

TOWN OF THORNTON, NEW HAMPSHIRE EXCAVATION REGULATIONS

SECTION I: AUTHORITY

Chapter 155-E of the New Hampshire Revised Statutes Annotated stipulates that, with some exceptions, all earth excavations in the State are subject to regulation from the local municipality in which the operation occurs. Pursuant to the authority vested in the Planning Board by the voters of the Town of Thornton and RSA 155-E, the Planning Board adopts the following regulations to govern the excavation of earth materials in the Town of Thornton.

SECTION II: PURPOSE AND SCOPE

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

SECTION III: DEFINITIONS

- A. **ABUTTER** means (1) any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration. (2) For the purposes of receiving testimony only, and not for purposes of notification, the term “abutter” shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration. (3) In the case of an abutting property being under a condominium or other collective form of ownership, the term “abutter” means the officers of the collective or association, as defined in RSA 356-B:3, XXIII.B. (4) For purposes of notification and receiving testimony, “abutter” means all affected towns and the regional planning commission(s) in the case of a development having regional impact, as determined by the Board.
- B. **AGRICULTURAL EXCAVATION** means excavation of earth by the owner of the land to be used on the owner’s land exclusively for agricultural use.
- C. **AGRICULTURAL USE** means land used for agriculture and farming, as defined by RSA 21:34-a, including dairying, pasturage, apiculture, horticulture, floriculture, silviculture and animal and poultry husbandry.
- D. **APPLICANT** means the owner of the property to be excavated or the owner’s agent, so designated in writing as part of the excavation application.
- E. **BOARD** means the Planning Board of Thornton.
- F. **COMMERCIAL EXCAVATION** means excavation of earth intended for commerce, this may also include excavation that is strictly conducted for the purpose of alteration, renovation, improvement or construction to the property on which the excavation takes place. Any commercially useful material leaving the property for whatever reason is presumed to be a commercial operation.
- G. **COMMERCIALLY USEFUL** amount of excavation is determined to be 1000 cubic yards or more.
- H. **CONTIGUOUS** means land whose perimeter can be circumscribed without interruption in common ownership except for roads or other easements, in a single town.

- I. DIMENSION STONE means rock that is cut, shaped or selected for use in blocks, slabs, sheets, or other construction units of specified shapes or sizes and is used for external or interior parts of buildings, foundations, curbing, paving, flagging, bridges, revetments, or for other architectural or engineering purposes. Dimension stone includes quarry blocks from which sections of dimension stone are to be produced. Dimension stone does not include earth as defined below.
- J. EARTH means sand, gravel, rock, top soil, loam or construction aggregate produced by quarrying, crushing or any other mining activity or such other naturally-occurring unconsolidated materials that normally mask the bedrock.
- K. EXCAVATION means a land area which is used, or has been used, for the commercial taking of earth, including all slopes.
- L. EXCAVATION AREA means the surface area within an excavation site where excavation has occurred or is eligible to occur under the provisions of RSA 155-E. This is also known as the pit area.
- M. EXCAVATION SITE means any area of contiguous land in common ownership upon which excavation takes place.
- N. EXISTING EXCAVATION means any excavation, as described in RSA 155-E:2, I, which lawfully existed as of August 24, 1979, from which earth material of sufficient weight or volume to be commercially useful has been removed during the 2-year period before August 24, 1979 and had submitted the report as required by RSA 155-E:2, I, (d).
- O. EXPANSION means excavation and disturbance of earth beyond the limits as shown on the plan as approved by the regulator.
- P. INCIDENTAL EXCAVATION means excavation of earth that is a direct result and consequence of any permitted construction of building, parking lot, or way on the portion of the premises where the construction occurs.
- Q. MINOR TOPOGRAPHICAL ADJUSTMENT means a one-time removal of earth from the site of less than 1000 cubic yards that is exclusively necessary to change the physical configuration of the land for a specified use or situation.
- R. NORMAL LANDSCAPING means the on-site alteration and contouring of the land exclusively devoted to improving the functional utility and planting of the grounds.
- S. RECLAMATION means the reestablishment of an excavation site to a standard at least equal to those outlined in Section X of these regulations.
- T. REGULATOR means the Planning Board of the Town of Thornton.
- U. STATIONARY MANUFACTURING AND/OR PROCESSING PLANTS means facilities which are placed on a site for the purposes of sorting, washing, screening, crushing, classifying, drying or processing excavated earth materials.

