

## 12.I Extractive Industry

The purpose of this section is to regulate the removal, processing and storage of topsoil and/or loam, rock, sand, gravel and other similar natural assets within the boundaries of Limington. These regulations are specifically intended to protect the quality of the groundwater and other water bodies, to prevent the lowering of the water table, to control erosion, and to provide for the health and safety of the public through appropriate management and utilization of these natural resources

It is also the intent of these regulations to require the rehabilitation of expansion and new excavation operations so that the new excavations are reclaimed to a condition which is suitable and amenable to best practice land management and shall not detract from the appearance or value of nearby property.

### 12.I.1 Permit Not Required

The following activity shall be allowed without a Conditional Use Permit from the Planning Board:

- 12.I.1.A The removal or transfer of less than one hundred (100) cubic yards of material from or onto any lot in any twelve (12) month period.
- 12.I.1.B The removal or transfer of material incidental to construction, alteration or repair of a building for which a permit has been issued or in the grading and landscaping incidental thereto, and
- 12.I.1.C The removal or transfer of material incidental to construction, alteration or repair of a public or private way or essential service.

### 12.I.2 Permit Required

- 12.I.2.A Unless exempted above, topsoil, rock, sand, gravel and similar earth materials may be removed from locations where permitted under the terms of this Ordinance only after a Conditional Use Permit for such operations has been issued by the Planning Board. All other extractions, processing and storage shall require a permit. See the Land Use Table for permitting authority.
- 12.I.2.B The removal or transfer of one hundred (100) cubic yards to five hundred (500) cubic yards of material from or onto any lot in any twelve (12) month period in permitted areas requires a permit. See Land Use Table for permitting authority.

### 12.I.3 Submission Requirements

- 12.I.3.A Applications to the Planning Board for a Conditional Use Permit for the excavation, screening, crushing, or storage of soil (including topsoil), peat, loam, sand, gravel, rock or other mineral deposits shall be accompanied by a plan prepared according to the performance standards herein, in compliance with applicable State laws and accompanied by all required State permits and licenses.

Existing operations which have not yet received a Planning Board permit pursuant to the Gravel Pit Ordinance of Limington, now superseded by this Ordinance, have sixty (60) days from the effective date of this Ordinance to apply to the Planning Board for a permit.

The submission requirements and the approval standards shall be the same as for new operations, provided however, the Planning Board may grant a waiver from such standards where necessary to avoid undue hardship, so long as any such waiver does not

jeopardize the health, safety, and welfare of the community as otherwise provided in the Ordinance.

12.I.3.B The applicant shall submit a site plan, drawn by an engineer to a scale of one (1) inch equals sixty (60) feet plans of the proposed extraction site showing the property lines and names of abutting owners and ways, indicating not greater than five (5) foot contour intervals, relating to the U.S. Geodetic Survey date.

12.I.3.B.1 The location and slope of the grades, existing and as proposed upon completion of the extraction operation; and

12.I.3.B.2 The site plan must also include the following information:

A. ~~Fencing~~ Boundaries of proposed areas for excavation.

B. ~~Buffer strips~~ Present use of the entire parcel, including existing excavated areas.

C. ~~Signs~~ Present use of adjacent properties.

D. ~~Lighting~~ Type and location of all existing and proposed surface water, including drainageways.

E. ~~Parking and landing areas~~ Location of all proposed access and egress roads, temporary and permanent structures and parking areas.

F. ~~Entrances and exits~~ Location and proximity of all great ponds, rivers, streams and wetlands with two hundred and fifty (250) feet of the proposed activity.

G. ~~A written statement of the proposed method, regularity, working hours, and~~ The location of existing wells, streams and contours within the parcel and beyond the border of the parcel for two hundred (200) feet.

H. ~~Proposed rehabilitation and restoration of the site upon completion of the operation.~~ The depth of seasonal highwater table at the site of the proposed excavation as determined by at least one test pit(s) to substantiate that the groundwater will not be disturbed, such test pits may not occur with five (5) feet of the seasonal highwater.

I. The location of all proposed OHM (oil and hazardous materials) storage areas. OHMs shall be located on impervious surfaces and shall be stored in accordance with Maine DEP standards.

