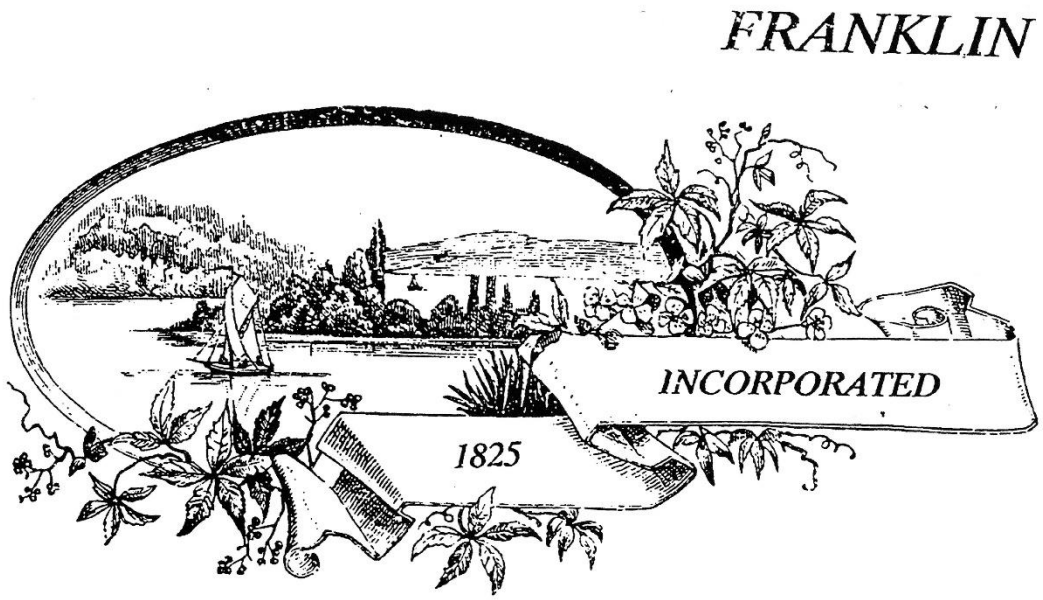

Quarrying License Ordinance

Of The

TOWN OF FRANKLIN, MAINE

Draft Copy
Planning Board Approved
01/04/2024

Original Ordinance Enacted March xx, 20xx

Attest and Certified By: _____
Deborah T. Lurvey
Town Clerk, Franklin, Maine

Date: _____

Pages: **52**

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ARTICLE 1 – TITLE AND PURPOSE

1.1 Title

This Ordinance shall be known and may be cited as the Town of Franklin Quarrying License Ordinance and will be referred to herein as "this Ordinance."

1.2 Purpose

The purpose of this Ordinance is to put into law minimum removal and reclamation standards and municipal procedures to regulate the quarrying of rock or stone while at the same time respecting the rights of pre-existing operations. These standards and procedures are intended to protect the public health, safety, and general welfare; and to minimize the adverse impact of quarrying to the Town, abutting property owners, citizens of the Town, and wildlife and natural resources by:

A. Preserving and protecting surface and groundwater quality and quantity for current and future use of the town and/or its residents.

B. Preserving the Town's natural resources, property value, and their future ability to be an asset to the Town and its residents.

C. Controlling the amount of potential pollution which can be discharged into the Town's environment.

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ARTICLE 2 – AUTHORITY, APPLICABILITY, AND ADMINISTRATION

2.1 Authority

This Ordinance is enacted pursuant to Home Rule Powers as provided for in Article VIII, Part Second, Section 1 of the Constitution of the State of Maine and under the authority granted to the Town by the statutes of the State of Maine, Title 30-A M.R.S. § 3001.

2.2 Administration

The provisions of this Ordinance shall be administered by the Town of Franklin Planning Board and enforced by the Town of Franklin Code Enforcement Officer (CEO).

2.3 Effective Date

The effective date of this ordinance shall be the date of approval by vote of the Town.

2.4 Applicability

This Ordinance applies to all quarrying activities as defined as Quarrying in Article 11 (Definitions) of this Ordinance that occur within the boundaries of the Town of Franklin, Maine, except as provided in Article 3 of this Ordinance. Quarrying activities are hereinafter referred to as activities or the activity, and sites on which they occur are referred to as the site, sites, or activity sites. Quarrying operations which did not have a current Special Exception Permit or use permit from the Town of Franklin as of the date of adoption of this ordinance shall be considered a new activity, and are not eligible for an After-the-Fact Permit under 6.4(a)(5) of the General Zoning Ordinance of the Town of Franklin.

This Ordinance applies to all quarrying activities including those which are:

1. New or proposed: activity occurring in areas where activities have not previously occurred.

2. Expansions of activity plans previously permitted by the Planning Board.

3. Existing quarrying activities: activities that are not new or proposed, or expansions.

2.5 Quarrying License Required

All parties proposing to continue a quarrying operation, expand an existing quarrying operation, or propose the creation of a new quarrying operation, must receive a Quarrying License as set forth in this Ordinance.

2.6 Types of Quarrying Activities Prohibited

Quarrying activities are prohibited in the Shoreland District, Resource Protection District, and Stream Protection District. No gravel pits or borrow pits are permitted under this ordinance.

2.7 Severability

Should any section of this Ordinance be declared by the courts of the State of Maine or by the courts of the United States to be invalid, such decisions shall not invalidate any other section or provision of this Ordinance.

2.8 Conflict with Other Ordinances

This Ordinance shall in no way impair or remove the necessity of compliance with any other rule, regulation, bylaw, permit or provision of law, including, without limitation, the non-conforming use provisions in Section 1.4.4 of the General Zoning Ordinance of the Town of Franklin Maine. It is anticipated that the application will be reviewed concurrently with this ordinance and the requirements of the General Zoning Ordinance of the Town of Franklin Maine including, without limitation, the special exception permit requirements of Article 6. Where this Ordinance imposes a greater restriction upon the use of the land, buildings or structures than any other rule, regulation, bylaw, permit or provision of law, including the Zoning Ordinance, the provisions of this Ordinance shall prevail. In lieu of the factors listed in Section 6.8.3(4) of the Zoning Ordinance, the Planning Board shall approve a special exception application under Zoning Ordinance Section 6.8.3, or approve it with conditions, if the Board makes a positive finding based on the information presented that the proposed use, with any conditions attached, meets the following standards:

a) The proposed use will not create hazards to vehicular or pedestrian traffic on the roads serving the proposed use as determined by the size and condition of such roads, lighting, drainage, intensity of use by both pedestrians and vehicles, posted weight limits, and the visibility afforded to pedestrians and the operators of motor vehicles.

b) The proposed use will not cause water pollution, sedimentation, or erosion, contaminate any water supply or reduce the capacity of the land to hold water so that a dangerous, aesthetically unpleasant, or unhealthy condition may result.

c) The proposed use will not create unhealthful conditions because of smoke, dust, or other airborne contaminants.

d) The proposed use will be compatible with the uses that are adjacent to and neighboring the proposed location, as measured in terms of its physical size, intensity of use, visual impact, and proximity to other structures, and the scale and bulk of any new structures for the proposed use shall be compatible with structures existing or permitted to be constructed on neighboring properties.

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e) The proposed use will not create nuisances to neighboring properties because of odors, fumes, glare, hours of operation, noise, vibration, or fire hazard or restrict access of light and air to neighboring properties.

f) The proposed location for the use has no peculiar physical characteristics due to its size, shape, topography, or soils which will create or aggravate adverse environmental impacts on surrounding properties.

g) The proposed use has no unusual characteristics atypical of the generic use which proposed use will depreciate the economic value of surrounding properties.

h) The proposed use will not result in damage to spawning grounds, fish, aquatic life, bird, and other wildlife habitat; will conserve shoreland vegetation, if located adjacent to a Shoreland zone; will conserve visual points of access to waters as viewed from public facilities; will conserve actual points of access to waters; will conserve natural beauty; and will avoid problems associated with floodplain development and use.

i) The volume of sound, measured by a sound-level meter and frequency weighting network (manufactured according the standards prescribed by the American National Standards Institute), inherently and recurrently generated shall not exceed a maximum of sixty (60) decibels A weighted at any dwelling unit excepting emergency sirens and horns and similar warning devices.

j) Vibration inherently and recurrently generated shall not exceed a peak particle velocity of 0.01 inch per second at lot boundaries.

k) No materials or wastes shall be deposited on any lot in such form or manner that they may be transferred beyond the lot boundaries by regularly recurring natural causes or forces, and all materials which cause fumes or dust, constitute a fire hazard, or are edible or otherwise attractive to rodents or insects if stored out of doors shall be in closed containers.

l) The emission of noxious, odorous matter across lot boundaries in such quantities as to be offensive to persons of ordinary sensibilities is prohibited.

m) No discharge into any private sewage disposal system or stream or into the ground of any materials in such nature or at such temperature as to contaminate any water supply or otherwise cause the emission of dangerous or unhealthful elements is permitted, and no accumulation of solid waste conducive to the breeding of rodents or insects shall be allowed.

2.9 Availability

A certified copy of this Ordinance shall be filed with the Town Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request.

ARTICLE 3 – EXEMPTIONS

3.1 This Ordinance shall not apply to the following:

A. Removal or filling of rock or stone for all improvements incidental to permitted construction, alteration or repair of a structure, town or state roads, private roads, or driveways, or in the landscaping incidental thereto.

B. Removal of stone or rock walls or foundation walls.

C. Removal of stone or rock from the quarry site if it has already been separated from the bedrock prior to adoption of the Zoning Ordinance.

D. Screening of stone or material for personal use.

E. Quarries that were existing and actively operating as of January 1, 2023.

Quarrying activities which are exempt from this ordinance may still require a special exception permit under provisions of the General Zoning Ordinance of the Town of Franklin Maine, and must comply with other rules and regulations of the Town.

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ARTICLE 4 – REVIEW PROCESS

4.1 Application Procedures

A. Application Submission and Completeness Review

Applications for quarrying activity licenses shall be submitted to the Town of Franklin Planning Board. At least thirty (30) days prior to filing an application, an applicant shall give public notice of intent to file a new, renewal, amendment, or transfer application. The notice must be mailed to the owners of properties within two thousand (2,000) feet of any boundary of the property for which application is being made and submitted to the CEO. For properties within two thousand (2,000) feet of any boundary of the property for which application is being made that are within another Town or Township, the governing entity for that Town or Township must receive written notice at least thirty (30) days prior to filing an application. Copies of the notice of intent to file and a list of abutters to whom notice was provided must be submitted with the application. The notice must include the information listed in MDEP Regulations Chapter 2, Section 14(A).

