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## **Gravel Extraction Ordinance Draft #9**

**July 16, 2015**

### **Repealing & Replacing any and all previous versions of the Lamoine Gravel Ordinance**

**(Draft changes from including Planning Board input 7/7/15, work session of July  
14, 2015)**

## **LAMOINE GRAVEL EXTRACTION ORDINANCE**

### **Lamoine Gravel Ordinance**

#### ***SECTION 1. PURPOSE***

The purpose of this Ordinance is to define and regulate the excavation, extraction, processing, storage and transportation of sand, gravel, crushed stone, soil and loam in the Town of Lamoine, such that said activities so defined and regulated

1. Protect the health, safety and welfare of the public;
2. Preserve and protect the quality and quantity of surface water and ground water, and the aquifer in which the ground water is contained, for current and future use of the residents of the Town;
3. Minimize adverse impacts on neighboring properties and the quality of life of the residents of the Town;
4. Minimize adverse impacts on wildlife, existing natural features and historic areas within the Town; and
5. Preserve the usefulness of the land and its capacity to be an asset to the Town and its residents.

#### ***SECTION 2. AUTHORITY***

This ordinance is adopted pursuant to and consistent with 30-A MRSA, §3001 et. seq. and may be known and cited as “Lamoine Gravel Extraction Ordinance”.

#### ***SECTION 3. EFFECTIVE DATE***

This Ordinance shall take effect upon the date of adoption by a duly called and validly held Town Meeting. Permits applied for and/or granted prior to the effective date of this Ordinance shall remain subject to the provisions of the Lamoine Gravel Ordinance in effect at the time of application and until such time as these permits expire. The signature page reflects the date of the town meeting at which this ordinance was approved and became effective.

#### ***SECTION 4. VALIDITY AND SEVERABILITY***

Should any section or provision of this Ordinance be declared invalid by any court of competent jurisdiction, such decision shall not invalidate any other section or provision of this Ordinance, and to this end the provisions of this Ordinance are hereby declared to be severable.

#### ***SECTION 5. CONFLICT WITH OTHER ORDINANCES***

This Ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rule, regulation, by-law, permit, or provision of law. Where this Ordinance imposes a higher standard, the provisions of this Ordinance shall prevail.

## *SECTION 6. APPLICABILITY*

This Ordinance shall apply to all existing and proposed activities where the scope of excavation, extraction, processing, storage and transportation of sand, gravel, crushed stone, soil and loam (said materials hereinafter "Gravel") exceeds or will exceed one acre, or from which more than one thousand (1,000) cubic yards of material have been or will be removed. This ordinance does NOT apply in the case of permitted residential or commercial building and other similar projects which are subject to the Building and Land Use Ordinance, the Site Plan Review Ordinance or other ordinances.

## *SECTION 7. ADMINISTRATION*

### A. Permit Required.

No person shall engage in, or permit, the excavation, extraction, processing, storage or transportation of Gravel (said activities hereinafter "Gravel Operations") where the scope of such Gravel Operations exceeds or will exceed one acre or from which more than one-thousand (1,000) cubic yards of Gravel have or will be removed without first obtaining a permit (said permit hereinafter "Gravel Permit") from the Lamoine Planning Board, subject to the applicability requirements stated in Section 6.

### B. Application Fee.

An application fee for a Gravel Permit required by this Ordinance shall be paid with the application. The amount of the fee is established by Lamoine Board of Selectmen; a Schedule of Fees is located at the Town Office and posted on the Town website. The fee, which is non-refundable, shall be paid to the Town of Lamoine, shall accrue to the Code Enforcement Fund and shall be used for the administration and enforcement of Town ordinances. An application shall not be considered by the Planning Board until such fee has been received by the Town.

### C. Application

An applicant for a Gravel Permit shall provide, in writing, all information required below. A fully executed original and nine copies of the application shall be submitted to the Lamoine Town Office not less than fourteen (14) days prior to a regularly scheduled meeting of the Planning Board.

#### 1. General Information

- a. Name and address of the current owner or record of the Parcel upon which Gravel Operations are proposed.
- b. Name and address of the applicant seeking the Gravel Permit, if different from the Parcel owner.
- c. Length of permit applied for (may not exceed five (5) years).
- d. An identifying "pit name" if applicable.
- e. The Land Use District in which the Parcel(s) is located.
- f. The Lamoine tax map and lot designation(s) of the Parcel on which Gravel Operations are proposed.