SECTION IV: PROJECTS REQUIRING A PERMIT

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

SECTION V: PROJECTS EXEMPT FROM A PERMIT

A. The regulator of the Town of Thornton has determined that only the following excavation sites within the municipality are grandfathered because they have met the burden of proof that they are exempt from a permit under RSA 155-E:2, I (Existing Excavation) and RSA 155-E:2, III (Stationary Manufacturing Plants) but shall be subject to RSA 155-E:2, I(c) which requires compliance with RSA 155-E:4-a (operational standards), RSA 155-E:5 and RSA 155-E:5-a (reclamation standards). Compliance with these standards is mandatory in order to retain the non-permit status. Loss of such non-permit status can occur only after the Board has given written notice that the excavation is not in compliance and the owner has failed to bring it into compliance within 30 days of receipt of such notice.

Map 15 Lot 4-24	12 acres	Johnston, Dean, Duane & Mark
Map 15 Lot 4-30	20 acres	Johnston, Leigh
Map 16 Lot 6-8	13.13 acres	Dole/Roberts
Map 17 Lot 7-20	42.28 acres	Sunset Rock

B. Highway Excavation performed exclusively for the lawful construction, reconstruction, or maintenance of a Class I, II, III, IV, or V highway do not require a permit so long as they have met the requirements pursuant to RSA 155-E:2 IV. RSA 155-E:2, IV.

SECTION VI: EXCEPTIONS FROM A PERMIT

A. Incidental Excavation projects are deemed to be exceptions to the Town of Thornton Excavation Regulations subject to certain criteria. Projects that will excavate less than 1,000 cubic yards from the parcel for the completion of the project are not required to come before the Board. In the event that the project will result in the removal of more than 1,000 cubic yards, the individual shall come before the Board so that the Board may determine whether it is incidental. In those instances, the Board may impose operational conditions and a performance bond as may be deemed necessary to insure completion of the proposed project.

- 1) Excavation of earth that is exclusively incidental to the lawful construction or alteration of a building or structure, a parking lot or way including a driveway on a portion of the premises where removal occurs. This excavation cannot be started, however, until all required state and local permits have been issued.
- 2) Excavation that is incidental to agricultural activities, normal landscaping or minor topographical adjustment as defined in these regulations.
- 3) Excavation from a granite quarry for the purpose of producing dimension stone, if such excavation requires a permit under RSA 12-E (Mining and Reclamation)
- 4) A person owning land abutting a site which was taken by eminent domain or by any other governmental taking upon which construction is taking place may stockpile earth taken from the construction site and may remove the earth at a later date after written notification to the Board.

SECTION VII: ABANDONED EXCAVATIONS

A. Any excavation, to include both grandfathered and permitted pits, for which the affected area has not been brought into complete compliance with the reclamation standards of this regulation shall be considered abandoned if:

- 1) No material of sufficient weight or volume to be commercially useful has been removed from the site during any 2-year period either before, on, or after August 4, 1989.
 - 2) The excavation is in use, but either has not been brought into compliance with the incremental reclamation standards of this regulation, or a bond has not been posted and a reclamation timetable has not been approved by the Board.
 - 3) Neither the owner nor the operator of the excavation has secured a permit pursuant to these regulations.
- B. In the event the Board determines that any abandoned excavation presents a hazard to the public health, safety or welfare, the owner may be required, following a public hearing, to comply with the timetable and bonding requirements outlined above, or to complete reclamation within a reasonable period of time. Should reclamation not be completed, the Board may request the Town to authorize reclamation at the Town's expense. The Town's costs shall constitute an assessment against the owner, and shall create a lien against the property. Such assessment and lien may be enforced and collected in the same manner as provided for real estate taxes.

SECTION VIII: PROHIBITED PROJECTS

- A. The Board shall not grant a permit for any Prohibited Excavation Project as defined in RSA 155-E:4.

SECTION XI: EXCAVATION EXPANSION

- A. When the scope of an approved excavation is proposed to be altered as to affect either the size or location of the excavation, the rate of removal, or the plan for reclamation, the owner must submit a new application for an excavation permit following the regulation criteria in Section XV: Application Submission Items.

