PROPOSED AMENDMENTS TO TOWN ORDINANCES TO REGULATE AND CONTROL BEDROCK QUARRYING AND MINING OPERATIONS

ADMINISTRATIVE DRAFT
~~January 21~~~~February~~ ~~February 23~~~~March 5~~March 6, 2026

Part I. The Town of Alna Mining Ordinance is proposed to be enacted in the form set forth below.

ALNA MINING ORDINANCE

ARTICLE I - TITLE, PURPOSE & FINDINGS

SECTION 1. Title.

This Ordinance constitutes and may be known and cited as the "Alna Mining Ordinance," and is referred to herein as "this Ordinance."

SECTION 2. Purpose.

The purpose of this Ordinance is to establish municipal procedures and standards for regulating bedrock quarrying and mining operations in the Town of Alna (the "Town") in order to protect the public health, safety, and general welfare; to limit the type, size, and manner of mining operations; and to minimize the adverse impacts of such operations to the property owners, citizens, and residents of the Town, and to wildlife and natural resources.

SECTION 3. Legislative Findings.

The voters of the Town finds that bedrock quarrying and extraction of surface materials, including gravel and sand, of over one-half (1/2) acres, asphalt batch plants, rock crushing, concrete mix, and metallic mineral mining, and the transportation associated with these activities (collectively "mining activities") can pose significant adverse risks to the lands and waters of the Town and to the quiet enjoyment by residents of their property. The Town finds that:

A. The Town is within a Focus Area of Statewide Ecological Significance (the Lower Sheepscot River Wetland Complex).

B. These mining activities can cause adverse impacts to surface water, groundwater, and drinking water.

C. These mining activities can decrease the values of nearby property and residences.

D. These mining activities can result in the complete destruction of lands in Town rendering them virtually unusable by future generations.

E. These mining activities can create dust, noise, degradation of roads and other essential infrastructure, and contamination of water that can adversely affect neighbors' and other residents' peaceful enjoyment of their property and pose potential health and safety risks.

F. These mining activities can harm the stability and integrity of homes and historical structures in town.

G. These mining activities can degrade, damage, or destroy important terrestrial and aquatic

wildlife habitat.

H. These mining activities can adversely affect the rural character and scenic beauty of the Town.

Accordingly, the Town finds that it is in its best interest to regulate mining activities, as set forth in this Ordinance, so as to avoid or minimize the potential adverse impacts of such activities and to prohibit mining activities that cause unreasonable adverse impacts.

ARTICLE II - AUTHORITY, ADMINISTRATION, & EFFECTIVE DATE

SECTION 1. Authority.

This Ordinance is adopted pursuant to and consistent with Article VIII, Part Second, of the Maine Constitution; 30-A M.R.S.A § 3001 *et seq*.; 38 M.R.S.A. § 490-NN(3); 38 M.R.S.A. § 490-DD(1); 38 M.R.S.A. § 490-I(1) and any other enabling statutes.

SECTION 2. Administration.

The Planning Board (the "Board") and the municipal clerk of the Town (the “Town Clerk”) are responsible for administering this Ordinance. The Board has the duty and authority to review and approve, conditionally approve, or deny any application for bedrock quarrying, mining operations, or expansion of any existing mining operations.

SECTION 3. Effective Date & Date of Applicability.

The effective date of this Ordinance or any amendments thereto is the date of its adoption by the legislative body of the Town. Notwithstanding 1 M.R.S.A. § 302 or any other law to the contrary, and regardless of the effective date, this Ordinance applies retroactively to all applications and proceedings that were or are pending before any board or officer of the Town on or any time after February 22, 2023 (the “date of applicability”).

ARTICLE III - APPLICABILITY

SECTION 1. Allowed Activities.

This Ordinance shall apply to:

A. Existing Bedrock Quarrying and Mining Operations. Any existing bedrock quarrying and mining operation.

B. New Bedrock Quarrying and Mining Operations. Any bedrock quarrying or mining operation on affected land of one-half (1/2) acre or more that commences operations on or after the date of applicability.

C. Expansion of Existing Operations. Any existing bedrock quarrying or mining operation that seeks to expand its operations on or after the date of applicability.

D. Underground Production Blasting Operations. Any new or existing bedrock quarrying operation employing underground production blasting that commences such blasting on or after the date of applicability.

No such bedrock quarrying or mining operation may commence or continue operations unless it is in compliance with all applicable requirements of this Ordinance.

SECTION 2. Prohibited Activities.

Unless allowed pursuant to Article III(1) or exempted pursuant to Article III(3), the following activities are prohibited by this Ordinance:

A. Metallic mineral mining.

B. Bedrock quarrying on affected land of more than one (1) acre in size.

C. Rock crushing or concrete mix or asphalt batch plants, except if in existence as of the date of applicability as an accessory use to any existing operations, as determined by Article IV.

D. Hydraulic mining or block caving.

E. Mining operations that have established their status as existing operations pursuant to Article IV with a working pit of more than five (5) acres; all other mining operations with a working pit of more than one (1) acre. .

~~E.~~F. Mining operations with affected land of more than eight (8) acres.

~~F.~~G. Resumption of an abandoned bedrock quarrying or mining operation without first obtaining a permit to operate a new bedrock quarrying or mining operation pursuant to Article V.

~~G.~~H. Any activity that does not comply with the requirements of this Ordinance.

SECTION 3. Exempt Activities.

The following activities are exempt from the requirements of this Ordinance:

A. Mineral exploration.

B. The extraction of mining materials or consolidated rock (bedrock or the like) on a specific site for the purpose of facilitating a permitted use other than bedrock quarrying or mining operations on that site, including without limitation: the construction of a road, narrow gauge railroad, driveway, or residential dwelling.

C. The mixing of concrete products on the site of a bona fide residential or commercial construction project.

D. The mixing, washing, and screening of soil, gravel, or crushed rock by a property owner or a landscaper for a specific project to be completed within two years on the owner's or customer's property.

E. Bedrock quarrying and mining operations on affected land of less than one-half (1/2) acre, which shall continue to be governed by the requirements of 30-A M.R.S.A. § 3105, as may be amended, and the Town of Alna Subdivision and Site Plan Review Ordinance ("SSPRO").

SECTION 4. Coordination with Other Laws, Rules, and Ordinances.

All mining activities within the Town are subject to all applicable laws, rules, and ordinances, whether or not such laws, rules, and ordinances are specifically referenced in this Ordinance. Any permits or approvals required by this Ordinance are in addition to any other permits or approvals required by other law, rule, or ordinance, including but not limited to the Alna Blasting Ordinance, Shoreland Zoning Ordinance for the Town of Alna, Floodplain Management Ordinance for the Town of Alna, Town of Alna Road Ordinance, and SSPRO; *provided, however,* that bedrock quarrying and mining

operations that have established their existing operation status in accordance with Article IV or are subject to the permitting requirements of Article V do not require additional permits or approvals pursuant to the SSPRO.

ARTICLE IV - EXISTING BEDROCK QUARRYING AND MINING OPERATIONS

SECTION 1. Registration of Existing Operations.

Within one hundred eighty (180) days of the effective date of this Ordinance, bedrock quarrying and mining operations existing as of the date of applicability that wish to establish their status as existing operations for purposes of this Ordinance shall register with the Town as follows.

A. Registration Application. The registrant shall submit a registration application, in the form and manner approved by the Selectboard, containing the following materials to the Town Clerk:

1. A registration fee as established by the municipal officers.

2. Names and addresses of the current owner and operator of the existing bedrock quarrying or mining operation.

3. A copy of the deed evidencing the ~~Evidence of right,~~current owner's title to the affected land and, if the owner is not the operator, copies of documents evidencing the operator's rights~~,~~ or interest in the affected land, such as copy of a ~~deed,~~ lease, or operating agreement.

4. A description of all mining activities included in the bedrock quarrying or mining operation that occurred prior to the date of applicability, including the existence of any accessory rock crushing, concrete mixing, or asphalt batch plants. To the extent these accessory mining activities require permits or licenses under state or federal law, a copy of these permits shall also be submitted.

5. A statement signed under oath or affirmation that the bedrock quarrying or mining operation (i) was not abandoned prior to the date of applicability and (ii) has not been unlawfully expanded from the date of applicability to the time of filing of the registration application, accompanied by supporting documentation, such as a copy of an annual report to a permitting or governmental authority any time in the year immediately preceding the date of applicability. For mining operations that are not subject to any state or municipal permitting or reporting requirements, registrants shall submit a signed statement under oath or affirmation identifying the last date of any mining activity, ~~and~~ describing the frequency of use under which they have operated, specifying the acreage of the affected land as of the date of applicability, and further identifying the acreage of any expansion beyond the ~~footprint of the~~ affected land subsequent to the date of applicability. For purposes of this Article IV(1), "unlawful expansion" means an enlargement of the affected land by more than one (1) acre, .