At least thirty (30) days after giving notice of intent to file a new, renewal, amendment, or transfer application, the applicant will submit that application to the CEO. The CEO shall issue to the applicant a dated receipt. The CEO will immediately notify the Chair of the Franklin Planning Board of receipt of that application, who will schedule a regular meeting of the board for presentation of that application, and to consider the application for completeness. Within forty-five (45) days from the date of receipt, the Planning Board shall notify the applicant in writing either that the application is complete or, if the application is incomplete, the specific additional material needed to make a complete application. Notification may be provided verbally at the regular meeting cited above after a vote of the Planning Board on completeness of the application. Such verbal notice shall supersede written notification on the matter. A determination by the Planning Board that the application is complete in no way commits or binds the Planning Board as to the adequacy of the application to meet the criteria of this Ordinance.

B. Public Hearing

The Planning Board shall hold a public hearing within forty-five (45) days of finding the application complete.

The Planning Board shall notify the Code Enforcement Officer, Municipal Officers, and the Board of Appeals, at least twenty (20) days in advance, of the time and place of the hearing.

Notice of the public hearing shall be published at least two (2) times in a newspaper that complies with Title 1, section 601 and that has a general circulation in the municipality. The date of the first publication shall be at least twelve (12) days before the hearing, and the date of the second publication must be at least seven (7) days before the hearing.

The notice shall contain a clear and concise summary of the application.

At least ten (10) days before the public hearing, the Town shall notify by certified mail the owners of properties within two thousand (2,000) feet of any boundary of the property for which application is being made. The owners of properties shall be considered to be persons listed on Town tax maps and lists.

Notices of the public hearing shall also be posted in three (3) prominent locations within Franklin at least seven (7) days in advance of the public hearing.

C. Planning Board Decision on the Application

1. The Planning Board shall, within forty-five (45) days of holding a public hearing, or within such other time limit as may be mutually agreed to by the Planning Board and the applicant, issue a decision approving, approving with conditions or denying the proposed activity. In all instances, the burden of proof shall be upon the applicant. The Planning Board shall make written findings regarding the criteria and standards contained in this Ordinance and conditions of any Quarrying License.

2. Upon approval of the activity, a majority of the Board present and voting shall sign all copies of the site plan as approved. The original shall be recorded by the applicant with the Hancock County Registry of Deeds. One (1) copy shall be retained by the Town. The Planning Board shall maintain a permanent record of their action on the activity. Any plan not recorded within one hundred twenty (120) days after approval, with the Hancock County Registry of Deeds, shall be null and void.

3. Approval by the Planning Board of an activity site plan shall not be deemed to constitute or be evidence of any acceptance by the Town of Franklin, Maine of any road, easement, or other open space shown on such plan.

D. Application Fees

All applications shall be accompanied by an application fee of seven hundred dollars ($700.00) per quarry per lot, payable to the Town of Franklin. All costs related to the application and ordinance compliance will be paid by the applicant.

E. Operation Conditions and Limitations

Before final approval, the applicant shall apply for and receive all applicable permits or licenses as may be required by Town, state, or federal regulations, laws, or ordinances. Any violation of other permits or licenses necessary for operation shall be considered a violation of this ordinance.

F. Plan Revisions after Approval

Plan revisions after approval shall be made as further provided for in Article 8.5 of this Ordinance.

G. Transfer of Activity License

The license holder shall not sell, lease, assign, or otherwise transfer the license, or cause or allow any other action where the purpose or consequence is to transfer any of the obligations of the license holder as incorporated in the license, except following the approval of the Planning Board. The proposed new licensee shall apply. The Planning Board may approve the transfer of the license if it can be demonstrated that:

1. The terms and conditions of the license and all applicable laws can and will be met.

2. The proposed transferee has the financial capacity and technical ability and intent to satisfy the terms of the license. In determining whether the proposed transferee has the requisite technical ability the Planning Board shall consider the items listed in paragraph 3 below.

3. The transfer of the license, or the activities it allows, shall not cause or contribute to a violation of the law. In determining whether transfer of the license will cause or contribute to a violation of the law, the Planning Board shall consider any prior violation, suspension, or revocation of a license issued to the proposed transferee; and any other environmental enforcement history of the proposed transferee. License applicant shall provide to the Planning Board documentation of any violations, citations, suspensions, or revocations levied against the license holder related to operations at the quarry. The Planning Board may require the proposed transferee to present evidence of changed conditions or circumstances sufficient, in the judgment of the Planning Board, to warrant transfer of the license notwithstanding any prior violation, suspension, or revocation. The applicant shall provide the Planning Board, as part of the response to the request, the information (unless otherwise specified by the Planning Board) on the proposed transferee as required in Article 6.1 of this Ordinance. Proposed changes to the terms of the license, including financial responsibility requirements, shall be considered a request for license modification and processed accordingly.
At least ten (10) days before the Planning Board meeting to review the transfer request (or public hearing if deemed necessary by the board), the applicant, or his/her designee, shall notify by mail the owners of properties within two thousand (2,000) feet of any boundary of the property for which the license transfer is being requested. The owners of properties shall be considered to be persons listed on Town tax maps and lists. Escrow accounts shall also be transferred.

4.2 Waiver of Submission Requirements

The Planning Board, in its sole discretion, upon the written request of an applicant specifically stating the reasons therefor, may modify or waive any of the submission requirements for a quarrying license application when it determines that, because of the type or size of the project or circumstances of the site, such requirements would not be applicable or would be unnecessary to determine compliance with the approval standards and that such modification or waiver would not adversely affect properties in the vicinity or the general health, safety and welfare of the Town.

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4.3 Waiver of Performance Standards

Where the Planning Board finds that unnecessary hardship will result from strict compliance with a performance standard, or where there are extraordinary circumstances of a particular plan, it may waive or modify the performance standard only to the extent necessary to relieve the hardship or address the circumstances, provided such a waiver or modification will not affect the general health, safety, or welfare of the Town, and provided further that the applicant has demonstrated that the approval standards themselves have been adequately met in the absence of the performance standards to the extent reasonably practical by the applicant.

4.4 Technical Review

The Planning Board may require the owner/operator or his authorized agent to deposit in escrow with the Town an amount of money sufficient to cover the costs for any professional review of the application that the Planning Board may feel is reasonably necessary to protect the general welfare of the Town. This escrow payment shall be made before the Planning Board engages any outside party to undertake this review and to make recommendations to the Planning Board. Any part of the escrow payment in excess of the final costs for the review shall be returned to the owner or his agent.

4.5 Appeals

Administrative Appeals and Requests for Variances shall follow the procedures provided in the General Zoning Ordinance of the Town of Franklin, Maine.

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ARTICLE 5 – NEW OR EXPANDED QUARRYING ACTIVITIES

5.1 Application for New or Expanded Quarrying Activities

Prior to the establishment, reestablishment or reoccurrence, or expansion of a quarrying activity, an applicant shall apply for a Quarrying License from the Town. The application for new activities or expansions of existing activities shall contain the following information:

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

B. Name, address, and telephone number of the operator of the quarry, if different from the applicant or owner. Name and contact information of the proposed manager of operations.

C. A copy of the current deed, lease, option, or other evidence of title, right or interest to the subject property together with copies of all covenants, deed restriction easements, rights of way, or other encumbrances, including but not limited to liens and mortgages currently affecting the property.

D. A Boundary Survey depicting the current boundary of the property prepared by a surveyor licensed in the State of Maine.

E. A Site Plan of the property prepared by a surveyor licensed in the State of Maine that shall include the following:

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

2. Scale is to be no more than four hundred (400) feet per inch. All dimensions to be marked in feet or decimals of a foot, north arrow shown, and paper size 24" x 36".

3. Contour lines showing elevations in relation to mean sea level at appropriate intervals and existing and proposed final contours as well as interim contours for projects having sufficient duration that the Planning Board deems such interim contours are necessary. Contour intervals shall be a maximum of two (2) feet.

4. Boundaries of the tract of land showing lot lines, abutting lots, the names of all such property owners, total acreage of the parcel(s), Town of Franklin Tax Assessor's map and lot number(s).

5. Location of existing and proposed activities and structures on the property.

6. Approximate location of residences and structures on properties within five hundred (500) feet of the property lines of the parcel on which the quarry is located.

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7. Location and identification of existing public and private streets, roadways, and rights-of-way on or abutting the property.

8. Location of proposed access road(s) and/or driveway(s) to the activity from public roadways.

9. Location of all setbacks, buffers, conservation areas, and protected natural resources on the subject property including shoreland zone and district boundaries.

10. Location and arrangement of proposed parking and loading areas and their appurtenant drives 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 in lumens, color temperature, type, size, and direction of all permanent or temporary outdoor lighting.

13. Location, design, and size of signs and all permanent outdoor fixtures such as fences, gates, and utility poles that may be visible from public roads or adjacent properties.

14. Location of existing wetlands and vernal pools and required setbacks.

15. Location, design, and type of existing and proposed berms, fences, hedges, and tree lines.

16. Location of existing natural drainage ways and proposed storm drainage facilities and stormwater control measures, including dimensions of culverts, pipes, etc. If any portion of the activity is in a flood prone area, the boundaries of any flood hazard areas as listed in the most current FEMA Flood Insurance Rate Map for the quarry location, and the 100-year flood elevation shall be delineated on the plan.

17. Location of existing public and private water supplies within five hundred (500) feet of the property line and all water supplies on the parcel itself.

18. Location of proposed or existing fuel handling/storage, wash-down, equipment parking, and hazardous material storage areas.

F. Documentation that the activity will meet the traffic performance standards for quarries in Title 38 M.R.S. § 490-Z(10) including, without limitation, a traffic impact narrative, prepared by a professional traffic engineer in accordance with standards adopted by the MDEP, which includes an estimate of the average daily traffic during periods of operation, including peak hours, and projected to be generated by the activity.