- g. A copy of the deed, purchase and sale agreement, option to purchase, lease, or other evidence of the applicant's right, title or interest in the Parcel.
  - h. Name(s) of the individual(s) who prepared the plan (required in Section 7.C.2. below) submitted on behalf of the applicant.
2. Existing Conditions – The applicant shall provide a to-scale plot plan (hereinafter “Plan” showing:
- a. Location, bearings and distances of all property lines of the Parcel on which Gravel Operations are proposed.
  - b. Location of all properties abutting the Parcel, the names and addresses of the owners of these abutting properties, and the Town's tax map and lot number for each abutting property
  - c. Existing elevations and contours of the land both within and extending one hundred (100') feet beyond the boundaries of the Parcel at intervals not to exceed 10 (10') feet in elevation. The scale used to define contours shall appear on the plan in be expressed in “feet above sea level”.
  - d. Locations, names and widths of existing roads and rights-of-way within or adjacent to the Parcel on which Gravel Operations are proposed.
  - e. Direction of existing surface water drainage (flow) across the Parcel.
  - f. Location of any private water supplies located within three hundred (300') feet of any boundary of the proposed Gravel Operations.
  - g. Location of any public water supply located within one thousand (1,000') feet of any boundary of the proposed Gravel Operations.
  - h. Location of open drainage courses (streams and springs), wetlands, stone walls, graveyards, fences, stands of trees, and other important or unique natural areas and site features within the Parcel on which Gravel Operations are proposed, including but not limited to, floodplains, deer wintering areas, significant wildlife habitats, scenic areas, habitat for rare and endangered plants and animals, unique natural communities, and natural areas, sand and gravel aquifers, and historic and/or archeological resources, together with a description of such features.
3. Proposed Permitted Area – On the to-scale plot plan required in 7.c.2 above, the applicant shall also indicate:
- a. The location, bearing sand distances of the boundaries of the portion of the Parcel for which the applicant seeks a Gravel Permit, hereinafter called Permitted Area
  - b. Location of all setbacks and buffers within the Parcel.
  - c. The area, in acres (stated to the nearest tenth of an acre) of the permitted area.
  - d. The location of monitoring wells, existing and/or to be installed, to be used to:
    - i. Determine the average seasonal high water table (see 7.C.5 below);
    - ii. To obtain water samples suitable for analysis (see 7.C.6 below);and

- iii. To monitor separation distance between the excavation floor of the permitted area and the average seasonal high water table elevation (see 7.C.7 below).
4. Proposed Operations – On the to-scale plot plan required in 7.C.2 above, the applicant shall also indicate by color, grids or other means:
  - a. The area(s) of proposed Gravel Operations during the life of the permit, hereinafter called Operating Pit.
  - b. The area(s) of proposed Restoration during the life of the permit.
  - c. If applicable, the Operating Pit during the life of the immediate prior permit.
  - d. If applicable, the area(s) of Restoration during the life of the immediate prior permit.
  - e. The buffer strip(s) to be maintained as required in Section 8.A.
  - f. The location of all access roads, existing and proposed, from a public roadway to the proposed Operating Pit
  - g. The location and dimensions of all buildings and structures, existing and proposed, whether temporary or permanent, within the Parcel.
  - h. The size, intensity, and direction of all outdoor lighting.
  - i. Location of any proposed hazardous material storage areas including, but not limited to, fuel storage and handling.
  - j. Location, description and estimated noise level of any mechanically operated equipment (i.e. power screen, crusher etc.) to be located in the permitted area, and evidence that such equipment shall comply with the noise requirements in Section 8(G).
5. Water table elevation. The applicant shall provide a plan to document the average seasonal high water table (expressed in feet above mean sea level) within the Permitted Area (see 7.C.3.d. above). The water table shall be determined by the use of monitoring wells. The plan shall describe at a minimum:
  - a. The number of wells
  - b. The well locations
  - c. The monitoring methods to be used, adequately detailed to ensure that sufficient data is available to reliably establish water table levels.
  - d. The plan shall be designed according to one of the following methods:
    - i. At least one monitoring well shall be installed on each five (5) acres, and additional fraction thereof, of the proposed Permitted Area; or
    - ii. The plan shall be prepared by a professional hydrologist certified by the State of Maine.
6. Water Quality.
  - a. The applicant shall provide a plan to document water quality as determined from samples from monitoring wells suitable for this purpose. The plan shall include, at a minimum, the number of wells, the well locations, and the monitoring methods to be used and shall be adequately detailed to ensure that sufficient data is available to reliably measure the following field parameters:
    - i. pH