SECTION X: OPERATIONAL STANDARDS

- A. All excavations requiring a permit must comply with the operational standards pursuant to RSA 155-E:4-a which are considered to be the minimum; more stringent standards such as are consistent with the purpose of these regulations may be applied, as deemed necessary by the Board to include the following:
1. Acceptable hours of operation shall be 7 am – 5 pm Monday through Friday and 8 am – 12 noon on Saturday, with no operation on Sunday or Federal holidays. The Board may modify these hours during the permitting process. The Board agrees that there may be a public emergency situation where it may be necessary for the pit to operate outside the acceptable hours of operation.
 2. No excavation shall be permitted within six feet of the seasonal high water table. A waiver to such prohibition may be granted if the applicant demonstrates that such excavation will not adversely affect water quality, provided, however, that written notice of such exception shall be recorded in the registry of deeds, one copy filed with the Department of Environmental Services, and one copy filed with the Board.
 3. Topsoil Cover
 - a) Prior to the withdrawal of material at a new excavation site, topsoil material shall be stripped and stored for site restoration use when the excavation project is completed. This should be undertaken in a phased manner to minimize erosion potential. Topsoil shall be re-vegetated during the period of storage. In addition, prior to the removal of topsoil or other overburden material from any land area that has not yet been excavated, the excavator shall file a reclamation bond or other security as prescribed by the regulator, sufficient to secure the reclamation of the land area to be excavated.
 - b) Pursuant to Article 7 Section C of the Thornton Zoning Ordinance the removal of topsoil from the Town of Thornton is prohibited except excess topsoil resulting from permitted site work may be removed with the approval of the Board of Selectmen. If the amount of topsoil

to be removed from the Town of Thornton is to exceed 30 cubic yards a public hearing shall be required.

B. Processing of Earth Material

1. Processing machinery shall be erected or maintained on the lot as approved within the operational plan and such machinery shall be removed from the lot upon expiration of the permit or as otherwise provided in the permit.
2. No earth material shall be stock piled or located outside the permitted area as shown on the application plan.
3. No blasting shall occur without receiving approval during the permitting process.
4. Crushing may not be introduced without a request being submitted to the regulator who will hold a public hearing and then rule.

C. On-site Storage – Solid Waste

1. Waste, building materials and rubble (i.e. “demolition and construction debris” or “C&D” waste) shall not be stored or buried on the site without written approval by the regulator. If approved by the regulator, the burial/storage site will be noted on the plan and performed in accordance with all local, state and federal regulations.
2. Stumps and brush generated from the site shall be allowed to be buried or stored on site so long as the burial/storage site is at least 75 feet from any drinking water supply.
3. The site will not be used for storage of junk vehicles, machinery or other items as described in RSA 236:112.

D. Backhauling, Importing and Storage of Material

1. Earth, concrete, and asphalt that did not originate from the site shall not be brought in, or stored upon, the site without prior approval by the regulator during the permitting process.
2. Stumps and brush that did not originate from the site shall be allowed to be buried on site so long as it is approved by the Board during the permitting process and the requirements of the burial site and method of burial are met as follows:
 - a. Burial Site:
 - i. at least 75 feet from any water supply
 - ii. at least 25 feet from any property line
 - iii. at least 4 feet above the seasonal high water table
 - b. Burial Method:
 - i. in a manner to preclude the development of sink holes and erosion of cover materials
 - ii. in a manner that is protective of the environment
 - iii. with a notice recorded in the chain of title for the property on which the burial site is located that includes the following:
 - a statement that the property has been used for the disposal of stumps
 - the date the disposal took place
 - the location of the burial area(s) with sufficient specificity as to allow an independent third party to locate the area(s)
 - the estimated quantity of stumps disposed on the property

SECTION XI: SITE RECLAMATION STANDARDS

- A. All Excavation Projects requiring a permit must comply with the reclamation standards set forth in RSA 155-E:5 which are considered to be the minimum; more stringent standards such as are consistent with the purpose of these regulations may be applied, as deemed necessary by the Board.

