

PROPOSED AMENDMENTS TO THE ZONING ORDINANCE RELATIVE TO MINERAL EXTRACTIVE INDUSTRY

~~Shaded Strike through~~ indicates wording removed

Shaded Underline indicates wording added

Asterisks (* * * *) indicates existing wording omitted before or after

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5.9.2 Mineral Extractive Industry:

a) **Permit Required:** Topsoil, rock, ledge, sand, gravel, and similar earth materials may be removed from locations where permitted, only after a Conditional Use Permit for such operations has been issued by the Planning Board in accordance with the provisions of this Ordinance.

1) Exception: the removal or transfer of less than one thousand (1000) cubic yards of material from or onto any lot in any twelve (12) month period, (as permitted in the Land Use Chart).

b) **Earth Moving Not requiring a Conditional Use Permit:** The following earth moving activity shall be allowed without a Conditional Use Permit from the Planning Board:

1) The removal or transfer of material incidental to construction, alteration, or repair of a building, or in the grading and landscaping incidental thereto.

2) The removal or transfer of material incidental to construction, alteration, or repair of a public or private way or essential service.

3) Agricultural tillage.

NOTE: All other earth moving, processing, and storage shall require a Conditional Use Permit from the Planning Board.

c) **Submission Requirements:**

1) Applications to the Planning Board for a Conditional Use Permit for the excavation, screening, or storage of soil (including topsoil), peat, loam, sand, gravel, rock, or other mineral deposits, shall be accompanied by eight (8) copies of a plan prepared by a professional Land Surveyor, Registered Engineer or Certified Geologist, according to Planning Board specification, performance standards herein, in compliance with applicable State laws, and accompanied by all required State permits or licenses.

2) The applicant shall submit evidence of right, title or interest in the property, to include the name and address of the owner(s) of the property involved and the York County Registry of Deeds Book and Page number for the property to the Planning Board plans of the proposed extraction site, showing the property lines and names of abutting owners and ways, indicating by not greater than five (5) foot contour intervals, related to U.S. Geodetic Survey data; the location and slope of the grades existing and as proposed upon completion of the extraction operation; detailing proposed fencing, buffer strips, signs, lighting, parking and loading areas, Buildings

permanent and temporary, entrances and exits together with a written statement of the restoration of the site upon completion of the operation.

3) The proposed maximum extent of excavation. Excavations 5 acres or larger in size must include the Maine Department of Environmental Protection Gravel Pit Identification Number.

4) Existing and proposed surface water runoff including all drainage ways.

5) At least one monitoring well will be required per 5-acre within the extraction areas.

6) Operational Plans will include:

1. Access roads construction and maintenance
2. Description of operations, processing, and removal methodology
3. Erosion and Sedimentation Control
4. Reclamation Plan

7) A letter from the Acton Fire Department stating that they will be able to provide emergency services to the property.

8) The following submission requirements apply to applications for Mineral Extractive Industry:

a) Written documentation from the Maine Historic Preservation Commission (MHPC) regarding any known or likely historic, prehistoric, or archaeological resources located in or on the subject property.

b) Written documentation from the Maine Natural Areas Program (MNAP) regarding the presence of rare or exemplary natural communities located on the subject property.

c) Written documentation from the Maine Department of Inland Fisheries and Wildlife (MDIFW) regarding known locations of rare, endangered or threatened species and habitats.

d. Entrance Permit from the Department of Transportation if required.

9) Any applicable Maine Department of Environmental Protection permit(s)

d) Performance Standards: No part of any extraction operation, including drainage and runoff control features, shall be permitted within the Shoreland or Resource Protection Districts.

1) No part of any extraction operation shall be permitted within one hundred (100) feet of any property or street line, except the drainage ways to reduce run-off into or from the extraction area may be allowed up to fifty (50) feet of such line. Natural vegetation shall be left and maintained on the undisturbed land.

2) If any standing water accumulates, the site must be fenced in a manner adequate to keep children out. Measures shall be taken to prevent or halt the breeding of harmful insects.

3) Before commencing removal of any earth materials, the owner or operator of the extraction site shall present evidence to the Planning Board of adequate insurance against liability arising from the proposed extraction operations, and such insurance shall be maintained throughout the period of operation. The insurance company must be licensed by the State of Maine as qualified to provide such insurance.