- ii. Specific Conductance
      - iii. Turbidity
      - iv. Temperature
      - v. Iron
      - vi. Manganese
      - vii. Extractable Petroleum Hydrocarbons
    - b. Samples shall be taken under the supervision and certification of a professional hydrologist certified by the State of Maine or professional engineer registered in the State of Maine and analysis shall be completed by a State of Maine certified water testing laboratory.
  - 7. Restoration Plan
    - a. Describe in detail the manner in which the Permitted Area shall be restored in accordance with the provisions described in Section 8.D.
    - b. A bond, irrevocable letter of credit or other documentation that the applicant has sufficient resources to fulfill any obligations required by this ordinance, including Restoration as defined hereinafter, and any other activities which may be required by the Planning Board.
  - 8. A written plan for monitoring the separation distance between the excavation floor of the permitted area and the average seasonal high water table, said plan to include the location of monitoring wells, existing or to be installed.
  - 9. A written plan describing how setback and screening requirements as set forth in Sections 8.A and 8.B shall be met.
  - 10. The estimated longevity of Gravel Operations based on anticipated removal rates.
  - 11. A written plan describing any proposed washing operation and its impact on existing ground water quantity and quality.
  - 12. The type, size and location of any equipment, plans for blasting, or other procedures that are likely to generate appreciable noise at the lot lines.
  - 13. An estimate of the average daily traffic generated by Gravel Operations during periods of operation.
  - 14. A written soil erosion and sedimentation control plan prepared in accordance with the standards contained in the latest revised Best Management Practices as established by the State of Maine Department of Environmental Protection.
  - 15. Copies of all submissions to, and permits or licenses issued by, federal or state agencies with regard to Gravel Operations on the Parcel.
  - 16. Note: The Planning Board may require additional information from the applicant in addition to that requested in the application as set forth above. See 7.E. below.
- D. Application Requirements Waiver – The Planning Board may modify or waive any of the requirements set forth in 7.c. above when the Board determines that such modification or such waiver of said requirements would not adversely affect the general health, safety and welfare of the residents of the Town or otherwise be converse to the purposes and intent of this Gravel Ordinance.
- E. Procedure

1. Review of Application for Completeness – The Planning Board shall review the application documents and make a finding that all required information and materials are complete or that additional submissions are required. The Board shall also review the findings of the Code Enforcement Officer’s Annual Compliance Inspection(s) for the Parcel in question if the same was previously permitted for Gravel Operations. If additional information is required, the Planning Board shall determine whether the application is complete at the first meeting following receipt of such submissions at which the matter can be placed on the agenda.
2. Site Walk – Within forty-five (45) days of a Planning Board vote finding the application complete, the Board will schedule a site walk on the proposed Parcel to verify in the field the location of the site, boundaries, natural features, access roads, and other information presented in the application. The date and time of the site walk shall be posted at the Lamoine Town Hall and on the town’s website. The site walk shall be open to public observation and subject to terms and conditions established by the Planning Board in consultation with the applicant.
3. Public Hearing – Within forty-five (45) days of the determination that the application is complete, but after the site walk noted in 7-E-2 above, the Board shall hold a public hearing regarding the application. The Town of Lamoine shall publish, at the expense of the applicant, notice of the date, time and place of the hearing in a newspaper of general circulation at least twice, the date of the first publication to be not less than ten (10) days prior to the hearing. In addition, the Town shall mail, by certified mail (return receipt requested) and at the expense of the applicant, a notice of the public hearing to all abutters of the Parcel on which the Gravel Operations are proposed, not less than ten (10) days prior to the hearing. Following the public hearing, the Planning Board may require additional information to be submitted by the applicant.
4. Additional information – The Planning Board may also require an independent evaluation and/or study in addition to the information provided by the applicant. This evaluation and/or study shall be done by a person or firm of the Board’s choosing. Said person or firm shall be required to estimate the cost of an evaluation or study and the application shall pay to the Town of Lamoine the full estimated cost. At the completion of the evaluation or study, any balance due shall be paid to the Town by the applicant or any balance remaining shall be returned to the applicant.
5. Planning Board Decision – Within seventy-five (75) days of receipt of a complete application or, if additional information as noted in section 7-E-3 and/or 7-E-4 above is required, at a mutually agreed upon later time, but after the Site Walk and Public Hearing, the Planning Board shall grant without conditions, or grant with conditions, or deny the permit. The Planning Board shall grant the permit, either without or with conditions, if the Planning Board makes a positive finding, based on all the information available, that the proposed Gravel Operations are in conformance with the Performance Standards set forth in Section 8. If the Planning Board denies the permit, the reasons for denial shall be stated in writing.

