

- B. 7.14D3 & 14.05B Duration of Excavation Permits. Allow the Zoning Board of Adjustment to grant permit extensions for up to five years.

draft dated 10-22-09

ARTICLE 7. SUPPLEMENTARY REGULATIONS AND STANDARDS

7.14 Excavation of Earth Materials

D. Decision on Application

1. Public Hearing on Application. After the Regulator accepts a completed application for an excavation permit, a public hearing shall be held on such decision or any matter determined thereby. A notice of said hearing shall be sent to all abutters, as well as the Conservation Commission, by certified mail, and shall specify the grounds for the hearing as well as the date, time and place, all as required by RSA 155-E. All costs incurred for the public hearing notification shall be the responsibility of the owner or agent acting on behalf of the owner and payable prior to the hearing.
2. Decision on Application. Following the public hearing, an excavation permit shall be issued if the Regulator determines that all conditions of this section will be met. Such permit may be issued subject to additional conditions established by the Regulator. Upon disapproval of an application for an excavation permit, or an amendment to an excavation permit, the Regulator shall state the reasons for denial, in writing, to the applicant.
3. Duration of Permit. The Regulator may issue a permit to remove soil materials for a period of up to three (3) years duration. **Upon written request of the applicant and where the ZBA finds that the operation has been in conformance with prior permits and established a record of compliance for at least four (4) years, the ZBA may grant renewal permits for long term excavations for a period of up to five (5) years.** The Regulator may require brief written reports on an annual basis from the permit holder outlining the degree of compliance with the conditions of the permit.
4. Assignability. A permit issued under this section shall not be assignable or transferable without the prior written consent of the Regulator.
5. Appeal of Decision. Following the approval or disapproval of an application for an excavation permit, any interested person may seek a rehearing or appeal the decision of the Regulator in accordance with the provisions of RSA 155-E:9.
6. Compliance Hearings After Approval. The Regulator may order a public hearing to review the conditions of or the continuance of the permit if a Cease and Desist Order has been issued by the Building Inspector or there has been a valid complaint presented which in the opinion of the Regulator warrants investigation and a hearing.

7. Revocation of Approval. An excavation permit may be modified or revoked at any time that, in the opinion of the Regulator, the operation is causing undue wear and tear or littering streets or roads in the Town or is causing undue annoyance to its inhabitants or is being carried on in violation of any of the terms and conditions of the permit. The modification or revocation of a permit shall not relieve the owner from any of his obligations under this permit. The Building Inspector may suspend operations pending a hearing by the Board of Adjustment concerning any violation.

14.05 Duration of Permits and Approvals

A. Building permit

In cases where construction, erection, alteration, excavation, demolition or similar work has been authorized by a building permit, such permit shall automatically expire if:

1. The work has not commenced within a period of one (1) year; or
2. The work has not been completed within a period of two (2) years.

B. Special Exceptions, Variances, and Conditional Use Permits

With the exception of approvals for excavation [which are granted for a duration of three (3) to five (5) years pursuant to Article 7, Section 7.14 Excavation of Earth Materials], Conditional Use Permits issued by the Planning Board or Special Exceptions and Variances issued by the Zoning Board of Adjustment shall automatically expire two (2) years after the date of approval if at that time:

1. The conditions of approval have not been met; or
2. Any related state or local permit or approval is outstanding; or
3. The action authorized by the land use board(s) has not commenced.