6. For those bedrock quarrying and mining operations operating under permits or licenses previously issued by a state or municipal permitting authority, a copy of the last municipal permit issued which predates the date of applicability and delineates the boundaries of the affected land.

7. For bedrock quarrying and mining operations that do not possess a municipal permit delineating the boundaries of the affected land, current photographs together with hand-drawn depictions of all affected land, as of the date of applicability and as of the

date of registration, on a Town tax map.

8. For existing mining or bedrock quarrying operations subject to 38 M.R.S.A. § 490-C (excavations) or § 490-Y (~~borrow pits~~quarries), a copy of the Notice of Intent to Comply (NOITC) and a copy of any reclamation plan (if and when required by the MDEP).

B. Town Clerk Completeness Determination; Registration. The submission of the registration application must be in person, before the Town Clerk. Responsibility for determining the accuracy and substantive completion of an application for registration is and remains the registrant's. ~~Within 30 days of submission of a registration application, t~~The Town Clerk shall determine whether the application is apparently complete at the time of proposed submission. If the application is found incomplete, the Town Clerk ~~must notify~~shall refuse to accept the incomplete application. ~~the registrant and direct the registrant to submit any omitted or incomplete information within a specified period of time not to exceed thirty (30) days.~~ If ~~the omitted or incomplete information~~a complete application for registration has not been submitted within 180 days of the effective date of this Ordinance, ~~by the specified period of time, the Town Clerk may return the registration application as incomplete and conclude the completeness review, and~~ the operation shall not be deemed an existing operation pursuant to this Article IV(1). If the registration application is found apparently complete, the Town Clerk must approve the registration application by issuing the registrant a registration number and the operation shall be deemed an existing operation for purposes of this Ordinance. A registration granted by the Town Clerk pursuant to this Article IV(1) shall be effective for five (5) years from the date of issuance and shall thereafter expire unless renewed in accordance with Article IV(1)(C).

C. Renewal. Prior to the expiration of a registration granted by the Town Clerk pursuant to this Article IV(1), the registrant must submit a renewal registration application, which shall be subject to the same review procedures, submission requirements, review procedures, and other provisions of this Ordinance as apply to the original registration application. Upon the issuance of a renewal registration, the operation shall be deemed an existing operation for purposes of this Ordinance for the five-year renewal term and shall thereafter expire unless renewed in accordance with this paragraph.

SECTION 2. Evidentiary Hearing Determination of Existing Operation.

Any time after the expiration of one hundred eighty (180) days following the effective date of this Ordinance, any bedrock quarrying or mining operation that was in existence prior to the date of applicability that wishes to establish its status as an existing operation for purposes of this Ordinance and has not done so pursuant to Article IV(1) may seek a determination of its status from the Board as follows:

A. Existing Operation Application. The applicant shall submit an application containing the following materials to the Board:

1. An existing operation application fee as established by the municipal officers.

2. Names and addresses of the current owner and operator of the existing bedrock quarrying or mining operation.

3. Evidence of right, title, or interest in the affected land, such as a copy of the deed, lease, or operating agreement.

4. Evidence that the bedrock quarrying or mining operation existed lawfully and was actual and substantial prior to the date of applicability, as demonstrated by substantial

investment in the operation or substantial financial loss if the operation were discontinued.

5. A description of all mining activities included in the bedrock quarrying or mining operation that have occurred prior to the date of applicability, including the existence of any accessory rock crushing, concrete mixing, or asphalt batch plants. To the extent these accessory mining activities require permits or licenses under state or federal law, a copy of these permits shall also be submitted.

6. Evidence that the bedrock quarrying or mining operation (i) was not abandoned prior to the filing of the existing operation application and (ii) has not unlawfully expanded subsequent to the date of applicability.

   a. Abandonment. A copy of an annual report to a permitting or governmental authority anytime in the year immediately preceding the date of applicability and each year thereafter is *prima facie* evidence that the its bedrock quarrying or mining operation was not abandoned. For mining operations that are not subject to any state or municipal permitting or reporting requirements, applicants may submit other evidence to document non-abandonment .

   b. Unlawful Expansion. For purposes of this Article IV(2), "unlawful expansion" means an enlargement of the affected land by more than one (1) acre.

7. For those bedrock quarrying and mining operations operating under permits or licenses previously issued by a state or municipal permitting authority, a copy of the last permit issued which predates the date of applicability and delineates the boundaries of the affected land.

8. Evidence that the existing bedrock quarrying or mining operation was in operation prior to the date of applicability, including but not limited to photos and other documentation to demonstrate that the bedrock quarrying or mining operation was in active use, and other evidence of the size and location of the affected land.

9. A detailed description and site plan identifying all existing and proposed (i) affected land; (ii) structures on the property; (iii) areas used for storage of topsoil and other overburden; (iv) hazardous material storage areas; (v) public and private streets, roadways, rights of way, and access roads; (vi) the amount of earth material annually extracted; (vii) whether processing of materials is done on the site; (viii) the nature and amount of any processing done on the site; (ix) the average daily number of trucks taking material in or out of the site; and (x) the number of employees.

10. For applicants who do not possess a permit delineating the boundaries of the affected land, a perimeter survey by a registered land surveyor relating to reference points, showing true north, graphic scale, corners of the parcel clearly pinned, the date of the survey, and total acreage as well as the existing location and boundaries of the affected land, and any areas excavated prior to January 1, 1970.

11. For existing mining or bedrock quarrying operations subject to 38 M.R.S.A. § 490-C (excavations) or § 490-Y (borrow pits), a copy of the Notice of Intent to Comply (NOITC) and a copy of any reclamation plan (if and when required by the MDEP).

12. Any other information reasonably requested by the Board to be necessary to establish the existence of the operation.

B. Board Completeness Determination. Within 30 days of submission of the existing operation application, the Board shall determine whether the application is complete. If the application is found incomplete, the Board must notify the applicant in writing and direct the applicant to submit any omitted or incomplete information within a specified period of time not to exceed thirty (30) days. If the omitted or incomplete information has not been submitted by the specified period of time, the Board may return the application as incomplete and conclude the completeness review, and the operation shall not be deemed an existing operation pursuant to this Article IV(2).

C. Public Hearing. If the application is found complete, the Board shall conduct a public hearing and determine whether, on the basis of the evidence before the Board, (1) the operation legally existed as of the date of applicability, (2) the operation was not abandoned, and (3) no unlawful expansion of the bedrock quarrying or mining operation has occurred since the date of applicability.

1. Notice to Abutting Landowners. The applicant must send a notice, in form acceptable to the Board, to the owners of property located within 2,000 feet of the boundary of the affected land and to the Town Clerk, using certified mail, return receipt requested, at least 14 days before the date of the hearing. For purposes of this requirement, the "owners of property" are the persons listed in the most recent version of the Town of Alna Real Estate Tax Commitment Book, prepared by the Tax Assessor and available at the Town Office. The notice must contain a description of the application and a sketch plan, together with the date, time, and location of the public hearing.

2. Newspaper Notice. The Board shall cause notice of the public hearing to be given at least 14 days prior to the date of the hearing in a newspaper having general circulation in the Town.

D. Site Visit. At any time during its review, the Board may request that the applicant arrange for a site visit with the Board and the public. The Board shall publish notice of the site visit to the public in a newspaper having general circulation in the Town at least seven (7) days prior to the site visit.

E. Written Decision. The Board must issue a written decision determining whether (1) the operation legally existed as of the date of applicability, (2) the operation was not abandoned, and (3) no unlawful expansion of the operation has occurred since the date of applicability. If the Board determines that an application complies with the requirements of this Article IV(2), the operation shall be deemed an existing operation for purposes of this Ordinance for five (5) years from the date of the written decision and shall thereafter expire unless renewed in accordance with Article IV(2)(G).

F. Burden of Proof. The applicant bears the burden of proving, by demonstrable evidence, that an existing operation application complies with the requirements of this Article IV(2). If the Board determines that the applicant has failed to carry the burden of proof, the entire operation will be deemed a new operation, and the applicant shall be required to obtain a permit for a new operation pursuant to Article V to continue operations.

G. Renewal. Prior to the expiration of a written determination by the Board pursuant to this Article IV(2), the owner or operator must submit a renewal registration application in accordance with Article IV(1)(C), which shall be subject to the same review procedures, submission requirements, and other provisions of this Ordinance as apply to original registration applications pursuant to Article IV(1)(A) and any conditions of approval imposed by the Board. Upon the issuance of a renewal registration by the Town Clerk, the operation shall be deemed an existing operation for purposes of this Ordinance for the five-year renewal term

and shall thereafter expire unless renewed in accordance with this paragraph.