F. Length of Permit – Permits may be granted for a period not to exceed five (5) years.

G. Appeals

1. Any decision of the Planning Board may be appealed by any party of standing to the Lamoine Board of Appeals. The appeal shall be in writing and submitted within thirty (30) days of the date of the written decision of the Planning Board and shall be accompanied by the required fee as established by the Lamoine Board of Selectmen.
2. A hearing shall be conducted by the Board of Appeals, which shall act solely in an appellate capacity. Following a hearing, that shall not be de novo, but shall be limited to a review of the record developed before the Planning Board, and the parties' arguments based on that record, the Board of Appeals may reverse the decision of the Planning Board only upon a finding that the decision is clearly contrary to the specific provisions of the applicable ordinance. Upon reversal, the matter shall be remanded to the Planning Board for further proceedings consistent with the Board of Appeals' ruling.
3. Enforcement actions made by the Code Enforcement Officer may be appealed to the Lamoine Board of Appeals. Such appeals shall be in writing and submitted within thirty (30) days of the date of the Code Enforcement Action and shall be accompanied by the required fee as established by the Board of Selectmen. The Board of Appeals shall review the enforcement action record developed by the Code Enforcement Officer, and may reverse an enforcement action only upon finding that the action was clearly contrary to the specific provisions of this ordinance. Upon reversal, the Board of Appeals shall remand the matter to the Code Enforcement Officer for action consistent with the findings of the Board of Appeals.

H. Enforcement

1. This ordinance shall be administered by the Lamoine Planning Board and enforced by the Code Enforcement Officer and the Board of Selectmen. Any action required to enforce the provisions of this ordinance shall be taken by the Board of Selectmen on their own volition or on the recommendation of the Planning Board and/or the Code Enforcement Officer
2. Violations
  - a. Any activities undertaken in the Town of Lamoine that violate any provision of this ordinance or of any permit issued by the Planning Board shall be considered a nuisance and shall constitute a violation of this ordinance.
  - b. Any activities undertaken in the Town of Lamoine that require a Gravel Permit, as specified in this ordinance, and for which a permit has not been issued shall be considered a nuisance and shall constitute a violation of this ordinance.
3. Annual Compliance Inspection
  - a. All Gravel Operations shall be inspected annually for the purposes of ensuring compliance with this ordinance and any additional conditions placed on the permit. The Annual Compliance Inspection shall be conducted by the Code Enforcement Officer (CEO) between March 1 and

- June 1, and shall include a copy of the annual report as required in Section 8H.
- b. The CEO shall issue a *Report of Compliance* if it is determined that the Gravel Operations and Restoration are in compliance with the ordinance and any conditions which were placed on the permit at the time of issuance. The written report shall be provided to the permit holder; a copy shall be submitted to the Planning Board and another copy placed on file as a public record at the Lamoine Town Hall.
  - c. The CEO shall issue a *Report of Non-compliance* if it is determined that the Gravel Operations and Restoration are not in compliance with the ordinance and/or any conditions which were placed on the permit at the time of issuance. The report shall be written and copies of the report provided to the Planning Board, the Selectmen and the permit holder.
4. Notice of Violation
- a. When the CEO finds that Gravel Operations and/or Restoration are not in compliance with the ordinance and/or any additional conditions which were placed on the permit at the time of issuance as described in 7-H-1.c above, the CEO shall issue to the permit holder a *Notice of Violation* specifying the particular violation(s), ordering the permit holder to cease immediately any further violation(s), and ordering the permit holder to take any necessary remedial actions to bring operations into compliance within 30-days.
  - b. If within thirty (30) days after the issuance of the *Notice of Violation* the permit holder takes such remedial actions which, in the determination of the CEO, bring the Gravel Operations into compliance the CEO Shall issue a *Report of Compliance*.
  - c. If thirty (30) days after issuance of the *Notice of Violation* the CEO determines that the permit holder persists in violation or has not taken such remedial actions as to bring the Gravel Operations into compliance, the CEO shall issue a *Stop Work Order* requiring immediate cessation of all Gravel Operations authorized under the existing permit. The Planning Board shall then have the authority to seek revocation\* of the Gravel Permit. If a Gravel Permit is revoked, the permitted owner/operator is required to immediately commence such Restoration as is required by Section 8.D. of this ordinance and as was required by the revoked permit. (***\*This is the same as the current ordinance which does not spell out a hearing and revocation decision process or who has the authority to actually revoke a permit***)
  - d. The permit holder may appeal decisions of the Code Enforcement Officer or the Planning Board to the Lamoine Board of Appeals.
  - e. When the Code Enforcement Officer has determined that activities are occurring that require a Gravel Permit but no such permit has been issued by the Planning Board, the Code Enforcement Officer shall issue a Notice of Violation to the party(s) responsible for the activities and require that the activities immediately stop. The Code Enforcement Officer shall make a full report of the activities to the Board of Selectmen and to the Planning Board. The Board of Selectmen shall impose such

finer, restoration requirements and other reparations as will satisfy the purpose of this ordinance (See Section 1)