G. Documentation that the activity will meet the solid waste and groundwater protection performance standards for quarries in Title 38 M.R.S. § 490-Z(2) and (3) including, without limitation, a narrative description of the potential surface and ground water impacts, including protection plans, prepared by a hydrogeologist, licensed in the State of Maine.

H. Information and a map showing bedrock geology and soils conditions on the site of the proposed activity.

I. Documentation that the activity will meet the erosion and sedimentation control performance standards for quarries in Title 38 M.R.S. § 490-Z(8) including, without limitation, a soil erosion and sedimentation control plan, prepared in accordance with the standards contained in the Maine Erosion & Sedimentation Control Handbook for Construction: Best Management Practices published by MDEP (latest revision).

J. Documentation that the activity will meet the water quality protection and storm water management performance standards for quarries in Title 38 M.R.S. § 490-Z(9) including, without limitation a Stormwater Management Plan and narrative prepared by a Licensed Professional Engineer detailing specific erosion control and Stormwater Management measures and showing pre- and post-development runoff patterns for the two (2), ten (10) and twenty-five (25) year, twenty four (24) hour duration storm event, a contour map of the watershed and proposed stormwater management measures including drainage ditches, conduits, catch basins, culverts and impoundment areas.
The Management Plan shall specify the source of water to be used for cooling of equipment and/or dust control and for other operations. The plan shall specify the measures taken to manage any runoff from water used for cooling or other operations.

K. Locations of identified local, state, or federal historic or archeological sites, graveyards, ancient burial grounds, or cemeteries and a description of such features.

L. Documentation that the activity will meet the reclamation performance standards for quarries in Title 38 M.R.S. § 490-Z(13) including, without limitation, a closure plan that includes an estimated amount of material to be excavated annually, estimated longevity of the operation, the maximum vertical faces and final grades, a re-vegetation plan, plans for future uses, timeline for closure, reclamation plans for inactive areas of quarry operations, safety measures, phasing of the reclamation plan, and a cost estimate for closure of the site.

M. Documentation that the activity will meet the significant wildlife habitat and other protected areas performance standards for quarries in Title 38 M.R.S. § 490-Z(1) including, without limitation, a narrative description of the impact on wildlife habitat, and the location of any deer yard or other significant wildlife habitat designated by Maine Dept. of Inland Fisheries and Wildlife, Maine Natural Areas Program, Maine DEP or other applicable state of federal agency, including any proposed mitigation, within five hundred (500) feet of the activity.

N. A narrative description of the present use of the parcel and properties within one thousand (1,000) feet of the property lines of the parcel on which the quarry is located.

O. Proposed hours and days of operation.

P. Documentation that the activity will meet the noise, dust, and lighting performance standards for quarries in Title 38 M.R.S. § 490-Z(11), (12) and (15) including, without limitation, types and amounts of equipment to be used in the operation, estimated levels of noise at the property line, and any measures to be used to control noise, dust, vibration, and pollution from the operation.

Q. Proof of technical and financial capacity, and capacity to obtain a Performance Guarantee as specified in Article 7, payable to the Town of Franklin.

R. A Spill Prevention Control & Countermeasures (SPCC) Plan.

S. Documentation that the activity will meet the blasting performance standards for quarries in Title 38 M.R.S. § 490-Z(14) including, without limitation, a Blasting Plan, if any blasting may be conducted.

T. Documentation that the activity will meet the natural buffer strip, protected and natural resource buffers, roads, and property boundary performance standards for quarries in Title 38 M.R.S. § 490-Z(4), (5), (6) and (7) including, without limitation, a plan for landscaping, visual screening, and buffering the quarrying activity from abutters and any public roads.

U. Evidence of receipt of any required federal and state permits. The application will not be complete for consideration by the Planning Board until the applicant has obtained all such required permits.

5.2 Performance Standards for New or Expanded Quarrying Activities

A. General Requirements

1. Quarrying activities shall conform to all applicable State laws and local ordinances and regulations.

2. The owner and operator of a quarrying activity shall be responsible, both jointly and severally, for ensuring the maintenance of all infrastructures, structures, and their sites.

3. The applicant shall demonstrate that it satisfies the financial capacity and technical ability standards of MDEP Regulations Chapter 373.

4. The Planning Board may deny, modify, or revoke its approval if the applicant or agent is not in compliance with other Town, State, or Federal permits.

5. In all cases, the applicant shall have the burden of proof that all requirements, standards, and conditions of this Ordinance and subsequent approval are met.

6. A copy of the license must be displayed on-site at all times.

7. At no point shall the footprint of the active extraction area exceed three (3) acres and at no point shall the footprint of the entire operation exceed a total of five (5) acres.
- **a)** The active extraction area must be reclaimed before next three (3) acres can be started.
- **b)** Excavation may be done in one (1) acre or other increments to ensure continuity of operation.

B. Erosion Control

Sediment may not leave the parcel or enter a protected natural resource. Soil erosion and sedimentation of watercourses and water bodies must be minimized by an active erosion and sedimentation control program. Erosion control plans shall show the location and installation details, a description of the timing of installation, inspection, and maintenance of erosion control measures. The erosion control program shall be based on industry Best Management Practices and guided by applicable specifications contained in "Maine Erosion and Sediment Control Best Management Practices", published by the Maine Department of Environmental Protection, and, as applicable, the Maine Department of Environmental Protection's general permit for construction activity, enacted as part of the Maine Pollutant Discharge Elimination System. The activity, regardless of its size, also must meet the erosion and sedimentation control performance standards for quarries in Title 38 M.R.S. § 490-Z(8).

C. Stormwater Management

All stormwater management systems required by this Ordinance shall be designed consistent with the following documents, as applicable:

i. M.R.S.A. 38 § 420-C and 420-D;

ii. The most recent version of the Maine Department of Environmental Protection Stormwater Management Rules (Chapters 500 and 502) and with the following MDEP volumes:

a. Volume I: Stormwater Management Manual;
b. Volume II: Phosphorus Control in Lake Watershed: A Technical Guide to Evaluating New Development; and,
c. Volume III: BMPs Technical Design Manual.

D. Closure and Reclamation Plans

The activity, regardless of its size, must meet the reclamation performance standards for quarries in Title 38 M.R.S. § 490-Z(13). In addition, a quarry closure plan is required to be submitted with all license applications, discussing, and depicting the following:

1. Soil Stockpiling.
Soil that is stripped or removed must be stockpiled for use in reclaiming disturbed

land, unless it is demonstrated to the Planning Board that it is not needed for reclamation purposes. Soil stockpiles must be seeded, mulched, or otherwise stabilized. At least 4 inches of topsoil shall be used for final cover.

2. Highwalls or Quarry Faces.
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.

3. The methods used to provide public safety for adjacent properties and provisions for fencing, signs, berms, or other site improvements reasonably necessary to assure safety at the site after quarrying activities are completed.

4. Vegetative Cover.
Vegetative cover must be established on all land being reclaimed except for quarry walls and flooded areas. Topsoil must be placed, seeded, and mulched within thirty (30) days of final grading if it is within a current growing season or within thirty (30) days of the start of the next growing season.

a) Vegetative material used in reclamation must consist of grasses, legumes, herbaceous, or woody plants or a mixture thereof. Plant material must be planted during the first growing season following the reclamation phase. Selection and use of vegetative cover must take into account ultimate height, maintenance requirements, soil and site characteristics such as drainage, pH, nutrient availability, and climate.

b) The vegetative cover is acceptable if within one (1) growing season of seeding:

i. the planting of trees and shrubs results in a permanent stand, or regeneration and succession rate, sufficient to assure a seventy-five percent (75%) survival rate; and

ii. there are no obvious signs of erosion.

5. Structures and Roads.
All structures and access, haul, or other support roads must be reclaimed once no longer used, unless reserved for future productive use of the land, as described in the closure plan, or as access for emergency response activities as recommended by the Franklin Fire Chief.

6. Timeline of Closure and Reclamation.
Closure and reclamation activities shall commence within twelve (12) months following the completion of quarrying operations. Operations shall be deemed complete when the quarry licensee declares quarrying operations are terminated, when the licensee fails to renew the activity license prior to the anniversary of the original permit approval date from the Planning Board, or upon denial of a license renewal. Appeals of a license renewal denial shall suspend the closure and reclamation activity until twelve (12) months after resolution of the appeal, where the appeal is denied.

7. Phased Closure.
To the extent practicable, the area where quarrying operations has already occurred on the site shall be closed prior to the opening of any new on-site quarrying area, and reclamation procedures shall be carried out concurrently with quarrying operations. Standard closure shall commence in accordance with the timeline and phasing approved by the Planning Board. Standard performance guarantee requirements apply, as required in Article 7 below.

E. Petroleum Usage

If any petroleum products or other materials with potential to contaminate groundwater are to be stored on the site, a Spill Prevention Control and Countermeasures (SPCC) Plan shall be submitted. A SPCC Plan shall be developed in accordance with DEP regulations, Section 5A of Chapter 378 Performance and Design Standards for the Storage of Petroleum Products (CMR 378), including providing information on spill response procedures to protect cracks and fissures in the bedrock surface from spills, and shall be submitted with the application and kept with the license in the Town's records.

F. Buffering and Screening

The owner or operator shall provide and/or maintain effective year-round visual screening of the quarry operations. In those areas where fully effective visual screening is not feasible, the owner or operator shall make every reasonable effort, through visual screening, to minimize the visual impact of quarry activities to the neighbors. The design for such visual screening/buffering shall utilize existing land contours, artificially created berms, natural vegetation on site and plant material not presently on site, permanent fencing, walls or other techniques. All of the above shall be supplied and maintained by the owner or operator. The activity, regardless of its size, must meet the natural buffer strip, protected and natural resource buffers, roads, and property boundary performance standards for quarries in Title 38 M.R.S. § 490-Z(4), (5), (6) and (7). The following provisions shall also apply:

1. Protected Natural Resources: Unless authorized pursuant to the Natural Resources Protection Act, Title 38, M.R.S., Section 480-C, no part of any quarrying operation, including drainage and runoff control features shall be permitted within two-hundred fifty (250) feet, horizontal distance, of the normal high water line of a great pond, or within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. The Applicant must provide a sufficient benchmark on the property to indicate this setback.

2. New or expanded quarrying operations shall not be permitted within one hundred fifty (150) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property.

