

**TOWN OF APPLETON, MAINE**  
**MINING ORDINANCE**

**Adopted by the Town of Appleton    June 11, 2002**

**CONTENTS**

**ARTICLE I – TITLE & PURPOSE**

§1 Title ..... 1  
§2 Purpose ..... 1

**ARTICLE II – AUTHORITY, APPLICABILITY & ADMINISTRATION**

§1 Authority ..... 1  
§2 Administration ..... 1  
§3 Effective Date ..... 1  
§4 Applicability ..... 1

**ARTICLE III – EXEMPTIONS..... 2**

**ARTICLE IV – MINERAL EXTRACTION ACTIVITY REVIEW**

§1 Application ..... 3  
§2 Alternate Submissions..... 5  
§3 Waivers of submissions..... 5  
§4 Application Procedures ..... 5  
§5 Appeals and Variances ..... 8

**ARTICLE V – MINIMUM DESIGN & PERFORMANCE STANDARDS**

§1 General Requirements ..... 10  
§2 Performance Standards..... 10  
    A. Erosion Sedimentation Control & Stormwater Management. .... 10  
    B. Reclamation Plan ..... 11  
    C. Petroleum Usage..... 11  
    D. Buffers and Setbacks ..... 12  
    E. Road Design, Circulation and Traffic..... 12  
    F. Ground Water Impacts ..... 13  
    G. Preservation of Natural and Historic Features ..... 14  
    H. Sanitary Standards ..... 14  
    I. Signs..... 14  
    J. Noise ..... 14  
    K. Hours of Operation ..... 14  
§3 Performance Standards Rock Mining/Extraction Operations..... 14

**ARTICLE VI – PERFORMANCE GUARANTEES**

§1 Types of Guarantees..... 15  
§2 Contents of Guarantee..... 15  
§3 Escrow Account..... 15  
§4 Performance Bond ..... 15  
§5 Letter of Credit ..... 15  
§6 Phasing of Development ..... 16  
§7 Performance Guarantee Review ..... 16  
§8 Release of guarantee ..... 16  
§9 Default..... 16  
§10 Improvement Guarantees ..... 16

**ARTICLE VII – ENFORCEMENT AND INSPECTIONS**

§1 Reclamation Certification..... 16  
§2 Violations ..... 16  
§3 Mineral Extraction Plan Amendments After Approval ..... 17  
§4 Enforcement..... 17  
§5 Penalties ..... 17

**ARTICLE VIII – SEVERABILITY & CONFLICT**

§1 Severability..... 18  
§2 Conflict with other Ordinances..... 18

**ARTICLE IX – AMENDMENT OF THIS ORDINANCE**

§1 Initiation of Amendment ..... 18  
§2 Adoption of Amendment..... 18

**ARTICLE X – OTHER PROVISIONS**

§1 Public Access to Information ..... 19  
§2 Adjoining mineral extraction activity under common scheme of development..... 19

**ARTICLE XI – DEFINITIONS & REFERENCES**

§1 Construction of Language ..... 19  
§2 Relationship to Other Town Ordinances..... 19  
§3 References to the Town..... 19  
§4 References to Other Documents ..... 19  
§5 Definitions ..... 19

**ARTICLE XII – CERTIFICATE OF ADOPTION**

TOWN OF APPLETON, MAINE  
MINING ORDINANCE

**ARTICLE I – TITLE & PURPOSE**

**§1 Title**

This Ordinance shall be known and may be cited as *the Town of Appleton, Surface and Subsurface Mineral Extraction Ordinance*, or by its short title of *Town of Appleton Mining Ordinance* and will be referred to herein as “this Ordinance.”

**§2 Purpose**

The purpose of this Ordinance is to put into law minimum removal, and reclamation standards, and municipal procedures intended to regulate the removal, processing and storage of topsoil, loam, rock, flat rock, sand, gravel, metallic minerals, or other similar materials. These standards and procedures are intended to protect the public health, safety, and general welfare; and to minimize the adverse impact of extraction 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 value of property and its future ability to be an asset to the town and its residents.

**ARTICLE II – AUTHORITY, APPLICABILITY & ADMINISTRATION**

**§1 Authority**

This Ordinance is enacted pursuant to Home Rule Powers as provided for in Article VIII-A 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.A., Section 3001.

**§2 Administration**

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

**§3 Effective Date**

This Ordinance shall be effective upon its adoption by vote of the eligible voters of the Town of Appleton, Maine in Town Meeting

**§4 Applicability**

- A. The provisions of this Ordinance shall apply to all mineral extraction activities within the boundaries of the Town of Appleton, Maine, except as provided in Article III of this Ordinance. This applies to all extraction activities described in Article I which are
  1. formerly inactive, now active;
  2. active and unpermitted by the Town;
  3. new or proposed; and

4. expansions of the above, and mineral extraction activities previously permitted by the town, except as provided in Article III of this Ordinance.
  5. handling, processing, or other accessory uses.
- B. Inactive is defined as mining extraction that has ceased for 48 consecutive months prior to the passage of this Ordinance, in any areas where mining extraction activity had previously occurred. As long as no mining extraction activity recurs in the affected area, or on contiguous land under a common scheme of development, the inactive area shall remain exempt from this ordinance. If mining extraction activity begins again in the inactive area or contiguous land in the same ownership or under common scheme of development, the new area shall be subject to this ordinance. Any application submitted to the Planning Board, for any portion of the affected area, shall be classified for size, and treated as if it included all the previously exempt unreclaimed inactive area.
- C. Active and unpermitted mining extraction activity is active mining extraction without a permit by the Town. This activity is subject to the entire ordinance; and shall be classified for size, and treated as if it included all affected areas, including contiguous land under common scheme of development with mining extraction activity, and inactive land.
- D. The owner or operator of any active unpermitted mineral extraction activity shall within 90 days from the effective date of this ordinance submit an application pursuant to this ordinance.
- E. Any owner or operator of an active operation that has not applied for a permit within 90 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.