ARTICLE V - NEW OPERATIONS, RESUMPTION OF ABANDONED OPERATIONS, AND EXPANSION OF NEW OR EXISTING OPERATIONS

SECTION 1. Permit Required

No new bedrock quarrying or mining operations on affected land of one-half (1/2) acre or more may commence operation; no bedrock quarrying or mining operations that fail to establish themselves as existing operations pursuant to Article IV may continue operations; no abandoned quarries or mining operations may resume operations; and, except as provided in Article VI(3)(C), no new or existing operations may be expanded without first obtaining a bedrock quarrying permit or mining operations permit from the Board in accordance with this Article V.

SECTION 2. Application Requirements

Any application for a permit for expansion of existing or new bedrock quarrying or mining operations must be submitted in writing to the Town Clerk and must be signed and dated by the applicant. Unless modified or waived by the Board, an application for bedrock quarrying or mining operation shall contain, at minimum, the information set forth below. The Board may modify or waive any applicable submission requirement only when the Board determines that such submission (i) is not necessary for the Board to evaluate the application against the standards in Article VII, (ii) will not adversely affect the general health, safety, or welfare of the Town; and (iii) is not contrary to the purposes of this Ordinance.

A. A narrative description of the project including its purpose and need, and the scope, extent, and expected lifetime of the project.

B. Name, address, email address, and telephone number of the applicant, and the name, address, email address, and telephone number of the owner of the property, if different from the applicant.

C. An application fee, as established by the municipal officers, and any review fee assessed by the Board pursuant to Article V(3).

D. Evidence that the applicant holds right, title or interest in the property, including a copy of the deed(s) of the property together with copies of all covenants, deed restrictions, easements, rights of way, or other encumbrances, including but not limited to liens and mortgages currently affecting the property.

E. A site plan, drawn to scale, including at minimum:

1. The date the plan was prepared with the name, address, email address, and telephone number of the person or company that prepared it.

2. A scale of no more than 100 feet or less than 40 feet per inch. All dimensions must be marked in feet or decimals of a foot, and north arrow shown.

3. Contour lines showing elevations in relation to mean sea level as established by the most recent dated National Geodetic Vertical Datum (NGVD) at appropriate intervals to show the effect on the land of existing and proposed grades for areas proposed to be excavated or filled. Contour intervals shall be a maximum of five (5) feet.

4. A current boundary survey of the property by a licensed surveyor showing lot lines of abutting lots within 1,000 feet as illustrated on the Town of Alna Tax Assessor's Maps and total acreage of the property, and the Town of Alna Tax Assessor's map and lot number(s) and names of all property owners within 1,000 feet of any line of the property, as determined by the Alna Tax Records.

5. Location of previously approved and proposed existing and proposed bedrock quarrying or mining operations on the property, including the affected land of such operations.

6. Approximate location of residences on properties within 2,000 feet of the property lines.

7. Location and identification of existing roads and easements on or abutting the property and designation of any roads which may be for seasonal use only.

8. Location of proposed access roads to the bedrock quarrying or mining operation from public roads.

9. Location of all applicable setbacks, buffers, and conservation areas, and protected natural resources including great ponds, rivers, streams, brooks, wetlands, vernal pools, deer yards, and inland waterfowl and wading bird habitat.

10. Location and layout of proposed parking, loading, driving, and maneuvering areas.

11. Location of existing and proposed utilities and easements, such as sanitary sewage, water supply, and electricity on the property.

12. Location, intensity, type, size and direction of all outdoor lighting.

13. Location, type and size of any existing or proposed permanent outdoor fixtures such as signs, fences, gates, utility poles, solar panels, berms, hedges, and tree lines.

14. Location of existing natural drainage ways and proposed storm drainage facilities, including dimensions of culverts, pipes, etc. If any portion of the bedrock quarrying, or mining operation is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood zone shall be delineated on the plan.

15. Location of all existing wells on the project site and within 1,000 feet of the property line.

16. Location of both temporary and permanent proposed ~~hazardous~~ material storage areas, including but not limited to hazardous material storage areas, fuel storage and handling and wash down areas, and any other product or ingredient storage areas for materials brought to the site that are not extracted from the site.

~~16. The proposed temporary and/or permanent location of product material or ingredient storage areas for anything brought to the site that was not extracted from the site.~~

17. All places in Town identified as part of a Focus Area of Statewide Significance that overlap or are within 1,000 feet of the property line;

18. All places in Town listed on the Maine Historic Preservation Commission's Cultural & Architectural Resource Management Archive (CARMA) Map Viewer or the National Register of Historic Places if within 1,000 feet of the property line.

F. Name, address, email address, and telephone number of the proposed manager of operations.

G. A traffic impact narrative and an estimate of the average daily traffic during periods of operation and time of year projected to be generated by the activity to show that the standards in Article VI will be met. The applicant must also provide a plan showing haul route(s) through town, the weight of loaded vehicles and an estimate of the peak number of vehicle trips/day over the course of one year.

H. A narrative description by a Registered Professional Engineer or Certified Geologist with demonstrable expertise in Hydrogeology of the surface and groundwater impacts, including protection plans, storm water control plan, the identification of any significant mapped aquifers, and documentation of the seasonal high groundwater table. The objective is for the applicant to provide a holistic description of the combined impacts of site operations on the wetland, surface, and groundwater resources resulting from site operations. The narrative should describe the projected impacts both spatially and temporally over the anticipated life of the operation.

I. A soil erosion and sediment control plan, prepared in accordance with the standards contained in the Maine Erosion and Sediment Control Best Management Practices (BMPs) Manual for Designers and Engineers (2016) and the Maine Erosion and Sediment Control Field Guide for Contractors (2014), published by the MDEP~~latest version of MDEP Erosion and Sediment Control Manuals.revision of the MDEP Erosion and Sediment Control Manuals~~.

J. A reclamation plan showing the final grades and re-vegetation plan, and phasing of the plan if proposed.

K. A narrative description of the impact on wildlife and habitats, and the identification of any federal or state listed rare, threatened, or endangered forms of animal or plant life, Deer Yards or other Significant Wildlife Habitat designated by the Maine Department of Inland Fisheries and Wildlife, or identified by the Maine Natural Areas Program or an on-site wildlife and habitat survey, including any proposed mitigation.

L. A narrative description of the present use of the parcel and property within 500 feet of the proposed operation.

M. Expected longevity of the operation, including phasing.

N. Proposed hours and days of operation.

O. Types and amounts of equipment to be used in the operation.

P. Proof of technical and financial capacity, including but not limited to:

1. A written statement identifying the consultants and contractors involved in designing and constructing the operation and the long-term operators or managers of the operation, and their respective expertise and experience with constructing, operating, and reclaiming comparable projects; and

2. A written statement from the lender or financing partner identifying the estimated project cost and the basis therefor, and confirming that the developer has funds to cover those costs.

Q. Certificates of insurance evidencing compliance with Article VI(2)(A).

R. Performance guarantees as specified in Article VII(4), payable to the Town in an amount estimated by the Planning Board as sufficient to cover the cost of any proposed reclamation, potential pollution or damages, erosion control, or other site improvements required by the Board.

S. A Spill Prevention, Control & Containment (SPCC) Plan. (See Article VI(2)(F)).

T. Plan for screening the operation from view from adjoining property owners and any roads.

U. All submissions made to and permits or approvals received from any federal or state agencies concerning the property.

V. A hydrogeologic study by a certified hydrogeologist to evaluate the effects of the proposed activity on groundwater movement and quality within the general area. The study shall include significant sand and gravel aquifers as mapped by the Maine Geological Survey, surface water features, floodplains, wetlands and vernal pools recognized or mapped by the MDEP or the Department of Inland Fisheries and Wildlife.

W. Information and a map showing soil types and conditions from a government agency or a field survey by a trained and experienced professional sufficient to determine whether the site is located on Prime Farmland or Farmland of Statewide Significance.

X. A written description explaining how the proposal complies with each of the applicable standards in Article VI.

Y. Any other information the Board may require, in its discretion, to evaluate compliance with the standards in Article VI.

SECTION 3. Review Fee.

If the Board determines that an application filed pursuant to this Article V, by virtue of its size, uniqueness, complexity, or other factors, is likely to require a disproportionate share of Town resources to review, the Board may assess on the applicant a review fee in addition to any application fees established by the municipal officers. The Board may make such determination at any time during its review of the application. The review fee may not exceed the actual costs associated with reviewing the application, including but not limited to evaluating expert opinions, advice, or testimony during the course of reviewing an application, or evaluating the adequacy of the reclamation plan and financial assurance. The review fee may include the actual fees and costs to the Town of (i) legal notices, mailings, postage, or document reproductions; (ii) administering public hearings and meetings; (iii) attorneys' fees; (iv) third-party consulting fees, including for professional reviews of the application and the record by engineers, surveyors, planners, geologists, hydrogeologists, or other experts; and (v) consulting fees assessed by any state or federal reviewing agencies. Prior to assessing a review fee, the Board will use due diligence to obtain and utilize available free services from governmental or non-profit sources. Should the Board be unable to obtain or timely utilize such free services, or determine that different or supplemental services are necessary or advisable, the Board may assess a review fee.