5. Right of Entry – The Code Enforcement Officer is authorized to enter any Parcel on which a permitted gravel operation is located for the purpose of monitoring compliance with the provisions of this ordinance and any additional conditions which were placed on the permit by the Planning Board. If the permit holder denies entry to the CEO, the CEO shall not enter the property without first obtaining an administrative warrant pursuant to the Maine Rules of Civil Procedure. However, failure by or on behalf of the permit holder to grant the CEO access to the Parcel shall be considered just cause for the Planning Board to seek revocation of the Gravel Permit.
6. Prosecution/Fines
  - a. In the event that the permit holder continues operations after a permit has either expired or been revoked, or a responsible party has commenced gravel mining activity without a permit and has failed to comply with any ordered fine, restoration requirement or other reparations as ordered by the Board of Selectmen, the Selectmen shall make such complaints to any court of competent jurisdiction as in their judgment are proper or may institute such actions or proceedings, either legal or equitable, including seeking injunctions or violations and the imposition of fines that may be appropriate or necessary to enforce the provisions of this ordinance in the name of the Town.
  - b. Continuing Gravel Operations without a permit, whether such permit has expired or has been revoked, shall subject the operator to a fine of five hundred dollars (\$500.00) per day of violation. Any person, firm, corporation or other entity who continues to violate any provision of this ordinance after receiving notice of such violation shall be guilty of a civil violation subject to a minimum fine of \$100.00 and up to a maximum fine of \$2,500.00 for each violation as provided in 30-A MRSA §4452. Each day such a violation is continued is considered a separate offense.

## *SECTION 8 PERFORMANCE STANDARDS*

All Gravel Operations shall conform to the following standards:

- A. Set-backs – The purpose of set-backs is to lessen adverse impacts, such as noise, erosion, despoiling of views, and deterioration of water quality on neighboring properties and residents.
  1. A buffer strip of not less than 100 feet in width shall be maintained between the boundary of the Permitted Area and the boundary of the Parcel on which the permitted area is located.
    - a. However, the buffer strip between Permitted Areas on abutting Parcels may be eliminated with the written permission of both owners, provided the elimination of the buffer strip does not increase the runoff from either excavation across the property boundary.

- b. Excavation in the 100-foot buffer strip may take place not less than fifty (50) feet from the Parcel boundary when conditions stated in 8.A.2., 8.A.3., and 8.A.4., are met and if the following conditions are met.
  - 1) The Parcel or part thereof on which the permitted area is located had been granted a Site Plan Review Permit for gravel operations;
  - 2) The owner of the abutting property grants written permission for the excavation to occur. Such written agreement shall be recorded at the Hancock County Registry of Deeds, making reference to the title deed of the owner of each such abutting Parcel;
  - 3) Excavation within the buffer strip may not exceed the 2.5-1.0 slope as required and described in Section 8.D.1.a (Restoration)
  - 4) The area within the buffer strip anticipated to be excavated during the life of the permit must be specified in the application and will be considered as part of the permit; and
  - 5) Reclamation of the area designated in (4) above must be completed prior to the expiration of the permit.
2. A buffer strip shall be maintained in accordance with 38 MRSA §490-D (3) (A & B) between
  - a. the boundary of the Permitted Area and an existing private drinking water supply. (A. A 200-foot separation must be maintained between any excavation and any private drinking water supply that is a point-driven or dug well and was in existence prior to that excavation. B. A 100-foot separation must be maintained between any excavation and any private drinking water supply that is drilled into saturated bedrock and was in existence prior to that excavation.)
  - b. A buffer strip of at least 1,000 feet shall be maintained between the boundary of the Permitted Area and any public water source.
3. A buffer strip of not less than 100 feet in width shall be maintained between the boundary of the Permitted Area and the nearest edge of any public road, public right-of-way, or the nearest edge of any private road serving as the principal road in an approved subdivision.
4. A buffer strip of not less than 250 feet in width shall be maintained between the boundary of the Permitted Area and the normal high-water line of any great pond, river or saltwater body, and the upland edge of a coastal or freshwater wetland; a buffer strip of not less than 75 feet in width shall be maintained between the boundary of the permitted area and the normal high-water line of a stream. (See Shoreland Zoning Ordinance for definitions and other restrictions which may apply.)
5. The Planning Board shall have the authority to require wider buffer areas if it determines that the above set-back distances are insufficient to achieve the purposes of protecting private and public water supplies,

screening gravel operations from public view, and protecting water bodies, tributary streams or wetlands as noted in 8.A.2, 8.A.3., and 8.A.4 above.