### **ARTICLE III – EXEMPTIONS**

§1 This ordinance shall not apply to the following:

- A. Mineral extraction activities that affect less than 1 acre of surface area of the entire property, that is active or unreclaimed, and the removal or handling of less than 1,000 cubic yards of material in 12 consecutive months.
- B. Storage or Stockpiles of winter abrasives (sand) used for the maintenance of private or public roads. This applies to the stockpile or storage area itself and not any associated mineral extraction activity or area;
- C. Removal or filling of material for all improvements incidental to construction, alteration or repair of a structure, town or state roads, or in the landscaping incidental thereto;
- D. Construction of farm and fire ponds and normal agricultural operations;
- E. Inactive areas where previous mining had last occurred at least 48 months prior to the adoption of this ordinance,
- F. Activities presently permitted by the Town, if an annual compliance inspection is required by the Town; and
- G. Mineral Extraction activities that are operating under permit of the State of Maine Department of Environmental Protection’s performance standards for mineral extraction activities.

*[NOTE: Non compliance may trigger an application or amendment which would require compliance with this ordinance.]*

**ARTICLE IV – MINERAL EXTRACTION ACTIVITY REVIEW**

**§1 Application**

The size, scale, number of copies, and other administrative details, are to be as specified by the ordinance. Prior to the establishment, continuation or expansion of a mineral extraction activity, an applicant shall apply for an approved mineral extraction Town permit. The application shall contain the following information, where applicable, and any other information that may be required by Article V of this Ordinance:

- 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. Verification of the right title or interest the applicant has in the property; and a copy of the deed(s) of the 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.
- C. Site Plan and application 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 such.
  - 2. Scale is to be no more than 100 feet or less than 40 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 to show the effect on the land of existing and proposed grades for areas proposed to be excavated or filled. Contour intervals shall be a maximum of 5 feet.
  - 4. Boundaries of the tract of land showing lot lines, abutting lots, within 1,000 feet as defined by the Land Use Ordinance and illustrated on the Town of Appleton Tax Assessor's Maps, with total acreage of the whole parcel(s) indicated, and the Town of Appleton Tax Assessor's map and lot number(s); the names of all the property owners within 1,000 feet of any line, as determined by the Appleton Tax Records, shall be shown. The Planning Board may require a boundary survey of the property by a licensed surveyor if the boundaries are in question.
  - 5. Location of existing and proposed mineral extraction activities and structures on the property.
  - 6. Approximate location of residences on properties within 1,000 feet of the proposed activity.
  - 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 to the mineral extraction activity from public roadways.
  - 9. Location of all setbacks, buffers, and conservation areas, and protected natural resources.
  - 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, type, size and direction of all outdoor lighting.
  - 13. Location and size of signs and all permanent outdoor fixtures such as fences, gates, utility poles.
  - 14. Location and type of existing and proposed berms, fences, hedges, and tree lines.

15. Location of existing natural drainage ways and proposed storm drainage facilities, including dimensions of culverts, pipes, etc. If any portion of the mineral extraction activity is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the plan.
  16. Location of existing wells:
    - a. within 1,000 feet of the proposed activity, if 5 acres or more; or
    - b. within 500 feet of the proposed activity if less than 5 acres; and all wells on the parcel itself.
  17. Location of proposed hazardous material storage areas including but not limited to fuel storage and handling, and washdown areas.
- D. Name of the proposed manager of operations.
  - E. An estimate of the average daily traffic during periods of operation projected to be generated by the activity to show that the minimum standards in Article V will be met and a traffic impact narrative, if required, as stated in Article V of this ordinance.
  - F. A narrative description of the surface and ground water impacts, including protection plans and the identification of any significant mapped aquifers.
  - G. Information and a map showing Soils Conditions on the site of the proposed mineral extraction activity. For subsurface sewage disposal proposed, the information shall include evidence of soil suitability according to the standards established in Article V of this Ordinance. The Site Plan shall show the location of soil test areas.
  - H. A soil erosion and sedimentation control plan, prepared in accordance with the standards contained in the latest revision Best Management Practices (BMP's) as established by the State.
  - I. A "Preservation of Natural and Historic Features" map if required by Article V of this Ordinance.
  - J. A reclamation plan showing the final grades and re-vegetation plan, and any phasing of the plan.
  - K. A narrative description of the impact on the wildlife habitat, and the location of any deer yard or other significant wildlife habitat designated by Maine Dept. of Inland Fisheries and Wildlife, including any proposed mitigation.
  - L. A narrative description of the present use of the parcel and property within 500 feet of the activity.
  - M. Estimated longevity of the operation, including phasing.
  - N. Proposed hours and days of operation.
  - O. Types and amounts of equipment to be used in the operation.
  - P. Proof of financial capacity, and/or capacity to obtain a Performance Guarantee as specified in Article VI, payable to the Town of Appleton, in an amount determined by the Planning Board as sufficient to cover the cost of any proposed reclamation, erosion control or other activities required by the Planning Board.
  - Q. A Spill Prevention, Control & Containment (SPCC) Plan. (See Article V §2-C).
  - R. Blasting Plan, if any.
  - S. Plan for screening the excavation activity from abutters and any public roads.

- T. All submissions made to any federal or state agency concerning the property.
- U. Pertinent information the planning Board may require to meet standards in Article V.

**§2 Alternate Submissions**

Activities that already have a valid DEP permit or a complete pending DEP application may submit the DEP application to the Planning Board subject to the Planning Board request for additional information on submissions above, not covered by the DEP application.

**§3 Waivers of submissions**

The planning board may grant waivers from specific application submission requirements, provided the applicant can demonstrate all of the following;

- A. A waiver would not be contrary to the public interest;
- B. A literal enforcement of submission requirements would result in unnecessary or undue hardship;
- C. The intent of the item being waived can be met in some other manner; and
- D. There will be no adverse impacts resulting from the waiver.