J. Plans for controlling access to the site. A solid gate with a Knox box shall be located at the main entrance.

K. Fencing (type, height, length) and stated purpose.

L. Signs and proposed lighting.

M. Buffer strips/areas for shielding the excavation from surrounding properties and for protecting wetlands, ponds, streams, rivers, and lakes are required. There shall be a one hundred (100) foot buffer

strip from a road and fifty (50) foot buffer strip from a property line. Existing vegetation within a natural buffer strip may not be removed. The Planning Board may require that trees be planted for a visual buffer between the project and adjacent properties if a natural buffer does not exist. A natural uncut buffer must be preserved.

N. A standard boundary survey of the property lines

O. Names and addresses of owners of abutting properties.

P. Existing elevations a not greater than five (5) foot contour intervals as well as the location and slope of the grades proposed upon completion of the extraction operation.

Q. Proposed fencing, buffer strips, signs and lighting.

R. Parking and loading areas, entrances and exits.

S. A written statement of the proposed method, regularity, working hours.

T. Proposed plans and specifications for the reclamation and restoration of the site upon completion of the operation.

12.I.3.C ~~The Planning Board may require the additional submission of~~ A hydrogeologic study is required by the DEP if an owner applies from a variance to excavate below the seasonal high water table under Chapter 378. Additionally, an estimate of the elevation of the seasonal highwater table within the excavation site is required.

12.I.3.D Plans for the proposed extraction site shall include:

12.I.3.D.1 A standard boundary survey of the property lines.

12.I.3.D.2 Names and addresses of owners of abutting properties.

12.I.3.D.3 Existing elevations at not greater than five (5) foot contour intervals as well as the location and slope of the grades proposed upon completion of the extraction operation.

12.I.3.D.4 Proposed fencing, buffer strips, signs and lighting.

12.I.3.D.5 Parking and loading areas, entrances and exists.

12.I.3.D.6 A written statement of the proposed method, regularity, working hours.

12.I.3.D.7 Proposed plans and specifications for the rehabilitation and restoration of the site upon completion of the operation.

#### 12.I.4 Reclamation Plan

A proposed plan and specifications for the reclamation and restoration of the site upon completion of the operation is required.

12.I.4.1 A separate reclamation and restoration site plan and written narrative to include seeding, planting, final grading, shaping and surface stabilization plans, showing contours (five (5) foot intervals) of the site upon completion of the operation. Such plans must be designed by a licensed professional civil engineer. The plan shall provide for drainage, erosion and sedimentation control and cost estimate.

The area of the working pit may not exceed ten (10) acres. Before any subsequent excavation can occur, restoration and reclamation of the denuded site must be completed and inspected by the CEO of Limington. The reclamation may exclude access roads.

See 12.I.5.P

## 12.I.5 Performance Standards

All activity shall adhere to best management practices.

12.I.5.A No part of any extraction operation shall be permitted within one hundred and fifty (150) feet of any property or street line, or three hundred (300) feet from a dwelling unit, except that drainage ways to reduce run-off into or from the extraction area may be allowed up to one hundred (100) feet of such line. Natural vegetation shall be left and maintained on the undisturbed land.

12.I.5.B If any standing water accumulates, the site shall be fenced in a manner adequate to keep children out. Measure shall be taken to prevent or halt the breeding of insects.

12.I.5.C No slopes steeper than three (3) feet horizontal to one (1) foot vertical shall be permitted at any extraction site unless a fence at least six (6) feet is erected to limit access to such locations.

12.I.5.D Before commencing removal of any earth materials, the owner or operator of the extraction site shall present evidence to the ~~Planning Board~~ CEO of adequate insurance with a company licensed to do business in the State of Maine, in an amount not less than \$1,000,000 against liability arising from the proposed extraction operations, and such insurance shall be maintained throughout the period of operation. Proof of liability insurance shall be submitted to the CEO annually.

12.I.5.E Any topsoil and subsoil suitable for purposes of re-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 according to ~~the Department of Environmental Protection's publication "Maine Erosion and Sediment Control Best Management Practices Manual for Designers and Engineers" October, 2016 or most recent guidelines.~~ erosion prevention performance standards of this section.

