 All debris, stumps, boulder, etc., shall be lawfully disposed of in a manner acceptable to the Regulator or its designee.
- 8.3 Ground levels and grades shall be established as shown on the approved reclamation plan as soon as practical during site excavation, but not later than one year after excavation has been completed.
- 8.4 Stockpiled topsoil shall be spread over the disturbed area to a depth sufficient to allow establishment and maintenance of vegetation. Areas posing the most critical problems for re-vegetation shall be given first priority should available topsoil be limited. The disturbed area(s) shall be limed and fertilized, if necessary, and seeded with a grass or grass-legume mixture.
- 8.5 If deemed necessary by the Regulator, 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.
- 8.6 The responsible party shall not be released from its performance commitment (reclamation bond) until the Regulator certifies compliance with all terms of the Excavation Plan and the Reclamation Plan.
- 8.7 Any excavated area of 5 contiguous acres or more, which is either fully excavated per the approved plan (excluding bedrock), or from which no earth materials have been removed for a two year period, shall be reclaimed in accordance with Sections 6 and 8 within one year following such full excavation or two year period, regardless of whether other excavation is occurring on adjacent land in contiguous ownership.
- 8.8 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.
- 8.9 Earth and vegetative debris resulting from the excavation shall be buried, removed, or otherwise lawfully disposed of.
- 8.10 The Regulator may require the elimination of any standing bodies of water created in the excavation project that may constitute a hazard to health and safety.
- 8.11 Upon completion of the reclamation 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 flow. For excavation projects which require a permit from the N.H.

Department of Environmental Services (NHDES) pursuant to RSA 485-A:17, the provisions of that statute, and rules adopted under it, shall supersede this paragraph as to areas of excavation sites covered thereby. The excavator shall file a copy of permits issued under RSA 485-A:17 with the Regulator.

8.12 The character of the restored landscape shall blend with the surrounding natural features.

**SECTION 9 - PROHIBITED PROJECTS**

The Regulator shall not grant a permit:

- 9.1 Where the excavation would violate the operational standards of Section 7;
- 9.2 When the issuance of the permit would be unduly hazardous or injurious to the public welfare, or would unduly endanger the safety of highway uses or local residents;
- 9.3 Where existing visual barriers would be removed, except to provide access to the excavation;
- 9.4 Where the excavation would substantially damage a known aquifer, so designated by the United States Geological Survey;
- 9.5 For excavation within 150 feet of an existing dwelling or a dwelling for which a building permit has been issued at the time the excavation is begun;
- 9.6 Where the project cannot comply with the reclamation provisions of Sections 6 and 8;
- 9.7 Where the excavation is not permitted by zoning or other applicable ordinances;
- 9.8 Where an excavation is proposed below road level within 50 feet of any highway right-of-way unless such excavation is for the purpose of said highway;
- 9.9 Where the excavation would cause unreasonable diminution in area property value or unreasonably change the character of the neighborhood;
- 9.10 Where the excavation will unreasonably accelerate the deterioration of highways or create safety hazards in the use thereof.

**SECTION 10 - DEPTH OF EXCAVATION**

The maximum depth of excavation shall be a minimum of four feet above the seasonal high water table existing at the location in question before commencement of excavation. The subsurface information described above shall be derived from test pits, and verified by the Regulator or its designee.

The Regulator shall grant an exception for excavations which propose to dig within the four feet above seasonal high water table, provided the following conditions are met:

- 10.1 The applicant demonstrates that the proposed excavation will not adversely affect water quality by directly contributing pollution, or by increasing the long-term susceptibility of groundwater or surface water to potential pollutants;

- 10.2 The applicant provides a plan which depicts the proposed depth of excavation and its relation to the seasonal high water table;
- 10.3 The applicant provides an enforceable restriction (e.g., covenant or easement) prohibiting any future on-site subsurface sewage disposal or any other use which could contaminate groundwater; and
- 10.4 Where an exception is sought for excavation that will create temporary or permanent standing water, the applicant will provide adequate safety measures (e.g., grading perimeter slopes, fencing, etc.), as may be required by the Regulator. Written notice of such exception shall be recorded in the Rockingham County Registry of Deeds, and one copy filed with the N.H. Department of Environmental Services (NHDES).

### **SECTION 11 - APPLICATION FOR AMENDMENT**

When the scope of a project for which an excavation permit has been issued is proposed to be altered so as to affect either the size or location of the excavation, the rate of removal or the plan for reclamation, the owner shall submit an application for amendment to his excavation permit. The amended application shall be subject to approval in the same manner as provided for an excavation permit.

### **SECTION 12 - HEARING**

Prior to the regulator approving an application for an excavation permit or an application for an amended excavation permit, a public hearing shall be held within thirty (30) days of receipt of a completed application. A notice of said hearing shall be sent to all abutters and shall specify the grounds for the hearing as well as the date, time, and place. At least ten (10) days' notice of the time and place of such hearing shall be published in a paper of general circulation in the Town and legal notice thereof shall also be posted in at least three public places in the Town. The ten (10) days shall not include the day of publication of the day of the meeting, but shall include any Saturdays, Sunday and legal holidays within said period. Within twenty (20) days of said hearing or any continuation thereof, the Planning Board shall issue a written decision approving or disapproving the application, giving reasons for disapproval.

### **SECTION 13 - ISSUANCE OF PERMIT**

If the Regulator, after public hearing, approves the application for a permit and determines it is not prohibited by these regulations, it shall grant the excavation permit upon the posting of a bond or other surety in the amount determined by the Regulator to be sufficient to guarantee compliance with the permit. The performance bond or other surety shall be for a reasonable time period determined by the Regulator. A copy of the permit shall be prominently posted at the excavation site and the principal access thereto. A permit shall not be assigned or transferable without the prior written consent of the Regulator. Unless otherwise specifically decided by the Regulator permit shall be valid for a period of one (1) year from the date of issuance. The Regulator may include in a permit such reasonable conditions as are consistent with the purpose of this regulation including the provision of visual barriers to the excavation. A permit fee in an amount determined by the Regulator for application plan review and annual compliance review, by the Regulator or its designated agent, shall be assessed the applicant upon application for permit. In addition, fees may be required for the municipality's designated engineer or other agents of the Regulator to periodically conduct required studies or field reviews at the excavation site to ensure compliance with the approved excavation and reclamation plans.

**SECTION 14 – PERFORMANCE COLLATERAL**

\*4/21/2011

14.1 Posting of Collateral

14.1.1 Collateral shall be in a form and amount, and other conditions all satisfactory to the Board to insure for the Town that reclamation will be completed in compliance with Section 8. The time limit for completion from the date of final approval shall be expressed in the collateral. The collateral shall remain valid and available until drawn upon by the Town or released in accordance the procedures specified below.

14.1.2 The Board may further extend the time of three (3) years for completion when the reasons for delay were unforeseeable and beyond the reasonable control of the applicant. Any such extension shall be in writing and approved by a majority of the Board and shall only be granted after ensuring the validity, adequacy, and availability of the collateral for such extension. Any such extension shall be solely at the discretion of the Planning Board.

14.1.3 The applicant shall file with the Board a detailed estimate of all costs of required reclamation. The Board may have the estimate reviewed by a professional consultant, if deemed necessary. The cost of this review shall be borne by the applicant. The Board, after considering the estimate, and other pertinent information, shall determine the amount of the collateral required.

14.1.4 Collateralization shall comport with the “Policy for Collateralizing Performance Obligations,” which is found in the Appendix of this document. As this policy may be occasionally updated, the most current version is available from the Planning & Zoning Department.