**§4 Application Procedures**

- A. Submission of Application for newly proposed, and for expansions of existing mineral extraction activities.
  - 1. Applications for mineral extraction activity permits shall be submitted to the Town Clerk or Chairman of the Planning Board who shall issue to the applicant a dated receipt.
    - a. Within 40 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. 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. The Planning Board shall make a determination as to the completeness of the application. The applicant assumes all responsibility as to its completeness.
    - b. The application shall conform to the requirements of this ordinance and Planning Board requirements.
  - 2. The application shall be accompanied by a fee of  
[NOTE: See Article V, § 1-B for explanation of the size symbols.]
    - a. One hundred twenty five dollars (\$125.00) for {I} mineral extraction activity from 1 to 5 acres;
    - c. Two hundred fifty dollars (\$250.00) for {L} mineral extraction activity larger than 5 acres up to 30 acres; or
    - d. One thousand dollars (\$1,000.00) for {X} mineral extraction activity larger than 30 acres.
    - e. All checks, shall be made payable to the *Town of Appleton, Maine*. If a public hearing is deemed necessary by the Planning Board, an additional fee shall be required to cover the costs of advertising, postal notification and dissemination of information. Additional fees may be required by the Appleton Planning Board to cover the cost of reviewing the application as specified in Article V §5-H & Article IV §1-C(4)



B. Public Hearing

1. All mineral extraction activity larger than five acres shall require a hearing. A public hearing on the proposed mineral extraction activity shall be conducted in accordance with the procedures in Title 30-A, M.R.S.A., Section 2691(3)A-F.
2. Notice of the public hearing shall be advertised at least 10 days in advance in a local newspaper and posted in other places used for public notices, at the expense of the applicant. The notice shall contain a clear and concise statement of the matter to be addressed. At least 10 days before the public hearing, the Planning Board shall notify by mail the owners of properties within 1,000 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.

C. Planning Board Decision on the Mineral Extraction Activity Application

1. The Planning Board shall, within forty days of a public hearing, or within eighty days of having received a complete application, if no hearing is held, or within such other time limit as may be mutually agreed to by said Planning Board and applicant, issue a decision denying or granting approval of the proposed mineral extraction activity or granting approval on such terms or conditions as it may deem advisable to satisfy the criteria contained in this Ordinance. In all instances, the burden of proof shall be upon the applicant. The Planning Board shall make a written finding regarding the applicant's Financial ability to satisfy the criteria contained in this ordinance and conditions of any permit.
2. Upon approval of the mineral extraction activity a majority of the Board shall sign all copies of the final site plan. The original shall be recorded by the applicant with the Knox County Registry of Deeds. One copy shall be retained by the applicant, one copy shall be retained by the Planning Board, one copy shall be filed with the Tax Assessor, and one copy shall be filed with the Code Enforcement Officer. The Planning Board shall maintain a permanent record of their action on the mineral extraction activity. **Any plan not recorded within 90 days after approval, with the Knox County Registry of Deeds shall be null and void.**
3. Approval by the Planning Board of a mineral extraction activity plan shall not be deemed to constitute or be evidence of any acceptance by the Town of Appleton, Maine of any road, easement, or other open space shown on such plan.

D. Annual Compliance Inspections

1. The annual compliance inspection fee shall be  
[NOTE: See Article V, § 1-B for explanation of the size symbols.]
  - a. Twenty five dollars (\$25.00) for {I} mineral extraction activity 1-5 acres;
  - b. Fifty dollars (\$50.00) for {L} mineral extraction activity larger than 5 up to 30 acres;
  - c. Two hundred dollars (\$200.00) for {X} mineral extraction activity larger than 30 acres;
2. The annual compliance Inspection (ACI) shall be conducted by the CEO prior to the anniversary date of the permit. The CEO shall issue a *Report of Inspection Compliance* (RIC), provided he determines that the permit holder has not deviated from the approved plan. If the CEO determines that the permit holder has deviated from the approved plan, the CEO shall issue a *Report of Inspection Non-compliance* (RIN). Reports shall be written and provided to the Planning Board, the Selectmen, and permit holder. After receipt of the RIN, the Planning Board, after notice and hearing, pursuant to Article IV

§5-B, and a determination after hearing that a deviation from the approved plan has occurred, shall request that the CEO issue a *STOP WORK ORDER, EXCEPT FOR REMEDIAL ACTION*, until such time as compliance is achieved, or a time determined by the Planning Board lapses, which ever occurs first.

The CEO shall thereafter re-inspect the site to determine if compliance has been achieved. If he determines compliance has been achieved, he shall issue a RIC, as above. If he determines that compliance has not been achieved, he shall issue a Second Step Report of Non-compliance (SSRN). The permit holder shall again pay the fees, as required by this subsection for this second compliance inspection.

The Planning Board, after receipt of the SSRN, shall provide notice and hearing pursuant to Article IV §5-B, to determine whether the permit holder is in compliance with his approved permit; and if not, the Planning Board shall revoke the permit, and request that the Selectmen take remedial action, as is permitted by town ordinance or State law.

The applicant can terminate the process above at any time by demonstrating compliance with his approved permit at a subsequent compliance inspection, which he requests, and payment of inspection fees, followed by the issuance of a RIC by the CEO.

E. Operation Conditions and Limitations

Before any mineral extraction activity begins, the applicant shall apply for and receive all applicable permits as may be required by Town, state or federal regulations, laws or ordinances regulating such developments, including a Conditional Use Permit required by this Ordinance. Any violation of other permits necessary for operation and noted in the permit shall be considered a violation of this ordinance.

F. Expiration of Approval

Mineral Extraction Activity permits shall expire three years from the date of issuance unless the mineral extraction activity is started.

G. Plan Revisions after Approval

Plan revisions after approval shall be made as further provided for in Article VII §3 of this Ordinance.