The Board shall notify the applicant of the estimated review fee, as well as the name, contact information, qualifications, and purpose of any third-party consultants or experts retained by the Board. The applicant shall pay the estimated review fee to the Town within 14 days of receipt of the notification. If the estimated review fee is depleted prior to completion of the Board's review, the Board may provide the applicant with a revised estimate of the review fee from time to time, and the applicant shall pay the revised estimate, less any prior estimate already paid, to the Town within 14 days of receipt of the notification. The Town shall deposit the review fee into an escrow account and may draw

on the account to pay for the actual costs associated with the application review. After the Board renders its final decision, the Town shall provide the applicant with an accounting of the actual costs of reviewing the application and shall return any unspent portion of the review fee to the applicant within 30 days.

The municipal officers, in their sole discretion, may refund, reduce, or waive any review fee assessed under this section when the person requesting the refund, reduction, or waiver demonstrates to the satisfaction of the municipal officers that an extreme hardship or injustice would result from payment of the fee.

SECTION 4. Application Process

A. Application Submission Requirements. Unless otherwise directed by the Board, the applicant must submit 10 paper copies and one digital copy of the application containing all submission requirements.

B. Notices. The applicant must send the following notices by certified mail, return receipt requested, in form acceptable to the Board, to the owners of property located within 2,000 feet of the boundary of the lot affected by the application and to the Town Clerk.

1. Notice of Application. The notice must contain a general description of the proposal and a sketch plan and notice that a copy of the application may be inspected at the Town Office during regular office hours. This notice must be sent within five (5) days of filing the application.

2. Notice of Public Hearing. The notice must contain the date, time and location of any public meeting or public hearing by the Board. The notice must be sent at least 30 days before the date of the public meeting or public hearing at which the application will be considered by the Board.

Evidence of notification by certified mail, return receipt requested must be submitted to the Board. For purposes of this section, "owners of property" are the persons listed in the most recent version of the Town of Alna Real Estate Tax Commitment Book, prepared by the Tax Assessor and available at the Town Office.

C. Completeness for Review. The Board must determine whether the application is complete for review. If the application is found incomplete, the Board must notify the applicant and direct the applicant to submit any omitted or incomplete information within a specified period of time. If the omitted or incomplete information has not been submitted by then, the Board may return the application as incomplete and conclude its review. If the application is found complete for review, the Board must begin its full evaluation of the proposal.

D. Public Hearing. After finding an application complete for review, the Board must hold a public hearing on the proposal.

E. Site Visits. The Board shall conduct a site visit for any ~~new mining or bedrock quarrying~~ application ~~under~~submitted pursuant to Article V. At any time during its review, the Board may request that the applicant arrange for a site visit with the Board and the public. The Board shall provide notice of the site visit to the public in a newspaper of area-wide circulation at least 7 days prior to the site visit.

F. Supplemental Information. At any time during its review, the Board may (i) accept, in its discretion, supplemental information or proposed modifications to the application which the applicant requests to submit, and (ii) request additional information from the applicant.

G. Written Decision. The Board must issue a written decision to approve, approve with conditions, or deny any application found complete for review.

H. Imposition of Conditions. The Board may impose reasonable conditions, including but not limited to: limiting the routes that may be used by the permit holder for transporting materials; requiring the permit holder to pay for the cleaning, repair, and resurfacing of roads used as part of any operation that may be or have been adversely affected by such operation; limiting the hours of operation; requiring the permit holder to have a groundwater monitoring plan approved by the Board and conduct water quality and quantity monitoring during the life of the operation; requiring the permit holder to secure one or more performance guarantees in accordance with Article VI(1)(R); establishing a specific schedule for reclamation; and establishing a permit expiration date that is more restrictive than the date set forth in Article VII(7).

I. Burden of Proof. The applicant has the burden of proving, by demonstrable evidence, that a proposal complies with all of the applicable requirements of this Ordinance.

ARTICLE VI - PERFORMANCE STANDARDS

SECTION 1. Standards Applicable to New Bedrock Quarrying and Mining Operations.

New bedrock quarrying and new mining operations, and the expanded portions of any new or existing bedrock quarrying or mining operations, must comply with the following standards.

A. Property Line and Road Setbacks.

No part of any new bedrock quarrying or new mining operation or the expanded portion of any new or existing operation, other than an access road, shall be permitted within 1000 feet of any property line or within 1000 feet of the center line of a road, except that drainage ways necessary to reduce run-off into or from the extraction area may be located within these setback areas. If a new mining operation is accessed by a private road, documentation of the applicant's right to use the private road for mining operations or bedrock quarrying must be provided. Within these setback areas, natural vegetation shall be left intact and, where natural vegetation does not exist, vegetation must be supplemented with vegetation plantings of native species of sufficient quantity, type, and height to prevent erosion, provide for effective infiltration of stormwater runoff, and minimize visibility of mining operations and activities from adjoining property lines and any road.

B. Slopes.

No slopes steeper than three (3) feet horizontal to one (1) foot vertical shall be permitted during any mining operation or bedrock quarrying unless a fence at least five (5) feet high is erected to limit access to such locations.

C. Hours of Operation.

The hours of operation of any bedrock quarrying operation shall not be earlier than 8:00 AM and not later than 5:00 PM Monday through Friday, or on federally recognized holidays, except that the Code Enforcement Officer may authorize occasional Saturday operations during the above-listed hours only when specific project work necessitates it but not for routine activities that can be accomplished within the Monday through Friday schedule. The Board may condition any approval on a reduction in the hours or days of operation if it finds that such reduction is necessary for the proposal to comply with any of the standards set forth in this Article VI. The hours of operation for mining operations shall be 7:00 a.m. to 7:00 p.m., Monday through Friday and 9:00 a.m. to 5:00 p.m. on Saturdays.

D. Debris, Shelters.

No equipment debris, junk, or other material not needed for mining activity shall be permitted at the site. Any temporary shelters or buildings erected for such operations and equipment used in connection therewith require separate building permit approval and shall be removed following the end of the commercially useful life of the operation or the expiration of the permit. ~~No materials shall be located or stored such that they will enter the ground or surface water.~~

E. Removal or Burial of Debris.

All organic debris, brush, stumps, boulders, and similar materials shall be removed or disposed of in a location delineated on the site plan. The grinding of stumps and brush for use as erosion control material is appropriate, provided it is stored in a designated area delineated on the site plan until used. Storm Drainage:

F. Storm Drainage.

All bedrock quarrying or mining operations shall be internally drained, and the extraction footprint shall be operated in such a manner as to safely hold a volume of precipitation equal to that which may be expected from a 100-year, 24-hour storm event for the region based upon the USDA Natural Resources Conservation Service data.

G. Water Courses.

Bedrock quarrying or mining operations shall not impede or accelerate water flows into or out of existing natural water courses. All water from existing water courses shall leave the site at the original natural drainage points.

H. Reclamation.

A reclamation plan is required for all bedrock quarrying and mining operations. Reclamation shall be conducted in accordance with the Maine Erosion and Sediment Control Best Management Practices (BMPs) Manual for Designers and Engineers (2016) and the Maine Erosion and Sediment Control Field Guide for Contractors (2014), published by the MDEP, ~~latest version of MDEP Erosion and Sediment Control Manuals MDEP's best management practices for erosion and sedimentation control~~ and must include the following:

1. Highwalls, or quarry faces, must be treated in such a manner as to leave them in a condition that minimizes the possibility of rock falls, slope failures, and collapse. A highwall that is loose must be controlled by the use of blasting or scaling, the use of safety benches, the use of flatter slopes or reduced face heights, or the use of benching near the top of the face or rounding the edge of the face.

2. Side slopes of gravel pits must be regraded to a slope no steeper than two and one-half (2 1/2) feet horizontal to one (1) foot vertical.

3. Within six months of the completion of extraction operations, ground levels and grades shall be established in accordance with the reclamation plan; within 30 days of final grading, topsoil must be placed, seeded and mulched; all dependent upon seasonal weather conditions. Vegetative cover must be established on all affected land, except for quarry walls and flooded areas. This requirement may be waived if the CEO determines that the slope(s) exhibit substantial vegetation and are stable.

4. Vegetative cover is acceptable if within one year of seeding:

i. The planting of trees and shrubs results in a permanent stand or a stand capable of regeneration and succession sufficient to ensure a 75% survival rate.

ii. The planting of all material results in permanent 90% ground cover.

~~ii.~~iii. Invasive species that have appeared in the affected land have been eradicated.

~~iii.~~iv. Vegetative cover used in reclamation must consist of grasses, legumes, herbaceous or woody plants, shrubs, trees or a mixture of these.

5. All access roads, haul roads, and other support roads must be reclaimed, unless reserved for future productive use of the land, as described in the reclamation plan.

6. All structures or temporary shelters and equipment used in active extraction operation shall be removed within 30 days following completion of active extraction operations.

