

1. page 4 - #4 – this wording appears to prohibit anything over 5 acres. This is a prohibition on all gravel pits, and/or will simply encourage the splitting of properties. This could be changed, assuming the goal is to keep the ACTIVE area to less than 5 acres, the state refers to this concept in their literature as progressive reclamation.

“Mining operations with a total excavated area (including adjacent parcels under a common owner or operator) of more than 5 acres “ could be changed to “Mining operations with a total **active** excavated area (including adjacent parcels under a common owner or operator) of more than 5 acres” which promotes progressive reclamation.

2.) The resumption clause (page 4, #5) should be for commercial versions of quarries/mining operations. Otherwise, this will be a point of contention in that they will claim low/sporadic use equaling abandonment and it will be a constant battle.

3.) page 4, article V, #3 - there is no reason this only applies to residential dwellings. it can be for any structure being built. e.g. a garage on site, without a house....is not considered a residential dwelling but still needs fill, etc and the exemption still applies.

4.) page 5, section A – registration fee -- the fee should be nominal if the intent/goal is to encourage registration. Small pits may only take in a few hundred dollars a year, it is unreasonable to have this fee be prohibitive to a use that already exists legally.

5.) page 5, #5 – it is an unreasonable cost to force somebody to get a survey, on a gravel pit that legally exists. Surveys can run into thousands of dollars depending on the state of boundaries and surrounding lots. Not all lots are pinned at corners, nor is that relevant. I should not have to survey and pin a 120 acre lot for a couple acres of gravel pit located near one end of it that has been there for a hundred years or more.

If the goal is to determine proximity to boundaries, then basic measurements from the edge of grubbed/cleared land to boundary, or the edge of pit lip to boundary should suffice since the location of the pit is the only thing with a proximity-based component to it. In the specific case of my sand pit, the boundary was created AFTER the pit existed. So, the point is somewhat moot as a preexisting condition that simply cannot be allowed to become more non-conforming. (e.g. cant expand towards boundary further, but could expand in opposite direction without issue.)

6. page 5, #3 – “Evidence that the quarry or mining operation was not abandoned prior to the effective date of the ordinance” - this should probably read “Evidence that the quarry or mining operation was not abandoned as of the enactment date of the ordinance” -- this is far less prone to subjective arguments/lawsuits/etc. It is factual, the pit is in operation at this time, or it is not. There is less chance for those fringe arguments to arise that 50 years ago there was a time period when it was not in use, but for the last 25 years it has been. In that example, there is no legal footing to argue that something which was allowed to operate for 25 years without issue (in this example) can all of a sudden be deemed illegal.

6.) page 8, section 2 “no quarrying operations or mining operations that fail to establish themselves as existing operations pursuant to Article VI(1)(A) or fail to meet their burden of proof under Article VI(1)(B) may continue operations” - current wording, appears to say that if you don’t register, you cannot continue.

7.) page 8, section 2 – “An application for expansion of an existing operation shall be considered and evaluated in the same manner as an application for a new operation.” -- this needs to be reworded so that an application for expansion, is not considered ‘new’, because the existing item could have some non-conformity.

Could say that “An application for expansion of an existing operation shall be considered and held to the same performance standards as an application for a new operation, with the exception that any existing non-conformity is recognized to exist and cannot be made more non-conforming through the expansion.”

8.) page 10, items Q & R – “all places in town” --- there is no reason to have a site plan cover an entire town when the only relevant areas are within a certain proximity to the proposed activity. Document should be scrubbed of such overly encompassing references.

9.) page 13, #2 -- similar to comment 7, while it is fine to review the holistic site plan, you cannot punish existing sites that may have some sort of non-conformance in existence by treating it as a ‘new’ application. You can do it with the same caveat I mentioned before, about no further extension of the non-conformance through the expansion. This is typically how such a thing is handled in other ordinances that are well thought out.

10.) page 15, section 2 – insurance

This entire thing makes no sense for small operation/sole proprietor. Workman’s comp only applies to companies with employees, is not in scope for town of Alna and likely not available to small operators. Various liability, etc is not enforced on other businesses who could easily cause harm in the community, the ability of a pit owner to foist auto insurance onto entities that are nothing but their customers is non-existent. In general, this is just a ridiculous, poorly thought out section that is well outside the scope of authority of the town of Alna.

11.) page 15 – section d - hours of operation. Small operations, likely do work on weekends or after work. Hours of operation are not appropriate.

12.) this comment appears to apply across all standards -- there seems to have been a cut & paste line applied at the end of all standards. It being, “This standard applies to any bedrock quarrying or Mining operation application.” - the statement as it is made here, applies to literally ANY (permitted, unpermitted, etc) operation.....which is inappropriate. This should be struck from all standards. Many of these standards only apply to the largest operations, many apply to quarries, etc.