12.I.5.F Sediment shall be trapped by diversions, silting basins, terraces and other measures designed by a professional engineer.

12.I.5.G All sites must be internally drained. The sides and bottom of cuts and fills shall be constructed and stabilized to prevent erosion or failure. Such structures are to be designed and built according to ~~the Maine Soil and Water Conservation Commission, Technical Guide, Standards and Specification~~ the Department of Environmental Protection's publication "Maine Erosion and Sediment Control Best Management Practices Manual for Designers and Engineers" October, 2016 or most recent guidelines.

12.I.5.H Lagooning shall be conducted in such a manner as to avoid creation of fish trap conditions. The applicant shall submit written approval from the Maine Department of Marine Resources, the Department of Environmental Protection, and/or the Department of Inland Fisheries and Wildlife, as applicable, prior to consideration by the Planning Board.

12.I.5.I The hours of operation at any extraction site shall be limited as the Planning Board deems advisable to ensure operational compatibility with nearby residences.

12.I.5.J Loaded vehicles shall be suitably covered to prevent dust and contents from spilling or blowing from the load, and all trucking routes and methods shall be subject to approval by the **Public Works Director** ~~Road Commissioner~~. No mud, soil, sand, or other materials shall be allowed to accumulate on a public road from loading or hauling vehicles.

12.I.5.K All access/egress roads leading to or from the extraction site to public ways shall be paved the first **one hundred (100) feet and surfaced with reclaimed asphalt the next two hundred (200) feet.** ~~treated with suitable materials to reduce dust and mud for a distance of at least three hundred (300) feet from such public ways.~~

12.I.5.L No equipment debris, junk or other materials shall be permitted on an extraction site. Any temporary shelters or buildings erected for such operations and equipment used in connection herewith shall be removed within thirty (30) days following the completion of active extraction operations.

**12.I.5.M The following setbacks must be maintained between the excavation and any water supply in existence prior to the excavation:**

12.I.5.M.1 Dug well or point driven well 200 feet

12.I.5.M.2 Well drilled into saturated bedrock 100 feet

**12.I.5.N Refueling operation, oil changes and other maintenance activities requiring the handling of OHM (oil and hazardous materials), if more than 1,320 gallons of storage capacity that, if spilled, may contaminate groundwater, shall be conducted in accordance with the Maine DEP spill prevention, control and countermeasures plan. A spill prevention, control and countermeasures plan must be available at the site.**

**12.I.5.O Noise levels shall follow the standard outlined in this Town Ordinance 11.J.1-2.**

12.I.5.P The applicant's plans shall specify a close out and rehabilitation plan. Reclamation should begin as soon as possible in accordance with the time limits established in the close out/reclamation plan. A yearly report shall be filed with the Code Enforcement Office indicating the progress of the reclamation until the pit is closed and the reclamation, including all planting, has been completed.

If any substantial change is desired by the owner or operator to the close out/reclamation plan, the plan shall be resubmitted to the Planning Board for review and action, because only the Planning Board is authorized to approve any substantial alteration to a Conditional Use Permit. Substantial shall be defined in the context to include a change in the timetable of more than six (6) months as set forth in the plan.

Within six (6) months of the completion of extraction operations at any extraction site or any one or more locations within any extraction site, ground levels and grades shall be established in accordance with the approved plans filed with the Planning board.

12.I.P.1 All debris, stumps, boulders, and similar materials shall be removed or disposed of in an approved location or, in the case of inorganic materials, buried and covered with a minimum of two (2) feet of soil.

12.I.P.2 The extent and type of fill shall be appropriate to the use intended. The applicant shall specify the type and amount of fill to be used.

12.I.P.3 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.

12.I.P.4 At least four (4) inches of topsoil or loam shall be retained or obtained to cover all disturbed areas, which shall be re-seeded and properly restored to a stable condition adequate to meet the provisions of the Department of Environmental Protection's publication "Maine Erosion and Sediment Control Best Management Practices Manual for Designers and Engineers" October, 2016 or most recent guidelines, "Environmental Quality Handbook, Erosion and Sediment Control, as amended or revised, published by the Maine Soil and Water Conservation Commission.