7. All affected land must be reclaimed within two (2) years after final grading.

8. Topsoil that is stripped or removed must be stockpiled for use in reclaiming disturbed land areas unless the applicant demonstrates that the soil is not needed for reclamation purposes. Stockpiles must be seeded, mulched or otherwise stabilized. Whenever practical, at least 4 inches of topsoil should be used for final cover.

9. Topsoil or loam shall be retained to cover all reclaimed areas, which shall be reseeded and stabilized with a variety of vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the reclamation. If off-site sources are used, care must be taken to minimize the possibility of contamination by invasive species. The plan shall include dates by which the various temporary and permanent reclamation practices will be conducted. Prior to submitting the reclamation plan to the Board, the applicant shall submit the plan to be evaluated by the Knox/Lincoln County Soil and Water Conservation District. The Board will consider any comments and recommendations of the District as part of its review of the application.

I. Erosion and Sedimentation Control.

All disturbed areas shall be reseeded and restored to a stable condition adequate to meet the provisions of the ~~latest version of MDEP Erosion and Sediment Control Manuals~~ Maine Erosion and Sediment Control Best Management Practices (BMPs) Manual for Designers and Engineers (2016) and the Maine Erosion and Sediment Control Field Guide for Contractors (2014), published by the MDEP prior to any subsequent application for expansion.

J. Groundwater; Surface Water Protection.

The bedrock quarrying or mining operation must not, directly or indirectly, adversely impact either the quality or quantity of groundwater for either drinking water or groundwater flowing into the Sheepscot River or any of its tributaries or any other waterbody identified on Alna's shoreland zoning map. No excavation or extraction shall occur within five (5) feet of the seasonal high groundwater table. No materials, whether or not extracted from the site or imported to the site, shall be located or stored such that they will enter or contaminate any groundwater or surface waters. A groundwater monitoring plan must be provided for review and approval by the Planning Board or their designated independent third-party reviewer. The plan may be modified with Board approval during the permit period.

A permit holder must offer to any owner of land located within 1,000 feet of the affected land annual monitoring of groundwater levels and water quality, including at any public or private wells on such abutting property. The results of any such monitoring must be provided to the Town as part of the annual report required under Article VII(1).

K. Wildlife and Plant Habitat.

Bedrock quarrying or mining operations shall not impair, disturb, or displace any federal or state listed rare, threatened, or endangered form of animal or plant life; nor shall they destroy or impair any wildlife habitat that could be avoided by modification of the proposed operation.

L. Discharges.

The operation shall not cause any discharge of any hazardous materials with the potential to contaminate groundwater; cause nuisances such as creating scum; altering color, odor, or taste; or causing unsightliness; or cause harm to human, animal, plant, or aquatic life. If any hazardous materials with potential to contaminate groundwater, cause nuisances, or cause to human, animal, plant, or aquatic life are to be stored on the site, a Spill Prevention Control and Containment (SPCC) Plan as described in Article VI(2)(F) shall be submitted and posted at the site. The permittee must comply with the SPCC Plan at all times.

M. Exterior Lighting.

All exterior lighting shall be designed to minimize adverse impacts on neighboring properties and dark skies. If lighting is provided at site, lighting shall be shielded and downcast such that the light does not spill onto the adjacent parcel or the night sky. Motion sensor control is preferred.

N. Emergency Vehicle Access.

Provision shall be made for convenient and safe emergency vehicle access to all buildings, structures, and associated facilities at all times.

O. Visual Screening.

All storage areas, extraction areas, machinery, service areas, truck loading areas, pipelines or electrical transmission lines, utility buildings, and other structures, facilities, and equipment shall be screened from view from abutting properties and any road by existing vegetative buffers, by plantings using a diversity of native plants, or other screening methods. Utility buildings, equipment storage facilities, and all other structures can be either (A) permanent structures or (B) temporary structures that must be removed when mining operations cease.

P. Utilities.

The bedrock quarrying or mining operation shall not impose a burden upon public utilities that could be avoided by modification in the operation.

Q. Adequate Technical and Financial Capacity.

The applicant must have adequate technical and financial capacity to develop, operate, and reclaim the operation in compliance with all applicable standards in this Article VII.

R. Performance Guarantee.

The Board may require a permit holder to provide one or more performance guarantees in accordance with Article VII(4).

S. Farmland.

Any bedrock quarrying or mining operation shall avoid locating, to the extent practicable, on Prime Farmland or Farmland of Statewide Significance as defined by the USDA NRCS.

T. Blasting.

All blasting operations conducted in connection with bedrock quarrying or mining operations must comply with the requirements of the Town of Alna Blasting Ordinance, Subdivision and Site Plan Review Ordinance, Shoreland Zoning Ordinance, Floodplain Ordinance, Road Ordinance, and state and federal laws, as applicable.

SECTION 2. Additional Standards Applicable to New Mining Operations with Affected Land of Greater than 3 Acres and New Bedrock Quarrying Operations

In addition to complying with the standards in Article V(1), new mining operations with affected land of greater than three (3) acres and new bedrock quarrying of one-half (1/2) acre or more must comply with the following standards.

A. Liability Insurance.

The property owner and operator of a bedrock quarry shall each carry the following insurance, with an insurer authorized to transact insurance business in the State of Maine and having a rating by A.M. Best or Standard & Poor's of A or better, for the term of any permit granted under this Ordinance:

1. General liability insurance in an amount not less than $2,000,000 on a per occurrence basis and not less than $5,000,000 in umbrella form.

2. If any mining materials, compacted rock (bedrock or the like), or any other extracted materials or mine waste will be transported off-site on any road, auto insurance in an amount not less than $2,000,000 on a per occurrence basis and not less than $5,000,000 in umbrella form.

3. Workers' Compensation insurance in amounts required by applicable law.

The Board may require higher limits if required by the size of the project and the potential risk.

The permit holder shall provide evidence of the existence of each type of insurance by providing the Board with a certificate of insurance on each anniversary of any permit approval granted under Article V.

B. Noise.

The bedrock quarrying operation must not, alone or in conjunction with existing activities, cause noise levels to exceed the following maximum sound pressure levels for any continuous, regular, or frequent source of sound:

8:00 a.m. - 5:00 p.m. Monday - Friday	**All Other Times**
75 dB(A)	50 dB(A)

The following activities are exempt from the above-listed maximum sound pressure levels: Noise generated by temporary construction or maintenance activities, road traffic noise unrelated to the

mining operation or bedrock quarrying, and noise generated by emergency or safety equipment such as back-up beepers, emergency pressure relief valves, and other warning devices.

Sound pressure levels shall be measured at a height of approximately four feet above the ground surface at all property boundary lines of the mining operation area. Measurements of sound pressure level limits must be made using the sound equivalent level of one minute (leql) (measured in dBA scale). Noise shall be measured with a sound level meter meeting the standards of the American National Standards Institute (ANSI S1.4) "American Standard Specification for General Purpose Sound Level Meters," and shall have been calibrated at a recognized laboratory within the past year.

C. Air Quality; Dust and Odors.

Air pollution, dust, and odors shall be kept to a minimum by the use of equipment and methods of operation designed to avoid excessive emissions of dust, dirt, fly ash, fumes, vapors, odors, or gases that could damage human health, animals, vegetation or property or disrupt an abutter's quiet enjoyment of their land. Emission of dust and dirt at any point beyond lot lines shall be prohibited.

Dust generated by activities at the excavation site, including dust associated with traffic to and from the excavation site, must be controlled by sweeping, paving, watering or other best management practices for control of fugitive emissions. All access and egress roads between the operation site and public or private roads shall be treated with suitable materials to reduce dust and mud for a distance of at least 350 feet along the access or egress road from the center line of the public or private road. Dust control methods must not degrade air or water quality. Visible emissions from a fugitive emission source may not exceed an opacity of 20% for more than 5 minutes in any one-hour period.

D. Secured Vehicles.

Loaded vehicles exiting the property, other than individually owned pickup trucks, shall be suitably secured to prevent dust and contents from spilling or blowing from the load. No mud, soil, sand, rocks or other materials shall be allowed to accumulate on a road from loading or hauling vehicles.

E. Roads.

If an applicant's proposed access is onto a public way, entrances and exits of the bedrock quarrying operation must be located, posted and constructed in accordance with standards for roadways adopted by the Maine DOT. Adequate distances for entering, exiting and stopping must be maintained in accordance with these standards.

Where the applicant's operation will use Town roads, the condition of the existing roads shall be suitable for the proposed traffic volume and type. The applicant shall provide a traffic impact study at their own expense. This study is subject to review by another consultant of the Town's choosing at the applicant's expense. The safety and congestion mitigation measures recommended in the traffic study shall be followed by the applicant and incorporated into the Board's performance standards.