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

SECTION XII: INCREMENTAL RECLAMATION

- A. Except for excavation sites of operating stationary manufacturing plants, any excavated area of 5 contiguous acres or more which is depleted of commercial earth materials, excluding bedrock, or any excavation from which earth materials of sufficient weight or volume to be commercially useful have not been removed for a 2-year period, shall be reclaimed in accordance with RSA 155-E:5 within 12 months following such depletion or 2-year non-use, regardless of whether other excavation is occurring on adjacent land in contiguous ownership. A reclamation plan, including a reclamation timetable for the depleted areas within the reclamation site, shall be submitted to the Board for approval.

SECTION XIII: PERFORMANCE GUARANTEE

- A. Prior to the granting of any permit, the applicant shall submit to the Selectmen a bond with sufficient surety as determined by the Planning Board. The purpose of the bond is to guarantee reclamation of the area, compliance with the permit, and any inspections. Off-site improvements for potential damage of Town roads or facilities caused by the transportation of earth materials shall be discussed at this stage and bonded as necessary.
- B. The surety may be in the form of cash or letters of credit, which shall be in an amount and form acceptable to the Board and its legal counsel. The surety may be phased to coincide with the phasing of work, in an amount sufficient to guarantee reclamation of the applicable section, to be released as sections are completed. Prior to a new section being opened, new securities shall be posted. The surety shall not be released until the Board is satisfied that all conditions of the site reclamation plan have been complied with.

SECTION XIV: EXCEPTIONS

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

SECTION XV: APPLICATION PROCEDURES

Prior to the Board rendering a decision for an excavation permit, a public hearing shall be held, with due notification of all abutters and the public. The procedure for holding these public hearings will be in compliance with the Rules of Procedure of the Planning Board as follows:

- A. Excavation Permit Application Review
1. Applications for an excavation permit shall be filed with the Planning Board Secretary no later than 21 days before the next regularly scheduled Planning Board meeting. A completed application shall consist of a completed application page including submission items, a completed abutters list and the appropriate fees as calculated on the application page.
 2. The application will be reviewed with the applicant at the scheduled meeting. If the application is found to meet all submission requirements it will be accepted and voted by the regulator as complete and the hearing held. Should the application not be accepted as complete, another review meeting must be scheduled for re-submission as outlined in Section XV, A, 1.
- B. Board Action on Completed Application
1. Upon acceptance of a completed application the Planning Board will hold a public hearing within 30 days to consider the application.

2. Within 20 days of the close of the hearing on the application, or any continuation thereof, the Board shall make a decision. A record of this decision shall be recorded in the minutes of the meeting and placed on file in the Town offices within 144 hours.
3. A Notice of Decision will be made available within 144 hours of the date of decision. The applicant shall receive a copy of the Notice of Decision. If the application was approved with special conditions, these conditions shall also be stated. In the event the application is disapproved, the reasons for the disapproval shall be given.

C. Notices Required for Public Hearing

1. All abutters will be notified by certified mail, not less than 10 days prior to the meeting at which the application will be submitted for acceptance. Names and addresses of abutters must be taken from Town records not more than five (5) days before filing the application.
2. Public notice will appear in a newspaper of general circulation and in at least three public places not less than 10 days prior to the meeting.
3. The notice must include the location and general description of the proposal, as well as the date, time and place of the meeting.

D. Fees

1. An administrative fee, advertising fee and the cost of certified mailing shall be paid upon submission of an application, to defray the costs of posting notice for the public hearing. Failure to pay such cost shall constitute grounds for the Board to not accept the application. Fee amounts will be as designated in Town of Thornton Fee Schedule.
2. A permit fee as designated in Town of Thornton Fee Schedule not to exceed \$50.00 in accordance with RSA 155-E:8 shall be paid upon the issuance of a permit, to defray the costs of permit compliance.

SECTION XVI: APPLICATION SUBMISSION ITEMS

The applicant for an excavation permit shall submit to the Planning Board a completed application form, including a current abutters list, an excavation and a reclamation plan, a completed checklist with written requests for waivers or written explanation for any item not provided and any other submission documents as requested, and the filing fee. At least three copies of all plans shall be filed with the Planning Board prior to a regularly scheduled Board meeting, and one copy shall be sent to the Conservation Commission. The plans shall be at a scale of 1" = 100'.