H. Expert Witnesses and Opinions

In the event that the Planning Board requires expert opinions, advice or testimony during the course of reviewing the application, it will use due diligence to obtain and utilize free services from governmental or non-profit sources. Should the Planning Board be unable to obtain and utilize such services, it may require the applicant to pay for such services, after giving notice to the applicant of the name of the expert, the area of qualification of the expert, and the purpose for which the expert is required, and the approximate cost of the expert. The applicant shall be provided with an opportunity to meet with the Planning Board to arrange a schedule for payment of the costs. All costs for which notice is not given by the Planning Board shall be unreimbursable to the Planning Board. The applicant shall have the right to request a public hearing to determine if the experts, as noticed by the Planning Board, are necessary to a determination of any issue properly before the Planning Board, and if the approximate costs of the expert are reasonable. It will be the applicant's burden to prove that the requested expert is unnecessary, or that the cost is excessive. The applicant shall request the hearing within 10 days of the meeting, or such time as is agreed to by the Planning Board and the applicant.

I. Transfer of Mineral Extraction Activity Permit.

The permit holder shall not sell, lease, assign, or otherwise transfer the permit , or cause or

allow any other action where the purpose or consequence is to transfer any of the obligations of the permit holder as incorporated in the permit, except following the approval of the Planning Board. The Planning Board shall require that either the proposed new permit holder apply for a new permit; or the Planning Board may approve the transfer of the permit if it can be demonstrated that :

1. The terms and conditions of the permit 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 permit.
3. The transfer of the permit or activities it allows will not cause or contribute to a violation of the law. In determining whether transfer of the permit will cause or contribute to a violation of the law, the Planning Board shall consider any prior violation, suspension, or revocation of a permit issued to the proposed transferee; and any other environmental enforcement history of the proposed transferee. 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 permit, notwithstanding any prior violation, suspension, or revocation. The applicant shall provide the Planning Board as part of the request, the information (unless otherwise specified by the Planning Board) on the proposed transferee as required in Article IV §1 of this Ordinance. Proposed changes to the terms of the permit, including financial responsibility requirements, shall be considered a request for permit modification and processed accordingly. The Planning Board shall notify by mail all abutting property owners of all boundaries of the property prior to consideration for approval of the permit transfer application. The owners of properties shall be considered to be persons listed on Town tax maps and lists.

## §5 Appeals and Variances

### A. Administrative Appeals

1. Any person aggrieved by an action of the Planning Board pursuant to this Ordinance may file an application for appeal in writing within 40 days of the granting or denial of approval from the Planning Board. The notice of appeal shall state with specificity the exact portions of the Planning Board's Decision are being appealed, and the legal grounds for appeal. The appellant shall file this appeal with the Chairman of the Board of Appeals, who shall issue a dated receipt and who shall, within 7 days of the date of receipt, notify the applicant in writing that either the application is complete or, if the application is incomplete, the specific additional material needed to make a complete application.
2. The fee to accompany applications for appeal shall be twenty five dollars (\$25.00), lawful currency of the United States of America. All checks, money orders or bank drafts shall be made payable to the *Town of Appleton, Maine*. The applicant shall be required to cover the costs of advertising, postal notification and dissemination of information for the appeals hearing.
3. The Board of Appeals shall, upon complete Notice of Appeal of an aggrieved party and after public notice, hear appeals from determinations of the Planning Board in the administration of this Ordinance within 40 days of such application. The Appeals Board shall cause notice of the date, time and place of said hearing, the location of the proposed mineral extraction activity and the issues raise in the appeal, to be given in writing to the

appellant and published in a newspaper of general circulation in the Town of Appleton, Maine at least two times. The date of the first such publication shall be at least 7 days prior to the hearing. The Board of Appeals shall also cause written notice by mail or hand delivery of the hearing be given to the permit holder, the Selectmen, the Planning Board, the Code Enforcement Officer, and all property owners within 1,000 feet of the boundaries of the proposed mineral extraction activity at least 14 days prior to the date of the hearing. The Board of Appeals shall post notices in such public places as it would place notice of a Town Meeting.

4. If such application for appeal is not made within the stated time, the prior decision of the Planning Board shall be final.
5. Following such hearing, the Board of Appeals may reverse the decision of the Planning Board only upon a finding of fact that the decision of the Planning Board is clearly contrary to specific provisions of this Ordinance. The Board of Appeals shall render a decision in writing to the appellant and/or applicant, Planning Board Chairman, Code Enforcement Officer, and the Selectmen within 40 days of the appeal hearing.

**B. Variances**

1. The Board of Appeals may, upon written application and hearing as outlined in Article VI §4-B of this Ordinance grant a variance from the strict application of the dimensional requirements of this Ordinance, including lot sizes, setbacks, site distances, lot coverage by structures, sign requirements, and parking requirements only if the requirement of this Ordinance would result in undue hardship to the applicant, as defined in Article IV §5-B(2), below, of this Ordinance.
2. In order to find an undue hardship the Board of Appeals must find all of the following to grant a variance:
  - a. That the land in question cannot yield a reasonable return unless a variance is granted; and
  - b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and
  - c. That the granting of the variance will not alter the essential character of the locality; and
  - d. That the hardship is not the result of action taken by the applicant or a prior owner.
3. Following the public hearing, as outlined in Article IV§4-B of this ordinance, the Board of Appeals shall render a decision to grant or deny a variance in writing to the applicant, the Planning Board, and selectmen, within 40 days of the appeal hearing.

**C. Appeal to Superior Court**

Any aggrieved party having proper standing may appeal any decision of the Appeals Board under this Ordinance to the Superior Court of Knox County, within 45 days of a written decision in accordance with Maine State Law.

**ARTICLE V – MINIMUM DESIGN & PERFORMANCE STANDARDS**

**§1 General Requirements**

- A. **Mineral extraction activities shall conform to all applicable State laws and local ordinances or regulations.**
- B. This Article details the specific application requirements for the submissions required in Article IV. Applicability is denoted by:
  - 1. {A} for all size projects;
  - 2. {X} for extra large size projects (over 30 acres);
  - 3. {L} for large size projects (larger than 5 acres up to 30 acres);
  - 4. {I} for intermediate size projects (1 acre up to 5 acres).