- 4) Topsoil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources, if necessary, to complete the stabilization project. Any topsoil and subsoil suitable for purposes of vegetation shall, to the extent required for restoration, be stripped from the location of extraction operations and stockpiled for use in restoring the location after extraction operations have ceased. Such stockpiles shall be protected from erosion.
- 5) The hours of operation at any extraction site shall be limited as the Planning Board deems advisable to ensure operational compatibility with residents of the Town. There shall be no crushing or screening on Saturdays and Sundays from Memorial Day to Labor Day nor on the 4th of July.
- 6) All access-egress roads leading to and from the extraction site to public ways shall be treated with suitable materials to reduce dust and mud for a distance of at least one hundred (100) feet from such public ways. The applicant shall employ the Maine Department of Environmental Protection Best Management Practices for the Control of Fugitive Emissions (Dust) as approved by the Planning Board. A plan shall be in place to adequately remove any mud or debris from the extraction site which accumulates on any public or private roads.
- 7) No equipment debris, junk, or other material shall be permitted on an extraction site except those directly related to active extraction operations, and any temporary shelters or temporary building erected for operations and equipment used in connection therewith shall be removed within thirty (30) days following completion of active extraction operations.
- 8) Within twelve (12) months of the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of material are removed in any consecutive twelve (12) month period, on any one or more locations within any extraction site, ground levels and grades shall be established in accordance with the following:
- a) All debris, stumps, boulders, and similar materials shall be removed for disposal in an approved location or shall be buried on site. Only materials generated on-site may be buried on-site.
 - b) Storm drainage and water courses shall leave the location at the original natural drainage points and in a manner such that the amount of drainage at any point is not significantly increased.
 - c) The final graded slope shall be two and one-half (2.5) to one (1) slope or flatter.
 - d) In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.
- 9) Natural vegetation shall be retained within 100-feet of the property line or street line. The Planning Board may require the applicant to provide screening, a berm, or a combination where the natural buffer is inadequate. A 25 foot natural buffer will be maintained from any wetlands of ¼ acre to 2 acres, as determined by a credentialed professional.

10) The applicant shall submit an erosion and sedimentation control plan using best management practices for erosion and sedimentation control as approved by the Planning Board to ensure that sediment does not leave the property or enter natural resource(s).

11) At least one monitoring well on each 5 acres of unreclaimed land to demonstrate the depth from excavation to the seasonal high-water table. Monitoring wells shall be checked annually by a Professional Licensed Surveyor, Registered Engineer or Certified Geologist between April 1st and May 31st and a report shall be submitted to the Code Enforcement Office stating distance between the excavation and water table.

12) A stormwater management plan shall be submitted to and approved by the Department of Environment Protection for all operational areas of the site that are not internally drained.

13) Biannually within one month of the anniversary date of the approval of Conditional Use, the owner/operator must send the Code Enforcement Office a letter detailing the amount of open acreage. The letter will be based on a licensed surveyor, GPS programing or equivalent technology.

e. Permit Approval:

1) All plans and supporting material shall be submitted to the Planning Board for their consideration with respect to the effect of the proposed operation upon existing and foreseeable traffic patterns within the Town, upon existing or approved land uses which may be affected by the operation and implementation of comprehensive plan policies. The Planning Board may obtain the technical assistance of the Soil Conservation Service, Regional Planning Commission, Department of Environmental Protection, or a consulting engineer in the review of the plans, at the expense of the applicant.

2) The Planning Board shall hold a public hearing on the application. The Planning Board shall make findings of fact and render a written decision specifying whether, and under what conditions, the proposed operation shall be permitted. The Planning Board shall require filing with the Town Treasurer a commercial surety bond, a certified check, or a savings account passbook payable to the Town of Acton in such amount, and upon such conditions, as the Planning Board may determine to be adequate to indemnify the Town against any claims arising from the proposed operation and to assure satisfactory performance of all conditions imposed or otherwise applicable.

3) Permits granted under this section shall expire after two (2) years unless the applicant meets the following conditions:

a. In the calendar year after the permit is granted and every three years thereafter, the owner/operator shall schedule an inspection with the Town Code Enforcement Officer between April 1 and November 1.

b. Within thirty (30) days of the inspection, the Town Code Enforcement Officer shall notify the owner/operator in writing of the inspection results including any violations and required remedial actions.

c. Failure to comply with the remedial actions required by the Code Enforcement Officer's report within ninety (90) days from the date thereof, will result in a Stop Work Order until the remedial actions have been completed including payment of all fees and penalties. If the owner/operator does not comply within (1) year of the date of the Code

Enforcement Officer's report, the Conditional Use Permit may be revoked or modified after review by the Planning Board.

d. Nothing in this section shall be construed to limit inspections by the Town Code Enforcement Officer as necessary to ensure compliance.

4) Existing Operation: Any operation involving excavation, processing or storage of soil, earth, loam, gravel, rock or other mineral deposits in lawful operation at the time this ordinance becomes effective may continue to operate. Such existing approved operations will schedule within one year of the effective date of this ordinance and every three years thereafter the inspection outlined above with the Code Office.

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Approved by the Acton Planning Board on 3/9/2023