A. Excavation Plan

The plan shall, at a minimum, contain the following items:

1. Name and address of the owner, the excavator (if different) and all abutters.
2. Name, address and signature of the person preparing the plan; date, bar scale and north arrow.
3. Zoning district boundaries of the proposed area and within 200 feet of the boundary of the project.
4. All areas that are in Current Use shall be clearly marked on the plan.
5. Perimeter survey by a licensed engineer or surveyor of the location and boundaries of the proposed and any existing excavations; the area in square feet and acre. The location of existing buildings, structures, septic systems and wells within 200 feet of the boundary of the project.
6. Public streets, driveways, intersections, rights-of-way, and all easements within 200 feet; road network to be affected; intended transportation routes to be used.

7. Topography at contour intervals of five feet or less.
8. All existing surface drainage patterns including wetlands and standing water.
9. Sketch and description, and/or engineer surveyed map at the request of the Board, of existing and proposed access roads, including width and surface materials.
10. The breadth, depth and slope of the proposed excavation and the estimated duration of the project.
11. An estimate of the total volume of earth to be excavated.
12. The elevation of the highest annual average ground water table within or next to the proposed excavation.
13. A Certified Soil Scientist or other qualified individual as determined by the Board shall submit test pits that extend to either the seasonal high water table, ledge, or a minimum of six feet below the maximum proposed excavation depth, including location and soils data. Boring logs may be submitted separately.
14. Proposed fencing, buffers or other visual barriers, including height and materials.
15. All measures to control erosion, sedimentation, water pollution, air pollution, and any hazards to human safety.
16. Plans for storm water management.
17. Plans for equipment maintenance.
18. Methods to prevent materials from the site from being tracked onto public roadways.
19. Copies of all necessary state and federal permits.
20. Ability to provide bonding of excavation – should bond lapse or be cancelled, Town shall write a Cease and Desist order immediately.
21. The excavation plan shall address specific actions to be taken on the site relative to fuel and chemical handling and storage, dust control, traffic, noise control and abatement, and comprehensive site safety of unauthorized persons.
22. Engineered plans are not specifically required unless state or federal regulation requires a site specific plan or the regulator determines the project is of sufficient scope or contains characteristics which make an engineered plan desirable.

B. Reclamation Plan

The reclamation plan shall address the effects of the proposed excavation on soil, surface, and ground water, vegetation, overburden, topography, and fill material, and should address future land use consistent with the Master Plan. The plan shall, at a minimum, contain the following items:

1. Seal and signature of a licensed surveyor or engineer. Board will accept copies of engineering drawings required by NHDES in lieu of additional drawings.
2. All boundaries of the area proposed for reclamation and the land within 200 feet of the boundary of the reclamation area.
3. Existing topography of the area proposed for reclamation, at contour intervals of five feet or less.
4. Final topography contours and surface drainage pattern, including the location and physical characteristics of all artificial and/or modified drainage facilities.
5. Timetable for reclamation as to fully-depleted sites within the excavation area.

6. Schedule of final reclamation activities including seeding mixtures, cover vegetation, fertilizer types, and application rates.

C. Other Information

The Board reserves the right, per RSA 155-E:3,VII to request any other information it deems necessary to make an informed decision, or to have plans reviewed by an outside agency. According to the authority vested in the Board by RSA 155-E:11, III, any reasonable expenses incurred for such information or reviews shall be charged to the applicant. Failure to pay such costs constitutes valid grounds for the Board to deny the application.

SECTION XVII: ADMINISTRATION AND ENFORCEMENT

A. Permits

1. Permits shall be issued only to the owner or his agent and shall not be transferable without the prior written consent of the Board. A copy of the permit shall be prominently displayed at the site or the principal access to the site.
2. A permit shall be valid for not more than 5 years, expiration date shall be specified,. A permit is automatically withdrawn if no commercially viable excavation is done on the site for a period of two years. Unless exempt under Sections IV or V of these regulations, excavation of earth without a valid permit is a violation of RSA 155-E and these regulations. Violators may be issued a cease and desist order for non-compliance.
3. The Board may include in the permit any such reasonable conditions as are consistent with the purpose of these regulations.
4. The Board will establish a schedule by which all permitted sites are inspected on a recurring basis.
5. If deemed necessary, the Board may require inspection by an Engineer or other qualified individual to determine if the site is in compliance with the plan on file. The cost of these inspections shall be the responsibility of the pit owner or the property owner.

B. Bonding

Bonding will be reviewed at the time of periodic inspections.