3. All buffers must be preserved in their natural vegetative state as existed six (6) months prior to an application for a new quarry, or for an expansion to an existing quarry, in the natural vegetative state that existed at time of initial licensing by the Town.

4. The Planning Board may require as a condition of approval that the applicant take specific actions to insure the long-term effectiveness of any buffers or buffer yards, including, but not limited to, the planting of trees and/or shrubs, placement of solid fences or creation of berms when the natural existing vegetation does not provide a sufficient visual screen. The design of any fences, walls, berms, or other structural screening shall be submitted to the Planning Board as part of the application. The owner or operator shall maintain the buffers to ensure that they continue to function in an effective manner. Dead trees and shrubs that are intrinsic to the buffer yard shall be replaced within one (1) year after they have died.

5. The applicant may elect to increase the width of the natural buffer area in order to achieve an adequate visual screen.

6. The visual screening requirement for the buffers is not a complete visual barrier. The visual screening, to be adequate, must provide a substantial year round visual barrier so that the active extraction area is not clearly, or unobstructively, visible from an abutting property or public road by providing a continuous barrier which obstructs the view of the active extraction area by at least eighty (80) percent from all locations within one hundred fifty (150) feet from the active extraction area boundary.

G. Road and Driveway Design, Circulation and Traffic

The activity, regardless of its size, must meet the traffic performance standards for quarries in Title 38 M.R.S. § 490-Z(10). The following provisions shall also apply:

1. Activity site shall be limited to two (2) access/egress points.

a) Driveways and roads shall conform to the standards set forth in the Town of Franklin Zoning Ordinance and in the Street Design and Construction Minimum Standards Ordinance, as applicable. Driveways and Roads shall meet any additional requirements set forth in this ordinance and/or as required by Town of Franklin Select Board, or designee, and/or the Maine Department of Transportation, as applicable.

b) Driveways or roads leading to or from the quarry site to paved public ways shall be treated with suitable materials to reduce the production of dust and mud. The applicant shall include their choice of surface treatment in their permit application to the Planning Board.

c) The first two hundred (200) lineal feet from the intersection of the public road and the driveway or road leading to or from the quarry site shall have a bituminous pavement surface, an alternate hard surface or crushed rock/stone surface to limit the tracking of unsuitable material onto the public road. The Planning Board upon the recommendation of the Select Board may require a paved apron to be constructed along the width of the intersection of the quarry road/driveway and the public road that extends into the quarry road a minimum of five feet.

2. Traffic impacts to be considered:

a) Where activity site traffic proposes to use town maintained roads, the activity scope must be suitable and appropriate to the projected daily traffic impacts as determined by the Code Enforcement Officer with assistance from the Franklin Select Board or respective designees.

b) The road giving access to the Quarrying Activity and neighboring roads which can be expected to carry traffic to and from the Quarrying Activity shall:
- **i.** Have sufficient traffic carrying capacity as determined by the Code Enforcement Officer with assistance from the Franklin Select Board or respective designees.
- **ii.** Have adequate base and pavement to support the loads generated by the activity as determined by the Code Enforcement Officer with assistance from the Franklin Select Board or respective designees.

c) If roads are found to be inadequate based on the above, the applicant may be required to improve the road to accommodate the amount and types of traffic generated by the proposed activity. In making this determination the following shall be considered:
- **i.** No activity shall reduce the road's Level of Service to "D" or below.
- **ii.** Where the road giving access to the Quarrying Activity enters an existing street, vehicular sight-distance shall conform to standards established by the Maine DOT as contained in their publication, Chapter 299, Highway Driveway and Entrances Rules.

H. Ground Water Impacts

The activity, regardless of its size, must meet the groundwater protection performance standards for quarries in Title 38 M.R.S. § 490-Z(3). The following provisions shall also apply.

1. Water Supply buffer:

a) A three hundred (300) foot buffer must be maintained between the edge of footprint of operation and any currently in use pre-existing private drinking water supply that is point driven or is a dug well, drilled well, or spring source. This buffer requirement does not apply when the well belongs to the owner of the excavation site.

b) A one thousand (1,000) foot buffer must be maintained between the edge of the active extraction area and any dug well, drilled well, or spring source which qualifies as a public drinking water supply that was in use prior to the effective date of this ordinance.

c) The Planning Board may require larger buffers from water supplies if they find that a hazard is shown to exist due to the Quarrying Activity by a hydrogeologic study performed by a hydrogeologist licensed in the State of Maine. The hydrogeologic study will be paid for by the licensee if required by the Planning Board.

2. Excavation below the seasonal high water table is prohibited.

3. The operator of a quarrying activity that affects a public drinking water source or a private drinking water supply by excavation activities causing contamination, interruption or diminution must restore or replace the affected water supply with an alternate source of water, adequate in quantity and quality for the purpose served by the supply. This paragraph is not intended to replace any independent action that a person whose water supply is affected by a quarrying activity may have.

4. Standards for Acceptable Ground Water Impacts.

a) No quarrying activity shall increase any contaminant concentration in the ground water to more than one half of the Federal Primary Drinking Water Standards at the property boundary. No quarrying activity shall increase any contaminant concentration in the ground water to more than the Federal Secondary Drinking Water Standards at the property boundary. Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).

b) If ground water contains contaminants in excess of the primary standards, and the activity is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated, if necessary.

I. Preservation of Natural Areas and Historic Features

Scenic, historic, or environmentally sensitive areas or any areas identified in the Comprehensive Plan, or by the Maine Historic Preservation Commission or the Maine Natural Areas Program as an archeological, architectural, cultural, or rare and exemplary area should be preserved in their current state. The activity, regardless of its size, must meet the preservation of historic sites performance standards in MDEP regulations Chapter 375, Section 11. The activity, regardless of its size, also must meet the significant wildlife habitat and other protected areas performance standards for quarries in Title 38 M.R.S. § 490-Z(1).

J. Sanitary Standards

1. Sewage Disposal.
All water carried sewage shall be disposed of by sewage systems meeting the requirements of the State of Maine Plumbing Code.

2. Solid Waste Disposal.
No solid waste, including stumps and grubbings, shall be placed, stored, or disposed of on the activity site unless it meets the requirements of the rules and regulations of the Maine Department of Environmental Protection. The storage, collection and disposal of refuse at the activity site shall not create health hazards, rodent or insect breeding areas, accident or fire hazards, air pollution, or surface or ground water pollution. The activity, regardless of its size, also must meet the solid waste performance standards for quarries in Title 38 M.R.S. § 490-Z(2).

K. Signs

Any signs must comply with the standards of other applicable ordinances.

L. Noise

The best practicable means of reducing noise shall be employed which may include the use of sound reduction equipment, acoustic enclosures or sheds, limiting on-site speeds to no more than ten (10) mph, or other best industry practices for noise attenuation, to the extent permitted by state and federal laws and regulations. The activity, regardless of its size, must meet the noise performance standards for quarries in Title 38 M.R.S. § 490-Z(11).

M. Hours of Operation

The hours of operation for quarrying and material processing activities shall

(1) not be earlier than 7:00 AM and not later than 4:00 PM, Monday through Friday, and

(2) exclude all State and/or Federal Holidays.

Processed material may be hauled off site on Saturdays

(1) not earlier than 8:00 AM and not later than 5:00 PM and

(2) exclude all Federal Holidays.

The hours of operation shall not be revised, waived, or modified by the Planning Board. Nothing contained herein shall be deemed to prevent the emergency maintenance or repair of equipment.

N. Dust Control

Dust generated by activities at a quarry, including dust associated with traffic to and from a quarry, must be controlled by sweeping, paving, watering or other best management practices for control of fugitive emissions. Dust control methods may include calcium chloride as long as the manufacturer's labeling guidelines are followed. The activity, regardless of its size, also must meet the dust performance standards for quarries in Title 38 M.R.S. § 490-Z(12).

O. Blasting

For operations involving blasting, the owner or operator shall maintain records of the blasting operation, provide for supervision of the blasting activity by a person qualified, experienced, and regularly engaged in such work, and provide prior notice of the drilling and blasting activity:

(1) to the Town and,

(2) to all property owners within two thousand (2,000) feet of the blast site.

Blasting for quarrying activities shall follow industry Best Management Practices and procedures set forth in Title 38 M.R.S. § 490-Z. The activity, regardless of its size, also must meet the blasting performance standards for quarries in Title 38 M.R.S. § 490-Z(14). The activity also must not cause vibrations at any residential structure. Blasting shall be limited to between the hours of 9 am and 4 pm and only on days of operation as defined in 5.2(M).

P. Lighting

Lighting must be shielded away from adjacent roads, driveways, and residential areas. Lighting shall be in conformance with the standards set forth in the Town of Franklin Land Use Ordinance. The activity, regardless of its size, also must meet the lighting performance standards for quarries in Title 38 M.R.S. § 490-Z(15).

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ARTICLE 6 – EXISTING QUARRYING ACTIVITIES

6.1 Application for Existing Quarrying Activities

The owner or operator of any existing unlicensed quarry activity shall, within one hundred eighty (180) days from the effective date of this ordinance, submit an application pursuant to this Ordinance. Any owner or operator of an existing operation that has not applied for a license within one hundred eighty (180) days from the effective date of this ordinance or received an extension for good cause from the Planning Board shall be in violation of this ordinance.

The application for existing quarrying activities shall consist of the following submissions:

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

B. Name, address, and telephone number of the operator of the quarry, if different from the applicant or owner. Name and contact information of the proposed manager of operations

C. A copy of the current deed, lease, option, or other evidence of title, right or interest to the subject property together with copies of all covenants, deed restriction easements, rights of way, or other encumbrances, including but not limited to liens and mortgages currently affecting the property.

D. A Site Plan of the property that shall include the following:

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

2. Scale is to be no more than four hundred (400) feet per inch. All dimensions to be marked in feet or decimals of a foot, north arrow shown, and paper size 24” by 36”.

3. Contour lines showing elevations in relation to mean sea level at appropriate intervals and existing and proposed final contours as well as interim contours for projects having sufficient duration that the Planning Board deems such interim contours are necessary. Contour intervals shall be a maximum of two (2) feet.

4. Boundaries of the tract of land showing lot lines, abutting lots, the names of all such property owners, total acreage of the parcel(s), Town of Franklin Tax Assessor’s map and lot number(s).