The owner and/or operator of a mineral extraction activity shall be responsible, both jointly and severally, for ensuring the maintenance of all infrastructure, structures and their sites.

- C. Mineral extraction activities in the Shoreland Zone shall be in accordance with the Shoreland Zoning Ordinance or this Ordinance whichever is stricter.
- D. The Planning Board shall consider the financial and technical ability of the applicant to complete all proposed activities in approval of this permit. The Planning Board may deny, modify, or revoke its approval if the applicant or agent is not in compliance with other Town or State permits for Mineral Extraction Activity.
- F. 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.

**§2 Performance Standards.**

- A. Erosion Sedimentation Control & Stormwater Management.
  - 1. {A} All projects.
    - a. Sediment may not leave the parcel or enter a Protected Natural Resource.
    - b. Topsoil stockpile must be stabilized and inspected as specified in Article V§2-B(1).
  - 2. Internally Drained projects.
    - a. {A} Land shall be restored and stabilized according to the Reclamation Plan.
    - b. {L}{X} A volume calculation shall be provided demonstrating that the area(s) will safely hold a volume of precipitation at least equal to that which may be expected in the area from the 25 year, 24 hour storm event for the region.
  - 3. Externally Drained Projects.
    - a. {A} If surface water flows out of and away from the proposed site during and after the site is excavated, the following should be provided to assure proper erosion control and prevent siltation of downstream waters. Temporary erosion control measures shall be included in the project design, such as hay bale barriers, silt fencing, and riprap. Plans shall show the location and installation details and include a description of the timing of installation, inspection and maintenance of erosion control measures.
    - b. {I}{L}{X} Additional information including:
      - i. A plan and narrative detailing specific erosion control measures; and

- ii. A site plan showing the pre-construction and post-construction contours, and if applicable, phased contours. The plan must show on and off site watershed boundaries and hydrologic surface water flow lines.
- c. {A} Sedimentation pond location and design, if any, shall be designed to the 25 year storm event and based on the U.S.D.A. Soil Conservation Service methodology contained in *TR-55*. The location and construction details of the pond shall be shown on the site plans

**B. Reclamation Plan**

The affected land must be restored to a condition or physical state that is either similar to and compatible with that which existed prior to any development, or encourages the productive use of the land. A reclamation plan is required for **ALL** activities according to the following specifications:

- 1. {A} Soil Stockpiling. Soil which 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 any previously stripped topsoil will be used for final cover.
- 2. {A} Regrading. Upon completion of the excavation, the side slopes must be regraded to a slope no steeper than 2.5 horizontal to 1 vertical, except that a steeper slope may be allowed, if a slope stability analysis is submitted showing that there will be no major failure or sloughing of slopes.
- 3. {A} Vegetative cover. Vegetative cover must be established on all affected land. Topsoil must be placed, seeded, and mulched within 30 days of final grading.
  - 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 soil and site characteristics such as drainage, pH, nutrient availability, and climate.
  - b. The vegetative cover is acceptable if within one 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 50% survival rate; and
    - ii. the planting results in 90% ground coverage.
- 4. {A} 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 reclamation plan.
- 5. Phased Reclamation. The site must be reclaimed in phases so that:
  - a. {L}{X} The working pit does not exceed 10 acres at one time and the area being actively mined does not exceed 5 acres at any time.
  - b. {I} The working pit does not exceed 3 acres at any time.
  - c. For guidance in planning and implementation of reclamation, see *Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices (March 1991), Section 10 Pit Reclamation*.

**C. Petroleum Usage {A}**

- 1. Spill prevention, control, and countermeasures are applicable to all size projects.

2. 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 should be developed in accordance with DEP regulations, *Appendix A of CMR 378*.
3. Crankcase oil, hydraulic fluids, and similar products shall not be disposed of within the excavation area.
4. Any discharge or leak of petroleum product over a gallon shall be immediately reported to the Code Enforcement Officer. All discharges or leaks of any size shall be cleaned up promptly according to Best Management Practices.

**D. Buffers and Setbacks {A}**

Buffers and setbacks shall be shown on the site plans as follows:

1. Property Boundaries.

To minimize visual impacts and provide for wildlife, a 75 foot buffer shall be maintained from property boundaries. This buffer may be reduced to 25 feet with written permission of an abutting landowner; or may be eliminated between abutting properties provided:

- a. written permission is obtained, and
- b. erosion & stormwater control standards on both properties are met.

2. Existing Structures.

{A} A 300 foot buffer from the closest edge of an existing residence or business, or farm building used for livestock shall be maintained with all projects. This buffer may be reduced with written permission of the owner of the structure.

3. Protected Natural Resources.

{A} Unless covered in Article V §1-D above the following shall apply:

Unless authorized pursuant to the Natural Resources Protection Act, Title 38, M.R.S.A, Section 480-C no part of any extraction operation, including drainage and runoff control features shall be permitted within one hundred (100) feet of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within seventy-five (75) feet of any property line, without written permission of the owner of such adjacent property.

4. Public Roads.

{A} A 150 foot buffer from the closest edge of the shoulder of a public road shall be maintained with all projects. A 50 feet wide undisturbed natural vegetated area, closest to the road, shall be maintained within the buffer, except for any access road entrance.

**E. Road Design, Circulation and Traffic {A}**

1. The intersection of any road within the development area and an existing public road shall meet the following standards:
  - a. The desired angle of intersection shall be 60° to 90°.
  - b. The maximum permissible grade within 75 feet of the intersection shall be 5%.
  - b. A minimum sight distance of 10 feet for every mile per hour of posted speed limit on the existing road shall be provided. Sight distances shall be measured from the driver's seat of a vehicle that is 10 feet behind the curb or edge of the shoulder line with the height of the eye 3 1/2 feet above the pavement and the height of object 4 1/4 feet.