C. Inspections

The Board or its designee may make periodic inspections of all excavation sites to determine if the operations are in conformance with these regulations and the approved plans. The date and time of the site inspection will be coordinated with the pit operator prior to the visit. A site inspection review letter will be sent to the owner citing any deficiencies and providing a timeline for correction of the deficiency.

D. Suspensions and Revocations

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

E. Appeals

Any person affected by the Board's decision to approve or disapprove an application or any amendment thereto or any suspension or revocation of a permit, may appeal to the Board for a rehearing on such decision or any matter determined thereby. The motion for rehearing shall be filed within ten (10) days of such decision and shall fully specify every ground upon which it is alleged that the decision or order complained of is unlawful or

unreasonable. The Board 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 Board's decision on a motion or rehearing may appeal in accordance with RSA 677:4-15.

F. Penalties

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

SECTION XVIII: SEPARABILITY

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

SECTION XIX: EFFECTIVE DATE

These regulations shall take effect upon adoption by the Board and as amended.

Adopted by the Planning Board on _____, 2013.

T. Phillips, Chairman

S. Babin, Vice-Chairman

F. Freeman

B. MacIntosh

G. Kimball

C. Piantedosi

J. Paul-Hilliard, Ex-Officio

APPENDIX I

APPLICATION PACKAGE

**APPLICATION FOR EARTH EXCAVATION
TOWN OF THORNTON**

Applicant: _____ Map/Lot: _____ Date submitted: _____

Fee Schedule:

- a. Application.....\$ 75.00
- b. Engineering Fee.....\$ _____
- c. Advertising.....\$ 100.00
- d. Certified Mail/ Return Receipt Abutters *(to include property owner, pit operator & agent)*
_____ Abutters @ \$ _____ =\$ _____
- f. Permit Fee \$ 50.00

TOTAL.....\$ _____

1. Name of owner/applicant: _____

Name of Agent or Pit Owner, if different from owner: _____
(Notarized letter must be submitted indicating agent assigned and the amount of authority given)

Signature of owner/applicant: _____

2. Current mailing address: _____
Telephone Number: _____

3. Date of Submission: _____
(Note Section XV requires submission of completed applications 21 days before the next regularly scheduled Planning Board meeting.)

4. Location of proposed and/or existing excavation: _____

5. Tax Map #: _____ Lot #: _____ Zoning District(s): _____

6. Type of Operation: _____

7. If existing, date of commencement _____

8. Submission Items:
- a. Excavation and/or Reclamation Plans completed by certified engineer
 - b. Name, address and license # of engineer
 - c. Engineer cost estimates
 - d. Evidence of ability to provide bond or surety
 - e. Test pit results
 - f. Abutters list
 - g. Local, State and/or Federal Permits
 - h. Fees
 - i. Completed Application Checklist

**THORNTON PLANNING BOARD
LIST OF ABUTTERS**

(To be attached and submitted with application)

Name of Applicant _____ Tax Map # _____ Lot # _____

Name of Agent or Pit Operator if different from Owner _____

Address _____

Abutter means any person whose property is located in Thornton or adjoining towns, and adjoins or is directly across the street or stream from the land under consideration by the Planning 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 any 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.