5. Location of existing activities and structures on the property.

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6. Footprint of the operation as of the effective date of this ordinance including the active extraction area, all areas with overburden removed, access routes within the quarry, and all reclaimed and unreclaimed areas.

7. Approximate location of residences and structures on properties within five hundred (500) feet of the property lines of the parcel on which the quarry is located.

8. Location and identification of existing public and private streets, roadways and rights-of-way on or abutting the property.

9. Location of existing access road and/or driveway to the activity from public roadways.

10. Location of all setbacks, buffers, conservation areas, and protected natural resources on the subject property including shoreland zone and district designations.

11. Location and arrangement of existing and proposed parking and loading areas and their appurtenant drives and maneuvering areas.

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

13. Location, intensity in lumens and color temperature, type, size, and direction of all permanent and temporary outdoor lighting.

14. Location, design, and size of signs and all permanent outdoor fixtures such as fences, gates, and utility poles that may be visible from public roads or adjacent properties.

15. Location of existing wetlands and vernal pools and required setbacks.

16. Location, design, and type of existing and proposed berms, fences, hedges, and tree lines.

17. Location of existing natural drainage ways and proposed storm drainage facilities and stormwater control measures, including dimensions of culverts, pipes, etc. If any portion of the activity is in a flood prone area, the boundaries of any flood hazard areas as listed in the most recent FEMA Flood Insurance Rate Map for the quarry location and the 100-year flood elevation shall be delineated on the plan.

18. Location of existing wells within five hundred (500) feet of the property line and all wells on the parcel itself.

19. Location of proposed or existing fuel handling/storage, wash-down, and hazardous material storage areas.

E. Documentation that the activity will meet the traffic performance standards for quarries in Title 38 M.R.S. § 490-Z(10) including, without limitation, a traffic impact narrative, prepared by a professional traffic engineer in accordance with standards adopted by the MDEP, which includes an estimate of the average daily traffic during periods of operation, including peak hours, and projected to be generated by the activity.

F. Documentation that the activity will meet the erosion and sedimentation control performance standards for quarries in Title 38 M.R.S. § 490-Z(8) including, without limitation, a soil erosion and sedimentation control plan, prepared in accordance with the standards contained in the Maine Erosion & Sedimentation Control Handbook for Construction: Best Management Practices published by MDEP (latest revision). If the project is located in part within the Shoreland Zone, the name and certification number of the person who will oversee activities causing or resulting in soil disturbance shall be included in the soil erosion and sedimentation control plan.

G. Documentation that the activity will meet the solid waste and groundwater protection performance standards for quarries in Title 38 M.R.S. § 490-Z(2) and (3) including, without limitation, a narrative description of the potential surface and ground water impacts, including protection plans, prepared by a hydrogeologist, licensed in the State of Maine.

H. Documentation that the activity will meet the water quality protection and storm water management performance standards for quarries in Title 38 M.R.S. § 490-Z(9) including, without limitation a Stormwater Management Plan and narrative prepared by a Licensed Professional Engineer detailing specific erosion control and Stormwater Management measures and showing pre- and post-development runoff patterns for the two (2), ten (10) and twenty-five (25) year, twenty four (24) hour duration storm event, a contour map of the watershed and proposed Stormwater Management measures including drainage ditches, conduits, catch basins, culverts and impoundment areas. The Management Plan should specify the source of water to be used for cooling of equipment and for other operations. The plan should specify the measures taken to manage any runoff from water used for cooling or other operations.

I. Proposed hours and days of operation.

J. Documentation that the activity will meet the noise, dust, and lighting performance standards for quarries in Title 38 M.R.S. § 490-Z(11), (12) and (15) including, without limitation, types and amounts of equipment to be used in the operation, estimated levels of noise at the property line, and any measures to be used to control noise, dust, vibration, and pollution from the operation.

K. A Spill Prevention Control & Countermeasures (SPCC) Plan.

L. Documentation that the activity will meet the blasting performance standards for quarries in Title 38 M.R.S. § 490-Z(14) including a Blasting Plan, if any blasting may be conducted.

M. Documentation that the activity will meet the reclamation performance standards for quarries in Title 38 M.R.S. § 490-Z(13) including a closure plan including: an estimated amount of material to be excavated annually, estimated longevity of the operation, the maximum vertical faces and final grades, a re-vegetation plan, plans for future uses, timeline for closure, reclamation plans for inactive areas of quarry operations, safety measures, phasing of the reclamation plan, and a cost estimate for closure of the site.

N. Documentation that the activity will meet the natural buffer strip, protected and natural resource buffers, roads, and property boundary performance standards for quarries in Title 38 M.R.S. § 490-Z(4), (5), (6) and (7) including, without limitation, a plan for landscaping, visual screening and buffering the quarrying activity from abutters and any public roads and any measures to be used to control noise, dust, vibration, and pollution from the operation. An estimated amount of material to be excavated annually.

O. Evidence of receipt of any required federal and state permits. The application will not be complete for consideration by the Planning Board until the applicant has obtained all such required permits.

6.2 Waiver of Submission Requirements

The Planning Board may waive submissions required under Article 6.1 upon the request of the applicant and given just cause why the submission(s) in question are not applicable and/or burdensome.

6.3 Performance Standards for Existing Quarries

A. General Requirements

1. Quarrying activities shall conform to all applicable State laws and local ordinances and regulations.

2. The owner and operator of a quarrying activity shall be responsible, both jointly and severally, for ensuring the maintenance of all infrastructures, structures, and their sites. The applicant must meet the financial and technical capacity standards of MDEP Regulations Chapter 373.

3. In all cases, the applicant shall have the burden of proof that all requirements, standards, and conditions of this Ordinance and subsequent approval are met.

4. A copy of the license must be displayed on site at all times.

5. At no point shall the footprint of the active extraction area exceed three (3) acres and at no point shall the footprint of the entire operation exceed a total of five (5) acres.

a) The active extraction area must be reclaimed before next three (3) acres can be started.

b) Excavation may be done in one (1) acre or other increments to ensure continuity of operation.

B. Erosion Control

Sediment may not leave the parcel or enter a protected natural resource. Soil erosion and sedimentation of watercourses and water bodies must be minimized by an active erosion and sedimentation control program. Erosion control plans shall show the location and installation details, a description of the timing of installation, inspection, and maintenance of erosion control measures. The erosion control program shall be based on industry Best Management Practices and guided by applicable specifications contained in "Maine Erosion and Sediment Control Best Management Practices", published by the Maine Department of Environmental Protection, and, as applicable, the Maine Department of Environmental Protection's general permit for construction activity, enacted as part of the Maine Pollutant Discharge Elimination System. The activity, regardless of its size, also must meet the erosion and sedimentation control performance standards for quarries in Title 38 M.R.S. § 490-Z(8).

C. Stormwater Management

All stormwater management systems required by this Ordinance shall be designed consistent with the following documents, as applicable:

i. M.R.S.A. 38 § 420-C and 420-D;

ii. The most recent version of the Maine Department of Environmental Protection Stormwater Management Rules (Chapters 500 and 502) and with the following MDEP volumes:

a. Volume I: Stormwater Management Manual;

b. Volume II: Phosphorus Control in Lake Watershed: A Technical Guide to Evaluating New Development; and,

c. Volume III: BMPs Technical Design Manual.

D. Closure and Reclamation Plans

The activity, regardless of its size, must meet the reclamation performance standards for quarries in Title 38 M.R.S. § 490-Z(13). In addition, a quarry closure plan is required to be submitted with all license applications discussing and depicting the following:

1. Soil Stockpiling.

Soil that is stripped or removed after the adoption date of this Ordinance must be stockpiled for use in reclaiming disturbed land, unless it is demonstrated to the Planning Board that it is not needed for reclamation purposes. Soil stockpiles must be seeded, mulched, or otherwise stabilized. At least four (4) inches of topsoil shall be used for final cover.

2. Highwalls or Quarry Faces.
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.

3. The methods used to provide public safety for adjacent properties and provisions for fencing, signs, berms, or other site improvements reasonably necessary to assure safety at the site after quarrying activities are completed.

4. Vegetative Cover.
Vegetative cover must be established on all land being reclaimed except for quarry walls and flooded areas. Topsoil must be placed, seeded, and mulched within thirty (30) days of final grading if it is within a current growing season or within thirty (30) days of the start of the next growing season.

a) Vegetative material used in reclamation must consist of grasses, legumes, herbaceous, or woody plants or a mixture thereof. Plant material must be planted during the first growing season following the reclamation phase. Selection and use of vegetative cover must take into account ultimate height, maintenance requirements, soil and site characteristics such as drainage, pH, nutrient availability, and climate.

b) The vegetative cover is acceptable if within one (1) growing season of seeding:

i. the planting of trees and shrubs results in a permanent stand, or regeneration and succession rate, sufficient to assure a seventy-five percent (75%) survival rate; and

ii. there are no obvious signs of erosion.

5. Structures and Roads.
All structures and access, haul, or other support roads must be reclaimed once no longer used, unless reserved for future productive use of the land, as described in the closure plan, or as access for emergency response activities as recommended by the Franklin Fire Chief.

6. Timeline of Closure and Reclamation.
Closure and reclamation activities shall commence within twelve (12) months following the completion of quarrying operations. Operations shall be deemed complete when the quarry licensee declares quarrying operations are terminated, when the licensee fails to renew the activity license prior to the anniversary of the original permit approval date from the Planning Board, or upon denial of a license renewal. Appeals of a license renewal denial shall suspend the closure and reclamation activity until twelve (12) months after resolution of the appeal, where the appeal is denied.

7. Phased Closure.
To the extent practicable, the area where quarrying operations has already occurred on the site shall be closed prior to the opening of any new on-site quarrying area, and reclamation procedures shall be carried out concurrently with

quarrying operations. Standard closure shall commence in accordance with the timeline and phasing approved by the Planning Board. Standard performance guarantee requirements apply, as required in Article 7 below.

E. Petroleum Usage

If any petroleum products or other materials with potential to contaminate groundwater are to be stored on the site, a Spill Prevention Control and Countermeasures (SPCC) Plan shall be submitted. A SPCC Plan shall be developed in accordance with DEP regulations, Section 5A of Chapter 378 Performance and Design Standards for the Storage of Petroleum Products (CMR 378), including providing information on spill response procedures to protect cracks and fissures in the bedrock surface from spills, and shall be submitted with the application and kept with the license in the Town's records.