14.2 Release of Collateral

14.2.1 The collateral shall be released in phases as portions of the reclamation are completed and accepted by the Board, in accordance with the plan approved by the Board.

14.2.2 The collateral shall not be released until the Board has certified after inspection, by the Planning Board or its designee, that the reclamation obligations have been completed in accordance with the approved plan. A fee, payable by the applicant, may be charged to cover the cost of professional consultation selected by the Board to assist in determining completion of all required work to the standards of the Town.

**SECTION 15 - APPEAL**

If the Regulator disapproves or approves an application for an excavation permit or an application for an amended permit, any interested person affected by such decision may appeal to the Regulator for a rehearing on such decision or any matter determined thereby. The motion for rehearing shall fully specify every ground upon which it is alleged that the decision or order complained of it unlawful or unreasonable and said appeal shall be filed within ten (10) days of the date of decision appealed from. 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 for rehearing may appeal in accordance with the procedures specified in RSA 677.



**SECTION 16 - ENFORCEMENT**

- 16.1 The Regulator or its duly authorized agent may suspend or revoke the permit of any person who has violated any provision of his permit or this regulation or made a material misstatement in the application upon which his permit was granted. Such suspension or revocation shall be subject to a motion for rehearing thereon and appeal in accordance with Section 15.
- 16.2 Fines, penalties and remedies for violations of this regulation shall be the same as for violations of RSA 676:15 and RSA 676:17.
- 16.3 The Regulator or its duly authorized agent(s) will conduct site inspections to verify permit compliance on an annual basis unless a more frequent site visitation is necessary due to special characteristics of the excavation or restoration plans. To ascertain if there is compliance with this regulation, a permit issued hereunder or an order issued hereunder, the Regulator or its duly authorized agent(s) may enter upon any land on which there is reason to believe an excavation is being conducted or has been conducted since August 24, 1979.
- 16.4 Where these regulations are in conflict with other ordinances, regulations or laws, the more stringent shall apply.

**SECTION 17 - WAIVERS**

The Regulator, upon application and following a hearing, may grant a waiver in writing, to the standards contained in these Regulations for good cause shown except as prohibited by RSA 155-E. The written decision shall state specifically what standards, if any, are being relaxed and include reasonable alternative conditions.

**APPENDIX A**

**TOWN OF NORTH HAMPTON**

**EXCAVATION APPLICATION FORM**

**Introduction:** 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 other applicable regulations or ordinances are met. (N.B. if this application is within the Little Boar’s Head Village District, then prior and current approval of the Little Boar’s Head Village District Planning Board and/or Little Boar’s Head Village District Zoning Board of Adjustment must be submitted with this application.) \*3/19/2007

1. Submit completed application together with fees and additional required information to:
  - a. Chairman, Planning Board  
Town Office  
237A Atlantic Avenue  
North Hampton, New Hampshire 03862
  - and
  - b. Chairman, Conservation Commission  
Town Office  
237A Atlantic Avenue  
North Hampton, New Hampshire 03862
  
2. Date of submission \_\_\_\_\_
  
3. Name of owner/applicant \_\_\_\_\_  
 Address (mailing) \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
  
4. Location of proposed/existing excavation (municipality, nearest roads, other locational information, tax map and lot #).  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
  
5. Tax map and lot number, name and address of all abutters (see definition). Names must be current, based on Town records, five days prior to the submission of the application. (List below or attach separate sheet and show clearly on plan).  
 \_\_\_\_\_

6. State permits required and obtained (if applicable).

WSPCD (RSA 485-A:17)  
Wetland Board (RSA 482-A)  
State Highway Department (Access Permit, RSA 249:13-18)  
State Pit Agreement (per NHDOT Standard Specifications for Road and Bridge Construction, Section 106)

7. Excavation/Reclamation Plan.

This information is to be submitted as plans attached to this application:

- a. Site surveyed by a Registered Land Surveyor, to establish an accurate base map showing boundary lines, topography, and significant features.
- b. Excavation Plan to show:
  - property lines
  - existing topography
  - limits of excavation
  - excavation depths (excavated topography)
  - total area of excavation in acres
  - access road(s) and intersection with town or state highways
  - vegetation buffer
  - abutters names and addresses
  - distances from excavation limits to property lines
  - schedule of excavation volumes; phasing of excavation (areas and dates)
  - test pit groundwater elevations
  - topsoil storage area
  - drainage improvements (if necessary)
  - photographs of existing conditions

Reclamation Plan to show:

- reclamation topography
- soil conditioning specifications
- seeding and mulching specifications
- plant materials/quantities/sizes
- phasing of reclamation (areas and dates)
- sections showing existing, excavated and reclaimed topography

8. Hauling Information:

- a. Routes to be utilized
- b. Frequency of truck traffic over routes
- c. Size and weight of trucks used

9. Reclamation Collateral:

Collateral for reclamation purposes shall be required prior to the issuance of an excavation permit. The collateral amount is established by multiplying the excavation pit surface, or approved phase acreage, by \$5,000 per acre. All collateral must comply with “Policy for Collateralizing Performance Obligations (Appendix E).

10. Reclamation Bond:

A reclamation bond shall be required prior to the issuance of an excavation permit. The bond amount is established by multiplying the excavation pit surface, or approved phase acreage by \$5,000 per acre. All bonding must comply with Appendix D.

11. An excavation permit will be valid for a period of one (1) year. An application for permit renewal must be submitted to the regulator by the owner if excavation is to be continued beyond the termination date. The renewal application must identify and adjust all information contained in the original application that no longer is effective for the removal period.

This is to certify that the information contained in this application is complete and true to the best of my knowledge.

Submitted by: \_\_\_\_\_

Signature: \_\_\_\_\_  
(owner, designee)

Date: \_\_\_\_\_

**APPENDIX B**

**TOWN OF NORTH HAMPTON**

**EXCAVATION APPLICATION CHECKLIST**

In order to be complete, application for an excavation permit must contain the following information, where appropriate.

- \_\_\_ 1. A copy of application submitted to Conservation Commission.
- \_\_\_ 2. A signed and dated application.
- \_\_\_ 3. Name and address of owner, the person doing the excavation and all abutters.
- \_\_\_ 4. An Excavation Plan which:
  - \_\_\_ a. is at a scale no less than 1" = 100';
  - \_\_\_ b. shows area to be excavated, appropriate buffers, and any dwelling units, septic system, and wells within 150 feet;
  - \_\_\_ c. is easily understandable and clear;
  - \_\_\_ d. 14 copies are submitted;
  - \_\_\_ e. has the seal and signature of a registered engineer;
  - \_\_\_ f. has existing topography at two foot contours;
  - \_\_\_ g. shows the breadth, depth and slope of proposed excavation, (and existing excavation where applicable), volume of materials to be removed, and estimated duration;
  - \_\_\_ h. shows existing vegetation;
  - \_\_\_ i. shows all surface drainage patterns including wetlands and standing water;
  - \_\_\_ j. shows location of all easements on or below the ground;
  - \_\_\_ k. includes location and width of all public roads and rights-of-way;
  - \_\_\_ l. includes a log of borings or test pits to include groundwater levels;
  - \_\_\_ m. shows stone walls, ledge outcroppings, wells, existing buildings, septic systems, utilities and the like;
  - \_\_\_ n. includes a LOCUS map at a scale of one inch equals one thousand feet showing the proposed operation in relation to existing roads;
  - \_\_\_ o. shows any and all accessory facilities/activities;
  - \_\_\_ p. shows existing and proposed excavation areas;
  - \_\_\_ q. includes existing and proposed access roads including width and surface materials;
  - \_\_\_ r. shows existing and proposed parking areas
  - \_\_\_ s. shows the location of driveways and road intersections within 200 feet of the property boundary;
  - \_\_\_ t. includes fencing, buffers and other visual barriers including height and materials;
  - \_\_\_ u. identifies storage areas for topsoil to be used in reclamation;
  - \_\_\_ v. identifies all measures to control erosion, sedimentation, water pollution, air pollution and safety hazards;
  - \_\_\_ w. identifies zoning districts;
  - \_\_\_ x. includes copies of all state or federal permits required for the excavation.
- \_\_\_ 5. Application fee and performance surety submitted.
- \_\_\_ 6. A site reclamation plan which:

- \_\_\_\_\_ a. is at the same scale as the excavation plan;
- \_\_\_\_\_ b. is clear and easily understandable;
- \_\_\_\_\_ c. 14 copies are submitted;
- \_\_\_\_\_ d. includes the seal and signature of a registered engineer;
- \_\_\_\_\_ e. shows all boundaries of the area proposed for reclamation;
- \_\_\_\_\_ f. includes the final topography of the reclaimed area;
- \_\_\_\_\_ g. shows final surface drainage patterns;
- \_\_\_\_\_ h. includes the schedule of final reclamation activities including seeding mixtures, cover vegetation, fertilizer types and rates;
  
- \_\_\_\_\_ i. Includes photographs of the site before excavation (one from the air and one from ground level);
  
- \_\_\_\_\_ j. identifies subsequent use of the site, if known or anticipated.
  
- \_\_\_\_\_ 7. Rockingham County Conservation District Review Authorization Form signed (see Appendix D)
  
- \_\_\_\_\_ 8. Completed checklist with justification/explanation for any omissions.

**APPENDIX C**

**TOWN OF NORTH HAMPTON**

**REVIEW CHECKLIST FOR EXCAVATION PLANS**

- \_\_\_ 1. The excavation is not below road level within 50 feet of any highway right-of-way.
- \_\_\_ 2. The excavation is not within 150 feet of an existing dwelling or a dwelling for which a building permit has been issued at the time the excavation is begun.
- \_\_\_ 3. The excavation is permitted by current zoning ordinances.
- \_\_\_ 4. The excavation will not be unduly hazardous or injurious to the public.
- \_\_\_ 5. Existing visual barriers will be maintained except to provide access to the excavation.
- \_\_\_ 6. The excavation will not substantially damage a known aquifer.
- \_\_\_ 7. All other applicable state and federal permits have been obtained.
- \_\_\_ 8. If new, the excavation is 5 or less acres in size and can be reclaimed in 1 year or less.
- \_\_\_ 9. Hauling information has been provided and the hauling activity is deemed to be compatible with the public safety, the surrounding land uses, and road capacity and condition.
- \_\_\_ 10. The excavation area is at least 50 feet from the lot lines of a disapproving abutter. If concurrence is received from an abutter, in writing, the excavation area may be 10 feet from the lot line.
- \_\_\_ 11. Natural vegetation in areas which are not intended for excavation has been maintained or provided.
- \_\_\_ 12. The excavation and reclamation plans comply with the Soil Erosion and Sedimentation Control requirements and the Site Plan Review Regulations.
- \_\_\_ 13. The excavation is not within four feet of the seasonal high water table.
- \_\_\_ 14. Appropriate drainage is provided.
- \_\_\_ 15. Provision is made for the removal of all temporary excavation related structures within 30 days after operations cease.
- \_\_\_ 16. All vehicles transporting excavated material shall utilize adequate covering and/or sideboards to prevent dust and spillage when loaded.
- \_\_\_ 17. Permit fee paid for plan and implementation reviews and monitoring for plan compliance.
- \_\_\_ 18. All plans and studies reviewed by town’s engineer or other agents as determined by the Regulator.

**REVIEW CHECKLIST FOR RECLAMATION PLANS**

- \_\_\_ 1. No slope shall be left steeper than 3:1.
- \_\_\_ 2. All debris, stumps, boulders, etc., are being lawfully disposed of in a manner acceptable to the Regulator.
- \_\_\_ 3. Ground levels and grades are established as soon as practical during site excavation, but not later than one year after excavation has been completed.
- \_\_\_ 4. Stockpiled topsoil will be spread over the disturbed area at an adequate depth and distribution to allow re-vegetation. Disturbed areas will be limed, fertilized, and re-seeded.
- \_\_\_ 5. Suitable trees or shrubs will be planted to provide screening and natural beauty and to aid in erosion control. These plantings will be protected from erosion during establishment.
- \_\_\_ 6. The topography will be left such that surface water drainage will follow pre-excavation drainage patterns and such that there will be no increase in off-site volume.
- \_\_\_ 7. Adequate collateral for reclamation is provided to ensure the successful completion of the Reclamation Plan.



**APPENDIX D**

**EXCAVATION REGULATIONS**

**ROCKINGHAM COUNTY CONSERVATION DISTRICT REVIEW AUTHORIZATION**

**In accordance with RSA 676:4, I(g), and of the Town of North Hampton Excavation Regulations, the following form shall be signed and shall accompany all Excavation permit applications.**

Rockingham County Conservation District  
110 North Road  
Brentwood, New Hampshire 03833

Dear Mr. Chairman:

The North Hampton Planning Board would like to request the following services

for the \_\_\_\_\_ proposal.

\*\*\*\*\*

Plan review for compliance with:

\_\_\_ Excavation Regulations

\_\_\_ Wetland Ordinance

A report is required by \_\_\_\_\_  
(Date)

Signature \_\_\_\_\_

Date \_\_\_\_\_

\*\*\*\*\*

**CONSENT**

I, \_\_\_\_\_, of \_\_\_\_\_ agree to a  
(Name) (Representing)

review of the above proposal, and further agree to be responsible for any charges that may result from this review.

Signature \_\_\_\_\_

Date \_\_\_\_\_

## APPENDIX E

### Policy for Collateralizing Performance Obligations

#### Purpose

The purpose of this policy is to standardize the Planning Board's requirements for collateralizing performance obligations for conditionally approved site plans, subdivision plans, and excavation plans. (November 1, 2011)

#### Definitions

Performance Security: The collateralization of obligations imposed by the Planning Board as conditions of site plan, subdivision or excavations approvals. Such collateral shall be in the form of cash, or letter of credit in accordance with the provisions set forth in the following policy.

#### General Provisions for Collateralization

1. All obligations imposed by the Planning Board as conditions of site plan, subdivision or excavation approval, with respect to itemized schedules of work to be performed, estimated costs and expected completion dates, including collateralization requirements, if any, shall be set forth in the Performance Security Agreement contained herein.
2. Proposed schedules of work, estimated costs and expected completion dates shall be reviewed by the Town's engineer, and the engineer's recommendation shall be given due consideration by the Board.
3. Estimates of the total cost of work in the schedule shall be increased by no less than 10% to cover contingencies, including unanticipated events and inflation over the period during which the work is to be completed.
4. Cash collateral shall be acceptable as performance security for amounts not to exceed \$5,000 and only under the terms and conditions stated below.
5. Letters of credit shall be acceptable as performance security in any amount provided that the letter of credit complies with the terms and conditions stated below.