- d. The center line of any road within the project intersecting an existing public road shall be no less than 125 feet from the center line of any other road intersecting that public road.
  - e. Turning lanes, traffic directional islands, frontage roads, and traffic controls shall be provided on public roads at the developer's expense, where necessary, in the opinion of the Appleton Road Commissioner, to safeguard against hazards to traffic or pedestrians, and/or to avoid traffic congestion.
  - f. All access/egress roads leading to or from the extraction site to paved public ways shall be treated with suitable materials to reduce dust and mud; and paved or otherwise hard surfaced for a distance of at least 200 feet from the paved public road.
2. Traffic impacts to be considered:
- a. Where mineral extraction activity 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 Appleton Road Commissioner.
  - b. The road giving access to the Mineral Extraction Activity and neighboring roads which can be expected to carry traffic to and from the Mineral Extraction Activity shall
    - i. have traffic carrying capacity; and
    - ii. if a Town road, be suitably improved if necessary by the applicant to accommodate the amount and types of traffic generated by the proposed mineral extraction activity as determined by the Appleton Road Commissioner. As a guide line the road commissioner should consider the following: No mineral extraction activity shall increase the volume to capacity ratio of any town road above 80%; nor reduce the road's Level of Service to "D" or below. Minimum travel surface width shall be 20 feet with 2 foot shoulders. On operations larger than 5 acres, the Planning Board may require an engineering impact study or road condition survey of the town road. The Planning Board may require mitigation for adverse impacts on Town roads.
3. Routing.
- Where necessary to safeguard against hazards to pedestrians and to avoid traffic congestion, or adverse impacts to Town roads, alternative routing may be required.

#### F. Ground Water Impacts

The following requirements apply to {A} projects unless otherwise noted.

1. Assessment Submitted. The Planning Board must find that the Mineral Extraction Activity will not cause an adverse impact to ground water quality and quantity before approving any application.
2. Groundwater buffer.

To provide an adequate buffer for ground water and allow for filtration of impurities from surface water, extraction shall not be any closer than 5 feet above the maximum seasonal high water level unless an application has been submitted to and approved by the State of Maine Department of Environmental Protection for excavation below the seasonal high groundwater table and all other minimum design and performance standards and application requirements per this ordinance are met. The applicant shall provide documentation of the groundwater table. The Planning Board may require monitoring of groundwater levels and quality to assure there are no adverse impacts to any water supplies or wells within 500 feet of the site.



3. Water Supply buffer.

A 300 foot separation must be maintained between the limit of excavation and any pre development private drinking water supply. A 1,000 foot separation must be maintained between the limit of excavation and any well or spring which qualifies as a public drinking water supply. The Planning Board may require larger buffers from water supplies, if they find that a hazard is shown to exist due to the Mineral Extraction Activity.

4. Water Use.

A mineral extraction activity must not withdraw more than 5,000 gallons of ground water per day, unless a hydrogeologic study is submitted by a qualified professional.

5. Standards for Acceptable Ground Water Impacts

- a. Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).
- b. No mineral extraction activity shall increase any contaminant concentration in the ground water to more than one half of the Federal Primary Drinking Water Standards. No mineral extraction activity shall increase any contaminant concentration in the ground water to more than the Federal Secondary Drinking Water Standards.
- c. If ground water contains contaminants in excess of the primary standards, and the mineral extraction 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.

G. Preservation of Natural and Historic Features; {A}

The scenic, historic or environmentally sensitive areas or any areas identified in the Comprehensive Plan or by the Maine Natural Areas Program as rare and irreplaceable areas shall be preserved.

H. Sanitary Standards {A}

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 grubblings, shall be placed stored or disposed of in the mineral activity site unless it meets the requirements of the rules and regulations of by the Maine Department of Environmental Protection. The storage, collection and disposal of refuse in the mineral extraction site shall not create health hazards, rodent or insect breeding areas, accident or fire hazards, air pollution, or surface or ground water pollution.

I. Signs {A}

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

J. Noise {A}

The applicant shall demonstrate that noise from the operation does not exceed 75 dbA at the property line, except for emergency or safety equipment such as back up beepers. Normal operation times shall be specified, so as not to constitute a nuisance to residents in the neighborhood, including but not limited to daily starting and ending times, and operations on weekends.

K. Hours of Operation {A}

The hours of operation for any and all activities shall not be earlier than 7:00 AM and not later than 7:00 PM Monday through Saturday. Depending on the location of the site the hours of operation may be revised by the planning board.

**§3 Performance Standards - Rock Mining/Extraction Operations**

Because of the intensity of the type of operation, in addition to the performance listed in Section 2 of this ordinance, rock mining operations shall conform to the following:

- A. The maximum limit of material that may be extracted per year is 5,000 cubic yards.
- B. A surveyed profile of the material on site to be excavated must be calculated and submitted with the permit application and the amount extracted per year confirmed by the annual inspection of the CEO.

**ARTICLE VI – PERFORMANCE GUARANTEES**

The following applies to {A} sized projects unless otherwise noted.

**§1 Types of Guarantees**

With submittal of the application for Final Plan approval, the applicant shall provide one of the following performance guarantees for an amount adequate to cover the total costs of all required reclamation, taking into account the time-span of the phasing, or reclamation 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. B.A performance bond payable to the Town issued by a surety company, approved by the Selectmen; or
- C. An irrevocable letter of credit from a financial institution establishing funding for the construction or reclamation of the mineral extraction activity, from which the Town may draw if reclamation or construction is inadequate, approved by the Selectmen; or
- D. {I} May propose alternatives to the above.

The conditions and amount of the performance guarantee shall be determined by the Planning Board with the advice of a certified Engineer, Town Road Commissioner, Town Selectmen, and/or Town Attorney.

**§2 Contents of Guarantee**

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

**§3 Escrow Account**

A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the municipality, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the permit 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.

**§4 Performance Bond**

A performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the developer, and the procedures for collection by the municipality. The bond documents shall specifically reference the mineral extraction activity for which approval is sought.

**§5 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 reclamation of the mineral extraction activity and may not be used for any other project or loan.