1. Name _____ Tax Map # _____ Lot # _____

Address _____

Zip Code _____

2. Name _____ Tax Map # _____ Lot # _____

Address _____

Zip Code _____

3. Name _____ Tax Map # _____ Lot # _____

Address _____

Zip Code _____

4. Name _____ Tax Map # _____ Lot # _____

Address _____

Zip Code _____

5. Name _____ Tax Map # _____ Lot # _____

Address _____

Zip Code _____

6. Name _____ Tax Map # _____ Lot # _____

Address _____

Zip Code _____

7. Name _____ Tax Map # _____ Lot # _____

Address _____

Zip Code _____

**TOWN OF THORNTON EXCAVATION PERMIT
APPLICATION CHECKLIST**

- ___ 1. **Signed Application Form**
- ___ 2. **Fees**
- ___ 3. **Excavation plan** at a scale of 1" = 100" showing the following:
 - ___ 3a. Name/Address of owner, excavator and all abutters.
 - ___ 3b. Name/Address and signature of person preparing the plan, date of plan, scale and north arrow.
 - ___ 3c. Sketch and description in square feet and acres of the location and boundaries of proposed and any existing excavations and the municipalities involved.
 - ___ 3d. Zoning district boundaries of excavation area and within 200' of the area boundary.
 - ___ 3e. Lot lines, public streets, driveways, intersections, rights-of-way, and all easements within 200' of the excavation.
 - ___ 3f. Locations of existing buildings, structures, septic systems, and wells within 200' of the excavation.
 - ___ 3g. Topography at contour levels of five feet or less.
 - ___ 3h. All surface drainage patterns, including wetlands and standing water.
 - ___ 3i. Sketch and description of existing and proposed access roads, including width and surface materials.
 - ___ 3j. Breadth, depth, and slope of proposed excavation.
 - ___ 3k. Elevation of the highest annual groundwater table within or next to the proposed excavation.
 - ___ 3l. Test pit data or log of borings to within either the seasonal high water table or a minimum of six feet below the proposed excavation depth.
 - ___ 3m. Fencing, buffers, or other visual barriers, including height and materials.
 - ___ 3n. Measures to control erosion and sedimentation, water and air pollution and any hazards to public safety.
- ___ 4. **Reclamation Plan** at a scale of 1" = 100' showing the following:
 - ___ 4a. Name, address and signature of person preparing the plan, date of plan, scale and north arrow.
 - ___ 4b. All boundaries of the area proposed for reclamation and the land within 200' of these boundaries.
 - ___ 4c. Final topography at contour intervals of five feet or less.
 - ___ 4d. Final surface drainage pattern.
 - ___ 4e. Timetable as to fully depleted sites within the project area.
 - ___ 4f. Schedule of final reclamation activities, including seeding mixtures, cover vegetation fertilizer types, and application rates.
- ___ 5. **Evidence of ability to be bonded.**

For any item(s) on the checklist not provided one of the two following items must be submitted:

- 1. A written request for a waiver
- 2. A written explanation as to why it is not included

TOWN OF THORNTON EXCAVATION PERMIT

EXCAVATION & RECLAMATION CHECKLIST

- ___ 1. The excavation is not within 50' of a disapproving abutter or 10' of an approving abutter.
- ___ 2. The excavation will not be unduly hazardous to the public welfare.
- ___ 3. Existing visual barriers will not be removed except to gain access to the excavation.
- ___ 4. The excavation will not substantially damage a known aquifer.
- ___ 5. The excavation is not closer than 150' to an existing dwelling or to a site for which a building permit has already been issued.
- ___ 6. The excavation is not below road level within 50' of the public right-of-way.
- ___ 7. Vegetation is maintained within the peripheral areas of the above mentioned requirements.
- ___ 8. Fuels, lubricants, etc., are not stored on the site.
- ___ 9. If temporary slopes exceed 1:1 grade, an appropriate barricade is provided.
- ___ 10. The excavation will not cause the accumulation of freestanding water for prolonged periods.
- ___ 11. The excavation is not within 75' of any great pond, navigable river, or any other standing body of water ten acres or more in area.
- ___ 12. The excavation is not within 25' of any stream, river or brook that normally flows throughout the year, or any naturally-occurring standing body of water less than ten acres, prime wetland or any other wetland area greater than five acres in area.

RECLAMATION CHECKLIST

- ___ 1. Tree seedlings will be planted in areas visible from a public way to replace trees that were removed.
- ___ 2. All disturbed areas will be reseeded.
- ___ 3. Provision is made for the removal of all stumps and other debris.
- ___ 4. Soils will be graded according to soil type, and changes in slope will not be abrupt.
- ___ 5. No standing bodies of water created by the excavation will be left if they create a public safety hazard.
- ___ 6. The topography will be left so that drainage reverts to its original points and proportions of flow.

APPENDIX II PHYSICAL PERMIT

TOWN OF THORNTON Planning Board

16 Merrill Access Road
Thornton, NH 03285

Tel: 603/726-8168
Fax: 603/726-2078

EXAMPLE EXCAVATION PERMIT Permit # exp date-PID

Meeting Date: _____ Expiration Date: _____
Property Owner: _____ Map/Lot: _____
Owner Address: _____
Excavation Operator: _____ Location: _____

At the Public Hearing held on _____ and taking into consideration the application submitted as reflected in the minutes of said hearing the Thornton Planning Board issues this permit as required by the Thornton Excavation Regulations and RSA 155-E.