#### Cash Collateral: Terms and Conditions

1. Applicant shall execute the Town's "Performance Security Agreement" that specifies the purpose of the security and rights of the Applicant and Town with respect to the collateral held in escrow.
2. Cash collateral shall be provided as cash and not in any other form, including "cash equivalents" such as CDs, bonds, stocks, or similar financial instruments.
3. It shall be held in escrow in a bank of the Town's choosing.
4. It shall be held in an account designated as an escrow account solely for the purposes specified in the Cash Performance Security Agreement.
5. The account shall be separate and apart from accounts holding assets of the Town and shall NOT be commingled with the Town's assets.
6. Interest on cash held in escrow shall be held in the escrow account until released according to the terms and conditions of the Cash Performance Security Agreement.
7. Applicant shall not be named in the title of the account.

#### Letters of Credit: Terms and Conditions

1. Applicant shall execute the Town's "Performance Security Agreement" that specifies the purpose of the security and rights of the Applicant and Town with respect to the letter of credit.
2. The letter of credit shall be issued by a major bank in the State of New Hampshire – e.g., TD Bank, Bank of America, Citizens Bank.

3. The letter of credit shall specify conditions under which the Town may draw on the letter of credit and requirements for the Town to draw on it –e.g., a sight draft and certification of work for which the draw is required.
4. The letter of credit shall provide for the Town to draw on the letter of credit upon certification of a default by the Applicant in general terms -- e.g., “a default has occurred pursuant to provisions set forth in the approval of the plan titled XXXX conditionally approved by the North Hampton Planning Board on [DATE].”
5. The letter of credit shall be irrevocable.
6. The letter of credit shall be “evergreen” and shall provide that:
  - a. The Issuer must give notification of not less than 90 days prior to allowing the letter of credit to expire, and
  - b. in the event that the Issuer gives notice of intent not to renew the letter of credit at expiration, the letter of credit may be fully drawn prior to the expiration date upon presentation of a sight draft only.
7. The letter of credit shall provide for partial drawings.
8. The Town may hold as a cash collateral any amount drawn in excess of the amount from time to time due and owing and shall not be obligated to return amounts, if any, so drawn to the issuing bank of the letter of credit unless and until the obligations to which the letter of credit relates of the Applicant have been fully performed by the Applicant and accepted by the Town.
9. The sole right of the issuer of the letter of credit to any amount drawn excess of the amount from time to time due and owing shall be an unsecured right to receive such amount, if any, upon the full and final completion of the obligations of the Applicant whose performance is assured by the letter of credit.

**APPENDIX F****REGULATIONS GOVERNING STONE AND LEDGE REMOVAL THROUGH HAMMERING OR BLASTING****SECTION I PURPOSE**

The purpose of these regulations is to ensure that stone and ledge removal through the use of hammering or blasting does not negatively impact the health, safety, or welfare of the public.

**SECTION II HAMMERING AND BLASTING RESTRICTIONS**

Hammering and blasting are two options for removing stone and ledge for land improvements and development. Both hammering and blasting may have significant adverse impacts on neighboring properties. Adverse impacts on the neighborhood may include, but not be limited to, structural damage to buildings and other structures, loud and constant noise, and fugitive dust.

Hammering is defined as breaking up and reducing in size stone and ledge through repeated mechanical impacts. The use of handheld equipment (jackhammers) is considered hammering for the purpose of these regulations.

Blasting is defined as “excavation by means of explosives.” (*from RSA 374:48, VIII*).

Hammering is the preferred method, when appropriate and practical, for the removal and alteration of stone and ledge, subject to the following conditions:

1. Hammering is limited to no more than twenty (20) days total, contiguous or not, as part of an approved subdivision, site plan, or permitted project.
2. Any hammering on any given day will count as one (1) day of hammering toward the twenty (20) day limit.
3. Hammering is limited to the period of 8:00 AM to 4:30 PM, Monday through Friday
4. Hammering is not permitted on Saturdays, Sundays, or Federal, State, or Town observed holidays.

Blasting shall be permitted in the following cases:

1. When directed by the Town Planning Board as part of any applications approved by the Planning Board.
2. When hammering will exceed the twenty (20) day total limit for an approved subdivision, site plan, or permitted project.
3. When directed by the Blast Administrator when Planning Board approval is not required. See Appendix G of the Town of North Hampton NH Excavations Regulations.

As part of any subdivision or site plan application or permitted project, the Applicant shall submit a list of the hammering equipment to be utilized, and an estimate of the number of days and total hours of hammering anticipated to complete the hammering portion of the project.

It is the responsibility of the Applicant or their agent to keep and maintain a record of all hammering operations including specific dates and hours for each date. Such records shall be available on the site and made immediately available to the Building Inspector upon request.

If an Applicant determines that its hammering operations will exceed the allowable twenty (20) day limit, the Applicant shall apply to the Building Inspector for one (1) extension not to exceed ten (10) days. The

Building Inspector may grant the extension request unless he/she determines that the requested extension is unnecessary; is due to the Applicant's failure to adhere to the approved plan; or exceeds ten (10) days. Should the Building Inspector deny the Applicant's extension request, the Applicant may appeal the Building Inspector's denial to the Planning Board. The Planning Board may approve the extension; approve the extension with conditions; or require the Applicant to utilize another excavation method.

**SECTION III    EFFECTIVE DATE September 19, 2023**

**APPENDIX G**

**Town of North Hampton, New Hampshire**

**REGULATIONS GOVERNING BLASTING AND/OR EXPLOSIVE DEMOLITION**

**SECTION I PURPOSE**

**Regulation of Blasting and Explosive Handling, Storage, Use and/or Demolition:**

Explosives are sometimes used in property improvements, construction, demolition, and other manner within North Hampton. The use of explosives can have negative impacts in three primary ways.

1. Damage to existing structures. Specifically older structures.
2. Contamination of groundwater resulting from a release of unexploded or post explosion regulated or unregulated substances.
3. Bedrock subsurface structure changes and agitation of the subsurface causing a decrease in well output and/or an increase in the turbidity in water.

In acknowledgement that:

- a. the Town of North Hampton has a large number of structures, some of historic significance that are 100 years old or more, and
  - b. there are large public water supply aquifers within the Town of North Hampton and a significant percentage of residents rely on private wells for their water supply,
- it is in the best interest of preservation of older town structures and of the health, safety, and general welfare of the residents of the Town of North Hampton to enact the following regulations governing blasting for any purpose within the Town of North Hampton.

These regulations are intended as a supplement to the standards in the New Hampshire Code of Administrative Rules, Saf-C Section 1600, et seq.

**SECTION II AUTHORITY**

Under the authority vested in the Board of Selectmen and in accordance with the provisions of the New Hampshire Code of Administrative Rules, Saf-C Section 1600, et seq., inclusive, as amended, and every other authority thereto enabling, the Board of Selectmen adopts the following regulations governing Blasting, for any purpose within the Town of North Hampton, New Hampshire.

**SECTION III DEFINITIONS**

A) Town – Town of North Hampton, New Hampshire.

B) Board – Select Board of the Town of North Hampton.

C) Blast Administrator – Person(s) appointed (or hired) by the Select Board to administer and enforce the Blasting Regulation.

D) Blast Supervisor – Person(s) licensed by the State of New Hampshire for blasting purposes and who is responsible for the planning, managing, and oversight of all blasting and any activities related to blasting on the site where blasting will occur. The Blast Supervisor is responsible for obtaining any and all required blasting permits. The Blast Supervisor is responsible for meeting the requirements of this and any other applicable Town, State and Federal ordinances.

E) Applicant or Blast Permit Applicant – The Blast Supervisor applies for the Blasting Permit and is responsible for meeting any and all requirements of the permitting process.