**§6 Phasing of Development**

The Board may approve phased performance guarantees, when a mineral extraction activity is approved in separate and distinct phases.

**§7 Performance Guarantee Review**

Any performance bond or proof of financial capacity shall be reviewed no later than 30 days before the expiration of the guarantee, and adjusted if necessary. The applicant may also request adjustments in the guarantee.

**§8 Release of Guarantee**

Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction, in part upon the report of a certified Engineer and/or whatever other agencies and departments may be involved, that the reclamation meets or exceeds the design requirements for that portion of the reclamation for which the release is requested.

**§9 Default**

If upon inspection, CEO or other inspecting official finds that any of the required reclamation has not been performed in accordance with the approved plans and specifications, he shall so report in writing to the Municipal Officers, the Board, and the permit holder and guarantor. The permit holder shall have 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.

**§10 Improvement Guarantees**

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

**ARTICLE VII – ENFORCEMENT AND INSPECTIONS .**

**§1 Reclamation Certification**

- A. ~~{L}~~~~{X}~~ Upon completion of reclamation or a reclamation phase, a written certification signed by a professional engineer registered in the State of Maine shall be submitted to the Chairman

of the Planning Board at the expense of the applicant, certifying that the reclamation is in compliance with the approved plans.

**§2 Violations**

- A. No mineral extraction activity plan shall be recorded in the Registry of Deeds until a Final 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 mineral extraction activity site which has not been approved by the Planning Board and recorded in the Registry of Deeds.
- C. No public utility shall serve any mineral extraction activity site for which a final Plan has not been approved by the Planning Board and recorded in the Registry of Deeds.
- D. No development of the infrastructure of a mineral extraction activity site may begin until Final Plan approval by the Planning Board 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 Appleton Planning Board 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, in that all other approvals are necessary for approvals under this ordinance to be valid.

**§3 Mineral Extraction Plan Amendments After Approval**

No changes, erasures, or modifications shall be made in a Final 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 mineral extraction activity, unless, in the judgment of the Planning Board the amendment substantially alters the character of the original mineral extraction activity, or unless the change constitutes a new mineral extraction activity. If an amended Final 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.

**§4 Enforcement**

- A. The Code Enforcement Officer or the Selectmen of the Town of Appleton, Maine, shall enforce this Ordinance and are authorized to institute legal proceedings to enjoin violations of this Ordinance.
- 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 that constitutes a substantial and immediate danger to the health, safety or welfare of any person(s), or property or environment of the Town of Appleton, Maine, said Town may initiate immediate injunction proceedings to abate or correct such violations.
- C. In any action to enforce any provision of this ordinance where the Town of Appleton, Maine prevails, said 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 provided by court rule.

**§5 Penalties**

- A. Any person, firm or corporation, being the owner or having control or use of any mineral extraction 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 Appleton, Maine of not less than one hundred dollars (\$100.00) for each day said violation exists after notification of violation and not more than twenty-five hundred dollars (\$2,500.00) for each day said violation exists or twice the economic benefit resulting from the violation, whichever is greater. If the same person has been convicted of a violation of this ordinance within the previous two years, the maximum penalty is twenty five thousand dollars (\$25,000.00) for each day said violation exists or twice the economic benefit resulting from the violation, whichever is greater.
- B. In setting the penalties, the court shall consider but is not limited to the following:
  - 1. Prior violations by the same person;
  - 2. The degree of environmental damage that can not be abated or corrected;
  - 3. The extent to which the violation continued following an order to stop;
  - 4. The extent to which the Town of Appleton, Maine contributed to the violation by providing incorrect information or failing to take timely action; and
  - 5. Whether penalties have been imposed by another governmental agency for the same incident(s).
- C. Payment of any penalty shall be made within thirty (30) days in cash or by certified check drawn on a recognized financial institution, made payable to the Town of Appleton, Maine in an amount equal to the full amount of the penalty.
- D. If the maximum penalty amount of Article VII §5-A of this ordinance is held void or invalid it is the intent of the Town of Appleton, Maine that provisions of Title 30-A, M.R.S.A. Section 4452 be given full force and effect and that the maximum penalty amounts authorized by such provision apply to violations of any order, permit, approval or final decision of the Planning Board, or any provision of this ordinance.

**ARTICLE VIII – SEVERABILITY & CONFLICT**

**§1 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 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. 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, the provisions of this Ordinance shall prevail.

## **ARTICLE IX – AMENDMENT OF THIS ORDINANCE**

### **§1 Initiation of Amendment**

An amendment to this Ordinance may be initiated by:

- A. The Planning Board provided that a majority of the Board has so voted; or
- B. Request of the Selectmen to the Planning Board; or
- C. Written petition to the Selectmen bearing signatures of registered voters of the Town of Appleton, Maine numbering at least ten percent (10%) of the number who voted in the last gubernatorial election.

### **§2 Adoption of Amendment**

All proposed amendments to this Ordinance shall be referred to the Planning Board for their recommendation. The Planning Board may hold a public hearing on any proposed amendment. Within thirty days of receiving a proposed amendment, the Planning Board shall make known their recommendation to the Selectmen and to the Town. After receiving the recommendation of the Planning Board, the amendment shall be voted on by the voters of the Town of Appleton, Maine at a Town Meeting, a majority vote being required for adoption.

## **ARTICLE X – OTHER PROVISIONS**

### **§1 Public Access to Information**

Except as expressly made confidential by law, the Board shall make all documents and records available to the public in accordance with the Maine Freedom of Access Law (1 MRSA § 401 et seq.). The Board shall also keep confidential those documents which may remain confidential pursuant to the Maine Freedom of Access Law. The Board shall make determinations on confidentiality and any person aggrieved by such determination may appeal to a court in accordance with State Law. The Board shall withhold disclosure of such information pending a final judicial determination on any claim of confidentiality. A policy for inspecting and copying documents may be established by the Board, including, but not limited to, a reasonable charge for copying costs.

### **§2 Adjoining mineral extraction activity under common scheme of development**

Adjoining mineral extraction activity under common scheme of development separated by less than 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.