- B. Screening – Screening within all required buffer strips as described in paragraph A. above shall be required in order to prevent direct view of Gravel Operations from any private residence and/or business, public road, public right-of-way and private road serving as a principal road in a subdivision and to reduce the volume of noise generated from Gravel Operations affecting neighboring properties. Natural features such as trees, shrubbery, berms and hills shall be maintained as screening where possible. Where such natural features are not present or are insufficient to provide the required screening, the Planning Board may require construction of fences and/or additional plantings. Where topography makes it impracticable to screen gravel operations from public view, the Planning Board shall have the authority to alter or waive the screening requirement.
- C. Groundwater Protection
1. Prior to commencement of gravel operations, any required new monitoring wells shall be installed and the water table elevation data and water quality data required in Section 8.H.1.c and 8.H.1.d shall be reported to the Planning Board and the Code Enforcement Officer
  2. No permitted area shall be worked at any time at a level less than five (5) feet above the existing water table. The location of the water table shall be established prior to any excavation. (See section 8.H.1.c requirement)
  3. No ditching, trenching, pumping or other methods shall be used to lower the water table for the purpose of allowing more gravel extraction than would be permitted without such lowering of water tables.
  4. No substance or item harmful to groundwater quality including, but not limited to, salt, creosoted timber, tree stumps, building waste, petroleum products or rubbish shall be dumped in the permitted area.
  5. Petroleum products, such as fuel and lubricants, being used in Gravel Operations shall be kept under cover and upon an impermeable spill-proof base sufficient to contain the volume of the petroleum products in the event of a spill.
  6. The Planning Board may increase the separation distance required if it determines through credible evidence that the water table of neighboring properties will be adversely affected by gravel extraction to the five-foot minimum separation.
- D. Restoration
1. Reclamation Plan – Any area from which gravel has been extracted and from which no further extraction of gravel is either proposed by the operator or eligible for permitting by the Planning Board under the terms of the ordinance shall be restored to a natural state within the specifications set forth below:
    - a. No slopes shall have an incline steeper than 2.5 horizontal to 1 vertical (2.5:1). Slopes greater than 2.5:1 shall be regraded, except that a steeper slope may be allowed if slope stability analysis is submitted showing that there will be no failure or sloughing of slopes.

- b. All disturbed surfaces shall be covered with a minimum of four (4) inches of topsoil and seeded with vegetative material, unless an alternate restoration plan has been approved by the Planning Board (see 8.D.1.f)
  - c. Vegetative material used in restoration shall consist of native grasses, legumes, herbaceous, or woody plants or a mixture thereof. The owner/operator shall guarantee that if, after two years from the restoration completion date, more than fifteen (15) percent of the planted area does not sustain vegetation the failed areas shall be replanted. (See Maine Erosion and Sediment Control BMP, 3/2003, and any subsequent amendments.)
  - d. All structures, such as refueling pads and gates, shall be removed and all access, haul or other support roads shall be subject to restoration once no longer used.
  - e. Restoration activities shall be completed within one year following the expiration date of the permit.
  - f. Alternative restoration plans may be proposed by the applicant and considered by the Planning Board. Any plan approved shall provide for protection of the quality and quantity of groundwater, minimal impact on municipal services, and be permissible under the requirements of all other applicable ordinances of the Town of Lamoine.
  - g. Any proposed expansion of the Operating Pit shall require restoration of a portion of the previously permitted Operating Pit as follows:
    - 1) For Operating Pits of 8 acres or less: a portion equal to 75% of the proposed area of expansion;
    - 2) For Operating Pits of greater than 8 acres: a portion equal to 150% of the proposed area of expansion.
2. Filing of Restoration Plan – The owner of the Parcel shall record the restoration plan with the Hancock County Registry of Deeds. (Recording the restoration plan including a marginal notation on the deed to the property will assure the Town of Lamoine that the sale of the property to any other owner for any reason will cause the new owner to comply with the terms of the restoration plan unless the new owner applies for and receives a gravel permit within six months of assuming ownership of the Parcel.) Proof of such filing shall be provided to the Code Enforcement Officer.
3. Performance Guarantee – Each permit holder, at the time of application, shall state the area of unrestored (excavated and/or defoliated) land that will exist at the expiration date of the proposed permit; the estimated cost of restoration of said area; and provide to the Planning Board proof of financial capacity to perform said restoration. Such proof shall be in the form of:
- a. A performance bond; or
  - b. An irrevocable letter of credit from a federally insured financial institution; or