F) Explosives – Those materials that are either chemically or otherwise energetically unstable or used to produce instantaneous violent waves of diminishing energy resulting in the fracturing of material usually accompanied by the production of heat and large changes in pressure (and typically also a flash and/or loud noise) upon initiation including, but not limited to: dynamite, any explosive compound of which nitroglycerin forms a part, fulminate in bulk or dry condition, blasting caps, detonating fuses, black powder, and ammonium nitrate/fuel oil (ANFO).

G) Peak Particle Velocity (PPV) – A measurement of maximum ground vibration in any of the three mutually perpendicular components of particle velocity.

H) Seismic Measuring Equipment – Equipment utilized to measure ground effects of blasting and/or explosive detonation which may include, but is not limited to: creep meters, seismographs, seismometers, strain meters, or magnetometers.

I) Blasting Log – A detailed written record of the type, amount, depth of explosives, and other blasting details submitted to the Town of North Hampton. The NHDOT Section 203 Blasting Log or equivalent should be submitted in metric or English.

J) Structure – A “structure” as used herein shall be anything which is built or constructed on a property (i.e., property improvements) including, but not limited to, activity for which a building permit or site permit is required such as foundations, driveways, roadbeds, parking lots, swimming pools, wells, waste disposal systems, and utility installations. In any instance in which this definition conflicts with any other definition of “structure” in North Hampton ordinances or regulations, this definition shall apply.

K) Habitable Structure – A “habitable structure” as used herein shall be a structure which persons are occupying or may occupy, including residential dwellings, commercial and industrial buildings, garages, sheds, barns, and storage buildings. In any instance in which this definition conflicts with any other definition of “structure” in North Hampton ordinances or regulations, this definition shall apply.

#### **SECTION IV BLASTING PERMITS APPLICABILITY AND RESTRICTIONS**

A) No person shall use explosive materials within the Town of North Hampton without first obtaining the proper permit which authorizes them to use such materials.

B) Blasting shall be permitted only when no other process is appropriate and practical to accomplish the desired task as determined by the Planning Board or, when Planning Board approval is not required, by the Blast Administrator, consistent with the intent and requirements of these regulations.

C) Licensed personnel only shall engage in blasting or detonation of explosive materials within the Town of North Hampton and only after first obtaining a permit to conduct such operations from the Blast Administrator of the Town and meeting any and all other applicable federal, state and local regulations, rules, and requirements.

D) Applicants for blasting permits must submit a completed application form containing all the information specified and required within this Regulation.

E) Applications for blasting permits for projects which are located within Aquifer Protection Districts must submit documentation to the Blast Administrator that:

1. Demonstrates that blasting is the sole appropriate and practical option available in order to accomplish the desired task.
2. Provide a report from a licensed hydrologist stating that the proposed blasting operation will not negatively impact a known aquifer.
3. Document that all reasonable precautions, as determined at the sole discretion of the Blast Administrator, shall be taken to ensure that the proposed blasting will not adversely affect the aquifer.
4. At the sole discretion of the Select Board, the documentation may be reviewed by experts selected at the sole discretion of the Select Board for the purpose of determining the validity of the documentation. All such reviews will be at the expense of the applicant.

F) This chapter shall not apply to:

1. Explosive materials while in the course of transportation via railroad, water, highway, or air when explosive materials are moving under the jurisdiction of and in conformity with regulations adopted by any federal or state department or agency.
2. The laboratories of schools and similar institutions when confined to the purpose of instruction or research or to explosive materials in the forms prescribed by the official United States Pharmacopoeia or the National Formulary and used in medicines and medicinal agents.
3. Pyrotechnics commonly known as "fireworks," including signaling devices such as flares and fuses.
4. Small arms ammunition and components thereof, which are subject to the Gun Control Act of 1968 (Title 18, Chapter 44, of the United States Code) and regulations promulgated there under.
5. Gasoline, fertilizers, and propellants used in propellant-activated power devices or tools.

G) No permit shall be assigned or transferred except with the express advance written consent of the Blast Administrator.

H) The permit expiration date shall be no later than the expiration date of the Blaster's insurance certificate.

I) The permit expiration date shall be no later than the expiration date of the Blaster's license.

J). Pre-blasting conferences may be scheduled by the Blast Administrator or Select Board prior to approval of permit application. Conference attendees shall be determined by the Blast Administrator and may include, but not be limited to, representatives of the blaster, other Town officials and/or citizens likely to be affected by blasting operations.

## **SECTION V APPLICATION FORM**

A) A properly executed application form shall be submitted to and approved by the Blast Administrator for all blasting permits, prior to commencement of any blasting. The application form shall be developed by the Blast Administrator and approved by the Select Board.



B) Approval of the blasting permit will not relieve the Blast Supervisor of full and complete responsibility for any and all results of the blasting operations. The Blast Supervisor also has full responsibility for the accuracy and adequacy of the blasting plan when implemented in the field.

C) Applicants for blasting permits for projects which are located within 750 feet of a structure which is 100 years old or more must submit documentation to the Blast Administrator that:

1. Demonstrates that blasting is the sole appropriate and practical option available to accomplish the desired task.
2. That all reasonable precautions, as determined at the sole discretion of the Blast Administrator, shall be taken to ensure that the proposed blasting will not damage such structures.

D) The application form shall require the following information:

1. Name, address, and daytime phone number of the Applicant (Blast Supervisor).
2. A copy of license issued by the State Police to the Blast Supervisor along with proof of identification, under RSA 158:9-b.
3. Experience, qualifications, and daytime phone number of Blast Supervisor.
4. A copy of Blast Supervisor's Certificate of Competency issued by the Commissioner of Safety pursuant to RSA 158:9-h.
5. The tax map and lot numbers and physical location (street address) where blasting is to be conducted. The approximate date of detonation, volume of material being detonated and type and quantity of explosives being used.
6. A map or plan at a scale not greater than 1" = 200' depicting the approximate location of the proposed blasting/detonation, and all properties, structures, aquifers, and known well locations within a 2,640 foot radius.
7. A list of the owners of all such properties identified, together with a notation as to whether such properties are improved by a structure, and the type of occupancy (i.e., residential, commercial, industrial).
8. A letter of permission from the property owner of the blasting site that, if appropriate, also authorizes the Blasting Supervisor to represent the property owner in all aspects of the permitting process.
9. Evidence of general liability and property damage insurance issued by a carrier authorized by the State of New Hampshire Insurance Commissioner to conduct business in New Hampshire. Such coverage shall be in amounts not less than three million dollars (\$3,000,000.00) combined single limit per occurrence. All liability insurance companies supplying policies per this Ordinance shall have at least a Double A (AA) Moody Bond rating.
10. The Blast Supervisor shall submit the following information to the Blast Administrator at least two weeks prior to commencing drilling and/or blasting operations.

- a. Sequence and schedule of production blast rounds, including the general method of developing the excavation, lift heights, starting locations, estimated starting dates, estimated rates of progress, etc.
- b. Written evidence of the licensing, experience, and qualifications of the blaster who shall be directly responsible for the loading and firing of each shot.
- c. Name, experience, and qualifications of the person responsible for designing and directing the Applicant's blasting operation.
- d. Name, experience, and qualifications of the person to be used to conduct pre-blast condition surveys.
- e. Name, experience, and qualifications of the person to be used in monitoring blast vibration.

**SECTION VI FEE**

A) All permit applications shall be accompanied by the proper application fee as established by the Select Board in accordance with RSA 41:9.a.

**SECTION VII PERMIT DURATION**

A) Blasting permits shall be issued for a forty-five (45) day period. The permit shall expire at the end of the 45 days from issuance, unless otherwise revoked hereunder.