#### **12.I.6 Performance Guarantees**

Prior to beginning excavation on the site, the applicant shall file with the Town a bond payable to the Town of Limington with sureties satisfactory to the ~~Planning Board~~ **Selectboard**, or some other form of security including, but not limited to, an escrow account, a security deposit, a passbook or letter of credit. In determining the amount of the bond or the security, the ~~Planning Board~~ **Selectboard** shall take into consideration the characteristics of the site, the excavation plan, and the rehabilitation plan which may call for a phased plan for closing out each section of the pit as it is exhausted. In no instance shall the amount be less than one hundred and twenty-five (125) percent of the estimated cost of rehabilitation. All proceeds of forfeited bonds or other security shall be expended by the Town for reclamation of the area for which the security was posted and any remainder shall be returned to the operator or owner.

If the operator has partially reclaimed the land, the ~~Planning Board~~ **Selectboard** shall issue to the operator a release of such securities as the Town has held on deposit to cover the part of the reclamation, so long as the remaining amount of security held by the Town is deemed sufficient to cover the cost of the remainder of the reclamation.

Within sixty (60) days after the date of completion of reclamation provided in the mining plan, the operator shall file with the Planning Board a final report containing such information as shall be determined by the Planning Board. Upon the filing of the final report, and upon determination that this article has been complied with, the ~~Planning Board~~ **Selectboard** shall release the securities, if any, still in the Town's possession.

If the owner of a site does not begin to rehabilitate the site within six (6) months of when the reclamation plan schedules, rehabilitation, or discontinues use of the site as designed herein without rehabilitating the site, the Town may enter the site, perform the work required to meet the rehabilitation plan, and place a lien on the property to collect any expenses it incurs for which it does not have performance guarantees.

#### **12.I.7 Existing Operations**

Discontinuation of any existing non-conforming operation for a period of more than one (1) year shall result in the loss of "grandfathered" status for that operation. Discontinuation is defined as being the excavation, processing or storage of less than five hundred (500) cubic yards of material.

#### **12.I.8 Renewal Submissions**

The Code Enforcement Officer shall require submission of the following for annual permit renewals:

1. Proof of Liability Insurance.
2. Payment of renewal fees as established by the Limington Fee Schedule.
3. Submission of water test results from monitoring pits or on-site wells.

4. Noise level test results (see General Performance Standards 11.J and 11.J.2.).

The cost of the inspection and all tests shall be borne by the quarry operator.

If the Code Enforcement Officer finds the operation is in compliance with the current conditions of approval, a renewal permit shall be granted by the CEO.

A third party engineer may be retained by the Planning Board at the applicants expense to review and make recommendations on the design of the extraction operation.

#### **12.I.9 Five Year Inspection**

Every fifth year the pit owner, after an inspection conducted by a Maine licensed professional engineer, shall submit to the CEO a letter confirming compliance with the conditions of the permit. A copy of 12.I of this town Ordinance shall be submitted to said engineer prior to his inspection.

#### **12.I.10 Failure to Comply**

If inspections reveal that the operation is in violation of the current conditions of approval, then the CEO shall issue a *Notice of Violation* to the owner or operator and a copy of said letter to the Planning Board.

In addition, the CEO shall notify the Municipal Officers who will take action consistent with the Enforcement and Penalties section of this Ordinance, Article 13, which may include causing the owner or operator to cease operations until the violation is corrected and to levy fines in accordance with 30A M.R.S.A.8 4452, as specified.

If the owner/operator of the quarry has received a *Notice of Violation*, then the annual permit application shall be referred to the Planning Board with findings attached for final action on the renewal application.

The CEO may not issue a renewal permit until all fees have been paid and any violations have been rectified and confirmed in a *Letter of Compliance*.

Change of owner or operator requires a notification to the CEO within thirty (30) days. All prior conditions of operation shall continue to apply.

If the ownership of the operation changes and performance guarantee is returned to the former owner, a new performance guarantee, in accordance with Section 12.I.5.P shall be established with the Town within thirty (30) days of the purchase date.

Any operation shall be deemed closed ninety (90) days after its permit expires or in the event of non-compliance, or if operations cease for a period of more than one (1) year. The site shall then be rehabilitated in accordance with the approved rehabilitation plan.