The average and peak number of vehicle trips per day must not exceed recommended levels determined by the traffic impact study's capacity analysis. Without limiting the foregoing, in no event shall traffic from the bedrock quarrying operation increase the volume to capacity of any Town road above 80%. Furthermore, the number and/or weight of vehicles passing through or by places or buildings on Town roads listed on the Maine Historic Preservation Commission's Cultural & Architectural Resource Management Archive (CARMA) Map Viewer or the National Register of Historic Places must not cause unreasonable adverse impacts on such historic places or buildings. Any vehicular demand on existing Town or private roads caused by the bedrock quarrying operation and associated transport of materials must not exceed the capacity of those roads or cause the premature failure, aging, or diminished utility of those roads.

F. Spill Prevention, Control & Containment Plan.

1. The Operator must submit a Spill Prevention, Control & Containment Plan ("SPCC Plan") for the risks associated with the discharge of petroleum products or other hazardous materials, as appropriate. The SPCC must be prepared by a qualified professional in compliance with MDEP regulations to the Board as part of the application. The SPCC shall be kept with any permit granted in the Town's permanent records. The applicant must comply with the SPCC plan during the life of the mining operation. Further, the SPCC shall provide for:

   a. Petroleum Products Storage:

      i. Any petroleum products, highly flammable or explosive liquids, solids or gasses to be stored on site shall be located in bulk, above ground, anchored tanks or containers, having a roofed, secondary containment system, adequate to contain 110% of the full contents of such container, for control of spills and leaks, and must be located at least 1,000 feet from any lot line or road, and at least 75 feet from any interior road.

      ii. The use of underground tanks is strictly prohibited.

   b. Machinery Maintenance:

      i. Crankcase oil, hydraulic fluids, and similar products shall not be changed, stored or disposed of within the excavation area, unless specifically covered in the SPCC Plan.

      ii. Routine maintenance operations, such as refueling or oil changes, may be allowed for fixed equipment such as screeners, and wash facilities provided that it is done on an impervious surface with a secondary containment system in accordance with the SPCC Plan, adequate to contain 110% of the full contents of said equipment, is installed.

2. Any discharge or leak of petroleum product over a gallon shall be immediately reported to the Code Enforcement Officer and a report kept with the permit in the Town's records. All discharges or leaks of any size shall be cleaned up promptly according to applicable law.

3. A copy of the SPCC Plan shall be kept available and immediately accessible on site at all times.

4. The applicant shall demonstrate to the Board's satisfaction the applicant's technical and financial ability to implement the SPCC Plan.

SECTION 3. Standards Applicable to Expansions of New or Existing Operations.

A. Any application for the expansion of a new or existing bedrock quarrying or mining operation must comply with the applicable standards set forth in Article VI(1) and (2), and the following limitations:

1. Limitation on Expansion. The maximum allowable expansion of a bedrock quarrying or mining operation is one-half (1/2) acre of affected land. The maximum allowable expansion shall be calculated by subtracting the area of affected land that has been

reclaimed from the total area of new affected land proposed in the expansion application. Affected land shall be considered reclaimed only when final grading, stabilization, and permanent revegetation have been completed in a manner that would qualify as reclaimed land under applicable MDEP rules and such reclamation has been verified by the CEO. Affected land that is temporarily inactive, partially stabilized, or scheduled for future reclamation is not counted as reclaimed for purposes of this calculation.

2. Limitation on Frequency of Expansion Applications. No more than one (1) expansion application may be approved by the Planning Board per calendar year, and each such approval shall be subject to the one-half (1/2) acre net expansion limitation set forth in subsection 1, above.

3. Reclamation Prerequisite. No application for expansion shall be accepted or approved unless all affected land previously authorized for expansion has been reclaimed.

B. An application for the expansion of a bedrock quarrying or mining operation that has been deemed existing pursuant to Article IV will be reviewed by the Board pursuant to subsection A, above, as if a new operation with a combined size of the original and the proposed affected land were proposed; *provided, however*, that the Board shall not, as part of its decision on the expansion proposal, abrogate any rights of continued operations that have been secured pursuant to Article IV.

C. One-Time Expansion Allowance. Notwithstanding any requirement of this Ordinance to the contrary, a mining operation that is deemed existing pursuant to Article IV(1) or (2) may be expanded by 25% of the affected land as it existed on the date of applicability without obtaining a permit for an expanded operation pursuant to this Article VI(3).

ARTICLE VII – POST-APPROVAL REQUIREMENTS

SECTION 1. Annual Reports and Inspections.

A. Annual Reports. The holder of a mining operation permit with affected land of greater than three (3) acres or a bedrock quarrying permit issued pursuant to Article V must file a report with the Town annually on the anniversary of the permit approval containing all of the requirements in subsections 1 - 4 below. The holder of a mining operation permit with affected land of ~~less than~~ three (3) acres or less must file a report annually on the anniversary of the permit approval containing only the requirements in subsections 3 and 4 below.

1. Certificates of insurance as required by Article VI(2)(A).

2. Performance guarantees as required by Article VI(1)(R) and Article VII(4).

3. A report including: (i) the acreage of the affected ~~area~~land, (ii) cubic yards of material removed from the site in the prior year of operation, (iii) the acreage of the total non-vegetated extraction area, (iv) records and other evidence demonstrating compliance with any permit conditions, (v) a description of reclamation activities and the acreage of affected area that has been reclaimed, if applicable, (vi) aerial photographs taken within the previous 90 days of all mining operations and bedrock quarrying sites, (vii) a list of any new or amended permits and any applications for new or amended permits from any other agency or entity related to the site, and (viii) a list of any complaints by any residents or landowners in the Town about the operation received by the permit holder or operation's management.

4. Any other reports or information required by the Board as part of any permit condition of approval.

B. Inspections. All bedrock quarrying and mining operations operating under a permit issued pursuant to the provisions of Article V shall make themselves available for inspection as follows:

1. The CEO shall review all documentation and required reports, and conduct onsite inspections of the operation to document compliance with all applicable laws, regulations, ordinances, and permit approvals.

2. The frequency of inspections shall be at the discretion of the CEO except that inspections of bedrock quarrying or mining operations shall, at a minimum, occur every year until the entire site is reclaimed. Inspections may be announced or unannounced. The CEO shall report to the municipal officers annually on these inspections.

3. The municipal officers shall establish an inspection fee, which shall be assessed against all permitted bedrock quarrying or mining operations subject to inspections under this subsection.

C. Review by Qualified Third Party. The Town may hire an independent third-party consultant, paid for by the applicant, to review the annual report and to accompany the CEO on inspections conducted under subsection B, above.

SECTION 3. Transferability of Permit or Existing Operation Status.

A. Transfer of Permit. Within thirty (30) days of the date of the transfer, by sale or otherwise, of land upon which a bedrock quarrying or mining operation has been permitted pursuant to Article V, the new owner(s) shall notify the Board of the transfer and provide the Board with a transfer application containing:

1. Payment of a transfer fee as established by the municipal officers.

2. Proof of change in title and ownership.

3. Proof of any liability insurance required by Article VI(2)(A).

4. Proof of any performance guarantee required by Article VI(1)(R) and Article VII(4).

5. A Notice of Intent to Comply pursuant to 38 M.R.S.A. § 490-C (borrow pits) and § 490-R (quarries) (if applicable).

6. Proof of technical and financial capacity of the new owner to carry out the permitted operation in accordance with this Ordinance and the permit.

The application process set forth in Article V shall apply, except that the Board is not required to but may, but in its discretion, hold a public hearing on the transfer application.

The Board shall require the transfer applicant to demonstrate for compliance with the following performance standards: Article VI(1)(Q) (Adequate Technical and Financial Capacity); Article VI(1)(R) (Performance Guarantee); and Article VI(2)(A) (Liability Insurance). The transfer applicant is further bound by the terms and conditions of the permit issued to its predecessor and all representations made by the predecessor in the administrative proceeding held pursuant to Article V.

B. Transfer of Existing Operation Status. Within thirty (30) days of the transfer, by sale or otherwise, of land upon which a bedrock quarrying or mining operation has been deemed an existing operation pursuant to Article IV, the transferee shall provide the CEO with:

1. Payment of a transfer fee as established by the municipal officers.

2. Proof of change in title and ownership.

3. A Notice of Intent to Comply pursuant to 38 M.R.S.A. § 490-C (borrow pits) and § 490-R (quarries) (if applicable).

4. A copy of the document delineating the boundaries of the affected land at the time of its registration or determination as an existing operation under Article IV.

Within 30 days of submission of a transfer application, the CEO shall determine whether the application is complete. If the application is found incomplete, the CEO must notify the transferee and direct the transferee to submit any omitted or incomplete information within a specified period of time not to exceed thirty (30) days. If the omitted or incomplete information has not been submitted by the specified period of time, the CEO may return the transfer application as incomplete and conclude the completeness review, and the operation shall not be deemed transferred. If the transfer application is found complete, the CEO must approve the transfer application by issuing an amendment to the original registration number issued pursuant to Article IV(1) or Board determination issued pursuant to Article IV(2), and the operation shall continue to be deemed an existing operation for purposes of this Ordinance.