B) Successive or renewed permits are permitted, provided application information is updated and a new application fee is paid.

C) After a second renewal, submission of a written impact evaluation of the site and potentially affected properties may be required by the Blast Administrator.

D) A permanent record of all permits issued under this Regulation will be kept on file in the Town Administrative Offices.

**SECTION VIII MINIMUM STANDARDS OF CONDUCT**

A) Unless more stringent provisions are contained herein, the conduct of all blasting or explosive detonations shall be governed by the standards in New Hampshire Code of Administrative Rules, Saf-C Section 1600, and et seq.

B) No person may handle, load, or fire explosive materials unless such person or his supervisor is a licensed blaster and holds a certificate of competency in conformance with RSA 158:9-b and RSA 158:9-h.

**SECTION IX LOCAL REQUIREMENTS REGARDING PROTECTION OF EXISTING STRUCTURES**

In addition to any other requirements of State law, the following additional requirements shall apply to blasting activity within the Town of North Hampton.

A) General: All blasting operations, including the storage and handling of explosives and blasting agents, shall be performed in accordance with the applicable provisions of this Regulation and all other pertinent Federal, State, and local regulations. Whenever explosives are used, they shall be of such character and in such amounts as are permitted by the State and local laws and ordinances, and all respective agencies having jurisdiction over them.

B) Pre-Blast Condition Survey: Prior to conducting any blasting, the Applicant or their agent shall conduct a pre-blast condition survey of all existing structures and conditions on the site, adjacent to the site, and within 750 feet of structures 100 years or older and 500 feet for structures less than 100 years old. This survey shall extend to such structures or conditions as may be affected by the Applicant's operations. Pre-blast condition surveys shall be performed on all structures noted above, including but not limited to driveways, roadbeds, swimming pools, wells, mobile homes and any other applicable property improvements. The Applicant, as well as the owner of the property being surveyed, shall sign all such surveys once completed. If a property owner, for whatever reason, refuses to allow for the conducting of a pre-blast survey or to sign a pre-blast survey form, then the Applicant shall note this on the form. The Applicant shall notify any property owners qualifying for the Pre-Blast survey by certified mail. This notice will explain the need for such surveys. Notified property owners will have twenty-one (21) days to reply that they wish to participate in the pre-blast survey or do not wish to participate.

1. The pre-blast structural inspection condition survey shall consist of a written description and documenting photographs of the interior and exterior condition of each of the structures examined. Descriptions shall locate any existing cracks, damage, or other defects, and shall include such information so as to make it possible to determine the effect, if any, of the blasting operations on the defect. Where significant cracks or damage exist, or for defects too complicated to describe in words, photographs shall be taken. A good quality videotape survey with appropriate audio description of locations, conditions, and defects can be used in lieu of a written form. This survey shall be kept for a minimum of three (3) years in the Town Administrative Offices. In addition, copies of the completed survey and videos shall be delivered to each property owner free of charge within fourteen (14) days. The property owner will have a fourteen (14) day period to comment and/or respond to the results of the survey. All property owner comments and responses will be to the Blast Administrator and retained in the Town Administrative Offices.

2. The person conducting the survey shall give written notice to the owner of the property concerned, as well as to any tenants of the property, at least two (2) days prior to the survey. The notice shall state the dates on which surveys are to be made. Copies of all notices shall be provided to the Blast Administrator.

3. Upon completion of all blast work and earth/rock excavation, the Applicant shall conduct a post-blast survey of any properties, structures, and conditions for which complaints of damage have been received or damage claims have been filed within a sixty (60) day period from the last day of any blasting. Written notice shall be given to all interested parties so that they may be present during the final examination. The final examination must be initiated with ten (10) days of the complaint or claim being filed. The final examination must be completed within thirty (30) days of the complaint or claim being filed. A written record of the post-blast inspection will be distributed to all interested parties within fourteen (14) days of the post blast inspection. Where significant cracks or damage exist, or for defects too complicated to describe in words, photographs shall be taken. A good quality videotape survey with appropriate audio description of locations, conditions, and defects can be used in lieu of a written form. Records of the final examination shall be distributed the same as the original pre-blast condition survey.

4. All costs associated with pre and post condition surveys shall be borne by the Applicant.

C) Seismic Measuring Devices: Prior to conducting any blasting, the Applicant or his/her agent shall identify the two closest structures to the blasting site not owned by the owner of the blast site and request written permission from the Owner(s) thereof to install and monitor seismic measuring equipment. The Applicant shall attempt to obtain such permission via certified mail. If unsuccessful, the seismic measuring equipment shall be installed between the structure and the blast location as close as reasonable

to the structure within the boundaries of properties on which the Applicant or his/her agent has permission to place such devices. An explanation of the reason for such location shall be made on the vibration monitoring report for such structure and the PPV shall be extrapolated to the structure using standard procedures. Prior to conducting any blasting, seismic measuring equipment shall be installed as described above. The Blast Administrator may require additional measuring devices when necessary to protect property. If an owner refuses to allow for or waives the placement of seismic measuring equipment, the Applicant shall note this on the vibration monitoring report.

1. All costs associated with the analysis and monitoring shall be borne by the Applicant.

D) Map of Operations: The Applicant shall provide a vicinity map and plan, locating the blast site, blast area, and the locations of all measuring devices required hereunder.

E) Additional Surveys/Seismic Devices: The Town, through its Blast Administrator or Select Board, reserves the right to require additional condition surveys and/or placement of seismic measuring equipment on properties other than specified here should the need arise due to other causes. Further, the Town reserves the right to require geological surveys of the area around the blasting location should conditions warrant such analysis. Such additional requirements may be prerequisites to obtaining any permit renewals.

1. All costs associated with additional analysis and monitoring shall be borne by the Applicant.

F) Timing of Blasting Operations: Blasting and/or detonation shall be conducted only between the hours of 10:00am and 3:00pm, and shall not be permitted on Saturdays, Sundays or Federal, State, or Town observed holidays.

G) A sign detailing the date and time of the blasting and/or detonation shall be posted prominently on all public roadways abutting the property or the nearest public roadway five (5) business days prior to the blasting or detonation event.

H) Blast Vibration Control and Monitoring: The Applicant shall be required to comply with the blasting vibration limits established by the applicable State of New Hampshire rules and regulations. The Town through the Blast Administrator reserves the right to impose lower maximum vibration limits.

I) Vibration Monitoring Instrumentation: All vibration monitoring instrumentation proposed for use on the project by the Applicant shall comply with the following requirements.

1. Measure, display, record, analyze, and print three-component ground motion and measure, display, record, and print air pressure with specification equal to or better than the following:
  - a. Range: 0.01-10 in/s
  - b. Resolution: seismic, 0.005 in/s acoustic, 1db
  - c. Sample Rate: 1024 Samples/s
  - d. Frequency Response: 0-250 Hz, flat within 3db
  - e. Trigger Source: seismic and/or acoustic
  - f. Trigger Level: seismic, programmable, 0.02-200 in/s acoustic
  - g. Programmable, 100-129db, Linear weighting scale
  - h. Record Time: 1-10 s plus 0.5 s pre-trigger
  - i. Storage Capacity: 100 1-sec events at 1024 samples /s

2. Measure the three (3) mutually perpendicular components of particle velocity in directions vertical, radial, and perpendicular to the vibration source. Full wave forms must be recorded.
3. All seismographs used on the project shall display the date of the most recent calibration. Said calibration must have occurred within the last twelve (12) months and been performed to a standard traceable to the National Institute of Standards and Technology.
4. The Blast Administrator may at his/her sole discretion modify any of these requirements as necessary due to the specific nature of the project.