#### **Right of Entry Onto Land**

The CEO shall have the right of entry onto any mineral extraction activity site at reasonable times and reasonable notice.

## **ARTICLE XI – DEFINITIONS & REFERENCES**

### **§1 Construction of Language**

In general, all words and terms used in this Ordinance shall have their customary dictionary meanings. More specifically, certain words and terms shall be described below.

**§2 Relationship to Other Town Ordinances**

Where there is a conflict between the language contained in this Ordinance and any other Town ordinances, the stricter language shall apply for purposes of this Ordinance.

**§3 References to the Town**

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

**§4 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 by other materials.

**§5 Definitions**

**Affected land:** The land area from which the overburden will be or has been removed; land upon which stumps, spoil, or other solid waste will be or has been deposited; and any storage area that will be or has been used in connection with the development, except a natural buffer strip.

**Body of Water:** Shall include the following:

- A. *Pond or Lake* - any inland impoundment, natural or man-made, which collects and stores surface water.
- B. *Stream or River* - a free flowing drainage outlet, with a defined channel lacking terrestrial vegetation, and flowing water for more than three months during the year.

**Environmentally sensitive areas:** Wetlands, swamps, wildlife habitat areas delineated by the Dept. 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.

**Expansion of operation:** Excavation operations that exceed the approved area or footprint.

**Extra Large Mineral extraction operations:** {X} Excavations that are 30 acres or more.

**Ground water:** 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.

**Handling, Processing, or other Accessory Uses:** Any washing, screening, crushing, mixing or storage of sand, gravel, stone, rock, clay, topsoil, or any other material of any kind from either on or off site; to include: any washing or screening operations: concrete mix or asphalt batching plants; blasting or mining of material; storage of material from off site; disposal, placing, or storing of any materials that are not going to be used in any process or production in conjunction with the extraction activity; or ore concentration processes.

**Intermediate Mineral extraction operations:** {I} Excavations that are between 1 and 5 acres.

**Large Mineral extraction operations:** {L} Excavations that are more than 5 acres and less than 30 acres.

**Mineral extraction activity:** Any excavation or removal, handling or storage of sand, gravel, borrow, rock, clay, minerals, or topsoil to including but not limited to sand or gravel pits, clay pits, borrow pits, quarries, mines, and topsoil mining or removal.

**Mineral Extraction Site or Area:** All of the land area disturbed or otherwise developed for the extraction, removal, processing, or storage of sand, gravel, clay, minerals, stone, rock, or topsoil; including any access roads and cleared areas adjacent to a pit or excavated area

**Normal High Water Mark of Inland Waters:** That line of the shores and banks of nontidal water which is apparent because of the different character of the soil or the vegetation due to the prolonged action of the water. Relative to vegetation, it is that line where the vegetation changes from predominantly aquatic to predominantly terrestrial (by way of illustration, aquatic vegetation includes but is not limited to the following plant and plant groups: water lily, pond lily, pickerel weed, cattail, wild rice, sedges, rushes, and marsh grasses, and terrestrial vegetation included but is not limited to the following plants and plant groups, Upland grasses, aster, lady slipper, wintergreen, partridgeberry, sarsaparilla, pines, cedars, oaks, ash, alders, elms, and maples). In places where the shore or bank is of such character that the high water mark shall be estimated from places where it can be determined by the above method.

**Protected Natural Resource:** Wetlands, significant wildlife habitat, fragile mountain areas, freshwater wetlands, bog, marsh, rivers, streams or brooks, as the terms are defined in applicable state law.

**Reclamation:** The restoration or continued maintenance of the area of land affected by mining under a reclamation plan. This may include but is not limited to, grading and shaping of the land, the creation of lakes or ponds, the planting of forests, the seeding of grasses, legumes, or crops for harvest, or the enhancement of wildlife and aquatic resources.

*[NOTE: Any inactive area, may be considered for Tax assessing purposes as active, if the area has not been reclaimed according to the Standards of this ordinance. Currently, reclaimed land has a lower assessed value.]*

**Reclamation Plan:** A plan which depicts how the project will be restored, or maintained, after excavation is complete. Such a plan usually includes final grading and re vegetation plans, of any given phase.

**Road:** Public and private owned ways such as alleys, avenues, boulevards, highways, roads, streets, lanes and other rights-of-way, as well as areas on mineral extraction activity plans designated as rights-of-way.

**Setback:** The horizontal distance from a lot line or referred location to the nearest part of a structure or activity.

**Setback from Water:** The horizontal distance from the normal high water mark to the nearest part of a structure or activity.



**Small Mineral extraction operations:** Excavations that are less than 1 acre in size; or extract less than 1,000 cubic yards within any 12 consecutive month period.

**Surface water:** any water flowing on the surface, either channelized or by sheet flow including, but not limited to, rivers, streams, brooks, ponds, lakes and any swamp, marsh, bog or other contiguous lowland where water is periodically ponded on the surface.

**Waiver:** A relaxation of the terms of the ordinance where such a waiver would not be contrary to the public interest, where owing to existing conditions or operations, a literal enforcement of this Ordinance would result in an unnecessary or undue hardship, and where the intent of the ordinance or item being waived can be met in some other appropriate manner, as determined by the Planning Board.

**Working pit or area:** the extraction area including side slopes and adjoining areas with overburden removed, excluding roads.

**ARTICLE XII – CERTIFICATION OF ADOPTION**

I hereby attest that this is a true copy of the Mining Ordinance for the Town of Appleton, Maine duly adopted on \_\_\_\_\_ .

\_\_\_\_\_  
Appleton Town Clerk

\_\_\_\_\_  
Appleton Town Seal

\_\_\_\_\_  
Date

Annual Town Meeting – 06/10/03 – Article #3 – Amended, Article V

Annual Town Meeting – 06/19/04 – Article #39 – Amended, Article III

Annual Town Meeting – 6/10/08 – Article #4 – Amended, Article III