A transferee takes the transferred land under the same conditions as the transferor at the time of the original registration or existing operation status determination, including the size of the bedrock quarrying or mining operation reported at the time of its initial application filed pursuant to Article VI(1) or (2). The boundaries identified in the document establishing the bedrock quarrying or mining operation's status as an existing operation remain the transferee's baseline.

SECTION 4. Performance Guarantee.

Whenever one or more performance guarantees are required by this Ordinance or as a condition of approval of a permit issued by the Board pursuant to this Ordinance the following requirements apply:

A. Review; Delegation. The performance guarantee must be satisfactory to the Board as to scope, amount, form, sufficiency, manner of execution, and surety. The Board may delegate to the Town Attorney the review and acceptance of any performance guarantee in accordance with this Article VII(4).

B. Form. The performance guarantee must be in the form of a performance bond, a certified check payable to the Town, an escrow account, an irrevocable letter of credit, or some other form of guarantee that is acceptable to the Board.

C. Scope; Amount. The performance guarantee must be of an amount sufficient to faithfully perform and discharge all obligations imposed by this Ordinance and the permit approval, including without limitation the full cost of all required site improvements, reclamation of disturbed land, and decommissioning of any facilities or improvements associated with the permit approval, as determined by the Board. Separate performance guarantees may be required by the Board for any required site improvements, reclamation work, and decommissioning work. For reclamation and decommissioning work associated with a bedrock quarrying or mining operation, the permit holder must arrange for the cost to be recalculated by a Maine-licensed engineer as part of any renewal application submitted pursuant to Article

VII(7), and the amount of the performance guarantee may be adjusted by the Board if the recalculated cost of reclamation or decommissioning materially changes.

D. Schedule. The performance guarantee must contain (i) a schedule and cost estimates for each major phase of required site improvements, reclamation work, or decommissioning work, taking into account inflation; (ii) a basis for estimating costs; (iii) provision for the release of part or all of the performance guarantee to the permit holder; and (iv) one or more dates after which the permit holder will be in default and the Town must have access to the guaranteed funds to complete required site improvements, reclamation work, or decommissioning work. The Board may approve phased performance guarantees when activity is approved in separate and distinct phases.

E. Effective Date. The performance guarantee shall be effective throughout the term of the permit as well as the time required to complete all reclamation or decommissioning obligations, and shall be conditioned that in the event that the permit holder or any successors and assigns fail to comply with any applicable requirements of this Ordinance or any permit approval, the Town shall recover all damages suffered by the Town as a result thereof. In addition, a period not to exceed one year, or such other period as the Board may determine appropriate, from the date of permit approval must be set forth in the performance guarantee as the time within which any required site improvements must be completed.

F. Continuing Obligation. The performance guarantee shall be a continuing obligation of the permit approval, and thereafter until the permit holder has satisfied all of its obligations that may have arisen from the applicable provisions of this Ordinance or the permit approval.

G. Annual Reporting. The permit holder shall evidence the existence of any performance guarantee required by this Section by submitting to the Board or its designee copies such performance guarantee on each anniversary of the permit approval.

SECTION 5. Amendments to Approved Operations and Existing Operations.

Prior to making any change or revision to a bedrock quarrying or mining operation that has been approved by the Board pursuant to Article V, the permit holder must submit an amendment application to the Board. The amendment application is subject to the same review procedures, submission requirements, standards, and other provisions of this Ordinance as apply to a new bedrock quarrying or mining operation.

Prior to expanding any bedrock quarrying or mining operation that has been deemed an existing operation pursuant to Article IV, the owner must submit an application to the Board in compliance with the requirements of Article V.

SECTION 6. Substantial Start.

The operation must be substantially started within two years of any approval granted by the Board pursuant to Article V. The permit shall automatically expire two years from the date of issuance if no substantial start in bedrock quarrying or mining activity is made during that period.

SECTION 7. Permit Expiration; Renewal Applications.

Unless otherwise conditioned in writing by the Board:

1. A permit for a new bedrock or mining operation or a permit for the expansion of a bedrock or mining operation granted by the Board shall be effective for five (5) years from the date of issuance. Thereafter, the applicant must submit a renewal application, which is subject to the

same review procedures, submission requirements, standards, and other provisions of this Ordinance as apply to a new application.

2. A permit to expand a bedrock quarrying or mining operation determined to be an existing operation pursuant to Article IV shall be effective for five (5) years from the date of issuance; *provided, however*, that, the Board may not apply any permit expiration date to the existing operation.

ARTICLE VIII - LEGAL AND ENFORCEMENT

SECTION 1. Enforcement.

A. Violations; Enforcement Authority. The following acts constitute a violation of this Ordinance: (1) The registration, permit, or approval was issued in reliance on materially incomplete, false, or fraudulent information; (2) continuation of work or activities pursuant to a registration, permit, or approval would result in a violation of federal or state law or any other Town ordinances, regulations, or rules; (3) the registrant or permit holder exceeded the scope of the work or activities authorized under a registration, permit, or approval; or (4) a term, condition, or requirement of a registration, permit, or approval issued under this Ordinance has been violated. The CEO is responsible for enforcing the provisions of this Ordinance and the terms and conditions of any registration, permit, or approval issued hereunder and has the authority to suspend or revoke any registration, permit, or approval found to be in violation.

~~C.~~B. Inspections; Investigation of Complaints. The CEO may conduct site inspections to ensure compliance with all applicable laws and all terms and conditions attached to permits and approvals under this Ordinance. The CEO shall investigate all written complaints of alleged violations of this Ordinance.

~~D.~~C. Notice of Violation. If, after investigation, the CEO finds that any provision of this Ordinance or any condition of a permit or approval issued under this Ordinance has been violated, the CEO must give written notice of the violation, in person or by certified mail return receipt requested, to the owner or occupant of the premises and to any other person responsible for the violation, indicating the nature of the violation and ordering any action necessary to correct it (including discontinuance of illegal use and abatement of nuisance conditions) within some designated reasonable time. A copy of each such notice of violation must be submitted to the Board and to the municipal officers.

~~E.~~D. Legal Prosecution of Violations. If, after notice and demand, a violation has not been abated within the time specified in the notice of violation, the CEO must refer the matter to the municipal officers, who may institute in the name of the Town any and all actions and proceedings, in law or in equity, including seeking injunctions of violations and the imposition of fines, that the municipal officers determine are appropriate or necessary to prevent, correct, restrain, or abate any violation of this Ordinance.

~~F.~~E. Fines and Penalties. Any person who violates any term or condition of a registration, permit, or approval or who violates or continues to violate any provision of this Ordinance after receiving notice of such violation is subject to such fines, penalties, actions, and orders as are authorized by 30-A M.R.S.A. § 4452. A fine or penalty may be imposed for each violation. Each day that a violation continues constitutes a separate offense.

SECTION 2. Validity.

Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

SECTION 3. Conflicts.

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or state or federal law, the more restrictive provision shall control.

SECTION 4. Appeal.

Any person aggrieved by a decision of the Town Clerk or the Board may appeal such decision to the Board of Appeals within 30 days of the written decision by filing an appeal at the office of the Town Clerk.

Notices of violation, enforcement orders, suspensions or revocations of permits or approvals, written determinations of no violation, or any other enforcement decisions of the CEO are advisory only and may not be appealed.

Appeals from decisions of the Town Clerk or the Board made without conducting a public hearing are de novo. The Town Clerk or the Board must transmit to the Board of Appeals the decision and all documents and other evidence on which the decision was based, which may be considered as evidence in the de novo proceeding. The Board of Appeals must conduct a public hearing at which all persons have the right to present additional testimony and documentary evidence. At the public hearing, any party has the right to cross-examine witnesses. The standard of review is whether, on the basis of the evidence before the Board of Appeals, the application complies with the requirements of this Ordinance. The burden of proof is on the applicant for the permit or approval. The Board of Appeals has authority to grant or deny a permit or approval or to remand the matter to the Board for further proceedings.

Appeals from decisions of the Board made after conducting a public hearing are purely appellate. The Board must transmit to the Board of Appeals the decision of the Board and all documents and other evidence comprising the record on which the Board decision was based. The Board of Appeals must conduct a public proceeding at which all persons have the right to present legal argument concerning the decision of the Board. The Board of Appeals may not permit the introduction of additional testamentary or documentary evidence. The standard of review is whether the decision of the Board was arbitrary or capricious, based on error of law, or based on findings of fact not supported by substantial evidence in the record. The Board of Appeals has authority to sustain or reverse a decision of the Board or to remand the matter to the Board for further proceedings.

SECTION 5. Amendments.

This Ordinance may be amended by a majority vote of the Town Meeting in accordance with applicable state law.

ARTICLE IX - DEFINITIONS

Unless specifically defined below, words and phrases used in this Ordinance shall have their common, plain, and ordinary meaning. Words in the present tense include the future, the singular number includes the plural and the plural number includes the singular. The word "may" is permissive; "shall" or "must" are mandatory and not discretionary.