J) Report of Monitoring Results: Within forty-eight (48) hours of each blast, the Applicant, or their authorized representative, shall submit to the Blast Administrator in writing the following items:

1. Details of the round as shot to include the information shown on the sample blasting log (see, Section III (F)).
2. Results of the blast monitoring at each instrument location, including the following:
  - a. Date and time of blast
  - b. Location of blast
  - c. Operator name and signature
  - d. Distance of seismograph from blast in feet
  - e. Listing of the maximum values of the three components of peak particle velocity, PPV (in/s), acceleration, PPA (g), displacement, PPD (in), time on the record at which the PPV occurs (ms), peak vector sum, PVS (in/s) and time on record at which the PVS occurs, peak sound pressure level, PSPL (psi) and time on record at which the PSPL occurs (ms), and the PSPL frequency (Hz)
  - f. Seismograph manufacturer, model, serial number, calibration date
  - g. Trigger settings
  - h. Software manufacturer, name, version used for download and/or analysis
  - i. Full waveform plots of three seismic components and acoustic components
  - j. Plot displaying OSM and USBM RI8507 analysis
  - k. If the seismic ground vibration or air overpressure, or both ground vibration and air overpressure caused by the Applicant's blasting operation equals or exceeds either the limits established by the State of New Hampshire or the maximum limits imposed by the Town, which ever being more restrictive, the operations shall cease and the permit may be revoked by the Blast Administrator.
3. The Blast Administrator may at his/her sole discretion modify any of these required monitoring results as necessary due to the specific nature of the project.

K) Notice and Warning Signals: Adequate warnings shall be given to all personnel in proximity to the blast site at least three minutes in advance of each blast. The Blast Supervisor shall use sirens or horns or both sirens and horns with sufficient intensity such that they can be heard of a minimum distance of 1320 feet.

1. The Applicant shall notify the North Hampton Police Department not less than one (1) hour before the scheduled time of blast or explosion with the address of the blasting site, the total pounds of explosives and the number of charged holes.
2. The Applicant shall publish a notice in a local paper no later than ten (10) business days prior to blasting operation noting the place, date of blasting operations, and estimated number of days of blasting.

3. The Applicant shall notify all property owners within the 1320 foot radius by certified US Mail, ten (10) days prior to blast, with the following information: the place, date, and duration of the blasting operation. Blasting operations and activities lasting longer than forty-five (45) days requiring a permit renewal shall re-notify the properties owners by certified mail.

L) Fly Rock Control: Before the firing of any blast in areas where flying rock or debris may result in personal injury or damage to property, the rock to be blasted shall be covered with approved blasting mats, soil, or other equally serviceable material to prevent fly rock.

M) Responsibility for Blasting Operations: Review of the Applicant’s blasting submittals by the Town of North Hampton, the Blast Administrator, or their authorized representative will not relieve the Applicant of his/her responsibility for the accuracy, adequacy, and safety of the blasting; for exercising proper supervision and field judgment; for preventing damage to structures; and for producing results in accordance with the State of New Hampshire regulations and NHDOT Specifications. The Applicant shall be solely and completely responsible for the safety of all persons deemed necessary, in addition to the requirements herein, to protect the safety of persons and property, both at the blasting site and away from the site. The Applicant shall have full and complete responsibility for the handling, discharging, or settling of any and all damage or annoyance claims resulting from the blasting activities on the project. Any monitoring and/or review of the Applicant’s procedures and performance conducted by the Town of North Hampton, the Blast Administrator’s Office or their acting Administrator’s Office or their authorized representative shall not relieve the Applicant of his/her responsibility for safety at and away from the site, or for preventing damage to adjacent structures or property.

N) Blasting Monitoring: The Blast Administrator reserves the right to visit any blasting site to monitor the operation. The Blast Administrator may also confer with other town departments or private blasting consultants for advice or assistance in the review or monitoring of a blasting site. The Blast Administrator may require a Fire Department work detail to standby a site for safety or monitoring duties. The cost of the Fire Department work detail or any other private consultants necessary for enforcement of these regulations will be at the Applicant’s expense.

O) Dust Control: During and after the firing of any blast. Dust control shall be in place to control the dust from the blast and the removal of the blasted rock and dirt. Dust migration from blasting operations, including rock removal and rock processing, to adjacent properties shall be controlled and kept to a minimum. Dust control plans and procedures shall be submitted with all blasting permit applications and approved by the Blast Administrator.

**SECTION X LOCAL REQUIREMENTS REGARDING PROTECTION OF GROUND WATER AQUIFERS**

In addition to any other requirements of State law, the following additional requirements shall apply to blasting activity within the Town of North Hampton.

A) Site and Environmental Monitoring: The Blast Administrator and Applicant and Town consultants shall review the Applicant’s blasting plan to determine what type of monitoring will be required to test the ground water quality and blasting procedures during blasting operations. The Blast Administrator will be responsible for coordinating the development of a blasting plan to protect the aquifer from any and all possible contamination from the blasting operations. Prior to undertaking any blasting, the Applicant for a blasting permit shall set up an escrow account to pay for geological and ground water monitoring consultants hired by the Town to oversee the blasting operations. The cost of this monitoring shall be paid for by the Applicant.

B) Responsibility for Blasting Operations: Review of the Applicant's blasting submittals by the Town of North Hampton, the Blast Administrator or their authorized representative will not relieve the Applicant of his/her responsibility for the accuracy, adequacy, and safety of the blasting; for exercising proper supervision and field judgment; for preventing damage, pollution or other negative impacts upon the Ground Water Aquifers; and for producing results in accordance with the State of New Hampshire regulations and NHDOT Specifications. The Applicant shall be solely and completely responsible for the safety of all persons deemed necessary, in addition to the requirements herein, to protect the safety of persons and property, both at the blasting site and away from the site. The Applicant shall have full and complete responsibility for the handling, discharging, or settling of any and all damage or annoyance claims resulting from the blasting activities on the project. Any monitoring and/or review of the Applicant's procedures and performance conducted by the Town of North Hampton, the Blast Administrator's Office, or their acting Administrator's Office or their authorized representative shall not relieve the Applicant of his/her responsibility for safety at and away from the site, or for preventing damage to the Ground Water Aquifers.

## **SECTION XI LOCAL REQUIREMENTS REGARDING PROTECTION OF EXISTING WATER WELL OUTPUT AND WATER QUALITY**

In addition to any other requirements of State law, the following additional requirements shall apply to blasting activity within the Town of North Hampton.

A) General: All activities related to blasting shall follow Best Management Practices (BMPs) to prevent the use of blasting from reducing the capacity or water quality of both private and commercial groundwater wells. This section (Section XI) supplements the requirements of Section IX and Section X.

B) Pre-blast Condition Survey: Prior to conducting any blasting, the Applicant or his/her agent shall conduct a pre-blast condition survey of all existing wells on the site, adjacent to the site, and within 750 feet of the site. All landowners within 750 feet shall be notified by certified mail of the blasting application and be given ten (10) days to reply whether they elect to participate in the well survey or decline to participate. The pre-blast well survey shall be conducted by a licensed well installer or inspector.