- c. Payment to a savings account at a federally insured financial institution of the estimated restoration cost with the Town of Lamoine named as a joint account holder, requiring signature from the Treasurer of the Town of Lamoine to authorize withdrawal from said account. The Treasurer, prior to authorizing withdrawal, shall receive confirmation from the Code Enforcement Officer that restoration requirements have been satisfied. The owner of the Parcel shall grant an easement allowing the Town to contract for restoration activities in the event that the permit holder or land owner fails to complete those activities. This easement shall be placed on file at the Hancock County Registry of Deeds and a copy of such registration presented to the Code Enforcement Officer.

E. Transportation

1. All vehicles carrying gravel either to or from a Permitted Area shall have the load covered and tailgates secured so as to prevent spillage of any part of the load on the public roads within the town.
2. All access/egress roads leading to or from a Permitted Area shall be paved or otherwise hard-surfaced for a distance of not less than one hundred (100) feet from the near edge of the pavement of a public road so as to prevent mud, stones, and the like from being brought onto the public road.
3. Except as set forth in 8.E.2 above, access roads in and around the Permitted Area shall not be oiled, salted, or paved. Clean water may be placed on road surfaces for dust control.
4. A minimum sight distance of 12.5 feet for every mile-per-hour of posted speed limit shall be provided where an access/egress road intersects a public road. Sight distances shall be measured from the driver's seat of a vehicle that is ten (10) feet behind the curb or edge of the shoulder line of the public way to a point which is four (4) feet high and four (4) feet from the center line of the public road. (For example, a sight distance of 562.5 feet is required for a road posted at 45 mph.). If the public road is a State road, a Road Entrance Permit issued by the Maine Department of Transportation shall satisfy this standard.
5. The angle of intersection of an access/egress road and a public road shall be a minimum of 60° and a maximum of 90°.
6. The maximum permissible grade within 75 feet of such intersection shall be 5%.
7. Road signs stating "Trucks Entering – 500 feet" shall be installed 500 feet from where access roads intersect public ways. Said signs shall be paid for by the permit holder and installed by permission of and in cooperation with the Maine Department of Transportation.

F. Hours of Operation

1. Regular hours of operation shall be 6 a.m. to 6 p.m. with the exception of Sunday when no Gravel Operations are permitted.
2. Activities related solely to restoration are permitted on Sunday between 12 p.m. and 6 p.m. in addition to the operating hours in Section 8.F.1 above.

3. In emergency situations involving public health and/or public safety, gravel operations may occur, but only after notification is made to and permission granted by the CEO. In the event the CEO is unavailable, such notification may be made to and permission granted by the Local Emergency Management Director, Fire Chief, Health Officer or Chair of the Board of Selectmen. A written report shall be filed within 24 hours of commencement of such emergency operations describing the nature of the emergency warranting such operations.
4. Gravel operations shall not occur on the following holidays: Memorial Day, Independence Day, Thanksgiving Day and Christmas Day.

G. Noise

1. Noise shall not be objectionable due to intermittence, beat frequency, shrillness or volume beyond the boundaries of the Parcel(s) on which the permitted area is located.
2. Sound pressure levels shall be measured on a sound level meter at all boundary lines of the Parcel on which the permitted area is located.
3. The sound pressure limit shall not exceed 65dB at any Parcel boundary line.

H. Annual Report

1. The permit holder shall provide a written report for the previous calendar year (January 1 to December 31) to the CEO no later than March 1 annually containing the following:
  - a. The volume of gravel excavated from the Permitted Area during the calendar year.
  - b. Any restoration completed during the previous calendar year.
  - c. Documentation of average seasonal high water table levels within the Permitted Area as determined by the plan required in Section 7.C.5 and approved as part of the Permit; and the level, expressed in feet above mean sea level, of the lowest point of the Permitted Area.
  - d. Documentation of water quality data as determined by the plan required in Section 7.C.6 and approved as part of the Permit.
2. The Town of Lamoine Code Enforcement Officer shall retain annual reports in a file containing the original and renewal plans as approved in Section 7. The retention file shall be subject to the following retention schedule and stored in a suitable location:

Item	Retention Schedule
Original Approved Plans	Dispose 25 years after approval date
Annual Report	Dispose 10 years after submission date
Application (non plan)	Dispose 7-years after permit expiration
Supplementary Materials	Dispose 7-years after permit expiration
Restoration Plan(s)	Dispose 25-years after restoration is certified as complete

- I. Exterior Lighting - All exterior lighting shall be designed to ensure safe movement of people and vehicles and to minimize glare and reflection on adjacent properties and the traveling public.