When a particular agency or organization is referenced, it shall include any successor agency or organization responsible for the same matters.

As used in this Ordinance, unless the context clearly requires otherwise, the following words shall have the following meaning:

ABANDONMENT or **ABANDONED:** The voluntary and intentional relinquishment of a bedrock quarrying or mining operation, as demonstrated by both (i) an intent to permanently discontinue the operation and (ii) an overt act or failure to act that clearly manifests such intent. Abandonment shall be presumed to have occurred when a bedrock quarrying or mining operation ceases operations for twenty-four (24) consecutive months or more and the landowner fails to undertake substantial actions to resume lawful operations, including maintaining required permits, equipment, and site infrastructure. Temporary cessation of operations due to seasonal conditions, market fluctuations, labor disputes, equipment repair, regulatory delays, force majeure events, or other circumstances beyond the landowner's control shall not, by itself, constitute abandonment. Evidence of abandonment may include, but is not limited to: permanent removal of extraction equipment, failure to maintain or renew required licenses and approvals, nonpayment of required taxes and fees, or an express statement of the landowner of an intent to permanently cease operations..

AFFECTED LAND: All land used in connection with a bedrock quarrying or mining operation, whether reclaimed or unreclaimed, including without limitation, excavated area; land with overburden removed; land on which stumps, spoil, or other solid waste are deposited; working pits; materials storage areas; and, as applicable, land permitted to be quarried or mined pursuant to a municipal permit; but excluding natural buffer strips. "Affected land" includes all such land on adjacent parcels under common ownership or operatorship or under a common scheme of development. Areas used in connection with a bedrock quarrying or mining operation prior to January 1, 1970 are not included in the definition of "affected land."

AQUIFER: A geologic deposit that yields useful quantities of groundwater to wells and springs as mapped by the Maine Geological Survey with a sustained yield of over 10 gallons per minute.

BEDROCK QUARRYING: The extraction, excavation, removal, handling, or processing of consolidated rock (bedrock) or other hard nonmetallic material that requires cutting, or similar methods of forced extraction, and any structures, facilities, equipment, and processes associated with such activities, including but not limited to stripping, drilling, and sorting. This definition does not include mineral operations, rock crushing, concrete mix or asphalt batching plants, or metallic mineral mining.

BLASTING: The use of explosives to break up or otherwise aid in the extraction of bedrock or other consolidated natural formations.

BORROW PIT: A place where sand, fill or gravel is excavated.

EXCAVATION: The act or process of removing borrow, topsoil, clay or silt, bedrock, or other materials from the earth, whether alone or in combination and whether manually, by blasting, or by mechanical means.

EXCAVATED AREA: The area affected by the act or process of excavation.

EXISTING OPERATION: Any bedrock quarrying or mining operation deemed an existing operation pursuant to Article IV as of the date of applicability and thereby exempt from the permitting requirements of Article V. An existing operation shall continue to operate pursuant to the terms and conditions of any municipal permits issued prior to the date of applicability and any applicable state law requirements. No existing operation may be expanded without a permit issued pursuant to Article V.

EXPANSION: The enlargement of the affected land of a bedrock quarrying or mining operation.

GROUNDWATER: All of the water found beneath the surface of the ground present in aquifers and recharge areas.

MDEP: Maine Department of Environmental Protection or any successor state department or agency.

METALLIC MINERAL MINING: Activities, facilities or processes necessary for the extraction or removal of metallic minerals or overburden or for the preparation, washing, cleaning or other treatment of metallic minerals and includes the bulk sampling, advanced exploration, extraction or beneficiation of metallic minerals as well as waste storage and other stockpiles and reclamation activities.

MINERAL EXPLORATION: Hand sampling, test boring, or digging of test pits to determine the nature or extent of mineral resources, other than methods associated with metallic mineral mining, where the affected land is less than ½ acre and the land is restored to its original condition after exploration activities cease.

MINING MATERIALS: Unconsolidated surface materials such as sand, gravel, aggregates, borrow, clay, silt, peat, loam, or topsoil. This definition does not include metallic minerals, consolidated rock (bedrock), or other hard nonmetallic material that requires cutting, or similar methods of forced extraction.

MINING OPERATION: The extraction, excavation, removal, handling, processing, storage, or transport of mining materials, and any structures, facilities, equipment, and processes associated with such activities, including but not limited to washing or screening operations and the storage and sorting of mining materials. "Mining operations" include but are not limited to: gravel pits, clay pits, borrow pits, and topsoil removal sites. This definition does not include bedrock quarrying, concrete mix or asphalt batching plants, or metallic mineral mining.

QUARRY: A place where bedrock quarrying occurs.

RECLAMATION or **RECLAIMED:** The restoration of affected land associated with a bedrock quarrying or mining operation to conditions similar to what existed prior to the bedrock quarrying or mining operation. This may include, but is not limited to, grading and shaping of the land, the planting of trees, the seeding of grass, legumes or crops for harvest, or the enhancement of wildlife and aquatic resources. For bedrock quarrying, reclamation" does not include the filling in of pits and the filling or sealing of shafts and underground workings with solid materials unless determined by the Planning Board to be necessary for the protection of groundwater or for reasons of safety.

RECLAMATION PLAN: A written document that described how the affected land will be restored or altered for the productive use of the land after an operation is complete. Such a plan shall include final grading and re-vegetation plans for all reclamation plan phases.

ROAD: Public road, private road, public way, right of way, the portion of any easement providing vehicular access, or any similar way providing vehicular access, except that this definition does not include a private driveway used only for access to no more than two residences.

SEASONAL HIGH GROUNDWATER TABLE: The upper elevation at which the groundwater table normally is located during the season of the year when such levels are at their highest. It generally occurs in the spring and fall but could occur at other times.

SETBACKS: The minimum horizontal distance from a property line or the center line of a road to the nearest part of an operation.

SILT or **CLAY:** Silt" or "clay" means a material that consists of particles of such a size that 45% or more of the fraction of those particles able to pass through a 3-inch sieve pass through the United States Standard Number 200 sieve, or a material that exhibits similar erosion potential, difficulty of stabilization or runoff based upon its gradation, plasticity, permeability or other relevant criteria.

SUBSTANTIAL START: The actual removal or extraction of mining material or compacted rock (bedrock or the like). Substantial start requires more than vegetation clearing or other site preparation.

WORKING PIT: The extraction area, including side slopes, of an excavation for borrow, clay, silt, or topsoil. "Working pit" does not include a stockpile area or an area that has a permanent fixed structure such as an office building, permanent processing facility, or fixed fuel storage structure.

Approved at Town Meeting _____ (Date)

A True Copy, attest:

_____
Town Clerk
Date:_____

Part II. The Town of Subdivision and Site Plan Review Ordinance is proposed to be amended by adding the words shown in underline, as follows.

TOWN OF ALNA, MAINE
SUBDIVISION AND SITE PLAN REVIEW ORDINANCE

~~. . .~~

~~**SECTION IV. Applicability**~~

~~This Ordinance shall apply to subdivisions; to new construction, alterations or enlargements of commercial, retail, mining (except for bedrock quarrying and mining operations, as those terms are defined in the Alna Mining Ordinance, that have secured existing operation status pursuant to Article IV of the Alna Mining Ordinance or are subject to the permitting requirements of Article V of the Alna Mining Ordinance), industrial and institutional buildings or other development thereof where areas are stripped filled or graded and not revegetated within the same growing season; to agricultural structures exceeding 2,000 square feet of floor area; and to multi-family dwellings This Ordinance does not apply to detached single and two family dwellings; to non-structural agricultural land-management practices, to forest management practices, or to agricultural structures not exceeding 2,000 square feet of floor area.~~ (this was from the old version of the SSPRO)

. . .

SECTION IV. Applicability

This Ordinance shall apply to subdivisions; to new construction, alterations or enlargements of commercial, retail, mining (except for bedrock quarrying and mining operations, as those terms are defined in the Alna Mining Ordinance, that have secured existing operation status pursuant to Article IV of the Alna Mining Ordinance or are subject to the permitting requirements of Article V of the Alna Mining Ordinance), industrial and institutional buildings or other development thereof where areas are stripped filled or graded and not revegetated within the same growing season; to agricultural structures exceeding 2,000 square feet of floor area; and to multi-family dwellings This Ordinance does not apply to detached single and two family dwellings not part of an affordable housing development; to non-structural agricultural land-management practices, to forest management practices, to agricultural structures not exceeding 2,000 square feet of floor area, or to solar energy conversion systems regulated under the Alna Solar Ordinance. Subdivision proposals are subject to subdivision review, including the statutory review criteria in 30-A M.R.S.A. § 4404 and the performance standards in Section VII. All other activities to which this Ordinance applies are subject to site plan review, including the performance standards in Section VII.

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