F. Buffering and Screening

The owner or operator shall provide and/or maintain effective year-round visual screening of the quarry operations. In those areas where fully effective visual screening is not feasible, the owner or operator shall make every reasonable effort, through visual screening, to minimize the visual impact of quarry activities to the neighbors. The design for such visua*l* screening/buffering shall utilize existing land contours, artificially created berms, natural vegetation on site and plant material not presently on site, permanent fencing, walls, or other techniques. All of the above shall be supplied and maintained by the owner or operator. The activity, regardless of its size, must meet the natural buffer strip, protected and natural resource buffers, roads, and property boundary performance standards for quarries in Title 38 M.R.S. § 490-Z(4), (5), (6) and (7). The activity, regardless of its size, also must meet the significant wildlife habitat and other protected areas performance standards for quarries in Title 38 M.R.S. § 490-Z(1). The following provisions shall also apply:

1. Protected Natural Resources: Unless authorized pursuant to the Natural Resources Protection Act, Title 38, M.R.S., Section 480-C, no part of any quarrying operation, including drainage and runoff control features shall be permitted within two hundred fifty (250) feet, horizontal distance, of the normal high water line of a great pond, or within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. The Applicant must provide a sufficient benchmark on the property to indicate this setback.

2. Quarrying operations shall not be permitted within one hundred fifty (150) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property. Any portion of an existing operation which is located less than fifty feet from the property line shall not be located any closer than the existing location without written permission from the adjacent property owner.

3. All buffers must be preserved in their natural vegetative state as existed 6 months prior to submission of the application.

4. The Planning Board may require as a condition of approval that the applicant take specific actions to insure the long-term effectiveness of any buffers or buffer yards, including, but not limited to, the planting of trees and/or shrubs, placement of solid fences or creation of berms when the natural existing vegetation does not provide a sufficient visual screen. The design of any fences, walls, berms or other structural screening shall be submitted to the Planning Board as part of the application. The owner or operator shall maintain the buffers to ensure that they continue to function in an effective manner. Dead trees and shrubs that are intrinsic to the buffer yard shall be replaced within one (1) year after they have died.

5. The applicant may elect to increase the width of the natural buffer area in order to achieve an adequate visual screen.

6. The visual screening requirement for the buffers is not a complete visual barrier. The screening, to be adequate, must provide a substantial year round visual barrier so that the active extraction area is not clearly, or unobstructively, visible from an existing dwelling unit or public road

G. Road and Driveway Design, Circulation and Traffic

The activity, regardless of its size, must meet the traffic performance standards for quarries in Title 38 M.R.S. § 490-Z(10). The following provisions shall also apply:

1. Any new driveway or road shall conform to the standards set forth in the Town of Franklin Zoning Ordinance and in the Street Design and Construction Minimum Standards Ordinance, as applicable. Driveways or Access/egress roads leading to or from the quarry site to paved public ways shall be treated with suitable materials to reduce the production of dust and mud. The applicant shall include a choice of surface treatment in the permit application to the Planning Board.

2. The first two hundred (200) lineal feet from the intersection of the public road and the driveway or road leading to or from the quarry site to access/egress road along the access/egress road shall have a bituminous pavement surface, an alternate hard surface or crushed rock/stone surface to limit the tracking of unsuitable material onto the public road. The applicant shall include a choice of surface treatment in the permit application to the Planning Board.

3. The Planning Board upon the recommendation of the Select Board or their designee may require a paved apron to be constructed along the width of the intersection of the quarry road/driveway and the public road that extends into the quarry road a minimum of five feet.

H. Ground Water Impacts:

The activity, regardless of its size, must meet the groundwater protection performance standards for quarries in Title 38 M.R.S. § 490-Z(3). The following provisions shall also apply:

1. Water Supply Buffer:
   a) A three hundred (300) foot buffer must be maintained between the edge of footprint of operation and any currently in use pre-existing private drinking water supply that is point driven or is a dug well. This buffer requirement does not apply when the well belongs to the owner of the excavation site.

   b) A one hundred (100) foot buffer must be maintained between any active excavation area and any private drinking water well that is drilled into saturated bedrock and existed prior to the quarrying extraction activity.

   c) A one thousand (1,000) foot buffer must be maintained between the edge of the active extraction area and any well or spring which qualifies as a public drinking water supply that was in use prior to the effective date of this ordinance.

   d) The Planning Board may require larger buffers from water supplies if they find that a hazard is shown to exist due to the Quarrying Activity by a hydrogeologic study performed by a hydrogeologist licensed in the State of Maine. The hydrogeologic study will be paid for by the licensee if required by the Planning Board.

2. Excavation below the seasonal high-water table is prohibited.

3. The operator of a quarrying activity that affects a public drinking water source or a private drinking water supply by excavation activities causing contamination, interruption or diminution must restore or replace the affected water supply with an alternate source of water, adequate in quantity and quality for the purpose served by the supply. This paragraph is not intended to replace any independent action that a person whose water supply is affected by a quarrying activity may have.

4. Standards for Acceptable Ground Water Impacts.

   a) No quarrying activity shall increase any contaminant concentration in the ground water to more than one half of the Federal Primary Drinking Water Standards at the property boundary. No quarrying activity shall increase any contaminant concentration in the ground water to more than the Federal Secondary Drinking Water Standards at the property boundary. Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).

   b) If ground water contains contaminants in excess of the primary standards, and the activity is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated, if necessary.

I. Signs

Any signs must comply with the standards of other applicable ordinances.

J. Noise

The best practicable means of reducing noise shall be employed which may include the use of sound reduction equipment, acoustic enclosures or sheds, limiting on-site vehicle and mobile equipment speeds to no more than ten (10) mph, or other best industry practices for noise attenuation, to the extent permitted by state and federal laws and regulations. The activity, regardless of its size, must meet the noise performance standards for quarries in Title 38 M.R.S. § 490-Z(11).

K. Hours of Operation

The hours of operation for quarrying and material processing activities shall

(1) not be earlier than 7:00 AM and not later than 4:00 PM, Monday through Friday, and

(2) exclude all State and/or Federal Holidays.

Processed material may be hauled off site on Saturdays

(1) not earlier than 8:00 AM and not later than 5:00 PM and

(2) exclude all Federal Holidays.

The hours of operation shall not be revised, waived, or modified by the Planning Board. Nothing contained herein shall be deemed to prevent the emergency maintenance or repair of equipment.

L. Dust Control

Dust generated by activities at a quarry, including dust associated with traffic to and from a quarry, must be controlled by sweeping, paving, watering or other best management practices for control of fugitive emissions. Dust control methods may include calcium chloride as long as the manufacturer's labeling guidelines are followed. The activity, regardless of its size, also must meet the dust performance standards for quarries in Title 38 M.R.S. § 490-Z(12).

M. Blasting

For operations involving blasting, the owner or operator shall maintain records of the blasting operation, provide for supervision of the blasting activity by a person qualified, experienced, and regularly engaged in such work, and provide prior notice of the drilling and blasting activity:

(1) to the Town and,

(2) to all property owners within two thousand (2,000) feet of the blast site.

Blasting for quarrying activities shall follow industry Best Management Practices and procedures set forth in Title 38 M.R.S. § 490-Z. The activity, regardless of its size, also must meet the blasting performance standards for quarries in Title 38 M.R.S. § 490-Z(14). The activity also must not cause vibrations at any residential structure. Blasting shall be limited to between the hours of 9 am and 4 pm and only on days of operation as defined in 6.2(K).

N. Lighting

Lighting must be shielded away from adjacent roads, driveways, and residential areas. Lighting shall be in conformance with the standards set forth in the Town of Franklin Land Use Ordinance. The activity, regardless of its size, also must meet the lighting performance standards for quarries in Title 38 M.R.S. § 490-Z(15).

ARTICLE 7 – PERFORMANCE GUARANTEES

7.1 Types of Guarantees

With submittal of the application, the applicant shall provide one of the following performance guarantees for an amount adequate to cover the total costs of all required closure plans, plus a twenty five percent (25%) contingency, taking into account the time span of phasing for reclamation, or closure schedule and the inflation rate for costs:

A. Either a certified check payable to the Town or a savings account or certificate of deposit naming the Town as owner, for the establishment of an escrow account; or

B. An irrevocable letter of credit from a financial institution establishing funding for the construction or closure plans of the activity, from which the Town may draw if closure, reclamation, or construction is inadequate, approved by the Select Board;

C. The conditions and amount of the performance guarantee shall be determined by the Planning Board with the advice of a Licensed Professional Engineer, Code Enforcement Officer, Town Select Board, and Town Attorney at the cost of the applicant if applicable.

7.2 Contents of Guarantee

The performance guarantee shall contain a closure and reclamation schedule, cost estimates for each major phase of the closure and reclamation process taking into account inflation, provisions for inspections of each phase of closure and reclamation process, provisions for the release of part or all of the performance guarantee to the license holder, and a date after which the license holder will be in default and the Town shall have access to the funds to finish closure activities and/or reclamation.

7.3 Escrow Account

For any account opened by the license holder, the municipality shall be named as owner or co- owner, and the consent of the municipality shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the developer unless the municipality has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount returned to the developer and the amount withdrawn to complete the required improvements.

7.4 Letter of Credit

An irrevocable letter of credit from a bank or other lending institution shall indicate that funds have been set aside for the complete closure and reclamation of the activity site and may not be used for any other project or loan.

7.5 Phasing of Development

The Board may approve phased performance guarantees, when an activity is approved in separate and distinct phase development.

7.6 Performance Guarantee Review

Any proof of financial capacity shall be reviewed no later than sixty (60) days before the expiration of the guarantee, and adjusted if necessary. The applicant may also request adjustments in the guarantee.

7.7 Release of Guarantee

Prior to the release of any part of the performance guarantee, the Planning Board shall determine to its satisfaction, upon the report of a Licensed Professional Engineer and concurrence of the CEO and Select Board, that the closure and reclamation meets or exceeds the design requirements for that phase of the closure or portion of the reclamation for which the release is requested.