- J. Air Pollution – Gravel Operations shall not create an emission of dust or dirt at any point beyond the boundary line of the Parcel on which the permitted area is located that could damage human health, animals, vegetation or property or that could soil or stain persons or property.
- K. Landscape Preservation – Environmentally sensitive areas such as aquifers, significant wildlife habitat, wetlands, steep slopes, floodplains, historic buildings and sites, existing and potential archaeological sites and unique natural features shall be maintained and preserved to the maximum extent practicable.
- L. Adverse Effect – The proposed Gravel Operations shall not adversely affect the value of neighboring properties.
- M. Comprehensive Plan – The proposed Gravel Operations shall be in conformance with the Comprehensive Plan of the town.
- N. Additional Standards – The Planning Board shall have the authority to apply additional standards and impose such conditions not otherwise specified in this ordinance as may be necessary to minimize any adverse effects associated with gravel operations on public health and safety and on surrounding land uses and resources.

## *SECTION 9. DEFINITIONS*

Discontinued Permitted Area – The term ‘Discontinued Permitted Area’ shall mean an area which is no longer permitted by the Lamoine Planning Board. A permitted area may be designated as discontinued due to either expiration of or revocation of an existing permit. A permit may be revoked as set forth in Section 7.H. A discontinued permitted area shall be restored according to the provisions set forth in Section 8. D.

Gravel – ‘Gravel’ shall be an inclusive term referring to the materials of sand, gravel, crushed stone, soil and loam which are excavated, extracted, processed, stored and transported in Gravel Operations.

Gravel Extraction and Excavation – The terms ‘Gravel Extraction’ and “Gravel Excavation” shall mean the removal of sand and gravel, bedrock or soil from their natural site of geologic deposition or formation.

Gravel Operations – The term ‘Gravel Operations’ shall be an inclusive term referring to the activities involved in gravel extraction, excavation, processing, storage and transportation.

Gravel Processing – The term ‘Gravel Processing’ shall mean the screening, sorting, crushing or other processing of geologic material extracted or excavated.

Gravel Storage – The term ‘Gravel Storage’ shall mean the storage of sand, gravel, crushed stone, or soil stock piles.

Gravel Transportation – The term ‘Gravel Transportation’ shall mean using the public roads in Lamoine to haul sand, gravel, crushed stone or soil, except for the purposes of snow plowing and sanding operations.

Groundwater – The term ‘Groundwater’ shall mean all water found beneath the surface of the ground. For the purposes of aquifer protection, this term refers to the slowly moving subsurface water present in the aquifers and recharge areas.

Monitoring Well, Piezometer – The term ‘Monitoring Well’ shall mean a well installed at sufficient depth to permit measurement of the average seasonal high water table and of sufficient capacity to permit withdrawal of acceptable water samples for analysis. A piezometer is an example of a satisfactory monitoring well.

Operating Pit – That portion of the Permitted Area in which Gravel Operations will take place during the life of the permit.

Parcel – The term ‘Parcel’ shall mean all contiguous land in the same ownership within which a permitted area is located.

Permitted Area – The term ‘Permitted Area’ shall mean the portion(s) of a Parcel used in the excavation, extraction, processing, or storage of sand, gravel, crushed stone or soil for which a permit is required and issued. Acreage previously excavated which has been restored in accordance with Section 8.D. will not be counted as part of the Permitted Area in determining size for application fee purposes.

Plan – The term ‘Plan’ shall refer to the to-scale plan, normally prepared by a licensed professional, required by Section 7.C. 2 of this ordinance.

Restoration – The term ‘Restoration’ shall refer to restoration procedures set forth in Section 8.D.1 of this ordinance.

Water Table – The term ‘Water Table’ shall mean the upper surface of groundwater below which the soil is saturated with water.

### **Signature Section**

March 21, 2013

This ordinance was adopted by the Lamoine town meeting held on March 13, 2013 and replaces all previous versions of the Lamoine Gravel Ordinance

/s/	S. Josephine Cooper	}	
		}	
/s/	Cynthia Donaldson	}	
		}	
/s/	Gary McFarland	}	The Lamoine Board
		}	of Selectmen