13.) page 16, section F – dust generation, emissions standards, etc. This section wanders into completely unenforceable items by the town of Alna for emissions observation & control, road safety, etc. Commercial trucks are controlled and inspected for emissions, material scattered on the state roads is controlled by DOT as a matter of safety.

It is likely reasonable to have something that conditions the same for **town roads** “At the request of the road commissioner, any foreign material deposited on a town road must be cleared up immediately at the sole cost of the permittee’ or something like that.

Dust control on town or private dirt roads or right of ways, is a whole thing that may/may not be doable depending upon the situation. Again, these types of things are only an issue on the largest of operations where you might be seeing 30+ trucks a day.

Think of it this way, we don’t do ‘dust control’ for the first 350’ on the private dirt road ROW going to the salt shed, which, is in fact a gravel pit being used for such operations. (mixing mineral/sand material for commercial use)

14.) page 16 – section g - again, this is handled by DOT and liability laws. A pit owner can ASK for compliance but has no authority over this. Liability would be on the third party drivers for all but the largest operations with their own trucks.

15.) page 16 – section H --- this is nothing but subjective nonsense. ‘unreasonable character of the town’. Furthermore, if the use is already existing (and has been for many years) then this section cannot be held against the operation through the demand for traffic study, consultants, etc. on a town road which has not been affected for all this time. In the case of my pits, the Reed road actually became a town road for the purpose of reaching those pits over the objection of other landowners along the way. It would be ludicrous to try and make claims that this doesn’t work now, almost 100 years later.

The Maine historical buildings portion of this should be removed, it has been explained to multiple times over the years, the state roads (where majority of the buildings in question are located) are not controlled by the town of Alna.

16.) page 20, section Q -- feds & state maintain authoritative maps for location of these endangered critters, preventing the arbitrary claims by so called local 'experts'. These maps are what should be used. Also, the terms in this are too broad. Typically, DEP uses qualified terms 'significantly impact, impair, disturb' And they do not use terms that are all encompassing like 'any' as that includes outliers. The line item that says that "nor shall they destroy or impair **any** wildlife habitat that could be avoided by modification of the proposed operation" could be stopped (the modification, being don't do it) if there was one confused, protected bird nesting far outside its normal zone. That is an unreasonable application of this that should be anticipated.

17.) page 24, section d - permit expiration. The 'treating expansion as new' affects this as well. If I choose to expand my pit by 30%, why do I now need a permit that expires in 5 years? I can understand, expire the permit if I don't do the expansion as planned, but I should not be foisted into some renewal-based process when I am not in one as a legacy pit to start with.

18. page 23 – section 3 -- the existing pits that I have, are part of the property and transfer if I sell it as they always have. This section would appear to dissuade me from registering because then I would be entered into and limited by this transferability issue, if I understood this correctly.

19.) page 22, section 2 a & b – inspections & annual reports. There is a whole host of annual permit inspections/reporting that should/would only apply to the largest operations. In addition, there are fees assessed yearly for those inspections. This is simply burdensome to small pit owners and unnecessarily bureaucratic. Again, this type of thing encourages small pit owners to not register if that registration then encumbers them with all this additional overhead.

20.) page 27 – definitions:

Affected land – this definition is far too broad. It includes ‘other land’ and ‘storage areas’ and tries to limit it by saying ‘in connection with a quarrying or mining operation’ but that is subjective. As an example, does the area where I store my equipment count? It would seem to according to this, but that is clearly not a part of the mining site and is completely unrelated.

Some landowners own large swaths of land, the mining operation is one small part of that. The definition inadvertently includes portions of it that are simply inappropriate or cause of unnecessary contention and inability to monitor or enforce.

Abandoned quarrying or mining operation – for smaller pits, use is more seasonal or may even be demand based or sporadic in nature. The principle of abandonment must be much larger and should likely be for a much larger timeframe signifying permanent cessation of operations that were once sporadic or need based. Furthermore, given that the definition includes areas for mixing, sorting, etc....it would be very difficult to monitor and enforce this because almost any effort undertaken in the pit, constitutes that use by the definition.

21. general classification of pits by size and applicability of various standards of ordinance as appropriate –

There is an opportunity to classify and differentiate the very large (>5 acre) operations vs the small (2-5 acre) operations along with the annual reporting, inspections, etc, etc. This would greatly simplify the application of this ordinance in the town of Alna.

The threshold between classes being the DEP permitting delineations (0-2, 2-5, 5+). The DEP for some items such as financial capacity, etc, even uses additional threshold such as 10+ acres when the concern is regarding the financial capacity to reclaim large areas. I suspect that the heavily inflated ‘insurance’ figures being thrown about, which should only apply to these larger operations as noted earlier, is also being mistakenly confused with some type of surety bond to ensure that the town is not held responsible for reclamation should the company shirk on its responsibility. These are fundamentally different things,

and proper care should be taken to not muddy the water between them, for the largest operations.