7.8 Default

If upon inspection, CEO or other inspecting official finds that any of the required closure activities or reclamation has not been performed in accordance with the approved plans and specifications, he/she shall so report in writing to the Municipal Officers, the Planning Board, and the license holder and guarantor. The license holder shall have thirty (30) days unless otherwise specified by the CEO, to remedy any insufficiency noted. Thereafter, Municipal Officers shall take any steps necessary to enforce the guarantee and remedy the insufficiencies.

7.9 Improvement Guarantees

Performance guarantees may be required for all offsite improvements required by this Ordinance, when the Planning Board finds that the scale of the improvements warrants.

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ARTICLE 8 – ENFORCEMENT AND INSPECTIONS

8.1 Closure and Reclamation Certification

Upon completion of the site closure, reclamation or a reclamation phase, the landowner/applicant shall, at his/her own expense, have a Licensed Professional Engineer provide to the CEO a written certification that the closure or reclamation is in compliance with the approved plans. The CEO shall report the findings to the Planning Board at the next regularly scheduled board meeting.

8.2 Annual Compliance Inspections

An annual compliance inspection shall be conducted by the CEO in the month of May. The CEO shall issue a Report of Inspection Compliance, provided he/she determines that the license holder has not deviated from the approved plan. If the CEO determines that the license holder has deviated from the approved plan, the CEO shall issue a Report of Inspection Non-compliance. An annual compliance inspection fee shall be as determined by the Select Board in the Town of Franklin fee schedule. Reports shall be provided to the Planning Board, the Select Board, and license holder.

8.3 Expiration of Approval

Activity licenses for new quarries shall expire three (3) years from the date of issuance unless the activity is started.

8.4 Renewal of License

All Quarrying Licenses shall be renewed annually by the CEO, prior to the original permit approval date from the Planning Board, provided that they are in compliance with their original approvals. Discontinued quarrying activities, not having been approved for Suspension of Operations (see below), require new permits to resume operations.

8.5 Suspension of Operations

At the request of the licensee to the Code Enforcement Officer, operations at the licensed quarry may be deemed suspended for a term of up to one year. Requests for Suspension of Operations shall be in writing. Annual renewal of the license is still required, as are annual compliance inspections. Requests for extensions of Suspension of Operations beyond the one year approved by the Code Enforcement Officer shall be to the Planning Board. Should a Five-Year Review required under Article 8.6 fall during a period of approved Suspension of Operations, that review will be suspended, but shall be required before resumption of quarrying operations. Operations under Suspension of Operations may be resumed, by approval of the CEO, at any time during the approved Suspension of Operations.

8.6 Five Year Review Process

Every five (5) years an approved Quarrying License requires a review and renewal by the Planning Board. If a Five-Year Review application is filed at least thirty (30) days before the annual renewal deadline, quarrying activities may continue under the existing license until the Planning Board review has been completed.

Upon receiving the review and renewal request, the Planning Board shall schedule a public hearing regarding the request. The applicant shall provide, at a minimum, an updated site plan prepared and stamped by a surveyor or engineer licensed in the State of Maine identifying the original footprint of the operation, the original active extraction area, the current active extraction area, any reclaimed areas, and any other changes to the site since the original approval. Additional data may be requested by the Planning Board as necessary to determine compliance with the standards of this ordinance

The Planning Board may, as part of the renewal process, impose new conditions on the license or modify the license in any way necessary to assure compliance with the license being reviewed and the Ordinance as it is in effect at the time of renewal. If there has been a history of significant non- compliance, the Planning Board may deny the request for license renewal. A quarrying activity cannot be expanded beyond its original license area as part of the five (5) year review process. Any expansion not allowed in the initial application must be processed as a separate application under the ordinance in effect at the time of expansion application.

8.7 Violations

A. No quarrying plan shall be recorded in the Registry of Deeds until a Site Plan has been approved and signed by the Planning Board in accordance with this Ordinance.

B. No person, corporation or other legal entity may sell or offer to sell any materials in a Quarry site for which a Site Plan has not been approved by the Planning Board and recorded in the Registry of Deeds.

C. No public utility shall serve any quarry activity site for which a Site Plan has not been approved by the Planning Board in accordance with this Ordinance and recorded in the Registry of Deeds.

D. After public notice of intent to file a new, renewal, amendment, or transfer application, no development of the infrastructure of a quarry site may begin until Site Plan approval by the Planning Board in accordance with this Ordinance and recording in the Registry of Deeds. Development includes the grading and construction of roads, utility installations, and construction of buildings or structures.

E. The Code Enforcement Officer may, after notice and hearing, withhold approval or revoke any previous approvals given to any applicant, owner or operator who is found in violation of this ordinance, until the violations are corrected.

F. Any operation that is in violation of other approvals (such as DEP Intent to Comply or DEP permits) covering the same operation shall be deemed in violation of approvals granted under this ordinance.

8.8 Quarrying Plan Amendments After Approval

No changes, erasures, or modifications shall be made in a Site Plan after approval has been given by the Planning Board unless the plan is first resubmitted and the Planning Board approves any modifications. The applicant is not required to go through the complete review process of an amendment to an existing activity unless, in the judgment of the Planning Board, the amendment substantially alters the original activity, or unless the change constitutes a new activity. If an amended Site Plan is recorded without complying with this requirement, it shall be null and void. The Planning Board may record a revocation of a previous recorded document in the Registry of Deeds.

8.9 Enforcement

A. The Code Enforcement Officer (CEO) of the Town of Franklin, Maine, shall enforce this Ordinance and is authorized to institute legal proceedings with the approval of the Town's Select Board to enjoin violations of this Ordinance. In the absence of a CEO, enforcement actions fall to the Select Board of the Town of Franklin.

B. If the Code Enforcement Officer finds violation of any provision of this ordinance or failure to comply with any order, permit, approval, condition or other final decision or action of the Planning Board, the Town may initiate immediate injunction proceedings to abate or correct such violations. Upon finding such violation, the CEO shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. The CEO shall order discontinuance of illegal use of land, buildings or structures, removal of illegal buildings, structures additions or work being done, or abatement of nuisance conditions or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions. A copy of such notification shall be submitted to the municipal officers and be maintained as a permanent record.

C. In any action to enforce any provision of this Ordinance where the Town of Franklin, Maine is the prevailing party, the Town shall be awarded reasonable attorney fees, expert witness fees, and costs unless the court finds that special circumstances make the award of these fees and costs unjust. If the defendant is the prevailing party, the defendant may be awarded reasonable attorney fees, expert witness fees, and costs as provided by court rule.

8.10 Penalties

A. Any person, firm, or corporation, being the owner or having control or use of any activity in violation of any of the provisions of this Ordinance or terms or conditions of any order, permit or approval or final decision of the Planning Board shall be subject to a civil penalty due and payable to the Town of Franklin, Maine in accordance with 30-A M.R.S. § 4452.

B. Payment of any penalty shall be made in cash or by certified check drawn on a recognized financial institution, made payable to the Town of Franklin, Maine in an amount equal to the full amount of the penalty unless otherwise determined by order of the court.

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ARTICLE 9 – AMENDMENTS OF THIS ORDINANCE

9.1 Initiation of Amendment

An amendment to this Ordinance may be initiated by:

A. The Planning Board on their own initiative, provided that a majority of the Board has so voted; or

B. Request of the Select Board to the Planning Board; or

C. Written petition to the Select Board bearing signatures of registered voters of the Town of Franklin, Maine numbering at least ten percent (10%) of the number who voted in the last gubernatorial election.

9.2 Adoption of Amendment

All proposed amendments to this Ordinance shall be referred to the Planning Board for their recommendation. After receiving the recommendation of the Planning Board and approval by the Select Board, the amendment shall be voted on by the voters of the Town of Franklin, Maine at a Town Meeting,

1) By a majority vote of the governing body if the proposed amendment is recommended by a majority vote of the Planning Board or,
2) By two-thirds (2/3) majority vote of the governing body if the proposed amendment is not recommended by the Planning Board.

In either case, the Planning Board shall hold a public hearing at least thirty (30) days prior to the meeting of the governing body. Notice of the hearing shall be posted in the Town Office at least thirteen (13) days in advance of the Public Hearing. The notice shall be published at least two (2) times in a newspaper that complies with Title 1, section 601 and that has a general circulation in the municipality. The date of the first publication shall be at least twelve (12) days before the hearing, and the date of the second publication must be at least seven (7) days before the hearing.

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ARTICLE 10 – OTHER PROVISIONS

10.1 Adjoining Quarrying Activities Under Common Scheme of Development

Adjoining activity under common scheme of development separated by less than five (500) feet of unaffected land shall be required to fulfill all the requirements as established in this ordinance for the total size of the extraction area, including the adjoining site. The CEO shall have the right of entry onto any activity site at reasonable times and with reasonable notice.

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ARTICLE 11 – DEFINITIONS AND REFERENCES

For the purposes of this Ordinance, the following terms, words, and phrases shall have the meanings given herein. All words not defined herein shall carry their customary and usual meanings. Words used in the present tense shall include the future tense. Words used in the singular shall include the plural. Where so indicated by the text, these definitions also include substantive regulations. Where reference is made to Town or State laws, ordinances, or regulations, each reference to a particular law, regulation, or section shall include all amendments and successor sections. Where there is a conflict between the language contained in this ordinance and any other town ordinances, including the Zoning Ordinance, or any Maine state laws or regulations or references thereto herein, the stricter language shall apply for purposes of this ordinance. Where incorporated State laws allow for a variance from their requirements, the Planning Board may grant a variance only if it concludes that the applicant satisfies the applicable State law variance criteria.

11.1 References to the Town

All references in this ordinance to "town," "the Town of Franklin," and to any board, official or officer, unless clearly defined otherwise, shall be construed to be references to The Town of Franklin, Maine, an incorporated municipality in the County of Hancock, State of Maine and its municipal boards, officials, and officers.

11.2 References to Other Documents

All references in this Ordinance to any document, chapter, handbook, or other external reference, shall be construed to be references to said documents and their successor documents, as they may be amended or replaced from time to time.

11.3 Definitions

Abutting Property. Any lot which is physically contiguous with the subject lot even if only at a point and any lot which is located directly across a street or right-of-way from the subject lot such that the extension of the side lot lines of the subject lot would touch or enclose the abutting property.