The approval is based upon the submitted application materials including the grading and restoration plan which have been reviewed by the Thornton Planning Board as well as the testimony by the applicant's agent. _____ abutters or members of the public spoke for or in opposition to the project.

The excavation must comply with the approved application and all conditions as well as the Thornton Excavation Regulations and RSA 155-E. Any expansion or change to the plan will require the applicant to meet with the Planning Board prior to making such planned changes to determine if an official amendment of this permit is needed.

Pursuant to RSA 155-E:10 – The regulator or its duly authorized agent may suspend or revoke the permit of any person who has violated any provision of this permit, or this chapter, or made a material misstatement in the application upon which this permit was granted. Such suspension or revocation shall be subject to a motion for rehearing thereon and appeal in accordance with RSA 155-E:9.

This permit is not transferable without the prior, written approval of the Thornton Planning Board and is to be prominently posted at the excavation site or at the principal access pursuant to RSA 155-E: 8.

In addition to the requirements of the Thornton Excavation Regulations and RSA 155-E, the following additional conditions of this permit are as follows:

Hours of operation:

- Standard Hours of Operation permitted:
7:00am –5:00 pm Monday through Friday and 8:00am – 12 noon on Saturday with no operation on Sunday or Federal Holidays.
- Specific Hours of Operation permitted for this site:

Processing machinery:

- Processing Machinery to be erected or maintained on the lot as approved within the operational plan and to be removed from the lot upon expiration of the permit.
- Processing Machinery to be erected or maintained on the lot as with the following conditions: _____

Blasting:

- None permitted for this site.
- Approved with following conditions: _____

Crushing:

- None approved for this site.
- Approved with the following conditions: _____

On-site Storage – Solid Waste:

- None approved for this site.
- The burial/storage site for waste, building materials and rubble (i.e. “demolition and construction debris” or “C&D” waste) will be noted on the plan and performed in accordance with all local, state and federal regulations.

Backhauling, Importing and Storage of Material:

- None permitted for this site.
- Earth, concrete, and asphalt that did not originate from the site may be brought in, or stored upon, the site with the following conditions:

Posting of Bond/Surety:

- Amount of Bond to be posted for site is \$ _____
 - Cash to be on account by the Town of Thornton
 - Bond with a renewal date of _____

, Chair Thornton Planning Board

, Vice-Chair Thornton Planning Board

APENDIX III SAMPLE BOND

Irrevocable Standby Letter of Credit

DATE

Beneficiary: Town of Thornton (hereinafter "Town")
16 Merrill Access Road
Thornton, New Hampshire 03285

Re: **APPLICANT'S NAME**

Dear Chairman and Members of the Planning Board:

We, **BANK'S NAME**, hereby establish in favor of the Town, for the account of **APPLICANT'S NAME**, our Irrevocable Standby Letter of Credit (hereinafter "Credit") in the amount of **AMOUNT (\$#)**. Funds under the Credit are available to the Town, in any number of draws, by your sight draft(s) drawn on us identifying the above-referenced Credit Number, if presented at our office at **BANK'S ADDRESS**, prior to the expiration of this Credit together with the original of this Credit and either of the following statements signed by you:

1. "We are drawing under Irrevocable Standby Letter of Credit No. ___ because **APPLICANT'S NAME** is in default of completion of the reclamation improvements required by the Thornton Planning Board for the property located at **GRAVEL PIT ADDRESS**, said reclamation improvements being shown on the plan of land entitled "Plan Showing Property of **APPLICANT'S NAME**, dated _____, as prepared by **SURVEYOR'S NAME** (Hereinafter "Plan")."; or
2. "We are drawing under Irrevocable Standby Letter of Credit No. ___ because **BANK'S NAME** has elected not to renew such Credit."

The Credit expires at the close of business on _____. However, unless we elect not to extend the Credit, it will be automatically extended for additional consecutive one-year periods. If we elect not to extend the Credit beyond any applicable expiration date, we shall provide written notice of such election at least sixty (60) days prior to such expiration date, sent by Certified Mail Return Receipt Requested, to the Town's Chairman of the Planning Board at 16 Merrill Access Road, Thornton, New Hampshire 03285, and the Town's Attorney's, Upton & Hatfield, LLP with a mailing address of PO Box 1090, Concord, NH 03302-1090