The survey shall include:

1. General well condition including well depth, depth to well pump, and depth to water level with the well non-operating in the prior 30 minutes.
2. Pump test with the well pump operating continuously at maximum output for 30 minutes. The well shall not have been drawn from at any time during the previous 60 minutes.
  - a. Output flow shall be recorded in 5 minute increments.
  - b. Water level within the well shall be recorded in 5 minute increments.
3. Water samples shall be collected and tested for:
  - a. Total Coli forms
  - b. Nitrate
  - c. Nitrite
  - d. Arsenic
  - e. Radon
  - f. Turbidity
  - g. The Blast Administrator may at his/her sole discretion modify and or add to any of these required tests as necessary due to the specific nature of the project and/or the results obtained from initial tests samples.

h. All testing will be done in accordance with New Hampshire Department of Environmental Services standards.

4. The pre-blast well inspection survey shall consist of a written description and data findings of the well survey. This survey shall be kept for a minimum of three (3) years in the Town Administrative Offices. In addition, copies of the completed survey shall be delivered to each well owner free of charge within 14 days. The well owner will have a fourteen (14) day period to comment and/or respond to the results of the survey. All well owner comments and responses will be to the Blast Administrator.

5. The individual responsible for conducting the survey shall give written notice to the owner of the property concerned, as well as to any tenants of the property. The notice shall state the dates on which surveys are to be made. Copies of all notices shall be provided to the Blast Administrator.

6. Upon completion of all earth/rock excavation and blasting work, the Applicant shall conduct a post-blast survey of any wells for which complaints of damage have been received or damage claims have been filed within a sixty (60) day period after completion of the blasting. Notice shall be given to the affected property owner(s) and all interested parties so that they may be present during the final examination. The final examination must be initiated with ten (10) days of the complaint or claim being filed. The final examination must be completed within thirty (30) days of the complaint or claim being filed. Records of the final examination shall be distributed in the same manner as the original pre-blast condition survey.

7. All costs associated with condition surveys shall be borne by the Applicant.

The Applicant, as well as the owner of the well being surveyed, shall sign all such surveys once completed. If a property owner, for whatever reason, refuses to allow for the conducting of a pre-blast survey or to sign a pre-blast survey form, then the Applicant shall note this on the form.

C) Map of Operations: The Applicant shall provide a vicinity map and plan, locating the blast site, blast area, and the locations of wells surveyed.

## **SECTION XII NO STORAGE OF EXPLOSIVES OR BLASTING AGENTS**

The overnight storage of explosives or blasting agents, whether supervised or not, is not allowed in the Town. Loaded explosives shall have twenty-four hour supervision and be guarded overnight when conditions or circumstances delay the blast and the Blast Administrator has approved in writing the overnight delay in blasting.

## **SECTION XIII GENERAL EXPLOSIVE AND SITE PRACTICES**

A) General: All activities related to blasting shall follow Best Management Practices (BMPs) to prevent contamination of property, groundwater, and wells including:

1. preparing, reviewing, and following an approved blasting plan
2. proper drilling, explosive handling and loading procedures
3. observing the entire blasting procedures
4. evaluating blasting performance
5. handling and storage of blasted rock

This section (Section XIII) supplements the requirements of Sections IX, X and XI.

B) Best Management Practices include but are not limited to the following:



1. Loading practices. The following blast hole loading practices to minimize environmental effects shall be followed:
  - a. Drilling logs shall be maintained by the driller and communicated directly to the Blast Supervisor. The logs shall indicate depths and lengths of voids, cavities, and fault zones or other weak zones encountered as well as groundwater conditions.
  - b. Explosive products shall be managed on-site so that they are either used in the borehole, returned to the delivery vehicle, or placed in secure containers for off-site disposal.
  - c. Spillage around the borehole shall either be placed in the borehole or cleaned up and returned to an appropriate vehicle for handling or placement in secured containers for off-site disposal.
  - d. Loaded explosives shall be detonated as soon as possible and shall not be left in the blast holes overnight, unless weather or other safety concerns reasonably dictate that detonation should be postponed.
  - e. Loading equipment shall be cleaned in an area where wastewater can be properly contained and handled in a manner that prevents release of contaminants to the environment.
  - f. Explosives shall be loaded to maintain good continuity in the column load to promote complete detonation. Industry accepted loading practices for priming, stemming, decking and column rise shall be followed.
  
2. Explosive Selection. The following best management practices shall be followed to reduce the potential for groundwater contamination when explosives are used:
  - a. Explosive products shall be selected that are appropriate for site conditions and safe blast execution.
  - b. Explosive products shall be selected that have the appropriate water resistance for the site conditions present to minimize the potential for hazardous effect of the product upon groundwater.
  
3. Prevention of Misfires. Appropriate practices shall be developed and implemented to prevent misfires.
  
4. Muck Pile Management. Muck piles (the blasted pieces of rock) and rock piles shall be managed in a manner to reduce the potential for contamination by implementing the following measures:
  - a. Remove the muck pile from the blast area as soon as reasonably possible.
  - b. Manage the interaction of blasted rock piles and storm water to prevent contamination of water supply wells or surface water.
  
5. Spill Prevention Measures and Spill Mitigation. Spill prevention and spill mitigation measures shall be implemented to prevent the release of fuel and other related substances to the environment. The measures shall include at a minimum:
  - a. Fuel storage requirements:
    - i. Store regulated substances on an impervious surface.
    - ii. Secure storage areas against unauthorized entry.
    - iii. Label regulated containers clearly and visibly.
    - iv. Inspect storage areas weekly.
    - v. Cover regulated containers in outside storage areas.
    - vi. Wherever possible, keep regulated containers that are stored outside more than 50 feet from surface water and storm drains, 75 feet from private wells, and 400 feet from public wells.
    - vii. Secondary containment is required for containers containing regulated substances stored outside, except for on premise use heating fuel tanks or aboveground or underground storage tanks otherwise regulated.

- a. Fuel handling requirements:
  - i. Except when in use, keep containers containing regulated substances closed and sealed.
  - ii. Place drip pans under spigots, valves, and pumps.
  - iii. Have spill control and containment equipment readily available in all work areas.
  - iv. Use funnels and drip pans when transferring regulated substances.
  - v. Perform transfers of regulated substances over an impervious surface.
- c. The training of on-site employees and the on-site posting of release response information describing what to do in the event of a spill of regulated substances.
- d. Fueling and maintenance of excavation, earthmoving and other construction related equipment will comply with the regulations of the New Hampshire Department of Environmental Services. (note: these requirements are summarized in WD-DWGB-22-6 Best Management Practices for Fueling and Maintenance of Excavation and Earthmoving Equipment" or its successor document)

#### **SECTION XIV REVOCATION OF PERMIT**

A permit issued hereunder may be revoked by the Blast Administrator for just cause including, but not limited to:

- a. failure to conduct operations in accordance with the standards herein,
- b. operations resulting in property damage that does or has the potential to exceed 50% of the amount of liability insurance held by the Applicant,
- c. lapse or revocation of the State license or the institution of proceedings (civil, criminal, or administrative) by the State, or
- d. violation of applicable State law or regulations.

Revocation of permission to perform blasting operations in North Hampton may result in the loss of all blasting permits for one year. An Applicant who has had a permit revoked may apply for a re-issuance to the Select Board who shall hold a public hearing on said request and, following same, determine whether or not a permit shall be reissued. The Applicant requesting the permit shall provide a detailed report to the Blast Administrator outlining why they believe said permit should be issued along with any other information requested by the Blast Administrator.

#### **SECTION XV APPEAL**

Any person who is denied a permit, or has such permit revoked, may request a hearing before the Select Board. Appeals shall be made in writing within ten (10) days to the Select Board, who shall hold a public hearing within thirty (30) days to render a decision. The decision of the Select Board shall be final.

#### **SECTION XVI EFFECTIVE DATE April 17, 2012 REVISED September 19, 2023**