Active Extraction Area. The quarry itself, the actual hole in the ground, including side slopes and adjoining areas with overburden removed, excluding roads, structures, stockpiles, etc., which is being worked to produce stone and/or that is yet to be reclaimed.

Average Daily Traffic (ADT). The average number of vehicles per day that enter and exit a premises or travel over a specific section of road.

Bedrock. The solid rock that underlies loose material, such as soil, sand, clay, or gravel.

Blasting. The use of explosives to break up or otherwise aid in the extraction or removal of rock or other consolidated natural formation.

Blasting Plan. A required written outline of all procedures and policies regarding blasting where such activity is proposed to be used.

Borrow Pit. A development undertaken for the primary purpose of excavating sand, gravel or fill. This does not include any excavation for rock or clay.

Buffer. A natural, undisturbed area or belt of land that contains vegetation. A buffer area may be larger than specified in this ordinance. Includes, but is not limited to, earthen berms planted with vegetation.

Buffer Yard. An area that contains a belt of natural vertical vegetation tall enough and thick enough to visually screen the proposed activities from the adjacent area.

Building. A roofed structure.

CEO. Code Enforcement Officer.

Coastal Wetland. All tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Oceanic and Atmospheric Administration. Coastal wetlands may include portions of coastal sand dunes.

Common Scheme of Development. The process whereby contiguous parcels with existing or proposed quarrying operations where the applicant or property owner has at least a thirty percent (30%) share in ownership or where quarrying operations owned by a relative (as defined herein) are reviewed as a single license application.

Compliance Inspection. An examination by the code enforcement officer done on a recurring basis to check for compliance of the operations with the conditions and requirements of the license.

Constructed. Includes built, erected, altered, reconstructed, moved upon, or any physical operations on the premises, which are required for construction. Excavation, fill, drainage, and the like, shall be considered a part of construction.

Deemed Complete. Deemed Complete shall mean that the quarry activity sufficiently meets the site plan final grade requirements outlined in the permit or license issued by the planning board.

Development. A change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

Driveway. A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, serving not more than two lots.

Dwelling Unit. A room or group of rooms designed and equipped exclusively for use as living quarters for only one family, including provisions for living, sleeping, cooking, and eating. The term shall include mobile homes, but shall not include trailers or recreational vehicles.

Emergency Maintenance. Maintenance operations conducted to address an imminent threat to public health, safety, or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property, and livestock from the threat of destruction or injury.

Environmentally Sensitive Areas. Wetlands, swamps, wildlife habitat areas delineated by the Department of Inland Fisheries and Wildlife (IF&W), prime agricultural areas, areas with steep slopes, areas with poorly drained soils, and flood plain areas (subject to a 100-year flood). Also to include protected natural resources. Environmentally sensitive areas shall specifically include all areas within the resource protection district, as defined in the Town of Franklin Zoning Ordinance.

Expansion. Operation that exceeds the approved footprint of the activity.

Fence/Wall, Solid. Any fence or wall in which the individual solid portions visually exceed the open portions. The individual solid portions shall not exceed twelve (12) inches in width.

Flood Plain (Floodplain). The lands adjacent to a body of water which have been or may be covered by a regional flood.

Footprint of Operation. The uppermost and outermost continuous edge, or rim, or outline (drawn on a plan and physically staked on the ground), around the approved "active extraction area(s)", "unreclaimed area(s)", and "stockpile(s)", and all land upon which stumps, spoil, or other solid waste will be or have been deposited; and any storage area that will be or has been used in connection with the development, except a natural buffer strip. The footprint of operation shall be the footprint so identified on a site plan approved by the Planning Board.

Forested Wetland. A freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

Foundation. The supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frost walls, or other base consisting of concrete, block, brick, or similar material.

Freshwater Wetland. Freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

1. Of ten (10) or more contiguous acres; or of less than ten (10) contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of ten (10) acres; and

2. Inundated or saturated by surface or ground water at a frequency and for duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

Guarantee. An irrevocable letter of credit issued by a financial institution, an escrow account, or a performance bond.

Gravel Pit. A mining operation undertaken primarily to extract and remove sand, fill, or gravel.

Great Pond. Any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except, for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

Groundwater. The water beneath the surface of the ground, consisting largely of surface water that has seeped down; the source of water in springs and wells.

Edge of Footprint. The outermost boundary of the "footprint of operation".

High Water, High-Water. See Normal High-Water Line.

Inactive. Quarrying that has ceased for twelve (12) consecutive months prior to the passage of this ordinance, in any areas where quarrying activity had previously occurred.

Lot (Tract). A parcel of land described on a deed, plot, or similar legal document, and all contiguous land within the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate parcel or tract of land unless such road was established by the owner of land on both sides of the road thereof after September 22, 1971.

M.R.S. (Maine Revised Statutes). Maine State Law.

Neighbor. For the purposes of this Ordinance, any lot within two thousand (2,000) feet distance from any boundary of a proposed or licensed quarrying operation.

Noise Attenuation. A reduction in the level of a noise source using substances, materials, or surfaces, such as an earthen berm and/or dense wall.

Non-Mechanized Process Screening. Screening of material which does not utilize electrical, pneumatic, hydraulic, or internal combustion engine power for the screening process. For example, an inclined type screen where gravity provides the force separating the product by size.

Normal High-Water (High Water) Line (Non-Tidal Waters). That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with great ponds that support non-forested

wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the great pond during the period of normal high-water are considered part of the great pond.

Overburden. The material (soil, rock, etc.) which overlies good stone in a quarry. Overburden does not include the material that remains after economically valuable stone has been extracted.

Phasing of Development. A plan of completion of the activity in separate and distinct sequences that have a complete beginning and ending for predetermined areas. In the context of this ordinance, all phases must be structured so that they stand on their own, shall be inspected for completeness at the end of each phase and have reclamation of that area completed at the end of each phase.

Pit. The active extraction area.

Process Screening. Sorting, separating and/or grading quarried material by size using machinery or equipment powered by internal combustion, hydraulics, pneumatics or electrical power. Mobile equipment not directly connected to the screen are not considered a power source.

Processing. Any washing, crushing, or similar processing of on-site material that does not inherently change the nature of the product.

Projections of Ground Water Quality. An analysis of the potential changes to existing groundwater quality by examining the processes, chemical by-products, and outflow of a proposed operation.

Property (Premises). A lot together with any structures and other physical facilities which are located on it.

Protected Natural Resource. Wetlands, Great Ponds, significant wildlife habitat, fragile mountain areas, freshwater wetlands, bogs, marsh, rivers, streams, or brooks, as these terms are defined in applicable Town Ordinance or state law.

Quarry. A place where rock or large stone is separated from the bedrock. The term does not include gravel pits or borrow pits.

Quarrying. The act of separation of rock or large stone from the bedrock.

Reclaimed Area. Land within the footprint of operation that has already been reclaimed.

Reclamation. The rehabilitation of the area of land affected by quarrying, including, but not limited to the stabilization of slopes and creation of safety benches, the planting of forests, the seeding of grasses, legumes, or crops for harvest, or the enhancement of wildlife and aquatic resources, and/or the development of the site for permitted residential, commercial, or recreational uses.

Reclamation Plan. A plan which depicts how the project area will be reclaimed after excavation is complete. Such a plan shall include final grading and re-vegetation plans and conceptual redevelopment plans, if any, of any given phase.

Relative. Relative means a spouse, parent, grandparent, brother, sister, child, aunt, uncle, cousin, domestic co-habitant, or grandchild related by blood, marriage, or adoption, or other individuals where the intent is to circumvent the ordinance.

Road. A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a driveway as defined.

Rock. A hard nonmetallic material that requires cutting, blasting, or similar methods of forced extraction.

Setback. The horizontal distance measured in a straight line from any property line, shoreline, road (or edge of legally established right-of-way if no road exists) abutting a lot or property to the nearest part of a structure or other regulated object or area. Setback shall apply to all sides of a lot having shore frontage or road frontage, unless stated otherwise within this Ordinance. For the purpose of setback requirements, fences, walls, signs, roads, parking areas & driveways shall not be considered structures, except that walls, roads, parking areas, and driveways must meet shoreline setbacks. Where the setback is from a private right-of-way, the setback shall be equal to the property line setback requirements of the district in which the property is located.

Shoreland Zone. The land area located within two hundred fifty (250) feet, horizontal distance, of the normal high-water line of any great pond; within two hundred fifty (250) feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; within two hundred fifty (250) feet of the upland edge of a freshwater wetland; or within seventy five (75) feet, horizontal distance, of the normal high-water line of a stream. The Shoreland Zone, as defined in the preceding sentence, shall also include the area of any lot up to where the zone designation changes as indicated on the Zoning Map.

Stockpile(s). Area(s) where either man-made or natural materials are being piled up temporarily, either undercover or exposed to the elements, for future processing. These piles are only for materials that are necessary for quarrying activities and associated uses which have been approved by the Planning Board.

Street. See Road.

Stream. A free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5-minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water flows to another water body or wetland within the shoreland area.

Suspension of Operations. Quarrying, processing and transport of product at a licensed quarry are suspended for up to one (1) year increments by approval of the CEO and/or Planning board.

Topsoil. The top layer of soil that is predominantly fertile and ordinarily moved in tillage or the equivalent of such a layer in uncultivated soils.

Tributary Stream. A channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.

Unreclaimed Area. Land within the footprint of operations of the quarry that has been excavated or mined and has not been reclaimed.

Upland Edge of a Wetland. The boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the highest annual tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but where such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) feet) tall or taller.

Vegetation. All live trees, shrubs, and other plants including, without limitation, trees both over and under four (4) inches in diameter, measured at four and one half (4 ½) feet above ground level.

Visual Screening.

1) A method of visually shielding or buffering one abutting or nearby structure or use from another by fencing, berms, walls, or densely planted vegetation; or
2) removal of relatively course floating and or suspended solids by straining through racks or screens.

Water Body. Any great pond, or stream.

Water Table. The upper surface of groundwater, or that level below which the soil is seasonally saturated with water.

Wetland. A freshwater or coastal wetland.

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Appendix – Warrant Articles

Annual Town Meeting – March xx, 20xx

Article # xx – "To see if the Town ……..."

Motioned to accept the article as written. Motion Passed.

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